

RECONSTRUCTION OF THE MANAGEMENT MODEL OF *PUSAKO TINGGI* FROM THE PERSPECTIVE OF ISLAMIC LAW

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Abstrak

Penelitian ini menganalisis konsep hak penguasaan pusako tinggi dalam adat Minangkabau, status hukumnya ketika penerus pemegang kuasa adat tidak tersedia, dan kemungkinan transformasinya menjadi wakaf umat. Penelitian hukum ini menggunakan pendekatan yuridis normatif dan konseptual, didukung pendekatan perundang-undangan serta sosio-legal secara terbatas di Jorong Marambung, Nagari Baringin, Kecamatan Palembayan, Kabupaten Agam. Data diperoleh melalui kajian kepustakaan, wawancara mendalam, dan dokumentasi, kemudian dianalisis melalui reduksi data, penyajian naratif, penarikan kesimpulan, dan verifikasi. Temuan menunjukkan bahwa pusako tinggi tetap merupakan milik kolektif kaum, sedangkan mamak kepala waris hanya memegang amanah pengelolaan. Ketidadaan penerus pengelola tidak otomatis mengubahnya menjadi milik individual selama kaum masih eksis. Secara formal, pusako tinggi bukan wakaf ahli karena tidak dibentuk melalui wakif, niat, dan ikrar wakaf, tetapi karakter substantifnya menyerupai semi-wakaf keluarga. Transformasi menjadi wakaf umat produktif dimungkinkan apabila pengelolaan adat tidak lagi berfungsi, disetujui melalui musyawarah kaum, ninik mamak, dan Kerapatan Adat Nagari, serta dilanjutkan dengan ikrar wakaf dan penunjukan nazir. Model ini mempertahankan pokok harta, memperluas manfaat sosial, dan menjembatani hukum adat dengan hukum Islam secara kontekstual. yang responsif terhadap perubahan struktur sosial masyarakat Minangkabau kontemporer.

Kata kunci: Pusako tinggi, Hukum Islam, Wakaf umat

Abstract

This study analyzes control rights over pusako tinggi under Minangkabau custom, its legal status when no successor to customary authority remains, and its transformation into public waqf. The legal research applies normative juridical and conceptual approaches, supported by statutory analysis and a socio-legal inquiry in Jorong Marambung, Nagari Baringin, Palembayan District, Agam Regency. Data were obtained through literature review, in-depth interviews, and documentation, then analyzed through reduction, narrative display, conclusion drawing, and verification. The findings show that pusako tinggi remains the collective property of the clan, while the mamak kepala waris holds a managerial trust. The absence of a successor does not automatically convert it into individual property while the clan continues to exist. Formally, pusako tinggi is not family waqf because it was not established by a founder, intention, and waqf declaration, although its features resemble a quasi-family endowment. Transformation into public waqf is possible when management fails, deliberation secures approval from the clan, customary leaders, and Nagari Customary Council, and a waqf pledge and nazir appointment follow. This model preserves the asset and connects customary with Islamic law.

Keywords: Pusako tinggi, Islamic law, Public waqf

INTRODUCTION

Pusako tinggi is a distinctive institution of Minangkabau customary law. It consists of ancestral land, rice fields, gardens, and houses transmitted through the maternal line and retained as an undivided asset of the clan. Its importance is economic, genealogical, and symbolic (Damsar & Indrayani, 2016): the property supports members, marks collective identity, and links present generations to their ancestors.

Women continue the lineage of entitlement, while the mamak kepala waris exercises supervision and management without acquiring unrestricted ownership. Studies distinguish pusako tinggi from estates that pass to individual heirs. Its collective and matrilineal character has been documented in inheritance practice across West Sumatra (Firdawaty, 2018; Elfia et al., 2020; Murniwati, 2023; Sari, 2024).

The institution also operates within Indonesian legal pluralism. Minangkabau society articulates the relationship between custom and Islam through adat basandi syarak, syarak basandi Kitabullah, yet the relationship is negotiated rather than mechanically hierarchical. Research on Minangkabau traditions shows that customary norms may be accepted, adjusted, or criticized through deliberation and Islamic legal reasoning (Tono et al., 2019; Aziz et al., 2020; Siregar et al., 2022; Jafar et al., 2024). Accordingly, the difference between matrilineal transmission and Islamic faraid does not alone determine the legality of pusako tinggi. The central question is whether the asset constitutes a decedent's distributable private property or a pre-existing collective resource whose members receive limited benefits and managerial authority.

This distinction becomes urgent when customary succession weakens. Migration, demographic change, declining customary competence, and disputes over communal land may leave an asset without an effective manager even though its social purpose remains.

Research on ulayat governance warns that unclear authority and unilateral transfers can erode communal rights (Hanani, 2013; Anas et al., 2019; Sitorus, 2019; Veronika & Winanti, 2021; Cahyaningrum, 2022; Herningtyas, 2021). In Jorong Marambung, the relevant problem is therefore not merely how pusako tinggi is inherited, but what legal arrangement can preserve the corpus and benefits when no legitimate successor can perform the customary mandate.

Waqf provides a relevant, but legally delicate, comparison. Both institutions preserve an asset, restrict alienation, separate management from ownership, and direct benefits to designated communities. Prior scholarship has connected inherited Minangkabau wealth with waqf-based revitalization and productive asset development (Eficandra, 2022).

Studies of productive waqf likewise emphasize accountable nazir supervision, lawful dedication, and sustainable utilization (Imari & Syamsuri, 2017; Sulistyani et al., 2020; Arofah & Fauziyah, 2022; Marza et al., 2022). Nevertheless, similarity of function cannot erase formal requirements. Pusako tinggi originates from customary continuity rather than a founder's express declaration; it therefore cannot simply be labeled waqf ahli.

Existing literature generally follows three lines: describing matrilineal inheritance, explaining reconciliation between adat and Islam, or proposing economic revitalization through

waqf. It seldom addresses the narrower legal contingency in which the clan's managerial succession becomes ineffective and asks how authority may be reconstructed without converting communal heritage into private property.

Research on management in Batipuh and the cash-waqf movement offers useful precedents, but not a staged legal model grounded in both local deliberation and waqf formation (Rahmat, 2019; Eficandra, 2022). Wider work on religiously framed regional development also confirms that institutional solutions in West Sumatra must respect the interaction of public governance, Islam, and customary authority (Taufik & Taufik, 2023).

This study consequently aims to analyze control rights over pusako tinggi, determine its status when customary managerial succession is interrupted, and formulate conditions for transformation into productive public waqf. Its novelty is the concept of pusako tinggi as quasi waqf ahli: a functional analogy, not a claim that a formal family waqf already exists.

The proposed model preserves collective title while the clan remains viable and permits transformation only after customary management has ceased to function, valid deliberation has occurred, public benefit has been established, and Islamic waqf requirements have been completed. This formulation contributes a contextual bridge between Minangkabau customary law and Islamic property law while protecting the asset's continuing social purpose through accountable and culturally legitimate institutional continuity over time.

METHOD

This study employed normative juridical legal research with a conceptual approach, supported by a statutory approach and a limited socio-legal inquiry. The normative component examined principles, concepts, and legal constructions concerning Minangkabau customary property, collective ownership, Islamic inheritance, milk naqis, beneficial rights, family waqf, public waqf, and customary norms recognized through al-urf. Statutory analysis was used to situate the proposed reconstruction within Indonesian waqf regulation and the relationship among customary, Islamic, and state law. The socio-legal component supplied direct contextual evidence about actual management.

The field inquiry was conducted in Jorong Marambung, Nagari Baringin, Palembayan District, Agam Regency, a community that continues to practice matrilineal transmission of ancestral property. Informants were selected purposively because relevant knowledge is concentrated among persons involved in, or familiar with, customary property governance. The categories comprised customary leaders, religious figures, heirs or nieces and nephews, women in the inheriting maternal line, and village or nagari officials. The number of informants remained flexible according to the depth and sufficiency of information, consistent with the thesis design; no fixed number is introduced in this article.

Data collection combined library and field research. Primary contextual data were obtained through in-depth interviews concerning management practices, the authority of the mamak kepala waris, interrupted customary succession, and the perceived relationship between

pusako tinggi and waqf. Documentation included available customary records, archives, dispute notes, and other written material relevant to the research object. Literature review covered legislation, legal scholarship, books, and journal articles on Minangkabau adat and Islamic property law. Credibility was examined through prolonged engagement, careful observation, source comparison, methodological triangulation among literature, interviews, and documents, theoretical triangulation, and member checking. Analysis followed the qualitative stages of data reduction, narrative display, conclusion drawing, and verification, supplemented by interpretive legal analysis to connect empirical meanings with normative principles and social benefit.

RESULTS AND DISCUSSIONS

Field findings from Jorong Marambung confirm that pusako tinggi continues to function as a collective clan asset. It commonly comprises agricultural land, plantations, and other inherited family resources transmitted through the maternal line. Its value is not exhausted by market price. The asset supports livelihoods, symbolizes clan continuity, and helps maintain kinship relations. This local configuration accords with studies that identify pusako tinggi as property whose benefit is inherited collectively rather than divided into unrestricted individual shares (Firdawaty, 2018; Elfia et al., 2020; Murniwati, 2023). The central legal consequence is that no member can claim absolute title merely because that person uses or manages part of the property.

The mamak kepala waris occupies a managerial rather than proprietary position. He coordinates use, safeguards the asset, and represents collective interests, but may not sell, donate, or encumber it unilaterally. Women sustain the genealogical line and remain central beneficiaries, while managerial decisions require attention to the clan as a whole. This separation between the corpus, collective beneficial interests, and managerial power resembles limited ownership or milk naqis more closely than full private ownership. It also explains why protection of communal land requires clear, accountable authority and deliberation, as emphasized by research on ulayat governance and customary land conflict (Hanani, 2013; Anas et al., 2019; Veronika & Winanti, 2021; Cahyaningrum, 2022).

The absence of a successor to customary authority does not, by itself, terminate the clan's collective right. As long as the clan remains socially identifiable and members can receive benefits, pusako tinggi retains its customary status. Management may be reassigned through customary deliberation to another qualified member. This finding rejects two premature outcomes: treating the asset as ownerless property or allowing an individual occupier to appropriate it.

A more difficult condition arises when the interruption extends beyond one officeholder: no qualified customary manager remains, clan management no longer operates effectively, and the asset is exposed to neglect, conflict, or unilateral control. This vulnerability is consequential. At that point, maintaining the label of collective property without a workable governance mechanism may fail to protect the very benefit that the institution was created to preserve. The

legal response must therefore distinguish continuity of collective status from continuity of effective administration.

The study finds a strong substantive analogy between pusako tinggi and waqf ahli. Both preserve the principal asset, restrict free alienation, provide recurring benefits to a defined family group, and treat the manager as a trustee. Yet the analogy has a firm limit. Pusako tinggi was produced by customary transmission, not by an identifiable wakif who declared an endowment. It lacks the intention, pledge, and constitutive formalities of waqf. Accordingly, it is analytically described as quasi waqf ahli, not legally reclassified as an existing family waqf. This distinction prevents functional similarity from being mistaken for formal identity.

The quasi-waqf concept advances prior scholarship in two respects. First, it clarifies why pusako tinggi need not be distributed through faraid: the object is not ordinary private property newly entering an estate, but an enduring collective corpus. Second, it supplies a bridge to waqf governance when customary administration collapses. The present model instead focuses on a legally controlled transformation of an existing customary asset after defined institutional failure.

Transformation into productive public waqf is therefore conditional, not automatic. The first threshold is factual and customary: no legitimate successor is available, clan management has ceased to function effectively, and continued inaction threatens the asset's social purpose. The second threshold is collective authorization. The clan, ninik mamak, and Kerapatan Adat Nagari must deliberate and provide valid approval. Consensus is essential because the mamak never possessed unilateral ownership. Minangkabau scholarship consistently shows that accommodation between adat and Islam is achieved through negotiation and communal legitimacy (Tono et al., 2019; Aziz et al., 2020; Siregar et al., 2022; Jafar et al., 2024).

After customary authorization, the second stage must satisfy Islamic and statutory waqf requirements. A clear public-benefit purpose must be established, a lawful waqf pledge completed, and a competent nazir appointed. The nazir replaces neither the clan's history nor its cultural meaning; the office provides a regulated fiduciary structure to preserve and productively manage the asset. Research on waqf governance demonstrates that supervision, institutional capacity, and transparent development are indispensable to sustainability (Arofah & Fauziyah, 2022; Marza et al., 2022). Without those safeguards, transformation could merely transfer managerial weakness into another institution.

The proposed outcome is a Productive Public Waqf Transformation Model. Its sequence is preservation of collective status, verification of managerial failure, customary deliberation, determination of social benefit, formal waqf establishment, appointment of a nazir, and productive administration. This model is consistent with the broader Minangkabau pattern of integrating religious norms with living custom rather than erasing either system (Taufik & Taufik, 2023). It also preserves the ethical core of pusako tinggi: the corpus is maintained, benefits remain continuous, and private appropriation is prevented.

The model's contribution is therefore both conceptual and practical. Conceptually, quasi waqf ahli identifies a legal resemblance while respecting different sources of validity. Practically,

the two-stage process prevents transformation before the clan's internal mechanisms have been exhausted. The research does not claim that every unmanaged ancestral asset should become public waqf, nor that field findings from Jorong Marambung represent all Minangkabau communities. It offers a contextual reconstruction for the specific contingency identified in the thesis: customary authority has no successor, collective management is ineffective, lawful deliberation supports change, and a regulated waqf arrangement can better secure enduring benefit.

CONCLUSIONS

Pusako tinggi in Jorong Marambung is an ancestral asset transmitted through the maternal line and retained for the collective benefit of the clan. The mamak kepala waris holds a managerial trust, not absolute ownership. Consequently, the absence of a successor does not automatically make the property transferable or ownerless. While the clan remains identifiable and capable of appointing another manager, the asset must remain collective property under customary governance. Pusako tinggi cannot formally be classified as waqf ahli because it did not originate from a wakif's intention, pledge, and completed waqf requirements. Its preservation of the corpus, recurring family benefits, restricted alienation, and separation of management from ownership nevertheless justify the analytical concept of quasi waqf ahli. When no legitimate successor remains and clan management has ceased to function, transformation into productive public waqf may be justified through two linked stages. The customary stage requires deliberation and approval involving the clan, ninik mamak, and Kerapatan Adat Nagari. The Islamic legal stage requires a defined public benefit, a valid waqf pledge, and appointment of a competent nazir. This reconstruction protects customary legitimacy while providing accountable continuity of management. Its contribution preserves the social purpose of pusako tinggi without permitting unilateral appropriation.

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