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## **The Fault in Traditional and Formal Approaches to Domestic Violence: A Call for Reform in West Sumatra**

By Ratih Lestardini<sup>1</sup>, Dianwidhi Michelle Pranoto<sup>2</sup>, and Tirtaweng Tirtawening<sup>3</sup>

### **Abstract**

The number of domestic violence cases against women increases every year and is a constant occurrence in almost all of Indonesia's provinces. Instead of being a 'home sweet home', the homes of domestically abused women become their realized nightmare. Domestic violence occurs not only in patrilineal societies, but also in societies that adopt a matrilineal system. This becomes a contradiction as it is expected that a matrilineal system would enable women to occupy a higher social and economic status than men, thus affording them more leverage in the domestic realm. In fact, data shows that domestic violence in West Sumatra, inhabited by the matrilineal Minangkabau society, is prevalent. Considering the dominance of customs (*adat*) in Minangkabau, this paper studies the resolution of domestic violence by focusing on the plurality of legal orders in West Sumatra, especially the Tanah Datar district. With prior knowledge on the co-existence of *adat* and State law, this research questions the roles that each system plays in providing protection and access to justice for women victims of domestic abuse, especially since the enactment of the national Law on the Eradication of Domestic Violence in 2004. The Minangkabau society is famous for having traditional institutions that are given the authority to deal with domestic problems and this autonomy has a big chance of jeopardizing women victims' safety by inhibiting access to the legal assistance they need. Through a socio-legal studies research, this paper presents the findings of field research in Tanah Datar district involving *adat*, religion and State actors. This paper concludes that a major institutional reform is the necessary measure to take in order to provide women victims the safety, autonomy and justice they deserve.

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*Keywords:* Domestic violence; Customary institution; Women; Legal pluralism; West Sumatra.

## Introduction

The number of domestic violence (DV) cases in Indonesia is the most prevalent and is said to increase annually, however no exact and accurate number can be obtained. Data on the number of incidences of DV in Indonesia provided by the Commission on the Elimination of Violations against Women (Komnas Perempuan) are still the most reliable and comprehensive. The data were collected through the courts (District and Religious Court), partnering non-governmental organisations, the Komnas Perempuan Service and Referral Unit and the Monitoring Division. In 2019, 75% (11.105 cases) of the number of reported cases of VAW to Komnas Perempuan were cases of DV (Komnas Perempuan 2020). The numbers, however, have a high possibility of being inaccurate because many cases are unreported. One of the determining factors in reporting DV, as Blackburn (2004) suggested, is culture. The Ministry of Women's Empowerment and Child Protection, through its National 2016 Women's Life Experience Survey (*Survey Pengalaman Hidup Perempuan Nasional*), indicated that 18.3 per cent of married women in Indonesia experienced physical DV and 20.5 per cent experienced psychological violence. This survey, however, did not explicitly state the number of DV cases in Indonesia.

DV was established as a form of gender-based violence in Indonesia by Law Number 23/2004 in the Eradication of Domestic Violence (EDV) and in Law Number 7/1984 in the Ratification of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Under the CEDAW and the UN Declaration regarding the Elimination of Violence Against Women, violence against women within the family is regarded as a violation of women's human rights and has become the centrepiece in the campaign for women's rights. Women's organisations around the world have been actively working to promote and protect women from violence, especially DV. Women's organisations in Indonesia have worked to demand means to address DV, violence against women and rape in marriage after the ratification of CEDAW (Blackburn 2004, 194). Addressing DV was never an easy task due to the strong cultural resistance regarding discussing DV (Blackburn 2004), which has always been considered a private matter that is shameful to make public.

This research paper examines whether a proudly matrilineal culture may actually harbour patriarchal perspectives regarding how its members treat women victims of abuse. In many religious Islamic societies, DV—being the right of the husband to hit their wives—is justified as a form of education or punishment using verse Q. 4:34 of the Qur'an. Such rationale has also been found to justify male perpetrators' actions towards their wives in the Minangkabau society (Fatmariza & Febriani 2019). On the *adat* side, prior research revealing that women are not heard in *adat* councils (Benda-Beckmann 1984) and do not have access to report their grievances to *adat* courts “due to an unwilling mamak” (1984: 171; Benda-Beckmann 1981) makes it interesting to further study the extent to which they are heard in cases of DV. These underlying religious and cultural aspects of DV are certainly important in the discourse of women victims' access to justice, particularly within rural societies where the individual is positioned to be at the disposal of the collective (Durkheim 1960).

After further consultation, we were directed to focus on the district of Tanah Datar, an area rich in cultural history and home to Batusangkar, West Sumatra's cultural icon, where *adat* continues to be highly regarded within the society. This article starts with an elaboration of the customary dispute resolution procedure in general and also specifically regarding cases of DV,

and the condition of legal pluralism in the Minang society. The next part of the writing presents our findings through an exploration of the cases of DV, implementation of *adat* values and procedures on the resolution of DV cases in Tanah Datar, and the roles of different *adat*, Islam and State institutions in tackling the issue. We then study how the plurality of legal orders in Minangkabau are affecting women victims' safety, autonomy and access to justice.

## Methodology

The findings of this research were obtained through intensive interviews with various stakeholders, namely, NGOs, Nurani Perempuan Women Crisis Centre (WCC) and the local Integrated Service Centre for the Protection of Women and Children (*Pusat Pelayanan Terpadu Perlindungan Perempuan dan Anak* or P2TP2A) in Tanah Datar. Along with results from the interviews, we conducted a focus group discussion involving 13 participants comprised of representatives from different *nagari* (village) leaders, the local Indonesian Ulama Council (*Majelis Ulama Indonesia*), the Women and Children's Protection Unit of the Batusangkar Police, *ninik-mamak* and *bundo kanduang* as *adat* representatives, Head of Nurani Perempuan WCC, Head of the District Social Agency as well as its staff who are focused on the problem of DV and other relevant stakeholders experienced in managing DV within the district. Some of the triggering questions were what measures do *Nagari* leaders and *adat* Elders take to provide safety and justice for victims, how do *adat* and religious institutions cooperate in resolving DV in the *Nagari*, what role do the police, the P2TP2A and the Social Agency play in such efforts and how do each of the institutions react when an incident occur. Using concepts from the sociology of law obtained from pertinent journals and articles, this paper presents its findings on how a matrilineal society, which is traditionally believed to provide women a higher status, may actually fail to provide women victims of DV with equitable and sufficient legal recourse.

## Customary *Nagari* Resolution Procedure and Legal Pluralism

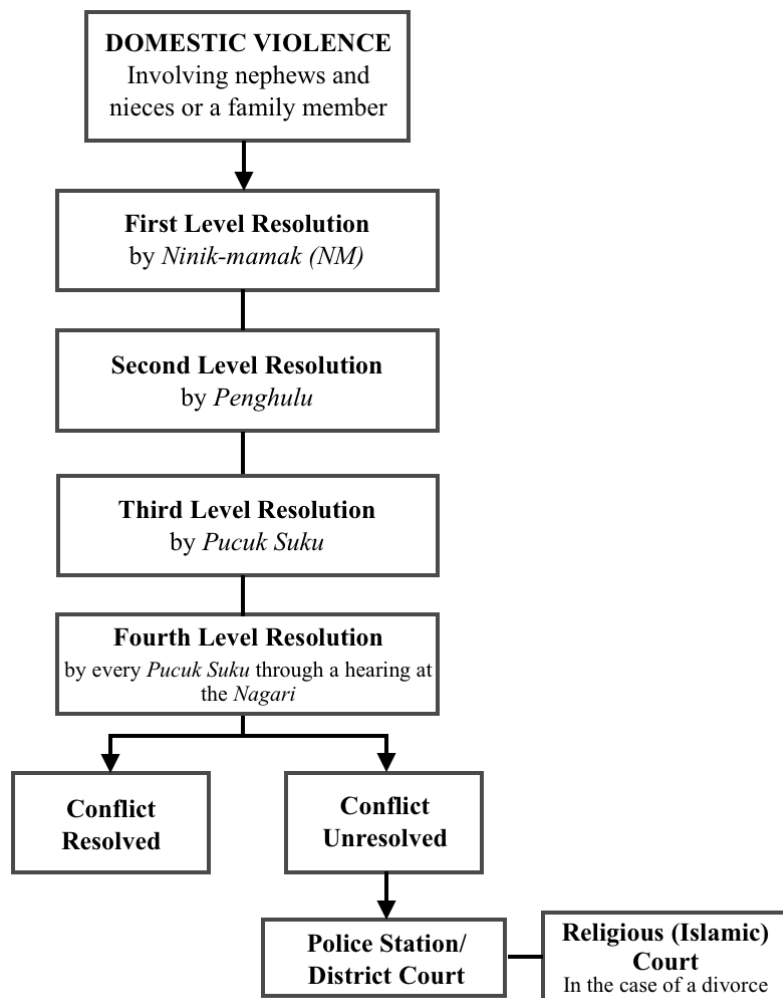
The definition of the term *adat* is quite complicated for the Minangkabau society of West Sumatra, Indonesia. *Adat*, here, comprises traditional or customary norms and is heavily influenced by Islamic principles or the *syarak*, which is the locally used term. There have been many writings on the Minangkabau, and these writings are up to one century old. Many of the accounts, especially of the Minangkabau culture, have introduced the phrase *adat basandi syarak, syarak basandi kitabullah*, which translates to *adat* leans on *syarak* and *syarak* leans on the holy Qur'an. In the traditional Minangkabau language, heavily influenced by Malay, *adat* is in the form of *tonggak tuo adat Minang* and comprises four types:

1. *Adat nan sabana adat adat* in its realest form) are norms that may not be altered and are definitive in nature. The source of such *adat* is the holy Qu-ran.
2. *Adat nan diadatkan* (*adat* that becomes *adat*) are basic norms received through inheritance and established as general life principles of the Minangkabau community.
3. *Adat nan teradat* (familiar *adat*) are daily habits of the Minangkabau that do not have a binding capacity and, thus, may be disobeyed if disobeying does not go against the holy Qu-ran.
4. *Adat istiadat* (traditions) are institutionalised habits of the Minangkabau people that do not breach the previous three types of *adat*.

A Minangkabau village (*Nagari*) is structured upon a distinctive kinship pattern that starts from a marriage bond. Tanner (1982a) described the Minangkabau to have been characterized as duolocal, uxorilocal, matrilocal and also neolocal. These residence patterns become very important to shed light on how DV may occur in a Minangkabau household and its means of resolution. The Minangkabau is called duolocal because husbands continue to be very attached to their mother's extended family and often return to their mother's ancestral home in the daytime; uxorilocal because after marriage, men are sometimes more attached to their wives' ancestral home; matrilocal because, unlike common practice in Indonesia, women stays in their mother's household after marriage and; neolocal for nuclear families who decide to leave the village and obtain a new house of their own (Tanner 1982a).

As a matrilineal society it is most common that a marriage is uxorilocal and matrilocal in which the wife stays in her mother's ancestral home to be followed by her husband who will only be regarded as a regular guest or a *semando* (Bachtiar 2007). In the wife's grandmother's or mother's ancestral home, the wife's uncle called *mamak* has the authority to enforce customary and religious norms to be adhered to by his nephews and nieces (*kemenakan*) living in the household. The *mamak* of the family also resides in the ancestral home despite returning to his wife's ancestral home in the evening. This extended family or lineage living in the ancestral home called the *rumah gadang* is called a *kaum* (Blackwood 1999). The matrifocal residential patterns of the Minangkabau family consequently translate into a domination of the interests of the *kaum*, and the *mamak*, even in disputes vital to the nuclear family and the protection of women and children.

The larger segment of the village, above the *kaum*, is called the *suku* and many have regarded it as a major lineage and an exogamous unit (Tanner 1969; Ng 1987; Krier 1995). Within a *suku* or a clan, the members share a common family name and there is a prohibition to practice endogamy although the norm has shifted over time (Krier 1995; Bachtiar 2007). There have been practices of men entering a new *suku* because they feel more associated to it and newcomers of the village will have to choose which *suku* they wish to enter, with the permission of the *penghulu* (Bachtiar 2007). A *suku* in Minangkabau is led by a *penghulu pucuk* or *pucuk suku*. Although there could be many *penghulu*(s) in a *suku*, the *pucuk suku* holds the highest authority. He has authority to make decisions, represent the *suku* in relation to outside parties and has the right to be kept informed about everything that goes on in his *suku* or involving his *suku* members (Ng 1987; Bachtiar 2007).

**Diagram 1.** *Karapatan Adat Nagari's* Established Procedure of Conflict Resolution Modified for DV Cases

The diagram above displays a simplified procedure of conflict resolution that was established by the *Karapatan Adat Nagari (KAN)* or the village *adat* council, modified to suit the resolution of DV. *Adat* has a procedure that at first only involves the family members. If the first attempt at resolution fails, the matter is brought to the *kaum* for settlement by the *ninik-mamak (NM)* and *bundo kanduang (BK)*, involved in the lives of the conflicting parties. The *BK* is a group of esteemed female figures in the *Nagari*, district and provincial level, who are highly educated and deemed to be wise. A failure at the *kaum* level results in the case going to the *suku* and finally to the *Nagari* if the *penghulu* at the *suku* level fails to resolve the case; notably, it is very unlikely that a case of DV would reach the authorities of the *Nagari*. In each of these steps, the authorities involved are the *NM*, *BK* and the *alim ulama*. The procedure starts when the *NM* of the couple sets up a meeting and agrees to not let the conflict be heard by people outside of their family and usually agrees to preserve the marriage of their *kemenakan*. This phenomenon is in line with the following Minang proverb, '*Anak dipangku, kemenakan dibimbing*', which conveys that *NM* are more responsible for their nephews and nieces than for their own children.

The next step of the resolution is to temporarily separate the conflicting couple to cool down. This process has different local terminologies, for example, *baganyi* or *babago* around the

Tanah Datar district. At this time, the *mamak* or *NM* and the *BK* persuasively approach both parties to preserve the marriage. Once both have agreed to reconcile, the *BK* of the wife to pick up the husband who has returned to his mother's ancestral home because of the conflict, or the husband who is *mamanggok* in the area's local terminology. Even a husband who had committed violence towards his wife, by *adat*, is picked up to return to his wife's ancestral home because, according to the testimonies of *BK* in the Tanah Datar district, it shows that they "still respect the husband and his dignity."<sup>4</sup> When the *BK* goes to pick up the *mamanggok* husband, they perform the *adat selangka Nagari* (a ritual encircling the *Nagari*), where the *nasi sacamboang* (a special traditionally plated rice dish) is presented to the husband and his family to be accepted as a sign of reconciliation. By accepting the *nasi sacamboang*, the husband, as a perpetrator, promises to not repeat his offence, and the wife, represented by the *BK*, accepts that promise. No *adat* sanctions are imposed on the perpetrator who committed violence against her or his husband or wife.

Settlement of DV at the *Nagari* level rarely occurs due to the culture of 'shame' significant to the Minangkabau people. Therefore, the family, that is, the *kaum* and *suku* level of the *Nagari*, often hide the dispute from the other members of the village. Nevertheless, the offence is sometimes so severe that the *Nagari* has to be involved in its settlement. At the *Nagari* level, DV settlement involves the 'three hearth stones' of the *Nagari*, directly translates to *Tungku Tigo Sajarangan*, which is a set of three institutions or authoritative bodies that is comprised of the *NM*, *alim ulama* and *cerdik pandai* (Benda-Beckmann & Benda-Beckmann 2012). *Alim Ulama* are religious figures of the *Nagari* who can only receive the status from sufficient knowledge of the other side of what constitutes the Minangkabau culture i.e., *syarak*. *Cerdik Pandai* on the other hand, is made up of the intellectual figures of the *Nagari* who are highly educated and respected for their intelligence. The *cerdik pandai* is the authoritative group that is more likely to be gender-diverse for the other two groups are strictly consisted of men.

Through field research, it was found that *Nagari* Sawah Tanah experienced a DV settlement that had reached the village level. The settlement started by having a meeting between the perpetrator and *alim ulama* and *Forum Kemitraan Polisi Masyarakat (FKPM)*. The *FKPM* is a semi-official collaborative body between the police force and the society to provide room for discussion to enhance community-based problem solving. Both, as religious leaders of the *Nagari*, "provided 'enlightenment' to the perpetrator regarding the sin of committing violence against his wife and how he can peacefully settle arguments in the household."<sup>5</sup> The authorities of the *Nagari* then arranged a meeting of the perpetrator and the victim, listened to both parties' arguments and attempted to reach a consensus where both parties would, in the end, agree to forgive each other and promise to continue to live together in harmony. In that process, similar to mediation, the authorities involved were the *alim ulama*, *FKPM*, *BK* and *KAN*. It was widely believed by *Nagari* Leaders that the synergy of all the aforementioned institutions would settle any criminal case in the *Nagari* and, in cases of DV, would be able to return harmony to the household.

The prevalence of plural legal systems in the Minangkabau society is unmistakable, especially considering the amount of literature on West Sumatra's legal pluralism dating from decades before the Indonesian independence (Van Vollenhoven 1918; Haar 1929). Discourse on legal pluralism in West Sumatra have profoundly been developed by Benda-Beckmann (1981; 1984) and Benda-Beckmann and Benda-Beckmann (2006a; 2006b; 2012; 2013) to show that legal pluralism in the Minangkabau society is a triangle of *adat*, Islam and State laws (2006a). Legal pluralism is a condition where more than one legal system concerning the same activities co-exist

<sup>4</sup> Comments from Leader of Bundo Kanduang in Tanah Datar district during Focus Group Discussion. 310818.

<sup>5</sup> Comments from Sungai Jambu Nagari Leader during Focus Group Discussion. 310818.

within “the same social order, or social or geographical space” (Benda-Beckmann & Benda-Beckmann 2006b: 14), which in different social and cultural settings was approximately coined at the same time by Ehrlich in 1913 through the German publication of his famous work and Van Vollenhoven around 1918 concerning the colonies of the Dutch East Indies at the time. *Adat* law was what Ehrlich referred to as the “living law”, that is “law which dominates life itself even though it has not been posited in legal propositions” (2017: 493) and it is “not directly linked to the state but to the inner orderings of various social groups or associations instead” (Hertogh 2009: 3). Ehrlich’s idea of the living law also accords the nature of *adat* law, which in Benda-Beckmann and Benda-Beckmann’s (2009) words is the “law that lives, because it mirrors the true legal feelings of the population ... *adat* law is in a continuous process of emergence and growth, as life itself” (2009: 183).

Benda-Beckmann & Benda-Beckmann postulate that living law in Indonesia is not limited to *adat* and may sometimes even be used against it and against State law and is used to legitimize adaptations of law that fit certain “circumstances and demands” (2009: 186-187) as was found in the resolution of DV in Tanah Datar. Relatively early on Benda-Beckmann’s (1981) study of the society, it was found that *adat* functionaries in West Sumatra manipulate the course of dispute settlement ensuing a high number of disputes remaining unresolved (1981: 145). In a more recent study of the West Sumatrans, Benda-Beckmann & Benda-Beckmann (2013) reaffirm that *adat* was chosen to settle disputes in the domain of family and marriage, but marriage conflicts that escalate to divorce employs Islamic law (2013: 421). It could even be concluded that those in power, particularly in the *Nagari* politics, are using the plural legal orders at their disposal. Furthermore, in this writing, the concept of legal pluralism shall become more pertinent in the elaboration of how the *adat*-Islam-State triangle affects women victims’ access to justice in cases of DV.

### **Domestic Violence in Tanah Datar**

Stark inconsistencies have been observed in the number of violent incidences against women and children recorded in the province of West Sumatera, where Tanah Datar is located. Poor data collection and case handling have contributed to the substantial number of unreported DV cases. The Online Information System for Women and Children Protection (*SIMFONI*) established by Indonesia’s Ministry for Women and Children’s Empowerment recorded zero cases of violence against women in West Sumatera. This report contradicts the findings of NGOs in the area. The National Commission on Violence Against Women, in its 2018 annual report, discovered that DV was the reason for 140 cases of divorce in the provincial religious court. Additionally, the Nurani Perempuan WCC receives up to 30–40 cases of DV annually from different areas in the province.

In Tanah Datar, similar inconsistencies are apparent. In 2015, the regency’s Women and Children’s Empowerment Service recorded 20 cases of DV, and their Integrated Service Centre (P2TP2A) received 16 cases. The statistical ambiguity only partly illustrates the general attitude against DV in the area, which stems from the patriarchal mindset embraced by many men (and women) in such cultures. Along with cultural factors, domestic abuse can also be spurred by unfulfilled economic needs. In Minangkabau, seemingly apparent gender-equal customs may actually lead to the flourishing of the patriarchal paradigm and the perpetuation of economic insecurity for victims of DV.

Although women are theoretically the only individuals that can inherit *harta pusako tinggi* or “sacred inheritance” in the form of land, women still often find themselves at the mercy of their



male relatives who are responsible to manage the land despite not being able to own it directly. These same male relatives also benefit from the Islamic inheritance system applied to 'lower-degree' inheritances, namely, *harta pusako rendah*, which comprises the money accumulated by a husband and wife throughout their marriage (Zainuddin 2016). Additionally, the value of inheritances dwindles as the traditional Minangkabau families start expanding, leaving families susceptible to financial woes and women victims vulnerable to economic dependency. This was true in Tanah Datar as data from the field research showed that many incidents of DV began from a quarrel between the couple regarding financial matters, whereas the wife complains about not receiving having/being given enough to provide for the family and the husband, unable to accept criticism from his wife, got heated and became physically abusive.

The focus on household cohesion is an essential aspect of Minangkabau culture. The main mindset used by authority figures in cases of DV is that the case should not leave the confines of the family. This mindset may lead to unjust customary decisions, revictimisation of DV victims, and the prolonging of the domestic abuse cycle. This mindset was emphasised by sources from Nurani Perempuan: They concluded, based on their extensive experiences in the field, that gender relations in Minangkabau society are not necessarily influenced by marriage or inheritance systems. Women in Minangkabau society are confined to rigid traditional female roles shaped by Islamic customs, something that perhaps is due to a more recent development. In Islam, traditionally, men were the leaders, judges and teachers of women. Thus, although Minangkabau men boast that their culture reveres women, ultimately, women do not have sufficient agency against their male elders who remain to be decision-makers within their families, and matters of DV are considered taboo because they are purported to bring shame upon the entire extended family (*keluarga luas*).

The disparity in power relations between men and women in Minangkabau culture in relation to DV was further illustrated by testimonies obtained through field research in Tanah Datar. The testimonies confirmed that in Minangkabau culture, people prefer to resolve cases of DV in a tiered fashion that starts from the immediate family level and goes up to the extended family (*keluarga luas*) and village (*nagari*) before a formal report is filed with government or police institutions. Typically, when the *penghulu*(s) at the *nagari* level fails to resolve a conflict, the case is directly filed at the police station or with the district court. However, most DV disputes rarely crystallise into a formal criminal or civil proceeding, by all means rarely do cases reach the police station or courts. Any attempt at resolving DV cases at most, only reaches the extended family level, which prioritizes the principle of harmony with a closed-door means of settlement, as a consequence of such culture of taboo. Thus, it is apparent how embarrassment and shame affect domestic life in a Minangkabau village.

The Protection of Women and Children Unit at the police station in Tanah Datar's capital city of Batusangkar, expressed understanding that DV can only be processed when reported. The common perception of the Unit is that the police force is not obliged to investigate cases of DV even if they acknowledge that the violence observed "because the evidence of the crime is only an accusation, unlike other types of crime such as murder."<sup>6</sup> Most of the time, if someone outside of the household reports the occurrence of DV, the person will be disliked by society. A gap between the norms adopted by the EDV Law and the understanding of the law enforcement apparatus of such norms was displayed by a police officer at the Tanah Datar Police Station's Protection of Women and Children Unit. According to the policeman, "if a policeman or policewoman

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<sup>6</sup> Comments from Head of Women and Children Protection Unit, Batusangkar Police Station during Focus Group Discussion. 310818.

intervenes in the problems of a household, the result could possibly be divorce, and God will hold [them] accountable for the divorce.”<sup>7</sup> For this reason, many if not all of the cases of DV reported to the police station are returned back to be resolved by the family.

From the interviews held with the key actors involved in resolving cases of DV in Tanah Datar district, it is also apparent that *syarak* (religion) has become more prevalent compared with *adat*. Research at the Integrated Service Centre for the Empowerment of Women and Children in the Tanah Datar district displayed that the centre prefers religious approaches when helping victims of DV. When DV occurs between a married couple, the Head of the Centre believes that the marriage must have not received the blessings of their parents. The informant explains:

Often cases of domestic violence occur because the couple did not receive blessings and prayers from their parents, therefore facing so many problems in their marriage. I always ask the couple about this and find that it is often the case, the approach to that problem is to ask their parents to give them blessings instead of forcing them to marry someone of their parents’ choice. This is because the roles of the parents are to pray for, to be a role model for and to protect their children.<sup>8</sup>

The Head of the Centre also said that religious education is vital in the prevention of violence, and she believes that “if the perpetrators are provided education on religion and live a religiously faithful lifestyle, he or she will not commit violence.”<sup>9</sup> Thus, reminding them of their religious and traditional values is part of the “counselling” that the Centre provides for perpetrators of violence.

The religious approach to DV settlement was not only performed by the Centre, but also by the branch of Indonesian Religious Leaders (*Majelis Ulama Indonesia* or MUI) in Tanah Datar, who has a strong influence on the society. The MUI branch in Tanah Datar has provided young counselors for each Nagari whose duty is to aid in DV resolution. “Honorary” religious leaders from each sub-district had been chosen to train these young counselors. The district-level MUI branch rarely receives any report on DV because such cases had been resolved in the sub-district, without any attempt to resolve it using applicable laws. It was admitted by the MUI representative that they “do not have the knowledge on properly handling DV and requires the help of P2TP2A and Nurani Perempuan WCC.”<sup>10</sup> However, it also seemed that the representatives believed that the low number of DV was sufficient evidence to indicate that *adat* and religious approaches in resolving these cases were effective because containing cases within the family means the honour of the victim and her family was protected.

### ***Adat* and Women Victims’ Access to Justice**

By examining the relationship between Minangkabau individuals and their community, we induce that there is a heavy influence between individuals and the community. Typical of a society with mechanical solidarity (Durkheim 1960), if an individual performs their responsibility or role

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<sup>7</sup> Comments from Head of Women and Children Protection Unit, Batusangkar Police Station during Focus Group Discussion. 310818.

<sup>8</sup> Interview with Head of P2TP2A Batusangkar, Tanah Datar. 300818.

<sup>9</sup> Interview with Head of P2TP2A Batusangkar, Tanah Datar. 300818.

<sup>10</sup> Comments from MUI Representative during Focus Group Discussion. 310818.

within the social relationship of the community, it is performed not out of fear for sanctions but out of the genuine desire to fulfil the standards that regulate social relationships. The *adat* norms that become a code of conduct are regarded by Ehrlich (2002) as ‘the living law’, that is, legal norms that dominate life that may be absent from written and formal laws. The expected roles, as aforementioned, may not always be practicable. In reality, members of the community may digress from the norms applicable to them. In anticipation of this possibility, the Minangkabau society uses shame and embarrassment as tools of social control. In many cases of deviant behaviour, DV being one of them, the community sanctions the perpetrator through social pressure up to the highest form of sanction, which is isolation from the *suku* and even the village. Certainly, the pressure and sanctions imposed will affect the prestige of the community. Therefore, every transgression committed is perceived to be embarrassing and, subsequently, must be concealed to avoid intervention from the outside that may injure the reputation of the individual, the *kaum*, the *suku*, or the *nagari*.

In the context of DV conflict resolution, the culture of ‘shame’ becomes a powerful tool of social control that also has the ability to suppress cases from the public. A majority of the problems are resolved within the *kaum* of the family; very rarely do it reach the *Nagari*, let alone the police station. This is because, as a society, it is believed that reporting the case to the police or outside of the *Nagari* in any way will only result in more adversity and shame. Moreover, this disinclination to file a report to the police station also stems from a lack of trust towards formal legal institutions in providing a resolution that both party’s desire. The enclosed DV resolution is perceived to be beneficial by prioritising harmony in the relationship between members of the *kaum*, *suku*, or *nagari*. The community is assured that settlement by legal institutions—the police, the prosecutor and the court—will ultimately result in separation or divorce, whereas *adat* settlement will allow for reconciliation but as history has shown, that has not always been the case (Tanner 1982b). Shame plays such a critical role in keeping a family together even in the event of DV. This rationale is supported by the values of marriage that uphold harmony, because divorce is considerably undesirable in the teachings of *adat* and of Islam.

The police report from 2017 in the city of Batusangkar, Tanah Datar, showed only one reported account of DV throughout the year that was handled by the police station. This also shows that *adat* figures dominates law enforcement through their ability to perform social control in their communities. On the rare occasion that a case of DV is filed with the police station, the situation must have slipped out of their control or the case was at a critical level of severity. By all means, women victims of DV are not given the right and freedom to make a choice of law and define what is just. Although women in Minangkabau are respected and protected, no *adat* norms regulate DV for the purpose of achieving deterrence as no sanctions are imposed on the perpetrator and this opens the window for recidivism. The inability of *adat* sanctions to deter perpetrators of DV means that victims have no guarantee that violence will not reoccur. The condition is unfortunate as the *NM*, *BK*, *alim ulama* and *cerdik pandai* have the potential to be agents of social control protecting women from abusive treatments, as have been found to be quite successful in other legally plural areas of Indonesia such as Rote Island (Lestarini et al., 2019). In contrast to the ideal, it was found that *NM* of the conflicting couple do not supervise their *kemenakan*’s domestic life after the reconciliation; providing women victims no assurance of safety and non-recidivism.

This situation also provides a place for the cycle of DV to flourish because the society in Tanah Datar prioritizes harmony over safety and justice for the victim by urging them to forgive the perpetrator and continue the marriage, without guaranteeing that violence will not reoccur. In reality, this can be seen from the *adat selangka Nagari* ritual, where the victim’s family,

represented by the *BK*, invites the perpetrator back under certain conditions, allowing him to continue living with the victim in her family home. The experiences of the Nurani Perempuan WCC justify the situation described as many of the women victims that report to them have endured multiple episodes of DV. However, the recent development is that women are more courageous in reporting their cases to other institutions, such as the police and the Nurani Perempuan WCC. A sense of awareness has emerged from women victims, that is: accepting to endure DV is a violation of their rights.

*Adat* norms that apply in the Minangkabau community offer an alternative and traditional means of resolution regarding DV. The validity of A/TDR regarding cases of DV in Tanah Datar does not meet the standards the CEDAW Committee had established through General Recommendation-33 (GR-33). GR-33 and GR-35 repudiated the use of such procedures because they may lead to further violations of the victims' rights and afford impunity to the perpetrators. In 2002, 80% of reported intimate partner violence disputes in the Global South were 'addressed through the informal justice system and that the practice is not specifically designed to manage the cases' (Stewart et al. 2002; Heilman et al. 2016). The mechanisms hold a historical value and are 'intended to preserve hyper-local community order with no particular attention to or aptitude for addressing intimate partner violence as part of their foundation and functioning' (Heilman et al. 2016). Notably, there are exceptions to the use of informal justice systems in resolving cases of DV as set out by the CEDAW Committee. Informal means of dispute resolution may be adopted on the condition that it will not hinder women survivors' access to formal justice. However, discussion of rights, especially women victims', was found to be very rare among the *adat*, Islam dan State functionaries that was met during field research, with the exception of one male *Nagari* leader who was eager to invite the Nurani Perempuan WCC representative to help them establish a *Nagari* decree specifically for handling DV. In domestic matters, it was still true that *adat* was used as a "weapon in social conflict" (Turk 1978; Benda-Beckmann & Benda-Beckmann 2013: 429) and that it often is a "form of jurisprudence of oppression" particularly for women victims (Benda-Beckmann 1990; Benda-Beckmann & Benda-Beckmann 2013: 429).

In this investigation of the traditional dispute resolution offered to the women of Minangkabau communities, the disconnection between *adat* and State law is observed to impede women's access to formal justice. The *NMs* are not aware of the law that orders people who acknowledge an incident of DV to report it to the police station, even if the victim does not. The same occurs among the *alim ulama* of the Minangkabau community, who holds a prime position to resolve problems, including DV, alongside the *BK*. Chaudry (2013) emphasized that Q. 4:34 needs to be interpreted "non-violently in the face of an authoritative tradition that only read the verse as sanctioning violence against wives" (2013: 224) and we believe that the *alim ulama* has a role to play in such efforts. It becomes apparent that socialization of the EDV Act has not been successful in this district. The disconnection between *adat* or law and State law exists because of the collective power created by *adat* figures to preserve the sustainability of *adat* law that is perceived to accommodate the society's needs better than State law and their lack of understanding of women's and human rights and the EDV Act. Benda-Beckmann and Benda-Beckmann (2012) argued that the available legal options were made use in different degrees to create identity mixes, which in the case of DV often was used to perpetuate village autonomy by suppressing cases to prevent State authorities from meddling.

The forcefulness of *adat* law in Tanah Datar has affected even State institutions to choose to resolve DV by means of *adat* law. Formal institutions, such as the Women and Children's Protection Unit in the police station and the Integrated Women and Children Empowerment

Service Centre, are expected to have an excellent understanding of the EDV Law and implement its norms in handling DV. Instead, both institutions showed the belief that *adat* and religious approaches have a greater ability to ameliorate such disputes. Through interactions with the head of the Women and Children Protection Unit, we understand that the police misinterpret the EDV Act by viewing cases of DV as a reported offence and thus cannot be prosecuted without the victim's report, whereas the Act stipulates otherwise. Furthermore, although the police may not refrain from proceeding a case, there have been reported incidents of women victims being refused by the police. Instead of proceeding against the perpetrator, the police suggest victims to return to their homes and settle the case through *adat*. Notably, it does not occur to the police that when victims come to file a report, it is unlikely to be the first incident and most likely to be after a multiple number of intolerable incidents. By refusing to file the cases of DV, the police station violates women of their right to access justice through State institutions.

### Conclusion

The findings of this research showed that the *adat* response to DV in Tanah Datar hinders women victims from accessing formal justice. On the rare occasion that women victims have access to it, State institutions prefer means of resolution by *adat* although it has been stipulated otherwise by the EDV law. As much law as *adat* is culture and religion, resolution by *adat* will not be free from the prevalent culture of shame attached to DV. The problem with shame as a tool for social control in Tanah Datar is that it does not lead perpetrators of DV to desistance, it rather gives them the chance to commit the crime without having to face social and legal consequences that legally should ensue. Agents of law enforcement are also lost within the rooted politics of *adat* functionaries to suppress the report of DV outside of the *Nagari*, or even the *suku* (clan) and *kaum*. The meekness of law enforcement and constant endorsement of power relations sell out protection for women victims by inhibiting their right to a say in the course of settlement.

A major issue that this research uncovers is the lack of safety, autonomy and access to justice that all available legal orders in Tanah Datar offer to women victims. The problem is institutional and procedural departing from the implementation of the EDV Law itself and comprehension of basic women's, particularly victims', rights. It seems that actors taking part in DV resolution do not understand the fundamental social and cultural context of domestic violence or are perhaps choosing to be ignorant of it. This condition requires an evaluation of the idea of safety and justice that the formal Indonesian system is offering women victims. *Adat* systems will only serve as an option of justice if it has been empowered with in-depth understanding of victims' rights and a shared enthusiasm to eliminate discrimination against women starting from the domestic realm. Achievement of such objectives requires institutional reform, focusing on the development of human resources taking part in the effort to eradicate DV. Agendas for reformation could include the empowerment of NGOs, such as the Nurani Perempuan WCC, increased dialogue between *adat* functionaries, *Nagari* leaders and women victim advocates and establishment of *Nagari*-level regulations to prompt grassroots efforts in guaranteeing protection of women victims.

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