

Conference Paper

Minangkabau's Marriage and *Delik Adat* Laws in Abdulkarim Khiratullah's *Mencari Cinta Yang Hilang*

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Abstract

This research aims at analysing two of the Minangkabau's *Adat* Laws: marriage and *delik adat* laws reflected in Abdulkarim Khiratullah's Novel *Mencari Cinta Yang Hilang* (2008). The theory of the Minangkabau's *Adat* Law used as the basis of analysing the data in this research is proposed by Soekanto (2010). The method used in this research is qualitative descriptive method proposed by Moleong (2004). The research result shows that the existence of Minangkabau's marriage and *delik adat* laws have caused the protagonist of the novel named Fauzi encountered some certain obstacles to marry a girl whom he loves so much, named Rahima. Even though he has tried his best to materialize his love to Rahima, the marriage as well as *delik Adat* Law prevailing in his society has made him fail to marry Rahima. He fails in marrying his beloved girl as the girl is of the same clan as his, and it is strickly forbidden for a man in Minangkabau's *adat* law to marry a woman from the same clan as he.

Keywords: *adat*, inheritance, marriage *adat* law, *delik adat* law, kinship

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1. Introduction

Adat is a rule to be followed and conducted by people in a certain place. *Adat* is an expression of culture, norm, and law and it is a system which has a certain non-neglected regulation. In Minangkabau, the term '*Adat bersendi syara' dan syara' bersendi kitabullah*' is very popular. Here, *Adat* is identified by a ritual using a certain symbol to describe the condition and hope of a society. According to Surojo as stated in Ismail (2013: 2) '*Adat* is a reflection of nation'. *Adat* can replace the customary law and can organize public purposes. Its development can be tailored to the circumstances of society at that time.

The development of *Adat* law in modern era runs based on the evolution. *Adat* law will become the tradition if it is carried out with reference to the rules agreed by majority of the existing community and it will become a norm to regulate the life

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of a certain community. Ismail (2013: 3) stated that *Adat* law is one of the behaviors that exist in society and there will be punishments for those who violate it. *Adat* law is a genuine law in certain ethnic; it is unwritten, and it is obeyed by people where it is upheld (Rias, 2014: 437)

One of the provinces in Indonesia which strictly runs the *Adat* law is West Sumatra, which is the homeland of Minangkabau. Minangkabau is the ethnic in Indonesia which is known for the strength of their *Adat* or *Adat* law. Minangkabau's *Adat* law has developed for centuries. In its development, Minangkabau's *Adat* law has given significant contributions to the dynamics and the continuity of Minangkabau's society. Minangkabau's *Adat* law develops in an *Adat* village called *Kenagarian*. It forms the largest matrilineal society. Minangkabau's society is matrilineal; it is not patriarchal in which the chief of a clan is always a man. In matrilineal, the women of the clan will be the chiefs and they can sack men if they do not do a good job.

The life in Minangkabau was defined by a matrilineal way of life. This means there are certain kinship groups which follow the female descent of a mother. The woman's brothers are responsible for the children of her sisters rather than her husband. (Stark, 2013: 2)

In a simple way, the lineage system in the highland of West Sumatra consists of clans. One sub-clan owns a certain number of lands called *harato pusako*. Besides, there is also the individual acquired property (*harato pancaharian*). The inheritance of communal land follows the matrilineal way, which means that the inheritance will be inherited from the brother of the mother (*mamak*) to his nephews. Other properties (*harato pancaharian*) follow the usual way from the father to the son.

This research focuses on the Minangkabau's marriage and *delik adat* law reflected in Abdulkarim Khiratullah's novel *Mencari Cinta yang Hilang*. It is important to carry out this research because it has fascinated many researchers due to the co-existence of the contradictory elements with Islamic regulation.

Abdulkarim Khiratullah is one of the famous novelists in Indonesia, and *Mencari Cinta yang Hilang* is one of his great works. The novel talks about Minangkabau's *Adat* law, especially inheritance, marriage and *delik Adat* law. This novel not only talks about the struggle of the protagonist to achieve his goal, but also discusses about the *Adat* law in Minangkabau, especially marriage and *delik adat* law. In this novel, the protagonist named Fauzi, comes from a poor family in a small city in West Sumatra. Through hard work and determination, he can achieve his goal to study in Arab Saudi in the long run. The problem comes when Mr. Zaidan offers him to marry his daughter, Rahima.

However, it is opposed by *niniak-mamak* because they are from the same clan, Caniago. In Minangkabau, it is prohibited to marry people coming from the same clan.

Minang land is a land which respects status. Clan is one of the examples of taking care of it. If someone comes from the same clan, he or she is a family member. So, it is prohibited to marry someone who comes from the same clan. (Khiratullah, 2008: 233-234)

2. Literature Review

Generally speaking, *Adat*, a word derived from Arabic, is used throughout Indonesia to refer to the “customs” or “customary practices” of a group of people or as “a gloss for the allegedly immutable cultural forms that distinguish one collectively from another. At the local level, *Adat* has multiple meanings. It is contingent concept encompassing a wide range of customs and traditions unique to each of Indonesia’s major ethnic groups.

Depending on local variants, *Adat* may represent systems of governance based on oral traditions, antecedents and customary law, provide ceremonial protocol for marriages and funerals, houses and harvests, or determine patterns of land usage and entitlement. *Adat* and *Adat* law cannot be separated. They can be differentiated only as custom which has or does not have legal consequences. According to Van Vollenhoven as stated by Ismail (2013: 16) *Adat* law is the totality of the rules of conduct for natives and foreign Orientals that have, on the one hand, sanctions (therefore: law) and, on the other, are not codified (therefore: *Adat*).

Adat law was first introduced by Prof. Snouck Hurgronje in 1894 (Ismail, 2013: 21). Like the other law, *Adat* law is also one of the laws which develop in the society. *Adat* law is a guide and character implementation of daily activity practice in the society life which has a society group characteristic in a country. Its characteristic is traditional and unwritten which is based on their *Adat*.

Adat is a reflection of nation individuality, as an incarnate of the nation day by day. The modernization of life cannot omit the customary developed in the society. The developing of *Adat* can adapt with the situation of a nation. The developing of *Adat* law in modernization era run based on the evolution. *Adat* which developed in the society life becomes a source for *Adat* law. *Adat* law is a concrete of consciousness of the law, especially in the society with the simple social structure and culture. There is an inclination that *Adat* law comes from society and most of them live in *Adat* system.

Minangkabau is one of the places in Indonesia which is well known for the strength of their *Adat* or *Adat* law. Minangkabau's *Adat* law has developed as long as the history for centuries. In its development, Minangkabau's *Adat* law has given significant contributions to dynamics and continuity of Minangkabau's society life. Minangkabau's *Adat* law develops in an *Adat* village called *Kenagarian*. *Nagari* in Minangkabau according to its government is a federation. The concept of federation is based on philosophy of *Adat Salingka Nagari* meaning *nagari* is independently administered. The dynamics of society will always result in some forms of acts or behaviors which are not in accordance with the existing norms or rules, so that there are, in the life of society, acts violating *Adat* law.

According to Soekanto (2010: 142) Minangkabau's *Adat* law is distinguished into:

a. Inheritance *Adat* law

Inheritance *Adat* law is one of the parts of civil law and kinship law. It is related to human life. All human beings will die and they will leave their property for their children. Inheritance law in Indonesia is influenced by the descent which is involved in the certain society. Inheritance law based on Minangkabau's *Adat* law is unique in which the children are not the heirs of their father's property, but they are inherited their mother's. Inheritance *Adat* law is distinguished into: individual inheritance, collective inheritance, and majority inheritance. Minangkabau's inheritance *Adat* law follows the collective inheritance in which an heir inherit the property together with the other heirs. The property cannot be owned individually.

b. Marriage *Adat* law

Minangkabau forms the largest matrilineal society in the world. The life in Minangkabau is defined by a matrilineal way of life. This means there are certain kinship groups which follow the female descent of a mother. The woman's brother is responsible for her children rather than her husband. In Minangkabau, if the men or women want to get married, they are prohibited to marry the women or men who come from the same clans. The prohibition of the same clans marriage is obligated for Minangkabau society. Minangkabau society consider that marriage in the same clans is constituted as kinship marriage. So, it is considered as a violation of *Adat* law. Those who violate the law will get punishment or sanction.

c. *Delik Adat* law

Delik *Adat* law constitutes violation of *Adat* law. It means that an action which is done by someone or some people offends equilibrium of society. This violation must be replaced with a punishment or *Adat* ceremony.

d. Land *Adat* law

In the society of *Adat* law, land is the most important thing that they have. It constitutes a place for them and it also gives them life, it is called *tanah ulayat*. They have a chance to benefit from the wealth of the land such as crops. However, it cannot be owned individually.

e. Kinship *Adat* law.

Kinship *Adat* law is an *Adat* law which organizes individual status based on the descent in the family such as children's status toward their parents and their relative.

3. Research Method

As the aim of the study is to reveal as well as to understand the phenomena of Minangkabau's marriage *Adat* Law. The appropriate research method applied here is descriptive qualitative proposed by Moleong (2007: 6) stating that the qualitative research as a research procedure that results descriptive data in written words. Regarding the research method, having a focus on content analysis, qualitative research is used in performing this research. Sahu (2013: 4) says that in qualitative approach, research is mainly concerned with subjective assessment of the respondent. It is mainly concerned with attitudes, opinions, behaviors, impressions, etc. Thus, qualitative research is an approach to research to generate insights of the subject concerned in non-quantitative form or not subjected to rigorous quantitative analytical tools. Besides, this research uses descriptive method proposed by Kothari (2004) since it describes a state or an event that already exists, and is depicted in the novel.

4. Discussion

Ismail (2013: 226) states that there are 3 types of marriage system in marriage *Adat* law in Indonesia; they are: *endogami* marriage system, *exogami* marriage system, and *eleutherogami* marriage system. *Endogami* marriage system is a marriage which happens among people who come from the same clan, like in Toraja, Sulawesi. *Exogami* marriage system is a marriage which happens among the people who come from the other clans, like in Minangkabau, Tapanuli, Gayo, Alas, and etc. Whereas, *eleutherogami*

marriage system is a marriage which prohibits someone to marry people from the same descent (mother, daughter, grand daughter, and etc), like in Aceh, Bangka Belitung, Kalimantan, Minahasa, and so forth.

Minangkabau follows *Exogami* marriage system, and forms the largest matrilineal society in the world. The life in Minangkabau is defined by a matrilineal way of life. It means that there are certain kinship groups which follow the female descent of a mother. Ismail (2013: 221) states that in Minangkabau, a husband does not constitute the wife's family, but the children. A husband does not have authority over their children. Thus, the children are under the authority of their mother.

4.1. Minangkabau's marriage Adat law

Human beings will not be able to develop well without a process. The process is called marriage. Through marriage, children will be born well and legally. Through the good and legal descendants, a good family will be created and they will become good society. Setiady (2008: 221) states that marriage can produce a good human being in a society. But marriage is not only a relationship process which only happens between two persons, but also between two parents, brothers and families. In Minangkabau's marriage *Adat* law, a person is prohibited to marry someone from the same clan (*exogami marriage system*), because they are considered as siblings.

Such a case is found in the novel in which Fauzi, the protagonist, falls in love with a beautiful girl named Rahima, and he wants to marry her. His planning is supported by his mother, Rahima's father, and Rahima's mother. Rahima's father knows that Fauzi is a good man so that they want Fauzi to marry their daughter. However, it is prohibited by *Niniak Mamak* because Fauzi and Rahima come from the same clan. In Minangkabau, it is prohibited to marry someone coming from the same clans.

But, will my planning to marry Rahima be approved by *Niniak Mamak*? I know that in Minangkabau, it is prohibited to marry someone who comes from the same clan as me. But based on Islam law it is not prohibited, I believe that my planning will be approved by them because it is not prohibited by Islam. (Khiratullah, 2008: 156)

Fauzi really wants to marry Rahima but he gets confused whether his planning will be approved or not by *Niniak Mamak* because they come from the same clan. He knows that it is strictly prohibited to marry a girl coming from the same clan. However, Fauzi knows well that according to Islam law, it is not prohibited to marry someone from the same clan because they are not considered as sibling. Therefore, Fauzi decides

to propose Rahima because he believes that *Niniak Mamak* will approve his planning to marry Rahima. However, after they discuss about Fauzi's planning, *Niniak Mamak* does not agree with Fauzi's plan because Rahima comes from the same clan as he; therefore, she is considered as his sibling. They consider that Fauzi as a violator of *Adat* law if Fauzi insists on marrying Rahima. *Niniak Mamak* considers that *Adat* law must be obeyed by everyone and it cannot be violated.

A prohibition to marry someone who comes from the same clan is a rule that is made by our ancestors in order to preserve the purity of nasab and descent. It is adopted by the society as a tradition that should not be violated. If you violate it, you are considered as a violator toward *Adat* law which has become our identity. (Khiratullah, 2008: 236)

Niniak Mamak does not approve Fauzi's plan to marry Rahima as *Niniak Mamak* consider that *adat* law is the rule of life that is really important and cannot be violated by everyone. They said that *Adat* law is the rule which is made by their ancestor and they must follow it. They are firm on the rule that marriage cannot be carried out among the people who come from the same clan because they are considered as siblings. Marriage is not only a relationship process which only happens between two persons, but also between two parents, brothers and his family. The marriage will only happen if there is an agreement between the families.

The description above shows that in Minangkabau, it is strictly prohibited to marry someone who comes from the same clan because they are considered as sibling. However, it is in contrast to Islamic law which allows someone to marry everyone provided that he/she does not have blood relation. In Islamic law, a person is only prohibited to marry someone who has blood relations, such as parents, grandparents, grandchildren, siblings, etc. However, *Niniak Mamak* is firm on their *Adat* law saying that the rule is made by their ancestors, and has been approved by the society. Therefore, they must respect and obey it.

In *Adat* society, a kinship principle based on descent relationship is still defended. They consider that the function of marriage is continuing the descent and maintaining the position of the families. Besides, marriage is also a means to improve the kinship relation which has been broken. Thus, the implementation of marriage for both men and women who are not mature enough has to be interfered by their parents, families, and relatives of both sides. The marriage which is conducted without approval of parents and relatives is considered as a violation toward *Adat* law.

4.2. Minangkabau's delik Adat law

Delik Adat is the customary legal rules governing the actions of violation that causes disruption to the balance in people's lives (Ismail, 2013: 268). Therefore, the balance of the community is not compromised. *Delik Adat* is an act which is contradictory to obedience, order and peace of society tangibly or intangibly done individually or in groups. Then, those who violate the law should be punished. According to Setiady (2008: 347), there are some actions considered as *delik Adat*. They are:

1. The action which violates the norms of *Adat* law, such as in Minangkabau. Marrying people who come from the same clan is considered as a violation toward *Adat* law.
2. The actions considered offending the balance of society are: killing, stealing, pregnant without wedlock, and etc.

Owing to the above description, it is said that the action constitutes violation of *Adat* law is *Delik Adat* law. It means that the laws for an action or actions done by someone or some people who offend the equilibrium of society are *delik adat* law. This violation must be replaced with a punishment or *Adat* ceremony.

The violation of *Adat* law is an action which contradicts to the rule of *Adat* law which is considered offending the society life. If this happens, there will be punishments for those who violate the *Adat* law. In Abdulkarim Khiratullah's novel *Mencari Cinta Yang Hilang*, it shows that the protagonist (Fauzi) wants to marry the girl (Rahima) who comes from the same clans as him but it is prohibited by the *adat* because they are considered as sibling. If he does it he will be considered as a violator of *Adat* law. The violators of *Adat* law will be punished because of offending the tranquility of society life. So, the protagonist does not marry Rahima because he knows the consequence of violation *Adat* law.

If I marry Rahima, actually I will violate *Adat* law. eventhough I love Rahima so much but I do not want to be a violator. I know that Ninik mamak is more aligned to *Adat* law rather than Islamic law, so they do not agree if I marry her. (Khiratullah, 2008: 220)

Fauzi cannot marry Rahima because of the rule of *Adat* law. He will be considered as the violator against *Adat* law if he marries Rahima. *Niniak Mamak* will not let them marry because they are from the same clan.

Rahima, you know that Niniak Mamak will oppose our marriage. If I marry you, we will receive hard consequence. (Khiratullah, 2008: 226)

It is vividly seen that Fauzi cannot marry Rahima because there will be a big consequence if they do that. He tells Rahima that it is impossible for him to marry her because it is opposed by *Niniak Mamak*. Based on the description above it shows that the protagonist will not marry the girl he loves because he knows that there will be a punishment for those who violate *Adat* law.

A marriage not only unites a relationship between men and women, but also unites the relationship between the families. Minangkabau as an ethnic which is well known for the strenght of *Adat* law, follows *exogami* marriage system in which it is prohibited to marry someone who comes from the same clan and it must be obeyed by every person in Minangkabau. This case is found in Abdulkarim Khiratullah's novel. The protagonist (Fauzi) falls in love with the girl (Rahima). Fauzi's clan is Caniago and so is Rahima. In Minangkabau, the people who comes from the same clans is considered as sibling, so they cannot get married

Actually, our brother has done a mistake by doing an engagement between his daughter and Fauzi, Aminah's son, who is our family. It is proved by their clans, Chainago. It is prohibited in *Adat* law because they are considered marrying their family. (Khiratullah, 2008: 233)

From the quotation above, the protagonist has done the engagement with Rahima, and he plans to hold the wedding two months later, but unluckily, after discussing with *Ninik mamak*, his planning is opposed. *Ninik Mamak* says that Fauzi and Rahima cannot get married because they have the same clan. They add that in Minangkabau, marrige between two people of the same clan is prohibited. They will be considered as a violator if they do that.

Minang land is a land which respect status. Clan is one of example of taking care of it. If someone comes from the same clan, it means they are family. So, it is prohibited to marry someone who comes from the same clan. (Khiratullah, 2008: 233-234)

From the quotation above, it is clear that one is prohibited to marry the one who comes from the same clan. Eventhough, based on the Islamic law, Fauzi and Rahima do not have the blood relationship, they are still considered as siblings in Minangkabau's marriage *adat* law because they have the same clan, Caniago.

On the other hand, rules of marriage in several regions in Indonesia are different because of the nature of the different communities, and it is also due to the progress and the development of the times. Marriage, according to *Adat*, is closely related to the relationship between family, community, dignity, and personal. In social life, marriage

requires a lot of ways to adjust. Marriage makes a new relationship not only between the individual concerned, but also between two families.

Delik Adat law is an act that violates a sense of justice and adherence that offends the a balance of the society. In order to restore this situation, there was *Adat* reactions that have a purpose to recover disablement happened by doing a punishment for those who violate it.

In other words, *delik adat* is all acts or incidents which are opposite to decision, familiarity, order, security and justice, and social respons. Resolution against the aforementioned has been carried out based on Minangkabau's *Adat* law through the *Adat* functionaries with community figures, and *alim ulama*. Their decision which have been made to members of the society who violate the law are acceptable. Applying the *Adat* sanction against *delik adat* becomes a warning for the people to obey and uphold the Minangkabau's *Adat* law.

The characteristics of *delik Adat* law is the crime act. It is different from the rules of *Adat law*. The crime act offends the balance, the harmony and the peacefulness of the society. Here, there is no difference between the criminal law and the civil law. The functionaries will issue the sanctions for those who violate the *law*.

Abdulkarim Khiratullah's novel shows that *delik Adat* law is found here. The protagonist (Fauzi) intends to marry Rahima, but it is prohibited by *Ninik Mamak*, because it is considered as the violation of *Adat* law. They say there will be sanctions for those who violate *Adat* law.

If you violate *Adat* law, they will give you a chance to correct your mistake. There are two choices they are slaughtering a buffalo or you have to leave this land (Minagkabau) forever. So it is up to you. (Khiratullah, 2008: 237).

The quotation above shows that *Mak Palito* (the protagonist's uncle) warns Fauzi that if he marries Rahima, he will be considered as a violator. He adds that the violator of *Adat* law will be punished. The punishment is slaughtering a buffalo or he has to leave Minangkabau forever.

If I choose to slaughter a buffalo, my family will be shy in their whole of life. If I choose to leave this land, it means I am not responsible towards my choice. I love this country so much. I cannot do it, what should I do? (Khiratullah, 2008: 221-222)

As stated before that *delik Adat* law is a violation done by someone who offends the equilibrium of society. There will be a punishment for those who violate this *Adat* law. According to Ismail (2013:268) *delik Adat* law is a norm that is related to a crime

and violation in the society in which they offend the harmony and peacefulness in the life.

In the above quotation, it shows that the protagonist is still confused. He does not know what to do, because the punishment is really hard for him. He thinks if he chooses to slaughter the buffalo, it means his family will be shy forever. If he chooses to leave Minangkabau, it means he is an irresponsible man. Therefore, he decides not to marry Rahima because he cannot received the sanction.

5. Conclusion

Humans are social creatures who cannot live alone. They need others to complete their life. Therefore, humans live in groups in various clans which have cultures and customs. The culture is the result of generations of the ancestors that must be preserved. The culture which is adopted and believed is called *Adat*. It is definitely believed by a class of people as a custom that must be obeyed by every person in a certain society. *Adat* is a reflection of nation. The modernization cannot omit the customary developed in society. The development of *Adat* can adapt the situation of a nation. In addition, *Adat* in the society will became a source for *Adat* law.

Minangkabau is an ethnic who is well known for their strength of their *Adat* or *Adat* law. Minangkabau's *Adat* law develops in an *Adat* village called *Kenagarian*. They form the largest matrilineal society in the world. In Minangkabau, the marriage conducted without fulfilling the requirements of rules of *adat* are considered as incestuous marriages. One has to marry someone who comes from other clan. The marriage is also called exogamy marriage system. Marriage based on siblings is called sibling exogamy, the same clan, clan exogamy and the same village, village exogamy.

The implementation of Minangkabau's marriage and *delik adat* laws has made the protagonist of the novel, Fauzi fail to marry his beloved girl, Rahima simply because they come from the same clan.

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