THE SOCIAL SIGNIFICANCE OF MINANGKABAU STATE COURT DECISIONS

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Introduction

The social significance of decisions in disputes is an underdeveloped field of research in legal anthropology (J.F. Holleman 1973). My research on dispute management in West Sumatra, Indonesia, has shown that events occurring in the period following the decision generally are not in accordance with the specific directions contained in the courts' judgements, nor is the picture which the court construes of what has happened and its assessment of the "facts" generally accepted by all persons involved. This is nothing new and has been reported of other societies as well. What is surprising is that the post-trial stage has received so little attention in the literature dealing with dispute management processes both in western and in non-western societies. Compared with the amount of data and the depth of analysis lavished on the trial and pre-trial stages, the post-trial stage has been treated as a step-child in the anthropology and sociology of law.(1)

The purpose of this article is to look in a systematic way at the social significance of decisions, for the persons involved in the dispute, in the post-trial stage. After a brief discussion on the shortcomings in the analytical models generally used by anthropologists and sociologists of law and the possible reasons for these shortcomings, I shall propose a more adequate approach to the study of the social significance of decisions in disputes. The main part of this article will consist of an illustration of this approach with material from my own research.

The neglect of the post-trial stage

Systematic attention to the post-trial stage is of crucial importance for both the the paradigms in legal anthropology identified by Comaroff and Roberts (1981: 5), as well as for the litigation research carried out by sociologists of law. Rule-oriented research aimed at finding out what the law of illiterate societies is has been heavily influenced by the American school of legal realism. The legal realists wanted to find the "real" law, rules which were not just statements about ideal behaviour but which were actually applied. Real law was supposed to become manifest in decisions by dispute settlement institutions in which norm-deviating behaviour was sanctioned and the relevant rules were enforced (see Hoebel 1954; Epstein 1967; Pospisil 1971). But court decisions may be as dead as paper law or ideal rule statements. For the very reason that it is important to look at decisions, it is also important to look at the post-trial stage and see what happens with the decision there. In order to test assumptions about the effectiveness of rules and decisions in social life outside the court context, and to make definitions of law based upon such effectiveness plausible, systematic research on the fate of decisions in the post-trial stage would be necessary. Yet, such research has rarely been carried out.

In the process-oriented paradigm there has been a shift from the study of decisions and decision-making in the court and court-like context towards a more comprehensive study of the process of dispute management (see Gluckman 1961; Van Velsen 1967; Gulliver 1963, 1969, 1979). It is common knowledge now that often the real, underlying grievances and conflicts are not "settled" in court and may continue afterwards (see Abel 1973a; Starr and Yngvesson 1975: 559, 564). But although most authors assume that the conflicts have not ended in court their analytic models tend to stop with the court decision (see Nader 1965: 24; Griffiths 1983c).

This is even more striking in the recent discussions of the transformation of disputes in legal sociology in the USA. Sophisticated analyses of the pre-trial histories of disputes have uncovered that various transformations occur on the way to a final decision. The baseline of the object of study has been pushed back further and further to what Felstiner et al. (1981: 683) have called the "unperceived injurious experience" (see Miller and Sarat 1981; Griffiths 1983c), but nobody has done the same at the other end of the dispute where new transformations are likely to occur.

A number of authors do give attention to the results of outcomes of disputes, but they tend to frame their description and

analysis in terms of purposes for which parties make use of the court system.(2) Their interest in the post-trial stage is mainly directed at the social relationships between the disputants before and after the dispute. But they have not looked at the effects of the decisions in post-trial behavior.(3)

Finally, the post-trial stage has been investigated by authors who have done research on the "execution" or "implementation" of decisions. In such studies, the effectiveness of decisions is measured by means of a comparison between the content of the decision and the subsequent state of affairs.(4) This "effectiveness approach", as I shall call it, has two weaknesses. It is preoccupied with the power and authority of the deciding institutions and the administrative agencies entitled to "implement" the decision. As a result it fails to take into account that what happens with decisions does not necessarily and certainly not entirely depend on the parties and other involved persons.(5) The second weakness of the effectiveness approach is that there is an implicit assumption of a causal relationship between the decision and the ensuing behavior. However, such causality may be more a matter of a legal doctrine than of empirical facts. Usually there is at best a correlation of the content of a decision with the subsequent behavior, the precise character of which is very problematic (cf. Abel 1980; F. von Benda-Beckmann 1983). For even if the parties behave in accordance with the decision, this may be the result of other factors. On the other hand, the fact that a decision is not adhered to does not have to mean that it is without social significance. By focussing on a comparison of two fixed points instead of doing longitudinal research, the analysis in terms of enforcement and effectiveness does not provide much insight in the relationship between decisions and behavior in the post-trial stage.

The post-trial stage thus is an important field of study for several different empirical and theoretical approaches. This insight is not new and several authors have commented on its importance (see Nader 1965: 24; Griffiths 1983c:152). However, such comments hardly amount to more than lip-service. It is therefore worthwhile to dwell briefly upon the reasons for the conspicuous lack of interest from which the post-trial stage has suffered, before I set out my own approach to the post-trial stage.

Reasons for the neglect of the post-trial stage

At first glance the reasons for the neglect of the post-trial stage may seem to lie in practical research problems. Sociologists and anthropologists of law are faced with considerable technical problems when they try to study the post-trial stage. Most

fieldworkers only have a limited period of time in which to do research. In this period it is usually impossible to follow a dispute through the pre-trial, the trial and the post-trial stage, even if the research is confined to one institution and is carried out within one village. However, this can hardly be the reason why the post-trial stage is left out. The pre-trial stage is usually studied on the basis of historical material, and there is no reason why it would not be equally legitimate to study the trial and post-trial stages retrospectively, too. In fact, many disputes go through several institutions and more than one decision is usually made. The "interbellum" could well be regarded as the post-trial stage of the earlier decision and not only as the prelude to the next institutional treatment. Although the literature is full of descriptions of such an interbellum, these are invariably analyzed in terms of the history of the subsequent decision.

Another reason for the neglect of the post-trial stage could be found in the size of the research area. For state courts, for example, the geographical area over which they have jurisdiction is usually so large that a fieldworker cannot possibly obtain the intimate knowledge of the whole area necessary for a comprehensive study of the post-trial stage of disputes. It is perhaps not by chance that the rare studies which include a more intensive study of that stage concern decisions by village institutions (see Gulliver 1963; Starr 1978b), while studies of state courts, if at all directed at the post-trial stage, are all more or less confined to the effectiveness approach (see Silliman 1981; Lowy 1978). In large scale research on the significance of court decisions, covering the whole area over which a court has jurisdiction, these difficulties cannot easily be overcome with the limited resources available to most researchers. Yet this does not fully explain, let alone justify, the lack of interest in the post-trial stage.

The failure to look at the post-trial stage may result from the fact that in many classical anthropological studies the enforcement of the decision takes place during the trial. This happens when the deciding institution is at the same time the enforcing institution and does not dismiss the parties until damages have been paid, hands have been shaken, and beer been served (see Van Velsen 1969: 157; J.F. Holleman 1974). In other words, the part of the decision containing specific directions for action which can be carried out immediately is carried out while the institution is still in session. Since decision and execution are both part of the court process the need for looking at the post-trial stage may not be so obvious. However, as Van Velsen (1969: 147) indicates, payments made in court may be returned later on. Thus, even in such dispute management situations it

cannot be assumed that the immediate execution of a decision tells us enough about its significance for the dispute in the post-trial stage.

Examination of these difficulties with research concerning the post-trial stage makes clear that they cannot explain the lack of attention it has received. I suggest that there is an entirely different and more fundamental explanation which has to do with notions about the definition of law and the locus of law-application. Although there are widely divergent approaches to the definition of law, they almost all seem to have in common one feature, namely that they are authoritarian. By that I mean that law is seen from a top-down perspective with a strong emphasis on the institution applying law or exercising social control. This perspective reflects the stereotype criminal process, in which the institution, once activated, takes over the initiative and has a monopoly on enforcement (see Black 1981). Sociologists of law usually associate law with the state. Legal norms are those norms which can in case of norm-deviating behavior be sanctioned by the community at large or by institutions representing the community, such as the state, the administration, the court.(6) Others define law as social control by the state (see Black 1976). For sociologists it seems only natural to concentrate on the activities of state institutions (see Griffiths 1981). Even Geiger, who has warned against "sanction monism" (Sanktionsmonismus), and who emphatically defines law both through non-conforming and through sanctioned norm-deviating behavior, has not entirely escaped the pitfall (1964: 238). Despite his very precise and elaborate theory of legal norms, the attention he devotes to norm-conforming behavior stands in no relation to the energy and space spent on deviating behaviour.

In these approaches the courts are seen as the locus of law-application, and law-application by courts as the legal process. This focus upon the trial stage in the courts and the neglect of the post-trial stage in my view is reinforced by the idea of the separation of powers. According to this idea law making and law application is something different from execution. Although administrative agencies have recently received increasing attention from researchers, this has been mainly because they also make law and apply law or because they play an important role as semi-legislators or semi-judges or as dispute-initiating agencies. The real activity of execution remains something different and hardly "legal". As a result, the "legal" process seems to end with decisions.

But even where, as in implementation studies, the research focusses upon the post-trial stage, the top-down approach and its concern with state institutions dominates. At the recent sympo-

sium on "The Implementation of Court Decisions", held in Bielefeld, Germany on December 15-17, 1983, most of the discussion was devoted to the question of how much power a court or other sanctioning institution could exert and how they could extend their grip on the execution of decisions. The people to whom the decisions are primarily directed, the parties, were hardly mentioned at all and, if so, mainly as factors disturbing the work of the institutions.

The work of most legal anthropologists is based on similar assumptions. Anthropologists who looked for law in stateless societies looked for functional equivalents and substituted the organized community for the state and legal authority or "pro-tanto officials" for the courts (see Llewellyn and Hoebel 1967: 286). Others, working in the rule paradigm, define law through the concept of sanctions, which can be applied by the functional equivalents of the state and the courts.(7) Their insistence on sanctions has led to a top-down approach in which the main concern is with the institution and not with the people utilizing these institutions, in the same way as in the sociological approaches.

The combination of the top-down approach, of the idea that law can only be found in decisions, and of the idea that deciding is something fundamentally different from executing, has had serious consequences for methodology and research interests in the sociology and anthropology of law. Until quite recently (8), the field of trouble-free social life and of dispute prevention was virtually unnoticed, because it did not involve activities of law-applying institutions. J.F. Holleman's call for the study of trouble-less cases (1973) has hardly lost its urgency. In studies of dispute management the assumptions sketched out above have led to a certain blindness to the post-trial stage, resulting in a general neglect of the fact that execution is usually not exclusively "monitored" by the deciding or enforcing institution, but by parties and other people involved in the dispute (see Galanter 1974: 138).

Of course, most legal anthropologists and sociologists do not subscribe to all the implications of their basic assumptions concerning law and law-application. They have not generally subjected their research and analyses to the logical consequences of their definitions.(9) Yet, few have been prepared to give up their explicit or implicit notions of law (see Pospisil 1971: 92), and the model has continued to exert its influence on research as well as on attempts to develop alternative models. Even those who, like Griffiths (1981), have emphatically rejected the classical taxonomic approach and have convincingly criticized the doctrine of legal centralism according to which the state has a

monopoly on law, leave the post-trial stage out as a phase in their model of litigation (see Griffiths 1983c).

A longitudinal perspective

The purpose of this paper is to look in a more systematic way than is usually done at the social significance of decisions in the post-trial stage.(10) In order to get an insight into this significance a number of questions have to be asked. In the first place one needs to know how the decisions are interpreted by the various persons involved. To answer this it is necessary to distinguish the various elements which are usually combined into one decision.

1. Decisions(11)

A decision in a dispute usually consists of a number of different elements. In the first place a decision-making institution construes a picture of what has taken place (see F. von Benda-Beckmann 1976). This involves a selection of relevant information, based on the normative framework in which the claim is set (see Comaroff and Roberts 1981: 84). It also involves labelling and interpreting rights, duties, relationships between persons and the status of objects (12), and judgements on the validity of transactions and on the liability or guilt of (one of) the parties (see Popitz 1980: 57). To this complex of elements the institution may, but does not have to, attach consequences in the form of instructions to the parties to do something (pay a certain amount of money, openly confess guilt, publicly shake hands, prepare a meal, provide beer, return disputed objects, etc.) or to refrain from something (interfering with the activities of the opponent, exploiting a plot of land, etc.). Of course, the directives are not always clear and decisions may be ambiguous.(13) Each of the elements of its decision may be interpreted differently from what the court meant, and each may have different effects in the post-trial stage. One should not, as often is the case in the effectiveness-approach, limit one's study of the post-trial stage to the last element, the directives for action.

2. Choices of action

Secondly, we have to inquire what parties do after a decision has been made and whether and how people orient their subsequent activities to the decision and norms stated or implied in it. In the third place we need to know whether people rationalize and justify their subsequent behaviour in terms of the decision.

Within this framework the question whether and under what circumstances decisions tend to be carried out is an important one, but it is only part of the analysis.(14) The role, power and legitimacy of the deciding institutions and of possible enforcing institutions are variables, the importance of which is an empirical question. Of course, the post-trial behaviour of the parties occurs in "the shadow of the court" and even an inactive enforcing institution may be a significant factor for the behavior of the parties (cf. Galanter 1981; Spittler 1980; K. von Benda-Beckmann 1981). But unless an institution has a monopoly on enforcement it should not stand at the center of our attention, nor should its importance be taken for granted.(15)

Once the final decision has been made, parties, and perhaps the enforcing institutions, have to make up their mind what to do next. There are several possible courses of action. In the first place, the parties may comply voluntarily with the decision. Payments are made, objects change hands, disputants refrain from further intrusion upon the rights of each other, the status of objects is acknowledged, etc. Research findings suggest that compliance with decisions is most probable when implementation follows immediately on the decision and when the decision entails clear directives (cf. Gulliver 1969; Lowy 1978: 198; Galanter 1974: 138; Zimmermann 1982: 189).

A second possibility is that the decision is enforced. The initiative to enforcement may lie in the hands of an enforcing institution, e.g. the police in what we call criminal cases. It also happens when the deciding institution is at the same time an enforcing institution and does not dismiss the disputants until damages have been paid, hands have been shaken and beer served (cf. Van Velsen 1969: 147; J.F. Holleman 1974).

The initiative for enforcement may be taken by one of the parties. This is especially likely to happen when there is a great imbalance in power between the disputants. The powerful and wealthy party usually has greater access to official enforcing institutions and thus is able to increase its power advantage even more. The weaker party may anticipate this and prefer to comply voluntarily instead (cf. Silliman 1981). The difference between voluntary compliance and enforcement will in many cases not be at all clear.

A third possibility is that the parties try to find another institution to bring their grievance to. This may be a higher institution within the same hierarchy or it may be a different type of institution. For instance, people may first bring their dispute before a village institution, then to the police and the state court and then appeal to the high court and supreme court. The

available institutions are not all of the same order and may be based on different legal systems.(16)

In the fourth place, the parties may do nothing at all, either because the decision does not contain any directive for specific action or because the addressee fails to act as required (see Cochrane 1972: 53). It may also be because the winning party is the weaker party and has no possibility to recruit powerful support to force its opponent to comply (see Silliman 1981: 93 ff). When the power balance at a later stage changes in favor of the winning but originally powerless party, he or she may decide even many years later to enforce compliance.(17) With respect to the parts of a decision which do not contain clear directives for specific action it is sometimes difficult to distinguish conduct which may be interpreted as active or passive acquiescence from conduct which indicates rejection of the decision.(18) The same behavior can be interpreted either way. There is often much room for ambiguity, different interpretations and manipulations.

Finally, parties may enter into negotiations as to what is to be done. Such negotiations may be carried out on the basis of relative equality, but they may also be forced upon the weaker party under the threat of resisting enforcement altogether (see Gulliver 1963: 251 ff; 1979). They may result in an agreement that only a part of the decision be carried out or that something different from what was decided be done.

3. The semi-autonomous social field

The post-trial stage of a dispute is not situated in the court setting, but usually in the social field in which the dispute originated. There the disputants are subject to all kinds of influences which may have an impact on their course of action, of which the decision itself is not necessarily the most important one. In order to analyze the factors which may influence the behavior of disputants in the post-trial stage it is helpful to draw on discussions about the effects of general legal rules, in particular upon Moore's idea that people as addressees of legal rules are not simply or directly affected by such rules: they are members of one or more "semi-autonomous social fields" (19), i.e. social fields characterized by their ability to generate their own rules and by the existence of mechanisms of social control. As Moore has demonstrated, such fields are the most appropriate setting in which the effects of legislation can be studied. Her approach should be extended to the study of the effects of court decisions.(20) Like legislation, decisions flow from a confined institutional context into a wider social field which can be called semi-autonomous in Moore's sense. As in the case of legislation,

we must expect the social significance of decisions to be influenced and shaped by the norms, the social relationships and the social processes within such a social field (see Lowy 1978; Kidder 1978).

Moore's approach is important in any society (see Griffiths 1983a and c) but particularly so in ex-colonial societies such as Indonesia, with a markedly plural system of law and decision-making institutions. The social fields into which a decision flows, usually villages, share only to a limited extent a common legal system with the decision-making institutions of the state.

One of the advantages of the observation that decisions flow from the institutional setting in which they are rendered into the social field in which the dispute originated, is that it draws our attention to the possibility that in that social field people may develop their own interpretations of the decision and thereby change it. It is this interpreted decision which will lead its own life, perhaps in the form of rumor, perhaps also as the generally accepted meaning of the decision. This is not unusual in western countries, but in other societies this transformation of the decision may take on an extra dimension since the villagers consider themselves legitimated by the legal system of their own semi-autonomous social field to give their own interpretation. Thus state law and state court decisions may be transformed into "folk law" similar to the ways in which folk law may be transformed into state law (see K. von Benda-Beckmann 1983; Snyder 1981b; Woodman 1969, 1985).

Moore's approach also draws our attention to the possibility that disputes undergo a post-decision transformation similar to the ones that occur upon entering a decision-making institution. Various forums of dispute management maintain their own requirements concerning the formulation of a dispute and tend to emphasize different issues. Depending on the forum, the original dispute may be transformed into something quite different in order to meet the requirements of a court's jurisdiction and its normative idiom.(21) As has been observed repeatedly, parties may have to formulate and argue their claims in terms of different purposes and rules than those they originally had in mind. Their original grievances and interests may disappear into the background. When the constraints of the institutional setting fall away and the dispute returns to its original social field, the likelihood that it undergoes a new transformation is great.

4. Time

This new transformation should not be regarded as a re-transformation, because the social field from which the dispute emerged and into which it returns is not a static entity. It will often have undergone changes during the period in which the decision-making institution was dealing with the dispute (see Starr 1978b). People go away, others return, offices may change personnel, other disputes arise, people marry and enter into contractual relationships, children grow up, etc. Moreover, what goes on in court is discussed at length and the testimony of witnesses may either cool off or strengthen social relationships among the parties.

Similar changes may occur in the post-trial stage. We need to know what happens within a social field and how it changes, in order to understand why people sometimes choose to lie low for a while and abide a moment when compliance seems to be within reach or a demand is otherwise advantageous. The choices parties make as to what to do with a decision are not necessarily permanent, nor need they all be made immediately. Changes in the power constellation within the social field may induce people to act who have remained inactive for many years, as the example of the Lebanese shopkeeper described by Nader and Todd (1978: 36) shows.

By treating the post-trial stage as a social process located in a certain space and changing over time we can avoid many of the shortcomings of the approaches to decisions discussed above. One consequence of looking at the post-trial stage over time is that it is very difficult to know when a "case" has come to an end, for one must always leave open the possibility that people will base some new activity upon a decision. There is no clearly defined end-point of the disputing process. But the advantage of an open-ended unit of analysis seems to me to outweigh the disadvantages. For the social scientific study of law, fixation on the moment of decision provides us only with a false hope that we have found a useful unit of analysis.

In this paper I shall illustrate the approach proposed above with material from my research on dispute-management in Minangkabau, Indonesia.(22) The examples I shall present concern disputes which were dealt with both by village institutions and by the state court of Bukittinggi, one of the central towns in the province of West Sumatra. The disputes are all civil disputes (in the technical sense of the national law) to which adat substantive law, which is in theory the folk law of the Minangkabau, is applied.(23) The scope of my paper is limited in several respects. It is concerned only with one category of court disputes, namely

civil disputes. Furthermore, it looks at the social significance of court decisions only for the people somehow involved in the disputes and in the social field of one Minangkabau village. It does not deal with the possible "general effects" (see Galanter 1981), with the role decisions may play as precedents (see Fallers 1969) or as teaching material for law students. These more general aspects of the social significance of decisions exceed the scope of the present paper.

Ethnographic setting

West Sumatra is the homeland of the approximately six million Minangkabau, half of whom live within West Sumatra, the other half living scattered over Indonesia and beyond.(24) Eighty-six percent of the West-Sumatran population lives in villages. With the exception of Padang, a minor international port on the coast, most towns share many of the characteristics of the villages.

West Sumatra is a predominantly agricultural area. Rice is grown as a subsistence crop on wet and dry fields. Vegetables, cloves, cinnamon, chili, sugar and coffee are grown for private use and as cash crops. Furthermore, many villages specialize in some craft. Bukit Hijau, the village in which we carried out the fieldwork on which this article is based, is mainly a rice and vegetable cultivating village. Higher up on the slope of the volcano Mount Merapi, at whose foot the village lies, there are some cinnamon and sugar-cane gardens. The villagers do some basketweaving and embroidery but there is no true specialization, most farmers having a mixed economy. Petty trade is usually done on an individual basis. Spouses keep their income largely separate.

The province of West Sumatra consists of eight districts, each of which is subdivided into five to ten subdistricts. Each subdistrict is divided into five to twelve nagari, of which there are a total of 508 in the province. The lowest effective level of civil administration is the nagari, or village, consisting of several groups of settlements or scattered settlements, with a mayor, assisted by a secretary, an advisory Village Council (Kerapatan Nagari) and a representative council with limited legislative power. Ward heads and ward councils assist the local administration.(25) The military and police are stationed at subdistrict level, the judiciary at the district level.

Prior to Dutch colonial rule, nagari were largely autonomous socio-political units.(26) The socio-political and legal structure were constituted mainly by adat, but Islamic influences were also important, especially since the late 18th century (see Dobbin 1977, Taufik Abdullah 1966). Every villager was a member of a

matrilineal descent group, buah gadang, named after its lineage head, panghulu. Each lineage was affiliated to one of the localized clan-segments, suku. According to adat constitutional law, every nagari consisted of at least four suku, each with a suku council. The suku structure was the basis of the nagari government, but the precise organization varied throughout Minangkabau (cf. F. von Benda-Beckmann 1979: 58 and literature quoted there).

Today the traditional adat structure is still widely intact, be it that the local administration has taken over many tasks since the Dutch penetrated into the highland of Minangkabau in the early 19th century (see Dobbin 1975: 85).

Bukit Hijau is a nagari with an unusually complex socio-political structure.(27) It has seven named suku, most of which consist of several clusters of lineages, sepesukuan, whose respective ancestors came from different areas before they settled in Bukit Hijau. With one exception all suku are exogamous units, but common matrilineal descent is not traceable for the whole suku nor even within each lineage. Beside the suku structure there is a division into associations of lineages, the hindu, of which there are twelve in Bukit Hijau and which have their own councils. The suku structure is particularly important for matters concerning lineage property, pusako, while the hindu structure was set up as a form of nagari administration. It has now lost most of its actual tasks to the local village administration, but it is still the basis for the Adat Council (Kerapatan Adat Nagari), which consists of one representative of each hindu. In addition, the nagari is divided into neighborhoods, each with a prayer house and a neighborhood head and neighborhood council. It is here that Islamic influence in the nagari structure is most prominent, because the neighborhood head is at the same time an Islamic leader and an adat functionary.

Suku, hindu and lineage may be stratified as a result of the incorporation of "newcomers", people who do not descend from the nagari founders, or former slaves. These newcomers and their descendants usually have less land available than the "original" settlers and their descendants. They also have an inferior position in decision-making processes. However, although this and other forms of stratification, and demographic developments, have led to unequal distribution of land within and among the lineages, this has not led to a class of landless peasants.

The three principles of organization just mentioned correspond with three traditional realms of decision-making. The suku deals with matters of lineage property, the hindu with matters of nagari administration and the neighborhood is responsible for

maintaining the prayer house and the roads, etc. Depending on the subject-matter of a dispute and on the formulation given to it, the neighborhood council, the suku council, or the hindu council or the Adat Council is considered the appropriate place for dealing with it.

All decisions in disputes must traditionally in theory be reached by consensus of all persons involved including the disputants themselves.(28) As long as the conflict is kept "among ourselves", i.e. treated internally at the household, sublineage or lineage level, all adults may participate in the deliberations. When a dispute receives a more public treatment, the deliberations are confined to lineage heads as representatives of their lineages. The disputants are entitled to a proper hearing and a decision can only be made if they consent to the solution offered by their representatives. This requirement is one of the reasons why decisions are so rarely reached in serious disputes. The traditional way of putting pressure on the disputants to give their consent, some form of ostracism or eviction from the village community, has lost much of its force. The suku and hindu councils and the Adat Council often make decisions to which disputants do not consent, but such decisions are invariably challenged.

Institutional and legal plurality on the village level is only one part of the very complex legal pluralism characteristic of Indonesia. A Western court system was introduced and developed by the Dutch, streamlined by the Japanese and maintained as a uniform system by the Indonesian Republic (see Tanner 1971: 184 ff). It consists of a State Court (Pengadilan Negeri) in every district, a High Court (Pengadilan Tinggi) in every provincial capital and the Supreme Court of Indonesia (Mahkamah Agung) in Jakarta. The Supreme Court can grant review only on questions of law.(29) The procedural law of these courts is basically former Dutch law, with slight adaptations.(30) Judges, prosecutors and clerks should have a full law degree, but in particular the smaller courts are mainly staffed with people who have only a first law degree or an administrative training received under the Dutch. The scribes, assistants to the clerk, who take notes of court sessions and type out the minutes and the final decisions drafted by the judges and assist parties in writing up their claims, have no formal law degree. They are trained on the job. A number of them have in fact a very thorough knowledge of adat law.

The state courts have jurisdiction in criminal and civil disputes, with the exception of marriage, divorce and inheritance, which fall under the jurisdiction of the Religious Court (Pengadilan Agama). In West Sumatra, however, inheritance matters are con-

sidered to fall under the jurisdiction of the ordinary courts. There is a religious court in every district capital. Appeal is open to the Religious High Court (Pengadilan Agama Tinggi), seated in the provincial capital, from which further appeal is possible to the Head of the Directorate of Religious Justice of the Ministry of Religion.

In addition to the courts, there are other state officials and institutions which deal with disputes: the mayor and the Village Council as mediators, the district and subdistrict heads (31), and the military and police.

Under Indonesian statutory law the courts are required to administer a variety of laws, depending on what the living law (hukum hidup) in the cases under dispute is.(32) The religious courts apply Islamic law. Substantive criminal law is statutory, formally similar to Dutch criminal law.(33) Civil law can be either statutory, e.g. the Civil Code for the Dutch Indies (34) and some statutes of recent date, such as the Basic Agrarian Law (1960) (35) and the Basic Marriage Law (1974) (36), or local adat law, which varies throughout Indonesia. In central West Sumatra adat law is applied in 86% of all civil disputes (see K. von Benda-Beckmann 1981: 124).

Most major disputes and most disputes which reach a state court concern land, i.e. inheritance, division and transactions concerning ancestral or privately owned land.(37) A discussion of such disputes must be preceded by a brief outline of applicable Minangkabau adat property law. The Minangkabau make a sharp distinction between two categories of property: ancestral property, harato pusako, and personally-acquired property, harato pancaharian. The property holding unit for pusako is the lineage, of which it is said that its members are of one pusako. Although the lineage is the group which decides on transfers of pusako land, the basic contemporary economic units are smaller. These comprise usually no more than a household, consisting of one or perhaps two adult couples with children and sometimes a grandmother. They farm lineage land if available. If the lineage has insufficient land, additional land may be pawned (pagang gadai) or taken in share-cropping, usually from remote relatives or in-laws.

Access to lineage land is obtained through a complicated system of distribution among the lineage members (cf. F. von Benda-Beckmann 1979: 154 ff). Most lineage land is allotted to women and men usually receive only small parts. Use rights remain within a lineage segment consisting of the woman it was allotted to and her descendants until the segment dies out. Use rights do not include the right to alienate pusako without the consent

of the whole lineage. It is the task of the lineage head to organize group consent and to represent the lineage in the negotiations concerning the conditions of alienation. In practice, a considerable amount of land is pawned or given in share-cropping without consent of the whole lineage or even the sub-lineage.

Pawned land can always be redeemed after a minimum of two harvests, but redemption may in fact occur after several generations. It is the right of the lineage as a whole to redeem its land. The exploitation rights, however, fall only to those persons who actually participate in the redemption payment: the other lineage members acquire a right of exploitation when they pay their share. Formally, redemption by one or a limited number of members of the pusako holding group is considered to be a "transfer of the pawning contract" and not a true redemption. In practice, however, it is called redemption.(38)

Lineage land may in principle not be permanently alienated. In the rare cases in which land has been sold, the buyer is always a villager. There is also a very strong feeling that only those who live in the village may exploit lineage land. However, lineage members living elsewhere sometimes get a share of the harvest for their private use. Absentee landlordism on any scale does not exist in West Sumatra.

Personally-acquired property (pancaharian) can be disposed of freely by the holder. In former times it was inherited by the members of one's lineage segment and added to the existing stock of pusako, but since the 1960s a man's pancaharian is inherited by his children (see F. von Benda-Beckmann 1979: 337 ff). Within the childrens' lineage, however, it acquires the status of pusako. Land taken in share-cropping or received in pawn in exchange for the loan of personally-acquired money has the status of pancaharian for the share-cropper/pawnee and his or her heirs. It retains the status of pusako for the original holders.

This complicated system of land rights gives rise to many disputes (see Tanner 1969; 1971: 82, 224). Disputes within segments of a lineage are usually disposed of within the lineage and whether settled or not hardly ever rise above that level. Disputes between lineage segments and between lineages, which also occur frequently, often reach the higher levels of decision-making within the nagari and may well be treated by external institutions (see F. von Benda-Beckmann 1979: 307 f; Tanner 1971: 218 f). The most intricate disputes involve situations in which two or more lineages or sublineages contest the inheritance of an extinct lineage or segment, or in which pawned land is

claimed back as pusako. Also intricate, but in the 1970s not very frequent, are disputes between children and their father's matrilineal relatives about the inheritance of their father's or uncle's personally-acquired property. Finally, many disputes occur when money has been invested in land and there is disagreement about its source and thus about inheritance or the right to redeem the land (see Tanner 1971: 82; K. von Benda-Beckmann 1981: 125).

One of the most important reasons for these kinds of disputes is that the traditional mechanisms through which such disputes could have been avoided have to a large extent broken down. Traditionally, panghulu (lineage heads) played an important role in dispute-prevention, because of the requirement of their presence at and consent to all important lineage transactions.(39) The traditional adat system provided for the cleavage of lineages and the creation of new panghuluships. In 1888 the Dutch put a stop to the increase of the number of recognized panghulu.(40) Due to tremendous population increases since then a panghulu has a far larger group under him than a century ago. Bukit Hijau has a population of nearly 10,000 and somewhere between 113 and 139 lineages, but in 1975 only twenty panghulu had been officially installed, due to internal lineage disputes. At the end of the last century, when the Dutch froze the official number of panghuluships, there were one hundred panghulu for a population of less than 3,000 and most of these were functioning. While at the turn of the century the ratio of panghulu to population was thus approximately 1:30, this ration in 1975 was 1:500. Moreover, the panghulu in office were not evenly distributed over the population, some lineages being larger than others and some suku having more panghulu in function than others (cf. F. von Benda-Beckmann 1979: 73ff). As a result of the freezing of the number of officially recognized panghulu the Dutch administration disturbed the size of lineages. Since then, many lineages have in fact split, but in many cases it is not clear whether a formal split pursuant to adat has been accomplished or not, so that the status of a kin-group as lineage or sublineage is unclear. This uncertainty facilitates manipulations of kinship relations. The status of kin-groups which are not very closely related has in effect become negotiable.

The size of the groups currently headed by a panghulu, the many vacancies of panghuluships, the uncertainties concerning the status of various kin-groups and the resulting negotiability of kinship relations, as well as the complexity of the socio-political system, have important consequences for dispute-management within the village. I have discussed this at length elsewhere (see K. von Benda-Beckmann 1981).

The suku and hindu councils and the Adat Council, as well as the Village Council are only rarely able to provide effective solutions in disputes. If a lineage or the lineages involved are not able to solve a problem amongst themselves, there is little chance for a solution on a higher village level. Nevertheless, village institutions are relatively successful in containing disputes within the village; only few disputes reach the state courts.(41) Disputing in state courts is a time and money consuming affair and often lasts 1.5-2 years (see Tanner 1971: 187, 226).

The Minangkabau are acutely aware of the risks involved in taking a case to court as expressed in the saying:

nan kalah manjadi abu	the loser is reduced to ashes
nan manang manjadi baro	the winner is reduced to charcoal

(Tanner 1971: 187)

The costs of litigation in the state courts include the cost of legal representation, travel and lodging for litigants, supporters and witnesses (who also require gifts of clothing or something more expensive), and court fees. Parties are not required to be assisted in court, but some do consult an advocate (4%), of which there are only five in the province of West Sumatra, or another professional representative (8%), who is not necessarily a lawyer, although most members of the local law faculty also practice as legal advisors. Disputants may also choose to be represented by a non-lawyer, chosen for his presumed ability to deal with the administration, such as a school teacher, a civil servant or someone else with some formal education. All three kinds of representative are expensive.(42) If the court considers it necessary to view the site of the dispute, a fee of 30,000 rupiah (approximately US $75 in 1975) plus additional expenses is due. For a seizure by the court the same amount must be paid. The regular court fee usually amounts only to a few dollars and may occasionally run up to US $30, thus forming the smallest part of all expenses.

If the plaintiff is not represented, the clerk usually assists him to write up the claim. This typically consists of the names of the plaintiff(s) and defendant(s), a description of the disputed objects, their value and the yearly yield (if land is involved). The claim gives a short description of the facts on which the plaintiff bases his case and a statement of what the plaintiff wants from the court: recognition as the mamak kepala waris (lit.: "head of the heirs", representative of the group) of his lineage or lineage segment; recognition as heir; a declaration that the parties are or are not related; a declaration that the disputed objects are pusako or pancaharian; a declaration that a contract is valid,

etc. Finally the plaintiff asks the court to order the defendant to hand over the disputed objects or to refrain from further infringements on his rights, to pay compensation, or "to do what the court deems appropriate" (the standard expression).

Sessions are usually held every two or three weeks, although sometimes more than a month may pass between two sessions. The first four sessions in a case are devoted to reading the written claim, response and counterclaim, and further pleading, followed by questioning by the judges to clarify the issues. Written evidence is also presented during these preliminary sessions. The court then decides tentatively what the issues and the disputed facts are and invites the disputants to provide evidence in support of their claims. The next sessions are devoted to hearing witnesses and if necessary to viewing the site. This may go on for months, especially since witnesses often do not turn up the first time they are invited to appear.

When the court considers that it has enough information to make a final decision, it usually takes two to four weeks to do so. The decision, written in Indonesian, is, like Dutch civil court decisions until recently, formulated in one long and complicated sentence. It consists of four sections. The first part contains the name, sex, age, job, domicile and suku of the parties and their status in the process (mamak kepala waris or private person). It also names the parties' representatives, if any. Then follows the integral text of the pleadings, a summary of what according to the court the disputed and undisputed facts and the issues under dispute are, and an enumeration of the written evidence and of the witnesses heard. This part is called "the considerations regarding the facts". It is followed by "the considerations regarding the law", containing a brief discussion of each piece of evidence and its relevance for the disputed issues, and closing by dismissing or upholding of the claim. After these considerations the court gives, in the final section, a brief statement of what the parties must do or may not do and what the relationship between the parties and the status of the objects under dispute is. It concludes by determining who has to pay the court fees.

Formally, the court is required to read the full decision aloud. As far as I know this is never done. The president usually suggests to the parties that they "probably do not consider it necessary" to hear everything, to which the parties always assent. He then reads a summary of the claim, of the questions which needed to be dealt with and of the considerations concerning the law. Only the final section is always read in full. After this the president explains in Indonesian and Minangkabau what the decision means, what each party must or may not do and why. He

then announces that if a party is interested he may get a copy of the official decision. Since the decision has at this point not yet been typed and signed, a party so interested would have to come back later. He would also have to pay a small fee and often another extra sum to the scribe who types the decision and obtains the signatures of the judges. If he is unwilling to invest much money, it may take weeks before the document is ready. In this respect the court operates like every other administrative office. A consequence of this situation is that the oral explanation given by the president is usually in most respects the real decision. It is this version of the decision which usually is interpreted and leads its own life in the social field of the disputants.

If a party is not willing to comply with the decision, his opponent may call on the bailiff and the police for execution. This again takes time and money. However, it is often quite effective, because refusing to cooperate is grounds for a criminal prosecution and this brings with it a high probability of being jailed for some time. An informal admonition by the police may do the same trick.

An appeal to the High Court generally entails a stay of execution. Although most claims contain the request that the court declare the decision to be immediately executable, this is rarely granted (but see The case of the Demolition of an Adat House). The winning party must often wait several more years before he recovers what has been declared his, especially if his opponent decides to appeal to the Supreme Court. The High Court decides virtually exclusively on the basis of documents. It does not hear parties and only very rarely witnesses. The parties therefore do not have to attend the sessions, which means a considerable saving of time and money. During the years 1968-1974, 54% of all civil judgments were appealed. The decision was upheld in 45% and reversed in 41%; in 14% the High Court substituted its own decision. Of all High Court decisions, 18% were appealed to the Supreme Court. Over 40% of these appeals were reversed.(43)

The social significance of decisions in Bukit Hijau

A demonstration of the importance of the approach outlined in the first section requires a detailed description and analysis of cases. I have chosen to present only a few extended cases in which a number of decisions were made at various levels within and outside of the village. The advantage of this choice is that it provides the reader with some insight in the complexity of the disputing process in which institutions internal and external to

the village are used. The details are also necessary for an understanding of the strategic use villagers make of decisions.

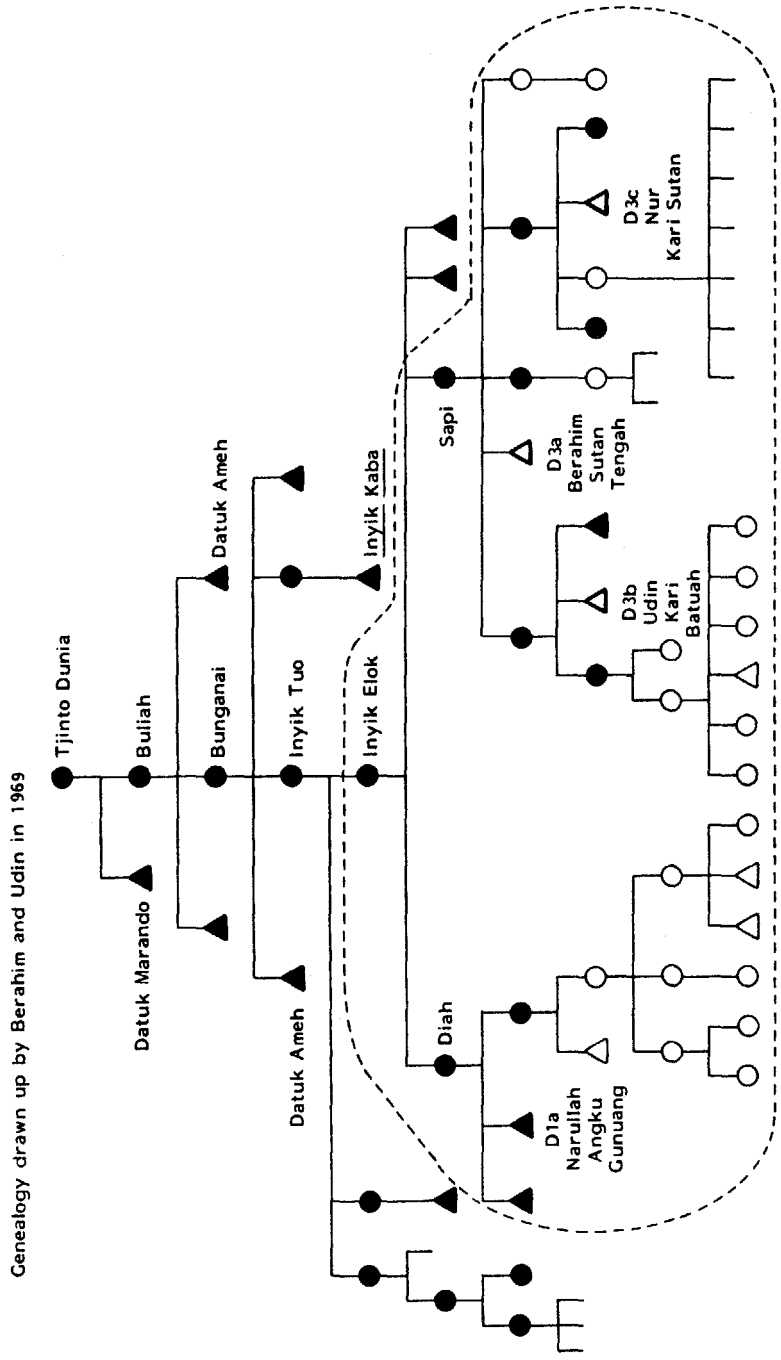
On the other hand such a choice brings with it its own limitations. The material I have is by no means complete. Completeness is impossible when one tries to reconstruct the history of a dispute going as far back as 50 years; it is beyond reach even for more recent history. Moreover, the disputed property usually is scattered over the village and it would have required the better part of my research time to map out the history of every plot and to find out the names of all persons who at one time worked it. I shall therefore often have to indicate that I miss some relevant information. The chosen cases also do not fully cover the whole range of variation in types of dispute. My examples concern control over and access to land, involving inheritance, transfer of land and the status of land as lineage or personally-acquired property. These are the issues people fight about over long periods of time and with great intensity. They make up the greatest part of the case load of the state courts as well as of village institutions (see Tanner 1971: 210 ff; K. von Benda-Beckmann 1981: 123 ff). Each of the cases exemplifies at least some of the issues mentioned at the beginning of this paper.(44)

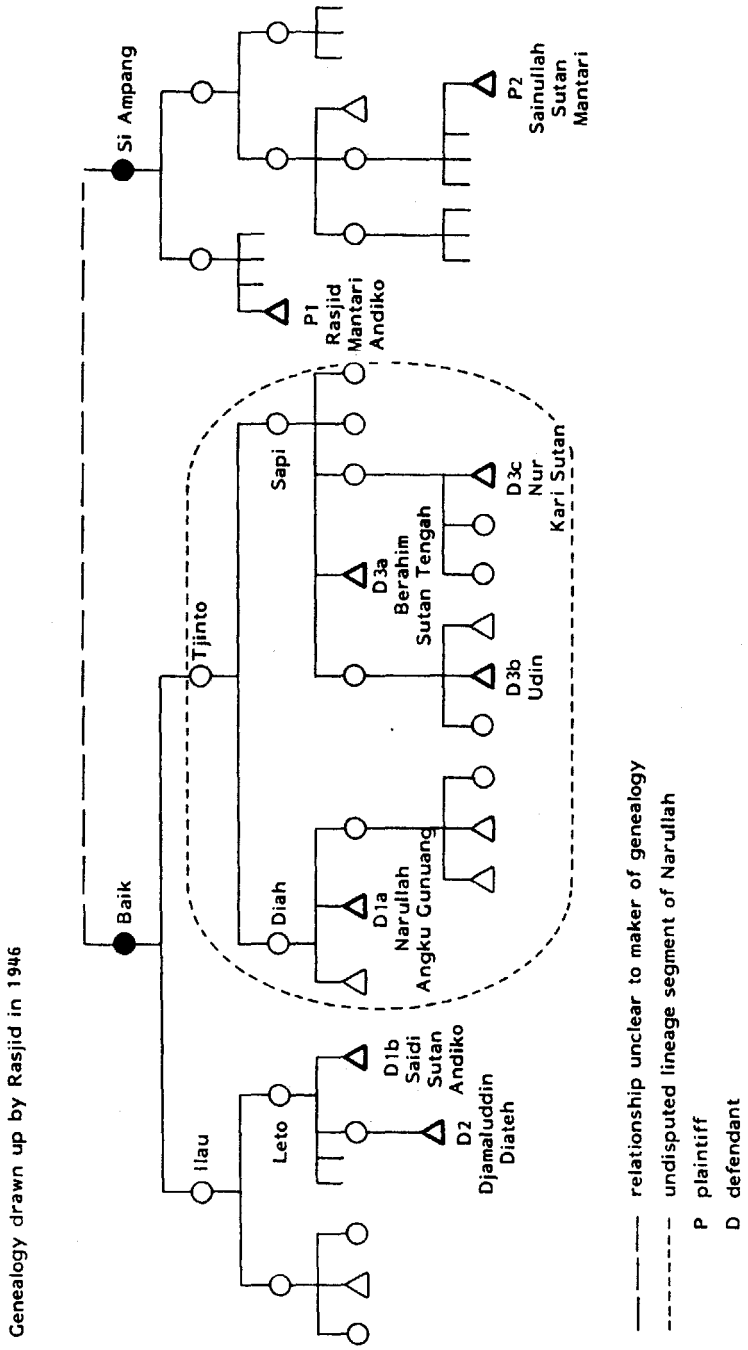
The Inheritance of Inyik Kaba

One of the oldest still unsolved disputes in Bukit Hijau began in 1917 when Inyik Kaba died. Inyik Kaba had, according to several informants, been immensely rich, being the last living member of his lineage (or sublineage, as some claimed in 1975). His lineage had possessed the title of one of the seven founding panghuluships, but he had never become panghulu himself. He had, however, taken on the title of a panghulu: Datuk Mangkuto. He had controlled both the land of his own lineage and according to several people that of his father's lineage, which was also nearly extinct as well.

After his death, several other lineages within his suku claimed to be his heir. This resulted in a court dispute about his lineage land, which was decided either in 1919 or in 1924-1925. No court records or other official documents exist anymore. The dispute was between Haji Abdullah and Narullah Angku Gunuang, a member of the lineage of Datuk Ameh (defendant D1a, see diagram 1), belonging to two different lineages within the same suku and both very wealthy because their lineages were nearly extinct.

Diagram 1: The Inheritance of Inyik Kaba





Genealogy drawn up by Rasjid in 1946

The court had decided in favour of Narullah, who had from then on controlled the land (which had a value of approximately US $1,000 in 1968). The land had been distributed among women of his own sublineage and some plots had also been given to the sublineage of Saidi Sutan Andiko (D1b). Saidi had been away for some time in Malaysia and it is not clear whether he was in Minangkabau at the time of the court case. Until the 1940s these two men, Narullah and Saidi, controlled the land together. They made sure always to be involved in any transaction concerning the land.

The problem which arose after the court decision was that a third sublineage claimed to belong to the lineage of Datuk Ameh as well. Rasjid Mantari Andiko (plaintiff P1, see diagram 1) claimed that his sublineage had not yet received its share in the land won in 1925. It had only been allowed to redeem some pawned rice fields belonging to the inheritance and it wanted to have its full share.

This new claim led to a series of disputes, the first of which took place in the 1940s between the three sublineages of the lineage of Datuk Ameh, whose office was vacant at that time. Rasjid Mantari Andiko (P1) claimed to be the mamak of the third sublineage and in that capacity entitled to one third of the inheritance, but Narullah (D1a) and Saidi (D1b) claimed that they represented the only two sublineages. In 1944 Rasjid (P1) went to court, but because of the ending of the Japanese occupation and the ensuing war of independence no decision was ever made.

In the meantime, Narullah and Saidi got into a conflict with each other about the distribution of the land. This dispute was brought before the Adat Council in 1946. Saidi, who had not been able to lay hands on his full share of the land won in the first case, claimed, this time with Rasjid on his side, an equal share in the inheritance of Inyik Kaba. The Adat Council decided that Saidi as mamak kepala waris should get his share of one third. The written version of the decision only spoke of one-third share for Saidi; it did not mention that Rasjid as the head of his sublineage should also get a third.

Several years passed. In 1952 there was a new attempt to clarify the relationships. This time Sainullah Sutan Mantari (P2, MoSiDaDaS of Rashid) and Djamaluddin Diateh (D2, SiS of Saidi) had a dispute about the control over wood, which had been taken from the disputed land and put at the disposal of H. Datuk Bagindo, the panghulu hindu of their hindu, for some nagari purposes. Djamaluddin (D2) had given the wood on behalf of the lineage of Datuk Ameh and Sainullah (P2) wanted to have Djamaluddin openly acknowledge that the wood was also given on

behalf of Sainullah's sublineage. When Djamaluddin refused to do this, Sainullah threatened to remove the wood. This dispute was settled by the sub-district officer, who made H.Datuk Bagindo, Djamaluddin and Sainullah sign an agreement in which they recognized that the wood had been given in the name of the sublineages of Djamaluddin and Sainullah, and that it would remain under H.Datuk Bagindo's control.

Once more several years went by: the years of the PRRI revolt, of Sukarno's fall and the rise of Suharto. Narullah (D1a) and Saidi (D1b) had died and Djamaluddin (D2) had made place for the die-hard Berahim Sutan Tengah (D3a), who managed his sublineage together with Udin Kari Batuah (D3b). They were not willing to settle the differences with Sainullah's sublineage. When they continued to refuse Sainullah his share, the latter went to the Adat Council in 1968 and again claimed one third of the inheritance of Inyik Kaba. The Adat Council took almost a year to come to a decision. It was Syech Suleiman - a well known Islamic leader and founder of a famous Islamic school in Bukit Hijau - who finally took the initiative and gathered information. He advised the Adat Council that each of the three parties was entitled to one third of the inheritance. The Adat Council adopted this advice in its decision. One representative of each of the twelve hindu signed the decision. The mayor of Bukit Hijau also signed, thereby acknowledging that he had been informed and that the decision was correct. The decision stated which rice fields and which gardens with trees were to be given to Sainullah, without however indicating the precise borders. The defendants refused to agree to the decision and did not sign.

Berahim and Udin not only continued to refuse to give part of the inheritance to Sainullah, they flatly refused even to discuss the possibility of letting his sublineage share in the costs of the case of 1919/1925. Sainullah (P2) then went to court in 1968 (Pengadillan Negeri Bukittinggi 1968/29) and claimed his third of the lineage land and of some other lineage goods, as well as compensation for twenty-eight years in which he had not received his share of the harvest. During the court proceedings the defendants maintained that Sainullah's sublineage did not belong to their lineage. One of their arguments was that the redemption of some of the lineage land by Rasjid (P1) had not been a real redemption, to which only lineage members are entitled, but a "transfer of the pawning contract", to which they had given their consent as mamak of the lineage. According to them such a transfer was no proof of Rashid's lineage membership. The court did not agree with the defendants and considered the transaction a redemption.

The decisions of the Adat Council of 1946 and 1969 and of the sub-district officer of 1952 were also submitted to the court as evidence for Rasjid's and therefore Sainullah's lineage membership. All witnesses heard by the court about the decision of the Adat Council confirmed that the Adat Council had actually decided that Rasjid should also get a share of the inheritance, although this had not explicitly been stated in the written decision. When the decision of 1952 concerning the wood was discussed, the defendants claimed that Sainullah (P2) had had nothing to do with the wood, but the decision of the sub-district officer and the testimony of witnesses convinced the court that this assertion was wrong. When the court asked the defendants why they had not agreed with the decision of the Adat Council of 1969, they claimed to know nothing about it.(45) They had never been properly informed and therefore there could not have been a proper decision. The mayor had decided without proper deliberation, they complained.

Both parties submitted genealogies of their lineage to prove their claim (see diagram 1). Sainullah submitted the genealogy drawn up by Rasjid in 1946. Berahim and Udin had made their own version, which included neither the sublineage of Rasjid nor that of Saidi and Djamaluddin. It did, however, include Inyik Kaba.

The court concluded that the only valid reason which the defendants might have had for denying the paintiff his share in the inheritance was that the latter had not contributed to the costs of the court case in 1919/1925. Whether this was the case or not should have been proven by them, and nothing in their evidence indicated it was. Since it had not been made clear that one party had rendered the lineage more service than the other, it was only equitable that each should receive one third. The court then determined which plots should be given to the plaintiff. It also decided that the movable goods in dispute should be estimated at market value, of which one third should be paid to the plaintiff. Finally it fixed the compensation for the loss of harvests at 575 kg. unhusked rice per year, starting five years before the dispute was registered in the court and not twenty-eight years, as had been asked.

On appeal, the defendants argued that neither the borders of the rice fields nor the total number of plots had been properly indicated in the plaintiff's claim, which therefore should not have been admitted in the first place. Although there had been a court viewing of the site, plaintiff and defendants had given different opinions about the borders and no further evidence about the exact borders had been given. The appeal was successful: the High Court accepted the argument and dismissed the claim. On appeal to the Supreme Court this decision was upheld

on the ground that the border question was a factual matter on which the Supreme Court had to follow the High Court's decision.

Sainullah (P2) then started a new case - it was by now 1972 (Pengadillan Negeri Bukittinggi 1972/35). He claimed that the defendants had already admitted that all of them belonged to one lineage, and that the dispute of 1919/1925 between Haji Abdullah and Narullah, in which their lineage had won the land and goods under dispute, had been equally financed by all three sublineages. This had all been established in the case of 1968. Only the borders had not been clear. These were clearly indicated now, and he claimed the same relief as in 1968. This time the court accepted evidence about the borders of the disputed plots and gave the same decision as in the case of 1968. Again the defendants appealed. When we left West Sumatra in 1975 the High Court had not yet decided the appeal and Sainullah had not yet received one single plot from his opponents.

We discussed this dispute with a number of adat experts. To them there was no doubt that the three sublineages should each get an equal share, since they were three branches of the lineage of Datuk Ameh, which had rightly won the dispute with Haji Abdullah in 1919/1925. However, one of the most influential lineage heads, Haji Datuk Panghulu Rajo, explained to us that "really" none of the disputing parties was entitled to the inheritance, because the lineage of Inyik Kaba was not yet extinct: it had simply not had a male member strong enough to stand up against people like Haji Abdullah, Narullah and Saidi. That was also the reason why it had been so difficult to prove the borders of the disputed land. Many villagers did not want to support the disputants by telling the court how the borders ran, out of sympathy with the true title-holders. But now the rightful sublineage had a promising young man, and Haji Datuk Panghulu Rajo predicted that within a few years he would be old enough to start a court dispute and claim the whole inheritance of Inyik Kaba for his lineage. And then, he added, everybody would suddenly now exactly how the borders ran. Whether this was true or not we could not verify.

Although I have treated The Case of the Inheritance of Inyik Kaba as one, it actually consists of two cases. The first was fought out in 1919/1925 between two lineages, each of which claimed to be Inyik Kaba's heir. The second dispute started in the 1940s between the various branches of the lineage which had won in 1919/1925 involved the distribution of the inherited goods. The decision of 1925 dominated many of the following proceedings, not only in the court cases of 1968 and 1972, but also before the Adat Council in 1968. Berahim and Udin (D3a and b)

based their claim as pusako holders on that decision. Sainullah (P2) as head of a sublineage within the same lineage in turn based his claim to one third of the inheritance on the same decision. The court itself also referred to the decision in 1919/1925. It stated that the land under dispute was part of the land which Narullah's lineage had won then. The Adat Council referred to it in 1968 when it decided that Sainullah was entitled to a share. The decision of 1919/1925 provided for all three disputants a convenient way to avoid the necessity of a more fundamental proof for their claim. Such proof might have turned out to be impossible, with the unpleasant result that none of them would be recognized as the true heirs of Inyik Kaba, for example because his lineage was not extinct. It was thus in the interest of all three to stay within the normative framework implied in that decision, namely that the land had the status of pusako of Narullah's lineage.

The court decided in 1919/1925 that Narullah's lineage was most closely related to the extinct lineage of Inyik Kaba and thus entitled to his lineage land. To this establishment of the kin relations it attached the consequence that Haji Abdullah should refrain from further infringement on Narullah's rights. Since there is no report of such interference we may assume that that part of the decision was adhered to.

However, if the information of Datuk Panghulu Rajo should turn out to be true and there are surviving members of the lineage of Inyik Kaba, then the execution of the decision of 1919/1925 could still be stopped after more than 50 years. The state courts follow adat law in this respect. Adat law has nothing like a statue of limitations and accepts that no matter how much time has elapsed a claim must be granted if it is proven. Considering that pusako is something which stays in a lineage for generations, 50 years is only a relatively short period of time. Whether such a new dispute would be successful is hard to say. There are indications that the Adat Council was not happy with its decision of 1969: in the court procedure starting in 1968 its president told the court that the Adat Council had only decided between the parties before it, because it had been asked by the mayor to do so. He implied that the decision did not say anything about possible other claims. Another indication to the same effect is Datuk Panghulu Rajo's own interpretation of the Adat Council's decision, namely that it was made in order to bridle Udin's and Berahim's power, without implying anything about the true heir, and his assurance that there were still lineage members left. The support of these two persons would at least be a good start in a future dispute, but the decision of 1919/1925 would be difficult to invalidate. And although the court in 1919/1925 had only determined the relationships between Inyik Kaba, Haji Abdullah and

Narullah, in the village this was widely interpreted as a decision that Narullah's lineage was the heir, not merely that his lineage had the better claim. It was used as an argument to that effect in the later disputes and it is likely that it will be so used in any new dispute.

The later disputes may be seen as one case. The issue always concerned the distribution of lineage land between the various sublineages and the question who belonged to Narullah's lineage. The dispute about the wood in 1952 was really a dispute about the inclusion or exclusion of Rasjid and Sainullah's sublineage. Alliances were more or less constant throughout the case, with the exception of the dispute of 1946. There, Saidi (D1b) sided with Rasjid (P1) against Narullah (D1a). That did not prevent Djamaluddin (D2) from changing alliances again in the dispute of 1952.

All decisions upheld the claim of Rasjid's sublineage except those of the High Court and Supreme Court. However, these courts dismissed Sainullah's claim only because the borders had not been properly indicated.(46) But despite the uniform judgment (47) that Rasjid's sublineage was entitled to a share equal to those of Narullah's and Saidi's sublineages, they never received a single plot of land. The explanation for this can be sought at two levels: the formal or procedural level and the level of power relations in the social field of the dispute.

The decisions of the Adat Council were considered invalid by one of the parties. Since adat requires consent of the disputants the decisions never reached the execution stage. The decision about the wood in 1952 needed no other execution than the signature of the two sublineage heads and the panghulu. The court decision in the dispute of 1968 ended with a rejection of the claim on appeal and the decision in the dispute of 1972 was still under appeal when our fieldwork ended and therefore did not have to be executed. These are the formal grounds on which Narullah's and Saidi's sublineage could persist in their refusal to share anything with Rasjid's sublineage. However, the question remains why these two sublineages refused to accept the various decisions, against the contrary opinion of so many influential adat functionaries?

One reason is that the dispute concerned the distribution of lineage land.(48) A Minangkabau proverb "pusako sakato ninik mamak", means that pusako is a matter of the panghulu of the suku. In other words, a decision concerning pusako should be made within the lineage or clan segment. However, the office of Datuk Ameh was vacant, since there had been no installation of a new panghulu with that title after the late Datuk Ameh had

died, so that there was no lineage head who could work out a solution and be held responsible for a failure to reach consensus. Narullah and Saidi belonged to the senior sublineages and possessed the land. Under such circumstances it is very difficult to mobilize enough support to force one's opponent into consensus.

The Case of the Inheritance of Inyik Kaba shows that the road to recognition as an heir or co-heir can be long and strenuous. One has to be careful not to let opportunities go by to score small points, such as redeeming small plots of land or having it be openly admitted that wood is offered on one's behalf, which may eventually lead to recognition. In this process of winning recognition, decisions may turn out to be significant even though they have not been executed. Together they may build up evidence which may eventually lead to a recognition on all levels. Thus, the decisions of the Adat Council and the sub-district officer in 1952, together with the testimony of witnesses, convinced the court in the cases of 1968 and 1972 that Sainullah's sublineage was entitled to a third of the inheritance. This conclusion would probably not have been reached had there not been such a prior decision of a village institution.

At the same time the case shows what the difficulties may be for the court in establishing true lineage relations. The lineage of Inyik Kaba was extinct and Datuk Ameh's office was not occupied. There was therefore no expert who know in his capacity as panghulu what the relevant relations were. This had to be established by other means. A comparison of the two genealogies provided as evidence by the parties reveals that kin relations may be not only difficult to prove but also subject to manipulation. The two genealogies coincide only with respect to the descendants of Tjinto, who is named Inyik Elok in 1969. Within that group, which is the sublineage of Narullah, Berahim and Udin, the names are the same and only a few age-ranking orders between siblings differ. For the rest there is hardly any similarity between the genealogies. The link which should prove the relation between Rasjid's sublineage and those of Narullah and Saidi is unclear even in the genealogy made by Rasjid himself in 1946. This suggests that a genealogical depth of more than five generations is difficult to remember. That may be the reason why the generation of Inyik Elok in the genealogy of 1969 (the sixth generation counted from below) shows such a striking difference from the same generation (i.e. of Tjinto) in the genealogy of 1946.(49) Most of these differences may be the result of ignorance. The inclusion of Inyik Kaba in the genealogy of 1969 is clearly an intended manipulation, since the makers of the genealogy admitted that Inyik Kaba really belonged to the lineage of Datuk Mangkuto and not of Datuk Ameh. When the court asked why they had only included Inyik Kaba and not Datuk

Mangkuto, they simply said that his lineage was extinct and that there was no need to make a genealogy of an extinct lineage.(50) Such manipulation is widely-used technique to win court disputes (see F. von Benda-Beckmann 1979: 252). Its success diminishes the general esteem in which state court decisions are held but does not necessarily invalidate such decisions in the struggle for recognition within the village.

The complexity of The Case of the Inheritance of Inyik Kaba lies in the number of institutions involved and in the difficulties of eliciting a decision which could be executed. Apart from the decisions of 1919/1925 there was no decision which according to all disputants was final or valid. The second set of disputes had in all its 50 years not yet reached the stage at which the parties had to face the problem of how to execute a decision. However, the various intermediate decisions were significant because they shaped the decisions which came later. More generally, they were important steps on the way to recognition of the heir.

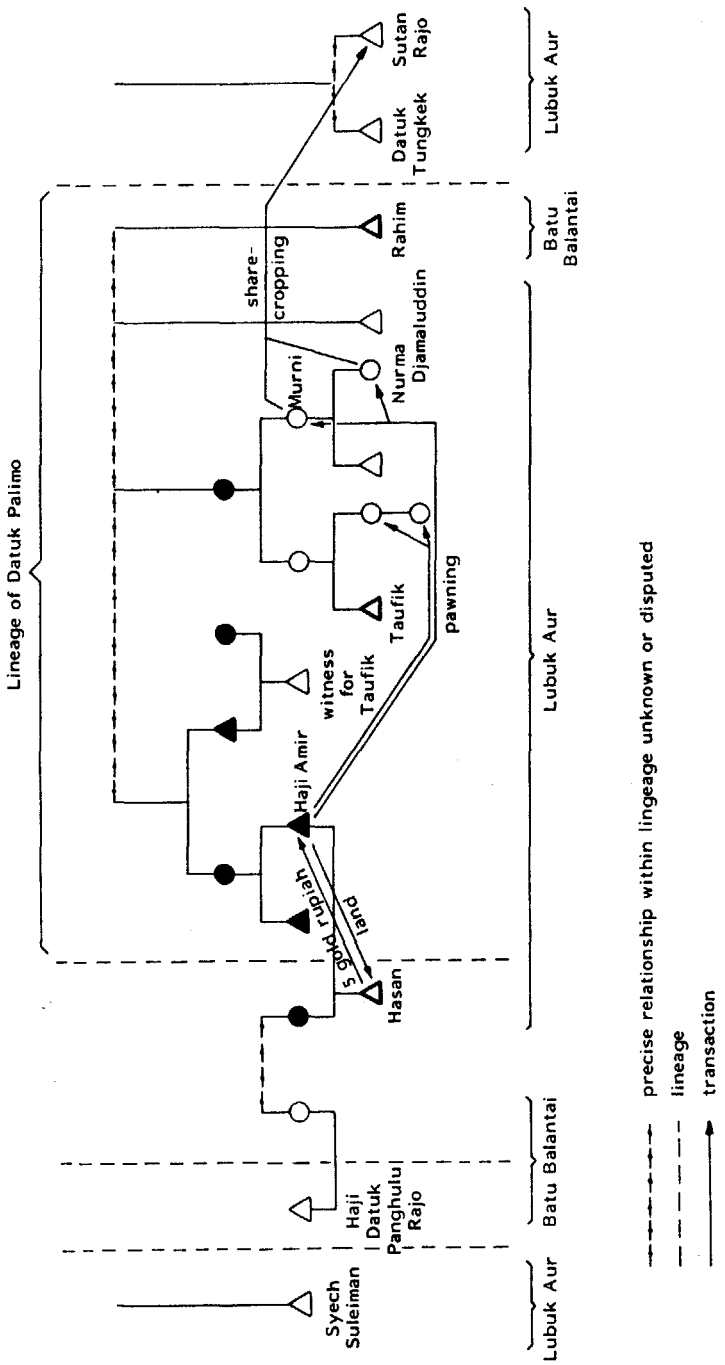
The following case is quite different. The losing party in court manages to continue to till the disputed land, with the consent of the winning party.

The Journey to Mekkah and its Consequences(51)

The late Haji Amir had been the last living member of his sublineage. He had therefore been able to dispose of much of his lineage land. A small part, with an annual harvest of 1,440 kg. unhusked rice, was exchanged with his son, Hasan Bagindo, for 5 gold rupiah (US $375 in 1975). Haji Amir had used that money for a journey to Mekkah. He had pawned some other rice fields to Taufik's sister and mother and still others to Nurma and Murni, distant female lineage-members, who in turn had given the fields in share cropping to Sutan Rajo, a member of another lineage within the same suku. After Haji Amir's death in September 1966, two distantly related sublineages within his lineage, those of Rahim Sutan Palimo and of Taufik Sutan Palimo, claimed to be Haji Amir's heir and tried to gain control over his lineage land. Since much of the land was in the hands of pawnees, share-croppers and the deceased's son, one way to be recognized as heir was to have these contract partners acknowledge one's status as pusako holder and to claim the land under their control. Any such successful claim would be a step towards general recognition.

Taufik set out various lines to get his claim acknowledged. He submitted to the lineage heads of his hindu a claim against Hasan to the fields which Hasan had received from his father. The

Diagram 2: The Inheritance of Haji Amir



elders decided that the fields which Hasan had received from his father had originally been pawned by Haji Amir's lineage and had been redeemed by Haji Amir with his own money. The land, or rather the right to use and exploit it, therefore had the status of property acquired with gold, harato tambilang ameh (cf. F. von Benda-Beckmann 1979: 148). According to contemporary adat law such property is inherited by the children of a man but the pusako-owning lineage has the right to redeem the rice fields as his pusako. (The decision was made in July 1968, a few months after Taufik had brought an action in court. I assume it had taken a few months to reach the decision, since that is usually the case, and that Taufik must therefore have brought the case to the hindu before he went to the state court. However, I do not know this for certain.)

The mayor and the ward head in which the land was situated had also been approached to settle the dispute, apparently without success. I have no information about this aspect of the case, nor about the persons involved.

In February 1968 Rahim approached the sub-district officer and asked him to declare that another rice field belonging to Haji Amir's lineage was now his pusako because he was Haji Amir's heir. Nurma tilled the field and Rahim wanted Malin Palimo, Nurma's mamak, to give it to him. Malin Palimo claimed that his mother had pawned the land from Haji Amir and that his mother and his sister were therefore entitled to farm it. The sub-district officer decided on the basis of a written pawning contract between Nurma and Haji Amir, that she had pawned the land and that therefore Rahim had to refrain from interference with her cultivating activities. Disobedience of this decision entailed the risk of five years prison or a fine of 10,000 rupiah.(52) The sub-district officer, however did not consider himself empowered to decide the more fundamental question of who the heir of Haji Amir was.

In April 1968 Taufik hired a well-known court representative and started a law suit in the State Court (Pengadilan Negeri Bukittinggi 1968/9). This time he claimed from Haji Amir's son Hasan the land which Hasan had worked since his father's journey to Mekkah. However, he was willing to part with the land in favor of Haji Amir's matrilineal heirs in exchange for the sum which he had lent to his father. He also claimed that not Taufik but Rahim was Haji Amir's heir.

In order to prove that he was Haji Amir's heir Taufik produced several doctors' bills which he had paid for Haji Amir. He also brought several witnesses, who testified that he had cared for Haji Amir when he was sick, paid his doctors' bills and had lived

with Haji Amir as his heir. Taufik and Hasan each produced genealogies. I only have the genealogy of Rahim which Hasan presented to the court (see diagram 2), so that I cannot compare the two versions. They almost certainly differed on the essential points.

The court decided in January 1969 that the land under dispute was pusako and not personally-acquired property of Haji Amir. Furthermore, Hasan had not been able to prove the existence of a debt of 5 gold rupiah for which he had allegedly received the land as security. Moreover, Hasan's claim that Rahim was Haji Amir's heir had not been proven The court came to the conclusion that Taufik was Haji Amir's heir on the following grounds: In the first place Taufik had signed all written pawning contracts as heir, whereas Rahim had never signed any contract in that capacity. Second, the disputed land was situated in the neighborhood to which both Haji Amir and Taufik belonged and in which Haji Amir had been buried, whereas Rahim lived in another neighbourhood. Third, Haji Amir had left from Taufik's house on his voyage to Mekkah; nor had he visited Rahim's house shortly before he left. Upon his return he also visited Taufik's house and not Rahim's. In the fourth place, when Haji Amir was ill it had been Taufik who had cared for him and who had paid the doctors' bills and to whom he had returned when he had left the hospital. Fifth, his body had lain in state in the house of Taufik before it had been buried. Sixth, witnesses who had participated in the hindu decision had stated in court that the disputants in that dispute had been Hasan and Taufik and that Rahim had not been involved. A final argument was that Syech Suleiman (the same Islamic leader who played a role in The Case of the Inheritance of Inyik Kaba) had testified that Taufik was Haji Amir's heir. Syech Suleiman, who in his time had been the most respected member of Haji Amir's, Taufik's and Rahim's hindu, had, according to the court, been a neighbor and good friend of Haji Amir and their lineage land was situated close together. For these reasons the court considered it likely that Syech Suleiman was well informed about Haji Amir's life and his family relations. The court ordered Hasan to give the disputed land to Taufik free and unencumbered. He also had to pay Taufik compensation for one half of the yearly yield since 1967, when the dispute had started.

Hasan appealed (Pengadilan Tinggi Padang 1972/20), claiming that Haji Amir had given notice of the lending contract between him and Hasan to Djamaluddin as his heir. Djamaluddin was a blood relative of Rahim, of one sublineage and one pusako and one graveyard, whereas according to Hasan, Taufik was only a lineage member of Djamaluddin. Therefore Taufik had no right to the disputed land. In October 1973 the High Court confirmed the decision of the State Court and rejected Hasan's claim.

Hasan and Rahim, who had joined together in the struggle for the inheritance, had another string to their bow. Shortly after the court dispute of 1968/9 had started, they filed a suit in the State Court against Taufik over some other plots of rice land which also were part of Haji Amir's inheritance and which were being worked by Taufik's sister and her daughter. This time Rahim was plaintiff and Hasan acted as his court representative. They claimed that the plots should be given to the rightful heir of Haji Amir, i.e. Rahim (Pengadilan Negeri Bukittinggi 1968/18). Taufik defended himself by stating that the land had been pawned to his sister and her daughter by Haji Amir and that he was in any case the rightful heir. In its decision the court stated that the basic issue was the same as that in the earlier case. It was therefore not necessary to re-examine the evidence. Rahim's claim was dismissed.

Notwithstanding the various decisions in favour of Taufik, Hasan continued to farm the plots. He was still doing when we left the village in September 1975.

The underlying dispute in the cases described above was a struggle between two sublineages over the inheritance rights to the pusako of a third, extinct sublineage within the same lineage. In the village the conflict was fought out in a fragmented way. Some plots were disputed before the hindu, others before the mayor. In all village-level proceedings and before the sub-district officer the defendants avoided as far as possible the question of who the rightful pusako holder was and defended their rights to use the land on the ground of their contractual relations with Haji Amir or on the basis that it was his personally-acquired property. These were easily proved assertions which made it possible to avoid the fundamental inheritance question. They could have pushed the matter and fought out the basic question, but that would have implied the possibility of losing. They preferred a less risky step-by-step strategy. This strategy might take more time to reach full recognition, but the loss of a single battle would not have such serious consequences.

The conflict also entered the State Court in a fragmented way. There, the dispute between two sublineages, each claiming to be the heir of Haji Amir, was transformed into a dispute about the status of land between his son who claimed that it was personally-acquired property and remote lineage members who said it was pusako. The ultimate question of who was Haji Amir's heir had at first a subordinate position. But Hasan, who did not want to rely only on the claim that the property was personally-acquired and who had taken sides with Rahim because Rahim was willing to accept the existence of Hasan's loan to his father, also

defended his position on the basis that Rahim was the heir instead of Taufik. He thus forced Taufik and the court to look into Rahim's relation to Taufik.

When Rahim himself also sued Taufik in a parallel suit it became relatively easy for the court to see the connection between the two cases and to settle the relationship of Taufik and Rahim in the first decision. It then only had to refer to that decision in the second case. In the formal context of the State Court the latter decision was unusual, because both the parties and the disputed land were different from those in the first case.(53) It attached a broader meaning to its decision in the case of 1968/9 than it usually allows for.

Looking at the consequences ordered by the court, i.e. that Hasan should give the land to Taufik, it seems as if the decision of 1968/9 was not adhered to, because Hasan continued to work the land. Taufik apparently did not make a serious effort to enforce the decision. There was considerable difference of opinion in the village about the reason why Hasan stayed on the land. Some, among whom Hasan himself, maintained that they worked the land because he had inherited it as personally-acquired property. Another explanation given by some villagers was that he was entitled to work the land until Taufik paid him 5 gold rupiah, Haji Amir's debt to Hasan. The fact that the court had not accepted Hasan's evidence as sufficient did not mean in their eyes that the debt did not exist. This part of the decision was well understood but carried little authority in the village: too many villagers were convinced that the debt existed.

The other main element of the decision, that Taufik and not Rahim was Haji Amir's heir, was again well understood in the village, but accorded little weight. Not everyone acknowledged Taufik as the only heir of Haji Amir. He had won an important battle but would have to fight further for full recognition. It may thus have been a tactical move on his part not to endanger the effects of the victory in court by pressing for enforcement. He would then have had to stand up against his hindu, which had decided (albeit on other grounds) that Hasan was entitled to the fields. Syech Suleiman would probably not support him here and no help was to be expected from Datuk Panghulu Rajo, because he was married to a close relative of Hasan. Under these circumstances another explanation for Hasan's continued control over the disputed land becomes plausible. Datuk Panghulu Rajo suggested that there had been negotiations between Hasan and Taufik about what was to be done now that the court had not recognized the debt to Hasan. The result of the negotiations had been that he was allowed to keep the fields, which were worth only a fraction of the debt. Datuk Panghulu Rajo formulated this

very vaguely: "Hasan has been given something too, that has been organized." It seems that the principal parties to the dispute in 1968/9 had reached a workable solution for the moment without committing themselves to any more definite agreement. Taufik's claim to be Haji Amir's heir was upheld but not carried out in terms of a change in control over the land. On the other hand Taufik did not have to recognize Hasan's claim for the debt, nor his claim that Rahim was Haji Amir's heir. Hasan would have to fight further for the recognition of his claim but so would Taufik. The solution was thus a delicate and short-term-one. People expected a dispute to arise again some time in the future, perhaps about yet other plots of land, but basically about the same issue.

Thus, because of internal power situation in the village, the winning party in the court dispute could not or did not want fully to enforce the court decision. Even if he were able to have this decision executed, the negative effects would be so great, that he chose not to do so.

The next case is an example of a situation in which a court decision is not executed for a long period of time, but in the end is enforced. The party who won in court felt she needed to enforce it because otherwise she would endanger her own rights to pusako too much. At the same time the power situation had become such that she could afford to invoke such execution.

The Demolition of an Adat House

Within the lineage of Datuk Bagindo there has been a constant and long-standing stream of conflicts. Various highlights have already been described at length (see F. von Benda-Beckmann 1979: 239-249). The lineage has for a long time been in the process of splitting, but a formal cleavage, resulting in several new lineages, each with its own pusako and panghulu, has not yet been achieved. The lineage consists of eleven or thirteen sublineages scattered over four neighborhoods, each with its own pusako, but in a sense the lineage segments are still considered to be one lineage and their pusako to be the pusako of the whole lineage.(54) However, the lineage is in the rather unusual situation of having three panghulu, all with the title Datuk Bagindo (see diagram 3). Thus, there is an A.M. Datuk Bagindo, a B. Datuk Bagindo and a Z. Datuk Bagindo. Datuk Bagindo Lapiah is the deputy (panongkek) of A.M. Datuk Bagindo.

In 1943 two sublineages of the lineage segment of S. Datuk Bagindo (diagram 4) went to the State Court (Tino Hoin Bukittinggi 1/2603) (55) with a dispute about several rice fields and some plots of land on which two houses had been built, one of these a

Diagram 3: The Devolution of the title Datuk Bagindo

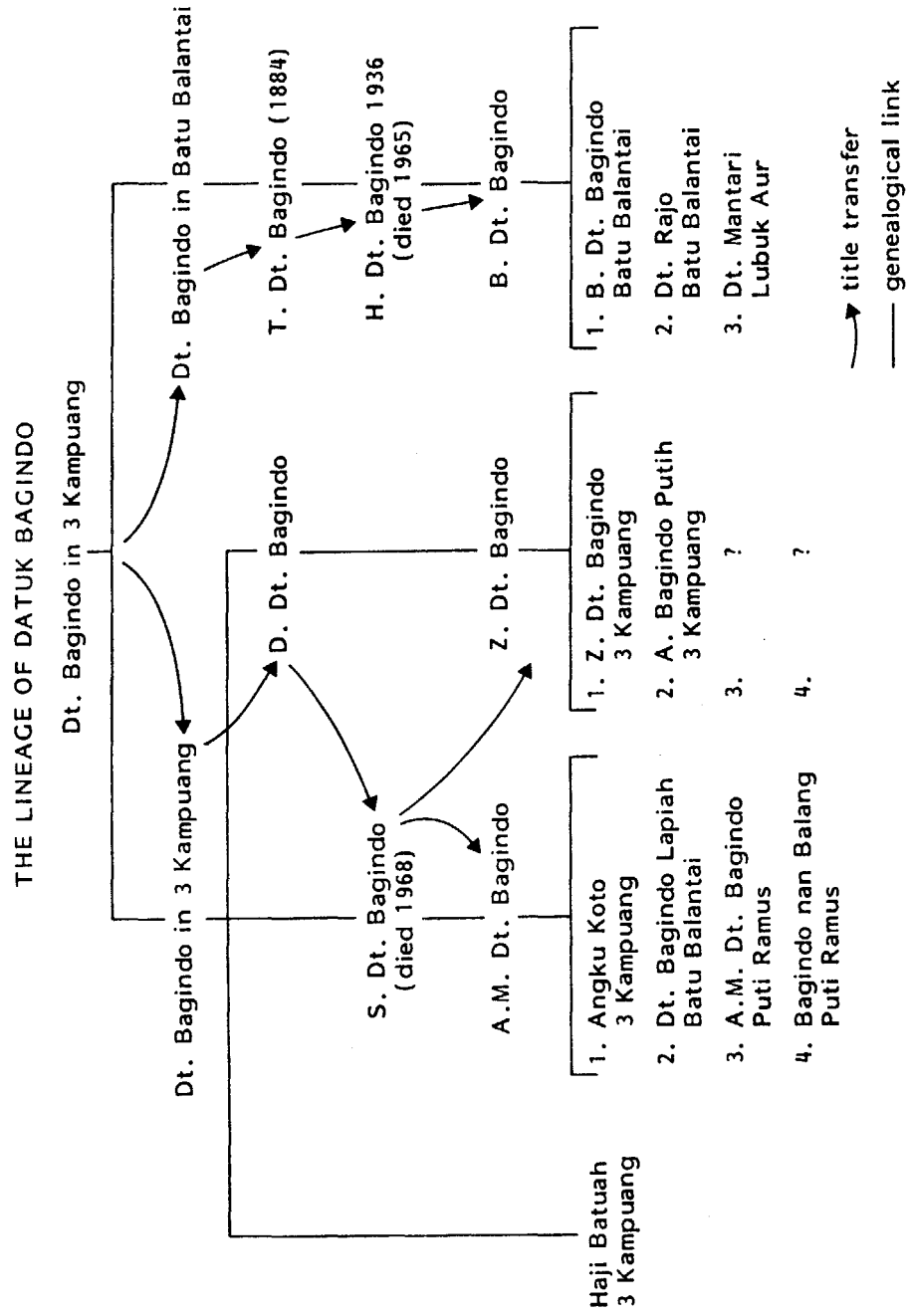
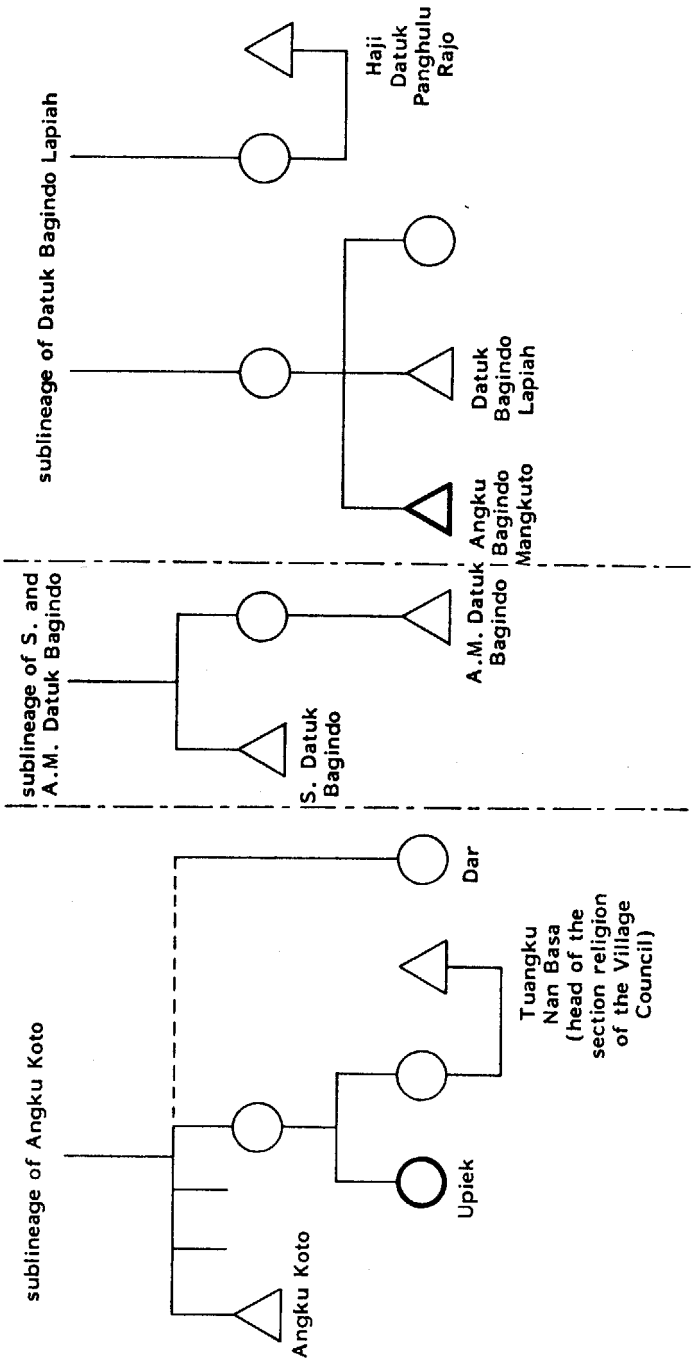


Diagram 4: The Lineage segment of S. Datuk Bagindo



lineage house. The land was situated in the neighborhood Batu Balantai. The plaintiff, Angku Koto, claimed that the land was pusako of his sublineage and that it had been pawned by the defendant, S. Datuk Bagindo, their common lineage head, but redeemed by himself. The defendant, S. Datuk Bagindo, claimed that the land was his pusako. The court decided in favor of the plaintiff on the basis of an oath in which he swore that he had redeemed the land. S. Datuk Bagindo had challenged the plaintiff to swear the oath in the expectation that he would not dare to do so. But the plaintiff had sworn it, much to the chagrin of his panghulu, who lost the case as a result. The court, once the "factual" question of redemption had been solved by means of a decisive oath, simply "applied" the norm that pledged land must be returned to the pusako holder when the redemption sum has been paid, and that such redemption may not be refused.

During the following 30 years the land was worked by members of the sublineage of Datuk Bagindo Lapiah, who at that time had been a child. S. Datuk Bagindo and his successor A.M. Datuk Bagindo lived in the neighborhood Puti Ramus, whereas Datuk Bagindo Lapiah lived in the neighborhood in which the disputed land was situated. The two sublineages were at that time very close and perhaps were in 1943 still considered to be one sublineage. Rumor had it that the sublineage of Datuk Bagindo Lapiah did not really belong to the lineage, but was incorporated at the instigation of S. and A.M. Datuk Bagindo.

The installation of Datuk Bagindo Lapiah had caused a lot of trouble, but all three panghulu with the title Datuk Bagindo had been present. The ceremonies had been held in the newly built adat house, "in the house of A.M. Datuk Bagindo", as Datuk Bagindo Lapiah explained to us. One of the reasons for this trouble was that according to the sublineage of Angku Koto the adat house had been built on their land and not on pusako of Datuk Bagindo Lapiah. In their eyes the installation was therefore not valid. However, all three Datuk Bagindo had attended the installation ceremonies and thus had validated the installation with their presence.

In 1970 the sublineage of Datuk Bagindo Lapiah built another house on the disputed land in an attempt to assert its pusako rights to it. This triggered off a new series of actions on the part of Upiek, a younger sister of the late Angku Koto. She claimed that the land on which the two houses had been built was her pusako and that Datuk Bagindo Lapiah had promised to give her fields in exchange for the land before he had started to build. The fields he had promised her were situated in the neighborhood in which she lived and had been pawned to a

member of her sublineage for about US $100. When she reminded him of his promise Datuk Bagindo Lapiah no longer wanted to give the land in exchange. He claimed that the land on which he had built the houses were his pusako.

Upiek then mobilized A.M. Datuk Bagindo, the panghulu most closely related to her, who was at that time president of the Adat Council. She also won the support of the mayor and several other elderly men of her suku. They all confirmed her standpoint in a "letter of explanation" dated 22 February 1971. A few days later, on 5 March 1971, the mayor, the two heads of the wards in which the plots of land were situated, and the same elderly men signed a "letter of compromise", stating which fields had to be given in exchange for the disputed land. On 29 March 1971 A.M. Datuk Bagindo wrote a "decision" with the same content, and had it signed by various elderly men of his hindu, leaving out, however, the other panghulu within the same hindu. Datuk Bagindo Lapiah did not sign any of these documents.

At this point other important members of the lineage stepped in, among them Z. and B. Datuk Bagindo and the very influential official (juaro adat) of the hindu to which their lineage belonged, Bandaro Hitam. They did not like the one-man show of A.M. Datuk Bagindo and convinced one of the elderly men, who could not read or write, that the letter of compromise which he had signed was different from what he had been told and that he therefore should withdraw his signature. This he did in a letter. They thereupon declared the "decision" void. There had not yet been a real, valid decision, they claimed, because it had been made without their knowledge. But their objection was largely to the procedure followed from which they had been left out and not to the content of the decision. On 26 April 1971, they drafted and signed a "recommendation for a settlement" with basically the same content. Datuk Bagindo Lapiah now protested to the Adat Council about this decision in a letter dated 10 June 1971, stating that he had not been heard or given an opportunity to produce evidence. Only after the "decision" had been made had he been called and confronted with a fait accompli. He therefore considered the matter still open and did not intend to comply with the proposed settlement.

The next step Upiek made was to go to court (Pengadilan Negeri Bukittinggi 1971/30). She acted as representative in court for her son, who was sublineage head.(56) The sublineage of Datuk Bagindo Lapiah was represented by his elder brother, Angku Bagindo Mangkuto.(57). This time Upiek did not rely on the alleged exchange. She claimed that the disputed land was pusako of her sublineage and that Datuk Bagindo Lapiah's sublineage should return it to her "free and unencumbered", as the stan-

dard expression is. As it turned out, this standard expression had far-reaching consequences in this particular dispute, because it was taken to mean without the adat house which Datuk Bagindo Lapiah had built on the land. Upiek based her claim on the assertion that the land was part of the land which her mamak, Angku Koto, had won in the court dispute of 1943. They had permitted the defendants in that dispute to use the land, but only in loan (pinjaman). They had permitted the defendants' sublineage to build a house on the land only after the latter had promised to give a rice field in exchange. Since Datuk Bagindo Lapiah's sublineage refused to give the land, the plaintiff wanted her own land back.

Datuk Bagindo Lapiah and Angku Bagindo Mangkuto denied that the land was part of the land involved in the dispute in 1943. Since the court decisions of the process of 1943 did not indicate the borders, the court came to Bukit Hijau for an official inspection. Both parties were present and many other people as well. Such inspection tours always draw a lot of people. Three of the four relevant borders could be unequivocally determined, but the fourth and crucial one remained unclear. Upiek then called the lawyer of her mamak in the dispute of 1943 who swore that the land under dispute then included the disputed land of the present case. That settled one issue.

The other element of Upiek's claim was the exchange contract. She tried to convince the court that there had been several decisions by village institutions in support of her claim and the court decided to hear several witnesses in this regard. One was a village ward head, who declared that he had submitted the dispute to the mayor, who had turned it back to the lineage elders, which had led to the exchange contract as a settlement. A.M. Datuk Bagindo was also heard. He stated that a settlement had been reached but that the defendants all of a sudden had refused to sign. The reason for this refusal was explained by the mayor. According to him, Datuk Bagindo Lapiah and his brother did not want to sign, because the son of Upiek had refused to sign. They were afraid that he would later deny the validity of the contract and prevent the users from working the land. Their apprehension was not groundless, since this same man was the mamak kepala waris of Upiek's sublineage and as such required to sign all transactions concerning his pusako.

Datuk Bagindo Lapiah and his brother called the man who had withdrawn his signature from the "decision" of A.M. Datuk Bagindo, who now stated that he had withdrawn his signature "because the elders no longer stand in the middle", i.e. they are not impartial as they should be. The other witnesses were questioned about who was living on and working the land in dis-

pute. It was not possible to gain a clear insight into the actual situation from their testimony, but at the very least the mother of Datuk Bagindo Lapiah and a younger sister (maybe classificatory), lived and worked on it. However, living and working on land alone is no proof of title. A letter by Haji Batuah (the last living member of the most senior sublineage) was not accepted as proof. Nor did the letter in which a signature had been withdrawn and the letter of the juaro adat of his hindu, declaring the decision written by A.M. Datuk Bagindo void, convince the court of Datuk Bagindo Lapiah's right.

The court finally decided that it had established that endeavors to make an exchange contract had been made but that they had not resulted in a contract. On that basis alone it could not be concluded that Upiek was entitled to the land. However, the inspection of the land in the presence of the defendant plus the testimony of witnesses concerning the fourth border had established that the land presently under dispute had been part of the disputed land of 1943. This, together with the endeavors to make a contract, was proof enough that the disputed land was pusako of the plaintiff. The defendant had to deliver it "free and unencumbered" and the decision should be carried out immediately. Fees of US $30 were to be paid by the defendant.

Datuk Bagindo resisted execution but Upiek persisted and called in the assistance of the court staff. On 23 May 1973 the defendants and Upiek met together with the clerk of the court. They signed a statement that the defendants would hand over the land before 14 June. When Datuk Bagindo still refused to do so, the court decided on 16 June that the land should be seized and handed over to the plaintiff. On 28 June the bailiff, together with the mayor and two police officers as witnesses, went to the neighborhood where the land was situated. They explained that from now on the plaintiffs could use the land and that if the defendants tried to prevent them from doing so they could be prosecuted for a criminal offence. The costs of the court's inspection trip (US $75) were to be paid by the defendants, but it was in fact not the defendants but the plaintiff who paid. As compensation the plaintiff agreed with the defendants that the pawning sum for a plot of sawah, pawned to Dar, a member of Upiek's sublineage, would be "deepened" with 1 gold rupiah (US $75). Thus, Datuk Bagindo Lapiah paid doubly. The land on which the pawning was deepened was precisely the land which Upiek had claimed in exchange for the land now under dispute. She could be pretty sure that Dar would be able to keep the land for quite some time, for it was unlikely that Datuk Bagindo Lapiah would soon be able to pay her such a high redemption sum. As for the disputed land, Datuk Bagindo had to watch the

adat house being torn down. Upiek had won both halves of the old exchange.

The 1943 decision had stated a) that the land was pusako of Angku Koto's sublineage, and b) defendant must return the land to plaintiff. It is difficult to speak about "executing" the first part of such a decision, since the defendant does not necessarily have to do anything other than not "acting as a person entitled to the pusako". The second part could in principle be executed. It would even be possible to speak technically of an execution though the defendants continued to work the land, i.e. if it were worked on the basis of an acknowledged pawning or lending contract. In fact, however, the basis on which they continued to do so became unclear. At first the continuation of the defendants' use may have been on the understanding that the plaintiff was pusako holder: I have not been able to ascertain whether this was the case after so many years. In the sixties, in any case, the continued exploitation was used by the defendants as an argument to back their claim as pusako holders. Thus, we may conclude that ultimately the decision of 1943 was not executed, at least not until the dispute was brought to the state court again in 1971.

The conflict over all the land involved was fought out in the 1943 case with respect to a small part. It is therefore understandable that the sublineage of Angku Koto had been willing to leave the actual use to the losing party. The important thing was that its pusako rights had been confirmed by the court. From this position it could start a new round of property politics with an act of goodwill towards the others, in an attempt to calm down the immediate anger. This apparently worked well for quite some time, considering that several women in a row from the same sublineage worked the land. This short-term solution, however, involved the risk that it would become increasingly difficult for Angku Koto's sublineage to maintain its position as pusako holder, for a person who does not reaffirm his rights regularly will lose them to someone who builds up evidence that may be interpreted as indicating that the land is his.

Time worked in favor of Datuk Bagindo Lapiah's sublineage. The actual farming by several women in a row from the same sublineage could be seen as a series of constituting acts, each one increasing the strength of the preceeding ones. This was the reason Upiek could not tolerate Datuk Bagindo Lapiah's refusal to give her land in exchange for the plot on which the adat house had been built. Being installed in an adat house is a very strong indication of one's pusako rights to the land on which the house is built and, by extension, to the rest of the pusako of the same sublineage. This indication had to be refuted by an

equally strong countermove: while providing a lineage member with land to build an adat house on may be an act of goodwill between the branches of a lineage, doing so without demanding a token that the land concerned remains one's pusako is an act of sheer folly. When Datuk Bagindo Lapiah refused to cooperate in a symbolic exchange, Upiek forced him through the state legal system to tear down the adat house. Just as it is necessary to reaffirm one's own rights regularly it is also necessary to react against attempts from others to establish a right. Whether one succeeds or not depends on the power relations within the social field in which these affirmative and constitutive acts take place.

It is significant that the plot asked in exchange was already under control of the plaintiff as pawned land. This indicates that the main issue was not so much that the loss of a piece of land should be compensated by another, but that the rightful control over the plots in question should be (re-)established. Datuk Bagindo Lapiah realized the symbolic importance of the exchange. If he indeed promised the exchange before his installation, as Upiek claimed, he did everything to destroy that impression afterwards. He made sure to avoid all meetings at which the issues were discussed and used procedural arguments to deny that valid decisions had been made (see K. von Benda-Beckmann 1981).

The tactical moves and thus more generally the social significance of the court decision of 1943 can only be fully appreciated when set in the larger context of village politics and of the politics within the lineage of Datuk Bagindo. Angku Koto had won in court in 1943, but the very fact that he had won against his own lineage head was an important reason why he did not actually get access to the disputed land. Not because he could not obtain it, for he could have gone to the police, but because the negative effects of such an attempt would have exceeded the benefits of doing so. Going to court is one thing, but forcing one's panghulu actually to turn over land goes much further and should be avoided if possible. There is a seeming contradiction. On the one hand people do not hesitate to challenge their opponents in court, even close relatives or their panghulu. They may even use mean tricks in order to win, as long as the dispute is in court or before another state institution. When the dispute comes back to the village scruples also come back and all of a sudden people remember to pay respect to their lineage head and behave more or less within the adat boundaries. F. von Benda-Beckmann (1979:252) has given a striking example of this attitude. The contradiction is not a real one. Behavioral propriety depends very much on the context in which people find themselves. Within the village setting they feel far more bound by

adat notions of proper behavior than in the setting of the state institutions, even if the same people and issues are involved.

This case also indicates, however, that if necessary, villagers may force even a deputy panghulu to undergo the humiliation of tearing down the adat house in which he was installed. But this was only possible when the power relations within the lineage and in the village in general had changed to the advantage of the sublineage of Angku Koto and Upiek. The decision of the court in1973 was thus executed because it was necessary for Upiek's sublineage to reconstitute her pusako rights, but also because the power relations within her lineage and in the village enabled her to do so.

In 1969 Datuk Bagindo Lapiah was appointed as deputy of A.M. Datuk Bagindo with full support of the latter. It was therefore still difficult for the sublineage of Upiek to enforce the exchange contract, for acting against A.M. Datuk Bagindo would also have meant acting against their own panghulu. However, after the installation of A.M. Datuk Bagindo and Datuk Bagindo Lapiah their relationship had become strained. A.M. Datuk Bagindo had watched the activities of his deputy in trying to accumulate pusako for his sublineage with increasing suspicion. In 1971 the political scene changed. A.M. Datuk Bagindo had been elected as chairman of the Adat Council, but was a few months later removed and succeeded by Datuk Bagindo Rajo. In the events leading to A.M. Datuk Bagindo's removal Datuk Bagindo Lapiah had taken sides against his own panghulu. Datuk Bagindo Lapiah had considered it wise to look for support elsewhere, because he saw that he could not expect much from his own panghulu. He aligned himself with Haji Batuah, the head of the oldest but nearly extinct sublineage of the lineage of Datuk Bagindo. Haji Batuah had also lost a dispute against Angku Koto in 1941 and had ever since born a grudge against that sublineage. Datuk Bagindo Lapiah tried to take advantage of that grudge in the present dispute. At the same time he tried to establish himself as Haji Batuah's closest relative and prospective heir of his pusako, which led to another series of property and political disputes shortly thereafter (see F. von Benda-Beckmann 1979: 242 ff). Datuk Bagindo Lapiah was also supported by Haji Datuk Panghulu Rajo (married to a woman of his sublineage), with whom he had also sided in the issue of the chairmanship of the Adat Council.

Because of the growing enmity between Datuk Bagindo Lapiah and A.M. Datuk Bagindo, by 1971 Upiek could enlist the support of A.M. Datuk Bagindo. She also managed to obtain support from the mayor, a permanent opponent of the newly elected chairman of the Adat Council and a good friend of the head of the section

of religious affairs of the Village Council, Upiek's brother-in-law, and thus also a reliable supporter. Her supporters carried more weight in court, where Datuk Bagindo Lapiah was only supported by Haji Batuah. Once the decision was made, Datuk Bagindo Lapiah's supporters were unable to prevent the tearing down of the adat house.

Conclusions

The Minangkabau example, presented in this paper, illustrates the arguments and propositions set out in the first section. In order to understand the disputing process properly and the role of courts and in particular of their decisions in this process, it is essential to include the post-trial stage in one's analysis. Failure to do so prevents us from understanding the social significance of court procedures and of court decisions. The disputes described here indicate that, in Minangkabau at least, disputes do not end with a court decision; nor can any particular significance of the decision for the following social life be simply assumed. I have tried to offer a perspective for the study of the post-trial stage which does not exclude the possible social importance of court decisions but which does not assume their importance without further examination.

Understanding the social significance of decisions requires in the first place insight into the way decisions are interpreted and used by the persons involved in a dispute and understanding of the mechanisms which determine what happens with decisions once they have been rendered. I have shown how in Minangkabau, decisions once rendered leave the confined setting of the court and enter into the semi-autonomous social field of the village in which the disputes originated. It is in that setting that the effects - and not only the effectiveness - of court decisions must be studied. In that social field courts themselves have little control over what happens with their decisions. As the disputes described here (especially The Case of the Demolition of an Adat House) show, the parties "monitor" enforcement, but they do not do so in isolation. What parties do and can depends do to a great extent on the political situation within the village. They are constrained by their relationships with each other but also by their relationships with the members of the various socio-political institutions. Such institutions even may take the initiative and make a dispute subservient to their own political ends, as I have shown elsewhere (see K. von Benda-Beckmann 1981).

The cases presented also show clearly that the semi-autonomous social field out of which a dispute emerges does not remain the

same over time. It changes constantly, sometimes abruptly and drastically, sometimes gradually. Disputes build up their own history, partly in the village, partly in the court setting. When they leave the court setting the village setting is not the same as it was before and it does not remain the same thereafter. All three cases involve changing constellations within the relevant semi-autonomous social fields. Alliances fall apart, others are built up, power relations change because powerful people die and young people come of age. Because of these changes people may react differently to decisions over time. Thus, in The Case of the Inheritance of Inyik Kaba there still was hope that the "true" lineage members of Inyik Kaba would obtain their inherited pusako once they had a strong adult man to represent them. In The Case of the Demolition of an Adat House the adat house could be torn down when Datuk Bagindo Lapiah had lost the support of his lineage head.

I have also tried to illustrate the proposition that the different elements of decisions should be examined separately. On the one hand, courts decide which events have taken place, what the relationships between parties are, what the status of property is, etc. On the other hand they decide what consequences to attach to such "facts". My material shows that compliance with one element of the decision does not necessarily imply compliance with the other elements. Each element can be interpreted in a different way from what the court had in mind and each must be studied separately, because it may have its own effects. The second and third cases show, for example, that leniency regarding the specific consequences which a court has ordered (i.e. the transfer of land) can be accompanied by a great concern for the (implied) decision concerning social relationships and the status of property. It would be too easy, however, to conclude that disputants in such cases only want a declaratory decision and are not interested in the concrete consequences. There is considerable demographic pressure on land, especially on rice fields on the lower slopes of the mountains. Exploitation rights become increasingly economically important. Access to relatively small pieces of land is a matter of concern even for the wealthier people who can afford to go to court. And because of the symbolic value of land transfers by means of which pusako rights are (re)asserted over a much larger amount of land, actual execution of a decision can have far greater importance than would appear from the formal subject-matter of a dispute.

Nevertheless, social and political considerations can make it preferable or perhaps even necessary for a winning disputant to forgo the enforcement, to wait for a more opportune moment or to enter into negotiations with its opponent. As I have shown, in such negotiations there seems to be a strong preference for temporary solutions which fix as little as possible about the more

fundamental rights and relationships. Thus, as long as their basic position as pusako-holder is not openly challenged, people may be quite willing to negotiate about the details and to be considerate of their opponent's interests. They may try to secure acknowledgement of their pusako rights without causing a change in the actual control over the exploitation rights of the land involved and may think up quite complicated constructions to do so. However, when it is necessary to secure their pusako rights, i.e. when these rights are openly and continuously challenged, they take recourse to all possible institutions, recruit every possible ally and can be quite unscrupulous in seeking to get what they want. The bluff poker around the oath in the dispute of 1943 and the demolition of the adat house are examples of how hard the game can be played if necessary.

In intra-village negotiations court decisions can have important social effects. They are advanced as additional legitimation for one's position. In itself, the fact that a state court has decided in one's favor is not enough to convince opponents and village functionaries of the strength of one's rights. Villagers are acutely aware of the limited knowledge judges have of village life. They are also aware that the decision of the court does not concern the underlying conflict but is addressed to the dispute as this was formulated in court. And they claim that courts lack legitimacy in adat to interpret adat. But all this does not prevent them from stressing the court's legitimacy - based on the state legal system - when the decision happens to support their claim.

People who go to court rarely stand alone, certainly not in land disputes. They try to enlist the support of politically powerful persons within the village. Court disputes and village politics are closely interrelated. This is nothing unusual from the perspective of individual actors. Disputants try to strengthen their position in such a way in every society. But the particular social and political structure of Minangkabau villages entail that the relationship between politics and disputes has a structural nature. In the past, political relations and relations with respect to control over pusako were hardly differentiated. The lineage heads as political leaders and representatives of the lineage were involved in all matters concerning lineage land. In particular they played a crucial role in the process and ceremonies in which rights to lineage land were transferred or reconstituted. This was one aspect of their function of "preventive law care": with their presence they confirmed that a given transaction was according to adat. It was their task to be informed of all transactions concerning their lineage. This was possible because of a long training with their predecessor and other experts and

because they were always present at significant transactions and ceremonies.

Changes during the colonial and post-Independence period have brought about significant changes in the position of the lineage head. In particular, there has been a gradual dissociation of panghulu-headed lineages from the lineage segments which de facto hold common pusako property. As a result, the status and boundaries of descent groups have become increasingly uncertain. Group splittings have become processes which may last many years, as the lineage history of Datuk Bagindo indicates. The various elements of such a splitting are widely separated in time. People may have different opinions about the stage which the process has reached at a given time: some may say that the lineage has been split while others claim that it has only been divided into sublineages. Some will say that the pusako has been divided, while others say that there has been only a redistribution of use rights. The panghulu, who should organize the deliberations within the lineage to come to a decision about these problems often is not available at all or is unable to elicit a decision. This means that many relationships within a lineage or between lineages are in effect negotiable. This is not only a matter of twisting the truth, but also and predominantly of not knowing any more just what the relevant relationships are and precisely how the rights to lineage property are distributed. It is very likely, for example, in The Case of the Demolition of an Adat House, that nobody really knew to whom the land under dispute properly belonged. As a result, it has become increasingly important for people actively to reaffirm their kin relationships and their rights as pusako holders. They can do so by caring for sick and elderly relatives, as Taufik had done for Haji Amir in The Case of the Journey to Mekkah and its Consequences. Datuk Bagindo Lapiah had done so by acting on one occasion as the representative of Haji Batuah and by being installed in the adat house of A.M. Datuk Bagindo. However, such personal acts of reaffirmance are not enough. One must be able to mobilize influential persons who will affirm and recognize one's rights and status and acknowledge the behavior symbolizing them.

The Minangkabau example shows the importance of time in an amplified way. However, I would maintain that a dynamic perspective should never be left out of an analysis of processes of dispute management.

On a more general level, my material illustrates that there is no valid reason why a "case", for purposes of analyzing law or the disputing process, should end with the decision. This is certainly unwarranted for decisions of institutions at a great social and

spatial distance from the disputants, because the probability of transformations seems to be greatest there. But neither should it be taken for granted that a dispute has come to an end with the final decision of an institution highly internal to the semi-autonomous social field, even if execution of one of the parts of the final decision takes place within the setting of the deciding institution. I have pleaded for an open-ended concept of a case, since one never can be quite sure whether a dispute has come to an end. Usually a field researcher has to base his or her analysis on a greater or smaller part of a dispute without hoping to encapture the whole dispute.

Finally, the Minangkabau example also illustrates the importance of looking at the relationship between disputes, dispute prevention and trouble-free social life. It is necessary to understand the general, normal social role of relationships, property, rights and duties in order to understand what a dispute is about and why people choose to act or to remain passive. A concept of law which concentrates on disputes, sanctions and social control tends to neglect both the fact that parties are active and not merely passive recipients of sanctions or "law", and the role of law in trouble-free social life.

Notes

1. Gulliver 1963, 1969; Lempert 1981: 707; Yngvesson and Hennessey 1975; Chambers 1979; Dickens et al. 1981: 166; Zimmermann 1982; Lowy 1978; Starr 1978b; F. von Benda-Beckmann 1976; Falke and Höland 1982: 117; Van Velsen 1967: 230.
2. Merry 1979: 919; Collier 1976: 142, 145; Lowy 1978: 204 ff; Nader and Todd 1978: 21 f; Black 1980: 58.
3. Starr 1978b; Gluckmann 1961: 11; 1967: XVII, 370-372; Abel 1980: 818; Yngvesson and Hennessey 1975; Chambers 1979; Teubner 1983; Nader and Todd 1978: 8.
4. Zimmermann 1982; Falke and Höland 1982: 117; Lowy 1978; Dickens et al. 1981; Diekman 1982.
5. See Galanter 1974: 138; Black 1980 for an analysis of the circumstances under which citizens initiate criminal procedings. The initiatives of the disputants and other involved persons is especially important and interesting in disputes in which parties stand in "multi-stranded relationships" or "low social distance" to each other. See Gluckmann 1967; Starr 1978b; Nader and Todd 1978: 18; Moore 1978; Gulliver 1963: 259; Black 1976: 40 ff; K. von Benda-Beckmann 1981: 143; Griffiths 1984: 50 ff.
6. See Geiger 1964: 64-65; Popitz 1980; see Hoekema 1982 for non-conforming behavior which is not sanctioned.

7. Radcliffe-Brown 1954 (1934): 212; Evans Pritchard 1940: 169; Weber 1964: 234; Llewellyn and Hoebel 1967; Hoebel 1954: 261; Pospisil 1958, 1971: 38 ff; Gluckmann 1961; Epstein 1968; Geiger 1964; Popitz 1980. For a different approach see Malinowski 1926; Barkun 1968; Feely 1977; F. von Benda-Beckmann 1979; Snyder 1981a.
8. But see Moore 1973; Hamnett 1975; F. von Benda-Beckmann 1979; Snyder 1981a; Komesar 1979, for research oriented towards the use of norms in trouble-less social life.
9. Even Pospisil is not consistent in his insistence that law can only be found in decisions. He considers "passive resistance" and "refusal to support" to be sanctions (1971: 94). Furthermore he analyzes legislation when studying the law of Tirol villages (1971: 322 ff).
10. For attempts to develop an analytical approach to the post-trial stage see Lempert (1981: 707 ff), Fitzgerald and Dickens (1981: 698-691).
11. Van Velsen (1969: 144) distinguishes between the judgement or verdict and the sentence or award, which form two stages in the disputing process. Popitz (1980: 57) also has developed an analytical model based on stages, but considers all stages to be part of the sanctioning function (Sanktionsfunktion). He distinguishes the decision on guilt from the sentence and the enforcement. There is, thus, a close parallel between Van Velsen's and Popitz' models. In fact, Popitz' model can be easily accomodated to the private law sphere: we only have to substitute liability for guilt and award for sentence. For a similar model, confined to the deciding institution and the post-trial stage, see K. von Benda-Beckmann 1984b. This model could easily be expanded into a more comprehensive model including the pre-trial stage.
12. Barkun 1968; F. von Benda-Beckmann 1976, 1979: 19 ff; Schiff 1981: 158; Geiger 1964: 64 f; K. von Benda-Beckmann 1984a for a discussion on the role of evidence in this complex.
13. See for an example K. von Benda-Beckmann 1981; see Comaroff and Robers 1981; Kuper 1971.
14. See Lowy 1978: 190 f; F. von Benda-Beckmann 1983: 7 ff; Röhl 1983.
15. See Silliman (1981) for an analysis of the relationship between powerful landlords and enforcing institutions in land disputes in the Philippines.
16. See for example Starr, 1978b: 148; Abel 1973a: 228; Van Rouveroy van Nieuwaal 1975, 1977.
17. Cochrane 1972: 53; Nader and Todd 1978: 36; Starr and Yngvesson 1975; see for a similar example The Case of the Demolition of an Adat House on p. 37.

18. Cochrane 1972: 53 f; Gulliver 1963: 149; Bohannan 1957: 20; Kuper 1971.
19. The term "semi-autonomous social field" has some resemblance to the concept of "rechtsgemeenschap", legal community (Van Vollenhoven 1901: 5). Whereas the first is characterized primarily by the capacity for generating and enforcing its own rules, the latter involves more. A "rechtsgemeenschap" has its own property, notably land, and administration. The term was invented for rural Indonesia in the first place. In the light of the political problems concerning the recognition of customary land rights in the Dutch Indies it is only understandable that Van Vollenhoven combined the notion of autonomy with that of customary land rights. A combination of the two would no doubt greatly increase the strength of local law and autonomy. The term suggests that a legal community has all the characteristics of a state. This is not implied in the concept of a semi-autonomous social field. Moore's concept was invented for application to a textile factory, where the question of property was unimportant, but rule-making and enforcing was crucial. I prefer her concept, because it is simpler and more broadly applicable, and leaves the possibility for semi-autonomy open where there is no common property. See Griffiths 1983b: 148 f.
20. Although legislation and court decisions or decisions from other institutions of dispute management have many features in common, court decisions also have some specific characteristics. In the first place, the addressees are usually clearly
indicated. Secondly, decisions are usually much more concrete than legislation, in respect to the conceptualization of the problematic events or relationships and, more specifically, regarding the consequences to be attached. This does not necessarily mean that there is no room for divergent interpretations of the "exact" meaning of a decision, nor that the rules involved in decisions are always very specific. Abel 1980; see F. von Benda-Beckmann 1983.
21. K. von Benda-Beckmann 1981; Kidder 1981: 721; see Van Velsen 1969: 147 f; Felstiner, Abel and Sarat 1981; Gulliver 1979: 20; see Griffiths 1981, 1983c:153.
22. My husband Franz von Benda-Beckmann and I spent 16 months in West Sumatra in 1974-1975. During 10 months we lived in Bukit Hijau (this is a pseudonym: I shall also use pseudonyms for all persons involved in the disputes described here). Our research was supported by grants from the Swiss Nationalfonds, the Kommission zur Förderung des Akademischen Nachwuchses des Kantons Zürichs and of the Stiftung Studienkreis für Internationale Begegnung und Auslandstudien.
23. Adat in its widest sense means the way of living, culture. The term "adat law" is a Dutch invention and refers to the

legal rules in adat. The "adat law" used by state institutions is not the same as adat law used in villages. For example the term "kaum" is used by the state courts and administration to denote the matrilineage headed by a panghulu. In Bukit Hijau kaum denoted a sublineage; the lineage was called buah gadang, elsewhere buah paruik. Every village has its specific terminology which differs from the courts' terminology. See K. von Benda-Beckmann 1981: 148 footnote 7; 1982: 46; F. and K. von Benda-Beckmann 1981a, 1984; De Josselin de Jong 1951: 49 ff, 1975.

24. See for recent ethnographic material on Minangkabau F. von Benda-Beckmann 1979; Kahn 1975, 1976, 1980b; Kato 1982; Naim 1973, 1974; Scholz 1977; Tanner 1969, 1971; Thomas 1977.
25. Village administration was set up in the provincial regulation (surat keputusan) of the governor of the Province of West Sumatra, no. 015/GSB/1968; for the village council as a mediating institution see provincial regulation no.159/GSB/1970. In 1975 the Dewan Perwakilan Rakyat Nagari, the prior representative body, was abolished and the village council was proclaimed the village representative body. It continued to act as a mediating institution as well, according to provincial regulation 155/GSB/1974, par.22 and 156/GSB/1974 par.5. Cf. Sihombing and Sjamsulbahri 1975, cf. also K. von Benda-Beckmann 1981: 122; F. von Benda-Beckmann 1979: 125.
26. On the history of West Sumatra see Dobbin 1975, 1977; Oki 1977; Kahin 1979; De Josselin de Jong 1951, 1975; Joustra 1923; De Rooij 1890; Westenenk 1913, 1916, 1918a and b; F. von Benda-Beckmann 1979: 57 ff.
27. See for a detailed description of the socio-political structure of Bukit Hijau, F. and K. von Benda-Beckmann 1978, 1984; F. von Benda-Beckmann 1979: 57 ff; K. von Benda-Beckmann 1981: 118-122.
28. Cf. Tanner 1971: 256 for a general discussion on the role of lineage heads in a non-conflictual decision-making process.
29. Damian and Hornick 1972: 510 ff; cf. Tanner 1971: 162 ff, 184 ff; K. von Benda-Beckmann 1981: 127; F. von Benda-Beckmann 1979: 128.
30. For West Sumatra the procedural law is laid down in the Rechtsreglement Buitengewesten (Regulation on the Procedural Law of the Outer Territories) of May 11, 1927, Staatsblad (Government Gazette of the Netherlands Indies) 1927: 227.
31. According to Maklumat Residen Sumatera Barat no.9/1952 (Proclamation of the Resident of West Sumatra) and the supplement of May 17, 1952, No. 4/1/9, the sub-district officer is authorized to make provisional arrangements for disputants as long as the court has not decided. Disobediance of the

instructions of the sub-district officer may be sanctioned with a fine of 10,000 rupiah or a maximum term of imprisonment of 5 years. This regulation is a continuation of a similar Japanese regulation, Shu Rei 21, of February 16, 1944. For similar mixing of state administration and judicial tasks see e.g. J.F. Holleman 1969: 117; Van Rouveroy van Nieuwaal 1980.

32. Undang2 Tentang Kententuan Pokok Kekuasaan Kehakiman (Law Concerning Basic Principles of Judicial Power), law no.14 of December 17, 1970. LN 1970-74 and Tambahan Lembaga Negara 2951. Cf. Damian and Hornick 1972: 511, footnote 130.
33. Although no systematic research has been carried out in West Sumatra on criminal law on the village level there is no doubt that many criminal offences are contained within the village and dealt with on the basis of adat (personal communication from Narullah Datuk Perpatiah Nan Tuo).
34. The civil code is regarded as a guideline, from which the court may deviate if some other principle of Indonesian law requires this. Cf. Gautama and Hornick 1972: 8.
35. Undang2 Pokok Agraria (Basic Agrarian Law) law no.5/1960. LN 1960-104. Cf. Harsono 1973. This law was only rarely applied in West Sumatra, since only a small part of the total province was registered under the law, registration being a prerequisite for the law's applicability. In the district Agam of which Bukittinggi was the capital, only 0.074% of the cultivated land was registered. In Bukit Hijau only a few thousand square meters were registered. Cf. F. von Benda-Beckmann 1979: 212 and 281.
36. The Undang2 Perkawinan (Marriage Law) law no.1/1974. Cf. Prins 1977; Soewondo 1977; Ismuha 1978. This law was introduced on 1.10.1975, after we had left the field. Cf. F. von Benda-Beckmann 1979: 213.
37. See Tanner 1971: Chapter V, in particular diagram I (1971: 215), on disputes outside the court and diagram IV (1971: 228), on civil disputes in the state courts. Only ± 50% of civil disputes seem to concern ancestral land. However, other land transactions make up another 30%, so that approximately two thirds of all civil disputes concern land (1971: 226).
38. The same principle has been applied in connection with "redeeming" land by means of court suits. So long as other members of the lineage have not paid their share of the costs of the procedure, they will not be given a share in the land won in a court suit. Thus, wealthier branches of a lineage, who can afford to pay the high expenses of a court case, can acquire lineage land and use it exclusively until other branches have shared in the payment. Since the other branches are less able to pay, land so "redeemed" often re-

mains under the control of the wealthier branches, thereby increasing the existing differences in wealth (see F. von Benda-Beckmann, 1979: 22; Oki 1977: 129).

39. On dispute prevention, or preventive law care (preventieve rechtszorg) see F.D. Holleman 1920: 114 ff; Logemann 1924: 128 (who coined the term); Van Vollenhoven 1931: 251; cf. K. von Benda-Beckmann 1984a.
40. See F. and K. von Benda-Beckmann 1984; F. von Benda-Beckmann 1979: 65 ff, 365 f; Graves 1981: 41.
41. However, one should keep in mind that, although few disputes reach the court, these few always involve many persons, since they usually concern kin-groups rather than individuals (see Tanner 1971: 218; F. von Benda-Beckmann 1979).
42. I have no systematic data on the costs of a representative, but they may reach staggering heights and not infrequently exceed the value of the dispute goods. In a dispute between two lineages of the same clan segment, one hired a school teacher as court representative; the other lineage was represented by its mamak kepala waris of the wealthiest sublineage who did the work himself. After a few months, the branch with the school teacher had spent about 1 gold rupiah (= US $75) more than the other (Pengadilan Negeri Bukinttinggi 16/1974). These are official expenses. Apart from these parties usually have to pay a lot of more or less inofficial fees. Although I have no definite information about irregular payments, people talked about it all the time. I have no doubt that such payments are made, since it seems to be a feature of public life in general in Indonesia.
43. See F. von Benda-Beckmann 1979: 308. The frequency with which Minangkabau appeal is remarkable. In the Netherlands only 4% of the judgments in contested civil disputes treated in the state courts (arrondissementsrechtbank) are appealed and 7% of these reach the Supreme Court. Justitiële Statistieken 1971 (Statistics concerning the Judiciary). I thank P. de Koning, A. Jettinghof and B. van Opijnen for letting me use their calculations based on these statistics.
44. The cases discussed in this paper are representative of land disputes in general in the sense that the kind of problems they pose recur in most other land disputes, although they do have a temporal depth which is a bit exceptional. I selected the cases because of the amount of background information I was able to obtain.
45. The claim that one "knows nothing" because one has not been officially informed and invited to meetings is very often used as a ground for defying a decision one does not like. See K. von Benda-Beckmann 1981.

46. The parties realized this and Sainullah immediately started a new case, which he won again. Usually a dismissal of a claim is interpreted as a confirmation of the assertion of the opposing party. K. von Benda-Beckmann 1984a, The Case of the Refused Mattress; see F. von Benda-Beckmann 1979: 253 ff.
47. The decision of the Adat Council of 1946 could be interpreted differently. However, all witnesses heard in court in the cases of 1968 and 1972 said it had also included Rasjid. There is a possibility that Rasjid's name was by mistake forgotten in the written version and that the oral decision had included him. This is likely because the decision talks about third parts, which it would not have done had Rasjid not been a lineage member. People would not have noticed such a mistake, since for them the oral version would have been the real decision. I have no way to check this hypothesis, however.
48. This may be one reason why the Adat Council was so reluctant to get involved. Only when the lineage itself and the clan segment cannot find a solution may the Adat Council get involved, and then mainly in order to force an unwilling lineage member into cooperation.
49. The traditional cycle of lineage splitting involves five generations "kok limo kali turun" (when there are descendants five times). See Willinck 1919: 352; De Josselin de Jong 1951: 85; F. von Benda-Beckmann 1979: 66 and 399 footnote 7.
50. According to several informants Inyik Kaba's panghulu had another title. The title Datuk Mangkuto belonged to his father's lineage and had been given to him as an honorary title because his father's lineage was nearly extinct. Such an inclusion in a genealogy of people who clearly do not belong to the same lineage (or sublineage) seems to be a common litigation tactic. Naim (1973: 20) interviewed panghulu and asked them among other things whether they had received their office from their MB or MMB (mamak kanduang). Ninety-two percent answered yes. Naim concluded (personal communication) that the panghulu office has become more or less hereditary. I think that this conclusion may not be drawn. It is more likely that the answer results from a similar process of including distantly related persons in one's (sub-)lineage. Panghulu consider their legitimacy stronger when they are close relatives of their predecessor. What could be concluded from Naim's data is that the ideal is that of a hereditary panghuluship as opposed to an elected panghuluship. Thus change may have occured at the ideal level, but not necessarily at the factual level.
51. See for a detailed description of this dispute, F. von Benda-Beckmann 1979: 266 ff.

52. See footnote 31.
53. The court may fuse two disputes into one if it is of the opinion that they concern the same problem. Technically speaking, this had not been done, although substantively it had. Rahim did not appear as a party or as a witness in the dispute of 1968/9. I take it, although I do not know this for certain, that he attended the sessions and that that was the reason why the court realized that the two disputes were really the same.
54. These rights are formally called ganggam bauntuek (see F. von Benda-Beckmann 1979: 155 f), the rights obtained by lineage branches as use-rights from the pusako stock. In court disputes this is usually referred to as pasuko of a sublineage. The difficulty in this case is that the lineage of Datuk Bagindo had not yet been formally split and that in one sense the land was pusako of the whole lineage, but that there already was considerable segmentation in pusako rights within the lineage. As a result the land on which the adat house was built was pusako of the whole lineage of which Datuk Bagindo Lapiah was a member, but may or may not have been part of the pusako over which his sublineage justly claimed control.
55. The Tino Hoin was the first instance court in the Japanese period, staffed with Minangkabau judges. The court of appeal, Toko Hoin, was staffed with Japanese judges.
56. A woman usually cannot claim pusako for her lineage in court. It is standard court interpretation of adat law that this can only be done by the mamak kepala waris, who is almost always a man. See K. von Benda-Beckmann 1981: 143 f.
57. Datuk Bagindo Lapiah was deputy panghulu and therefore did not want to act as defendant. The reason he gave was that he could only act for the whole branch, not for his sublineage only. If he were defendant and should win, the land would then be pusako of his branch and not only of his sublineage.

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