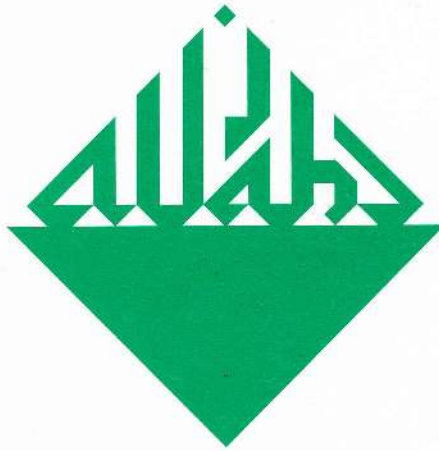


# STUDIA ISLAMIKA

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ARCHAEOLOGY AND ISLAM

IN INDONESIA

Michael Wood

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Yasrul Huda

## ISLAMIC LAW VERSUS ADAT: Debate about Inheritance Law and the Rise of Capitalism in Minangkabau

**Abstrak:** Dalam konteks perkembangan Islam di Indonesia, Minangkabau merupakan wilayah terpenting yang dapat menjelaskan tentang bagaimana sebuah gerakan pembaharuan menemukan momentum pertumbuhannya. Wilayah yang pada tahun 1821-1837 dijadikan arena perang Padri ini, memberikan gambaran menarik tentang bagaimana sebuah proses pembaharuan—baik pemikiran ataupun praktek keagamaan—seringkali harus berbenturan dengan pelbagai tradisi yang notabene sangat berarti, bahkan mendarah daging, bagi segenap masyarakatnya.

Salah satu tradisi terpenting yang dianut masyarakat setempat adalah kepercayaan di mana kehidupan bersuku (komunal) lebih harus terpelihara dibanding kehidupan individu. Dan ini pula yang selanjutnya mereka terapkan dalam konteks pembagian warisan. Hukum adat setempat—berdasarkan pada tambo—memberikan acuan bahwa jika seseorang meninggal, maka harta miliknya hendaklah diwariskan kepada kemenakannya. Dalam konteks kehidupan komunal, warisan menjadi hal yang ditempatkan pada lingkungan kesukuan—sebagai milik bersama—dengan didasarkan pada garis keibuan (matrilinier).

Namun pada perkembangannya, seiring dipraktikkannya sistem keluarga batih—keluarga dipimpin seorang ayah dan bukan lagi dipimpin oleh Ibu seperti sistem kekeluargaan yang biasa mereka gunakan—muncullah setitik masalah terkait posisi penerima warisan; apakah kemenakan, dengan berdasar pada pepatah adat pusaka itu dari nenek turun ke mamak, dari mamak turun ke kemenakan, ataukah anak, yang dalam Islam ditempatkan pada posisi terpenting dalam hukum waris.

Artikel ini dimaksudkan untuk melihat secara lebih detail persinggungan antara hukum Islam dan hukum adat terkait dengan persoalan mawarits—hukum waris—yang pada gilirannya sangat berpengaruh kuat bagi munculnya kapitalisme di Minangkabau pada akhir abad ke-19 atau tepatnya sekitar awal abad ke-20. Persinggungan yang terepresentasikan

melalui perdebatan antara beberapa kalangan ini, dimulai sekitar tahun 1890an tatkala Ahmad Khatib—terlahir di Bukit Tinggi pada 1860—secara lantang melontarkan gagasannya tentang aturan dan praktek hukum waris yang ia tuangkan dalam pelbagai bukunya.

Jika kalangan adat—seringkali disuarakan Datuk Sutan Maharadja—meyakini bahwa kemenakan merupakan pihak utama yang berhak dilimpahi harta warisan, maka dengan tegas Ahmad khatib menyatakan bahwa semua harta benda yang diperoleh kemenakan itu harus dianggap sebagai harta rampasan. Dalam pandangannya, jika merunut pada hukum waris Islam (*faraidh*), maka bukan kemenakan, tapi anaklah yang seyogyanya menjadi pewaris harta ayahnya. Hal ini didasarkan pada fakta bahwa hubungan seorang ayah dan anak merupakan sebuah ikatan relasi yang memang bersifat alamiah. Seorang anak sejatinya akan bertanggung jawab atas segala permasalahan keluarganya, termasuk dalam hal menjaga harta warisan ataupun menyelesaikan segala urusan hutang piutang keluarganya.

Tak ayal, pemikirannya tersebut mendapat reaksi yang keras baik dari pihak pemerintah kolonial Belanda ataupun dari pihak pemangku adat setempat. Dan kondisi ini semakin meruncing ketika secara tegas Ahmad Khatib menganjurkan kepada masyarakat Minangkabau untuk mengubah kontsruk ideal kehidupan mereka berdasarkan pada hukum Islam dan meninggalkan setiap aturan hukum adat—terutama perihal harta kepemilikan—yang menurutnya sangat tidak Islami dan masih kuat dipengaruhi oleh budaya jahiliah.

Secara geneologis, pelbagai perdebatan tersebut berakar dan bertitik pijak pada paradigma yang berbeda perihal kepemilikan—terkhusus dalam konteks ini, harta warisan—antara mereka yang meletakkan kekuatan warisan—didasarkan pada konstruksi hukum adat—sebagai bagian dari kepemilikan kolektif, dengan mereka—didasarkan pada hukum Islam—yang menempatkan warisan sebagai sebuah bentuk kepemilikan individu. Lambat laun, konsepsi terakhirlah yang pada gilirannya diamut sebagian masyarakat Minangkabau, terkhusus mulai awal abad ke-20, tatkala Minangkabau mulai melibatkan diri dalam arus perubahan kehidupan perekonomian sebagai lanjutan dari berkembangnya fenomena urban di wilayah tersebut.

Kepemilikan individu bagi sebagian masyarakat dipandang sebagai basis terpenting, bukan hanya bagi terbentuknya sebuah satuan keluarga—terangkai atas keberadaan seorang ayah, ibu, anak-anak dan anggota keluarga lainnya—namun juga bagi terbentuknya bangunan masyarakat secara umum. Dengan bahasa lain, konsepsi ini semakin mempertegas pentingnya pembentukan sebuah masyarakat yang seyogyanya dibangun melalui beberapa esensi individualisme, sebuah aspek penting dari kapitalisme.

## ISLAMIC LAW VERSUS ADAT: Debate about Inheritance Law and the Rise of Capitalism in Minangkabau

الخلاصة: وفي موضوع تطور الإسلام في إندونيسيا، يعتبر مينانجكابو منطقة مهمة في تصوير كيف حصلت حركة التجديد فرصة لتطويرها. والولاية التي كانت مسرحا للحرب "بادري" عام ١٨٢١-١٨٣٧ تصور لنا صورة مثيرة في عملية التجديد سواء كان في مستوى فكري أو في مستوى الممارسة والتي كثير ما يصطدم مع مختلفة التقاليد التي ترسخت في نفوس الناس.

من التقاليد المهمة التي يتمسك بها المجتمع هو الاعتقاد بأن الحياة الطائفية لا بد من المحافظة عليها بالمقارنة على الحياة الفردية. وطبقوا هذا الاعتقاد على قضية تقسيم الإرث. طبقا لقانون العرف المحلي المبني على "تامبو" أن أموال المتوفى يرثها ابن أخيه، لأن أموال في نظر الحياة الطائفية تعتبر من أملاك القبيلة أو مشتركة على أساس سلسلة الأم.

وفي تطورها ومع تطبيق نظام أسرة "باتيه" الذي يرأسها الأب بدلا من الأم في نظام الأسرة المعمول بها، تظهر مشكلة الإرث، حيث السؤال المطروح هل أموال الميت يرثها ابن أخيه طبقا لقانون العرف أم يرثها ابنه طبقا للقانون الإسلامي الذي يعتبر الابن يحتل مكان مهما في نظام الإرث.

وهذه المقالة تهدف إلى القاء النظر المفصل في الصراع بين القانون الإسلامي وقانون العرف فيما يتعلق بقضية الإرث التي يأتي ورائها تأثير قوى لظهور الرأسمالية في مينانجكابو في أواخر القرن التاسع عشر. يظهر هذا الصراع من خلال الجدل بين الجهات المختلفة في بداية عام ١٨٩٠ حينما يقدم أحمد خطيب

المولود في بوكيت تينجي عام ١٨٦٠ أفكاره في تنفيذ قانون الإرث التي ينشرها في مؤلفاته المختلفة.

يرى أنصار قانون العرف على لسان داتوك سوتان ماهاراجا أن ابن اخ الميت هو الوارث الأساسي في أموال الإرث بينما يؤكد أحمد خطيب بشدة أن ما حصل عليه ابن اخ الميت من أموال الإرث يعتبر أموالا مغتصبة، لأن ليس لابن أخ الميت حق الوراثة طبقا لحكم الفرائض، لكن ابنه هو الذي وارث أموال أبيه. ذلك يبيى على أساس أن العلاقة بين الوالد وابنه علاقة طبيعية، لأن الابن الحقيقي مسئول عن جميع مسائل العائلة بما فيها المحافظة على أموال الإرث أو عن قضاء ديونها.

لاشك أن هذا الرأي يثير رد فعل شديد سواء كان من قبل الاستعمار الهولندي أم من أنصار قانون العرف، ويشتد الصراع حينما طالب أحمد خطيب المجتمع المينانجكاباوى صراحة على أن يغيروا نظام حياتهم بما جاء به القانون الإسلامى ويتركوا كل ما يتعلق بالعرف خاصة في أموال مملوكة الثى يراها خطيب غير إسلامية، بجانب أنها ما زالت تتأثر إلى حد كبير بثقافة الجاهلية.

والجدل المذكور بأنواعه يرجع تاريخيا إلى الآراء حول حق التملك خاصة في هذا الصدد أموال الإرث التي يعتبرها البعض أموالا مشتركة للقبيلة متمشيا مع قانون العرف بينما يراها الآخر بأنها أموال الفرد التي يطبق عليها القانون الإسلامى. مع مرور الزمان أن الرأي الأخير هو الذى يتمسك به المجتمع المينانجكاباوى، خاصة في أوائل القرن العشرين إذ المينانجكاباوى بدأ يدخل في تيار التحول الاقتصادى نتيجة من تطور ظاهرة مدنية في هذه المنطقة.

يعتبر البعض أن الملك الفردى مبدأ أساسى، ليس فقط لتكوين وحدة أسرية تتكون من أب وأم وأولاد وغيرهم، بل أيضا لتكوين هيكل المجتمع عامة. بالمعنى الآخر أن هذا المنهج يؤكد على أهمية تكوين المجتمع الذى يبنى على أسس الفردية وهى عنصر من عناصر أساسية للرأسمالية.

The study of traditional Minangkabau society has stimulated a considerable amount of work on the nature of social change in West Sumatra. In Minangkabau one of the central themes of its intellectual history is the search for the formulation of the relationship between adat and Islam. As a result, some scholarly debate has concentrated on how a matrilineal society, such as Minangkabau, can become one of the most thoroughly Islamized ethnic groups. The survival of adat is under the domination of Islam, although its rules are extremely different from adat, and the integration of Islam with adat. Previous studies by Westenenk, Schrieke, Ridder de Stuers, Akira Oki, Anthony Johns, Audry Kahin, Hans-Dieter Evers, Hendrik Bouman, P.E. de Josselin de Jong, J.V. Maretin, Joel G. Kahn, Kroeskamp, Lynn L. Thomas, Muhammad Radjab, Christine Dobbin, Elizabeth Graves, Frans von Benda-Beckmann, Keebet von Benda-Beckmann, Nancy Tanner, Negel Philips, Mukhtar Naim, Sa'danoer, Tsuyoshi Kato, Taufik Abdullah, Amir Syarifuddin, and Umar Yunus, have focused on Minangkabau society. Their studies have used approaches from anthropology, sociology, literature, history and legal scholarship.

The society of Minangkabau was dynamised by the disputes between Islamic and adat leaders. In Minangkabau history, society has twice undergone serious crises. The first crisis was at the beginning of the nineteenth century when some 'ulamā' began a movement in which they aimed to purify Minangkabau religious tradition from all un-Islamic customs, and to force people to apply Islamic jurisprudence. This movement was opposed by the adat functionaries and this conflict led to a civil war. At this period the Dutch also began to penetrate the area. Then, Minangkabau gradually recovered from the crisis. The second crisis occurred at the beginning of the twentieth century when Minangkabau harmony was attacked not only by 'ulamā', but also by educated people from adat groups who promoted progressive ideas (*kemajuan*). In addition, Minangkabau society was facing a period of economic change and an increasing predominance of urban influences in the villages. The rapid penetration of a cash economy into the villages began to break down the traditional notion of village identity (Abdullah 1971: 5-22). Comprehensive studies have been done on those crises: The studies of Christine Dobbin and Muhammad Radjab deal with the first crisis and Taufik Abdullah's study deals with the second crisis.

Aḥmad Khaṭīb (1860-1916) lived between these two crises. He was a Minangkabau 'ālim who was renowned as an imām of the Shafī'ī school in the Maṣjid al-ḥarām in Mecca, from where he propagated his orthodox ideas. Through his numerous writings, he aimed to purify religious life and to reform Minangkabau society in accordance with Islamic precepts as he understood them. To achieve his aim, he wrote extensively about his views on the practice and rules of inheritance according to Minangkabau adat, and prevalent *ṭarīqa*. Aḥmad Khaṭīb distributed his writings by sending them to certain persons in Minangkabau, and they were also distributed by pilgrims and his former students of Islam in Mecca. The writings led to fierce debates in the area not only among the adat functionaries and the 'ulamā', but also involving the government. The debates became important events which were the beginning of a new Islamic movement.

Somestudies which deal with religious reform in the Minangkabau only mention Aḥmad Khaṭīb in a few sections. There is no a study which has entirely focused on Aḥmad Khaṭīb's views, although existing studies unanimously acknowledge Aḥmad Khaṭīb's influence on religious reform in Minangkabau (Noer 1982:37-40). This study attempts to focus on Aḥmad Khaṭīb's views and deals with his concern over the practices and rules of inheritance according to Minangkabau adat. Moreover, it will be extended to other views of the 'ulamā' concerning the same topic in order to launch a more comprehensive discussion of the adat of inheritance through the eyes of the 'ulamā' at the beginning of the twentieth century. Besides Aḥmad Khaṭīb's views, the views of Khaṭīb Ali and Abdul Karim Amrullah will be examined.

This study focuses on the views of 'ulamā' on the Minangkabau adat of inheritance by using Aḥmad Khaṭīb's views as a starting point. Then, responses from the people of Minangkabau to Aḥmad Khaṭīb's views will be examined. Examining the responses is essential for finding out whether or not Aḥmad Khaṭīb's views were accepted or rejected by the people in the area. Other views of different 'ulamā' will also be examined to make the discussion more comprehensive.

The following questions are addressed in this study: 1. Why did Aḥmad Khaṭīb write down his views dealing with the Minangkabau adat on inheritance? 2. What were his views on it? 3. What were the reactions of the people to his views? 4. Are his views similar to the views of other 'ulamā'? 5. What were the views of other 'ulamā'?



dealing with the same topic? 6. Are there any traces of any influence of the 'ulamā' on the Minangkabau adat rules of inheritance? In the following discussion, an attempt will be made to answer these questions.

It should be stated in the outset that property holds an important position in many societies. However in Minangkabau, property has a special significance as the basis of its matrilineal society. The continuation of the Minangkabau matrilineal system depends on whether or not property still passes down according to adat rules. This study deals with debates on the adat rules of inheritance from the point of view of the 'ulamā' since the end of the nineteenth century. It attempts to reveal the polemic concerning adat rules and Islamic jurisprudence on inheritance. These two entities diverge greatly from each other, not only in the differences of the rules but also in their sources. Adat had been followed by the people before Islamic ideas were introduced. There is absolutely no doubt that Islamic jurisprudence has influenced adat. In this sense, this study can be seen as part of the struggle of Islam against Minangkabau adat in its efforts to change the structure of the society.

Indeed, some studies have been made about Minangkabau property rites, but those do not focus on the struggle of the 'ulamā' against Minangkabau adat. Von Benda-Beckmann's study does not discuss the struggle of the 'ulamā' to change adat rules on inheritance, rather his study focuses on the continuity of the rules and practices surrounding property in Minangkabau (Von Benda-Beckmann 1979). The studies of Sa'danoer and Syarifuddin are mainly about the contemporary implementation of adat rules and Islamic jurisprudence on inheritance (Sa'danoer 1971; Syarifuddin 1986). Other studies which mention the struggle of the 'ulamā' can be found in Schrieke (1919) Hamka (1962), Djaja (1966), but they do not focus on the topic of this study.

## Understanding Minangkabau

The Minangkabau are one of some 140 ethnic groups scattered over 3,000 islands in Indonesia. The main habitat of the Minangkabau, a province of West Sumatra, covers about 18,000 square miles of land extending from north to south between the Indian Ocean and the *Bukit Barisan* mountain range. Within the provincial borders, in the highlands, lies the nucleus of the *darek* (the Minangkabau world) which was divided into the three *luhak* (districts); Tanah Datar,

Agam, and Lima Puluh Koto which mainly consist of mountainous highlands with several enclaves of plateaus. Surrounding the *darek* was the *rantau* which, according to legendary history, was settled and colonized by the inhabitants of the *darek*. The *rantau* (the area beyond the *darek*) comprises the Padang lowlands, and a larger part of the present province Riau and Jambi. Together, the *darek* and the *rantau* extend nearly all over central Sumatra (Kato 1977:1-2, Naim 1974: 33).

The land in Minangkabau is generally fertile, and agricultural. Wet rice is the major agricultural crop. Rubber, copra, coffee, gambier, cinnamon, and cloves are some of the important cash crops. Corn, chillies, peanuts, and cabbages are also grown and usually traded within the area. In addition to agriculture, artisanship, for example weaving, is widely practised in some parts of the area, particularly around Bukittinggi (Fort de Kock). Its subsoil is full of treasures: gold and silver are found in remarkable quantities, along with tin and copper. It is also rich in auriferous and other ores, and large coal-deposits (Cabaton 1911:297).

Little is known about the history of the Minangkabau kingdom, but there is evidence that it had important external trade relations with the surrounding areas and islands. When the Dutch landed on the west coast in 1600, the coastal plain was under the control of an Acehnese merchant governor. The Minangkabau world consisted of the *nagari* (village state, or village) which formed independent political communities with its *balai* (the *nagari* council hall), mosque, roads and public bathing place. According to adat theorists, a *nagari* is considered the most developed type of settlement; it has a definite boundary and its own recognized satellite territories (Batuah and Bagindo 1956:58-60; Abdullah 1971:3). The *nagari* was governed by the *penghulu* (the head of a matrilineal political unit). The *nagari* in the *rantau* were said to be governed by a king, possibly a representative of the King of Minangkabau (de Josselin de Jong 1980:97-116). After the Padri War ended, the Minangkabau area was part of the Sumatra's West Coast Province during the Netherlands East Indies government in the archipelago where the Outer Islands or Outer Possessions (*Buitenbezittingen*) consisted of twenty provinces.

The Minangkabau region was divided into two *hoofdafdelingen* and a number of *regentschappen*. The first *hoofdafdeling* consisted of the Padang lowlands, which were administered by the governor itself in Padang, and the second was the Padang Highlands, which had Fort de Kock (Bukittinggi) as its capital. According to

the 1852 census, the total population of Sumatra's West Coast was 695,917, and which increased to 1,505,561 according to the 1920 census (Graves 1971: 24-25).

Moreover, the *regentschappen* were subdivided into districts that were called *laras* (the administrative unit above the *nagari* level) that were placed under the control of the Minangkabau administrative official, the *tuanku laras* (the head of a *laras*). The *laras* is a confederation of groups of *suku* (tribes) that settled their own internal affairs but referred inter-communal or inter-tribal disputes to a common head, the *tuanku laras* or *penghulu andeka*.

Minangkabau inhabitants lived under adat which claimed firstly to be regulated by the ancestors, with its rules handed down to subsequent generations through *tambo* (legend, folk history). Since the beginning of the twentieth century the *tambo* was written in Malay script by adat theorists. It is important to note that according to Minangkabau tradition, a new element could only be accepted after it had met certain criteria, which culminated in the consensus of the *penghulu*. These criteria were based on *alur* (logical possibility) and *patut* (morality proper) (Sanggono 1988:9-24). If it could not meet these qualifications, the proposed element might disturb social harmony and would thus not be expected. The acceptance of Islam, for example, has come to be seen as harmonious to adat. This is expressed in the concept of the three kings of Minangkabau: the king of adat, the king of religion, and the king of the world. On the level of the *nagari*, Islamic functionaries were incorporated into adat hierarchy (Abdullah 1966:1-14; 1971:5).

### *Matrilineal System*

The matrilineal system, an important component of adat law in Minangkabau, is composed of four identifiable characteristics. The first of these is descent and descent-group which are organized according to the matrilineal line. Each *nagari* consists of several ideally exogamous matriclans, or *suku*, which have district names, for example *Melayu*, *Piliang* and *Caniago*. One takes the *suku* name of one's mother and remains with the same *suku* for life. A *suku* itself is usually divided into several matrilineages (*payung*). There are three levels and units of matrilineal groupings: *suku*, *payung*, and *paruik*. A *suku* is a group of related lineages which share a common, unknown ancestress. A *payung* is a group of related adat houses under the supervision of a *penghulu*. A *paruik* is a group of related people

generally living in one adat house (Kato 1978:2; de Josselin de Jong 49-55).

The second characteristic concerns matrilineage which is identified by a corporate descent group with a ceremonially instituted male head called the *penghulu*. The *penghulu* is distinguished by a special title, for example, *Datuk Sanggono Diradjo* which belongs to his lineage. To address a *penghulu* by other than his *datuk* title causes great offence to his lineage members. A lineage possesses communally owned properties, including agricultural land, houses, fish ponds, heirlooms, and miscellaneous adat titles. In principle, ancestral property is inalienable and there is no individually owned property, particularly property of an immovable kind. Lineage is further divided into several sub-lineages (*paruik*). These also have their properly recognized male heads (*tunganai rumah*). Ancestral properties or, rights to their use (*ganggam bauntuak*) are assigned to sub-lineages for the benefit of their respective members.

The third characteristic concerns a duo-local residential pattern. Marriage was always exogamic, and has retained the matrilineal form. After marriage, a husband moves to or near the house of his wife and stays there at night. But he continues to belong to his mother's house and frequently goes back there during the daytime. The husband cultivates the soil for his wife who owns it as she owns her children; the property of the father passes to his sister's children, not to those of his wife or brother (Cabaton 1911:269).

Finally, the fourth characteristic concerns authority. Authority within a lineage or sub-lineage is in the hands of the *mamak* (mother's brother, group head), not of the father. The *mamak* literally means maternal uncle, but the terms can also refer to classificatory maternal uncles such as *penghulu* and *tunganai rumah*. The kin term which complements *mamak* is *kamanakan* (sister's children). It indicates a male ego's sister's children and classificatory kin of the same order.

These four Minangkabau matrilineal characteristics will become obvious if we look at how family life was actually organized in traditional society. An adat house is a rectangular-shaped structure, with its roof curved like buffalo horns. The house is supported by numerous pillars made of ironwood (Radjab 1950:4). The traditional roofing material is palm-fiber. The front side of the house faces east and is often decorated with bright, colourful carvings, usually of plant motives. Chickens, goats, ducks and other domestic animals are kept under the raised floor (Radjab 1969:21). The adat house con-

sists of two parts. The front half is an open space which functions as a living room, dining room, sleeping quarters for children and occasional guests, and a hall for ceremonies and lineage meetings. The back half is partitioned into smaller compartments which are sleeping quarters for female members of the house, especially married or marriageable females, and for their smaller children. Each sleeping compartment, named *bilik*, is about three meters wide and four meters long. The number of *bilik* in an adat house varies according to the wealth and proliferation of the sub-lineage (Radjab 1969:22-23). Commonly, a village situation an adat house has at least four *bilik*, but if the family is large it may have six or more *bilik*.

The adat house was the basic economic unit and major focus of everyday life in traditional society. In all likelihood *ganggam bauntuak* was given to each adat house (de Josselin de Jong 1980:55). *Ganggam bauntuak* is the right to make use of ancestral land and to enjoy its products. It is not a right of ownership and its division is not an ultimate division, thus there is no right of transfer. Life in the adat house was and remains strongly communal. Members of the same house cultivated the agricultural land allotted to them together. The communal and corporate nature of traditional life is reflected in the aphorism:

Sahino, samalu, sapandam, sapakuburan,  
 Kok ka bukik samo mandaki,  
 Kok ka lurah samo manurun,  
 Sa dancier bak basi,  
 Sa ciok bak ayam,  
 Kaba baiak baimbauan,  
 Kaba buruak bahambauan (Manggis 1971:22)

Sharing slights, sharing shames, sharing burial sites, sharing  
 graveyards,  
 If going up a mountain, climbing together,  
 If going down a ravine, descending together,  
 Jingling together like iron,  
 Chirping together like chickens,  
 If there is a good news, sent for,  
 If there is a bad news, coming to help

After reaching the marriageable age or upon marriage, a woman was given a bedroom in the house. It was in that room, that she received her husband at night. If there was not enough room, it was her *mamak*'s responsibility either to enlarge the house or to build an additional adat house for her (de Josselin de Jong 1980: 11).

A husband was called *urang sumando* by his wife's family. The word *sumando* derived from *sando* means to pledge, thus a husband was a person pledged by his *suku* to that of his wife (Radjab 1969:51). He usually visited his wife at night and left her house in the morning. Even after marriage, the husband continued to belong to the house of his mother. His primary allegiance and responsibilities were directed to this group. If he became seriously ill at his wife's house, he would be taken back to the house of his mother for care (Radjab 1950:100). When he died, he was usually buried at the graveyard of his mother's *paruik*. The most important structural relationship was the one between *mamak* and *kamanakan*. *Mamak* was the guardian for his *kamanakan* and responsible for their well-being. He was endowed with authority as *tungganai* or *penghulu*, and was expected to protect and to increase the matriliney's communal wealth. The essence of Minangkabau matrilineality was concentrated in the two generations of *mamak* and *kamanakan*.

The male did not own any property, although he might manage it for his sisters and their children. He did not really have a house or a place he could call his own. While still a young child, he slept in a *surau* (prayer house) where at night the village members learned how to recite the Qur'an (Radjab 1950:21). It was considered shameful for a boy to sleep in his mother's house. Although he would return to his mother's house for meals, a boy continued to stay at the *surau* until he was married. After marriage, he was only a visiting guest at his wife's house. In previous times, if a man's wife died, or he became divorced, he once again had to live in the *surau* (Radjab 1950:21; Hamka 1984:23-28).

### *Property Rights According to Adat Rules*

This section of the study will describe the rules of inheritance according to Minangkabau adat based on the *tambo*. It was also considered some categories of property, and property transference. However, firstly, we will refer to the origin of Minangkabau adat rules regarding property.

According to the *tambo*, the origin of the matrilineal system is explained as follows.<sup>1</sup> In ancient times, property was given to one's children instead of the *kamanakan*. One day, Datuk Katumanggungan and Datuk Perpatih nan Sabatang, the two founders of adat, wished to go to Aceh in North Sumatra. After they sailed out from the port of Tiku on the west coast, the sea suddenly ebbed, as a result of a

divine decree from God. As a consequence, their ship ran aground on the sand. The two datuk gathered all of their children and *kamanakan*, and said: "Children and *kamanakan* let us haul this ship because it has run aground on the sand". Their children answered: "We are afraid that we will be run over by the ship". Their *kamanakan* replied: "if that is the wish of our elders, let us tow the ship. It does not matter even if we are be run over by the ship and killed in the process, for it is the ship of our elders that ran aground". Thus all the *kamanakan* got off on the sand and pulled the ship. Through the assistance of the spirits, the ship floated again, and moved to the middle of the sea. Later, following the advice of Cati Bilang Pandai, their able servant, the two datuk decreed that from that time on all property should be given to the *kamanakan* as a reward of their services, rather than to the children.

Other than the fact that the *tambo* tries to justify the origin of the matrilineal system or the shift from partilineal to matrilineal inheritance the above history is remarkable as the matrilineal system is explained in terms of inheritance.

### *Categories of Property*

To discuss property according to adat rules the word *pusako* need to be discussed. *Pusako* is derived from the Sanskrit meaning those things that serve to sustain life. In Indonesian it means inherited things or heritage (Sango 1966:34; Von Benda-Beckmann 1979:147). Thus, in Minangkabau adat, the term *pusako* embodies the ideology of matrilineal descent and heritage. The most famous and most frequently heard adat-saying goes:

Dari ninik turun ka mamak  
Dari Mamak ka kamanakan  
Patah tumbuh, hilang baganti  
Pusako alam baitu juo

(From the great-uncles it is handed down to the uncle  
From the uncle to his nephews and nieces  
Where it breaks off, it grows, where it is lost, it is substituted again  
It is just the same as with the *pusako* of nature) (Von Benda-Beckmaan 1979:147)

*Pusako* is divided into two basic categories, namely immaterial and material property. Immaterial property consists of immaterial entities which belong to the heritage of a group. The most important

of this *pusako* is the title of the group's adat-office holder. Material property, on the other hand, covers the forests and the land, the wet and dry rice fields, and the places for the living and for the dead (Sango 1966:33-34). This kind of property is not limited to territory but also includes movable items such as the ceremonial costumes of the *penghulu*, the valuable bridal costume, and money or gold. This *harato pusako*, as inherited property is generally subdivided into four categories. First category is the *harato tambilang ruyuang*, the property which has been dug from the tree stumps and is the property which the ancestors have cultivated of the jungle; second category is the *harato pusako tambilang ameh*, is the property which has been acquired through the use of gold (later money); third category is the *hataro pusako tambilang basi* is the property which has been acquired by iron (hoe). 4) The *harato pusako tambilang ka'itan* or *hiba* is property which has been acquired by the way of *hiba* or gift (Von Benda-Beckmann 1979:148).

The classification of *harato pusako* is commonly divided into the *pusako tinggi* (ancestral property) and the *pusako rendah* (self-earned-property) in present day Minangkabau. The *pusako tinggi* was acquired by the ancestors at a time which is no longer remembered and the *pusako rendah* is that which only recently has become the *pusako* as one still remembers the person who acquired it. This distinction was continued in the Dutch colonial courts, and then in the Indonesian State courts. It is also used by Minangkabau villages and adat experts.

The dominant idea of the system of property relationships is that all property is a *pusako* which descends through the generation of the member of groups which are structured according to matrilineal descent. All property is handed down from great-uncle to uncle and from the uncle to his sisters' children. The *pusako* must be guarded, and in addition, it is the moral obligation of the clan members to increase the *pusako* steadily. The *mamak* must go out in order to acquire property and his earning is destined to become the *harato pusako* for his sisters and sister's children. This is called ancestralization of the self-earned-property (Von Benda-Beckmann 1979:150-152). This adat rules changed in 1952 at a time when self-earned-property was beginning to be inherited by the children. This legal change reflected the fact that there had been some change in the society.



### Transaction of property

According to adat rules property is transferred only under tight conditions. There are four conditions in which the property is allowed to be transferred if money is needed: First condition is when money is required for wedding ceremonies of *gadis gadang alun balaki* (the older girl is still without husband); second condition is when money is required for *rumah gadang ketirisan* (the family house needs repair, or a new family house is to be built); third condition is when money is required for *mambangkik batang tarandam* (the *penghulu* must be installed); and fourth condition is when money is required for *maik tabujua di tengah rumah* (where a death has occurred and money is required for burial ceremonies) (Sango 1966:34-35). Transferring could be done by *jual beli* (selling and buying), *pagang gadai* (adat of pawning), through the privileged loans of *harato pusako*, gifts of self-earned-property, *umanaik, wasiya, hiba-wasiya* (testamentary gifts), and *utang* (debts). However these methods of property transference must be supported by all clan members.

### The Salient Features of Minangkabau Religious Tradition

Islam was an alien religion introduced to the Minangkabau, which was incorporated into the body of adat. Adat had been in existence for many centuries prior to the coming of Islam. After the advent of Islam, in about the sixteenth century, these two different entities gradually became the inseparable ideological basis of Minangkabau society (Dobbin 1974:324). Before the coming of Islam the government of Minangkabau was essentially tribal rather than territorial, and the actual rulers of the land were the clan heads (Loeb 1935:102). In this government two systems functioned; the aristocratic, Koto Piliang, and the democratic, Budi Caniago, each of them was founded by Datuk Ketumangunan and Datuk Perpatih Nan Sabatang respectively (Diradjo 1919:95-96).

Generally speaking Islam was gradually accepted by the Minangkabau people as a new religion alongside adat. According to Dobbin the successful acceptance of Islam was caused by several factors. Firstly, Islam was a religion which was associated with an urban environment. Islam needed a city in order to realize its social and religious ideals. Secondly, its communal prayers required fixed and permanent mosques, and its religious teachings were more appropriate to the rhythm of life of the town-dweller than that of the peasant. Thirdly, the religious system of the Minangkabau peas-

antry, proved an obstacle to a religion which could never be satisfied with individual converts but continually stressed an Islamic community. Fourthly, the royal family possessed its own sacral beliefs, which Islam would have to adapt to, in same way, if the ruling group was to be alienated from the new religion (Dobbin 1983:118-119). Whole villages were involved in Islamic institutions or *ṭarīqa* (Muslim brotherhoods) which were very important in the *surau* where men lived after puberty away from the lineage house.

The *ṭarīqa* had appeared in response to a popular need for more intimate communion with God than that which was provided by dry legalism. Devotees of the *ṭarīqa* concentrated on following a *ṭarīqa* laid down by a shaykh. This *ṭarīqa* could fit into the existing *surau* system little at least disruption, and so become an acceptable addition to village life. By the eighteenth century there were three *ṭarīqa*'s functioning in Minangkabau: the Naqshbandiyya, the Shaṭṭariyya, and the Qaḍariyya. The Naqshbandiyya seems to have had the largest number of students among those *ṭarīqa* which were located in rich areas of Taram, Cangking, and Talawi. The Qaḍariyya was little known and its adherents were in coastal areas and Agam. The Shaṭṭariyya was mainly in Lima Puluh Kota and Tanah Datar (Dobbin 1983:123).

The shaykh of the *ṭarīqa* taught his students the Islamic faith with reference to the particular precepts of his own *ṭarīqa*. This included the reading of the Qur'ān and its commentaries, the particular rules of religious practice which constituted the path laid down by each order for the seeker of God, esoteric knowledge concerning self-defence, and ways of consulting numerological treatises to decide upon auspicious days. In the evening the students of the *ṭarīqa* would gather to perform the *dhikr*, a recitation of short religious phrases, sitting in a semi-circle around the shaykh until their shoulders touched, swaying from left to right, and repeating formulae such as the name of God. All the *ṭarīqa* represented in Minangkabau were orthodox in their thought (Dobbin 1983:121).

### *Islamic Teachings in the Ṭarīqa*

The education style of the *ṭarīqa* schools had the same way as teaching Islamic jurisprudence to the students. The shaykh had an understanding of the spiritual capacity of the students, and the mysteries of the way were reserved for only a few. Mostly they were taught the basic Islamic teachings and given a practical guide to behaviour.

The Islamic jurisprudence book which was commonly taught to the students was *Minhāj al-ṭālibīn* (The guide of Believing Students). Moreover, Arabic, the exposition of the meaning of the Qurʾān, and the theological doctrine of *martabat tujuh* (the doctrine of the seven phases of emanation of the Absolutes) were taught to the *ṭarīqa* students (Dobbin 1983:122; Hollander 1857: 15). A dispute between the *ṭarīqa* of the Shaṭṭariyya in Talawi and the Naqshbandiyya in Taram occurred. This was because the Naqshbandiyya School disliked the doctrine of *martabat tujuh*. This dispute became so serious that it led to open fighting, but it seems that the disputation was related more to priority and prestige than to actual doctrinal disagreement (Dobbin 1983:123). It seems that among the *ṭarīqa* the competition to attract more devotees occurred, and this competition apparently led to disputes.

### *New Religious Orientation*

The religious orientation of the *ṭarīqa* was rudely interrupted in 1803 when three pilgrims who returned from Mecca advocated 'the return to the Sharīʿā'. The three pilgrims became known as Padri<sup>2</sup> Leaders; Haji Miskin, from Pandai Sikat (Agam), Haji Piobang from Sungai Beringin, and Haji Soemanik from Soemanik (Tanah Datar). The important difference in their religious orientation was that they were highly fanatical in legalistic orthodox doctrine. Their movement had many companions from all over the three *luhak* of Minangkabau, and they had a fanatical Padri leader in Tuanku Nan Renceh (v.d.H. 1838:113-115). The Padri leaders advocated the intensification of Islamic law to be applied by the people, and this view was forced on the people. They began the movement by promoting the slogan 'return to the Sharīʿā' and condemning traditional practices which could be found in the larger village markets which were often the scenes of cockfighting and its concomitants, gambling, the haunt of the sellers of *tuak* (alcohol) and of opium (Hollander 1857:7-9). This new movement threatened the harmony of society and gradually led to a major civil war. Some people who were led by the adat functionaries opposed the movement. However, Tuanku Nan Tua who was shaykh of the *ṭarīqa* Shaṭṭariyya, disagreed with the violent ways of this movement, and for this he was named *rahib tua* (old monk) by the Padri leaders (Hollander 1857). The emergence of the Padri movement resulted in a strength of its earlier élan and a willingness to seek accommodation (Raffles 1991:347-350). The process of

accommodation was accelerated by the Dutch intervention in 1821. This movement ended after the exile of Tuanku Imam Bonjol who was the last leader of the Padri (Dobbin 1972:35). In the end, this movement had strengthened the force of religion and enlarged its scope throughout the social system, but had not essentially changed Minangkabau political and social structure (Abdullah 1971:6).

After the Padri war ended, the religious tradition in Minangkabau shows that the followers of the *ṭarīqa* gradually increased<sup>3</sup> along with the number of 'ulamā' involved in a number of *ṭarīqa* centres that had been in existence in the area.

In the 1850s, the *ṭarīqa* experienced a crisis in which an orthodox-oriented mystical brotherhood, the Naqshbandiyya, began denouncing the older *ṭarīqa*, particularly the Shaṭṭariyya, as heretical. The first 'ulamā' to bring Naqshbandiyya ideas to Minangkabau was Shaykh Ismail Simabur (Schrieke 1919:266). The Naqshbandiyya belief was based on the notion of cognitive unity with God, in contrast to the existential unity preached by other schools, and of the prime importance of outward religious behaviour. Indeed, the conflict between the Naqshbandiyya and Shaṭṭariyya had begun long before this dispute. These *ṭarīqa* had survived in the Minangkabau and had large following.

Meanwhile, the growth of economic penetration which was set up by the Dutch government gradually influenced the familial wealth. Accordingly, families had more financial support to perform pilgrimages to Mecca or to study Islam there. From the middle of the eighteenth century the number of pilgrims from Minangkabau gradually increased (Vredenburg 1965:141). One of the people who went to Mecca in 1870 was Aḥmad Khaṭīb who came from a family of 'ulamā' and adat functionaries in Koto Gadang, and he never returned to his homeland.

In 1892 he launched an attack on the prevalent religious doctrines and the adat matrilineal inheritance rules through the book *al-Dā'ir al-masmū'* and in 1906 he denounced mystical brotherhoods through the book *Izhār zaghl al-kādhībīn bi tasabuhihim bi al-ṣādiqīn*, particularly the Naqshbandiyya. This signalled the beginning of more than two decades of religious conflict in Minangkabau. Aḥmad Khaṭīb's views were followed by other 'ulamā' and they became the starting point of an Islamic movement in Minangkabau at the beginning of twentieth century. Again, this religious movement led to disputes among people which meant that Minangkabau was again in crisis.

To conclude, we see that religious orientation, in Minangkabau at the time of Khaṭīb, was mostly determined by the *ṭarīqa*. Aḥmad Khaṭīb's ideas formed an impetus for modernization, introduced by the Dutch government, and for religious reform in the twentieth century.

## Biographical Notes on Aḥmad Khaṭīb

### Genealogy

Aḥmad ibn 'Abd al-Lāṭif al-Khaṭīb al-Minangkabāwī was eminent as a teacher, and an imām at the Masjid al-ḥarām, in Mecca at the end nineteenth century up to the beginning of the twentieth century. He is known as Aḥmad Khaṭīb al-Minangkabāwī indicating that he came from Minangkabau. He was born on Monday 6 Dhulhijja 1276 or 6 June 1860 in Balai Gurah, IV Angkat Candung, Bukittinggi, and died in Mecca on Tuesday 9 Jumādā al-ūlā 1334 = 14 March 1916 (al-Jabbār 1379:37; 1976:38; Nazwar 1983:11; Hamka 1967: 230; Saeran 1981:16). His father was Abdul Latif who had the title of Khatib Nagari. Abdul Latif had two brothers, namely Datuk Rangkayo Mangkuto, who held the title of *laras* of Koto Gadang, and Sutan Muhammad Salim who was a *hoofdjaksa* in Riau. One of Sutan Muhammad Salim's children was Haji Agus Salim (1874-1954) who played an important role in the Dutch government and in the struggle for the independence of Indonesia. Abdul Latif's father was Abdul Rahman, who was the son of Abdullah and who is known as Tuanku Shaykh Imam Abdullah. Imam in this name is the title which he received due to his position as an 'ālim in Koto Gadang. Abdullah's father was Tuanku Abdul Aziz.

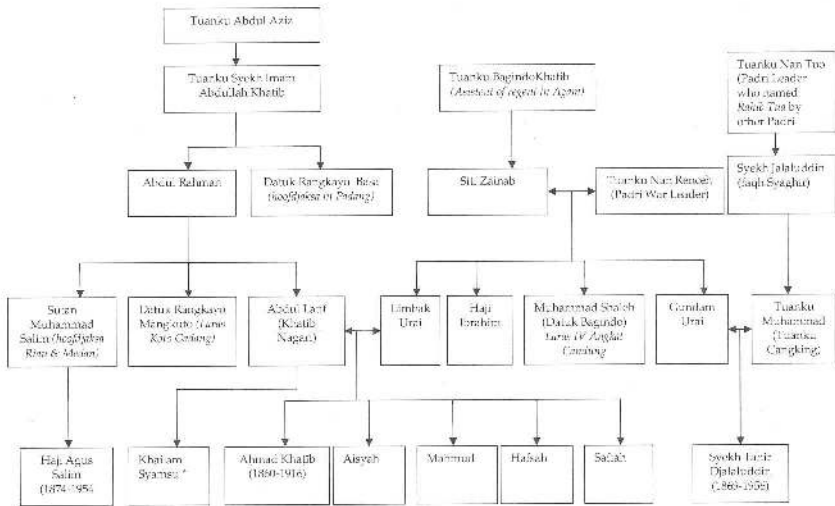
Aḥmad Khaṭīb's mother was Limbak Urai. She had one sister and two brothers; her was Gundam Urai, and her brothers were Haji Ibrahim and Muhammad Shaleh. Muhammad Shaleh was *kepala laras* IV Angkat Candung. Gundam Urai was Tuanku Muhammad's wife (Tuanku Cangking). Her father-in-law was Syekh Jalaluddin (Faqih Shagīr) who was the son of Tuanku Nan Tuo who was one of the leaders of the Padri War and who was named *Rahib Tua* (Old Monk) due to his role in the Padri War. One of the sons of Gundam Urai and Tuanku Muhammad was Shaykh Tahir Djalaluddin (1896-1956) who published the journal, *al-Imam*, in Singapore and was an outstanding 'ālim there. Limbak Urai's parents were Siti Zainab and Tuanku Nan Renceh, a leading figure of the Padri Movement. This information is summarized in the genealogical chart of Aḥmad

Khaṭīb in the *Appendix 1*. This genealogy shows that Aḥmad Khaṭīb shared a blood relationship with both Islamic reformists and adat functionaries in Minangkabau.

### Appendix 1

#### GENEALOGY OF AḤMAD KHAṬĪB AL-MINANGKABĀWĪ

Born in Balai Gurah, IV Angkat Candung – Bukittinggi – Indonesia on Monday, 6 Dhulhijja 1276 = 5 June 1860, died in Mecca on Tuesday, 9 Jumādā al-ūlā 1334 = 14 March 1916



\* Khalilam Syamsu is Abdul Latif's daughter from his other wife, Kalsum from Koto Gadang

Aḥmad Khaṭīb was fortunate enough to have gained the patronage of Shaykh Muḥammad Ṣalih al-Kurdī, the owner of a book-shop at *Bāb al-Salām* in Mecca. Ṣalih al-Kurdiy was also a member of a *sharif* committee who was close to the authorities of Mecca. Aḥmad Khaṭīb married a daughter of Ṣalih al-Kurdiy. Together they had a son namely 'Abd al-Karīm Khaṭīb (1300-1357=1882/3-1938/9). From this son, they had five grandsons; 'Abd Allāh al-Khaṭīb, Ṣalih al-Khaṭīb, Luthfi al-Khaṭīb, Ḥusayn al-Khaṭīb, and Yūsuf al-Khaṭīb. After his first wife passed away, Aḥmad Khaṭīb married with another daughter of Ṣalih al-Kurdiy, and they had three children: 'Abd al-Mulk al-Khaṭīb (died 1946), 'Abd al-Ḥamid al-Khaṭīb (died. 1961) and Khadija. 'Abd al-Mulk al-Khaṭīb obtained his early education from his father and later he dedicated his life to letters and political sciences.

He held a position as the director of the *Qibla* newspapers and had a post as the Saudi Arabia Ambassador to Egypt. Meanwhile, 'Abd al-Ḥamīd al-Khaṭīb held the post of Saudi Arabia Ambassador to Pakistan. On behalf of the King of Saudi Arabia he was present at the occasion of the ceremonial transfer of authority over Indonesia from the Dutch Government to the Indonesian government in 28 December 1949 (Hamka 1982:273). 'Abd al-Ḥamīd al-Khaṭīb lived in Damascus up to his death in 1961 (al-Jabbār 1379:40). According to one of Aḥmad Khaṭīb relatives, Zakiyah Tamin, in Balai Gurah IV Angkat Candung, Bukittinggi, 'Abd al-Ḥamīd al-Khaṭīb came to visit once his *bako* (father sister's family) once in 1938 (Saeran 1981:16).

### Education

Aḥmad Khaṭīb's early education was obtained from his father, particularly that on religious knowledge such as reciting the Qur'ān and writing in Arabic script (al-Jabbār 1379:37; 1976:38). He also studied in the *Kweekschool* in Bukittinggi, but he did not continue his education there because his father wanted him to study Islam in Mecca. When he was 11 years old, he and his father embarked to Mecca to perform the pilgrimage and to study Islam. They arrived there in 1287/1870-1 (al-Jabbār 1379:37; 1976:38, Hamka 1984:159). In Mecca Aḥmad Khaṭīb began to study Islam; memorising the Qur'ān, learning English, and according to the Meccan biographer, 'Umar 'Abd al-Jabbār, studying Islam under only three teachers: Sayyid 'Umar Shattā, Sayyid Bakrī Shattā and Sayyid 'Uthmān Shattā (al-Jabbār 1379:38-39; 1976:38-39). It is probable that he also studied with other teachers in Mecca, as mentioned by Tamar Djaja, who said that he studied with Aḥmad Zaynī Daḥlan (Djaja 1966:567). He spent nine years of study on the Qur'ānic sciences, Islamic jurisprudence, mathematics, astronomy, and the social sciences. Then, he began to teach Islam in a *ḥalaqa* at his home, mainly to students from the archipelago.

### Career

After ten years in Mecca, Aḥmad Khaṭīb formed a good relationship with a Meccan merchant, Shaykh Muḥammad Ṣalīh al-Kurdī who later allowed Aḥmad Khaṭīb to marry his daughter. Due to his good reputation in the field of Islam, and of course also as his son-in-law, Shaykh Muḥammad Ṣalīh al-Kurdiy, who was a member of the *sharif* committee, proposed to Sharif 'Awn to allow his son-in-law

to be a teacher and an imām in the Masjid al-Ḥarām. Sharif 'Awn agreed to this and Aḥmad Khaṭīb began to teach Islam to hundreds of students, particularly from Malay world in a *ḥalaqa* namely *bāb ziyāda* in the Masjid al-Ḥarām (al-Jabbār 1959:40; 1982:39). When teaching his students he allowed them to express their own opinions, even if they differed from his own. He is said to have allowed his students to read Muḥammad Abduh's works published in the journal, *al-'Urwa al-wuthqa*, and *al-Tafsīr al-Manār*. So, they would be better able to refute them (Noer 1982: 39).

He participated in many activities as a teacher and an imām, particularly after he also obtained a position as a leader of the Jawī community after al-Nawāwī al-Bantenī had passed away in 1897. Most of his time was devoted to his career. In the early morning he went to the mosque to perform prayers as a imām, he then returned home to have breakfast and taught his students up to midday. Then he went back to the mosque for the prayer and returned home for lunch and to continue teaching his students. Later he was again at the mosque performing prayers and back home for teaching. At sun set, he went back to the mosque to perform prayers and to teach in his *ḥalāqa* up to the 'isha prayer. After performing the 'isha prayer, he returned home to have a dinner and gathered with his family. He normally went to bed early and woke up around two o'clock in the morning. He spent this writing his views dealing with Islamic teachings. After writing he went to the mosque for the morning prayers. These activities were regularly done by Aḥmad Khaṭīb as a teacher, an imām in the Masjid al-Ḥarām, and an author up to his death in 1916 (al-Jabbār 1959:41; 1982:40).

His significant contribution to Muslim society is that he had taught numerous students from the archipelago. His former students played an important role in the emergence of the Islamic modernist movement in the archipelago. He was honoured as the pioneer of the reform movement, particularly in Minangkabau (Noer 1980:38). Many Indonesian Islamic leaders had studied Islam with Aḥmad Khaṭīb in Mecca. Among them were: Shaykh Muhammad Nur (muftī in Langkat), Shaykh Hasan Ma'sum (muftī in Deli), Shaykh Muhammad Saleh (muftī in Selangor), Shaykh Muhammad Zain (muftī in Perak), Kiai Ahmad Dahlan (the Founder of the Muhammadiyah organisation in Indonesia), Shaykh Mūsthafa Husen (Mandailing), Kiai Hasyim Asy'ari (the Founder of Nahdatul Ulama in Indonesia). In particular most Minangkabau 'ulamā' studied with him: namely Thahir Djalaluddin, Abdul Karim



Amrullah, Djamil Djambek, Abdullah Ahmad, Khatib Muhammad Ali, Muhammad Dalil, Shaykh Gapuk, Muhammad Thayib, Abdul Halim, Muhammad Yatim, Khatib bin Qasyim, Muhammad Djamil, Muhammad Thaib Umar, Abbas Abdullah, Ibrahim Musa, Zainuddin el-Yurusy, Saad Mungka, Tuanku Bayang, Suleman Rasuli, Djamil Djaho, and Djalaluddin Radjo Endah.

When Snouck Hurgronje was in Mecca between 1884 and 1885, Aḥmad Khaṭīb was not well-known yet as a teacher and imām in the Masjid al-Ḥarām. Snouck Hurgronje did not mention Aḥmad Khaṭīb in his book, *Mecca*, in which he mentioned other teachers from the archipelago (Snouck Hurgronje 1931:289). Approximately ten years later, Snouck Hurgronje mentioned Aḥmad Khaṭīb in his letter, dated 18 April 1893, addressed to the director of the Department of Justice, in connection with the rise of the polemic concerning Aḥmad Khaṭīb's *al-Dā'ir al-masmū'* (Gobée and Adriaanse 1957:694). Snouck Hurgronje mentioned that Aḥmad Khaṭīb came from Minangkabau and held a position as an imām and teacher in the Masjid al-Ḥarām. Pilgrims from the archipelago visited him during the pilgrimage. In other letters Snouck Hurgronje is apparently negative about Aḥmad Khaṭīb's career in Mecca and mentioned that to be a teacher and an imām in the Masjid al-Ḥarām was not prestigious only significant to the limited number of Malay people who could visit him Mecca (Gobée and Adriaanse 1965:1846).

### The Works of Aḥmad Khaṭīb

Aḥmad Khaṭīb wrote about forty-six books in Arabic and Malay, which deal with Islamic teachings. It is not clear if an entire collection of these has been preserved up to now but 14 of his works are available in the Leiden University library. Furthermore, Brockelmann did not mention any of those writings (Brockelmaan 1898). 'Umar 'Abd al-Jabār mentioned the title of the writings of Aḥmad Khaṭīb. It is obvious that most of the writings deal with religious affairs in the archipelago. A number of which became essential to religious polemics and led to the purification of the practices of Islamic teaching. In addition, some of them dealt with pure knowledge related to the implementation of Islam, the subjects of which are briefly described below.

### *Astronomy*

Trigonometry was one of Aḥmad Khaṭīb's first concerns. The books *Rawḍa al-ḥisāb* and *al-Jawāhir al-naqiya fī al-'a'māl al-jaybiya* are about trigonometry and astronomy. These books are important for ritual purposes such as to determine the direction of mosque buildings, to determine the beginning of the lunar calendar and to determine the time of daily prayers. Aḥmad Khaṭīb was known to have knowledge in this field. A number of 'ulamā' of the archipelago came to him to study this subject, for instance, Kiai Aḥmad Dahlan, the founder of the Muhammadiyah, was sent to Mecca to study astronomy due to the fierce debate in determining the direction of a mosques in Jogjakarta. Moreover, Taher Djalaluddin and Djamil Djambek were known as 'ulamā' who were expert in this field (Steenbrink 1984:145-146).

### *Minangkabau adat rules of inheritance*

The Minangkabau adat rules of inheritance were one of Aḥmad Khaṭīb's main concerns, and this is the focus of this thesis. Aḥmad Khaṭīb wrote three books on this topic; *al-Dā'ī al-masmū'*, *al-Manhaj al-mashrū'*, and *al-Jawhara al-faridah*. These books led to fierce polemic in Minangkabau, to the extent that adat functionaries and the Dutch government were worried that they would disturb harmony in the area.

### *Mosques in Palembang*

Aḥmad Khaṭīb was also involved in the conflict of building a new mosque in Lawang Kidul Palembang in 1893. This mosque was built in 1881, and in 1893 it had become a place of Friday prayer, as the number of people in that area gradually increased. The conflict arose after a plan of multiplying the Friday mosques (*ta'adud jum'a*). The organisers of the Masjid Agung or the Masjid Sulthan objected to the plan arguing that, apart from financial reasons, according to the Shafi'iyā school, a new Friday prayer would only be allowed under the condition that the call to prayer (*adhān*) in the Masjid Agung could not be heard by people in the Masjid Lawang Kidul. On the contrary, the people from the Masjid Lawang Kidul accused the people from the Masjid Agung of being too concerned that their income would decrease. Because no solution could be reached, the organisers of the Masjid Agung requested a legal

opinion from Sayyid Uthman who was working as an advisor for the Dutch government in Batavia. Sayyid Uthman said that the new Friday prayer was not allowed in the Lawang Kidul mosque. Meanwhile people from Lawang Kidul requested a legal opinion from Aḥmad Khaṭīb in Mecca. It is clear that Aḥmad Khaṭīb could not go directly to the area and this implied that he only received information from the people of Lawang Kidul. In addition, Snouck Hurgronje was involved in this polemic due to his position in the Netherlands East Indies administration office as the advisor for native affairs (Steenbrink 1984:142-143).

Sayyid Uthman produced a number of publications concerning this conflict: *Jam'u al-fawayid min mā yata'allaq bi ṣalāt al-jum'a wa al-masājid*, published in 1892; *Mazil al-'awham wa al-taraddad fī 'amr ṣalāt al-jum'at bi al-ta'addud*, published in 1894; *Taftīḥ al-muqlatayn wa tabyīn al-mafadatayn* published in 1895; *Tabyīn al-khaṭī'atayn allata fī ṣulḥ al-jum'atayn* published in 1895; *Daf'u al-waḥī'at wa al-mayn al-lazan fī ṣalḥ al-jum'atayn* published in 1895; *Risālā taftīḥ al-muqlatayn*, published in 1896; *Khulāsāt al-qawl al-saḍīd fī man iḥdah ta'addud al-jum'at fī al-masājid al-jadīd* published in 1898.

The main view of Sayyid Uthman is that multiplying the Friday mosques was not allowed according to Islamic jurisprudence. Meanwhile, Aḥmad Khaṭīb produced two publications: *Ṣulḥ al-jamā'atayn fī jawāz ta'addudi al-jum'atayn* published in 1898; and *Nūr al-sham'a fī aḥkām al-jum'a* (Gadjahnata 1986:236-249). Eventually, increasing the Friday mosque of the Lawang Kidul was allowed in 1914 after Sayyid Uthman had passed away and Snouck Hurgronje had returned to the Netherlands (Rahim 1988:57).

### *Ṭarīqa Naqshbandiyya*

Aḥmad Khaṭīb wrote three books to reject the *ṭarīqa* Naqshbandiyya which was widely dispersed in Minangkabau. This was in response to a question of Abdullah Aḥmad, Abdul Karim Amrullah and other 'ulamā'. He wrote: *Iḥīār zaḡl al-kādhībīn; al-āyāt al-bayyināt fī raf' al-khurāfāt ba'd al-muta'assibīn*; and *al-Sayf al-bitār fī mahqī kalimāti ba'd al'aghrār*. The first book was published in Padang 1906 and republished in 1908. In it the author attempted to answer the following questions: 1) whether the *ṭarīqa* had a basis in Islamic teaching; 2) whether it was linked to the Prophet Muḥammad; 3) what the legal reasoning was for not eating meat; 4) whether contemplation of 40, 20 and 10 days has a basis in Islamic

teaching; and 5) whether the group of *ṭarīqa* (*rabiṭah*) has a basis in Islamic jurisprudence (Khaṭīb 1916). Content of the second book concerned to defence of the author's views which were rejected by some 'ulamā' in Minangkabau, and Khaṭīb Ali took part in this polemic. The third book was about Aḥmad Khaṭīb's response to a letter of Shaykh Abdullah bin Abdullah al-Khalidi from Tanah Datar who rejected Aḥmad Khaṭīb's views. Al-Khalidi was one 'ālim who was involved in the *ṭarīqa* Naqshbandiyya. In debating the *ṭarīqa*, the 'ulamā' of Minangkabau, who attacked it, declared themselves the *Kaum Muda* (Hamka 1982:65). *Ṭarīqa* defenders automatically were opposed to this group, which had become known as *Kaum Tua*. Interestingly, the 'ulamā' of both sides had been studying Islam with Aḥmad Khaṭīb in Mecca.

Besides the topics above, Aḥmad Khaṭīb's writings also dealt with other Islamic teachings, such as his rejection of non-Muslims who condemned the Islamic teachings of polygamy, divorce, *jihād*, slavery and imprisonment. These issues were all discussed in *Irshād al-ḥiyarī fi 'zāla shubh al-naṣārā fi sub' masā'il*. The book *Ḍaw'u al-sirāj fi kayfiyya al-mi'rāj* was about the nocturnal journey of the Prophet, but the author also condemned colonialism in it.

Considering his arguments in his writings, Aḥmad Khaṭīb's writings are apparently simple and deal with issues which Muslims were facing. For this reason, his writings are highly relevant to our knowledge of the development of Islam towards heterodox Islamic teachings and local culture. His role was to be a transmitter for the new Islamic movement in Minangkabau in particular, and Indonesia in general, which had begun in the early twentieth century.

### Aḥmad Khaṭīb's Books on Inheritance

The rules and practices of Minangkabau adat regulations concerning inheritance have been strongly criticized, and were considered un-Islamic from the beginning of the nineteenth century. The aims of the critics were mainly to purify religious life and to reform Minangkabau society in accordance with Islamic precepts. One way to purify society was to replace the rules of inheritance according to adat with the rules of inheritance according to Islamic jurisprudence. Criticism mostly came from 'ulamā' who were in *surau* or other Islamic educational institutions in Minangkabau. Interestingly, new criticism came from an 'ālim who strongly addressed his critics on this issue. This critic was Aḥmad Khaṭīb. He wrote three books

which focused on the rules and practices of inheritance according to Minangkabau adat in the late nineteenth century. This part aims to explore Aḥmad Khaṭīb's book and is arranged in three main sections. Firstly, the general characteristics of the three books will be examined. Secondly, Aḥmad Khaṭīb's views on the rules and practices of inheritance of Minangkabau Adat will be identified.<sup>4</sup> Finally, some remarks concerning his views will be advanced.

Besides trigonometry, the rules and practices of inheritance of Minangkabau adat was one early concerns of Aḥmad Khaṭīb during his stay in Mecca. He voiced his concerns in books and *al-Dā'ī al-masmū' fī al-radd 'alā man yuwarriṭh al-akhwa wa 'awīlād al-akhwāt ma'a wujūd al-'uṣūl wa 'l-furū'* [The heeded preacher, or a refutation of those who assign inheritance to sisters and their children in spite of (the provisions of Islamic Law in) its sources and application] was the first book which dealt with inheritance. Later this treatise was known as *al-Dā'ī al-masmū'*. The words "*uṣūl wa 'l-furū'*" in the title have a double meaning in which could be understood to mean refutation of the inherited property of parents and children, and also a refutation of al-Qur'ān and Ḥadīth (*'uṣūl*) and the Islamic jurisprudence (*'ilm furū'*). This monograph contains 24 pages which were written in Arabic and published by Aḥmad al-Bābī al-ḥalabī in Ramaḍān 1309 A.H = March/April 1892 A.D in Egypt. Before the appearance of this book, criticism of Minangkabau matrilineal adat was only in an oral such as in the Padri Movement era in the early nineteenth century.

The title of the second book is *al-Manhaj al-mashrū' tarjama kitāb al-Dā'ī al-masmū'* (The rightful method, being a translation of the heeded preacher), later this title became known as *al-Manhaj al-mashrū'*. This monograph has 86 pages, was written in Malay and published by Aḥmad al-Bābī al-ḥalabī in Dhū al-qa'ida 1311 A.H = May/June 1894 in Cairo. Khaṭīb's father-in-law supported him financially in publishing this book (Schrieke 1973: 35). It is a translation of the first book from Arabic to Malay, to which Aḥmad Khaṭīb added a new chapter entitled *Kitāb al-farā'id* -- an explanation of the rules of inheritance according to Islamic jurisprudence. The translation runs from pages one to 45 with an additional part from pages 46 to 86.

The title of the third book is *al-Jawhara al-farīda fī al-ajwiba al-mufīdah pada menyatakan harta shubha dan Ḥarām* (The precious jewel dealing with the instructive answer about obscurity and forbidden property) later known as *al-Jawhara al-farīda*. This monograph consists of 24 pages and was written in Malay. The author completed

on 5 Dhū al-qa'ida 1314 A.H = 7 April 1897 A.D and it was published the same year.

This current discussion on Minangkabau rules of inheritance will not discuss *al-āyat al-bayyināt li-al-munṣifin fī izālat khurāfāt ba'd al-muta'aṣṣibin* (Clear Signs on Eliminating the Superstitions), because Aḥmad Khaṭīb only repeated his views in it. In fact, this monograph deals mainly with polemic on *ṭarīqa* which was practiced in Minangkabau. The contents of the first three titles, however, these books are discussed below.

#### *al-Dā'ir al-masmū'*

Khaṭīb said that the original idea of his writing came up when he was studying the rules of inheritance according to Islamic jurisprudence (*al-farā'id*). He realized that people did divide property between heirs who were regulated by the rules of inheritance according to Islamic jurisprudence, but to their sister(s) or *kamanakan*, as heirs as laid down by the rules of inheritance according to Minangkabau adat (Khaṭīb 1894a:2). Unfortunately, he did not mention this when he began to write this text. However, it is implied that he finished writing it shortly after he had become a teacher and imām in the Masjid al-Ḥarām.

His "style" of writing this book is similar to his other works which are also concerned with religious issues in the archipelago such as in *Irshād al-hayārā fī izāla shubḥ al-naṣārā fī sab' masā'il* (A Guide to Eliminate Resembling Christians in Seven Matters). This first book was most likely based on questions and answers which supposedly by came up in his discussions with the pilgrims or students from Minangkabau whilst in Mecca. Definitely, he had been involved in discussions with people, particularly from Minangkabau who were studying, or performing the pilgrimage, in Mecca (Hamka 1967; Steenbrink 1984:140; Schrieke 1973:37-38; Noer 1970:31; Daya 1990:63). People from the archipelago had begun to study Islam or perform the pilgrimage to Mecca from the seventeenth century. According to Jacob Vredenburg's work on the pilgrimage, we can see that a large number of people from the archipelago performed the pilgrimage from the nineteenth up to the twentieth century (Vredenburg 1965: 141).

There were two categories of people who went to Mecca from the archipelago. The first category included people who had gone to Mecca to perform the pilgrimage which is in principle compulsory

for every Muslim once in a lifetime. The second category included the people were born and bred in the archipelago, but had settled in Mecca on a more permanent basis for devotional purposes or for religious study, spending the rest or a large part of their lives there (Kaptein 1997:7). Aḥmad Khaṭīb clearly belongs to the second category. According to Snouck Hurgronje, the pilgrims always met their country-folk who were living in Mecca during the time of pilgrimage (Snouck Hurgronje 1931:222). It makes sense that people from both categories met Aḥmad Khaṭīb there because they had the opportunity to do so (Gobée and Adriaanse 1991:765). In their gatherings, Aḥmad Khaṭīb and the pilgrims or the settlers held discussions or perhaps just conversations. Indeed, he arranged meetings with people from *Jawa* which took place in a part the Masjid al-Ḥarām called *Bāb ziyāda* (al-Jabbār 1952:41). It can be assumed that the questions which were presented in Khaṭīb's books were derived from these discussions and conversations. In this way, Khaṭīb acquired more detailed information about Minangkabau adat, in addition to the knowledge that he had gained before his departure for Mecca as a teenager.

Khaṭīb's *al-Dā'ir al-masmū'* was undoubtedly directed at actual life of the society in the Minangkabau area. For this reason it is very important for a study on the social history of Minangkabau society, particularly in terms of the struggle of islamization in the late nineteenth century.

Khaṭīb's reason for writing this book can be attributed to two issues: Firstly, he wanted to remind the people that the rules of inheritance according to Minangkabau adat were against Islam, and secondly, he demanded that the people should obey the rules of inheritance according to Islamic jurisprudence and leave the rules of inheritance according to adat behind (Khaṭīb 1892:1-2). Elaborating on these aims he proposed reasons that made him write on the rules and practices of inheritance according to Minangkabau adat. He argued that he had a responsibility to inform people that they were obeying rules of inheritance which were against Islamic jurisprudence. Additionally he argued that Minangkabau adat was formulated by the ancestors who were infidels.

Khaṭīb further argued that people were obeying adat, because they did not know the rules of inheritance according to Islamic jurisprudence. For this reason, he wrote *al-Dā'ir al-masmū'* to call people's attention to the Islamic teachings. In addition, he said that writing texts was one of his ways to attract people's attention from

a distance because he could not reach people face to face in the Minangkabau area while he was living in Mecca (Khaṭīb 1892:2). Khaṭīb said that Minangkabau was his land where he, his father, and his grandfather were born (Khaṭīb 1892:2). This expression reflects that Khaṭīb had a feeling that he was still a part of the people and land of Minangkabau and he had a sense of responsibility to show his people the true teachings of Islam.<sup>5</sup>

*al-Dā'ī al-masmū'* consists of a main text and an additional one. The main text, which was written by Aḥmad Khaṭīb, is framed in the middle of the page. The additional text was written by al-Sayyid Abū Bakr ibn al-Sayyid Muḥammad Shaṭṭā who also worked in the Maṣjid al-Ḥarām as imām and teacher of the Shafi'ī school (al-Jabbār 1982:65-66). This text is put in the margin of the pages (see the first page above). As for the main text of the book, *al-Dā'ī al-masmū'* is made up of an introduction, the core text and the closing. In the introduction Aḥmad Khaṭīb begins by praising God who, he said, revealed the Qur'ān that forms a convincing guidelines for people and no other argument or person is able to defy it. He also said that the rules of society have been explained clearly to mankind in the Qur'ān. Aḥmad Khaṭīb used the verses of the Qur'ān as the basis of his arguments when he judged the rules and practices of inheritance according to Minangkabau adat. Firstly he quoted a verse of al-Nisā'(4): 174: After that a verse of al-Zukhruf (43):22, then, a verse of Maryam (19):59. In the last part of the introduction Khaṭīb introduced himself as Aḥmad Khaṭīb Ibn 'Abd al-Laṭīf ibn 'Abd Allāh al-Minangkabawī from *Jāwīs*, living in Mecca.

Khaṭīb stated his position very clearly in the introduction, particularly in quoting four verses of the Qur'ān which were used as the basis for his further argumentation. According to Khaṭīb these four verses have a strong literal message, namely that Islam is the true religion and every Muslims should obey it. He also quoted two other verses which related to people who were not obeying Islamic teachings but still obeying rules which were formulated by their ancestors (Khaṭīb 1892:2).

In the main text, Aḥmad Khaṭīb focused on the rules and practices of inheritance according to Minangkabau adat. Most of his explanations looked like answers to questions or defences of arguments. Using the words "they say" (Khaṭīb 1892:4), Khaṭīb referred to people who put forward the questions or arguments that he answered. In addition, he repeated the same points on many different pages in order to emphasize his views. Finally, in the conclusion of the book he recommended that the people took his advice into



account and obeyed the rules of inheritance according to Islamic jurisprudence and consequently left behind the adat rules of inheritance. In the text's last sentence he did not forget to praise Allah and the Prophet Muhammad which is common in other Islamic books (Khaṭīb 1892:4).

Furthermore, it is also necessary to pay some attention to the text which was added by of al-Sayyid Abū Bakr ibn al-Sayyid Muḥammad Shaṭṭā. This text contains additional explanations of Khaṭīb's text. Beginning with an explanation saying that Shaṭṭā had known other adat rules of inheritance in the *Jawī* lands. He said that these other rules of which differed from the explanation of the rules of inheritance according to Islam, were prohibited (*Harām*) to Muslims (Khaṭīb 1892:1-2). Unfortunately, Muḥammad Shaṭṭā did not mention, in his writing, the rules of inheritance of Minangkabau adat which were the main concern of Aḥmad Khaṭīb's in his book. He added further references from the Qur'ān and Ḥadīth which regulated the rules of inheritance and ownership without giving his thoughts, or elaborating on Aḥmad Khaṭīb's views.

#### *al-Manhaj al-mashrū'*

Aḥmad Khaṭīb was asked to translate *al-Dā'ī al-masmū'*, into Malay because the number of people who understood Arabic was limited (Khaṭīb 1894a:1-2). Unfortunately, there is no evidence to indicate who requested Aḥmad Khaṭīb to translate *al-Dā'ī al-masmū'*. It seems that the limited number of people who understood Arabic was not the sole grounds for this request, in addition, because *al-Dā'ī al-masmū'* was the first book that attacked the rules and practices of inheritance according to Minangkabau adat which was considered un-Islamic, there were some people who consented to Aḥmad Khaṭīb's views. They were usually village '*ulamā'*' who were teaching the Qur'ān along with other basic teachings of Islam in the *surau* in the villages. It is reasonable to consider that those '*ulamā'*' also requested its author in Mecca to translate *al-Dā'ī al-masmū'* into Malay.

Responding to the request, Khaṭīb translated *al-Dā'ī al-masmū'* into Malay and added one chapter to it explaining the rules of inheritance according to Islamic jurisprudence (*kitāb al-farā'id*). After the translation of *al-Dā'ī al-masmū'* had been published, it was circulated in the Minangkabau area through people who were known by the author and through other ways of distribution. Due to its con-

tent which was sharp and polemical, hot debate ensued among people of the area. These reactions to Aḥmad Khaṭīb's books were not confined to adat and religious leaders, but also came from the Dutch East Indies officers that were governing Minangkabau (Steenbrink 1984:145).

As far as the language of this book is concerned, it is not only a translation of the original into the Malay but it also includes some Minangkabau expressions. It will be helpful if the reader is aware of the Minangkabau language, its maxims, and customs, because the author expresses particular ideas through them. Unfortunately, many printing errors occur in the book.

As mentioned above, this book consists of two parts; a translation of *al-Dā'ir al-masmū'* and an explanation of the rules of inheritance according to Islamic jurisprudence. The translation is put inside a box and the original text of *al-Dā'ir al-masmū'* is surrounds it. In the introduction the author introduced himself in more detail; he mentioned his living in Mecca, being a teacher as well as an imām in the Maṣjid al-Harām, his work as member of the Shafī'ī school and gave his name as Aḥmad Khaṭīb ibn 'Abd al-Laṭīf Khaṭīb from Minangkabau, Koto Gadang in Laras Empat Koto. Then, he mentioned that he wrote a book entitled *al-Dā'ir al-masmū'* in Arabic, and he had been requested to translate it. He also said that he decided to extend it with a chapter on the explanation of the rules of inheritance according to Islamic jurisprudence (Khaṭīb 1894a:1-2).

According to Snouck Hurgronje, Aḥmad Khaṭīb sent the book to the leader of *laras* Selajo<sup>6</sup> and attached a letter which was dated 26 Dhūlhijja 1311 = 30 June 1894. In the letter he reminded the *laras* leader to obey the rules of inheritance according to Islamic jurisprudence. In addition, he said that a leader has a greater responsibility than the common people to obey Islamic jurisprudence (Gobée and Adriaanse 1965:1848). Besides the letter to the leader of *laras* Selajo, he also sent a copy of *al-Dā'ir al-masmū'* to the Governor of West Sumatra in Padang. This copy was sent to Snouck Hurgronje in Batavia by the Governor in order to request Snouck Hurgronje's advice (Gobée and Adriaanse 1965:1929). Additionally, Snouck Hurgronje also received the same book directly from the Dutch consul in Jeddah. Aḥmad Khaṭīb also sent the book to Sutan Gagah (Gobée and Adriaanse 1965:1945, 1853). Indeed, sending the book to people in Minangkabau was an important way of distribution of Aḥmad Khaṭīb's writings. This fact raises questions, such as why did Aḥmad Khaṭīb send the book to the leader of *laras* Selajo,

Sutan Gagah and the governor? What was the relationship between Aḥmad Khaṭīb and those people? And did they know each other? These questions are definitely important and need to be answered.

Considering that Khaṭīb left the Minangkabau area when he was 11 years old, it is hardly possible that he personally knew these people during his childhood. There are however, two other possibilities that may explain his knowing them. Firstly, these people had performed the pilgrimage and met with Khaṭīb in Mecca and they subsequently corresponded with each other. In this sense, they were acquaintances. Thus, it makes sense that he sent them copies of his book. Secondly, Khaṭīb was informed by the Minangkabau pilgrims or the settlers about these people who had an important role in the area. From this point of view, they were not personally known to each other. Whichever situation is correct it remains clear that the book circulated in the area from these key people. Moreover, he sent the book to the governor, not because he knew the governor, but because he knew that the area was under the governorship of Sumatra's West Coast. He might have thought that the government should know his views on the rules and practices of inheritance according to Minangkabau adat.

#### *al-Jawhara al-farīda*

Aḥmad Khaṭīb wrote this book with two aims in mind. Firstly, he wanted to express his reaction to people's responses in the Minangkabau area to his earlier books. And secondly, he wanted to clarify some points which were in the earlier books. In *al-Jawhara al-farīda* he mentioned that some people had come to him in 1314 = 1897 wanting him to further his views on inheritance according to Minangkabau adat (Khaṭīb 1897b:2). There are five arguments in this book and these form a continuation of the arguments discussed in *al-Dā'ir al-masmū'* and *al-Manhaj al-mashrū'*. He wrote that his thoughts about the topic had caused reactions from people in Minangkabau who, he said, did not have enough knowledge on Islamic teachings. Further, he added that he would not write another book after this third book about the rules of inheritance according to Minangkabau adat all of his thoughts had been previously expressed in his other two books (Khaṭīb 1897b:5).

In the conclusion of the writing, Khaṭīb said that he wrote the book while he was certainly unhappy and had only little time because he was tied up with his work (Khaṭīb 1897b:24). Perhaps, his

sadness was because he had heard reactions to the views expressed in his previous two books from the people of Minangkabau. In fact, the reactions from the adat leaders to his views were definitely caustic, especially Datuk Sutan Maharaja. It is implied that the adat leaders' reactions deeply hurt Aḥmad Khaṭīb's feelings. Needless to say, Aḥmad Khaṭīb voiced his reactions in *al-Jawhara al-farīda* (Khaṭīb 1897b:24).

The main point of Aḥmad Khaṭīb's views on the rules and practices of inheritance according to Minangkabau adat was that inheritance was considered un-Islamic and he regarded it as a *jahilī* (pre-Islamic) practice. People who divided property based on adat were considered, by Khaṭīb, to be committing apostasy (Aḥmad Khaṭīb 1892:3; 1894a: 4). Aḥmad Khaṭīb further elaborated this view by explaining principles that supported his arguments and which were based on the Qur'ān, and Ḥadīth.

He argued that in the *jahilī* period the rules and practices of inheritance was clearly different from Islamic jurisprudence since people made bequest only to their adult son(s), and to other people with whom they had an engagement. But after the Prophet Muḥammad came and announced his message, the people converted to Islam and obeyed the Islamic teachings, including its rules of inheritance. Minangkabau adat was similar to that of *jahilī* tradition and consequently it should also be left behind. Furthermore, he argued that people who had not left their tradition did not truly believe in Islam, even though they had claimed that they were believers, in fact they were not (Khaṭīb 1892:3-4; 1894a:2). In support of this argument Khaṭīb quoted the verse of al-Nisā' (4):65; "But nay, by thy Sustainer! They do not [really] believe unless they make thee [O Prophet] a judge of all on which they disagree among themselves, and then find in their hearts no bar to an acceptance of thy decision and give themselves up [to it] in utter self-surrender".

As indicated in the verse above, Khaṭīb said that people were not true believers because although they believed in Allāh and His Messenger, they simultaneously did not obey the rules of inheritance according to Islamic jurisprudence which were set by Allah and His Messenger. The people only followed their ancestors in bequeathing their property (Khaṭīb 1894a:2). He quoted the verse of al-Baqāra (2): 85 as a basis of his argument:

Do you, then, believe in some parts of the divine writ and deny the truth of other parts? What, then, could be the reward of those among you who do such things but ignominy in the life of this world and, on the Day of

Resurrection commitment to most grievous suffering? For God is not unmindful of what you do.

With astonishment, he explained why people took no notice of the rules of inheritance which were revealed by Allāh in the Qur'ān. Moreover, he went further by quoting the verses of al-Nisā' (4): 11-14 and a Ḥadīth related to the topic. Below they are traced in order to look at significant points upon which Khaṭīb based his arguments.

Prophet said that Allah had determined the portions of the heirs in the Qur'ān and should be delivered to all 'aṣābah and The Prophet said all inheritance is the heirs' right, and if there is left it as a gift for the 'aṣābah". This Ḥadīth was quoted in Khaṭīb's books, but there is one Ḥadīth that is only quoted in *al-Dā'ir al-masmū'* which was the background of the verses of al-Nisā':11-14, as mentioned above. This Ḥadīth is

The Wife of Sa'id Ibn al-Rabi' came to talk to the Prophet with her daughter who is Sa'id's daughter and she said "O Messenger! This is the daughter of Sa'id who died in the 'Uḥud war, her uncle took all inherited-wealth and did not give her right". The prophet said "Allah has determined it" and the prophet came to Sa'id's brother and said, "give to Sa'id's daughter one third, her mother one eighth and you take the rest".<sup>7</sup>

Aḥmad Khaṭīb gave further remarks after quoting verses of the Qur'ān and Ḥadīth which he considered to comprise the rules of inheritance in Islamic jurisprudence. He said that all Muslims should obey and practised these rules in their daily lives otherwise they will become unbelievers (Khaṭīb 1892:2; 1894a:3). In addition, he quoted from al-Mā'idā (5): 44 as the other basis of his argument: "for they who do not judge in accordance with what god has bestowed from on high are, indeed, deniers of the truth". He strengthened this point by quoting another verse of al-Nisā' (4): 65: "But nay, by thy Sustainer! They do not [really] believe unless they make thee [O Prophet] a judge of all on which they disagree among themselves, and then find in their hearts no bar to an acceptance of thy decision and give themselves up [to it] in utter self-surrender".

Aḥmad Khaṭīb's views can be traced back to a central feature in his thoughts, namely that when people obeyed other rules of inheritance, not in accordance with Islamic jurisprudence, they were unbelievers. In *al-Manhaj al-mashrū'* he said that a true believer should completely obey the rules of Islamic jurisprudence. Thus a Muslim would not only conduct the prayers, the pilgrimage, alms (*zakāt*), but should also follow the rules of inheritance. It was unquestion-

ably wrong for someone to only obey some part of the Islamic teachings in his life and ignore the rules of inheritance. If people acted this way, according to Aḥmad Khaṭīb, they were apostates (Khaṭīb 1892:2; 1894a:3). Judging people unbelievers, due to committing apostasy, Aḥmad Khaṭīb mentioned further its harsh consequences. According to Islamic teachings, believers were forbidden to choose an unbeliever who obeyed the rules of inheritance according to the Minangkabau adat to be their leader, even though he was their father or a relative. If an unbeliever was chosen, he would definitely in away that was prohibited by Islam (Khaṭīb 1892:2; 1894a:3). It was based on the verses of al-Tawba (9): 23 and 67.

Based on the literal meaning of those verses, conducting the rules of inheritance as per Minangkabau adat was a sin (Khaṭīb 1894a:4). In elaborating this point Aḥmad Khaṭīb presented thirteen reasons arguing that someone was committing a sin if he or she obeyed other rules of inheritance which were not in accordance with Islamic jurisprudence. Indeed, his thirteen reasons were mostly a repetition of his other arguments, the core of which can be summarized in two points. Firstly, conducting the rules of inheritance according to adat caused disharmony among people in the area: children would rebel against their fathers, and there would be quarrels amongst relatives because they had been deprived of their right according to Islamic jurisprudence (Khaṭīb 1894a:25). Secondly, disobeying the rules of inheritance according to Islamic jurisprudence meant disobeying Allāh and His Messenger. Consequently, unbelievers were not allowed to conduct Islamic rituals. For instance, if a *wali* did not fulfil the requirements of a marriage according to Shafi'īya school then intercourse would be considered as adultery or a vagueness (*shubha*-intercourse) in good faith (Khaṭīb 1894a:26-28). Furthermore, Aḥmad Khaṭīb insisted that people who obeyed adat should not be allowed to be visited even when they were seriously ill. Additionally, their bodies did not deserve Muslims' prayers nor burial in a Muslim cemetery (Khaṭīb 1894a:28).

### Aḥmad Khaṭīb's Arguments

As mentioned above, Aḥmad Khaṭīb arranged his two early books in the form of questions and answers. Those came from discussions which occurred between him and people who were in Mecca. The discussions dealt social problems of religious life in Minangkabau villages. Consequently, Aḥmad Khaṭīb's works are related to social

life in the archipelago (Steenbrink 1984:147). In *al-Dā'ir al-masmū'* questions which were addressed to him were answered in seven points; however there were eight points in the second book. This again shows that the second book is not only a translation of the first once but also has additional explanations. The questions and answers are described below in order to look at the entire approach of Aḥmad Khaṭīb to the rules and practices of inheritance according to Minangkabau adat.

1. The rules of inheritance were, indeed, regulated by ancestors, and people were only following them. The property in their hands was inherited from their uncles, and their uncles had also inherited it from their great uncles. The inherited property was not inherited from their fathers who laid down the rules of inheritance according to Islamic jurisprudence. It should be inherited by their *kamanakan*, due to their closer relationship to their uncle than their uncle's children. Why should people bequeath their property to their children? (Khaṭīb 1894a:4; 1894a:29).

Aḥmad Khaṭīb answered that people who were following their ancestors, were non-Muslims who did not truly believe in Islam. He argued that one consequence of believing in Islam was following all its regulations, including its rules of inheritance. If people thought that their adat was a true path, and they said that the rules of inheritance according to Islamic jurisprudence were erroneous, then they would be considered to be unbelievers or apostates. By doing this they rejected Allah's Divine law. On the other hand, if people obeyed their ancestor regulations which were un-Islamic, they would also be considered to be unbelievers (Khaṭīb 1894a:4). This view was based on the verses of *al-Nisā'* (4): 115 and *al-Zukhruf* (43): 22.

In support of his argument, Khaṭīb said that when Islam had been revealed, it became apparently obvious which path was right and which was wrong (Khaṭīb 1894a:4). This was indicated in the verse of *al-Isrā'* (17):81 "And say: The truth has now come [to light], and falsehood has withered away: for, behold, all falsehood is bound to wither away!" Thus, it was implied that the rules of inheritance according to adat, were outdated and should not be obeyed because of their falsehood. If people still followed them, it could mean that people just wanted to fulfil their own desires (Khaṭīb 1894a:5). This attitude was elaborated upon in the verse of *al-Kahf* (18): 28.

If property was inherited from uncles, and uncles had also inherited this from their uncles and so forth; then the transference of

property was tantamount to robbery of orphans who did not receive what was rightful theirs. If they thought that they should follow their ancestors, then he considered this to be the attitude of unbelievers (Khaṭīb 1894a:5). In support of this view, Aḥmad Khaṭīb made an analogy between obeying the rules of inheritance according to adat and the consumption of pig meat, snakes, and mice. He said if ancestors consumed pig meat, snakes, and mice, which were prohibited in Islam, should people consume this prohibited food too? (Khaṭīb 1894a:6). On the other hand, the ancestors obeyed the rules of inheritance according to adat which was un-Islamic, thus; people should not follow their ancestor in obeying Islamic prohibition. It is definitely clear from this point that in Aḥmad Khaṭīb's view only the rules of inheritance according to Islamic jurisprudence were the truth and therefore people should obey these. The other rules were not on the true path and should not be followed.

2. Uncles loved their *kamanakan* but they did not love their children. It was indicated in the adat maxim which reads *anak dipangku, kamanakan dibimbing*<sup>8</sup> (The children are carried and *kamanakan* are led). In fact, *kamanakan* who cared about their uncles and children did not care about their own father. For instance, *kamanakan* paid their uncle's debt, and took care of their uncle while he was sick. For this reason, Khaṭīb wondered when children should become the heirs of their father (Khaṭīb 1894a:32). This argument is reflected in the social system of the society which was based on the original matrilineal system in which family lineage was based on the mother. The father did not have any authority in his family, and he did not have any responsibility to support the family financially. His wife and children were supported by his brother(s)-in-law and he was responsible for supporting his sisters' family. He only came to the house of his wife in the evening and went to his sisters house before sunset. This explains why a father was not close to his children and children were not close to their fathers. On the other hand, he knew his *kamanakan* very well, and they got along well with each other every day.

Khaṭīb responded to him scenario by saying that obeying the rules of inheritance according to Islamic jurisprudence had nothing to do with love, rather it meant to obey Allah and His rules which were revealed to His Messenger. Khaṭīb argued called that love of the *kamanakan* was clearly the devil's temptation (Khaṭīb 1894a:31). To support this view he referred to the verse of al-Baqāra (2): 268, "Satan threatens you with the prospect of poverty and bids you



to be niggardly, whereas God promises you His forgiveness and bounty; and God is infinite, all-knowing.”

Based on this verse, Khaṭīb said, people should not follow satanic ways when carrying out the rules of inheritance. Obeying adat meant that people were disobeying Allah and His rules. Consequently, they were considered unbelievers and apostates. Aḥmad Khaṭīb stated that unbelief affected other religious affairs, such as marriage. Based on the Shafi‘īya school, husband and wife must be divorced in cases of one of them committing apostasy. In other words, it could be a legal reason for divorce. If this married man continued his marriage and had sexual intercourse, he was considered to be committing adultery (*zinā’*) or vagueness (*ṣubha*-intercourse). Furthermore, conceiving a child in this way would make the child illegitimate (Khaṭīb 1894a:32).<sup>9</sup>

Khaṭīb further argued that the *kamanakan* took care of their uncles because they expected to inherit their uncles’ property. They would not care for uncles if they found out their uncle were poor. He said that people should not follow these customs, and the people should obey the rules of inheritance according to Islamic jurisprudence instead. Children would treat their father well, and they would also pay his debts, as well as take care of him if he was sick. Khaṭīb believed that children and father would have good relationships, because the relationship is based on natural law. Khaṭīb based the argument on: (1) Children were created by God through their father and mother and they would be close to their parents. (2) Children would struggle for their father’s admiration and for this they would pay their father’s debts. (3) Children would be the heirs of their parents and naturally they would look forward to receiving any property. (4) Obeying and loving parents are religious duties in Islam (Khaṭīb 1894a:32-33).

3. Adat rules could not be ignored while believing in Islam, because there was a chance to take up Islamic teaching into its body thoroughly. As an Adat maxim says, “adat basandi syara’, syara’ basandi adat”<sup>10</sup> (adat is based on Islamic law; Islamic law is based on adat). In the methodology of Islamic jurisprudence adat was also used as a source of *ḥukm* which was represented by the maxim *al-‘ada al-muḥakkama* (Khaṭīb 1892:4).<sup>11</sup> This maxim showed that adat could be also legal and had to be obeyed as well as Islamic jurisprudence. Indeed, Islamic jurisprudence was followed such as in performing prayers, marriage, and divorce, while on the other hand

the rules of inheritance according to Minangkabau Adat was also follow (Aḥmad Khaṭīb 1894a:34).

In response to this argument Aḥmad Khaṭīb argued that adat rules could not be obeyed if its rules differed from the rules according to Islamic jurisprudence. Islamic Jurisprudence could not be followed on a selective basis, such as obeying the pilgrimage rules whilst ignoring the rules of inheritance. He emphasised that obeying adat rules of inheritance meant rejecting Islamic teachings on inheritance (Khaṭīb 1894a:34). He based his argument on the verse of al-Nisā' (4):65; "But nay, by thy Sustainer! They do not [really] believe unless they make thee [O Prophet] a judge of all on which they disagree among themselves, and then find in their hearts no bar to an acceptance of thy decision and give themselves up [to it] in utter self-surrender".

Furthermore, he elaborated that a true believer might only obey Allah's rules and that there was no other set of laws that could be followed (Khaṭīb 1894a:34-45). He argued that Minangkabau adat was acknowledged as a *jahilī* practice which had began long before Islam came to the region when the ancestors did not base adat rules on Islamic teachings (Khaṭīb 1894a:35). Thus, Aḥmad Khaṭīb rejected applying the 'al-āda al-muḥakkama' maxim as long as other rules were not in line with Islamic jurisprudence. Adat rules of inheritance were prohibited, because they were different from the rules according to Islamic jurisprudence.

4. The people in the area assumed that obeying the rules of inheritance according to Islamic jurisprudence would cause a dispute among people, such as a clash between natural children and the *kamanakan*. Meanwhile obeying the adat rules of inheritance accordingly led to harmony and tranquillity between them. Thus, people should obey adat rules of inheritance rather than the rules of inheritance according to Islamic jurisprudence which this could cause this dispute (Khaṭīb 1894a:36).

Aḥmad Khaṭīb replied by rejecting the view that obeying the rules of inheritance according to Islamic jurisprudence could cause disputes among natural children and the *kamanakan*. He felt this argument implied that obeying Islamic jurisprudence would cause wickedness. On the contrary, by obeying Islamic jurisprudence harmony would reign among them. In Khaṭīb's opinion obeying the rules of inheritance according to Islamic jurisprudence had nothing to do with wickedness (Khaṭīb 1894a:37). Again, he concluded with the argument of people as the words of unbelievers.

5. People vowed to bequeath their property to their *kamanakan*. They had to carry out this vow since Islam obliges every Muslim to fulfil their vows (Khaṭīb 1894a:38).

Aḥmad Khaṭīb stated that it was forbidden to vow something which was not in accordance with Islamic teachings. If the vow was in accordance with Islamic teachings then it would be obligatory to carry it out. Thus, there was no obligation to keep adat rules of inheritance even though people had vowed to bequeath their property to their *kamanakan* who were not the heirs according to Islamic jurisprudence (Khaṭīb 1894a:38).

6. It was difficult to carry out the rules of inheritance according to Islamic jurisprudence. The difficulty was that property was inherited from uncles and their uncles had inherited from their uncles, and this path of inheritance was not valid according to Islamic jurisprudence. If people wanted to obey the rules of inheritance according to Islamic jurisprudence, they had to return the inherited-property to the true heirs, a task rendered impossible because of a difficulty in identifying the previous true heirs. The heirs also had to return property to the owners who were the true heirs before them. This task would be too difficult to perform (Khaṭīb 1894a:39).

Aḥmad Khaṭīb replied to this situation by saying that if people really wanted to carry out the rules of inheritance according to Islamic jurisprudence, they had to return the contested property to the true heirs in accordance with Islam. If the true heirs could not be identified, the property was considered to be property which belongs to nobody. To legalize this property as such the entire village population was required to hold a meeting in which they stated publicly that the wealth in their hands was inherited-wealth for to the true heirs could be found, and they had to ask for forgiveness by saying: "if the wealth in my hands should be yours, please forgive me, and if the wealth in your hands should be mine I give you my forgiveness". From then on people would be able to carry out the rules of inheritance according to Islamic jurisprudence (Khaṭīb 1894a:39).

7. Property that had to be bequeathed to heirs according to Islamic jurisprudence must be individually owned. However some property in Minangkabau was collectively owned. People could not bequeath it to the heirs who were regulated by Islamic jurisprudence, because it did not belong to the deceased, but belonged to the whole clan (Khaṭīb 1894a:39).

Aḥmad Khaṭīb replied to this situation by saying that if the property did not belong to the deceased, it was unlawful property,

because the property was taken by force from the heirs who should have inherited it. Why should it be bequeathed to the *kamanakan*? They should refrain from exhibiting this incorrect behaviour (Khaṭīb 1894a:39)

Unfortunately, Aḥmad Khaṭīb did not pay much attention to the important information which mentioned that property should be individually owned not collectively owned in order to be bequeathed according to Islamic jurisprudence. Indeed, there was no individual ownership in the area at that period; on the contrary property was held collectively among a family or clan. Perhaps, Aḥmad Khaṭīb ignored this essential differentiation in ownership due to his limited knowledge of the rules of inheritance according to adat.

### Aḥmad Khaṭīb's Recommendation

At the end of his monographs Aḥmad Khaṭīb reemphasised that adat rules of inheritance were regulated by the ancestors who were non-Muslims. If the people kept adat alive they would be considered unbelievers or apostates, Allah would punish them humiliatingly punishment not only on the Day of Judgment, but also in the Hereafter (Khaṭīb 1894a:43). He hoped that people would take his advice by ignoring adat rules and obeying Islamic jurisprudence. To do so, property which was inherited from their uncles before, should be returned to the true heirs according to Islamic jurisprudence. If they could not identify the true heirs, a meeting had to be held to legalize the inherited-property where by the villagers apologized to each other for any injustices which had been done. Or if a treasure house (*bayt al-māl*) was in the area the property should be sent to it, because the property did not belong to the people. The people should be abjured, because they were against Islamic jurisprudence. Aḥmad Khaṭīb, further, elaborated requirements for the abjuration; (1), feeling guilt, (2), promising not to commit again, (3), asking Allah's forgiveness (*istighfār*), (4) liability before dying, (5) doing *istighfār* in the night (after sun set and before sun raise) and (6) paying all debts to Allah and humanity. According to Khaṭīb all of these six requirements should be fulfilled without exception (Khaṭīb 1894a:42-43).

If only a few people, who were believers, wanted to carry out these actions, and the rest rejected to follow the Islamic jurisprudence, then those believers should emigrate to other regions where Islamic jurisprudence was followed. In addition, the believers

should struggle to promote Islamic teachings and kept a distance from the unbelievers, who might negatively influence their life. He highlighted a verse of al-Mā'ida (5): 105, to support his points.

“O you who have attained to faith! It is [but] for your own selves that you are responsible; those who go astray can do you no harm if you [yourselves] are on the right path. Unto God you all must return; and then He will make you [truly] understand all that you were doing [in life]”.

And also the verse of al-Hūd (11):6; “And there is no living creature on earth but depends for its sustenance on God; and He knows its time-limit [on earth] and its resting-place [after death]: all [this] is laid down in [His] clear decree”.

Aḥmad Khaṭīb did not mention his idea of emigration in the third book if the Islamic jurisprudence of inheritance could not be applied by the people. Rather, he differently suggested to parents that they should endeavour to transfer their property by giving it to children through the testament (*waṣīya*) before they died (Khaṭīb 1897b:6).

As seen above Aḥmad Khaṭīb's views are very sharp and polemical on the rules and practices of inheritance according to Minangkabau adat. He went straight to the point saying that Minangkabau adat rules of inheritance were un-Islamic, *jahilī* traditions. The adat rules of inheritance were forbidden (*Ḥarām*) to be followed by the Minangkabau who were Muslims. The difference between the rules of inheritance according to Islamic jurisprudence and Minangkabau adat is that the heirs, according to Islamic jurisprudence are different from the heirs in Minangkabau adat are matrilineal. From this point of view, there is a fundamental difference between Islamic jurisprudence and Minangkabau adat. Thus, people who were following adat were considered sinners and they were labelled unbelievers or apostates.

Methodologically speaking Khaṭīb's views seem to have employed one method which directly referred to the explicit meanings of the Qur'ān and Hadīth which regulate inheritance and he used literal meanings as the criterion to judge Minangkabau adat. In supporting his argument he referred to other 'ulamā' in the Shafī'ī school. His central argument was that Minangkabau adat was regulated by the ancestors. People converted to Islam only partially such as in the rituals of prayer, fasting, and pilgrimage, but excluded the

rules of inheritance. People should convert to Islam totally and ignore the *jahilī* tradition.

Aḥmad Khaṭīb did not pay any attention to the position of property in Minangkabau adat comprehensively. His attention was mainly drawn to the differentiation of the heirs and how the property was divided to heirs who were not behaving in accordance with Islamic jurisprudence. This is a proof that he did have comprehensive knowledge on Minangkabau adat in general and property in particular. For instance, he did not answer an important question about ownership of property according to the rules of Islamic jurisprudence and adat. Indeed, as the ‘ālim, he had tried to implement his knowledge by applying it to Minangkabau society which was matrilineal. However, it is obvious that his works had apparently strong influence and caused fierce debates among the people.

The writings of Aḥmad Khaṭīb became important because they were the first compositions which harshly attacked the rules of inheritance by traditional methods. In fact, the content of the books did not introduce any new ideas than any of the other books on Islamic jurisprudence books which circulated in Minangkabau. The difference was that his views were intolerant to Minangkabau adat after the Padri Movement at the beginning nineteenth century. This struggle apparently looked like the continuation of the ideas of the Padri movement, which aimed to purify adat and stressed the movement as the outward manifestation of religiously correct behaviour rather than ‘purity of heart’.<sup>12</sup> Aḥmad Khaṭīb can be regarded as continuing the struggle of the Padri leaders in purifying Minangkabau Adat from un-Islamic customs.

It is clear that Aḥmad Khaṭīb rejected the idea that adat and Islam did not contradict each other which was justified in the maxim “adat basandi shara‘, shara‘ basandi adat”. This maxim is an important basis in determining the position of Islam to adat (Pistorius 1871:87). For Khaṭīb the entire body of Islamic jurisprudence must be followed and other rules which were different must be ignored. This strong view aimed to condemn any Minangkabau adat which differed from Islamic jurisprudence. Moreover, not only did his views threaten not only adat rules of inheritance but also adat as a whole. Until today this issue has remained at the heart of an unending social and legal controversy.

Due to his views on Minangkabau adat and also according to Abdul Karim Amrullah, who studied seven years with him during 1894-1901, Aḥmad Khaṭīb did not want to return to Minangkabau.

When he was asked to return he became sad and replied that he preferred to die in Mecca (Hamka 1982:58). Perhaps he acted in harmony with his views that people should emigrate from the area to another place where Islamic jurisprudence was applied. Apart from this reason, his position in Mecca as an imām and teacher of Islam, as a son-in-law of a rich merchant, and member of a good family, meant that he might not have wanted to return the place where he was born.

### **Responses to Aḥmad Khaṭīb's Views**

Aḥmad Khaṭīb's ideas were transmitted in a new way, namely by writing and printing. This way of distributing knowledge was new to the era, and as a result, the writings of Aḥmad Khaṭīb could reach a much wider audience. Moreover, the impact of printing was much stronger than the spoken message because printed words could be re-read. Khaṭīb disseminated his works by sending them to different people in the Minangkabau area, including the Governor of Sumatra's West Coast in Padang, Soetan Gagah and the leader of *laras* in Selajo (Gobée and Adriaanse 1965: 1292, 1848, 1853). In addition to the books being distributed by those people, it is extremely likely that the books were also circulated by pilgrims who had met Aḥmad Khaṭīb during the pilgrimage in Mecca, and by his former students who had studied with him in Mecca.

We have seen above that Aḥmad Khaṭīb's views on the rules and practices of inheritance according to Minangkabau adat were critical. Consequently, it is comprehensible that his remarks triggered strong responses from people there. An analysis of these responses will be used to find out whether Aḥmad Khaṭīb's writings influenced people or whether his views were just ignored. For this purpose some relevant questions need to be asked: (1) Why did people react to Aḥmad Khaṭīb's writings? (2) What was their attitude toward Aḥmad Khaṭīb's views? (3) What was their opinion of Aḥmad Khaṭīb's views? (4) What did they do afterwards? These questions will be answered by firstly describing the context of the Islamic policy of the Dutch East Indies government, the attitude of adat functionaries towards 'ulamā', and then their responses to Aḥmad Khaṭīb's views. For this purpose, the present discussion consists of responses from the Dutch East Indies government, and then from the adat functionaries.

### *Responses from the Dutch East Indies Government*

Before discussing the responses of the Dutch East Indies government, we will firstly look briefly at the Dutch Islamic policy from the end of the nineteenth century until to the first-half of the twentieth century.

The consolidation of the governments expanding power was threatened by local outbreaks of Islamic-inspired resistance, led by Indonesian rulers who were already Muslims, or at the village level independent 'ulamā' (Benda 1972:83). The Padri War (1821-1837), the Diponegoro War (1825-1830) and the Aceh War (1873-1903) are examples of Islamicly inspired resistance. Apparently, the government attitudes towards Indonesian Islam were shaped by a contradictory combination of exaggerated fears and hopes. On the one side, the Dutch East Indies government was worried about the threat of Muslim conservatism, on the other side it held a great hope that, after the influence of Islam was eliminated, indigenous people would rapidly modernize by accepting government programs (Benda 1972:83; 1983:19).

In the nineteenth century, the government did not interfere with religious affairs (Suminto 1985:10). In 1854, this policy of non-interference was reflected in the Dutch East Indies government regulations R.R (*Reglement of het beleid der Regeering van Dutch Indies*) which stated, in article 119, that people were free to worship their religion (R.R 1854:28) as long as that religion did not contradict the government's regulations, such as reflected in article 75 subsections a to f that state that there were three different laws to be used by people who were Europeans, Muslims, or from other indigenous groups in the archipelago. The Dutch laws were used by Europeans, while Islamic and adat rules were for the rest as long as they did not contradict Dutch law. Indigenous people could choose to be under Dutch law. In a court judges should use Islamic or adat rules, in addition judges should use the Dutch laws if there was no regulation that could be used in Islamic or adat law.

It is obvious that the legal system was pluralist in character, in the sense that different systems for various sections of the population existed side by side. The administrators of native law would apply the religious laws, institutions and customs of the native, in so far as they did not contradict with the generally recognized principles of fairness and justice. Thus, this regulation meant the functioning of regionally differing laws for natives and foreign Orientals (The Arabs and Chinese) on the one hand, and Dutch statute law for the



Europeans and others equated legally with them on the other hand working side by side (Kaptein 2001:104).

In 1889, Christiaan Snouck Hurgronje who was an outstanding Dutch Arabicist and Islamologist was appointed to the newly created office of Advisor for Native and Arab Affairs. Snouck Hurgronje brought to his office not only unrivalled expertise, and indefatigable energy, but at least equally important, a vision for the future evolution of Indonesian society in keeping with the traditions of nineteenth century liberalism (Benda 1972:85; 1983:20). Snouck Hurgronje encountered the government fears concerning Islam at the international and local level by arguing firstly that "priests" and "popes" in Indonesia are not members of a religious hierarchy, nor are they the executors of commands from the Caliph of Constantinople. Secondly, neither the vast majority of Indonesian Muslims, nor even the 'priests' are necessarily strictest the sworn enemies of infidel rule. He showed that the officials in Islamic worship and religious justice were traditionally the subordinates of the native rulers, and that neither they, nor their masters, were as a rule addicted to Muslim conservatism. Thirdly, Snouck Hurgronje attacked the myth that the Meccan pilgrimage transformed thousands of peaceful Indonesian pilgrims into rebellious conservatives (Benda 1972:85-86; 1983:21-22).

Broadly speaking, the government policy on Islam was introduced by Snouck Hurgronje may be summarized as follows: Firstly, the government and its officials should guarantee and preserve absolute freedom in the field of religion. A policy of neutrality toward religious life, he argued, was the *sine qua non* for pacification and stability. Secondly, freedom should be restricted in the politic field, "in the interests of all". Thirdly, in the field of Islamic jurisprudence the government should refrain from arbitrary interference, although it should encourage the process of legal evolution as much as possible. Finally, these more or less negative guide-lines should serve the positive goal of the emancipation of Muslims, who should be relieved of some of 'the medieval trash which Islam has been dragging along for only too long' in order to obtain an opportunity of cultural association with western civilization (Bolland and Farjon 1982; 18-190; Benda 1972:87-90; 1983:21-26)

In addition to the categories above, Snouck Hurgronje was the first Dutch scholar to recognize the importance of customary law, adat, and its limitations on the influence of Islam in the social and legal life of its Indonesian believers. Snouck Hurgronje's views on

the position of adat and Islamic law in the society are relevant across time and space; the strict Islamic law had to adapt itself to the traditional customs, governing the lives of its adherents. Thus, while Islamic law had gained acceptance in the realm of marital and family law, in almost all other matters adat had prevailed. Therefore, the authority exercised by either Islamic judges or independent teachers in the secular and political affairs of Indonesians continued to be guided by adat and people continued to obey the traditional bearers of political authority (Benda 1972:86; 1983:22).

Snouck Hurgronje's views on Islamic policy were only part of a larger scheme, which went beyond the immediate needs to a wider vision of the future. This larger vision was based on three central considerations. Firstly, Islam could be expected only to acquiesce in coexistence between Christian rulers and Muslim subjects. Secondly, although the adat institution formed the traditionally most powerful barrier against Islam and although their representatives were thus the obvious allies of the colonial power, adat, because of its intrinsic conservatism as well as local particularisms, could not be expected to stem the expanding influence of the dynamic and universalistic faith of the Prophet. Finally, in spite of the fact that in many areas of Indonesia Islam had been not only the beneficiary of the changes, but was in fact expanding its hold at the expense of adat, Islam held no keys to "healthy" social growth (Benda 1983:25).

Moreover, it is also important to pay attention to the mainstream view of the legal system of the Dutch administrators. Before the end of the nineteenth century it was generally thought that the laws that regulated indigenous society were basically Islamic. Carel Frederik Winter (1799-1859), Salomon Keyzer (1823-1868) and Lodewijk Willem Christiaan van den Berg (1845-1927) supported this theory. Van den Berg names this theory *Receptio in Complexu*. He emphasized that Islamic law regulated Muslim society, because Muslims held Islam as their religion (Thalib 1982:15-16). Thus to train the colonial administrators their education required some Islamic study. To this end classical Islamic jurisprudence books were included in the curriculum in the Dutch education institutions where the future civil servants were trained, such as in The Military Academy at Breda and The Academy for Civil Servants in Delft. The government facilitated these institutions by publishing texts on Islamic jurisprudence, such as *Kitāb Tuḥfah* by Ibn Ḥajar al-Haytamī, and the *Mir'ah al-ṭullāb* by 'Abd al-Ra'ūf al-Singkilī (Boland and Farjon 1983; Kaptein 2001:104).

At the end of the nineteenth century, the legal system of thought totally changed and Islamic law was no longer considered by the Dutch to foundation of society, instead adat, supplemented by a number of rules coming from Islamic Law, look its place (Kaptein 2001:105). Two outstanding Dutch scholars; Snouck Hurgronje and van Vollenhoven promoted this conceptual change. They were against Van Den Berg's *Receptio in Complexu* theory and promoted a new theory named the *Reception Theory* indicating that adat law, not Islamic law, regulated society. Islamic law could be accepted only after it had been absorbed into adat, thus it was not Islamic law anymore, and it was adat law instead (Thalib 1982:22-23). Thus, adat law was held to be the dominant social regulator under the Dutch East Indies administration in the late of the nineteenth century. In implementing this theory, the government firstly changed R.R 1854 articles 75 and 78 to Staatsblad.1929: 221 in which Islamic law was taken out of the judicial system of the Dutch East Indies. Thereby Islamic law is only in the jurisdiction of Islamic courts solely limited to marriage (Thalib 1982:25-43). This change meant that Islamic law became subordinate to adat law. In terms of promoting of adat, Van Vollenhoven was the architect of the division of the Dutch East Indies into nineteen separate geographical regions which were regarded as consisting of ethnographically and culturally homogeneous people (Roff 1985:13; Kaptein 2001:105).

We may now turn to the application of Dutch government legal policy in response to Aḥmad Khaṭīb's views on the rules and practices of Minangkabau adat in order to see whether the government still stuck to its policy. The Dutch East Indies Government reacted to Aḥmad Khaṭīb's views by codify Minangkabau adat, in which secured the power of the *penghulu*, and protected adat against the corrupting influence of Islam (Abdullah 1966: 208). In addition, it also had a plan to prevent Aḥmad Khaṭīb's writings from being spread in the area, (Gobée and Adriaanse 1965:1851). Meanwhile, the government was using adat to their power, for example adat functionaries held positions in the government administration such as heads of districts. In other words, the government was definitely concerned with the continuity of adat to reduce the threat of local outbreaks of islamically inspired resistance.

The Dutch East Indies government requested the opinion of Snouck Hurgronje who worked as the Advisor for Native and Arab Affairs. Snouck Hurgronje received letters from the governor of Sumatra's West Coast in Padang, the Director of Justice in Batavia,

the director of Education (*Directeur van Onderwijs, Eeredienst en Nijverheid*) in Batavia, the Dutch Consul in Jeddah, and the secretary of the government in Batavia concerning the government's plans relating to the writing of Aḥmad Khaṭīb.

Snouck Hurgronje wrote at least six letters in replying to those letters; two of which focused on the codification of Minangkabau adat, dated at 18 April 1893 and 10 August 1904, and four other letters which referred to the content of Aḥmad Khaṭīb's writings, which were dated at 29 September 1894, 29 October 1894, 19 August 1895, and 18 November 1895. Referring to the date of those letters, it is obvious that responses to Aḥmad Khaṭīb's writings have begun since the first book, *al-Dā'ī al-masmū'*, circulated in Minangkabau.

As mentioned above, the government initially reacted to Aḥmad Khaṭīb's views with a plan to codify Minangkabau adat in order to protect adat functionaries and adat itself from the attack of Islamic leaders who wanted to replace it with Islamic Law. Moreover, the government realised that this struggle could disturb the relationship between the government and the adat functionaries. In the other words, this plan was not only to protect adat and its leaders but also to strengthen the government position in the area.

Snouck Hurgronje disagreed with the plan to codify Minangkabau adat (Gobée and Adriaanse 1957:708). The Director of the Department of Justice and the Dutch Indies Council had similar views, and accordingly the government accepted Snouck Hurgronje's opinions (AB 1913:40-47). Elaborating on this, Snouck Hurgronje did not only mention his arguments in support of his views but also mentioned his views on the theory of adat law. He argued that there were two difficulties in codifying adat regulations that are not only relevant to Minangkabau but also adat in general. He argued that adat rules were continuously changing in every place and across time. Consequently, to codify adat rules, one particular adat law would have to be chosen above another from a different place, and furthermore establishing a far criterion for selection would be difficult. Also, some different opinions are made among different adat functionaries concerning one or more cases, but, again, it is difficult to determine whose opinion among them is more appropriate for people to follow (AB 1910:25-26).

Besides those difficulties, Snouck Hurgronje estimated that for the codification to be successful in some other parts of adat would have to be ignored. It would also imply that some people would be forced to obey new adat rules, which differed from theirs. As a

result, adat would lose its ability to adjust itself to changing situations. Moreover, Snouck Hurgronje was convinced that the codification of adat rules would be based on European law principles, which could imply that the codification deviated from the promoting of, and protection of, adat rules as, which was the original aim of this policy (AB 1910:26-27). According to Snouck Hurgronje, there was no need to codify adat rules (Gobée and Adriaanse 1957:695).

Snouck Hurgronje seemed to understand that the idea of protecting adat rules by codification did not solely come from the government, but also from adat functionaries who had proposed it to the government. The government also held the opinion that religious controversy was not conducive to government economic and political power (Abdullah 1985:142; Gobée and Adriaanse 1957:695, 716).

Snouck Hurgronje further mentioned in his writings that the Minangkabau adat matrilineal system had the potential to transform into a patrilineal system or a mix of both (AB 1910:28). Snouck Hurgronje believed that the matrilineal system would vanish as a consequence of the influence of the government's policies, education, communication, and most importantly because people worshipped a religion which showed no tolerance for allowing its adherents to obey other rules besides Islamic law. A view certainly espoused by Aḥmad Khaṭīb. As an example, Snouck Hurgronje pointed out that the matrilineal system had changed into a patrilineal system in Aceh, as well as in some parts of West Sumatra (Gobée and Adriaanse 1957:708; 1965:1849). Snouck Hurgronje apparently believed that the matrilineal system would transform into another system which was in accordance with Islamic Law. In the end it would mean that people were following Aḥmad Khaṭīb's callings which were supported by Islamic teachings which have been being taught in the area (Gobée and Adriaanse 1965:1849).

However, Snouck Hurgronje also pointed out that people could not be forced to obey Islamic Law. To support this argument, he referred to the leaders of Padri movement who forced people to obey Islamic law and to ignore adat rules. The movement had been unsuccessful because people could not be forced to replace the matrilineal system with another system that was in line with Islamic teachings (Gobée and Adriaanse 1957:708).

Snouck Hurgronje emphasised that codification of adat rules would not help in protecting it from Muslim propaganda which fought to replace adat rules with Islamic Law. Codifying adat rules

would produce a negative image among the indigenous people of the government as well as causing Islamic conservatism. More importantly, adat rules would become static (Gobée and Adriaanse 1965:1850). Snouck Hurgronje realized that the government had difficulties with regulating this position, because it was difficult to determine whether someone opted for Islamic law voluntarily or under moral pressure (Gobée and Adriaanse 1957:716-719).

In one of letters, 29 September 1894, concerning Aḥmad Khaṭīb's writings, Snouck Hurgronje's summarized the content of the controversial books.

Het boekje bevat, gelijk men uit het boven aangeteekende kan opmaken, geene enkele leerstelling of beginsel, die men niet terugvindt in de gezaghebbende Mohammedaansche wetboeken, welke in den geheelen Archipel en ook in de soerau's der Padangsche Bovenlanden sinds lang gebruikt worden bij het onderwijs in de wetten van den Islam.

Zelfs den ongeletterden Minangkabauhr is het sinds lang bekend, dat zijn inheemsche erfrecht niet het Mohammedaansche is en dat de vertegenwoordigers der Moslimsche wet ook ten zijnent de invoering van dit laatste eischen. Zij, die op de soerau's eene meer systematische kennis opdoen, weten ook zonder van de verhandeling van Ahmad Chatib kennis te nemen, dat het kemanaka-erfrecht eene volgens de Moslimsche wet doemwaardige instelling is, welker toepassing met ernstige belijdenis des Islams niet gepaard kan gaan.

De vraag, die Ahmad Chatib behandelt, is dan ook sinds lang eene brandende, zij vormt vaak een onderwerp van discussie tusschen geleerde en ongeleerde Minangkabauhrs, waarin ook Mohammedaansche vreemdelingen (men begrijpt in welke richting) zich gaarne mengen.

Her eigenaardige van Ahmad Chatibs geschrift bestaat dus niet in de stellingen, die daarin worden verdedigd, noch in de argumenten, waarmede zulks geschiedt, maar in den vorm en de rangschikking dier uitspraken met het oog op de toestanden in des schrijvers vaderland en in de krasse vermaningen, die hij daaraan laat voorafgaan en daarin vlecht (Gobée and Adriaanse 1965:1848).

In short, in the eyes of Snouck Hurgronje the content of Aḥmad Khaṭīb's writings could be traced to the other texts on Islamic jurisprudence which were commonly taught in institutions of Islamic education in the archipelago, such as in the *surau* centres for religious studies which were the only places of Islamic teaching in the villages. Snouck Hurgronje said that people, particularly in Minangkabau, knew that adat rules of inheritance were not in accordance with Islamic law even without having read Aḥmad Khaṭīb's writings. Long before the distribution of Aḥmad Khaṭīb's writings in the

area, practices and rules of adat in relation to inheritance had been a subject of debate among people. Snouck Hurgronje pointed out that the writings of Aḥmad Khaṭīb only brought a new perspective to this debate as his arguments about adat rules were very polemical and straightforward. Consequently, Snouck Hurgronje thought that the books would not be harmful to adat rules in particular or to the society as a whole. Thus, he disagreed with the government's plan to ban the books from circulation. He further argued that banning the books would not gain any advantages for the government. On the contrary, it would only serve to make people curious about the books. Snouck Hurgronje proposed that the government should observe people who, after having returned from Mecca, were keeping in touch with Aḥmad Khaṭīb in order to spread political propaganda (Gobée and Adriaanse 1965:1914 -1917).

On behalf of the government, the governor of Sumatra's West Coast officially decided in 16 January 1894 not to codify Minangkabau adat and not to ban Aḥmad Khaṭīb's books from circulation in the area. Instead the government decided to conduct research for ethnographic a purpose which was to focus on Minangkabau adat (AB 1913:47).

To conclude the government's responses to Aḥmad Khaṭīb's writings it can be said that initially the government was clearly concerned not to attack Aḥmad Khaṭīb because this would cause instability in the area, or decline in adat practice. The root of the conflicts between adat functionaries and 'ulamā' that caused hostilities such as in the beginning of nineteenth century must have been taken into account by the government. The initial plan of the government was to codify adat rules and to ban Aḥmad Khaṭīb's writings. These actions aimed to prevent new conflicts between the two groups that could obstruct the Dutch East Indies government position; this decision was solely political. In addition, it is reasonable to assume that the government heeded those plans at the suggestion of adat functionaries who were afraid that the influence of other views could effect their position as rulers for the natives.

Snouck Hurgronje understood the government's role in terms of preventing conflict between adat functionaries and 'ulamā', and his advice reflected that he had extensive knowledge of both Islamic teachings and adat. As an outstanding scholar in his field, he advised the government not to codify adat, because this would not prevent it from being attacked by 'ulamā' who had been struggling to bring adat rules into line Islamic teachings. In other words, adat

would change by itself without interference. According to Snouck Hurgronje, the matrilineal system, such as found in Minangkabau, was only one stage of societal development; it would change if society changed.

With regard to the content of the books, Snouck Hurgronje said that Aḥmad Khaṭīb's writings were exclusively on Islamic teachings, and they did not relate to political affairs. Snouck Hurgronje was highly objective in saying that the writings of Aḥmad Khaṭīb were not have extraordinary compared to other Islamic jurisprudence books which were being used in Islamic educational institutions. However, peculiarities of Aḥmad Khaṭīb's writings were not to be found in his arguments, which were heard of before Aḥmad Khaṭīb's books began to be distributed in the area. Rather, they were to be found in Aḥmad Khaṭīb's discourse on adat. Thus, Snouck Hurgronje advised that there was no need to codify adat rules in order to protect them from the influence of attempts of 'ulamā', as well as there was no need to ban the books in the area. Finally, the government agreed with Snouck Hurgronje's opinion and did not codify adat laws or ban the books. Thus, it is clear that the government policy towards the writings of Aḥmad Khaṭīb was apparently in line with the Islam policy of the Dutch East Indies government, in which the government should not interfere with religious affairs as long as these were not related to political affairs.

#### *Responses from Adat Functionaries*

At the turn of the nineteenth century, people faced a major challenge from an orthodox religious reform movement in which three Minangkabau pilgrims began a movement to reject the idea of a compromise between adat and Islam. Rather than purity of heart, they emphasized on outward manifestation of religiously correct behaviour. They also condemned the Minangkabau adat and its manifestation in the society (Abdullah 1972:5). Conflict between 'ulamā' and adat functionaries erupted in what became known as the Padri War (1821-1837); 'ulamā' organized their power and attacked people who they thought were disobeying Islamic law. They burnt markets and houses which were used for gambling, and drug transaction amongst other. Adat functionaries and their followers performed counter attacks, such as burning mosques and the houses of 'ulamā' (Hollander 1857; Radjab 1954; Dobbin 1983). This conflict reached its peak in 1819 at the time when adat functionaries



approached the Dutch East Indies government in Padang to assist them in facing the Padri movement. Between them, the two groups reached an agreement to fight the Padri. Since that time, the control of the Dutch East Indies government had reached the Minangkabau highlands, and in the following years battles occurred between the government and the Padri forces until 1837 (Dobbin 1983:117-193). Although this war came to an end in 1837, conflict between these groups did not cease.

When the war ended, it became obvious that the Padri movement had not substantially changed the Minangkabau political and social structure, although it had strengthened the force of religion and had enlarged its scope throughout the social system (Abdullah 1966:11). A new formulation of adat was introduced which emphasized the contrast between *adat jahiliyya*, ignorant adat, and *adat islamiyya*, adat in accordance with Islamic law (Abdullah 1972:6). These terms were promoted by 'ulamā' in order to judge adat which they thought were not in accordance with Islamic teachings. Meanwhile, after the war ended, adat functionaries held new position in the Dutch East Indies administration. A powerful Dutch governor, and a functional supra *nagari* organization replaced the sacral royalty, formerly the mediating influence among the *nagari*. The *nagari* council remained the power centre of the individual *nagari* but it was placed in the office of the *tuanku laras*, who acted as the adat, and administrative, head of a *nagari* federation or *laras*, and who was appointed by the Dutch East Indies government. Instead of *balai*, it was now the *tuanku laras* who made binding decisions in adat as well as administrative matters. Now the *tuanku laras* had a double responsibility; as an adat leader and as administrative head of a *nagari* federation, whereas previously they had been adat functionaries only.

We now turn to the reactions of the adat functionaries, whose position had been strengthened during the nineteenth century, to Aḥmad Khaṭīb's views on the rules and practices of inheritance according to Minangkabau adat. Unquestionably, adat functionaries reacted strongly to Aḥmad Khaṭīb's writings because they were worried that his views would effect their position in the society. The main criticism came from one adat functionary, Datuk Sutan Maharaja, a well-known personality in Sumatra's West Coast not only because of his family background and aristocratic standing, but also because of his involvement in journalism (Adam 1984:248). As *penghulu*, a position he had inherited from his uncle, his title was Datuk Sutan Maharaja. He belonged to the first generation of

'Western-educated' Minangkabau due to his early association with the Dutch government.

His personal name is Mahjuddin, but adat requires that a *penghulu* must always be referred to by his title (Abdullah 1972:214). He was strongly hostile towards the Padri movement and their alleged followers. His paternal great-grandfather had been killed in the Padri war and his grandfather was a leader of an anti-Padri faction in Sulit Air (Schrieke 1919:275). After Sulit Air was conquered by the Dutch in the mid-1820s, his grandfather became commander of the Sulit Air contingent against the Padri movement, and the Dutch government appointed him the first *tuanku laras* of Sulit Air in 1860. His son, Datuk Sutan Maharaja's father, succeeded him as the second Tuanku Laras (Abdullah 1972:214).

Datuk Sutan Maharaja was educated in an elementary school in Padang. He became an apprentice of the *Jaksa* (Public Prosecutor) in Padang in 1876, and was promoted to the rank of *Adjunct Jaksa* (Deputy Public Prosecutor) in Indrapura in 1882. A year later he served as *Adjunct Hoofdjaksa* (Deputy Chief Public Prosecutor) and was a member of *Kongsi Anak Radja-Radja* (Association for the Sons of the Nobility). He was made *Jaksa* in 1888, and when he resigned from his job as *jaksa*, he became editor of *Pelita Ketjil* which was later retitled *Warta Berita*. After 1892 he became a full-time journalist and began to use his pen to assert his convictions and views regarding the society and environment in which he lived (Adam 1984:253-254). With this background, it can be understood why he became one of the leading figures who criticised Aḥmad Khaṭīb's views on adat rules.

Datuk Sutan Maharaja saw Aḥmad Khaṭīb's attack as a sign of the re-emergence of a new Padri Movement, and he warned against this supposed trend, which had created a deep crisis in Minangkabau in the past. He organized a *Kongsi Adat* (Adat Association) to defend adat against the encroachment of the 'Meccan people', which he named *the Kongsi Padri* (Padri Association) (Schrieke 1919:275-276). In addition to establishing adat association, he wrote his rejections to Aḥmad Khaṭīb's views in some newspapers in Padang, including *Pelita Ketjil*, (Little Light) in 1894, then *Warta Berita* (News Report) in 1895, *Tjahja Soematra* (Light of Sumatra) around 1904-1910 and *Oetoesan Melajoe* (Malay Messenger). He had a correspondent in Mecca to help him to circulate his writings there but the target readers of the publications were people who came from Minangkabau to perform pilgrimage or settle there (Schrieke 1919:275).

Datuk Sutan Maharaja strongly defended adat from the influence of the 'ulamā', particularly Aḥmad Khaṭīb who wanted to replace adat rules with Islamic law. Schrieke cites Datuk Sutan Maharaja's words to remind his followers:

"Pas op, laat de "Padri"-tijd niet terugkeeren, wij Minangkabauers moeten er voor zorgen onze zelfstandigheid niet te verliezen door ons in handen van Mekkanen te stellen. Het goede land van Minangkabau met zijn schoone vrouwen is immers op zich zelf al het paradijs vergeleken bij het snikheete Arabië, waar de (minder begaafde) zwakke sexe zich terecht sluiert" (Schrieke 1919:275-276).

In the quotation above, Datuk Sutan Maharaja clearly stated that adat functionaries had to prevent the re-emergence of a new Padri Movement, as "people should not give their freedom to Meccan people by changing adat rules into Islamic law". By saying Meccan people he obviously meant Aḥmad Khaṭīb who was well-known as a teacher of Islam, an imām and one of the outstanding 'ulamā' in Mecca. Due to his position as an imām and a teacher of Islam, Aḥmad Khaṭīb could easily influence the many Minangkabau people who were studying with him in Mecca. However, by trying to elevate the self-consciousness of the people, Datuk Sutan Maharaja underestimated the regard of the Meccan people.

As mentioned above, Datuk Sutan Maharaja defended adat through his writings. One of his writings was published in *Oetoesan Melajoe*<sup>13</sup> dated 28 February 1911 no.17 and it was republished in *Adatrechtbundel VI* (AB 1913a).<sup>14</sup> In it, Datuk Sutan Maharaja argued that ancestral property was all bequeathed from ancestors and inherited by the sister's children, and that this property did not belong to individuals among the clan members, but belonged to the clan. The properties was under control of a clan leader, and was allowed to be sold or pawned only under certain conditions; firstly, to finance funerals of deceased of clan members, and secondly, to finance the ceremonial marriages of old-unmarried-women of the clan. Datuk Sutan Maharaja only mentioned two of the four reasons in this article, and added two other reasons in another article namely, to finance rehabilitation of clan houses, and to support the ceremonies of adat functionaries. He implicitly argued that property according to adat was different from property which was regulated under Islamic law (AB 1913a: 225-226). In another article which was published in *Oetoesan Melajoe*, dated 7 March 1911 no.19, he further elaborated that ancestral property according to adat rules includ-

ed; forests, farms, plantations, all trees, buildings, and animals (AB 1913a: 224). Thus, ancestral property covered all property of the clan in the village.

From the response of the adat functionaries to Aḥmad Khaṭīb's views it can be seen that adat functionaries felt they had a responsibility to protect adat from the influence of 'ulamā' who tried to change its rules by way of Islamic teachings. Their fierce response also shows that they were protecting their position as rulers of the adat society as well as their position in the Dutch East Indies administration, such as the *tuanku laras*. In order to protect adat and their social status they were not only publishing in local newspapers and magazines which belonged to adat functionaries, but they also organized *Kongsi Adat* (adat associations) which aimed at promoting adat itself as well as preventing the influence of 'ulamā'. The *Kongsi Adat* was established in Padang and had some branches not only in Minangkabau and also extending to Tapanuli (Schrieke 1919:276).

The responses of the adat functionaries looked sharp. In my opinion, this was caused by three factors. Firstly, Aḥmad Khaṭīb's ideas were felt to be a continuation of the struggle of Islamic leaders at the beginning nineteenth century which had led to an internal war between adat functionaries and the 'ulamā'. Even though Aḥmad Khaṭīb himself lived in Mecca, his ideas were highly provocative and might be followed by other Islamic leaders who had similar views, and who could organize themselves locally to begin a new movement. This Padri phobia was reflected in Datuk Sutan Maharaja's expression *Pas op, laat de 'Padri'-tijd niet terugkeeren* (watchout! Do not allow the Padri movement to come back!). The reason this did not happen was because most of the 'ulamā' became involved in mysticism which spread through the whole area of Minangkabau, and solely became the teachers of Islam in religious education institutions, such as *surau*. In fact, only a few of them followed Aḥmad Khaṭīb's ideas of forcing people into obeying the Islamic laws of inheritance. However this was an unorganized struggle, such as that of Haji Yahya who was finally exiled by the Dutch East Indies government to Ambon in 1904.

Secondly, adat functionaries were offended that Aḥmad Khaṭīb saw Minangkabau adat rules as un-Islamic (*jahilt*) customs and that he proclaimed that who whoever followed these rules would become apostates. Defending adat, adat functionaries came up with a counter argument concerning the type of property to be inherited. Thus, Islamic law could not be applied to property which was

regulated by adat rules because that property did not belong to individuals but rather to clan members and was under control of the clan leaders. Thus, in the eyes of adat functionaries, following adat rules for inheritance purposes did not make that person an infidel. People were still good Muslims if they obeyed Islamic teachings such as performing prayers, fasting, pilgrimage amongst others (AB 1913a:223).

Thirdly, the struggle from 'ulamā' to replace adat rules with Islamic teachings threatened the position of adat leaders in the society, as replacing adat rules would also mean that the social structure of society would be changed in accordance with Islamic teachings. However, continuing adat would mean that the adat functionaries could maintain their access to privileged connection as rulers of adat society and they would have an opportunity to become administrators in the Dutch East Indies administration.

The responses of the adat functionaries are a reflection of the social construction of a society in which they had vested interest. However, they also had another essential argument with which to reject Aḥmad Khaṭīb's arguments. They argued that there was no contradiction between adat and Islam even though both are apparently different.

To conclude, the ferocious response of adat functionaries to Aḥmad Khaṭīb's writings, were mostly caused by the following two reasons. Firstly, tension was building up between the 'ulamā' and adat functionaries at the beginning nineteenth century. This tension began when 'ulamā' advocated that Islamic law was to be followed across all aspects of society. This promotion of Islamic law to the people finally led to the emergence of a conflict between the 'ulamā' and adat functionaries. In the eyes of the adat functionaries, Aḥmad Khaṭīb's writings were regarded as a continuation of the struggle of the Padri leaders because his views were in line with the Padri ideas. In this light, it makes sense, however, that Datuk Sutan Maharaja proclaimed that the Minangkabau adat was much better than the Arab tradition in which Islamic law was obeyed.

Secondly, the fierce response of adat functionaries was caused by the fact that Aḥmad Khaṭīb's books were the first which aimed at attacking the rules and practices of inheritance according to adat. Before these books were written, condemning adat was only done orally in public places such as mosques and other religious institutions in which the audience were unquestionably limited. Attacking adat through writing was extremely different from doing it orally since the books had a wider audience than face to face communi-

cation and they could be re-read. Interestingly, adat leaders rejected Aḥmad Khaṭīb's idea also through writings which were published in some publications which belonged to adat functionaries. Unfortunately, it has not yet confirmed as to how many people had access to them because of a high level of illiteracy.

In a broader sense, Aḥmad Khaṭīb's views did not solely condemn the rules and practices of inheritance according to adat, but they also aimed at further changing the social structure of Minangkabau society which had already begun to change. For instance, according to Islamic law a father should be responsible for his children and not for his sisters' children as stipulated by adat rules. In the same manner a husband should be responsible for his wife and not for sisters according to adat. Additionally, children should pay respect to their parents and not to their uncles according to adat. Unfortunately, I did not find any arguments of adat leaders to reject Aḥmad Khaṭīb's views concerning these social changes.

Although the struggle of 'ulamā' to change adat continued during the beginning of the twentieth century, the fact remains that adat still managed to survive. We can, then, propose a further question: why did adat rules of inheritance survive? The answer to this question will be dealt with later in which we explore the viewpoints of other 'ulamā' on the rules and practices of inheritance according to adat. We will also examine how other 'ulamā' attempted to answer questions, on the compatibility of adat inheritance rules with those of Islam.

### **Towards a Compromise Between Islam And Adat**

Tension between adat functionaries and 'ulamā' had been continuing up to the beginning of the twentieth century when a new generation of 'ulamā' appeared who had studied of Islam in Mecca, mainly under Aḥmad Khaṭīb. Shaykh Thahir Djalaluddin, Abdul Karim Amrullah, Djamil Djambek, Abdullah Ahmad, Khatib Muhammad Ali, Shaykh Muhammad Dalil, Shaykh Gapuk, Shaykh Muhammad Thayib, Shaykh Abdul Halim, Shaykh Muhammad Yatim, Shaykh Khatib bin Qasyim, Shaykh Muhammad Djamil, Muhammad Thaib Umar, Shaykh Abbas Abdullah, Shaykh Ibrahim Musa, Zainuddin el-Yunusy, Shaykh Saad Mungka, Tuanku Bayang, Shaykh Suleman Rasuli, Shaykh Djamil Djaho, and Shaykh Djalauddin Radjo Endah all belong to this generation. They directly experienced and observed the practices of inheritance, and imple-

mented discussion on the rules and practices of inheritance. Related to new news of adat on inheritance, some question such as: What were their views on the adat of inheritance? Did they have similar or different views from Ahmad Khaṭīb? What was their legal reasoning? Was there any proof that their views were followed? The views of 'ulamā' have been limited to only, Khatib Muhammad Ali and Abdul Karim Amrullah, because they are believed to be pioneers in promoting different views on adat rules on inheritance, and their views can be easily traced. Before discussing those views, I will describe briefly the social setting of Minangkabau in the beginning of the twentieth century.

### *Minangkabau at the beginning of the Twentieth century*

The total population of Minangkabau on Sumatra's West Coast, according to the census of 1920, was over 1.505.561 inhabitants, and according to census of 1930 had increased to 1.800.000 inhabitants (Maretin 1961:175; Graves 1971:24-25). This shows that the population growth in ten years was no less than 30 percent the role of money had gradually begun to penetrate all sectors of the economy in the daily life of Minangkabau in the first decade of the twentieth century. Money was needed to pay the increasing number of taxes and duties, to pay off loans and interest of loans, to buy articles of primary necessity formerly manufactured locally such as clothing and footwear, and to buy foodstuffs (Maretin 1961:176). Formerly, money was needed only in a few cases such as repairing the decayed family house, giving a daughter in marriage, the funeral of family member, or festive installation of a *penghulu*. The penetration of Western added capital to the internal forces undermined the pre-modern economy of the area which gained the upper hand. Cases of mortgaging of family-land became more frequent and the stratification of the community was greatly sped up. People went to the plantations as agricultural workers or they joined the ranks of railroad workers and miners.

In agriculture, hired labour was already not only employed on the plantations owned by foreigners or members of the ruling clique, but many farmers who had grown rich resorted to hire labour, not only for the cultivation of commercial crops but also for the tillage of their rice-fields. The transition from a pre-modern to a commodity driven economy and the fact that local agriculture was more drawn into the sphere of the world economy in connection of introduction

with the commercial crops, gave rise to profound changes in the social life of the area (Maretin 1961:177). All this formed an impetus to the changes occurring in family and marriage relations. The stratification of the peasantry and the break-up of the matrilineal family had gone farthest and the process of formation of small families had accelerated. There is no doubt that the 'ulamā' played an important, though not the main, role in the breakdown of the matrilineal system underlying Minangkabau life. In addition, the transition to a nuclear family was also greatly furthered by emigrants.

To emigrate (*merantau*) had indeed been part of Minangkabau life for a long time, but in recent times far more families emigrated as a family (Maretin 1961:180; Naim 1974:140-141). Joustra observed in 1920 that there were well-known respected Minangkabau who either had returned to their country with a wife from abroad, or were born there from a mixed marriage. Thus, the institution of the matrilineal system of families and people was lost (Joustra 1920:95).

In the words of Schrieke the penetration of a cash economy led to a growing individualism (Schrieke 1955:114). The growth of individualism can oblige people to mortgage their land. The consequence of this action is the slackening of family ties, and adat regulations. Land pledging was a great obstacle to the penetration of a cash economy, as cooperation was required; without it even the guardian of the family property was not permitted to transfer or pledge that property. Pledging must furthermore not occur without the agreement of the clan members. So, the clan members must be convinced of the necessity of the transaction. The individualizing effect is also characterized by the slackening of matriarchal family ties. This was partly the result of severe land tenure restrictions and partly the cause thereof. It also made such adat houses rarer. Schrieke observed that in the highland areas where commercial crops were grown, it often happened that a man after some years of married life took his wife to a house of his own. Only in the isolated villages where the male population often moves away, are the laws governing hereditary property still rigorously kept, such as in Koto Anau, Solok and in many places in Payakumbuh where women are not supported by their husbands but by their brothers (Schrieke 1955:115-1917).

Above it has been shown that the social system had been changing towards individualized society. Accordingly, this change influenced the ownership of property in certain areas of Minangkabau. The growing inheritance right in the father's line should be read as



representative of the growing practices of giving property to children by way of *hibah*.

Frans von Benda-Beckmann refers to three cases of court decisions where self-earned-property was divided to children: a judgement of the *Landraad* of Padang in 1917, according to self-earned-property gave the division of property of a living family member to children. In the area of Padang self-earned-property or at least part of it could be bequeathed to children. The *Landraad* of Padang Panjang stipulated that property went to children who received it by pawning of their parents, but clan members claimed it as ancestral property according to adat.

Differing from these three cases, courts nowadays are more likely to support the individual as long as the person has not disposed of his property outright; self-earned-property is inherited by his clan members or sister's children (Von Benda-Beckmann 1979:335-336). Therefore, children do not automatically inherit self-earned-property, and sister's children or other clan members can claim it as the ancestral property. Hence, it can be said that there is an ancestralization of self-earned-property. However, to prevent this ancestralization of the self-earned-property it is very common to transfer the property by *hiba* (donation), *waṣīya* (testament) and *waqf* (endowment).

Schrieke said that he had observed, in some areas, that it was possible for children to obtain control of their father's self-earned-property, or a part of it, by means of a gift (*hibah*)<sup>15</sup> from the father or in the last will (*'amāna*) of the testator (Schrieke 1955:118). One of the changes most frequently commented on is the closer bonds between fathers and children, as manifested in various situations. Joustra had already observed this tendency in 1920 (Joustra 1920:132). It was also noted by van Ossenbruggen who referred to the growing popularity of the *hibah*. De Maubray pointed out that the *hiba* thus tended to weaken the unilateral cohesion of the matri-clan (de Josselin de Jong 1980:117).

The gradual modification of the laws of inheritance was rooted in the strengthening of the bond between a man and his children at the cost of his relationship to his relatives in the maternal line, a strengthening that has occurred because the father, mother, and children live together in a home of their own. Schrieke considered that this gradual social development was also influenced by the 'ulamā' who had been unconsciously availing itself in the effort to make its way into the social system of Minangkabau. The process is

being encouraged and hastened by the change of social mentality, which had been causing self-earned property to increase (Schrieke 1955:199). To look at whether Schrieke's opinion of these the changes was also caused by the influence of the 'ulamā', the 'ulamā' of Minangkabau in the early years of the twentieth century will be described in order to look at their activities toward an islamization of adat society.

### *The Emerge of the 'ulamā'*

The numbers of people who went to Mecca to perform the pilgrimage and to settle there to study Islam were significantly increasing every year during the second part of nineteenth century. According to Jacob Vredembregt's work, the number of Minangkabau people who went to Mecca from 1873 up to the 1953 is very significant (Vredembregt 1962:140-144). From 1873 up to 1899 the data of West Sumatra pilgrims is mixed with other pilgrims from Tapanuli which prevents us from finding out the exact number of pilgrims from Minangkabau. It may now be assumed that the number of Minangkabau pilgrims was larger than pilgrims from Tapanuli if we base this on the data since 1900 where it is evident that the Tapanuli pilgrims were far fewer than those from West Sumatra. People who went to Mecca to perform the pilgrimage were not only from religious families, but also from families that held tightly to adat. This assumption was based on that fact that people did not perform pilgrimage for solely religious reasons, but also for social reasons. In addition, people who wanted to perform the pilgrimage and study Islam were mostly from a religious background where their family members or relatives were Islamic teachers. In fact, Mecca was a place to perform the pilgrimage and also a centre of Islamic education. People who had finished their study in Mecca returned to their homeland to be Islamic teachers in the *surau*, and they became outstanding figures of the society. Perhaps, Aḥmad Khaṭīb is an exception in that he never returned to his homeland after finishing his study.

Even though Aḥmad Khaṭīb had never returned to Minangkabau he was still aware of the religious problems in the area as shown by his 46 books that mostly relate to religious affairs of the archipelago. In addition to writing books, teaching people from Minangkabau was one of his extraordinary contributions to reform in Minangkabau. Undoubtedly, the 'ulamā' of Minangkabau had studied Islam in

Mecca and they dedicated their life to disseminating Islam in the area. Some of them became *ṭariqa* teachers and the rest were Islamic teachers in the *surau*, or lately even Islamic leaders.

By the beginning of twentieth century, some of the 'ulamā' had begun to reform Islamic thought by promoting orthodoxy. This meant a change in attitudes towards religious law and an emergence of enthusiasm for modernity (Abdullah 1971:45). Some religious practices that had no reference directly to the Qur'ān and Ḥadīts were criticized. To begin their movement for example, in 1905, Abdullah Ahmad, Abdul Karim Amrullah, and his colleagues sent a letter to Aḥmad Khaṭīb in Mecca asking his views on the *ṭariqa* Naqshabandīya. They probably hoped that Aḥmad Khaṭīb's views would be accepted by the 'ulamā' who were his former students in Mecca. This does not mean that they did not have their own views about it, such as Abdul Karim Amrullah who did not want to be a follower of a *ṭariqa* where his father was its sheykh (Hamka 1983). Aḥmad Khaṭīb responded by sending his work *Izghār al-zaghli al-ka-zibīn*, in which he stated that the *ṭariqa* Naqshabandīya had no root in Islamic teachings and condemned it as *bid'a ḍalāla*. Aḥmad Khaṭīb's views became an impetus for them to work more intensively in promoting their reforms.

The interrelated programs of reformist groups led to open confrontation between heterodox *āariqa* leaders, traditionalist religious teachers, and adat functionaries (Abdullah 1971:45). After this, former students of Aḥmad Khaṭīb were forming conflicting groups; the *Kaum Muda* (reformist group) and the *Kaum Tua* (traditionalist group).

The pioneers of the *Kaum Muda* began to combine the drive for orthodoxy with a strong appeal for the use of reason and a consequent repudiation of the *taqlīd* attitudes that meant obedience to established textual authorities. This group determined that any school of law should no longer bind them. In the field of Islamic teachings the *Kaum Muda* and the *Kaum Tua* became religious opposites. Public debate had shown that the two groups of 'ulamā' could not find common ground on which to make their religious judgments. They debated on trivial doctrinal (*khilāfiya*) matters<sup>16</sup> which included 18 problems, such as *berdiri mawlid* (standing while reciting the history of Prophet), permissibility of the *ṭariqa* Naqshabadiyya and *Saṭṭariyya*, vocalizing the vow at the beginning of prayers, visiting graves, and among others (Ahmad 1924; Ali 1919). In the eyes of the *Kaum Tua*, the *Kaum Muda* were *Wahhābis* (Yunus 1981:45). In opposing the *Kaum Muda*, Adat authorities, such as Datuk Sutan

Maharaja helped the *Kaum Tua* oppose any religious movement because it would threaten their own role as the upholders of the *status quo* and social harmony (Diradjo 1955:6-55). Many articles of the *Kaum Tua* were published in the newspapers *Utoesan Melajoe*, and *Warta Hindia*. This clearly demonstrates that these groups were not only debating orally, but also through writings.

In fact, despite the apparent strength of the opposition from the *Kaum Tua* and the adat functionaries, the *Kaum Muda* succeeded to further advance the Islamic modernist movement, as a result of several factors. Firstly, the religious reformation was not apparently a new phenomenon in Minangkabau. Secondly, the *Kaum Muda* did not limit their activities to doctrinal matters, but also promoted broadly-based programs for the improvement of society. Thirdly, they emphasised activism, individual independence and frugality, stressing the importance of thrift as a means to overcome the problems of economic change. Finally, the penetration of the cash economy and existence increasingly important towns in the region provided an appropriate background for the teachings of the *Kaum Muda* (Abdullah 1971:47).

To disseminate the progressive ideas of the *Kaum Muda*, several methods were used. In the first place numerous publications such as journal *al-Moenir* in Padang (1911-1915) under the editorship of Abdullah Ahmad, Abdul Karim Amrullah, Djamil Djambek and Thaib Umar (Yunus 1971:73-74; Hamka 1982: 106-108) were utilized for articles. Moreover, they established new schools, held public debates with the 'ulamā' of the *Kaum Tua*, gave religious lectures which were the most effective medium, and maintained communication among religious experts. Journal *al-Moenir* was distributed not only in Sumatra's West Coast province, but also to other islands of the archipelago, and accordingly its progressive ideas could influence a larger group of people. Abdul Karim Amrullah pioneered the reform of Islamic education by establishing a *madrāsa* in 1914 and in 1918 named *Thawalib*. The system of education was adapted to the government educational system, in which the *halaqa* system was not used, but rather classes, tables and black boards were introduced. This *madrāsa* inspired the *Kaum Tua* 'ulamā' to establish similar educational institutions. Since that time Islamic schools were appearing like mushrooms in the area, such as *Thawalib Parabek* led by Shaykh Ibrahim Musa, *Thawalib Padang Djepang* led by Shaykh Abbas Abdullah, *Thawalib Sungajang* led by Shaykh Thaib Umar, and *Thawalib Maninjau* led by Shaykh Abd Rasyid (Djaja 1966:778).

In conclusion, it is clear that Minangkabau society in the first quarter of the twentieth century had changed. The deeper penetration of the cash economy and the increasing importance of towns provided an appropriate background for the growth of religious movements. Additionally, a phenomenon accompanying the growth of the cash economy was that of growing individualism. We can find the same clash of different tendencies in society. On the one hand there is the "traditional" attachment to the joint family, which has by no means become entirely extinct, and on the other hand the individualizing action of trade and the modern currents of life into which even the Minangkabau were being drawn because of the wealth of traditional family property which had made emigration possible. The emergence of the *Kaum Muda* and the *Kaum Tua* 'ulamā' made the religious life more dynamic, with one result being that new views toward Minangkabau adat were emerging. One important issue among these groups concerned how Islam could be applied in a society that was under adat rule, and converses how could adat rules of inheritance confirm to Islamic Jurisprudence.

### *Towards Compromise*

The rules and practices of inheritance according to adat had been an important objective of purification for Islam since the beginning of the nineteenth century, and therefore the 'ulamā' had paid much attention to it. It did not solely become their concern because of Aḥmad Khaṭīb's writings that had been circulated there, but rather because a disparity between adat and Islam existed. Some books have been written about this since printing was introduced in Minangkabau in the late nineteenth century. In addition to this, I assume that adat rules of inheritance were also chosen as a topic of discussion in the mosques and in other educational institutions. In fact, the debate on adat rules of inheritance was an important concern of the 'ulamā' and adat functionaries (Schrieke 1911:272-277). In the present priorities, mainly Khatib Ali's and Abdul Karim Amrullah's views on the adat of inheritance are studied. They are considered to be the first 'ulamā' to write about adat rules of inheritance in a way which sought a compromise between Islam and adat. Before presenting their brief biographies and views, I will mention one example of an 'ālim who was following Aḥmad Khaṭīb's views.

Haji Yahya was active as a religious teacher in Batipuh area at the end of the nineteenth century. He eagerly wanted to purify adat of

what was not in line with Islamic teachings, thus he forced people to ignore adat that was not in line with Islamic jurisprudence. This is similar with the orthodox movement that had aimed to purify adat from un-Islamic customs in the beginning at the nineteenth century. Haji Yahya had different views on the property in Minangkabau from Khatib Ali and Abdul Karim Amrullah. According to Schrieke, Haji Yahya implemented Aḥmad Khaṭīb's principles in applying Islamic rules of inheritance. Haji Yahya stated that all property in the area was unlawful and all marriages that have been conducted were illegal. He further said that people had to repent, and ordered people to repeat ceremonial marriage based on Islamic jurisprudence. Moreover, people should not have a relationship with people who have not repented yet, and moreover they were not allowed to be buried in the same cemetery as a Muslim (Schrieke 1919:274-275). Haji Yahya's opinion is definitely similar to Aḥmad Khaṭīb's views on the rules of inheritance according to adat rules, and its other consequences. The similarity between both of them, according to Schrieke, resulted from the personal relationship between Haji Yahya and Aḥmad Khaṭīb. Snouck Hurgronje also wrote, in one letter, about Haji Yahya's activities. According to Snouck Hurgronje, Haji Yahya succeeded in replacing adat rules with the rules of inheritance according Islamic jurisprudence, and Snouck Hurgronje warned that Haji Yahya's rigid outlook would not stop before he had succeeded in completely purifying adat of un-Islamic aspects. Snouck Hurgronje was also convinced that Haji Yahya was following Aḥmad Khaṭīb's views in his activities.

The case of Haji Yahya is just one case that can be traced to a direct response to Aḥmad Khaṭīb's writings. At least this case reflects that Aḥmad Khaṭīb's views influenced the 'ulamā' in the area to force people to obey Islamic jurisprudence on inheritance. Haji Yahya's activities, according to the government point of views, had caused instability in the society and finally the government exiled him to Ambon on 7 October 1904 (Gobéc and Adriaanse 1957:717-721).

### *Khatib Muhammad Ali*

Shaykh Khatib Muhammad Ali who is commonly called Khatib Ali<sup>17</sup> was a famous 'ālim in Minangkabau at the beginning of the twentieth century. The word "Khaṭīb" in his name is an additional name which indicates he had dedicated his life to be being an 'ālim. The same title was also given to Aḥmad Khaṭīb whose his grandfa-

ther was an 'alīm in Koto Gadang. Khatib Ali was born in a village at Koto Baru, Muara Labuh, Sungai Pagu, Solok in 1277/8=1861 and died in Padang in 1354/5=1936. He was one of the outstanding traditionalist 'ulamā' (*Kaum Tua*). His father was named Abdul Muthalib and died on Sunday, in 14 Rābi' al-thānī 1299 H = 4 March 1882, and his mother's name was Niyān. Abdul Muthalib was an 'alīm who taught in a *surau* in Muara Labuh. Khatib Ali had one brother, Muhammad Said Penghulu Andiko Datuk Bandaro Sati, and one sister, Siti Mariah. The adat title of his brother, Penghulu Andiko Datuk Bandaro Sati, should have been for Khatib Ali because he was the older son in his clan, but he rejected it because he preferred to be an 'alīm, and not an adat functionary.

He travelled from one village to another to study Islam in his childhood. He firstly studied with Shaykh Mustafa as well as with his father in Muara Labuh, then he went to Lubuk Sikarah, Gantung Ciri (Solok), after that to Lakitan (Kambang), and Air Haji. In his twentieth year, he returned to his village, and established a *surau* at Lakuak which aimed to be a place for his work as an Islamic teacher. Finally he became famous as *Tuaku Lakuak*. At the age of twenty he married a woman from the same village, namely 'Ummi' <sup>18</sup> on Friday, 12 Shawwāl 1297 = 17 September 1880 and later with the permission of his first wife, he married Falem on Fiday, 14 Rābi' al-awāl 1299 = 3 February 1882.

Together with his first wife he went to Mecca to perform the pilgrimage and study Islam in 1301 =1883/4. He studied Islam with the 'ulamā' in the Masjid al-Ḥarām. After seven years of study, he received a license to teach (*ijāza*) from Shaykh al-Sa'id Bakr, dated 12 Dhū al-qā'da 1306 = 9 July 1889, and a *ijāza* of *Dalā'il al-khairāt* from Shaykh Aḥmad Madīna al-munawara, dated 15 Dhū al-qā'da 1307 = 3 July 1890. He and his wife returned to Muara Labuh in 1307=1889/1890 and he worked as an Islamic teacher in the *surau* there.

After three years of teaching, in 1310=1892/1893, he went to Mecca again to perform the pilgrimage and to continue his study of Islam. This time his second wife, Falem, accompanied him. During this second stay, he studied in Mecca for five years with Uthman Fausy al-Khalīdy Jabal Qais, Aḥmad Khaṭīb al-Minangkabāwī, Shaykh Sa'udasy, and Shaykh Aḥmad Ridwan (Madinah). For this, he received a license to teach of the *ṭarīqa Naqshabadiyya* from Uthman Fausy, dated 10 Dhū al-qā'da 1314 = 12 April 1897, a license to teach from Aḥmad Khaṭīb, dated 20 Dhū al-qā'da 1314 = 22 April 1897,

and a license to teach recitation of the Qur'an (*qirā'a*) from Maulānā Shaykh Sa'adashy. During this second stay he had two children, whom he named Muḥammad Husen, (born on Thursday 19 Rabī' al-awāl 1312 = 20 September 1894) and Aisya, (born on Monday, 16 Dhū al-qā'da 1312 = 11 May 1895), who was commonly called *Gadis Mecca* (the girl of Mecca) in Muara Labuh. After returning from Mecca he lived in Muara Labuh and continued to teach Islam there.

At the beginning of the twentieth century he decided to move to Padang because the greatest number of his students came from the region. In addition to this, he had two wives from Padang namely Sijuri from Palinggam and Siti Rakibah binti Shaykh Saad Mungka from Ranah. In Padang he became acquainted with other 'ulamā' who had studied Islam in Mecca, including Syekh Bayang, Shaykh Gapuok, Syekh Muhammad Thaib, Shaykh Abd al-Halim, Shaykh Muhammad Yatim, Shaykh Khatib bin Qashim, Shaykh Muhammad Jamil who were also the former students of Aḥmad Khaṭīb in Mecca.

After living a long time in Padang, he established his own *surau* in Parak Gadang in 1919 and he also built a *madrāsa* of the *Irsyādiyya* in 1923. Khatib Ali work together with Sulaiman Rasuly, Muhammad Jamil Jaho, Abbas Padang Lawas, Abdul Wahid Tabek Gadang, M.Arifin, Machudum and Muhammad Yunus established PERTI (Persatuan Tarbiyah Islamiyah - The Islamic Education Association), 5 May 1928, in Candung, Bukittinggi. This an organisation associated with the Shafi'īya School. Khatib Ali made no compromises in the religious affairs, which he based on the Shafi'īya School. He was apparently active in protecting the Shafi'īyya School and the government put him into gaol on 5 May 1911, releasing him on 15 July 1911 and again on 31 July 1911 on suspicion of subversive activities. The *landraad* finally released him in 12 August 1911 because of lack of proof (Yunus 1981:51).

Khatib Ali wrote some books. Unfortunately, not all of his writings can be found at the present and only six books are available in the Leiden University Library. According to his dairy, which is quoted by Yulizal Yunus, Khatib Ali wrote 29 monographs. Khatib Ali's books are mainly about Islamic teachings: *ṭarīqa*, theology, Islamic jurisprudence, Methodology of Islamic jurisprudence, Arabic, history of the Prophets, and the Feast days of Islam.

Khatib Ali was associated with the traditionalist group who were the defenders of the Shafi'īyya School. The tension between tradi-



tionalist and reformist groups gradually increased and both became involved to heated-polemics on religious topics. To reduce this tension, Schrieke attempted to mediate between these groups by holding a forum from 12-15 July 1919 in Padang, with Schrieke himself as its chairman. Shaykh Khatib Ali, Shaykh Muhammad Saad Mungka, Shaykh Sulaiman Rasuli, Shaykh Machudum, Shaykh Hasan Basri belonged to the traditionalist group on the one side, and Abdullah Ahmad, Abdul Karim Amrullah, Muhammad Djamil Djambek, and others formed the reformists group on the other side. Khatib Ali, as representative of the traditionalists, seemed unsatisfied with the results of the forum, thus he wrote *Risāla mau'izā wa tadhkīra* (The Treatise on Advise and Reminders) concerning the religious issues that had been discussed. In publishing this book he cooperated with Datuk Soctan Maharaja, an influential adat leader, who supported greatly the traditionalists in debating Islamic teachings with the modernist group. This cooperation was possible because adat leaders and traditionalist 'ulamā' were on same side against the reformist 'ulamā'. In responding to this book Abdullah Ahmad, one of the reformists 'ulamā' leaders, wrote *Kata kebenaran pada menolak kesamaran di dalam nasehat-nasehat yang berhamburan* (The True Words which Reject Vagueness in the Religious Advice) published in 1924. The book is mainly about the religious issues that had been discussed in the forum and in the writings of Khatib Ali.

Now, we may turn to Khatib Ali's idea of the adat of inheritance. Khatib Ali was believed to be one of Aḥmad Khaṭīb's followers who held the view that property should not be inherited by sister's children, but by heirs according to Islamic jurisprudence. This was the first view of Khatib Ali on adat laws of inheritance. He launched this when he was still in Muara Labuh and he was in his youth. After a couple of years, he came up with a distinction between collective property and individual property. The first category belonged to collective ownership among clan members and would be bequeathed according to adat rules; the heirs according to Islamic jurisprudence would inherit the second. Khatib Ali had begun to put these views into practices in Muara Labuh in 1914 (Schrieke 1919:277).

His change of ideas probably occurred because Khatib Ali came to the conclusion that ancestral property which was inherited by the sister's children did not belong to one person, but belonged to clan members. This brought him to the new views that Islamic jurisprudence could not regulate the ancestral property, and Islamic jurisprudence could only be applied if the property belonged to the

deceased individual. Thus, the adat rules of inheritance were not opposed to Islamic jurisprudence. Later these categories became new terms, *Pusaka Tinggi* (ancestral property) and *Pusaka Rendah* (self-earned-property). If the former should remain as it was – that is matrilineally inherited – the second, personally earned by the deceased, should be transferred in accordance with Islamic jurisprudence. In addition to this, ancestral property should be religiously interpreted as a *waqf* (endowment) which was communal property for the sake of the well-being of the members of the clan (Abdullah 1985:143).

How can we interpret Khatib Ali's views on the property of adat in Minangkabau? One important note for this is that his firstly his views are solely based on his knowledge of the Islamic jurisprudence books that he had studied in Mecca or in his homeland. This knowledge had no relationship with what people were applying in their daily life such as in Minangkabau. Further, this kind of knowledge was solely based on the literal meaning of the rules in the Qur'an and Hadith that could be found in Islamic jurisprudence books. He realized that he had to adjust his knowledge to the facts. As a result, he found that the conception of property according to adat and Islamic jurisprudence was extremely different. Thus, Islamic jurisprudence could not be applied to all property in Minangkabau, and it could only be applied if the deceased had property that was not part of the ancestral property.

The legal reasoning of Khatib Ali was that property according to adat does not belong to the deceased personally; thus, Islamic jurisprudence can not be applied to that property. This was different from his first legal reasoning that simply followed that of his teacher's which indicated that the rules of inheritance, according to Islamic jurisprudence, must be applied to the ancestral property, all other rules which differed were un-Islamic and should be ignore.

#### *Abdul Karim Amrullah*

Abdul Karim Amrullah, also known as Haji Rasul, was an influential 'alim in Minangkabau at the beginning of the twentieth century. He was one of the pioneers of the reformist, *Kaum Muda*, movement. He was born in Sungai Batang, Maninjau on Monday in 17 Syafar 1296/1876 = 28 May 1879 (Djaja 1966:738). His father was Shaykh Muhammad Amrullah who held a position as 'alim in his homeland. His mother was Tarwasa who was the third wife

of Shaykh Muhammad Amrullah. Abdul Karim Amrullah had two older sisters namely, Maryam and Aisyah.

In 1886 at the age of seven, he went with Abdussalam, his uncle, to Tarusan in Painan to learn Qur'ān recitation with Tuanku Haji Hud and Tuanku Fakih Samnun. Abdul Karim Amrullah stayed with these two Islamic teachers for one year, and the next year returned to Sungai Batang and begun to learn how to write the Arabic script with Adam, a son of Tuanku Said. At the age of thirteen, he started to learn Arabic; *nahu* (grammar) and *sarf* (syntax) with his father. Then, his father brought him to Suangai Rotan in Pariaman to study with Tuanku Sutan Muhammad Yusuf who then taught him the *Minhāj al-ṭālibīn* and the *Tafsīr Jalalain* for two years. At the age of sixteen, in 1894, his father sent him to Mecca to study Islam with Aḥmad Khaṭīb who by then, had a position in the Masjid al-Ḥarām as imām and a teacher of Islam. In Mecca he studied Islam with Shaykh Aḥmad Khaṭīb, Shaykh 'Abd Allāh Djamidin, Shaykh Thaher Djalaluddin, Shaykh Uthman Serawak, Shaykh Umar Bajened, Shaykh 'Aḥil Bafadil, Shaykh Said Hamid Djeddah, Syekh Sayyid Yāman, and Syekh Djamil Djambek (Djaja 1966: 739, Hamka 1982: 56). After seven years of studying, he returned to his homeland in 1901,<sup>19</sup> and became a teacher of Islam in his father's *surau*. Considering his father's and his positions as teachers of Islam, people gave his father the title *Tuanku Syekh Nan Tuo* (the Old Shaykh) and Abdul Karim Amrullah the title *Tuanku Shaykh Nan Mudo* (the Young Shaykh). After teaching for a couple of years, he went back to Mecca to accompany and guide his brothers to study Islam: Abdul Wahab, Muhammad Nur and Muhammad Yusuf. Abdul Karim Amrullah stayed only one year in Mecca and returned to Maninjau to continue teaching Islam. In 1912 Abdul Karim Amrullah went to Padang to assist Abdullah Ahmad in teaching Islam and publishing the journal *al-Munir*. Not long afterwards he moved to Padang Panjang and established a modern Islamic school, called *Sumatra Thawalib*. His activities in Padang Panjang were an impetus for the emergence of the Muslim reformist school system in Minangkabau which promoted reform in religious affairs.

In promoting his reformist ideas he traveled a great deal outside of Minangkabau, mainly to Java and Malaysia. In 1916 he went to Malaysia, but did not stay long because his teaching was considered by the government authority to be un-orthodox. Later, he went to Java to contact the Sarikat Islam (The Islamic Association) and Muhammadiyah leaders, and his contact to the latter caused him

to establish a branch of the Muhammadiyah in Minangkabau in 1925. This movement spread rapidly throughout the region several years later (Djaja 1966:745). In 1926 he went to Egypt with Abdullah Ahmad to attend the Muslim Summit on *Khilāfat* and they both received an honorary doctorate from al-Azhar University in reward for their activities in spreading Islam in the archipelago. Abdul Karim Amrullah was a pioneer of establishing the PERMI (Persatuan Muslimin Indonesia-Indonesian Muslim Association), became an advisor of Persatuan Guru-guru Agama Islam, PGAI (the Teachers of Islam Association), and led the rejection of the government's plan of a teacher's ordinance in which all Islamic teachers should have a license to teach from the government. On suspicion of subversive activities, the government arrested him and put him in gaol on 11 January 1941 and finally he was exiled to Sukabumi in 8 August 1941. Under the Japanese government Abdul Karim Amrullah was released, and lived in Jakarta continuing his activities as an 'ālim up to his death in 2 June 1945 (Djaja 1966:745; Hamka 1982: 56).

He wrote twenty six books in Arabic and Malay. Unfortunately, not all of the books are preserved up to the present, and only some of them are available in the Library of Leiden University. Those books are about theology, *ṭarīqa* and Sufism, methodology of Islamic jurisprudence, Islamic jurisprudence, and other religious issues in Minangkabau. The books were written in Arabic and Malay, and 16 of 26 books are about Islamic jurisprudence. This indicates that Abdul Karim Amrullah was more concerned with Islamic jurisprudence than others.

Now, we may turn to Abdul Karim Amrullah's views on the adat of inheritance that can be traced in the book *Sendi Aman Tiang Selamat (The Foundation of Peace and the Pillar of Happiness)* and *al-Farā'id (Islamic Rules of Inheritance)* which were written at different times. The core of his views on the adat rules of inheritance was firstly expounded in his first book. He firstly followed the views of his teacher, Aḥmad Khaṭīb, arguing that maternal inheritance for Muslims in Minangkabau was unjust and contrary to the rules of inheritance according to Islamic jurisprudence (Amrullah 1924:135). He began his writing by classifying customs into type: *adat Jahiliyya* (pre-Islamic tradition) and *adat Islāmīyya* (Islamic tradition). *Adat Jahiliyya* consisted of two categories; firstly it was a custom that had been conducted before the presence of Islam and was not in accordance with Islamic teachings, and secondly, new customs that were created after the establishment of Islam, but did not conform

to Islamic teachings. Meanwhile, Islamic tradition derives from the Prophet, or tradition that is created by people after Prophet that it was in line with the Islamic teaching (Amrullah 1924:112).

He stated that Minangkabau adat belonged to the *adat jahilīya*, because its rules were extremely different from Islamic teachings. As a consequence, Muslims should obey Islamic teachings, and ignore adat rules implementing their belief. He emphasized that maternal inheritance being practiced was unlawful because father, mother and children who are naturally closely related to each other in life, physically and spiritually, do not inherit any property when one of them dies. On the contrary, the *kamanakan* had a less close blood relationship (Amrullah 1924:134). This situation has to be changed to support the rules in accordance with Islamic jurisprudence, thus if one of family members dies he or she must be have his property to the heirs in accordance with Islamic jurisprudence.

In supporting his argument Abdul Karim Amrullah mentioned as an illustration, that ancestors of people consumed mice and other forbidden-meat, hence, people should not follow them because their actions were forbidden according to Islamic teachings (Amrullah 1924:132). This example is clearly similar to Aḥmad Khaṭīb's example in order to provide an argument that people should not follow the customs of ancestors which were contrary to Islamic teachings. Indeed, adat rules of inheritance were also ancestors' custom, and thus are contrary to Islamic teachings (Amrullah 1924:132).

He then called upon the government officials, *penghulu*, adat functionaries and 'ulamā' to strive hard to throw away such *jahilīya* customs until they all disappeared. He also reminded judges, who were supposed to render judgments in any affairs among clan members, to strengthen and apply Islamic jurisprudence (Amrullah 1924:136). To him, like Aḥmad Khaṭīb, there could be no bargaining and no compromising in implementing Islamic jurisprudence; it could not be in line with the teachings of any other doctrines. The customs must be purified from all kinds of un-Islamic deviations. His views on the adat of inheritance are clearly a duplicate of those of his former teacher of Islam, Aḥmad Khaṭīb. His starting point was the same in classifying the traditions into Islamic and un-Islamic. Muslims should obey the first without any exception and the last must be ignored, such as adat rules of inheritance that are not derived from Islam. In this place, Abdul Karim Amrullah was only following Aḥmad Khaṭīb and his writings have not shown any original ideas.

Interestingly, seven years after he wrote *Sendi aman tiang selamat*, Abdul Karim Amrullah wrote another book namely *al-Farā'id*. Here he focused again on adat rules of inheritance. He apparently developed his ideas of the adat rules of inheritance, as they differed from his earlier views. He argued that property which was inherited by the *kamanakan* was clearly different from that divided in Islamic jurisprudence. The property left to adat rules was the property whose original owners could not be identified. It was handed down from one generation to another, from a great grandfather to grandfather, from grandfather to uncle and from as uncle to his sister's children. This property does not belong to any individual of a clan; on the contrary they only have a right to take profit from it. Accordingly, Islamic jurisprudence could not be applied to this kind of property, because property which did not belong to the deceased during his lifetime had gathered. The property to which Islamic jurisprudence could be applied was property that clearly belonged to the deceased. On the contrary, property according to adat rules was the property of the whole clan, and it was laid down under adat rules.

Abdul Karim Amrullah compared property according to Minangkabau adat with property according to the Islamic jurisprudence. According to him, property according to Minangkabau adat had similarities with *waqf* (endowment)<sup>20</sup> in Islamic jurisprudence. One important similarity between the ancestral property and endowment is that property does not belong to the person who holds the property; someone has no right to possess it, but he has the right to take profit from it (Amrullah 1932:119-120). Thus, religiously, the ancestral property could only be compared to the *waqf* which is prohibited from sale or pawning.

He further argued that if Aḥmad Khaṭīb said that the property according to adat was *ghasab* (property which was taken by force) it should not be inherited by heirs according to Islamic jurisprudence, but on the contrary by the heirs according to adat rules. He also argued that ancestral property could not be regarded as *ghasab*, because the ancestors did not obtain it by force. Accordingly, this property was not prohibited (Amrullah 1932:123). In addition, he identified another form of property in the area, namely self-earned-property which belonged to individuals, and thus must be divided according to Islamic jurisprudence. According to Abdul Karim Amrullah property, which was ruled by adat, was clearly different from that ruled by Islamic jurisprudence.

To conclude this section, it is important to note two points. In the first place, we have seen that Abdul Karim Amrullah's legal reasoning was apparently similar to the legal reasoning of Khatib Ali in applying Islamic jurisprudence to the property governed adat. Their first basic point was that adat was not on Islamic tradition and thus should be ignored. What Islamic jurisprudence of inheritance promoted was the true path and should be followed. Indeed, applying Islamic jurisprudence to inheritance of property under adat is not well-matched, because ancestral property did not belong to every individual of a clan. Meanwhile property that was left to heirs according to Islamic jurisprudence had to have belonged to deceased individual. This criterion did not fulfill adat requirements. Islamic jurisprudence of inheritance could only be applied to self-earned-property, which began to emerge at the beginning of the twentieth century, due to people owning businesses in or out of the ancestral property. Islamic jurisprudence must be applied to this individually owned property.

We know that Minangkabau men were 'great traders' but it was not clear how many, if any of the traders acted traditionally or as individual (Josselin de Jong 1951:9; Cabaton 1911:269). Since pepper and coffee were the main export articles of Minangkabau in the nineteenth century, grown largely on lineage-owned land, and since the segment heads kept accounts of the contracts and trade of his property-owning unit, it seems probable that most trade was done cooperatively by the lineage segment. So, it is also probable that people had individual property from trade and perhaps this fact was a concern of Khatib Ali and Abdul Karim Amrullah.

In the second place, Khatib Ali and Abdul Karim Amrullah had similar views on inheriting property according to adat which initially they condemned. After experiencing and perhaps examining the position of the property of adat they both changed their views concerning the place of Islamic jurisprudence and adat in relation to inheritance of property. Looking at their educational backgrounds, they both had studied Islam with Aḥmad Khaṭīb who condemned the adat regulations concerning inheritance as un-Islamic. In addition to this, after the new religious movement had emerged at the beginning of last century, Khatib Ali was on the side of the *Kaum Tua* and Abdul Karim Amrullah was on the side of the *Kaum Muda*, however they had similar views regarding property and adat. This can be considered that their religious affiliation did not influence them in judging adat regulations on inheritance and it can be said

that they were defenders of adat rules of inheritance against attacks by other 'ulamā'. Their views tried to harmonize between Islam and adat. They both called people to apply Islamic jurisprudence to individually-owned-property, and also protected the continuation of ancestral property from the influence of 'ulamā'. In fact, the next religious movement showed that their views could not influence these 'ulamā' in relation to Islamic jurisprudence and its application to ancestral property.

These views were not automatically followed by people who were tied to adat rules in their life, thus for them all property must be inherited according to adat rules. There was no distinction between ancestral property and self-earned-property, because the main stream of thought was people's income not for himself, but for supporting his clan. This means that all income was owned collectively with the other property that belonged to the clan. The only possibility to make a distinction between properties is in the families that moved out of their village and established their own households. In fact, property from this kind of family could also be claimed by their clan members. Von Benda-Beckmann indicates that the classical conflict in adat inheritance affairs was the situation in which self-earned-property became the disputed inheritance of a father's or uncle's estate (Benda-Beckmann 1979:265). Indeed, self-earned-property could not automatically be bequeathed to children because the social system still applied adat. In this sense, the views of Khatib Ali and Abdul Karim Amrullah were a new guideline for people, on inheritance at a time of rapid social transition.

Besides self-earned-property being transferred to children through inheriting, it was also transferred by performing *hiba* (donation), *wasīya* (testament), and *waqf* (endowment). These three possibilities helped to avoid difficulties in transferring property as they could be applied to ancestral property under the permission of the clan members, however this is not our concern here. Rather, concern is that transferring property to children must be done according to Islamic jurisprudence in relation to any self-earned-property. This was not be done easily because people thought that all property of clan members must be divided according to adat rules. Accordingly, a father who knew that adat rules would be applied to his property transferred the property during his life by alternatively undertaking donation, testament, or endowment. This could be confirmed by observations of Schrieke, or Joustra (Schrieke 1955:114-121; Joustra 1920:132; Josselin de Jong 1980:117). In particular, this happened to



families that were not supported financially by the ancestral property, but by activities such as with the railroads, as miners, or in running business that did not have any relation to the ancestral property.

Above it was shown that Snouck Hurgronje's remark that people could not be forced to apply Islamic jurisprudence to inheritance was right. People would apply Islamic rules of inheritance to their property if the structure of their family changed to that of a nuclear family as the effect of individualization of society. In this sense, the distinction between ancestral property and self-earned-property introduced by Khatib Ali and Abdul Karim Amrullah, was highly important in that transitional society.

### Towards New Adat Rules of inheritance

For most authors commenting upon social change in Minangkabau the change of the inheritance rules concerning the self-earned-property has been central. The transference of self-earned-property from the father to the child was regarded as indicative of a radical change in the maternal family and social system in general. *Hiba* and *waṣīya* practices seem to have been much more common in the coastal areas than in the highland areas (Francis 1839:111; Willinck 1909:746). The frequency of donations and testaments varied considerably from village to village in the highlands. Pistorius reported that in the district of Sijunjung no case of *hiba* had occurred between approximately, 1860 and 1880, where Kroesen stated in 1874 that newly cultivated land, as self-earned-property, was left to the children through *hiba* (Kroesen 1874:20). At the end of nineteenth century men gave about one-half of their self-earned-property to their children in many regions (Kielstra 1892:274; Kroon 1919:20; Wilken 1912:318; Willinck 1909:775 f.). Van Vollenhoven mentioned closer bonds between father and children (Van Vollenhoven 1918:217). In 1928, Schrieke mentioned that it was possible to obtain control of the father's self-earned property or part of it by means of *hiba* or testament, a statement echoed by Maretin (Schrieke 1955:118; Maretin 1961:192). Van Ossenbruggen noticed the growing popularity of *hiba* in the 1920 (Josselin de Jong 1951:115). In the 1960, Tanner reported that *hiba* was not particularly common, but that new ways of transferring property were increasingly used, for instance to buy or build property for the wife and the children (Tanner 1971:274-275). *Waṣīya* and *hiba* were applied to transfer self-owned-property to children,

because people knew that if they died their self-earned-property would become new ancestral property of the clan. According to adat rules, there was no possibility for people to have their own property, because ownership was solely based on collective principles. *Wasīya* and *hiba* were applied by the people who belonged to new growth of individualism or nuclear family.

The social change mentioned above, brought conflicts in inheritance affairs between children and *kamanakan*. Those conflicts emerged when between self-earned-property and ancestral property were mixed, and, consequently there was the ancestralization of the self-earned-property. The 'ulamā' introduced the distinction of ancestral property and self-earned-property, but there were no adat functionaries who promoted view. Accordingly, people thought that all property should be inherited under adat rules. Thus, tension was not only between children and sister's children, but also between 'ulamā' and adat functionaries. The tensions also occurred among people who were continuing to condemn adat in the changing situation.

Hamka, the son of Abdul Karim Amrullah, wrote a book, entitled *Adat Minangkabau Menghadapi Revolusi* (Minangkabau Adat is Facing Revolution) in which he strongly criticized adat for making society in Minangkabau stagnate. Briefly, he said that adat should be adjusted to social chance, and adat rules were not conducive to modernization. Hamka criticized all social structures according to adat, such as property, father-children-relationships, position of adat functionaries, and the position of a man in a family that made him immigrate (*merantau*) (Hamka: 1963). Adat functionaries reacted to this critical view by accusing him of being a agent of the Netherlands Indies Civil Administration (NICA) which endangered his life (Hamka 1984:3). Accordingly, adat functionaries realized that adat must be adjusted to different social conditions. Polemics and debates on Islam and adat in Minangkabau were continuing among the 'ulamā' and the adat functionaries.

Concerning the change of the society, the governor of the West Sumatra initiated a meeting namely '*Pertemuan Orang Empat Jenis*' (Forum of People from Four Positions) in 1952 in Bukittingi. The name of this forum was derived from the members of the meeting, who represented four groups of leaders in the society: the 'ulamā', the adat functionaries, the intellectuals, and the new generation of the 'ulamā' and the adat functionaries. In this forum two important points were decided; firstly, the ancestral property or *pusaka*

*tinggi* was laid down under adat rules, and secondly, self-earned-property was laid down under Islamic jurisprudence. The decisions of this forum meant that the views of the 'ulamā' since the eighteenth century was finally acceptable, Islamic law had a legal bases to be applied within adat. However, this decision had no sufficient bases in adat itself, and thus adat functionaries, under an organization called *Lembaga Kerapatan Adat Alam Minangkabau* (Association of Adat of Minangkabau world) held a forum from 26-28 January 1967 in Padang Panjang. Only the adat functionaries were present at the forum, and they made one important decision concerning adat rules. This was to replace the old maxim *adat basandi shara', shara' basandi adat* (adat is based on Islamic law, Islamic Law is based on adat) to a new aphorism *Adat basandi syara', syara' basandi Kitabullah* (Adat based is on Islamic law, Islamic law is based the Qur'ān). The new aphorism explains that adat rules must be in line with Islamic law, and no adat rule is allowed to contradict Islamic teachings. This is a proof of the struggle of the purist's movement after the Padri leaders promoted a similar idea. Moreover, there was also another important forum held in Padang from 21-25 July 1968 related to, in particular, the position of property in Minangkabau. This forum confirmed that the Islamic Law must be applied to self-earned-property, and adat was only to be applied ancestral property (Syarifuddin 1984:57).

Based on contemporary studies on property in Minangkabau, tensions between children and *kamanakan* or clan members concerning inheritance affairs have been continuing. For example, in 1963 in the state court of Padang Panjang, a case of inheriting self-earned-property, registered as no.11/62, between a women namely Kalek who was a former wife of the late Ibrahim Datuk Mudo, and A.Rahman, Nursiah and Nursilah who were nieces and nephews of Ibrahim was dealt with. A similar case was also heard in the state court of Payakumbuh concerning the inherited-property between Ratini and Danuri who were children of Jamalín, versus Suhaemi, Anwar and Muin who were clan members of Jamalín (Syarifuddin 1984:293-296). In 1972 one case occurred in the state court where the property of a father had been disputed between children and *kamanakan*, in relation to pawning. Also other case in the religious court in 1972 concerning the legal status of property objects was disputed. The dispute dealt with the character of the self-earned-property (Von Benda-Beckmann 1979:266-168). These cases show that, in practices, the problems of inheriting still exist, at least up to

the 1970s. Moreover, according to a study of Amir Syarifuddin in the 1980s on the question of whether or not Islamic jurisprudence is applied by people, it is clear shows that Islamic jurisprudence in relation to inheritance has been applied to self-earned-property of the respondents in urban areas one hundred percent, while in rural areas 96.6 percent of the respondents applied Islamic jurisprudence in inheriting self-earned-property (Syarifuddin 1984:292). In addition to this data, statistical evidence was collected in 1971 by a team from the University of Andalas where 1401 respondents were interviewed in Padang about the manner in which they have received self-earned-property, namely in their capacities as children deceased, as *kamanakan*, or by *hiba* or by *hiba-waṣīya*. The bulk of the cases in which self-earned-property was inherited concerned land and houses, which together formed 93.2 percent of all cases. In 35.5 percent of cases self-earned-property consisted of houses, in 57.9 percent it was land, and in 23.3 percent of cases it was specifically irrigated rice-land, money only constituted 0.5 percent. The respondents received the property as inheritance was 45 percent, 51.5 percent by *hiba*, and 3.5 percent by *hiba-waṣīya* (Sa'danoer 1971:11).

Thus, the changes to Minangkabau adat rules and practices of inheritance have been occurring since the end of the nineteenth century. These changes are undoubtedly caused by simultaneous factors; firstly, the long-struggle of the Minangkabau 'ulamā' who actively promoted change is highly important to this change. Secondly the growth of individualism has led to changes in family relationships. These relationships were influenced by the modernization of the society through a cash economy. Thirdly, the gradual decrease of the position of adat functionaries after the independence of Indonesia has weakened their position in society. Through to the end of the twentieth century the light of adat in the society is fading and the structure of society is no longer based on adat.

### Conclusions: Legal History as Social History

In this paper I have dealt with the competition between Islamic law and adat in relation to inheritance laws and the rise of capitalism in Minangkabau at the end of nineteenth and up to the beginning of the twentieth centuries. The debates began gradually in the 1890s after Aḥmad Khaṭīb launched his views on the rules and practices of inheritance according to Minangkabau adat in *al-Dā'ir al-masmū'*, *al-Manhaj al-mashrū'* and in *al-Jawhara al-farīda*. Adat leaders, Dutch government, Snouck Hurgronje, and the 'ulamā' all participated in

these debates. The debates were rooted in the different conceptions of property which existed among the people; individual property as laid down in Islamic law versus collective property as constructed in adat law. According to Islamic law, inherited property belonged to all heirs according to their share and the property became his or her own property directly. This conception explains that individual ownership was an important basis within a nuclear family and regulated relationships among fathers, mothers, children and other relatives. Accordingly, it also meant that this conception stressed individualism as a basis of the society; where individualism was one aspect of capitalism. Meanwhile, the conception of property which was based on collectivism was also the basis of an ideal society supported by adat rules. Thus, collectivism in ownership of property forms kin-group relations which not only concerned property, but also regulated other social interactions. Inherited property belonged to clan members collectively, and there was no individual ownership in this concept. Thus, the conceptions of both, Islam and adat, idealized place for different forms of society. Aḥmad Khaṭīb believed that Minangkabau people should replace “the ideal form of society”, based on adat rules, to “the ideal form of society”, according to Islamic law. In the eyes of Aḥmad Khaṭīb, adat rules of inheritance were un-Islamic because they were not in line with Islamic rules of inheritance, thus he claimed it was not permissible (*Ḥarām*) to follow them. Consequently, he condemned people who were following adat rules were condemned as infidels, and the property was considered *ghaṣb*, which meant that the property was taken by force. Thus, he argued people must repent and return the property to its legal owners. If the return of the property could not be fulfilled because the owners could not be found, the people should ask permission from each other. If this could not be done, the people should immigrate to areas where Islamic jurisprudence was applied. The legal reasoning of Aḥmad Khaṭīb’s view was based on the argument that the Qur’ān and Ḥadīth had clearly mentioned rules of inheritance. In fact, he limited himself to the explicit meaning of the Qur’ān and Ḥadīth, and he did not take into account adat rules. The content of his writings is, in fact, not different from other text of Islamic jurisprudence that had been commonly taught in *surau* or other Islamic educational institutions in Minangkabau, but may be more explicit in his direct condemnation of Minangkabau practices.

Dutch government and adat functionaries reacted to Aḥmad Khaṭīb's views. The reactions were based on their fear that their position in society would gradually decrease. Adat leaders, who were led by Datuk Sutan Maharaja, claimed that Aḥmad Khaṭīb's views were promoting the re-emergence of the Padri movement, which had occurred in the early eighteen century. The movement had led to conflict between 'ulamā' and adat functionaries and caused a civil war. To prevent the influence of Aḥmad Khaṭīb's views, adat leaders established *Konsi Adat* (leader association) to strengthen their position against the 'ulamā'. Meanwhile the Dutch government formulated two plans: to codify adat rules and to ban Aḥmad Khaṭīb's books from circulation. Snouck Hurgronje advised that there was no need either, to codify adat rules, or to ban the books. He argued that the adat of inheritance would gradually change to another system which would be in line with Islamic precepts. Moreover, Snouck Hurgronje argued that codifying adat rules and banning of Aḥmad Khaṭīb's books from circulation were misguided plans and would not protect adat from the influence of the 'ulamā'. He suggested the government should observe the pilgrims who had met Aḥmad Khaṭīb in Mecca and to conduct ethnographic studies in Minangkabau. Finally, the government took Snouck Hurgronje's advice into account.

Khatib Ali and Abdul Karim Amrullah, two former students of Aḥmad Khaṭīb in Mecca, initially had similar views to Aḥmad Khaṭīb, introduced a new distinction between property of the ancestors and self-earned-property, in the beginning of the twentieth century. According to these 'ulamā', Islamic law must be applied to the self-earned-property whereas adat rules should be applied to ancestral property. The argument behind this view was that ancestral property did not belong to the deceased, but to clan members, whereas self-earned-property was gradually growing, parallel to economic achievement. In this context, both 'ulamā' became the defenders of adat from the attack of the other 'ulamā' and they introduced Islamic law on the adat society.

The debates above show two essential points, firstly, the debates reflected a relationship between Islamic norms and local customs, which is part of legal history; secondly, they also reflected changes that had been occurred in the society, which is social history. The relationship between Islamic law and adat reflects that Islam was firstly subordinate to adat which was indicated in the adat aphorism *adat basandi shara', shara' basandi adat* (adat based on

Islamic law, Islamic law based on adat). In January 1967 this maxim changed significantly to *adat basandi shara'*, *shara' basandi kitabullah* (adat based on Islamic law, Islamic law based on the Qur'ān). This second aphorism reflects that adat became subordinate to Islamic law. Before the aphorism was changed, there was another important agreement in 1952 that Islamic law be applied to self-owned-property and adat rule be applied to ancestral property. In the context of legal history, the struggle of Aḥmad Khaḍīb to replace adat rules on inheritance with Islamic law is an attempt to promote Islamic law in the society. The different interpretation of Khatib Ali and Abdul Karim Amrullah was a step towards a compromise between Islam and adat in which both, Islamic law and adat, have a place in Minangkabau society. Thus, the change means that there was a gradual tendency to accept Islamic teachings when applied to the individual property.

Indeed, the acceptance of Islamic teaching was not only influenced by the 'ulamā', but was also significantly influenced by the growing individualism of the society as a consequence of economic achievement which was introduced by the government. The cash economy gradually disintegrated the communal family that was in line with adat into a nuclear family that was in line with Islam and growth of individualism. This change can be seen when observing the changes from the *mamak-kamanakan* relationship to a *father-child* relationship, or the change of importance moving from a *mamak* to a *husband*. For that reason, change also meant that there had occurred a change in the relationship among clan members concerning property and that people would move from a communal society to a society that is based individualism. This gradual change had been proved in changes in transferring the self-earned-property to children which had occurred, and was observed by Francis (1839), Verker Pistorius (1871), Kroesen (1874), Kielstra (1892), Willinck (1909), Wilken (1912), Van Vollenhoven (1918), Kroon (1919), and Schricke (1928).

The change of emphasis from collective property to individual property shows that there was a relationship between the melding of Islamic law with adat and a consequential influence on social change. The acceptance of Islamic law was influenced by the growth of individualism in society and the social change occurred because attempts by 'ulamā' to apply Islamic law. In insert space this context, this study has shown that legal history of Minangkabau society is also part of its social history.

This study has shown that comprehensive research dealing with religious discourse in Minangkabau is needed to be undertaken. This study has been limited to only one religious issue among others. Further study could probably be more focused on other areas of religious discourse and explore the influence of Islamic law on local culture in Minangkabau. This would include a study of disputes among the 'ulamā', or between 'ulamā' and adat leaders, government reaction to the disputes, the influence of the media, especially print-media on religious discourse and the problems of illiteracy within the society.

### Endnotes

- \* The original of this paper is derived from my thesis for MA degree at the Leiden University, the Netherlands 2003. I would like to say thanks to many people who contributed to the writing of this article: Nico Kaptein and Leon Busken in the Netherlands who engaged in supervising the writing of the thesis and then the article.
1. The present version is adopted from Dirajdo 1919:95-96, see also a similar version in Amrullah 1924:112-114.
  2. On the origin of the word Padri, see Dobbin 1983:136; also Cabaton 1924:270.
  3. The number of the followers in fifteen *ṭarīqa* centres can be seen as follows:
    - 1) 1000 students in Taram, Lima Puluh Kota, 2) 200 up to 300 students in Koto Tuo, *laras* Koto IV Agam,
    - 3) 100 students in Cangking, . 4) 300 students in Pasir, *laras* Kota IV Agam,
    - 5) 200 students in Labor, Lima Kaum, Tanah Datar, 6) 100 students in Padang Ganting, Tanah Datar,
    - 7) 200 students in Simaboh, Tanah Datar, . 8) 100 students in Pangear, Buo, Tanah Datar,
    - 9) 300 students in Pici, Salajo, VIII Kota, 10) 150 students in Muara Panas XIII and IX Kota,
    - 11) 200 students Koto Anau, XIII and IX Kota, 12) 150 students in Kasih, Saning Bakar, Singkarak,
    - 13) 100 to 150 students in Singkarak, . 14) 300 to 400 students Calau, Muara sijnjung, and
    - 15) 150 students in Padang Sibusuk, Sijnjung (Pistorius 1871:222-223)
  4. Khaṭīb also mentioned his views in *al-āyāt al-bayyināt al-munifīn fī izālāt khurāfāt ba'd al-muta'aṣṣibīn*, however this book is not about inheritance in particular. Some books which refer to Aḥmad Khaṭīb's views on Minangkabau inheritance only mention two books, excluding *al-Jawhara al-faridah fī al-ajwiba al-mufidah pada menyatakan harta shubha dan ḥarām*, for instance in Schrieke 1973:35; Syarifuddin 1984:275.
  5. The feeling of a belonging to Minangkabau is very common for Minangkabau people who have moved out of the area (*merantau*). Even though



- people have been away for years, they still feel part of Minangkabau, see more on this tradition in Naim 1979.
6. Selajo is situated in the high-lands area of Minangkabau which is now one part of the Solok District in Province of the West Sumatra.
  7. This Ḥadīth is one version of the *asbāb al-nuzūl* of verse al-Nisā'(4):11, see al-Suyūṭī n.d: 80-81
  8. Aḥmad Khaṭīb incorrectly quoted the maxim *anak dibimbing, kamanakan dipangkku* (the children are led and *kamanakan* are carried).
  9. According to Islamic jurisprudence, these two kinds of children are different particularly in the rules of inheritance in which an illegitimate child is not to an heir, meanwhile obscure child is a heir of his parents.
  10. According to Schrieke this maxim proves the success of the 'ulamā' in influencing Minangkabau Adat, see Schrieke 1973:19. This maxim was changed to *adat basandi syara', syara' basandi kitabullah* (adat is based on Islamic law, Islamic law is based on the Qur'an) in a meeting that was held by adat leaders, 'ulamā', and intellectuals in Bukittinggi between 4-5 May 1952.
  11. This maxim is one of the important maxims in discussing local traditions in the methodology of Islamic jurisprudence. The term *'āda* and *'urf* are two key words in discussing this topic in *'uṣūl fiqh*.
  12. The Padri Movement began mainly to attack people's lifestyle in cock-fighting, inebriety, drinking alcohol, consuming opium, smoking tobacco, gambling, and people habits which were prohibited according to Islamic jurisprudence and also attacked adat generally, such as the rules of inheritance, see Abdullah 1971: 5; Schrieke 1973:11-15; Dobbin 1983: 131-132; Raffles 1991:429-430. Raffles identified this movement with the *wahhabi* movement in Mecca, in contrary to this Schrieke said this movement had nothing to do with the *wahhabi* movement. According to Schrieke the appearance of the Padri Movement was only a consequence of the process of the Islamisation of the Minangkabau adat, Schrieke 1973: 15-23, see also Raffles 1991: 428- 430 and; Dobbin 1983:128-129.
  13. *Oetoesan Melajoe*, firstly launched in January 1911, was an attempt to start a truly genuine Malay newspaper that was led by Datuk Sutan Maharaja. This belonged to the Perserikatan Orang Alam Minangkabau (Union of the People of the Minangkabau), see Ahmad B.Adam 1984:247.
  14. One part of Datuk Sutan Maharaja's article dealt with the property in Minangkabau adat as follows:
    - 1e. Jang dinamai harta poesaka, jaitu harta nan toeroen temoeroen dari nḥḥk2 mojang, seperti di Alam Minangkabau kita ini, harta poesaka itoe biasa toeroen kepada kemanakan. 2e. jang mengapalai atau nan mendjagai h. p. itoe ialah segala waris (kepala waris).3e. Harta poesaka itoe bolèh didjoel atu di gadaikan, tetapi setahoe segala waris. 4e.Toemboehnya (terdjadinya) baharoe bolèh h. p. didjoel atau digadaikan, teroetama kalau bersoea malang jang tak bolèh ditoelak, moedjoer nan tak bolèh diraih, terboedjoer mait (salah seorang dari waris); kedua seperti gadis gedang nan beloem bersoeami, bolèhlah h. p. itoe dijoeal atau digadaikan boeat belandja pengawinkannya (mempersoeamikannya). 5e.Sekiranya harta peosaka itoe soedah terdjoel atau tergadai, sekali2 jang mengepalainya tadi (waris) tiada bolèh berkoeasa lagi, karena harta itoe soedah djadi harta atau hak orang; tetapi kalau tergadai berkoeasalah djoega yang mengepalai (waris) meneboesi h.p. itoe kembali. 6e. H.p. itoe be-toel boekan kepoenjaan seorang melainkan harta bersama (perserikatan) (AB 1913a:222-223).

15. According to practices of *hibah* a man may, during his lifetime, give a present out of his individual earnings to whomever he may choose. This is based on Islamic jurisprudence where only a maximum of one third of total property is permitted to be inherited.
16. One comprehensive article deals with debates on the trivial doctrinal matters in Minangkabau so far is *The Berdiri Mawlid Issue among Indonesian Muslims in the period from circa 1875 to 1930* (Kaptein 1993).
17. His biography has been taken from Yunus 1981:20-52.
18. *Ummi* is not original name of the Minangkabau women and this name is addressed commonly to woman who has an 'alim as a husband. This word derives from the Arabic for mother.
19. The year of Abdul Karim Amrullah's return to his homeland in 1901 was proudly mentioned by Hamka as a century of the return of Haji Misikin, Haji Sumanik and Haji Piobang who had led the Padri Movement in purifying Minangkabau adat from un-Islamic tradition, (Hamka 1982:58). Tamar Djaja makes a mistake of mentioning the year of return of Abdul Karim Amrullah, according to him it was in 1898. If it is correct that he said that Abdul Karim Amrullah had spent 7 years in Mecca since 1894; the year of return would be 1901 as mentioned by Hamka.
20. *Waqf*, according to Islamic jurisprudence, in certain property that could provide a profit by unbinding any legal action to the property, and this profit must be used for public utilities in accordance to the law (Jalāl al-Dīn al-Mahallīy:97). The owner of the property could declare orally or in written form binding the property, and profit must be used by his families or public utilities (*waqf zurriy*) or directly as stated for public utilities (*waqf khairiy*) (Sabiq 1971:515). Further, *waqf* was not allowed to be sold, or donated or inherited (al-Bukhari :23-24: al-Muslim :85-86). Thus, the *waqf* was not personal but belonged to Allāh by means of control of the public or state. People or a committee was needed to manage or maximize this property by renting, or borrowing, or self-organizing. Thus, the organizers of the property were allowed to take any profit from it (al-Bukhari: 23-24: al-Muslim: 85-86).

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