



jsret.knpu.com

Journal of Scientific Research, Education, and Technology

E-ISSN: 2962-6110  
P-ISSN: 2964-7843

**JSRET**

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## The Concept of the *Ba Baluak Tando* Tradition as Strengthening the Marriage Agreement in Customary Law in *Nagari Kurai V Jorong*

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### ABSTRACT

The *ba baluak tando* tradition is a very important procession in the proposal in the Kurai V Jorong indigenous community, in Bukittinggi City. This tradition not only functions as a social aspect, but also has customary legal meanings related to the concept of agreement in the process leading up to marriage. This study was made by the researcher to analyse the *ba baluak tando* tradition, its implementation process, and its relevance to customary law agreements, civil law, and the Supreme Court's jurisprudence on the voidness of agreements. The research used a juridical sociological approach by interviewing customary leaders to gain a deeper understanding of this tradition. Not only that, researchers also cite, journals, traditional books, and include verses of the Koran as sharia law according to the *Minangkabau* customary philosophy is *Adat Basandi Syarak, Syarak Basandi Khitabullah*. This research can provide an understanding of the conception of the *ba baluak tando* tradition as a strengthening of the marriage agreement in customary law in *Nagari Kurai V Jorong*.

**Keywords:** *Traffic Regulation Knowledge, Driving Safety Awareness, Transportation Education, Student Commuters*

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### INTRODUCTION

The Kurai V Jorong Indigenous Community is a tribe in Minangkabau that adheres to the matrilineal social system and has regulated the agreement system in arranged marriages with a procession termed *ba baluak tando* (Hidayat & Amir, 2022). The *Ba Babaluak Tando* tradition in the context of customary law of *Nagari Kurai V Jorong* has strong historical and socio-cultural roots in the *Minangkabau* kinship system. Research on the conception of the *ba baluak tando* tradition strengthens commitment between families through traditional symbols. Researchers conducted a socio-juridical study in the *ba baluak tando* tradition as a strengthening of marriage in the customary law of *Nagari Kurai V Jorong*.

The background of *ba baluak tando* includes:

- a. Strict matrilineal system The *Kurai V Jorong* Indigenous Community follows the principle of maternal descent, which requires the marriage agreement to involve all parties involved in the kaum structure. The *Ba Babaluak Tando* procession symbolises the validation of the relationship by the ninik mamak as the customary authority.
- b. The socio-political functions of the Pucuak Nan Balimo (the five highest leaders) and Panghulu Nan Sambilan create a system of checks and balances. Of course, *Ba Babaluak Tando* must involve the headmen of both parties as the guarantor of customary legality.
- c. The concept of *ba baluak tando* as a sacred bond based on the tradition of *Adat Kurai V Jorong* and similar in Padang Pariaman, this symbolic exchange of objects implies: the recognition of kinship relations between tribes as well as the guarantee of treaty protection in customary law.
- d. Integration with major adat rites in the Kurai ceremonial system, *Ba Baluak Tando* is often part of the *baralek* (traditional wedding party) procession which involves the ritual of eating *bajamba* as a form of communal endorsement.
- e. Conflict resolution mechanism This tradition functions as a customary early warning system. In the event of a marital dispute, the existence of the 'tando' becomes authentic evidence that can be referred to in customary deliberations by the penghulu.

The implementation of the *Ba Baluak Tando* tradition in *Nagari Kurai V Jorong* reflects the adaptation of the Minangkabau customary system in a hierarchical local government structure, as well as a marker of the cultural identity of the Kurai indigenous people in the midst of changing times.

Problem formulation :

- a. How is the procession of the *ba baluak tando* tradition in marriage agreements
- b. How the legal consequences in the tradition of *ba baluak tando*

## **METHOD**

### **1. Juridical Sociological Research Approach**

This research adopts a juridical sociological approach. A research approach that studies the law by considering the influence of society on the law, and vice versa.

### **2. Research Location**

The research will be conducted in the *Kurai V Jorong* area, which is known for its rich culture and strong traditions. This location was chosen because of its relevance to the object of research and the continuity of the *Ba Baluak Tando* tradition.

### **3. The research subjects consisted of :**

- a. Local traditional leaders who understand and are involved in the *Ba Baluak Tando* procession
- b. The general public who have knowledge of this tradition.

## FINDING AND DISCUSSION RESEARCH RESULT

### A. The procession of the *ba baluak tando* tradition

#### a. The Concept of *Ba Baluak Tando*

The Ba Baluak Tando tradition as described by the Kurai V Jorong (Mangkuto, 2014) customary practitioner resource person, Yusrizal, S.Sos, St. Mangkuto in an interview with the researcher said that the procession carried out by the prospective bride by visiting the prospective husband's family home at a predetermined time and binding an agreement between the two parties before marriage. The tradition of *ba baluak tando* in Adat Kurai V Jorong is based on adat nan taradat and makes adat nan taradat law in line with the Minangkabau customary philosophy 'Adat Basandi Syara, Syara Basandi Khitabullah' (custom is based on religion, religion is based on the Koran). In line with the Quranic verse in Surah An-Nahl, verse 91 about the agreement which reads:

وَأَوْفُوا بِعَهْدِ اللَّهِ إِذَا عَاهَدْتُمْ وَلَا تَنْقُضُوا الْأَيْمَانَ بَعْدَ تَوْكِيدِهَا وَقَدْ جَعَلْتُمُ اللَّهَ  
عَلَيْكُمْ كَفِيلًا إِنَّ اللَّهَ يَعْلَمُ مَا تَفْعَلُونَ

*wa aufû bi'ahdillâhi idzâ 'âhattum wa lâ tangqudlul-aimâna ba'da taukidihâ wa qad  
ja'altumullâha 'alaikum kafilâ, innallâha ya'lamu mâ taf'alûn*

Meaning: fulfil your covenant with Allah when you make a promise. Do not break your oath(s) after confirming them, while you have made Allah your witness. Verily, Allah knows what you do.

The traditional process of *ba baluak tando Adat Kurai V Jorong* is a momentum for both sides of the family to understand each other, including for the prospective bride and groom. On the other hand, *ba baluak tando* is the process of exchanging signs or symbols of an agreement between two families who are vowing to hold a wedding. This procession is certainly conveyed to the *Mamak Kaum* which will later be discussed in the family. Before the *ba baluak tando* takes place, the *Mamak Kaum* of the prospective bride and groom first make *marosok* to the family intended as a prospective mate.

*Kilek baliuang lah ka kaki, kilek camin lah ka muko* then high wisdom by the *mamak* of the people who have been kept and a sense of acceptance for the children of the nephews that what he meant about the soul mate has arrived or *Tau jo kieh kato sampai*. However, *babaluak* and *tando* are two different things. The *ba baluak* referred to in this case is in the form of *Salendang Kain Balapak* (silk), and the *tando* referred to is in the form of an agate ring whose bond is made of gold. In the procession of *ba baluak tando* later, *Salendang kain balapak* made of silk is given by the prospective wife to the prospective husband, and *tando* in this case is an agate ring bound in gold and given to the prospective husband to the prospective wife. In *ba baluak tando*, apart from being a symbol of agreement in the procession before the marriage takes place, it also regulates the time agreement determined during the *ba baluak tando*. In *ba baluak tando* the

prospective bride and groom are obliged to keep the agreement that has been agreed upon until the marriage period. In the role of *Niniak Mamak* with the procession of the *ba baluak tando* tradition in customary law, it can also find out the *ranji* and genealogy of the descendants of *Nagari Kurai V Jorong* children and also know the ins and outs of *pangka tuo kampuang* of each tribe in *Kurai V Jorong*.

The *ba baluak tando* tradition reflects the basic principles of *Kurai V Jorong* customary law in *Minangkabau*. Customary agreement law in *Minangkabau* is strongly influenced by family values and deliberation. In accordance with Van Vollenhoven's expert opinion, it is explained that customary law is unwritten law that does not originate from regulations made by the former Dutch East Indies government or other instruments of power held by the former Dutch power. Of course this distinguishes customary law from Dutch law in his day. Judging from the *ba baluak tando* procession, it is considered a form of request for blessing from parents and extended family to enter into marriage. This blessing is an absolute requirement so that the marriage bond can take place properly. In this case, *ba baluak tando* functions as a social document that binds both parties in a legal agreement.

Of course, the implementation of *ba baluak tando* involves a series of activities regulated by the norms and customary laws of *Kurai V Jorong* village. Including determining the agreement that is used as evidence of *ba baluak tando* by both parties later. In accordance with Prof. Subekti's expert opinion, the relationship between the obligation and the agreement is that the agreement issues the obligation. Then, the agreement is the source of the obligation, in addition to other sources. An agreement is also called an agreement, because the two parties agree to do something.

The *ba baluak tando* procession is held at the house of the prospective husband/marapulai, and is attended by extended family from both sides. One of the important elements in this procession is eating *bajamba*, which is eating together in one large container as a symbol of togetherness and respect for parents. In addition, there is also the ritual of exchanging tokens, which can be rings or other objects that are considered valuable. This exchange is not only symbolic, but also signifies an agreement between the two families to proceed to the marriage stage.

The tradition of the *ba baluak tando* agreement becomes a bridge between two families, binding them in a mutually respectful and beneficial agreement. In this case, the agreement in *ba baluak tando* is considered valid and cannot be cancelled unilaterally. This suggests that the tradition has a strong covenantal legal dimension, where every action in the procession is considered an official commitment to proceed to marriage. In the context of civil law, this exchange can be considered a legally binding agreement, which creates rights and obligations for both parties. For example, once the exchange of signs has taken place, the groom-to-be has an obligation to fulfil the promises made during the procession. Similarly, the bride-to-be and her family are expected to honour the agreement. In accordance with the expert opinion of Prof. Wirjono Prodjodikoro, an agreement is a legal relationship, meaning that one person is

obliged to do a certain thing and the other party has the right to demand that obligation in treaty law.

**b. Kurai V Jorong Traditional Wedding Procession :**

The marriage process in the *Kurai V Jorong* custom has a sequence and includes the *ba baluak tando* procession which is part of the marriage as follows:

1. *Bak Si Kaba Jo Ba Kiro-kiro*: Before the *ba baluak tando*, the *mamak* asks the nephew whether he has a candidate or is ready for marriage.
2. *Marosok* : visiting the party intended by the prospective bridegroom or bride who will later be used as a mate in the household.
3. *Maminang*: a visit by the bride-to-be to the house of the prospective groom with an entourage of *niniak mamak* and awaited by the family of the prospective groom with the same thing.
4. *Ba Baluak Tando*: After the agreement is made, the prospective female family provides *Salendang Kain Balapak* and the prospective groom provides 'ka tando' in the form of a *batua akiak* ring bound in pure gold. After the exchange of goods is made, both parties give a statement of agreement on the time of marriage. While waiting for the wedding time to be set, the two parties can get to know each other between the two sides of the prospective bride and groom.
5. *Ask permission ka Mamak*: After getting to know each other and *balipek tando* there are no problems, then the bride-to-be asks permission from the *mamak sarato bako* (party from the father's family).
6. *Baserak Siriah*: in this procession after asking permission from the *Mamak* and *Bako*, the prospective girl and the prospective groom make an invitation by bringing *siriah* leaves to relatives. '*kok jauh makan turuik, nan hampia makanan saru, bagalangang dimato urang rami*'
7. *Mantaan Pitih*: This procession is a form of agreement in the *maminang* agreement that the prospective bridegroom provides assistance to the prospective *anak daro* '*barek samo dipikua, ringan samo dijinjiang*'. After the family of the prospective groom gives *pitih* 'money', the family of the prospective bride / *child daro* also provides assistance in the form of money in lieu of *bendi fare* '*ka ganti ongkoih bendi*'.(Monarisa, 2023)
8. *Manjapuik Pambalian*: After the *mantaan pitih* procession has been carried out, the prospective woman's family makes a procession to the market to shop for the necessary preparations for the next procession.
9. *Manikahan* : everything has been prepared, then comes the wedding procession of the bride and groom (*marapulai jo anak daro*) with the dowry prepared beforehand(Kurnia, 2019).
10. *Manjalang Kandang*: After the bridegroom (*marapulai*) has been legally married, and is entertained by the bride's family (*anak daro*) then returns to the parents' house first and returns again with the family while bringing 5 litres of rice

wrapped in a rectangular cloth then given to the anak daro as a sign of friendship and familiarity to both sides of the family (Oleh et al., 2023).

11. *Pai Bamalam Partamo*: after the previous party procession has been completed, the marapulai family picks up the anak daro to be taken to his house for silaturahmi. This procession aims for the anak daro to recognise the extended family of the marapulai/groom.
12. *Dijapuik Bako*: after the anak daro has spent the night at the marapulai family, it is time for the bako to pick up the anak daro and marapulai to be paraded around the village so that the community knows the kinship relationship.
13. *Manampuah*: this procession is carried out by the anak daro after the marapulai asks to go shopping to the market and invites relatives to come to the bride and groom's house for lunch.
14. *Maangekan Tungku*: the same thing as the manampuah procession, but maangekan waits more than four months. After four months have passed, the marapulai again invites the close relatives to stop by his house.
15. *Bamalam Kaduo*: the bride or anak daro returns to spend the night at her in-laws' house. In this procession the bride is entertained by her in-laws

#### **B. Legal Effects of *Ba Baluak Tando* in Customary Law**

Analysis of the conception of the Ba Baluak Tando tradition in customary law in Nagari Kurai V Jorong can be done by looking at several key elements that reflect the values and norms of the local community. In addition to having a solid basis of customary law (Nurhati, 2020) where any violation of the agreed agreement can be subject to customary sanctions. These sanctions can be in the form of fines or social humiliation, and apply to those who cancel the engagement without a valid reason.

Fery Chopa, Dt. Tun Muhammad, Chairman of the Lembaga Kerapatan Adat Minangkabau (LKAM) of Bukittinggi City, gave an opinion that the conception of the ba baluak tando tradition as a strengthening of the marriage agreement in customary law in nagari kurai V jorong which is included in the Nagari Law and the applicability of adat nan taradat. Adat nan taradat includes adat salingka nagari kurai V jorong. The conception of the balipek tando tradition as a juridical basis for strengthening the pre-marriage agreement in customary law. In Minangkabau custom there are 4 parts of the law (Ibrahim Dt. Sanggoeno Diradjo, 2013), namely:

1. Undang-Undang Luhak and Rantau
2. Undang-Undang Nagari (Minangkabau Constitution)
3. Undang-Undang Dalam Nagari
4. Undang-Undang Nan Duo Puluah (Minangkabau Criminal Law)

The applicability of Adat in Minangkabau is in 4 parts:

1. Adat Nan Sabana Adat philosophical basis of law
2. Adat Nan di Adatkan
3. Adat Nan Taradat
4. Adat Istiadat

The conception of the *ba baluak tando* tradition is included in the Customary Law in *Nagari Kurai V Jorong* and positions the applicability of *nan taradat* customary law as a pure strengthening of the marriage agreement.

**a. Cancellation of *Ba Baluak Tando* Agreement to *Balipek Tando***

The cancellation of the agreement in the *Ba Baluak Tando to Balipek Tando* bond unilaterally without a clear law or due to something (death, accident, illness) then the two parties conduct closed deliberations. For one party not in accordance with the initial agreement in *Ba Baluak Tando* to become *Balipek Tando*, the party who cancels is subject to a fine of double or more than the previous agreement. Violation of the agreement in *ba baluak tando* in *Adat Kurai V Jorong*, of course, has an impact on the consequences which will result in fines arising for the cancelling party. In accordance with the customs of the people in the village for the good of the village, they should use customary law and laws in the village.

Settlement of disputes or conflicts that may arise due to dissatisfaction of one of the parties to the implementation of *balipek tando* sanctions can be resolved through customary *musyarwarah* with both parties and their *Niniak Mamak* or through customary law and civil law. '*Kok kanduanyo indak bajelo-jelo, kok tagangangnyo indak badantiang-dantiang*' everything is by agreement and deliberation and guarantees confidentiality after cancellation.

**b. The Relationship of *Ba Baluak Tando* Tradition in Civil Law**

Referring back to the invalidity of the *ba baluak tando* agreement that runs in the norms and customary law (Soepomo, R, 2013) can also be examined based on the four conditions for the validity of the agreement. This matter is contained in Article 1320 of the Civil Code, and before it becomes a valid agreement, four conditions need to be fulfilled;

- a. agreement of those who bind themselves;
- b. capacity to make an agreement;
- c. a certain subject matter;
- d. a cause that is not prohibited.

The cancellation of an agreement is regulated in the Civil Code (BW) Articles 1446 to 1456. (Subekti & Tjitrosudibio, 2019) An agreement can be cancelled if it meets certain conditions, such as:

- a. The agreement is made by a person who is immature or under guardianship
- b. The agreement is made under duress, mistake, or fraud
- c. The agreement violates subjective conditions, such as defects of will or incapacity of the parties to the agreement
- d. The agreement violates objective conditions, such as not fulfilling the requirements of a particular object or contrary to law, public order, and decency
- e. Agreements that do not meet the objective requirements are called null and void, while agreements that do not meet the subjective requirements can be cancelled.

Unilateral cancellation of an agreement that does not meet the conditions may be considered a violation of the law.

**c. *Ba baluak Tando* Tradition in Pacta Sunt Servanda Principle**

The tradition of *Ba Baluak Tando* as a strengthening agreement before marriage also has a basic relationship to the principle of *pacta sunt servanda*, a fundamental principle in treaty law which states that every agreement made legally applies as law to the parties who make it. The principle of *pacta sunt servanda* is rooted in ethical and moral demands, even in religious teachings such as Islam, which obliges its adherents to abide by agreements. In Indonesian positive law, this principle is contained in Article 1338 paragraph (1) of the Civil Code (Bw), which states that agreements made legally shall apply as laws for those who make them. Article 1388 of the Civil Code also mentions the principle of *pacta sunt servanda*. The application of the *pacta sunt servanda* principle has broad implications in contract law. This principle emphasises that both parties have an attachment relationship with the contents of the agreement as agreed by the parties.

**d. The *Ba Baluak Tando* Tradition (Agreement Before Marriage) and the Supreme Court Jurisprudence**

The conception of the *Ba Baluak Tando* Tradition as Strengthening the Marriage Agreement in Customary Law in *Nagari Kurai V Jorong* can also refer to the Supreme Court's jurisprudence in the event of unilateral cancellation of the agreement which leads to *Balipek Tando*. In the jurisprudence of the Supreme Court, the cancellation of the agreement unilaterally, has a consistent opinion. The Supreme Court is of the opinion that if one party that has entered into an agreement with another party cancels the agreement unilaterally, then the party that has cancelled the agreement unilaterally has committed an unlawful act. This Supreme Court opinion is contained in Decision Number 1051 K/Pdt/2014. (Putusan et al., 2014)

## DISCUSSION

The discussion of *Ba Baluak Tando* (Nella, 2023) as a strengthening of marriage agreements in customary and civil law in *Nagari Kurai V Jorong* involves aspects of local traditions and formal legal frameworks. The following is the explanation:

**a. Customary Law: *Ba Baluak Tando* in *Nagari Kurai V Jorong***

*Ba Baluak Tando* is a part of the *Minangkabau* tradition that is performed as a form of initial bonding in the process towards marriage. This process involves the giving of a sign (*tando*) by the male party to the female party as a symbol of agreement to marry in the future. In the traditional context of *Nagari Kurai V Jorong*, this practice is often accompanied by traditional ceremonies such as eating *bajamba*, which strengthens the social bond between the two families.

**b. Functions and Consequences of *Adat***

1. Strengthening Commitment: *Ba Baluak Tando* serves to ensure the seriousness of both parties in undergoing the process towards marriage.

2. Customary Sanctions: If one of the parties cancels the agreement without a reason that is in accordance with customary norms, a customary sanction will be imposed. This sanction aims to maintain family honour and avoid social conflict.
3. Dispute Resolution Process: In the case of cancellation, settlement is done through customary deliberation involving *ninik mamak* (customary leaders) to determine the form of compensation or other settlement.
4. Civil Law: Marriage Agreement  
In the context of civil law, marriage agreements have a legal basis regulated in Marriage Law No. 1 Year 1974 (Michael, 2017) and the Compilation of Islamic Law (for Muslim couples). This agreement can include the arrangement of property, rights and obligations of each spouse.
5. Relevance to *Ba Baluak Tando*  
Strengthening Formalities: *Ba Baluak Tando* can be seen as an initial form of customary pre-marital agreement, which can then be reinforced with formal legal documents such as notarised deeds.
6. Legal Consequences: If a marriage is cancelled after *Ba Baluak Tando*, the injured party can file a lawsuit based on articles related to default or breach of agreement in civil law (Razak, 2022).

## CONCLUSION

*Ba Baluak Tando* in *Nagari Kurai V Jorong* not only acts as a customary binder but also has the potential to be strengthened through formal legal mechanisms. The combination of customary sanctions and civil law protection creates a complementary system in maintaining marital commitment and providing justice for all.

- a. The *Ba Baluak Tando* tradition is a form of customary/civil law protection before marriage in an agreement.
- b. The conception of the *Ba Baluak Tando* tradition as a strengthening of the marriage agreement in customary law in *Nagari Kurai V Jorong* also has a basis in civil law and the Supreme Court's jurisprudence on the cancellation of agreements.

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