

Mapping and Resolution of Conflicts *Pagang-Gadai* Land Ulayat in Minangkabau

Case study: clan customary land conflict in Jorong Kajai, Nagari Ladang Panjang, Tigo Nagari District, Pasaman Regency, West Sumatra

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Abstract—*Pagang-gadai* is an activity that makes a valuable object as collateral for, as long as there are two possibilities to return the money or take some of the object. The purpose of this study are to map and formulate the resolution of the conflict of traditional land tenure-mortgages in Jorong Kajai Nagari Ladang Panjang, Tigo Nagari District, Pasaman Regency, West Sumatra. This research uses a descriptive qualitative approach. The informants selection technique using purposive sampling. The data collected through observation, in-depth interviews and documentation studies. Analysis of the data used interactive data from Miles Huberman. The results of this study indicate that conflicts that occur in Jorong Kajai are closed and open

conflicts. Closed conflict is not exchanging greetings and there is mutual suspicion while open conflict is in the form of bickering in the community, issuing words that are inappropriate (rude) and violence. That is caused by several factors, namely irregularities in the practice of *pagang-gadai*, the *pagang-gadai* period is too long and the pawning money is too high, violation of the provisions of the agreement, the organizers and apprentices do not have a sense of respect and respect in the members of the clan. Conflict resolutions that have been given are: deliberation, cooperation and settlement with local wisdom (*baduduak kibalek*).

Keywords—*Mapping, Resolution Conflicts, Pagang-Gadai, Ulayat Land*

I. INTRODUCTION

Ulayat landin Minangkabauis the part of heritage, of the land hilly (low forest), grazing land, and high forest (protected forest). Ulayat land is a community nature reserve which usually consists of forests far from settlements and shrubs that are close to settlements, usually at the foot of hills, customary proverb say:

Utanjauahdiulangi
Utandakekdikundano

The traditional proverb above explains, repeating that means being visited or visited to collect forest products such as wood, rattan,

resin, honey, and other forest products. *Dikundano* means to be opened, processed, worked, planted and if necessary inhabited at any time by establishing a *dangau* (small hut) in the forest to keep the yield so that being is not eaten or damaged by animals [1].

Speaking of land issues in West Sumatra, it means we can not be separated from discussing the issue of Customary Law in Minangkabau, it is seen from the position of customary land in Minangkabau. The relationship between the two is an inseparable relationship, because land is one of the factors that unite people in Minangkabau. Land Ulayatan Minangkabau

customary community's wealth is always maintained, because prestige of the people will be determined by the area of land they own, as well as in determining whether or not a person comes from an area and it is marked by the frequency that we hear that one of the difficulties encountered in carrying out development in this area is the difficulty in obtaining land [2].

In Minangkabau, it is regulated in traditions culture when shift land rights and usage right land, especially shift in high heirloom treasure such as land or paddy fields, because to treasure such are common property, tradition culture law does not justify the pameo in Minangkabau, this is expressed in the saying: sold also not eaten Bali, pawned not eaten by sando (sold not eaten and bought, pawned by the hostage). If an inheritance is to switch to overcome difficulties, it can only be mortgaged [3].

A *pagang-gadai* is some activities to make a valuable object collateral for a debt as long as there are two possibilities, to return the money or take part of the object. *Pagang-gadai* Land is a transaction in which a person surrenders a piece of land to another person by receiving a certain amount of money provided that the land will return to the land owner, by returning the amount of money he received from the second party [4].

Some requirement in that *pagang-gadai* that must be fulfilled by the society and the pawning holders, namely: a) the pawn is only valid if it is approved by all heirs, one person does not approve the pawn, then the pawn becomes null and void by law, b) there is no expiration of a pawn, c) the society has the first right to work on the pawned land, unless he is willing to hand over the claim to someone else, d) the lien holder may no longer pawn the land he holds to another person without the permission of the land owner, e) as long as the pawn is running, the pawning owner may request additional pawning money from the pawn holder but the payment of the redemption must be done at once [5].

As for the problems found from the *pagang-gadai* process, there are people who do not meet the terms and conditions of the customary law that governs the customary land-mortgaging of the people in Minangkabau. Land which is jointly owned is in a group but there are those who provide it without the knowledge of one of their parties. Values that are violated such as the nature of not respecting and respecting the heirs who have been appointed as supervision of the inheritance, especially the communal land of the inheritance *mamak* head of a people and the value of ethic in pronunciation with *katomandaki*, *katomandata*, *katomalereng*, *katomanurun* and cheating committed by one party as a result of misunderstanding and mistrust of one party from the community carrying out the practice of pawn-ulatory land occupation in Jorong Kajai. This has led to conflicts in the practice of traditional communal land-pawn pledges in the form of oil palm plantations [6].

There are three parties involved in the conflict and each party who involved in the conflict will be explained as follows, firstly the conflict between the pawning and the *dunsanak* (family of the people) that occurred in Jorong Kajai took the form of an open conflict. According to Minangkabau custom, this land dispute or conflict issue must be resolved by the *ninikmamak* within the clan or among the clan, and if the dispute cannot be resolved by the *ninikmamak* (Rajo Bangkeh) then the problem will be brought to the *nagari* is *Karapatan Adat Nagari* (KAN). When disputes cannot be resolved by *ninikmamak* or parties in the clan, then the KAN density needs to resolve the issue of clan customary land disputes in accordance with applicable customary law.

This is in accordance with the research conducted by Dharmawan entitled "social conflict and conflict resolution: socio-cultural analysis (with the focus of Western Kalimantan's attention) states that the social conflict that takes place as a result of social conflict then the result will always be the same, namely social stress, bitterness, social disintegration which is often accompanied by the destruction of various

material and non-material assets. The loss of trust between the warring parties, the destruction of networking, and enforced by each of the warring citizens is easily terminated [7]. Based on the above statements and explanations, the authors feel the need to conduct research and further research needs to be done because the conflict that is left will pose a threat to one party, the issue of disputes that are specific can be widened to a global level, there is a violence caused from one of the parties and the conflict left in the community, the conflict will inherit the conflict for the next generation so that harmony does not occur in the family and an area. So that researcher is interested in studying the mapping and resolution of the conflict of communal land pledges in Minangkabau (study: in Jorong Kajai, Nagari Ladang Panjang, Tigo Nagari District, Pasaman Regency, West Sumatra).

Arya Hadi Dharmawan conduct the research entitled "social conflict and conflict resolution: socio-cultural analysis (with a focus on West Kalimantan)", the results of the study that the conflict in West Kalimantan has a very broad dimension. [8]. Iwan Maulana (2011) conduct the research entitled The Ulayat Kaum Tanah Pawn Agreement in Nagari Koto Tinggi, Agam Regency, West Sumatra Province. This research is descriptive in nature, which is to provide the broadest possible explanation regarding the implementation of the communal land pledge agreement for the indigenous people by the indigenous people of Nagari Koto Tinggi, Agam Regency, West Sumatra Province. [7]. Thesis Farida Rachmawati (2018) with the research title "Strategies of Community Communication in Resolving Land Conflicts in Surokonto Wetan Village, Pageruyung District Kendal Regency: Da'wah perspective. Conflicts related to land swaps between PT Semen Indonesia and Perum Perhutani [8].

II. METHOD

The approach used qualitative approach with descriptive type. This qualitative approach is known as a social science research method that

collects and analyzes data in the form of words and human actions and does not attempt to quantify data [9]. Purposive sampling was used in the selection of the research informants. Purposive sampling is a way of selecting research informants by using criteria in accordance with the research problem [10]. The criteria referred to in this study are peoples who know and are involved in the customary land pawn conflict in Minangkabau, especially the people of Jorong Kajai because indeed the researcher knows the parties to the conflict. There are 16 informants in this study consisting of *mamak* head of inheritance, community leaders, indigenous observers, communities involved in conflicts in the ulayat land pawn.

Data collection is done by observation, interview and study documentation [11]. Data triangulation by comparing data with observations and interview results, and comparing data sources collected from different sources while for the analysis of data in this study using Miles and Huberman (1984) revealed that the activities in qualitative data analysis were carried out interactively and took place continuously until it's finished, so the data is already saturated. "This technique consists of several stages, namely data reduction, data presentation, and drawing conclusions [12].

III. RESULTS AND DISCUSSION

1. Realty of *Pagang-Gadai* the Land Ulayat Conflict in Jorong Kajai

a. History of the Emergence of the *Pagang-Gadai* the Land Ulayat Jorong Kajai

History of the *pagang-gadai* in Jorong Kajai began since the days of the ancients around 1957. At that time the *pagang-gadai* carried out by the society of Jorong Kajai was only in the form of rice fields are due to urgent fulfill needs that an society Jorong Kajai, namely costs for niece marriage from members of the clan if both parents are unable to pay for it, costs for the hospital if there is a *mamak* who is experiencing pain and when a male member who not having a wife, if he dies then he can do a *pagang-gadai*. In 2014, the society of Jorong Kajai begin do

pagang-gadai was caused by an urgent need for their own families, especially economic needs, and until now the number of people *pagang-gadai* apprentice increased from year to year. The number people who *pagang-gadai* apprenticeships in 2019 has reached 21 families who who have done *pagang-gadai* ulayat land.

b. *The Ulayat Land Pagang-Gadai Process and System in Jorong Kajai*

The society in Jorong Kajai interpret pawning is someone who borrows money by giving a piece of land to another party or party II while an *pemagang* is someone who gives a sum of money by receiving a piece of land from party I (the *pegadai*). The steps of the Jorong Kajai society in conducting the practice of *pagang-gadai* is the knowledge of the *mamak* head of inheritance are as follows: 1) the of one of the members of the people experiencing economic needs, 2) discussing with members of the in kaum, 3) deciding the communal land of the people to be pawned, 4) look for people who are able receive *gadai*, (5) if the apprentice has agreed to take *gadai*, (6) make a letter of

agreement in the practice of a *pagang-gadai* on an agreement between the apprentice and members of the *pegadai*, 7) make an exchange transaction.

The societies of Jorong Kajai in carrying out the practice of *pagang-gadai* are also from the community in practicing the practice of pawn-ulyat land for the ulemas without the knowledge of the head of inheritance and members of the clan. The steps or process he does are as follows: 1) borrowing money to others, 2) unable to pay, 3) making customary land as collateral for debt, 4) falsifying signatures, 5) making exchange transactions. For more details, following a detailed explanation of the practice process of pawn-apprenticeship in Jorong Kajai.

c. *Mapping the Reality of Conflict Pagang-Gadai Land Ulayat*

Conflicts that occur in Jorong Kajai which are conflicts in economic conditions due to the of the community who do *pagang-gadai* ulayat land gave rise to conflict in society, conflicts that occur in Jorong Kajai can be mapped as follows:

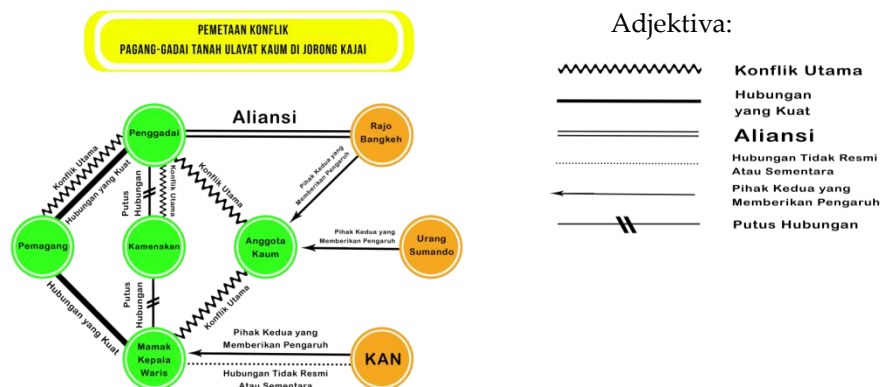


Figure 1. Patterns of Conflict that Occurred in Jorong Kajai

(Source: research informant in JorongKajai 2019)

Based on the pattern above, that the conflicting parties in the *ulyat* land *pagang-gadai* are not only the *pegadai* with the *pemagang* but also involves members of the intergroup *kaum* who carry out the *ulyat* land *pagang-gadai* in JorongKajai. The parties involved in the traditional communal land pawnshop in Jorong

Kajai, there are 3 patterns of groups involved in the conflict, namely: 1) *pegadai* with members of the kaum, 2). Members of the kaum with *pemagang*, 3) *pengadai* with *pemagang*. The following is a description of the forms of conflict that occurred in Jorong Kajai:

a) Closed Conflict

Closed (latent) conflict is a situation in which there are many problems, its nature is hidden and needs to be raised to the surface so that it can be handled [14]. The *pagang-gadai* in Jorong Kajari Kajari that seems stable but there are hidden attitudes is that disappointments that were not clearly revealed when the *pagang-gadai* communal land-pawn mortgages occurred. The following is a form of closed conflict that occurs in community groups who practice *pagang-gadai* involved in the conflict in Jorong Kajari.

1) Not greeting each other

Conflicts that occur in Jorong kajari between *pegadai* with *pemangang*. The hidden conflict is frustration and disappointment, but between groups prefers to be patient in dealing with problems that occur in the *pagang-gadai*. People who experience disappointment are groups of people, but the disappointment experienced by the members of the community is not immediately expressed because they feel reluctant and afraid to talk directly about disappointment in that *pagang-gadai*.

2) There is no confidence in each group *pagang-gadai* the *ulayat* land

There is mutual suspicion between the two groups that do *pagang-gadai* in among others *penggadai* and *pemangang*. Mutual suspicion caused by the two parties is caused by the prejudice caused by both parties. At that time the apprentice was not happy with the *penggadai* who took that fruit palm had been pawned by the *penggadai* but there was one member of the party from the *penggadai* still taking the results of the pawned land. But the organizers only silenced the problem without being rebuked directly to the *pegadai*. As a result, growing distrust between *pegadai* and *pemangang* because of the displeasure experienced by the apprentice to the organizers. When the winner feels disappointed, the apprentice only harbors his anger without expressing it directly to the *penggadai*.

b) Open Conflict

Open conflict is a situation of social conflict that has surfaces that are rooted deeply and are very real. Conflicts that occur in the practice of pawn-apprenticeship in Jorong Kajari, Nagari Ladang Panjang, Tigo Nagari Subdistrict, Pasaman Regency are open. The conflict that occurred in Jorong Kajari was sourced in the form of fighting over economic resources, namely land. Actors involved in pawning apprentices in Jorong Kajari are apprentices, *penggadai* and members of the clan. The following description of the forms of open conflicts that occurred in Jorong Kajari *pagang-gadai*.

1) Ejecuting profanity (rude)

Conflicts that occur between the organizers and members of the clan is a form of conflict that has been included openly because the conflicts that occur are seen. Conflicts that occur in the members of this clan due to the existence of one of the members of the clan do the *pagang-gadai*. So that other members of the group are disappointed with what the organizers are doing. The *ulayat* land itself is the heir *mamak*, whose job is only to supervise the communal land of the people, but in fact is he who does the land pawning.

Conflicts between organizers and members of the clan have occurred, the form that occurs in members of the clan to issue harsh words in the form of death can uselessly that" at the time of death tomorrow who saved the corpse must be a family member of the clan too but if the land is mortgaged surely we do not want to die anyway", this was revealed by the party members. Remarks issued by the organizers as expressions of disappointment with the actions taken by the organizers who are members of their own people.

2) Conflict in the form of violence

Conflict between members of the clan and the custodians in one clan in Jorong Kajari occurred this conflict did not lead to killing each other, but only to fight and issue words that were not appropriate to be heard by others or

the public, those who gave inappropriate words. So that the words issued by members of the people in the form of words that are inappropriate. Sayings issued by members of the clan in the form of diatribe to *penggadai*, such as: "“*kalau ka sakik bisuak baru takana kampuang mah, dunsanak juo teh yang manyalamaian nyoh*, The remark came out because the members of one clan had been very disappointed with the actions taken by the civil servant who was one of the members of his clan.

d. Factor Cause Conflict Pagang-Gadai Land Ulayat

Factors causing the conflict of ulayat land pawn, especially the ulayat land of the people that Parties involved in the conflict in the practice of pawn-apprenticeship in Jorong Kajai are:

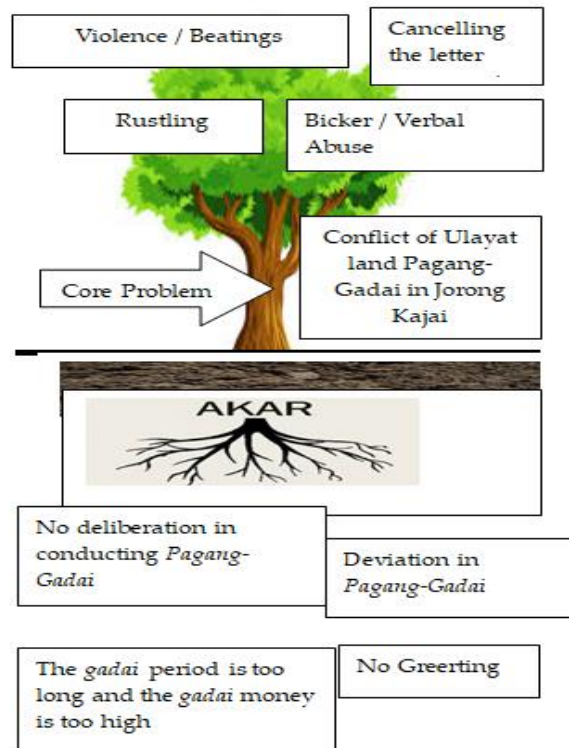


Figure 2. Conflict Tree Analysis

Source: data analysis

1) Deviations in practicing a pawn-merchant

The party involved first, *penggadai* with members of the clan, the practice of pawn-apprenticeship in Jorong Kajai there are several provisions when carrying out the practice of pawning land based on customary law regarding the removal of land. In the transfer of land, several conditions in the pawning land must be fulfilled by the pawner and the pawn holder, namely: a) the pawn is only valid if approved by all heirs, one person does not

approve the pawn, then the pawn becomes null and void by law, b) there is no expiration of a pawn, c) the pawner has the first right to work on the pawned land, unless he is willing to hand over the claim to someone else, d) the lien holder may no longer pawn the land he holds to another person without the permission of the land owner. Now due to the influence of western law, the pawning holder may pawn it again (*herverpanding*) to another party, e) as long as the pawn is running, the pawned landowner may request additional pawning

money from the pawn holder, but the payment of the redemption must be done at once. But the reality on the ground when doing the practice of apprenticeship-pawning they did not deliberate *first* before practicing the practice of traditional communal land pawnshop. This is a deviation that occurs because contrary to the provisions of the apprenticeship-pawn that has been set.

Second, the members of the clan with apprentices, the conflict that occurred in Jorong Kajai which was originally caused because there is one of the members of the clan who pawned the communal land of the people who are a common property in the clan members so that it causes conflict within the clan. Conflicts that occur not only involve between members of the clan and *penggadai* who are one of the members of the clan but also conflicts between members of the clan and *pemangang*.

- 2) The pawn period is too long and the pawn money is too high

The time period and the pledge determined by the two parties in Jorong Kajai who practice pawning-apprenticeships at this time have a very high value, why is that based on the results of the study showing that members of the group feel worried that the *penggadai* who are members of the clan cannot return money because the pledge money requested is of high value, that is, almost at the selling price of the land and the time requested also has a long frequency. This is a fear that members of the pawned land will become the property of the apprentice because they are unable to return the mortgage money. Then the mortgaged land which was inherited from their ancestors was lost.

- 3) Violation of the provisions of the apprenticeship-pawn agreement

Provisions in the ulayat land apprenticeship agreement are carried out by the Jorong Kajai community on the basis of an agreement between the two in the ulayat land appropriation agreement. The agreement letter containing the first party (*penggadai*) gives a plot of land in the form of an oil palm plantation to

the second party (the apprentice) with a period of time agreed upon during the time period that has been fixed by both parties, the first party has no right to take the results from the estate of the head oil palm that has been mortgaged, but the results of the study show that there is a violation committed by the *penggadai* that is taking the results of oil palm plantations that have been mortgaged without the knowledge of the apprentice.

- 4) The organizers do not respect or value the members of the clan

In Jorong Kajai, when he did the pawn-apprenticeship, he did not hold discussions with members of the clan. The transaction process is carried out by only two parties, namely the lawyer and the apprentice without the need to seek approval from the head of the heir or other party from the members of the clan. Whereas in terms of "*kato nan ampek*" namely *katomandaki*, *katomanurun*, *katomandata* and *katomalereang*. So that, it shows the values of politeness that is respecting the interlocutor. When making a transaction, it would be better to tell *mamak* or deprivation and members in the people so that mutual respect and respect can be created.

2. Conflict Resolution of Ulayat Tribal Traders

- a. Deliberation or *Marambuak* (*Bajanjang Naik BatanggoTurun*)

Conflicts between people in Jorong Kajai were resolved by deliberation and involving the *ninikmamak* of both parties to reduce the conflict. This is stated in the Minangkabau traditional philosophy about the parable of a prince or *ninikmamak*, namely: "*kayu gadang di tengah padang, daunyo tampek balinduang, batanyo tampek basanda ureknyo tampek ka duduak*" [15]. The meaning of the Minangkabau philosophy explains that the headman or *ninikmamak* is traditional elite in Minangkabau.

Deliberations conducted here by the conflict between the pawner and members of his own people. The form of deliberations held in his own hometown was at the home of the oldest

female member. In the deliberations there are various opinions given by the parties to the conflict, but there are two decisions that ultimately made as a choice by the pawners, namely Mr. Aliumar, namely returning the pledge or giving money to the families of men as a sign of respect and respect for members of other people. The decision taken was that the mortgaged land was finally granted to the oldest female member on condition that the amount of the previous pawned liens was Rp. 60,000,000 while the grant is Rp. 125,000,000. The results of the grant money were finally distributed by Mr. Aliumar to his younger brother and nephew so that no more jealousy ensued. For younger brothers, Rp. 3,000,000 while for his niece Rp. 1,000,000. The advice given during the deliberation is when there is a clan in the community who want to do a communal land pledge of the clan, and then there must be a consultation first with other members of the clan so that conflict does not occur again.

b. Cooperation or *Malarai Basamo* (Joint Settlement)

One of the resolutions made by the *pengulu* in Jorong Kajai is by cooperating with the term '*malarai basamo*', which means that the solution is carried out by the Jorong Kajai community by cooperating with both parties involved in the customary land dispute in Minangkabau. In the perspective of the Minangkabau Customary Law, all disputes that occur are resolved through consultation of the parties to the dispute, by promoting the values of justice. Collaboration between the community and community leaders is very much needed in the future it is hoped that teaching the community about cooperation when there is a problem in the community because with the cooperation the conflict will be easily resolved because the proverb says no tangle which cannot be resolved, it was resolved with each portion.

c. Settlement with Local Wisdom (*Baduduak Kibalek*)

Local wisdom is a socio-cultural order in the form of knowledge, norms, regulations and

community skills in an area to meet the needs (life) shared from generation to generation. Local wisdom included here is the values used as a guide in dispute resolution, including inheritance land disputes, as a farming community. In Minangkabau when land disputes occur, there are customs that govern the resolution of disputes, because each community has its own norms, regulations and skills in solving problems that exist in its community. Local wisdom in conflict resolution has a very important role in the community especially with regard to customary land. Because we know that when the customary land issue is brought under legal turdles, the legal realm will provide an opportunity for deliberation in the community because it is closely related to customary land which is closely bound to *adat*.

Local wisdom for resolving disputes in Jorong Kajai is often called "*duduak kibalek*" is a tradition of the Jorong Kajai community in solving problems that exist in society when they want to do a wedding. This *duduak kibalek*" is often used by *RajoBangkeh* (*mamak gadang*) when there is a problem in one group. When you want to hold a party in Jorong Kajai, you must first do the "*duduak kibalek*". This is routinely done and this was indeed in the days of the ancients when they wanted to do a party or in the term "mamakis Rajo Bangkeh" meaning when using customs in the Jorong Kajai community first do "*duduak kibalek*," so that when the party wants to be held all problems in the family have been resolved. That will make the party lively and there will be no more conflict within a people.

IV. CONCLUSIONS

The process of apprenticeship-pawning carried out by the people of Jorong Kajai is first, with the knowledge of the "*mamak kepala suku*" of inheritance, secondly, not with the knowledge of "*mamak kepala suku*" of inheritance. Then it can be concluded that the conflict in Jorong Kajai was caused by the practice process of apprenticeship-pawn practice conducted by the people of Jorong Kajai did not meet the

requirements of the provisions agreed upon in the community regarding the transfer of land rights (pawn-apprenticeship), then the community violated from the provisions agreed upon and there is no longer a sense of respect and respect for each member in the clan. The forms of conflict that occur in 'Jorong Kajai are closed conflicts and open conflicts. Closed conflicts are not exchanging greetings and there is mutual suspicion while open conflicts include: bickering in society, issuing inappropriate words (rough) and ending violence. The resolution made by the people of Jorong Kajai is first, by way of consultation with the parties involved in the conflict which is carried out at the "rumah gadang" at the house of the party involved in the conflict. Secondly, cooperation (Malarai Basamo) means that in this resolution a resolution is carried out by means of cooperation between the two conflicting parties to mitigate the conflict that has already occurred, there is a form of sanctions imposed by *Rajo Bangkeh* which is an intermediary in resolving the land mortgage conflict problem ulayat land. Third, resolution with local wisdom (*duduak kibalek*).

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