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Salang Pinjam: Maintaining Traditional Pawn Practice against the Practice Regulated by *Divide et Impera* Politics

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Abstract

Salang pinjam had been carried out by many Minangkabaunese before the arrival of the Dutch colonialists. The presence of the Dutch colonialists shifted the tradition of *salang pinjam* into *pagang gadai* (pawn) as part of the *Devide et Impera* politics which aimed at breaking up the unity of Minangkabau people. The transition from the concept of *salang pinjam* to *gadai* (pawning), apart from not being in accordance with Islamic teachings, also often causes disputes in the communities. Even so, in several Minangkabau areas the tradition of *salang pinajm* still survives to ensure the continuity of religious-based customs, including in Paninjauan Village, Tanah Datar regency. This study was conducted to describe the concept of *salang pinjam* and how it differs from the Dutch version of pawning. This research is field research with the data sources obtained from Paninjauan Village's community leaders and parties who have carried out *salang pinjam*. The data were collected through direct interviews with informants, then classified according to the questioned-themes. Then, the data were analyzed descriptively. This study concluded that the essence of *salang pinjam* is borrowing from each other, one party borrows money or gold and the other party borrows land or rice fields. Based on Islamic teachings, this transaction does not violate Islamic rules and will not cause any disputes. This is different from pawnshops regulated by the Dutch Colonial by which borrowing money must be accompanied by collateral in the form of land, and this way becomes a source of problems for two reasons; first, it is contrary to Islamic teachings because it utilizes collateral assets; and second, the collateral must be returned to the borrower after seven years without compensation, and in reality the community is not willing to just return it unless the borrowers must return the money they have borrowed.

Keywords: *salang pinjam*, pawn, usury, devide et Impera.

Abstrak

Transaksi *salang pinjam* sudah dijalankan oleh sebagian masyarakat Minangkabau sebelum datangnya penjajah Belanda. Kehadiran penjajah Belanda telah menggeser tradisi *salang pinjam* menjadi *pagang gadai* sebagai bagian dari politik devide et impera yang ditujukan untuk memecah belah persatuan masyarakat Minangkabau. Peralihan dari konsep *salang pinjam* kepada gadai, selain tidak sesuai dengan ajaran Islam, juga tidak jarang menimbulkan sengketa antar masyarakat. Walaupun demikian, di beberapa wilayah Minangkabau tradisi *salang pinjam* ini masih tetap bertahan untuk memastikan berjalannya adat yang bersendikan agama, antara lain di Nagari Paninjauan Kabupaten Tanah Datar. Penelitian ini bertujuan untuk mendeskripsikan konsep *salang pinjam* dan perbedaannya dengan *pagang gadai* yang diusung oleh Belanda. Penelitian ini merupakan penelitian lapangan dengan sumber data berasal dari tokoh masyarakat Nagari Paninjauan dan pihak-pihak yang melakukan transaksi *salang pinjam*. Pengumpulan data dilakukan dengan wawancara secara langsung kepada para informan, kemudian diklasifikasikan sesuai dengan tema yang ditanyakan, selanjutnya dianalisis secara deskriptif. Hasil penelitian menunjukkan bahwa hakekat *salang pinjam* adalah saling meminjamkan, satu pihak meminjam uang atau emas dan pihak lain meminjam tanah atau sawah. Jika dihubungkan dengan ajaran Islam, maka transaksi ini tidak melanggar aturan Islam dan tidak akan menimbulkan sengketa. Hal ini berbeda dengan *pagang gadai* yang diatur oleh Penjajah Kolonial Belanda di mana peminjaman uang atau emas harus disertai dengan jaminan berupa tanah atau sawah, dan inilah yang menjadi sumber masalah karena dua hal; pertama bertentangan dengan ajaran Islam karena memanfaatkan harta jaminan; dan kedua, jaminan harus dikembalikan kepada si peminjam uang setelah tujuh tahun tanpa penebusan dan realitasnya masyarakat tidak bersedia mengembalikan begitu saja kecuali si peminjam uang harus mengembalikan dulu uang yang dipinjamnya dulu.

Kata kunci: *Salang pinjam*, pagang gadai, riba, devide et impera.

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INTRODUCTION

The tradition of *salang pinjam* which is related to assets in the form of land or rice fields is a concept that has long been practiced by Minangkabau people as another form of land pawn transaction. The presence of the Dutch colonizers shifted the concept of *salang pinjam* to pawning and has become a pawning rule in Indonesia as contained in Law Number 56/PRP/1960 concerning Determination of Land Areas. Article 7 of the Law states that anyone who controls other person's land with a pawn system must return it to the land owner after seven years without redeeming. This way definitely creates a polemic among the public, because the collateral holders are not allowed to ask for the money back when they return the collateral. Besides that, another issue is related to religious law. It does not allow the use of collateral assets because such practice is usury which is forbidden in Islam.

Research on *salang pinjam* and *pagang gadai* in Minangkabau has been carried out by many previous researchers. There are at least two categories of previous research forms. First, research related to the effectiveness of the application of Law No. 56 of 1960 in the field of land pawning in various regions in Indonesia, for instance, were the ones carried out by Refliza (2015), Aliasman (2005), and Farhan Muhammad Azis (2020). They concluded that the law is generally not applicable in Minangkabau. Likewise, in other provinces such as research conducted by Anisa Reski Syamsuri et.al., (2020) and research by Ni Komang Lina Permatasari et.al., (2014). they drew almost the same conclusion that it is difficult to apply Article 7 of Law Number 56/PRP /1960 concerning Determination of Land Area, because pawning is based on cultural values in the area concerned. Second, research on the implementation of pawning land in the perspective of Islamic law was carried out by Hasneni (2015), Aziz (2020), and Misno (2017), they concluded that the implementation of pawning carried out by the community is contrary to Islam and is an act of usury so that the law becomes unlawful. The research that the author conducted was related to the concept of *salang pinjam* in Minangkabau, especially in Paninjauan Village, Tanah Datar Regency, West Sumatra, in which the substance was not the same as the pawn concept put forward by the Dutch Colonial Government which is confirmed in article 7 of Law Number 56/PRP /1960 Regarding the Determination of Land Areas.

This study was conducted to describe in depth the concept of *salang pinjam* as a hereditary tradition that still exists among Minangkabau people, especially in Paninjauan Village, Tanah Datar Regency. There are two research questions to be answered in this study; first, how is the concept of *salang pinjam* that is still practiced by the people of Paninjuan Village, Tanah Datar Regency? And how is *salang pinjam* different from *pagang gadai* that has been generally practiced by the Minangkabau people until now? These two questions were the guideline to make questionnaire so that the data obtained were not deviated from the research theme.

This research is highly necessary because the land pawn polemic in Minangkabau has not found any solution thus far. Religious lectures that are often delivered to the public regarding the prohibition of using mortgage collateral as regulated by Islamic teachings do not seem to receive any positive response from most of the community. This is because people have not found other ways to carry out lending and borrowing transactions apart from pawning. Therefore, this paper intends to provide a solution so that people turn to the traditional system that has long existed in the Minangkabau community in the form of *salang pinjam,* so that property disputes due to *salang pinjam* do not occur again and are not contrary to Islamic teachings.

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RESEARCH METHOD

This research was carried out in Nagari Paninjauan, Tanah Datar Regency by making salang pinjam transactions the object of research. This research is qualitative research with a sociological juridical approach by which empirical-sociological legal theory (the theory and practice of law that exists in society) is used in answering research problems (Anggono, 2020). The source of the data was from Paninjauan Village community that consists of traditional leaders, religious leaders, and borrowers. The data were collected through interviews and direct observation in the research location. The interviews were based on interview guidelines and were carried out directly, while observations were made to strengthen the interview data. Data validity was measured by data triangulation, and the validity of the information obtained was checked by comparing one piece of information with another (Zamili, 2015). The data analysis was carried out using descriptive qualitative by which the research data were presented and then followed by descriptions and explanations based on the researcher's interpretation.

RESULTS AND DISCUSSION

Salang Pinjam in the Traditional System of Paninjauan Society

Paninjauan Village is located on the slopes of Mount Marapi in a position to the north bordering Mount Merapi, to the south by Padang Panjang, to the east by Andaleh Village, while to the west by Panyalaian village. The area is 1,719 hectares, consisting of 753 hectares of forest, 873 hectares of rice fields, 179 hectares of dry land agriculture and the rest is in other forms. Most of the land (57%) is in the form of fertile rice fields and is very productive because it is under the base of Mount Merapi and is often sprinkled with volcanic ash, and has a regular source of water coming from Mount Merapi. There are rice fields with high-inherited wealth status and there are also rice fields with low-inherited wealth status which often become the objects of *salang pinjam* in the community who need a certain amount of money to cover their needs.

Salang pinjam is a legal act of two parties. Each party drives at the consequences of their actions. It means the birth of reciprocal rights and obligations which is accepting each other's rights to what was agreed and fulfilling obligations to each other for what has been agreed. There are those who lend money (gold/gold equivalent) and there are those who lend land/rice fields in a balanced size so that there is fairness in the transaction (Suryani et al., 2019). In the Minangkabau-Indonesian dictionary, the word *salang* means borrowing. *Salang pinjam* are synonymous, these are two repeating Minangkabaunese words with the change of sound. The second word emphasizes, has the meaning of giving loans to each other, and confirms to the other party. Justice in borrowing transactions is obtained in the form of *salang pinjam*. In this case of course the measure is the same or balanced. According to John Rawl, justice is the highest human virtue in a social institution, as the truth is in a system of thought. Therefore, everything that causes injustice must be rejected (Taufik, 2013).

Salang pinjam is the local wisdom of Minangkabau people as a solution to facing economic needs and has some differences compared to pawning. Antisya (2023) says that the two terms, *salang pinjam* and *paging gadai* are the same, but in practice they can differ according to their respective local wisdom in various regions. Alfian (2013) says that local wisdom is a way of life and knowledge as well as a strategy in the form of activities carried out by local communities in meeting their needs. Based on Alfian's opinion, the meaning of *salang pinjam* is a way that is carried out by the community based on the potential that has been passed down from generation to generation and is still maintained by the community because it

contains social values that can help one another. When it comes to legal agreement, *salang pinjam* is the main agreement (in land law) that is directly related to the transfer of usufructuary rights to land. This agreement ends if one of the parties returns the goods/money they lent. If they have not been able to return the money, the land/field holder can transfer the field to a third party with the permission and knowledge of the field/land owner.

Article 1150 of the Civil Code states that a pawn is a right that is obtained by a person who owes money for a movable object, handed over by someone who owes it to another person on his behalf, and which gives the creditor the authority to take payment of the item after prioritization and comparison with other creditors. In Minangkabau, the term pawn is usually called *pagang gadai*. Even though the terms are slightly different, both of them have the same essence, that is, every debt must be accompanied by a guarantee, in this case the guarantee is in the form of land/rice fields (Arianti & Hasan, 2022).

Pawn has the following characteristics: be a collateral for mortgaged movable objects, has priority properties, has a *droit de suite* nature which means it always follows the object wherever or in the hands of whoever the object is, gives direct power to the collateral object and can be defended against anyone, the transfer of power from the object used as collateral (the *inbezitstelling* element) from the pawnbroker to the borrower, it is also an accessory agreement which depends on the main agreement, and cannot be divided. In contrast to that, in *pagang gadai* the agreement is not an accessory (additional) agreement and is a separate agreement with the characteristics of not having an expiration date on the right to redeem it, pawning can occur repeatedly (adding the amount of money/gold), the collateral does not belong to the pawnbroker, they are only allowed to use it (Wirasaputra, 2017), and what is pawned is an immovable object such as land/rice fields. *Pagang gadai* often creates conflict in the Minangkabau community because it is not in accordance with the Minangkabau philosophy *"adat basandi syarak, syarak basandi Kitabullah"* (custom is based on sharia law, and sharia law is based on the holy Quran). Syukri Iska et al., (2023) says that pawnshops are considered illegal because they contain elements of usury that can cause misery, oppression, and injustice.

Related to the practice of *salang pinjam* in Paninjauan Village, the following are the results of the author's interviews with several informants regarding the meaning and model of *salang pinjam*, the process and purpose, the length of time, and the reasons why the community prefers *salang pinjam* over *pagang gadai* which is generally practiced in Minangkabau. Sarkani Dt. Sinaro Nan Kuniang *said that salang pinjam* occurs when there are parties who need money/gold and borrow it from other parties. In Paninjauan Village, the loan agreement is carried out with two agreements, there are the contract to borrow money by one party and the contract to borrow land/rice fields by the other party. This is in accordance with the terms used, *salang pinajm,* both of which have the same meaning. *Salang* is done by the party who borrows the money/gold, while *pinjam* is done by the party who borrows the land/rice field. This means that both parties borrow from each other and promise to return at a mutually agreed time (Kuniang, Personal Communication, July 3, 2023).

According to Amrizal Dt. Lelo Kayo said that *salang pinjam* is a transaction between two parties who lend rice fields/land and money/gold to each other. One party borrows money/gold for certain purposes while the other party borrows rice fields/land which are equal between the two. It is not permissible to borrow from each other with little money/gold meanwhile the fields/land are big. There must be the same calculation between the money borrowed and the size and income of the rice field/land. Measurement of the volume of paddy yields is measured based on the custom of the local community called *bangkiah*, it means the measurement used to measure paddy yields in the fields is one *bangkiah* is equal to 50 liters of rice. Meanwhile, money is measured in units of Rupiah Gold. One Rupiah Gold is equal to 6.5 of gold. The

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current Rupiah Gold value is approximately Rp. 17,000,000.- (seventeen million rupiah). Usually, 1 Rupiah Gold is equal to 2 *bangkiahs*. If a rice field approximately produces 10 *bangkiahs* paddy yields, the size of the money if it is lent is 5 Gold Rupiah and so on (Kayo, Personal Communication, May 17, 2023).

Farida added there are must be a balance in *salang pinjam* if the borrowed money is used to start a trading business, then the trade profits earned and the paddy yields obtained will be more or less the same which can be analyzed mathematically. A field with a paddy yield of 10 *bangkiahs* produces 500 *liters* of rice. The price of rice is Rp. 12,000 per liter, thus 500 X 12,000 = 6,000,000 for one harvest. While money as capital that can be used as rotation of money, then 5 Rupiah Gold x 17,000,000 equals Rp. 85,000,000. – This amount of capital is capable of producing profits that are balanced with a single harvest of rice of Rp. 6,000,000.- This is what is called *salang pinjam* (Farida, Personal Communication, May 17, 2023).

As for Jonfirson St. Rajo Ameh said that there are two *salang pinjam* objects which are in the form of money/gold and land/rice fields. Usually, it is productive land/rice fields as immovable objects and money/gold as movable objects, and there is no such thing as collateral in this transaction because both parties are borrowing each other. Transactions like this are different from *pagang gadai* agreements carried out by the Minangkabau people generally who make rice fields/land as collateral for a loan. *Salang pinjam* makes both parties equal, no one higher and no one lower. Both are equally owed each other. In Paninjauan Village they no longer use *pagang gadai*, but they use the term *salang pinjam*. This practice has been carried out by the people of Paninjauan Village since the Dutch left Indonesia, even though during the Dutch period the method used was *pagang gadai* or pawning in accordance with Dutch rules (Ameh, Personal Communication, May 15, 2023).

Based on the data above, it can be understood that the legal consequences of *salang pinjam* have placed the two parties in the transaction in the same position, neither party benefited the most and neither party was harmed. Both of them have the same position as debtors and both have the obligation to return the loan. The shift to the Dutch version of pawning was carried out to create divisions among society. This is as said by Ahmad (2022) that the *Divide et Impera* politics had been proven to be effective in dividing the unity of people throughout Indonesia. One of the methods used in this *Divide et Impera* politics was by disrupting the social system that had long been run by the community. Unknowingly, the conflict that resulted from the *Divide et Impera* politics became the object of a prolonged cold war in society. The Dutch disrupted the social system of the Minangkabau people, one of which made this borrowing matter as its object. The Dutch utilized their expertise in the field of law so that they were able to shift the meaning and nature of legal actions that occurred according to their needs and interests to pit society against each other, clashing the values contained in custom with religious teachings. Traditional values were shifted in meaning from the acts of mutual help to lending and borrowing.

Jayadi (2017) states that the presence of the Dutch was considered to be a trigger that caused natives to face conflict, both horizontal and vertical conflicts. According to Ritonga et al., (2022) colonial practices that seemed to break through traditional rules to the dominance of economic interests eventually created many conflicts in various places in the archipelago, even today it still remains disputes over ownership of the agrarian sector everywhere. The various conflicts that had occurred during the 18th and 19th centuries have at least shown the existence of social conflict over conditions that were unfavorable for the natives at that time. Likewise, what happened in Minangkabau, even the conflict that was created about the pawn issue still remains today, even though Indonesia has been independent for a long time.

Salang pinjam Versus Pagang Gadai

Sarkani Dt. Sinaro Nan Kuniang said that is difficult to distinguish between *salang pinjam* and *pagang gadai* because at first glance they have similarities, but the nature of the two is different. *Salang pinjam* makes us borrow from each other, hence there is no need to feel inferior or ashamed of the other party. As for *pagang gadai*, one of the parties becomes the inferior party because he borrows money/gold, and the owner of the money/gold controls the land/fields of the person who owes the debt until he repays the debt. Even though in *pagang gadai* the collateral for the debt is not sold to pay off the debt, the party who is in debt still feels a mental burden when they meet the party giving the debt. That is why the people of Paninjauan Village prefer to do *salang pinjam* transactions rather than *pagang gadai* (Kuniang, Personal Communication, July 3, 2023).

Nurbaiti added that they don't like to use *pagang gadai* agreements because they often cause heartache and problems. When I wanted to buy back the land/rice fields, I felt it was a big loss because I had to return the price of the gold that was borrowed first. When you borrowed, the price of gold when you converted it to Rupiah might not have been much, but when you redeemed it, the price of gold had gone up dozens of times, thus the Rupiah amount was also very large. The mortgage holder receives two benefits, firstly from the increase in the price of gold when redeeming the collateral, and secondly from the yield of the land/rice fields that they have managed for years (Nurbaiti, Personal Communication July 3, 2023).

According Syahrial St. Penghulu Basa that in *salang pinjam*, the amount of money/gold borrowed is equivalent to the area and yield of the land/fields that are also borrowed by the owner of the money/gold for a specified period of time. In contrast to *pagang gadai*, even though the money/gold borrowed is not much, the land/rice fields that are being collaterals can be very big with lots of agricultural produce. As long as the loan has not been paid, during that time the pawnbroker will use the collateral land/fields. There is no specific time for this *pagang gadai* agreement, it can be decades, some are even not redeemed by the owner because they do not have money/gold to redeem them (Basa, Personal Communication, May 17, 2023). The data show that *pagang gadai* and *salang pinjam* are terms that are commonly used by the community and it is rather difficult to distinguish them because in reality one party lends money/gold while the other party is given a plot of land/rice fields. However, the things are not the same in essence because both parties are borrowing from each other, and this is not the case if the transaction is carried out using *pagang gadai* agreement.

The Manifestation of Justice in *Salang Pinjam*

As John Locke states, humans naturally have freedom to achieve justice in order to achieve a harmonious life: as the viewpoint of the Minangkabau people which is egalitarian, having equality, and having no coercion, (Qorib, 2017). In their proverb it is described as *duduk sama rendah tegak sama tinggi* (sitting equally low, standing equally tall). Judging from the comparison of the benefits of the *salang pinjam* object used, the results or benefits obtained by each other are found to be justice, which is the highest human virtue. That is also explained by John Rawls (Suheri, 2018) that justice must be created in a social institution. This is what causes *salang pinjam* to be maintained in society.

Salang pinjam is a legal act because it gives birth to rights and obligations between the parties. As said by Lestari (2008) that legal actions are actions whose consequences are regulated by law, whether carried out by one party only or carried out by two parties by paying attention to the consequences caused by these legal actions because these consequences can be considered as the will of the legal actor. If the consequence is not desired by the perpetrator, then the act is not a legal act. The will of *salang pinjam* exists

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on both sides, giving and receiving. There are rights that are accepted, there are obligations that must be fulfilled, as emphasized in article 1313 of the Civil Code.

The will of both parties was stated in the meeting of theirs, which was attended by the tribal leaders (*penghulu*) of each party. There is a discussion to meet an agreement that is the contents of the engagement. At first this agreement was only in the form of verbal. Relying on the proverb *kerbau yang dipegang talinya, kalau manusia yang dipegang kata-katanya* (the buffalo is held by its rope, while humans are held by their words). *Pacta suntservanda,* every promise must be kept, because there are moral obligations and legal obligations that must be obeyed (Budiwati 2019).

Minangkabaunese have started to write down this kind of agreement since they were literate and there was the entry of the Dutch colonial invaders. This is related to the Dutch European continental school of law; law is just a written rule so that it has legal force and legal certainty. R. Subekti (2008) says that an agreement is an event where a person promises another person or where two people promise each other to do something. From that event, a relationship arises between the two people, which is called an engagement. This agreement creates a tie between the two people who make it. This agreement is in the form of a series of agreements containing spoken or written promises or commitments.

According to Ellies Sukmawati (2019), Minangkabaunese are communal which promotes strong kinship. Communalism prioritizes togetherness, that is, all actions aim to achieve common goals. Individual goals will be achieved automatically if the common goals have been achieved. This view of life prioritizes togetherness, individual protection, including when communal interests have been carried out. Based on the adage, *duduak badunsanak mamaga dunsanak, duduak bakampuang mamaga kampung* (mutual help is based on the principle of kinship so that the bond and quality of help becomes very strong).

The spread of Islam into Minangkabau led to acculturation and assimilation to Minangkabau culture. Islamic religious teachings become a filter for Minangkabau culture, the unsuitable ones were deleted, the ones which were not good were refined with Islamic religious teachings, the ones which were already suitable have been improved (Kohar & Hasan, 2018). *Salang pinjam* is an action that is in accordance with the teachings of Islam. The substance of helping each other is to provide assistance to people who need help without any desire to gain profit. *Salang pinjam* is in accordance with the teachings of Islam in the form of acts of mutual giving and receiving.

Regarding land pawning, the Minangkabau proverb has emphasized inheritance, *"digadai indak dimakan sando, dijua indak dimakan bali"* (what is mortgaged cannot be used as collateral for debt and cannot be used as an object to be traded). This customary provision emerged as a resistance to the term pawn (dutch: *pand*) which was popularized by the Dutch. Even though there was resistance, the Dutch Colonial Government had the strategy and power so that pawn was socialized and people began to follow this Dutch model of pawn system.

Maintaining *Salang Pinjam* Tradition and Ignoring Pagang Gadai in Paninjauan Village

Jelfri Hadler (2010) says that the changes in Minangkabau were driven by the constant tension between reformist Islam and matriarchal customs and were exacerbated by Dutch colonial interference. These three variables influenced each other. The purification of Islam in West Sumatra was felt strongly by the existence of Paderi movement in the late 18th and early 19th centuries. According to Hadler, quoted by Uun Leonar, this movement aimed to cleanse Islamic teachings from superstitions. The pioneers of this movement were Haji Miskin, Haji Abdur Rahman, and Haji Muhammad Arif. They witnessed for themselves how the Wahhabi movement led by Muhammad bin Abdul Wahab carried out a violent

purification of the Islamic religion which was fully supported by the King of Saudi Arabia, Ibn Su'ud. This condition inspired the hadjis to carry out an Islamic purification movement in Minangkabau. According to Hadler, this movement had lasted for 35 years (Lionar et al., 2020).

Minangkabau culture is a crystallization of socio-cultural values that are born to grow and develop and are maintained by the people, because it is based on deep thoughts that become the basis for living together. The Minangkabau people call it *raso jo pareso* (conscience and reason). *Raso dibaok naik*, *pareso dibaok turun* (conscience is brought up, mind is brought down) It means the meeting point between those who go up and those who go down creates a balance. The mind gives birth to right and wrong, while the conscience gives birth to good and bad. That is what is customary or the foundation of habits that guide action and behavior.

There is a meeting of two cultures where the Minangkabau culture is the host and the Islamic culture is the guest. According to Koentjaraningrat (1990) the meeting between the two teachings (culture) can lead to acculturation or assimilation. Rangga Firmansyah (2016) says that assimilation is a social process characterized by efforts to reduce the differences that exist between individuals or groups of people and also includes efforts to enhance the unity of actions, attitudes and mental processes by attention to common interests and goals. Meanwhile, acculturation is a social process in which a group of people with a particular culture is confronted with elements from a foreign culture in such a way that the elements of the foreign culture are gradually accepted and processed into their own culture without causing the cultural personality to be lost.

The explains in more detail that when Minangkabau customs meet Islamic teachings, there are several possibilities that arise;

1. If the Minangkabau customs, both in principle and practice, are in accordance with the teachings of the Islamic religion, they can be enforced and maintained in society.
2. Accept and confirm the old custom in principle, but in practice it is adjusted to Islamic teachings.
3. If there is a clash of principles between custom and Islamic teachings, then Islamic teachings will take precedence, if circumstances allow then customary teachings will be implemented.
4. If it is found that the principles and implementation of traditional teachings are clearly contrary to Islamic religious teachings, then these traditional teachings must be eliminated and completely scrapped.

Based on Amir Syarifuddin's opinion, *salang pinjam* that has become a habit in Paninjauan Village is in accordance with Islamic teachings, this custom that has been passed down for generations, strengthens the philosophical foundations of Minangkabau custom, *adat basandi syarak, syarak basandi Kitabullah* (Syarifuddin, 1984).

The habit of *salang pinjam* in Paninjauan Village contains the value of mutual help between the parties who make an agreement. There is a social nature in the tradition of *salang pinjam*, it does not seek any profits in the engagement, but both have the same goal of being able to utilize the object of the agreement (money/gold and rice fields) according to each other's wishes. In Islam, the term helping is called *ta'awun*. In daily life, the meaning of *ta'awun* can be interpreted as providing reciprocal assistance or helping each other for good. Therefore, it is not interpreted as *ta'awun* if help or assistance is directed to things that are prohibited in Islam.Quraish Shihab (2002) says *ta'awun* is a basic principle in establishing cooperation with anyone as long as the goal is virtue and piety. Sementara Mahmud Syaltut (1990) defines *ta'awun* as the opposite of quarrels, divisions, mutual hostility, egoism, and breaking of kinship ties. From the above understanding, it can be understood that *ta'awun* is an attitude or behavior of togetherness and a sense of mutual need for one another so that a harmonious association is realized.

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The form of mutual help in Islam according to Muhsin (2004) can be in the form of helping others who are in need, giving something useful to others, providing loans or debts, providing food or gifts, and reconciling the parties who are in dispute or hostile.

The Dutch East Indies colonial government always studied the life system of the people of the area under their control. This was their main strategy, Snough Hurgronye studied Islam in Mecca in order to understand the weaknesses of Islamic teachings which would be used to conquer the area of Aceh which was known to be obedient to Islamic teachings who defended its area from attacks by infidels. In Mecca, Snough Hurgronye tried to get close to the Acehnese who studied Islam with him. From the interviews he conducted with the Acehnese, Snough Hurgronye understood that from the outside the Acehnese seemed united, while in the inside they were divided into two parties. Some adhered to custom and the rest of them adhered to the teachings of Islam. Snough Hurgronye laid out the Receptie Theory. Religious teachings would be used by the community if the religious teachings could adapt to customs. If there were friction in society and civil war, then Aceh could be conquered (Hajriansyach, 2019).

Likewise, the Netherlands with its political concordance enforced its civil law in Indonesia for land and contract issues. The term pawn in civil law is a translation of the word *pand*. The Dutch included their cultural values by shifting Minangkabau cultural values, so that those cultural values became blurred. And those lost cultural values became one of its personalities. Most Minangkabau people are familiar with the term pawn/*pagang gadai*. The term *salang pinjam* is only known in some areas, including Paninjauan Village. The term pawn/*pagang gadai* which is widely practiced by the Minangkabau people is one of the successes of the Dutch Colonial Government with the *Divide et Impera* politics because it can eliminate the principles of togetherness and mutual help that have been built thus far.

This is strongly supported by the existence of the Center of Islamic Studies at the University of Leiden which was established in 1575. Thus, it has been a long time since Dutch scholars have shown interest in Islamic and Arabic studies. When the Dutch colonized Indonesia they faced many Islamic elements and fought with the army of the Islamic empire in Indonesia. This situation prompted the Center of Islamic Studies of Leiden University to open a training center for civil servants who would be assigned to the Dutch East Indies. They had been given knowledge about Islam and its aspects, including its laws and customs (Amin, 2016), one of which was transferring the values of *salang pinjam* to pawning. The Dutch appointed the Chief of Tribal Leader (Minangkabaunese: *datuak pucuak*) as an extension of the hand to regulate other tribal leaders and the people they led, both in terms of tribal leaders for tax collection (*basurek* tribal leaders) and tribal leaders for forced crops (*rodi* tribal leaders). *Penghulu* as a tribal leader must be involved in carrying out various legal actions in legal activities within his tribe (Harisnawati et al., 2018). Penghulu had the power and authority to direct the members of the tribe concerned in all matters. Especially with the Dutch legal theory where every agreement must be written down to obtain legal certainty. This method made it easier for the Dutch to achieve their goal of disrupting the social system of society.

The Ethical Politics or Reciprocity Politics proclaimed by the Queen of the Netherlands in 1901 was based on the awareness that the Dutch Government had a debt of gratitude and moral responsibility for the welfare of the people it colonized. Ethical politics had three programs, including irrigation improvement, transmigration, and education (Alit, 2023). The motive for education was to get educated and cheap labor to work on Dutch plantations and for office workers, so that the Dutch opened schools until 1910, 755 the first- and second-class schools in Java and Sumatra with a total of 152,675 students. In addition, schools were also opened; Europese Lagere School (ELS), Hollands Chinese (HCS), Hollands Inlandse School (HIS) for Elementary Schools, and Meer Uitgebreid Lager Onderwijs (MULO) for High

Schools, Hogere Burgerschool (HBS), and Algemene Middelbare School (AMS). Through the world of education, Dutch understanding and culture were disseminated to students and society in general, so that it was easily accepted, understood, and implemented (Fakhriansyah & Patoni, 2019).

Meanwhile, *salang pinjam* is based on the principles of the life of the Minangkabau people, which include a mental attitude that is social in nature, excluding gaining profits, which is the foundation of sincere help without expecting anything in return. Rice field holders cultivate rice fields to get results in the form of rice. Gold is used as business capital to benefit from the business that is involved. This is one of the factors that causes *salang pinjam* to take place for quite a long time, it even becomes hereditary.

With the use of the term pawn there is a shift in meaning, the object of *salang pinjam* which was originally borrowed from each other becomes a loan, while land becomes collateral for borrowing a sum of money. This chaos does not only occur at the local level, but even at the national level as stipulated in Law Number 56/PRP/1960 concerning Determination of Agricultural Land Areas, it also regulates agricultural land mortgages. In the general provisions of number 9 (a), it is formulated that pawning is a relationship between a person and a land belonging to another person who has a debt to him. If the debt has not been paid, the land remains in the possession of the pawnbroker (the holder) which is the interest of the debt. The redemption depends on the will and ability of the borrower.

In article 7 of Law Number 56/PRP of 1960 it also explains the limits of the mortgage itself, which is stated:

> "Anyone who controls agricultural land with a lien which at the time this rule came into effect has lasted 7 years or more is obliged to return the land to the owner within a month after the existing crops are finished with no right to demand payment of ransom."

Salang pinjam based on the Civil Code:

1. Borrowing is a material right that provides enjoyment, because the pawnbroker has material rights to benefit, not material rights as collateral, because pawnbrokers basically lend to each other *(salang pinjam)*.
2. The legal object of *salang pinjam* is an immovable object such as land, because lands in Minangkabau are treasures that have high social value. Whereas in the Civil Code, the object of pawn must be a movable object, if the object is immovable, it is called a mortgage.
3. The length of time for *salang pinjam* is not strictly binding, it can even be hereditary as an object of inheritance, while in the Civil Code, time is very binding to provide legal certainty to the parties.
4. *Salang pinjam* objects cannot be sold, they can only be transferred to another party in the same amount with the consent and permission of the owner, it cannot be sold to pay off debts.
5. It is prioritized for the parties involved in *salang pinjam* to have family ties, the same clan or tribe, or the same village, whereas in the Civil Code the parties are free to determine whom to make transactions with.

CONCLUSION

The essence of *salang pinjam* is lending to one another, one party borrows money or gold and the other party borrows land or fields. If it is connected to Islamic teachings, this transaction does not violate Islamic rules and does not have the potential to cause disputes. This is different from pawnshops regulated by the Dutch Colonial where borrowing money or gold must be accompanied by collateral in the form of land or rice fields, and this is a source of problems for two reasons; first, it is contrary to Islamic teachings because it utilizes collateral assets; and second, the guarantee must be returned to the borrower of money

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or gold after seven years without redemption. The community is not willing to just return it unless the borrowers must first return the money or gold that they borrow. When it is viewed from the legal actions in the form of mutual lending with a balanced or commensurate size, helping selflessly is based on agreements, community morality, deliberation, communalism, transparency, and mutual respect. *Salang pinjam* was shifted in meaning and essence by the Dutch Colonial Government to become collateral for debts, gave rise to conflict with the philosophy of Minangkabau people which is known as *adat basandi syarak, syarak basandi Kitabullah*, because the object that is used as collateral is taken advantage of by the party holding or controlling it.

This research has limitations in terms of research informants which only involve people who are directly involved in the practice of *salang pinjam*, and have not carried out comparisons with other opinions, either with traditional leaders in general in Minangkabau or academics who are concerned with Minangkabau customary law. Therefore, research with the same theme can still be carried out by expanding research informants from traditional law academics and traditional leaders in Minangkabau at large.

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