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# The Baduy's Efforts to Obtain the State's Recognition for Land and Religion

In the previous chapters, I have discussed how politics influences the life of the Baduy and other *adat* communities (indigenous peoples) in Indonesia, including their conversion to Islam or Christianity. In this chapter I will discuss how the Baduy have redefined themselves not only as hermits but also as citizens. This redefinition is politically important to strengthen their position in the state. Here the Baduy are involved in politics and through it, they, as other *adat* communities and their organisation AMAN do, demand the state to recognise them. The two ex-Baduy Haji Kasmin and Haji Sarmedi also participated in politics and claimed to struggle for the interests of the Baduy. Besides, this chapter will present the latest development of local religions after the Constitutional Court (*Mahkamah Konstitusi*) stipulated in 2017 that the followers of the local religions have the same civil rights as the followers of religions recognised by the state. Resistance and support to the decision of the MK from various groups, including the Baduy, will be presented.

## A. From Hermits to Citizens: The Changing Views of the Baduy towards Politics 1971-2019

As hermits the Baduy are forbidden to participate in the General Elections (*Pemilihan Umum/ Pemilu*) because it is a product of modernity. For them it was enough to follow the winner of the elections. In Sundanese this view is expressed as '*ilu ka nu meunang*' (which is commonly shortened '*lunang*') or 'to follow the

winner'. This policy was based on the dogma that they were hermits: politics was and is not their duty, but the state's or the government's (Ulumi 2009: 81, 86-87). Not only was the Baduy community not involved in politics, but they asked the government to let them as such. Persoon (1994: 317) writes:

“The Baduy also do not interfere with issues such as political succession and elections. They refrain from interfering with such matters as they wish to be left alone in that regard.”<sup>1</sup>

Alim who is the *jaro* of Cikeusik states that following the General Elections is not the Baduy's duty because they are hermits. It is the duty of the non-Baduy (the *menak*, the nobles) who are destined to manage the world. The same statement is expressed by the vice-*jaro* of Cibeo Ayah Mursyid. He asserts that politics is not their world. As hermits, what they need to do is to pray for the *menak*. Politics, he believes, could make his people divided. “Harmony, togetherness, and the unity of customs” will be in danger. Therefore, it is enough for the Baduy to follow the result of the election, without being involved in its process (Kurnia and Sihabudin 2010: 281-283). In the resettlement villages, an effort to persuade the Baduy to follow the general election was done by the government but this effort was refused. They said that *adat* did not allow them to do so (Persoon 1987: 50).

But their view towards the election, or politics in general, has changed: they are not only hermits who live detached from modern life, but also citizens of the state. An important element in the change of the view of the Baduy towards politics is the *jaro pamarentah* who is the government's representative (Ulumi 2009: 86). Besides, the government itself keeps trying to ensure the Baduy about the importance of participating in the election. In the process, the *adat* leaders develop the understanding that they are not only hermits but also citizens of Indonesia. By deploying the concept of citizenship there are rights and responsibilities to fulfil. As citizens, the Baduy have fulfilled their duties including to participate in the General Elections. Now they demand their rights. Two of the most important ones are the state's recognition and protection. Keith Faulks' view about citizenship precisely describes what happens in the Baduy society. Faulks (2000: 4) states:

“The status of citizen implies a sense of inclusion into the wider community. It recognises the contribution a particular individual makes to that community,

<sup>1</sup> “De Baduy bemoeien zich ook niet met kwesties als politieke opvolging en verkiezingen. Ze onthouden zich van inmenging dergelijke zaken zoals zij zelf in dat opzicht ook met rust gelaten wensen te worden.”

while at the same time granting him or her individual autonomy. This autonomy is reflected in a set of rights which, through varying in content enormously over time and space, always imply recognition of political agency on the part of the bearer of those rights. Thus, a key defining characteristic of citizenship, and what differentiates it most from mere subjecthood, is an ethnic participation.”

Furthermore, there is no single view about when the Baduy started to participate in the election. Ulumi (2009: 81) states that it was in 1971, whereas according to Haji Sarmedi<sup>2</sup> it was in 1977, Judistira Garna (1985) in 1982, and Kurnia and Sihabudin (2010:279) in 1987.<sup>3</sup> According to Ulumi (2009: 81), in the 1971 election there should have been 16 voting stations (*Tempat Pemungutan Suara/ TPS*), but the *adat* leaders only allowed two stations one in Kaduketug and another one in the Muslim village of Cicakal Girang. There is not enough information about how the 1971 election was run, except the fact that they preferred not to participate. The same thing happened in the 1977 election (Ulumi 2009: 81).

In the 1982 election, the *adat* leaders' view on politics started to change. The changing view of the Baduy towards politics might have a relation with the fact that three years later, in 1985, the three *puun* of the Baduy sent the *jaro pamarentah* Nakiwin to meet President Soeharto to ask the state's recognition and protection and asked not to be involved in the development programme. In this election they permitted the Outer Baduy to use or not to use their political right. This changing view was merely to respect the government and to fulfil their duty as citizens. But still the Baduy leaders hoped their people would not use it because politics could divide them. Here they rationalised the inhibition of politics from something religious to more sociological and political. For the Inner Baduy the policy was still the same: they were forbidden to participate in the election. Further political participation, like to join a political party, to become a campaigner for a certain political party, or to campaign in the *adat* land in any form, was strongly prohibited. And like in the previous elections the voting stations were only allowed in the two villages Kaduketug and Cicakal Girang. Since around 486 Baduy in the resettlement villages also followed the 1982 General Election, we should add the number of the voting stations (Djoewisno MS 1987: 153, Persoon 1989: 1, Persoon 1994: 50, 313, Van Zanten 1995:

<sup>2</sup> Chat via WhatsApp on 26 September 2019.

<sup>3</sup> Until 2019 the General Elections has been conducted 12 times. They were held in 1955, 1971, 1977, 1982, 1987, 1992, 1997, 1999, 2004, 2009, 2014, and 2019.

518). The same policy of the Baduy on politics was applied to the 1987, 1992, and 1997 elections (Ulumi 2009: 83-84; Kurnia and Sihabudin 2010: 278).

In 1999 Indonesia conducted another election. In this election the Baduy leaders decided not to join. There were two reasons why they came to this decision. First, they thought that the 1999 election was strange because it was undertaken only two years after the 1997 election, which was commonly held after five years. If following the schedule, the next election would be carried out in 2002. Because Indonesia experienced an era of *Reformasi* (Reformation) in which President Soeharto was forced to step down, the election was hastened by the KPU (*Komisi Pemilihan Umum*/ General Elections Commission). In this period about 141 political parties were registered by the Ministry of Law and Human Rights while only 48 of them were eligible to follow the 1999 election. This number was much higher compared to the 1977-1997 elections where there were only three political parties. This huge number of political parties confused the Baduy. The second reason why the Baduy did not follow the 1999 election was that they were about to perform the most sacred ritual of Kawalu which lasted for three months. During this ritual, the Baduy purify themselves. In addition, the non-Baduy are not allowed to enter the *adat* land (Ulumi 2009: 85-86).

In the 2004 election around 6,000 Baduy had the right to vote, but only 100-150 people used it. The ex-Baduy Karman stated that the Baduy were not brave enough to come to the voting station because their leaders discouraged them to participate. Karman came to the voting station and used his and other Baduy's ballot papers. Bili, another ex-Baduy, did the same thing. He used the other Baduy's ballot papers to vote for a certain candidate of Golkar. According to Karman and Bili, there was no witness of the election because "the regent, the *camat* and teachers were all the proponents of Golkar." As a result, Golkar became one of the most chosen parties in Lebak.<sup>4</sup>

Different from the previous elections, in the 2009 election 1,448 of 6,324 vote holders used their right (Ulumi 2009: 90). This number is ten times higher than that of the 2004 participants. Many of them had come to the voting stations since 05.30, while the stations themselves would be open at 08.00. The great participation of the Baduy, compared to the previous elections, might have happened because of two things: first, the intensive persuasion conducted by the government officials and second, the changing view of the Baduy towards politics.

<sup>4</sup> Interviews with Karman and Bili on 12 December 2018. See also <https://www.jpnn.com/news/warga-suku-terasing-baduy-menggunakan-hak-pilih>, accessed on 7 June 2019; <https://www.jpnn.com/news/suku-pedalaman-baduy-menyambut-pemilu>, accessed on 7 June 2019.

Before the election was held, the government of Banten, the KPU of Banten, and the Ministry of Communication and Information came to the Baduy village of Kaduketug to explain the importance of the General Elections and how to use the ballot paper.<sup>5</sup> In terms of the change of view, the *adat* leaders stated that the Baduy were also citizens of Indonesia and because of it they had to support or respect the government by participating in the election (Ulumi 2009: 93). The *jaro pamarentah* of that time Dainah spoke about citizenship and the *adat*:

“As Indonesian citizens we have a responsibility (to participate in the election), but we hope people will understand that not all of the Baduy can use their right because they are restricted by the *adat*.”<sup>6</sup>

In this 2009 election 31 political parties participated. The ten biggest parties chosen by the Baduy to represent them in the People's Representative Council of Indonesia (*Dewan Perwakilan Rakyat Republik Indonesia* DPR RI) were Golkar (300 votes), Partai Bintang Reformasi (253), Partai Demokrat (224), Partai Persatuan Daerah (102), Partai Demokrasi Indonesia Perjuangan/ PDIP (65), Partai Nasional Indonesia Marhaenisme (54), Partai Peduli Rakyat Indonesia (24), Partai Gerakan Indonesia Raya (21), Partai Karya Perjuangan (16) and Partai Republik Nusantara (16). In this election the ex-Baduy Haji Kasmin was the most chosen candidate for a member of parliament in Banten province, for the period 2009-2014, in the voting areas both Kanekes and Leuwidamar (Ulumi 2009: 63, 70-71).

Moreover, the 2014 election was conducted on 9 April 2014 to choose Joko Widodo-Jusuf Kalla or Prabowo Subianto-Hatta Rajasa as the president and vice president of Indonesia for the period 2014-2019. 7,296 Baduy had the right to give their voice. The ex-*jaro pamarentah* Daenah stated that he supported the election and asked the Baduy to make the election successful. He also stated that participating in the election was part of their citizenship. The KPU of Banten and Lebak had come to the Baduy land to socialise the election. In the 2014 election the number of voting stations increased from 2 to 15.<sup>7</sup> Dainah asserted that 70 per cent of the voting holders would give their vote. He hoped the

<sup>5</sup> <https://www.jpnn.com/news/suku-pedalaman-baduy-menyambut-pemilu>, accessed on 29 July 2019.

<sup>6</sup> <https://www.jpnn.com/news/warga-suku-terasing-baduy-menggunakan-hak-pilih>, accessed on 7 June 2019.

<sup>7</sup> They were in Kaduketug, Marengo, Kadu Jangkung, Ciwaringin, Batara, Cisaban, Cicakal Girang, Cakal Mohara, Cijengkol, Ciranji, Cisadane, Cibogo, Cijajar, Cipaler, and Leuwihandam. Other sources mention the voting stations existed in 12, not 15, villages. See, for example, <http://www.tribunnews.com/pemilu-2014/2014/07/06/warga-baduy-musyawah-persiapan-pilpres>, accessed on 8 June 2019.

chosen candidates would be able to fight for the Baduy's aspiration.<sup>8</sup> In this election more Baduy participated. Participating in the election was not merely understood by the Baduy to "respect the government", but was also to channel their *aspiration*.<sup>9</sup>

And the latest election was carried out on 17 April 2019 to choose a president and vice-president, and the members of the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat/ MPR*) and of the Parliament (*Dewan Perwakilan Rakyat/ DPR*). The number of voters in the Baduy land was 6,873. They would give their voice at 27 voting booths, which increased a lot compared to the last election.<sup>10</sup> Sunayah (35), one of the Baduy voters, stated that she did not go to her field because she wanted to vote. She and other voters even had come to the voting stations long before the voting booth was opened. They hoped the candidates they chose could develop the nation.<sup>11</sup> In this election the Muslim Baduy Sarmedi became one of the contestants of Golkar to become a member of parliament in Lebak. He deployed the Baduy identity and promised to help the Baduy. His participation in politics will be discussed below.

From the 1971 to 2019 elections the Baduy changed their views about politics. This change is influenced by many factors, but the strongest reason is that the Baduy need the state. The Baduy, as has been mentioned, experience burdens: their land was squeezed and its border was not respected by the non-Baduy. In this very limited area, where half of the *adat* land is a protected forest, the Baduy have to live and get a livelihood. To overcome this problem many Baduy manage the fields of the non-Baduy. But this solution has pushed the Baduy away from the *adat*. Even many of them decided to convert to Islam or Christianity. By changing the view that they are not only hermits but also citizens; they have put themselves into a political relationship with the state where both have rights and duties. Here the Baduy spoke about respecting and supporting the government, developing the nation, the state's protection and recognition, and aspiration.

The impact of the General Elections on the Baduy society, as admitted by the *ex-jaro pamarentah* Dainah, might be not much (Kurnia and Sihabudin 2010

<sup>8</sup> <https://bola.republika.co.id/berita/nasional/jawa-barat-nasional/14/04/02/n3eo66-warga-baduy-siap-ikuti-pemilu-2014>, accessed on 8 June 2019; <https://republika.co.id/berita/pemilu/berita-pemilu/n3paqv/apakah-suku-baduy-ikut-pemilu>; and <https://www.suara.com/news/2014/04/09/210015/antusiasme-warga-baduy-terhadap-pemilu-legislatif>; accessed on 29 July 2019.

<sup>9</sup> <http://www.tribunnews.com/pemilu-2014/2014/07/09/prabowo-hatta-unggul-di-baduy>, accessed on 8 June 2019.

<sup>10</sup> <https://www.merdeka.com/politik/tolak-golput-suku-baduy-siap-turun-gunung-17-april.html>, accessed on 8 June 2019; and <https://pemilu.antaranews.com/berita/837687/pemilu-2019-di-lebak-berlangsung-aman>, accessed on 25 June 2019.

<sup>11</sup> <https://pemilu.antaranews.com/berita/834208/masyarakat-badui-padati-tps-sejak-pagi>, accessed on 25 June 2019.





Photograph 7.1: A Baduy man passes a banner of the 2019 General Election in the border of the *adat* land in Ciboleger. Photograph was taken in 2019 by Ade Jaya Suryani.

280). Let alone the Baduy do not need development. In February 2019, for instance, they rejected the *desa* fund as much as Rp2.5 billion (around €166,666) from the Ministry of *Desa*, Development of Underdeveloped Regions and Transmigration.<sup>12</sup> They were worried that development would destroy their *adat* and environment. The purpose of the Baduy society to follow the General Elections was not to get a development programme, but merely to respect the government. As individuals, the Baduy came to the voting stations to implement the suggestion of their leaders. It was their leaders who decided many things in their social life, including to follow or not to follow the General Elections.

<sup>12</sup> To develop the infrastructure of *desa* the central government through the Ministry of *Desa*, Development of Underdeveloped Regions and Transmigration has expended Rp20,67 trillion (2015), Rp46,98 trillion (2016), Rp60 trillion (2017), Rp60 trillion (2018), and Rp70 trillion (2019). <https://www.antaraneews.com/berita/797984/masyarakat-baduy-tolak-dana-desa>; <https://news.detik.com/berita/4428223/ingin-alam-tetap-lestari-masyarakat-baduy-tolak-dana-desa-2019>; <https://nasional.kompas.com/read/2019/02/26/17333511/total-dana-desa-2019-2024-rp-400-triliun?page=all>; all were accessed on 1 October 2019.

## B. The Baduy's Effort to Obtain the State's Recognition and Protection

### 1. *Requests Conveyed by the Adat Leaders to the Government*

It is the state's recognition and protection what the Baduy need, not development. To get them the Baduy have changed their views about themselves, that they are not only hermits who detach from political life, but also members of a state: citizens. Becoming citizens of a state means that the Baduy have rights and obligations to the state. After fulfilling their duties to respect and support the government, now they demand their rights from the state: recognition and protection for their land and religion.

Pertaining to land, Kurnia Toha (2007: 205-206) explains that there are two kinds of disputes about the Baduy land: first, between the Baduy and the government and second, between the Baduy and the intruders. The dispute between the Baduy and the government happened in 1968 when the government of West Java issued the Decision No. 203/b.V/Pem/SK/1968<sup>13</sup> which claimed that the forbidden forest in Kanekes belonged to the state. Persoon (1994: 366) adds that the government would also divide the Baduy land into three *desa* under the 1979 *desa* administration, but this plan was refused by the Baduy.

“At the end of 1984, the Baduy protested this split idea, and in 1985 the Bupati wrote a letter to the governor asking that the Kanekes split plan be withdrawn because of opposition from the local population. Granting this request indicates respect for the Baduy's high degree of autonomy in ‘internal’ matters.”<sup>14</sup>

Moreover, the dispute which often happened is between the Baduy and the intruders. Kurnia Toha (2007: 186-187) states:

“... there are occasional intrusions on their indigenous property rights, especially by people living in the border areas who have tried to use Baduy indigenous property for farming, plantations and cattle tending.”

<sup>13</sup> The Decision of the Governor of West Java No. 203/b.V/Pem/SK/1968 on *Penetapan Status Hutan “Larangan” Desa Kanekes Daerah Baduy sebagai “Hutan Lindung Mutlak” dalam Kawasan Hak Ulayat Adat Propinsi Jawa Barat* (the Determination of the Status of the Forbidden Forest as an Absolutly Protected Forest in the Kanekes Village Baduy West Java).

<sup>14</sup> “Eind 1984 protesteerden de Baduy tegen deze splitsingsgedachte en in 1985 schreef de bupati een brief aan de gouverneur met het verzoek het plan tot opsplitsing van Kanekes in te trekken vanwege het verzet van de lokale bevolking. Het inwilligen van dit verzoek geeft het respect aan voor de sterke mate van autonomie van de Baduy in ‘interne’ zaken.”



Photo 7.2: The Baduy followed the independence day celebration on 17 August 1985. Photograph by Gerard Persoon. Printed with permission.

To resolve this problem in 1984 the regent of Lebak formed a committee to solve the problems around the Baduy, especially the *adat* land which was trespassed by the Sundanese farmers. The committee had to formulate the boundaries of the *adat* land, to make a development plan for the Baduy (Persoon 1994: 363-265). Afterwards, the *jaro pamarentah* Nakiwin, asked by the three *puun*, came to Jakarta on 27 May 1985 to visit President Soeharto. To him Nakiwin thanked the president for his attention to the Baduy. He also said that the Baduy hoped that the president would always be successful in leading the country. Afterwards, Nakiwin conveyed the main message that the Baduy isolated themselves to follow the *adat* teaching. The Baduy asked the government not to involve the Baduy in the development programme. What the Baduy needed was the state's protection especially from the intruders. The president conveyed the message that the non-Baduy had to respect the Baduy. He also told Nakiwin in order that the *puun* would follow the development happening outside the Baduy land, but the president would not force them to do so. Later on the border of the Baduy land was marked with 548 concrete poles which signed the state's protection and "a number of offenders have been persecuted" (Djoewisno MS 1987: 153, Persoon 1987: 48, 51, Garna 1988: 305, 367, Persoon 1989: 1, Wim van Zanten 1995: 518).<sup>15</sup>

Furthermore, in the legal form the recognition of the Baduy land first appeared in 1990 when the government of Lebak issued the local regulation (*perda*) No. 13/ 1990<sup>16</sup> and then followed by the *perda* No. 32/2001<sup>17</sup>, and the *perda* No. 590/Kep.233/Huk/2002<sup>18</sup>. Article 4 (1) of the *perda* No. 13/1990, for example, states: "... the local government at all levels has an obligation to maintain, protect, and build the culture and *adat* of the Baduy community in their original form which will be useful to support the national development."

The demand for their rights, especially the right to land, can be seen in the messages the Baduy conveyed in the yearly visit of *Seba*: the protection of the *adat* land (in 2003), the protection of the *adat* forest from devastation caused by humans (2004), the reminder that natural disasters could happen because of humans (2005), the demand to eradicate bribery and to enforce

<sup>15</sup> <http://soeharto.co/presiden-terima-utusan-suku-baduy/> (the content on this page is from the newspaper **PELITA 28 May 1985**) and <https://paseban.id/utusan-baduy-menghadap-presiden-soeharto/>, accessed on 8 September 2019. See also the magazine *Selecta*, 17 Juni 1985.

<sup>16</sup> Local Regulation No. 13/ 1990 on *Pembinaan dan Pengembangan Lembaga Adat Masyarakat Baduy Di Kabupaten Daerah Tingkat II Lebak* (the Fostering and the Development of the Baduy Community Institution in Lebak).

<sup>17</sup> Local regulation No 32/2001 on *Perlindungan Atas Hak Ulayat Masyarakat Baduy* (the Protection of the Adat Rights of the Baduy Community).

<sup>18</sup> The local regulation No. 590/Kep.233/Huk/2002 on *Penetapan Batas-Batas Detail Tanah Ulayat Masyarakat Adat Baduy di Desa Kanekes* (The Decision on the Boundaries of the Adat Land of the Baduy in the Desa of Kanekes).



Photograph 7.3: The *jaro pamarentah* Nakiwin meets President Soeharto asking for protection.  
Source: <https://paseban.id/utusan-baduy-menghadap-presiden-soeharto/>



Photograph 7.4: Concrete poles to mark the border of the *adat* land. Photograph was taken in 1985 by Gerard Persoon. Printed with permission.

the law in the government (2006), the invitation to see the Baduy and their land (2007), the invitation to be close to the Baduy and to take care of the environment (2008), the protection of the *adat* land and the law enforcement for the people who pilfered the Baduy land, road refinement, and the support for the election (2009), the protection of 700 hectares of the Baduy's land outside the *adat* land, the increase of the Baduy's welfare, and the demand to issue a law on the protection of *adat* lands (2010) (Kurnia and Sihabudin 2010: 274-275). In 2011 the Baduy, like many *adat* communities in Indonesia, demanded the government to issue the draft bill on the protection of *adat* communities which they thought would be more powerful than the local regulations.<sup>19</sup>

In terms of religion, from 1984 to 2006 the Baduy's religion Sunda Wiwitan, based on a local policy, was printed on their identity cards (Garna 1988: 285-288). But in 2006 the government issued Law No 23/ 2006 on the Administration of Population which was amended by Law No.24/2013. These two laws require the column of religion on the identity cards of the adherents of local religions and not recognised religions to be emptied. From 2006 onwards, the issue brought by the Baduy to the government was not only about the protection of the *adat* land, but also their religion. In the 2012 *Seba*, for example, the *jaro pamarentah* of the time Daenah asked the Banten government whether Sunda Wiwitan could be printed on their identity cards. He was worried that the next generations of the Baduy would be confused about the status of their religion in relation to the state.<sup>20</sup> The current *jaro pamarentah* Saija hoped that the state would recognise the existence of the Baduy *adat* community and its religion Sunda Wiwitan. He explained:

“We often proposed (to the government) in order that our religion be written on the identity card. We have met the regent, the governor and so on. This issue of religion has also been conveyed to the Ministry of Religion. The (Baduy) people keep asking why the *desa* officials are not able to do so. We the *desa* officials only convey the aspiration to the higher level of government.”<sup>21</sup>

<sup>19</sup> <https://www.republika.co.id/berita/breaking-news/seni-budaya/11/01/10/157537-masyarakat-badui-pemerintah-musti-keluarkan-ruu-adat>, accessed on 8 October 2019.

<sup>20</sup> <https://www.republika.co.id/berita/nasional/jawa-barat-nasional/12/04/28/m37851-suku-baduy-minta-sunda-wiwitan-dimasukkan-ktp>; <https://www.beritasatu.com/megapolitan/45165/suku-baduy-minta-sunda-wiwitan-ditulis-di-e-ktp>, accessed on 30 July 2019.

<sup>21</sup> Interview with the *jaro pamarentah* Saija on 10 May 2017.

On 5 May 2019; 1,035 Baduy did a visit of *Seba* to the Banten governor. In front of him they demanded the province of Banten to issue a local regulation on the *adat desa*. One of the Baduy leaders expressed that this proposal had been conveyed to the government, but there was no follow-up. He hoped this regulation would guarantee for the continuity of the Baduy society and their land. They argued that two of many factors that influenced the Baduy were the increase of population and the negative impact of tourism. The governor of Banten Wahidin Halim stated that the Baduy's demand was reasonable and he promised to materialise this regulation. He also considered expanding the size of the Baduy land to accommodate the increase of population.<sup>22</sup>

## **2. In the Name of the Baduy: Haji Kasmin as the Representative of the Baduy in the People's Consultative Assembly (MPR)<sup>23</sup>**

The effort of the Baduy to get the state's recognition was also taken by permitting Haji Kasmin as their representative in the MPR. This was a difficult choice. Actually the Baduy leaders objected both to have a representative and to send Haji Kasmin. First, the Baduy, as has been mentioned many times here, are hermits and as hermits they may not have an official position. By having a representative in the MPR in Jakarta it implied that they had an office. Second, the Baduy did not recognise any Baduy who had left their Baduyness as Baduy. Haji Kasmin had left Sunda Wiwitan by converting to Islam. So, according to the Baduy he could not represent the Baduy. Law No. 3/1999 on the General Elections<sup>24</sup>, especially Article 81, however, has made it possible for the Baduy to have a representative in the MPR. If they did not send a representative, the position could be taken over by another person from other group of representatives (*utusan golongan*) (teachers, labourers, etc.). Based on this reasoning the Baduy sent Haji Kasmin.

The story of Haji Kasmin who became the representative of the Baduy in the MPR began when the General Elections Commission (*Komisi Pemilihan Umum/KPU*) sent a letter to the *desa* office of the Baduy. The letter contained information about Law No. 3/1999 on the General Elections where Group of Representatives from various backgrounds, as long as fulfilling the requirements, could send their representative to the MPR. The Baduy as an ethnic group could send one representative. Haji Kasmin who already converted to Islam heard about this law and called Sarmedi, a vice-*jaro* of Kanekes, to come to his house.

<sup>22</sup> <https://banten.antaranews.com/video/858019/warga-baduy-minta-pengesahan-perda-desa-adat-ke-gubernur-banten> and <https://www.youtube.com/watch?v=xIEf8thfkc> accessed on 13 June 2019.

<sup>23</sup> This section is based on my interviews with Haji Sarmedi on 18 and 24 November 2019 and Haji Kasmin on 19 November 2018, except mentioned otherwise.

<sup>24</sup> The law can be seen on <https://peraturan.bpk.go.id/Home/Details/45271>, accessed on 24 June 2019.

Haji Kasmin asked Sarmedi to propose him to the *adat* leaders so that that he could become the representative of the Baduy in the MPR. In a meeting Sarmedi proposed Haji Kasmin to the *adat* leaders, but they objected. They said that the Baduy were not allowed by their religion to occupy a position in an office. Second, any Baduy who had left Sunda Wiwitan by converting to a religion was no longer considered as a Baduy. Haji Kasmin had converted to Islam, therefore he was no longer a Baduy and could not represent the Baduy. Moreover, his plan to build a mosque in the *adat* land has made the Baduy angry at him. Sarmedi himself could not become the representative of the Baduy in the MPR because he was a Baduy and would become the succeeding *jaro pamarentah*.

The *adat* leaders proposed some non-Baduy to represent the Baduy. Sarmedi minded by saying that the non-Baduy probably would not understand the Baduy as they did. Let alone the people who were proposed by the leaders lived in other cities, like Adang Afandi in Bandung and Alim in Semarang. If the Baduy enthusiasts represented the Baduy in the MPR, the situation could be more difficult. For instance, when the Baduy wanted to discuss certain issues with their representative, he would not be easily reached. Sarmedi proposed Haji Kasmin again and told the *adat* leaders that Haji Kasmin was a Baduy. He had made a mistake but he could be forgiven. Sarmedi then asked a Baduy man to invite Haji Kasmin to the *adat* meeting. In front of the *adat* leaders he asked for forgiveness. Haji Kasmin was forgiven and permitted to represent the Baduy in the MPR.<sup>25</sup>

Remaining as a Muslim Haji Kasmin then became the representative of the Baduy in the MPR from 1999 to 2004. During the period he realised that the political power of the Group of Representatives in the MPR was weak, but he tried to struggle for the rights of the Baduy. He explained:

“In the MPR we fought for the aspiration of the group we represented. There was a working group. But the representatives whose residences were far from the MPR office were not invited because they did not receive a salary. There was only an honorarium of as much as Rp175,000 per meeting. It was not enough even to pay for a hotel room in Jakarta. Those who lived in Jakarta could attend the meetings, but those who lived outside Jakarta only attended the meeting once a year. I brought the aspiration of the Baduy who did not have power over their own land. This issue was brought to the regency and it became a local regulation (*peraturan daerah/ perda*). Now they have right over their *adat* land. I also proposed the refinement of the road from the city to Ciboleger.”<sup>26</sup>

<sup>25</sup> Interviews with Haji Sarmedi on 24 May 2017, and 18 and 24 November 2018.

<sup>26</sup> Interview with Haji Kasmin on 19 November 2018.



The regulation that Haji Kasmin meant is the *perda* No. 32/2001 on the protection of the *adat* right of the Baduy society which was signed by the regent of Lebak, Moh. Yas'a Mulyadi, on 13 August 2001. The *perda* has guaranteed and protected the *adat* land covering the area of 5,101 ha which all utilisations of the land is fully given to the Baduy. The land shares its borders with the *desa* Cisimeut, Nyagati, Parakanbeusi, Keboncau, Karangnunggal, Cikate, Karangcombong, and Cilebang. More specifically, the *adat* land is marked by River Ciujung, River Cidikit, River Cibarani, and River Cisimeut. The non-Baduy who intrude the Baduy land as its borders have been mentioned could be punished for six months of jail or for money for a maximum of Rp5 million (around \$33) (article 9). Moreover, the right of the Baduy land is communal. To avoid dispute among the Baduy, the government forbids the Baduy individuals to have a land certificate (article 11). In other words, the border within the *adat* land is managed by the *adat* leaders and the government does not want to be involved.<sup>27</sup>

Moreover, on 10 August 2002 the members of the MPR decided that they would remove the membership of the Group of Representatives (*Utusan Golongan*) from the MPR.<sup>28</sup> As the exchange it would form the Regional Representatives Council (*Dewan Perwakilan Daerah* DPD).<sup>29</sup> When his position as the group representative of the Baduy in the MPR ended in 2004, Haji Kasmin proposed himself to become a member of the DPD from Banten province for the period 2004-2009, but he failed. Haji Kasmin then continued his career in politics by joining the political party Golongan Karya (Golkar) of Lebak. He was chosen by Herry Djuhaeri, the leader of Golkar of Lebak, as the treasurer of the party from 2004-2009. In the next election, Haji Kasmin proposed himself to become the leader of Golkar, opposing the incumbent Herry Djuhaeri. Haji Kasmin got support from Hasan Sochib<sup>30</sup>, the prominent leader of *jawara* (strongman) in Banten. To make everything run smoothly Hasan

<sup>27</sup> Local Regulation No. 32/2001 on the Protection of the *Adat* Right of the Baduy Society.

<sup>28</sup> <https://www.liputan6.com/news/read/39402/utusan-golongan-dihapuskan-dari-mpr>, accessed on 27 September 2019.

<sup>29</sup> The Local Representative Council (*Dewan Perwakilan Daerah* DPD) is stipulated in the amended 1945 Constitution Chapter VIIA on The Local Representative Council. Article 22C (1) and (2) state that the members of The Local Representative Council come from provinces which are chosen through a General Election. Each province has the same number of representatives. And the total number of The Local Representatives may not exceed one third of the number of the members of Parliament. For the amended 1945 Constitution, see <http://www.dpr.go.id/jdih/uu1945>.

<sup>30</sup> He was the father of the ex-governor of Banten Ratu Atut Chosiyah and was known as the leader of Bantenese strongmen. More details about his influence in the government of Banten, read Syarif Hidayat's '*Shadow State? Business and Politics in the Province of Banten*' in Henk Schulte Nordholt and Gerry van Klinken (eds.), *Renegotiating Boundaries: Local politics in post-Soeharto Indonesia*, (Leiden: KITLV Press, 2007), 203-224.

Sochib funded the election. From the election Haji Kasmin got 21 votes, whereas the incumbent got 12. This result placed Haji Kasmin as the leader of Golkar of Lebak for the period 2009-2013.<sup>31</sup>

Afterwards, from the 2009 election Haji Kasmin became a member of parliament in Banten province from 2009-2014. He was nominated again by Golkar to become a member of parliament for the second term but did not pass. Afterwards, he was proposed to become the regent of Lebak for the period 2013-2018.

“Becoming a member of parliament means to be a representative of the people. The executive is the regent. So, any aspiration proposed by the parliament would be meaningless if the regent or the governor disagrees. I had a chance to become a regent because I was a member of the Parliament in Banten province. To care for the people, especially the Baduy, is not enough with my own money. There should be a development policy. Then there were some people who asked me to become a regent candidate. I answered that I didn’t have money. They said the candidacy would be paid by the party (Golkar). I waited for the support of the party until my money was running out. The donation which was promised never came. In the election I failed.”<sup>32</sup>

### 3. *Haji Sarmedi’s Participation in Politics: a Wish to Fight for the Interest of the Baduy*<sup>33</sup>

Sarmedi, a son of the *jaro pamarentah* Marsinun (in office 1967-1975), has been interested in politics since he was very young. In 1992 he became a vice *jaro* who was responsible for the external affairs. Sarmedi was even prepared by the *adat* leaders to become a *jaro pamarentah*. It was not surprising because, besides being a son of the *jaro*, Sarmedi was among the first Baduy who could read and write. In addition, he had a wide network with government institutions. He was even appointed by the Department of Social Affairs (Depsos) as a field companion (*pendamping lapangan*) of the Baduy in the resettlement villages. Sarmedi hoped he would become a civil servant someday in the department, but President Abdurrahman Wahid (1999 – 2001) dismissed the Depsos and the Department

<sup>31</sup> Interview with Sarmedi on 24 November 2018.

<sup>32</sup> Interview with Kasmin on 19 November 2018.

<sup>33</sup> This part is based on my interviews with Haji Sarmedi on 2, 20, 24 May 2017; 18, 24 November and 21 December 2018, unless otherwise mentioned.

of Communication (*Departmen Penerangan*) in 1999.<sup>34</sup>

In 2004 Haji Sarmede conversed with Haji Kasmin about the party with which Haji Sarmede would affiliate. Haji Sarmede had a plan to join an Islamic-nuanced party like the PKS (*Partai Keadilan Sejahtera* Prosperous Justice Party), but he doubted that the party would win the election. Islam in Lebak, he said, was traditional, whereas Islam offered by PKS, and also by the PAN (*Partai Amanat Nasional* National Mandate Party), was modern. If he joined one of these two parties, his chance to become a member of parliament would be small. In fact, political parties which were popular in Lebak, and also in Banten in general, were Golkar and PDI-P. In the parliament of Lebak, for example, most of the chairs were occupied by these two parties. "In Lebak, religious parties are less attractive," Sarmede added.

Haji Sarmede began to join Golkar when he visited its office in Rangkasbitung in 2005. He met its leader Herry Djuhaeri and talked about Golkar. Then Haji Sarmede asked him to make a member card which marked his membership in Golkar of Lebak. When Haji Kasmin became the leader of Golkar for the period 2009-2014 Haji Sarmede was chosen as one of his deputies managing the Department of Law and Human Rights.

"My (academic) background is law, a major which is related to politics. Law and politics are brothers. Politics can be valued as virtues if it is used for good purposes, not because of money. If I am invited to discuss (about law and politics), the discussion could last until dawn."<sup>35</sup>

In 2014 he first became a candidate for the position of the Lebak Parliament from Golkar, but failed. In the next election, which was conducted on 17 April 2019, Haji Sarmede was re-nominated by Golkar. He would become a representative from the Voting Region (*Daerah Pemilihan*) 3 which covers the sub-districts of Cimarga, Leuwidamar, Muncang, Sobang, Bojongmanik, and Cirinten. Leuwidamar the sub-district where the Baduy live would become his mainstay. Besides him, there were other eight Golkar candidates from the same voting region. They were Nana Sumarna, Eboy Kurniati, Mulki Firuzi, Ubaidilah,

<sup>34</sup> Sarmede entered Universitas Mathla'ul Anwar and wrote a bachelor thesis in 2013 titled *Pengaruh Hukum Adat Terhadap Hukum Positif: Studi Kasus Sadim* (The Influence of Customary Law on Positive Law: The Case of Sadim). Sadim was a Baduy who murdered a non-Baduy. He was brought to the court and punished. After being released from the jail he was re-punished by the *adat* law for five years. He was isolated and had to work without salary. After a half period of his punishment he died. To avoid a double punishment Sarmede proposes in his thesis that the court should be responsible to determine whether or not the accused is wrong, but the punishment is decided by the *adat*.

<sup>35</sup> Interview with Sarmede on 24 November 2019.

Reni Silfaeni, Fitri Yuningsih, Udan Bundani, and Dinar Andriana.<sup>36</sup> He dreamt of becoming a member of parliament to help the Baduy community. He explained:

“I intend to help the Baduy. I hope the health centre (*Pusat Kesehatan Masyarakat/ Puskesmas*) of Ciboleger can be repaired and improved to be able to manage the patients. The health centre should have had an ambulance in case there are patients who should be brought to the hospital. It often happened that a pregnant Baduy woman was brought from a far Baduy village. When she arrived at the Health Centre there were no proper medical tools. When she had to be brought to a hospital, (because there was no ambulance) she was brought by a motorcycle. It was troublesome.”<sup>37</sup>

On 22 July 2019 the KPU announced the result of the 2019 election and Haji Sarmede failed again to become a member of parliament in the Lebak Parliament. Those who passed to the Lebak Parliament from the Voting Region 3 were H. Dana Ukon (PKB), Bambang SP (Partai Gerindra), Junaedi Ibnu Jarta (PDIP), H. Hasan Gaos (PDIP), Nana Sumarna SH (Golkar), Tajudin (PKS), Asep Nuh Bin H. Oman (PPP), Rizki Riadi (Demokrat) and Mustopa (Demokrat).<sup>38</sup> Haji Sarmede was very sure that money played a very important role in the success of a candidate to become a member of parliament, a regent, and a governor.

### C. Ethnicity and Money Politics in the Elections

The two Muslim Baduy Haji Kasmin and Haji Sarmede participate in politics, they claim, to fight for the interests of the Baduy. Their experience shows that ethnicity in small areas like in the *desa* of Kanekes and the sub-district of Leuwidamar was powerful. For example, in the 2009 election Haji Kasmin obtained 721 votes in the *desa* of Kanekes (whereas the second candidate got only 135 votes) and 3,803 votes in the sub-district of Leuwidamar (whereas the second candidate got only 135 votes). In the larger area, namely at the regency level, ethnicity was insignificant. Haji Kasmin and Haji Sarmede claimed that it was money that played the key role there.

<sup>36</sup> <https://kpu-lebakkab.go.id/kpu-kabupaten-lebak-umumkan-dct-dprd-lebak/>, accessed on 27 June 2019; interviews with one of the Lebak KPU commissioners Ace Sumirsa Ali via WhatsApp on 9 May and 2 July 2019.

<sup>37</sup> Interview with Haji Sarmede via WhatsApp on 9 May 2019.

<sup>38</sup> The decision letter of the Lebak KPU of the 2019 election can be seen on the Lebak KPU's website <https://kpu-lebakkab.go.id/wp-content/uploads/2019/07/BA-NOMOR-38-TTG-PENETAPAN-KURSI-DAN-CALON-TERPILIH-DPRD-LEBAK.pdf>, accessed on 30 July 2019.

### 1. *Amir Hamzah-Haji Kasmin: Ethnicity and Corruption*

Amir Hamzah and Haji Kasmin formed one of the three pairs of the regent and vice-regent candidates to rule Lebak for the period 2013-2018. The other two were Pepep Faisaludin - Aang Rasidi and Iti Octavia Jayabaya - Ade Sumardi. The first was supported by Golkar, the second was from independent candidates<sup>39</sup>, and the last was supported by Partai Demokrat, PDI Perjuangan, Partai Hanura, Partai Gerindra, PPP, PKS, and PPNU.<sup>40</sup> After the election was conducted on 31 Augustus 2013, the KPU announced on 8 September that 74.60% of the voice holders had given their votes.<sup>41</sup> The result was that Iti Oktavia - Ade Sumardi got 62.37% of the votes; Amir Hamzah - Kasmin 34.69 %, and Pepep Faisaludin - Aang Rasidi 2.94%. The KPU also issued a decision letter stating that Iti Octavia - Ade Sumarwi were the chosen regent and vice-regent of Lebak 2013-2018.<sup>42</sup>

In the campaign period, Haji Kasmin's ethnicity was attacked by the Lebak Regent Mulyadi Jayabaya who is the father of Iti Octavia. On 27 August 2013, in front of masses in Ona, Rangkasbitung, Jayabaya assaulted him by saying:

“If we want to become foolish, choose the Baduy. If we want to become foolish, choose the son of Kanekes. There are no Baduy people who go to school. [They are] foolish. Do you want to be led by the foolish man?”<sup>43</sup>

Haji Kasmin knew that this statement was directed to him because he was the only candidate who was from the Baduy origin. He did not deny this fact. Even he admitted that many of his families were still the adherents of Sunda Wiwitan. However, he argued, he was not fully a Baduy because he had left the *adat* land by converting to Islam. Haji Kasmin asserted:

“It is true that I came from the Baduy land. Now I am no longer a Baduy because I have been joining politics for a long time. I am more properly called

<sup>39</sup> The regulation of the General Elections No. 8/ 2015 on the election of governors, regents and mayors allows independent candidates to propose themselves or to be proposed by a group of people to become a governor, regent or mayor. Independent candidates are also called non-party candidates.

<sup>40</sup> <https://nasional.kompas.com/read/2013/10/04/1606497/Demokrat.Desak.Calon.Bupati.Lebak.dari.Golkar.Didiskualifikasi>, accessed on 01 July 2019.

<sup>41</sup> Decision letter No 40/Kpts/KPU.Kab./015.436415/IX/2013

<sup>42</sup> Decision letter No.41/Kpts/KPU.Kab./015.436415/ IX/2013; <https://www.beritasatu.com/nasional/143766-14-november-pemungutan-suara-ulang-pilkada-lebak.html>, accessed on 1 July 2019; and <https://www.liputan6.com/news/read/729095/pasangan-iti-ade-yakin-menang-pilkada-ulang-lebak-banten>, accessed on 8 July 2019.

<sup>43</sup> <https://www.beritasatu.com/nasional/136514/hina-warga-baduy-bupati-lebak-tuai-kecamatan>, accessed on 1 July 2019.

Photograph 7.5: A campaign sticker of H. Amir Hamzah and H. Kasmin. Photograph taken in 2017 by Ade Jaya Suryani.



an ex-Baduy. But my family and blood are still Baduy. I regret the statement of the Lebak Regent Mulyadi Jayabaya.”<sup>44</sup>

Supposed to support his daughter, Jayabaya also made a monitoring team through a decision letter on *Pembentukan Tim Monitoring dan Evaluasi Pemilihan Umum Bupati dan Wakil Bupati Lebak Tahun 2013* (The Making of the Monitoring and Evaluation of the Regent and Vice-Regent of Lebak 2013).<sup>45</sup> This team consisted of 56 officials and civil servants, 28 sub-district heads (*camat*) and 345 *desa* heads in Lebak. Jayabaya also became a campaigner of the pair of Iti Octavia-Ade Sumardi. The team of Amir Hamzah-Kasmin objected

<sup>44</sup> <https://www.beritasatu.com/nasional/136514/hina-warga-baduy-bupati-lebak-tuai-kecamatan>, accessed on 1 July 2019.

<sup>45</sup> Decision letter No. 300/Kep.245/kesbangpol&Linmas/2013.

against this regulation which tended to influence people to vote for the pair of Iti Octavia-Ade Sumardi. Iwin (not his real name) who worked as a KPPS<sup>46</sup> official confirmed that he saw how this team used the government structures to influence people. He said:

“It doesn't need to be discussed (It has been clear). Even a little child knows it. The problem is I don't hold a piece of evidence in the form of writing, recording or photographs. So it is difficult to be proven in front of the judges.”<sup>47</sup>

He explained further:

“Haji Kasmin is foolish but honest. Amir Hamzah has knowledge (to manage the governance). They are a pair. Haji Kasmin is a businessman. People wanted a change. The running system did not humanise laypeople. The *desa* leaders (*jaro*) were pressed with the threat that the PNPM<sup>48</sup> fund would not be given. Then there was a kind of contest whoever could raise the voting gains would be given a certain reward. The *jaro* then ordered the village leaders.”<sup>49</sup>

The pair of Amir Hamzah – Kasmin could not accept the victory of Iti Octavia – Ade Sumardi. Amir Hamzah's cadres, Kasmin said, pressed Amir Hamzah by saying that there were many violations in the election procedures. They pushed him to file the case. The team of Amir Hamzah-Kasmin then organised a meeting on 9 September 2013 in Hotel Sultan, Jakarta. The governor of Banten Ratu Atut Chosiyah, who was also from Golkar, attended the meeting. Amir Hamzah said to the people that the regent of Lebak Jayabaya used his power and bureaucracy to let Iti Octavia and Ade Sumardi win the election. On 11 September they filed the case to the Constitutional Court (*Mahkamah Konstitusi* MK) to cancel the decision of the Lebak KPU and to repeat the election.

To manage the case Golkar appointed Rudi Alfonso and Susi Tur Andayani as its lawyers. Susi contacted the leader of the MK, Akil Mochtar, to pass the file.

<sup>46</sup> KPPS (*Kelompok Penyelenggara Pemungutan Suara*/ Polling Station Working Committee) is a unit in the KPU who works at the voting station level, who directly manages the voting process in the field.

<sup>47</sup> Interview with Iwin via WhatsApp on 12 February 2019.

<sup>48</sup> PNPM (*Program Nasional Pemberdayaan Masyarakat*, National Programme of Society Development) is a national programme to get rid of poverty in Indonesia. The central government provides a lot of funds for this programme. More information about this programme read its official website <http://www.pnpm-mandiri.org>.

<sup>49</sup> Interview with Iwin on 13 December 2018.

On 22 September, Chosiyah, Tubagus Chaeri Wardana<sup>50</sup>, and Akil Mochtar met in Hotel JW Marriot, Singapore. Here Chosiyah restated the demand to cancel the decision of the Lebak KPU and asked to repeat the election. In Jakarta Akil asked Rp3 billion to the team in order to pass the file. Wawan said that he was able to give him Rp1 billion. Susi contacted Amir Hamzah to provide money. Amir Hamzah took Rp1 billion. He would give the money after he would win the re-election.<sup>51</sup>

In a morning when Haji Kasmin was on the way to Bandung, Amir Hamzah phoned Haji Kasmin explaining that Wardana had met the lawyer Susi. Wawan, Amir Hamzah told Haji Kasmin, promised Susi to pay Rp1 billion. A few hours later Haji Kasmin called Susi asking whether it was true that Wardana would give her Rp1 billion. On the phone Susi said that Wardana promised her only Rp1 billion. She asked Kasmin to add more money, but Kasmin said he did no longer have money.<sup>52</sup>

After getting a promise from the team of Amir Hamzah-Kasmin, the MK issued a decision letter on 8 September to cancel the decision letter of the Lebak KPU on the winning of the pair of Iti Octavia-Ade Sumardi.<sup>53</sup> The reason for the cancellation was that the regent of Lebak Jayabaya used his power and bureaucracy to let his daughter win. The KPU decided to repeat the election on 14 November 2013. To do it the Lebak government had to provide Rp10 billion. The election was re-conducted and the result was still the same: Iti Octavia-Ade Sumardi won with 67.74%.<sup>54</sup>

On 25 September 2014 Amir Hamzah-Kasmin were stipulated by the KPK (*Komisi Pemberantasan Korupsi* Corruption Eradication Commission) as suspects in a case of corruption. They were accused of giving Rp1 billion to the leader of the MK, Akil Mochtar, who managed the case. This case was connected to other Golkar politicians, who are sister and brother, Chosiyah and Wardana. Chosiyah herself was the governor of Banten of the time.<sup>55</sup> In the court Haji Kasmin

<sup>50</sup> Tubagus Chaeri Wardana is more known as Wawan. He is a younger brother of Ratu Atut Chosiyah and is the husband of the city mayor of Tangerang Selatan, Airin Rachmi Diany. Wawan had been jailed since 2015 because of many corruption cases. <https://nasional.tempo.co/read/1152590/wawan-suap-kalapas-untuk-menginap-di-hotel-bersama-wanita-lain/full&view=ok>, accessed on 8 July 2019.

<sup>51</sup> <https://news.detik.com/berita/d-3081575/suap-akil-mochtar-amir-hamzah-dituntut-5-tahun-penjara-kasmin-4-tahun>, accessed on 8 July 2019.

<sup>52</sup> Interview with Haji Kasmin on 19 November 2018.

<sup>53</sup> Decision letter No. 111/PHPU.D-XI/2013.

<sup>54</sup> <https://news.detik.com/berita/3031990/ketua-kpud-lebak-mengaku-didatangi-tim-sukses-amir-kasmin-usai-sidang-mk>, accessed on 1 July 2019; and <https://news.detik.com/berita/d-2446932/kalah-di-mk-cabup-amir-hamzah-minta-maaf-kepada-warga-lebak>, accessed on 1 July 2019.

<sup>55</sup> <https://nasional.sindonews.com/read/1034573/149/amir-hamzah-kasmin-ditahan-1439952849>, accessed on 1 July 2019.



denied having bribed Akil Mochtar. Wardana also stated that Haji Kasmin was not involved. But Haji Kasmin was still found guilty and jailed for three years in Sukamiskin, Bandung, because he did not report the case to the police or the KPK. The other suspects were also found guilty and jailed. Amir Hamzah was jailed for three years and five months, Susi Tur Andayani for five years, and Mochtar Akil was for life imprisonment.<sup>56</sup>

## 2. *Sarmedi and Muslim Baduy Communities: Ethnicity and Elections*<sup>57</sup>

Haji Sarmedi knew that there were many Baduy of Sunda Wiwitan and Muslims. If they supported him, their voting would contribute to his success in becoming a member of parliament in Lebak. As a Baduy he also had a good connection with the *adat* leaders. Even some of his extended-families are Baduy. Both to the Muslim and Sunda Wiwitan Baduy he raised the issue of ethnicity, by saying that if he became a member of parliament he could help them. Haji Sarmedi explained:

“The Muslim Baduy are displaced. They are not recognised by the *adat*. By the government they are less embraced. It is also because the Baduy socialise less. There is also an assumption that the Baduy who left the *adat* land are economically well off. Yes, it is true that some Muslim Baduy became businessmen. But, most of the people are living in miserable conditions.”<sup>58</sup>

From the fact that many Muslim Baduy were displaced, Haji Sarmedi said that he was encouraged to become a member of the parliament. Like what was said by Haji Kasmin, Haji Sarmedi could not help the Baduy as a whole personally. He claimed to have discussed the situation of the Muslim Baduy with the government, but it clarified the problem with the Sunda Wiwitan Baduy, not with the Muslim ones. The Sunda Wiwitan Baduy would certainly deny because for them the Baduy who had left the *adat* land were no longer Baduy. In other words, for the Baduy there were no so-called displaced Baduy. Haji Sarmedi realised that they had a different definition of who the Baduy were. Therefore he thought politics would be a good way to help the Baduy of both Sunda Wiwitan and Islam. To achieve this he joined Golkar.

<sup>56</sup> Interview with Haji Kasmin on 19 November 2018, <https://www.cnnindonesia.com/nasional/20151221174400-12-99677/amir-dan-kasmin-divonis-tiga-tahun-penjara>; <https://www.liputan6.com/news/read/2067349/kasus-suap-akil-susi-tur-andayani-divonis-5-tahun-bui>; <https://nasional.kompas.com/read/2014/06/30/2203501/Mantan.Ketua.MK.Akil.Mochtar.Divonis.Seumur.Hidup>; accessed on 8 July 2019.

<sup>57</sup> This section is based on my interviews with Haji Sarmedi on 2, 20, 24 May 2017, 18, 24 November 2018 and 21 December 2018.

<sup>58</sup> Interview with Haji Sarmedi on 18 November 2018.

Haji Sarmedi thought that he could be instrumental to help the Baduy if he became a member of parliament himself. He dreamt he could help the Baduy who did not have fields and because of it they had to manage other people's farmland in various sub-districts. Haji Sarmedi then met Haji Kasmin to ask his support. He knew that Haji Kasmin was influential both as a politician and as a Baduy. Let alone Haji Kasmin himself recommended him to participate in the election. By becoming a member of parliament, Haji Sarmedi was sure that he could do a lot of things for the Baduy. Based on this reasoning Haji Sarmedi participated in the 2019 election and was sure Haji Kasmin would support him.

"I become motivated and I am sure if Haji Kasmin 'comes down from the mountain' (*turun gunung*, to participate) he can influence the mass. There are still many people who have sympathy for him. He has a concern for the people, including in religious matters. If Haji Kasmin gives me Rp200 million (around €3,333), but he doesn't come down from the mountain, I will not be happy. But if he comes down from the mountain and doesn't give me money, I think it will be valued more than Rp200 million."<sup>59</sup>

On 19 November 2018 Sarmedi went to the house of Haji Kasmin in Rangkasbitung. In the house there would be a meeting among Muslim Baduy to support Haji Sarmedi in the election. The election itself would be held on 17 April 2019. The place of the meeting tells us the importance of the owner of the house, Haji Kasmin, who was a very rich and influential Muslim Baduy. He was also an ex-candidate for the position of the Lebak Regent 2013-2018. Haji Sarmedi moved to Haji Kasmin to get his support. Other Muslim Baduy, including Haji Nalim, Haji Dayat, Haji Jali, Arman, and Sarpin were also invited to the meeting. It was hoped that they would become Sarmedi's supporters in their villages. Based on Sarmedi's calculation, if all of the Baduy supported him, he would become a member of parliament. To become a member of parliament one had to gain around 12,000 votes. Haji Sarmedi estimated that there were around 5,000 Baduy who had the right to vote. This number could be added by the votes of the non-Baduy. If Haji Kasmin could influence 4,000 Baduy, he was pretty sure he could become a member of parliament. But in fact, ethnicity, like what was experienced by Haji Kasmin, was less important.

In the voting region 3 Haji Sarmedi had to fight against his own fellows from Golkar and he failed to gain enough votes to become a member of the Lebak parliament. Among the Golkar fellows Sarmedi got only 1,493 votes, and the

<sup>59</sup> Interview with Haji Sarmedi on 19 November 2018.

others were Nana Sumarna (3,969), Emboi Kurniati (1,815), Mulki Firuz (205), Ubaidilah (400), Reni Silfiaeni (3,923), Fitri Yuningsih (72), Udan Bundani (67), and Dinar Andriana (266).<sup>60</sup> Sarmedi failed for the second time. In this election his name appeared only in the fourth rank. Through a decision letter the Lebak KPU announced the winning parties and candidates of the 2019 election. From Golkar from the voting region 3 only Nana Sumarna was elected in the Parliament.<sup>61</sup>

After Haji Sarmedi failed twice to become a member of the Lebak Parliament, he would probably give up. He believed that his failures were caused by bad democracy where people tended to choose the candidates who gave them money. He said that he did not have enough money for the General Elections. Many years ago, when he was a contractor, he could be said to have more money. But he already stopped being a contractor because that kind of business, he said, was very close to the practice of corruption. He also believed that spending too much money in the process of candidacy worsened the quality of democracy.

“It will be useless to follow the General Elections again if we don't use money: the result will be the same. I am really sad to realise that in our democracy money speaks. Facts show that the candidates who won the elections of village leaders, the DPR, the DPRD, regents, and governors are those who had a lot of money.”<sup>62</sup>

To understand what Haji Sarmedi complained about, it is necessary to see how money politics is practised in Indonesia. Edward Aspinall and Mada Sukmajati (2016: 2-4, 19-28) state that the term ‘money politics’ has been used since the 1990s with diverse meanings such as “bribery within legislative bodies”, vote buying, political corruption, and “the practice of distributing cash (and sometimes goods) to voters during the General Elections”. The practice of money politics occurs in the phenomena of patronage (the distribution of material benefits) and clientelism (the power relation among the candidates and voters). Patronage takes various shapes including vote buying, individual gifts, services and activities, club goods, and pork barrel projects; while clientelism emerges in the form of success teams, social networks, and parties. The decision letter on *The Making of the Monitoring and Evaluation of the Regent and Vice-Regent of Lebak 2013* which consisted of 56 officials and civil servants, 28 sub-district

<sup>60</sup> Decision letter No. 112/PL.01.7-Kpt/3602/KPU-Kab/V/2019.

<sup>61</sup> Decision letter No. 38/PL.01.9-BA/3602/KPU-Kab/VII/2019, <https://kpu-lebakkab.go.id/wp-content/uploads/2019/07/BA-NOMOR-38-TTG-PENETAPAN-KURSI-DAN-CALON-TERPILIH-DPRD-LEBAK.pdf>, accessed on 30 July 2019.

<sup>62</sup> Chat with Haji Sarmedi via WhatsApp on 2 July 2019.

heads (*camat*) and 345 *desa* heads in Lebak was a clear evidence how clientelism works.

Because money politics occurs in the whole process of election Edward Aspinall and Ward Berenschot (2019: 3-4) name democracy in Indonesia as being for sale. First, the candidates have to provide money to be given to the political parties to gain their support (see also Vedi R Hadiz 2002). After getting support from the political parties they form campaigning organisations and recruit workers. Besides giving money to the workers the candidates often offer promises that, after they are elected, they will give projects or positions to the workers. Afterwards, the candidates and workers build networks with community leaders or organisations. For this network building they must spend a lot of money. Money is also distributed to the voters. Since the distribution of money is done in the dawn of the voting day, the act is called the dawn attack (*sejarangan fajar*). If the candidates win, they have to return the favour to their sponsors who provide money in the whole process of election in the form of projects. All of these costs have caused the expenses for the election skyrocket. Aspinall and Berenschot (2019: 2-3) write:

“Politicians who use clientelistic methods to win elections do so by distributing favors, goods, or cash to individuals or small groups of voters, whom they then expect to reciprocate with their votes. These goods and favors can come in multiple forms—from envelopes stuffed with cash to assistance in getting a child into a government scholarship program, from a job as a hospital janitor to a government construction contract.”

....

“At every level, formal political institutions are shadowed by informal, personalized networks through which material benefits and favors flow. Politicians win power, often, by distributing small-scale projects, cash, or other goods to voters or community groups; they get gain the funds they need to campaign by trading contracts, licenses, and other favors with business people; and they engage in constant battles with each other and with bureaucrats in order to wrest control over state resources and turn them to their personal political advantage.”

The practice of money politics in Banten can be seen further in a study by Gandung Ismanto and Idris Thaha (2016: 137-153). They show how money plays a very important role in mobilising the mass in campaigns and in gaining votes. The participants of the campaigns came to the campaigning squares merely because they were paid. They realised that the candidates who invited them to

the square would probably not remember their constituents. Whatever parties and programmes and whichever candidates seem for the people not too relevant. In the end, the most important thing for them was the payment: money. The candidates who built a network with religious institutions such as *pesantren*, *majlis taklim* (informal groups where especially women study Islam) and madrasa, also had to provide a lot of money and distributed it to the people as a sign that they cared for them. To become a member of parliament at the national level a candidate could spend up to Rp5 billion (around €333,333). The same kind of study conducted by Argoposo Cahyo Nugroho (2016: 154) in Tangerang, Banten, shows the same thing.

Commenting about the 2014 election in Banten, the Indonesian Corruption Watch (ICW) stated that Banten was a province in Indonesia with the highest level of money politics.<sup>63</sup> In other words, such practices also happened in other provinces (see Aspinall and Sukmajati 2016: 2). The Bawaslu (*Badan Pengawasan Pemilihan Umum* Elections Supervisory Board) of Banten reported that the regencies of Serang, Tangerang, and Lebak were places where the practices of money politics often happened.<sup>64</sup> Ari Setiawan, a member of Bawaslu of Serang, a regency in Banten, mentioned that money politics was one of the five cases of violation which was often reported to the Board. The number of cases related to money politics counted up to 40 per cent.<sup>65</sup> In this situation where money politics played a very important role, Haji Sarmedi tried to become a member of parliament in Lebak and would fight for the interest of the Baduy. The 2014 and 2019 elections have shown him that ethnicity was too weak to be used and money, according to him, was too powerful.<sup>66</sup>

## D. AMAN and the *Adat* Communities in Indonesia

### 1. *The Shrinking Land and Religious Discrimination: the Background of AMAN*

Now we will look at the *adat* movement in the national level and how the Baduy community was involved. Sandra Moniaga (1999: vii) mentions that indigenous peoples are the group the most affected by development policies. To empower themselves, thirteen indigenous peoples, assisted by some non-

<sup>63</sup> <https://koran.tempo.co/read/340367/politik-uang-terbanyak-terjadi-di-banten>, accessed on 12 July 2019.

<sup>64</sup> <https://www.kabar-banten.com/tiga-daerah-paling-rawan-politik-uang-di-provinsi-banten/>, accessed on 12 July 2017.

<sup>65</sup> <https://news.detik.com/berita/d-4482663/bawaslu-sebut-politik-uang-rawan-terjadi-di-serang-banten>, accessed on 12 July 2019.

<sup>66</sup> Interview with Haji Sarmedi on 24 November 2018.

government organisations, held the first Congress of Indigenous Peoples of the Archipelago (*Kongres Masyarakat Adat Nusantara* KMAN) in Jakarta from 17-22 March 1999. They agreed on forming an organisation that would struggle for “the existence and aspiration of indigenous societies” (Moniaga 1999: ix, AMAN 2001:2). The organisation was named AMAN (*Aliansi Masyarakat Adat Nusantara* the Indigenous Peoples’ Alliance of the Archipelago)<sup>67</sup> and 17 March was determined as the day of its formation. Among the indigenous peoples that formed AMAN was the Baduy community who was represented by H Arifin. “A representative of the Baduy [H Arifin] was selected as the organization’s executive secretary, a wise choice as the Baduy enjoy a privileged position among high government officials” (Persoon 2009: 203). The Baduy through their representative Adang Afandi also came to a seminar held by AMAN on 10 January 2002 in West Lampung (AMAN 2003: 110).<sup>68</sup> In addition, AMAN activists several times came to the Baduy land to discuss issues on *adat* land.<sup>69</sup>

Some laws that have affected the lives of the indigenous peoples, as the AMAN activist Sandra Moniaga indicates, are Law No. 5/1974 on the local government, Law No. 5/1979 on the *desa* government, Law No. 5/1960 on agrarian affairs, Law No. 5/1967 on forestry, and Law No. 11/1967 on mining. We will look at some cases. Law No.5/1979 has divided and united certain *adat* communities into new different *desa* governments (AMAN 1999). The political territories of *nagari* in Minangkabau, for example, were dismembered by the *desa* law and their name was changed with the term *desa* (Henley and Davidson 2007:12). This law has “wiped out all traditional and local forms of village authority and imposed a uniform structure of *desa* administration” (Persoon 1998: 294). The Baduy themselves succeeded in refusing this policy (Persoon 1994: 366).

Moreover, the *adat* communities were also affected by Law No.5/1967 on forestry. Article 2 of the law mentions that there are two kinds of forest: the state’s forest and smallholders’ forest. The problem is that *adat* forests are included in the category of the state’s forest. To make use of the *adat* forests the *adat*

<sup>67</sup> “*Adat* communities” (“*masyarakat adat*”) and “indigenous peoples” are two interchangeable terms. The government of Indonesia objects to the term “indigenous peoples” with the argument that, different from Australia and the Americas, almost all Indonesian are indigenous. It prefers the term “*masyarakat adat*”. AMAN also uses this term, but in the English translation it uses “indigenous peoples” (Persoon 1998: 281; Henley and Davidson 2007: 8, 25; Persoon 2009: 203). Since the use of the term “*adat* communities” is getting its currency, I will use that term.

<sup>68</sup> <https://nationalgeographic.grid.id/read/13288051/baduy-maafkan-kami?page=all>, accessed on 30 September 2019. Haji Sarmedi stated that the Baduy never sent representatives to the congresses and seminars of AMAN. It seems that H Arifin and Adang Afandi appointed themselves to represent the Baduy in the formation of AMAN and its seminars. Haji Sarmedi admitted that people from AMAN sometimes came to the Baduy land to talk some issues on *adat* communities.

<sup>69</sup> Interviews with Haji Sarmedi on 24 November 2019 and via WhatsApp on 15 August 2019.

communities have to consult the law and other regulations (Pradja 1999: 124-125). Following this law in 1968 the governor of West Java issued a decision about *Determination of the Status of the Forbidden Forest in the Kanekes Village Baduy Region* which included the *adat* forest of the Baduy as the state's forest (Toha 2007: 205). Since the implementation of Law No.5/1967 until 1999 there had been around 110 forestry corporations (*Hak Pengusahaan Hutan/HPH*) in West Kalimantan alone. Institut Dayakologi records how these corporations destroyed the forests in West Kalimantan and how the indigenous people, the Dayaks, were directly affected by the deforestation. Conflicts between the corporations and the people were also inevitable (Andasputra 1999).

Loir Botor Dingit who was a leader of an indigenous group in Kalimantan and a participant of the 1999 KMAN, mentioned that Bob Hasan, a Minister of Industry and Trade in the Soeharto era, had a corporation named Kalimanis Group. This corporation had six forestry companies and possessed 1,352,000 hectares of land in Kalimantan. One of his corporations, for instance, operated in an *adat* land, dispossessed its trees and destroyed its environments. When Dingit fought for the rights of the *adat* communities he led, he was intimidated by the police and the corporations (Dingit 1999: 7, 9). Besides to give permits to corporations, the government also used this law to establish national parks on *adat* land (Henley and Davidson 2007: 11).

In terms of religion, most of the *adat* peoples embrace local religions and the government intended to convert them to one of the six recognised religions (Direktorat Pembinaan Masyarakat Terasing 1975: 36, 38, 39, 67; Fathuddien et al. 1978:3). In the 1999 KMAN a participant complained that his religion was not recognised by the government. The government, he said, even pressed the followers of this religion (Kartika and Gautama (eds.) 1999: 26, 29). Henley and Davidson (2007:10) opine that the exclusion of local religions from the definition of religion is rooted in the first principle of Pancasila. I disagree with them because the first principle of Pancasila is relatively clear where it does not differentiate one religion from another. I argue that the exclusion of local religions from the state's definition of religion comes from Article 29 (2) of the 1945 Constitution where the word '*kepercayaan*' first appears. That *kepercayaan* is not a religion is explicitly stated in the decision of the MPR No. IV/MPR/1978. Other laws and regulations on religion which emerged later base their legal reasoning on these articles and decisions.

Kusnaka Admihardja (1999:29) reasons that because the marginalisation of the *adat* communities is done structurally, the approach to eliminate the marginalisation should also be done through the structure (politics and law). The participants of the 1999 KMAN also realised that the suffering they underwent

arose from the fact that their existence was politically weak. One of the speakers in the 1999 KMAN Hubertus Samangun (1999: 133-136) suggested the participants to form an organisation which would facilitate and promote the interests of the *adat* communities. The organisation, which is known as AMAN, would soon play an important role in strengthening the political power of the *adat* communities in Indonesia.

## 2. *AMAN and the Political Empowerment of the Adat Communities*

AMAN was founded to strengthen the political position of *adat* communities by which they can determine and manage their own lives. An *adat* community is defined by AMAN as: “a group of society which has a genealogical relation [who live] in a certain geographical location and has its own values, ideologies, economy, politics, culture, social, and territory” (AMAN, 2003: 1-2). This definition of *adat* is very similar to that of indigenous peoples as set in the 1997 Indigenous Peoples’ Rights Act of the Philippines. Henley and Davidson (2007:3) state that “... *adat* is a complex of rights and obligations which ties together three things – history, land and law –...” They add that *adat* is a “powerful set of ideas or assumptions regarding what an ideal society should be like.” But Hanley and Davidson (2007:4, 35) also remind us that the use of *adat* in their movements can ignite dangers. They exemplify the Dayaks in Kalimantan who used the *adat* justification to perform violence against the Madurese.

The *adat* communities that participated in the first congress of AMAN realised that Indonesia was diverse, as it appears in the statement *Bhineka Tunggal Ika* (Unity in Diversity), but their existence was not recognised by the state. And because of it they were exploited by the government, especially by the regency/ city governments, and corporations. With this awareness they demanded the autonomy of *adat* societies (*otonomi masyarakat adat*), in which they have right “to manage their *adat* territories, natural resources, the enforcement of *adat* law and the peoples”. They even released a very strong statement stating that “if the state does not recognise us, we will also not recognise the state”. This statement emerged from the awareness that the *adat* communities had existed long before the formation of the state, but in the process they were neglected, not recognised and they often became the victim of the development policies (AMAN 2001:7-11; Henley and Davidson 2007: 6).

Furthermore, Henley and Davidson (2008:819-825) argue that the *adat* movements in Indonesia are rooted in “the international influences”, “ideological inheritances”, “pressure and oppression under the New Order”, and “opportunities and exigencies of *reformasi*”. Long before the local *adat*



movements in the 1980s and 1990s and the national movement in the post-*reformasi* era, indigenous peoples' movements in other parts of the world had been running. In the US the Native Americans had begun their movement since the 1960s, the International Work Group for Indigenous Affairs (IWGIA) was founded in Denmark in 1968 to support the indigenous movements in developing countries, Survival International in Britain in 1969, and Cultural Survival in the USA in 1976. In the following years the issue of indigenous peoples has attracted the attention of international organisations, especially the United Nations (UN). In 1977 and 1982 respectively it held Conferences on Discrimination against Indigenous Peoples of the Americas and formed the Working Group on Indigenous Populations. The International Labour Organization (ILO), a body in the UN system, issued Convention No.107 in 1957 and its revision Convention No. 169 in 1989 on indigenous peoples. In 1995 the UN also declared the decade of the World's Indigenous Peoples. The Indonesian *adat* movement also got inspiration from the same movement in the Philippines, especially the 1997 Indigenous Peoples' Rights Act (Persoon 1998: 282-287; Henley and Davidson 2007: 6-7).

To strengthen the political position of the *adat* groups AMAN has tried many strategies including to eliminate negative terms which were used to refer the peoples such as "the isolated tribes or communities". They also demanded the state to respect the ethnic groups and to involve them when it would issue a policy which was related to the *adat* communities. To make this demand more effective, they demanded the state to "place the representatives of the *adat* communities in the state's bodies" (AMAN 2001: 11). To achieve the targets, AMAN outlines the strategies to take advantages of politics at the levels of community, regency, province, and national. At the community level it teaches political awareness to the members of the *adat* communities. At the levels of regency, province and nation, AMAN does lobby with various institutions and makes a coalition with other groups that have the same concern (AMAN 2003: 12-15, 110).

In the 2014 election AMAN supported the pair of Joko Widodo and Jusuf Kalla. Their support declaration was attended by representatives of *adat* communities from various islands.<sup>70</sup>

Before the election AMAN coordinated with the team of Joko Widodo – Jusuf Kalla about many problems faced by the *adat* communities and, if Joko Widodo and Jusuf Kalla were chosen, they had to create "an independent and permanent

<sup>70</sup> <https://nasional.kompas.com/read/2014/05/23/1218537/Aliansi.Masyarakat.Adat.Nusantara.Dukung.Jokowi.Ini.Alasannya..>, accessed on 5 August 2019.

body” to manage the indigenous peoples and to issue a law that would protect them. After some years of Joko Widodo and Jusuf Kalla’s presidency, the General Secretary of AMAN Rukka Sombolinggi thought that they failed to materialise their promises.<sup>71</sup> In the 2019 election AMAN decided to take a neutral stance. It let the members of AMAN choose whichever pair they would prefer.<sup>72</sup> It viewed that both pairs Joko Widodo - Ma’ruf Amin and Prabowo Subianto - Sandiaga Uno did not take the issue of indigenous peoples seriously.<sup>73</sup>

Because the main agenda of the formation of AMAN is the recognition of the state of the *adat* communities, it places politics as the main tool. Even the organisation states that it will “influence the political processes and policies at the local, national and international levels which will affect the lives of the *adat* communities” (AMAN, 2001:22). At the international level AMAN cooperated, for example, with the Japan Social Development Fund (JSDF) to run the project “Improving Governance for Sustainable Indigenous Communities Livelihoods in Forested Area Project”. This project lasted from 30 August 2012 to 15 June 2015 where AMAN got funding from JSDF for as much as Rp.28,2 billion (around €1,880,000).<sup>74</sup> AMAN also cooperates with IWGIA (Henley and Davidson 2007: 8). In its yearly publication IWGIA reports the latest development of indigenous peoples around the world. When reporting on the indigenous peoples of Indonesia, this organisation relies on information from AMAN.<sup>75</sup>

As a result of this *adat* movement, since the formation of AMAN in 1999 there have been changes towards the recognition of the state upon the *adat* communities. After the first KMAN was finished, shortly after the fall of the New Order, there was a sign of the state’s recognition to the *adat* communities in its legal products. Law No.22/1999, for instance, gives more space to the local government to manage themselves, including to change the term “*desa* government” with the equivalent terms (Moniaga 1999: xi-xii; AMAN, 2003: 8-9, 11). Article 111 (2) of the law states that “local regulations as meant in point (1), are obliged to recognise and respect the rights, genealogies, and *adat* of the

<sup>71</sup> <https://pilpres.tempo.co/read/1171844/aliansi-masyarakat-adat-nusantara-bersikap-netral-di-pilpres-2019/full&view=ok>, and <http://www.aman.or.id/2018/12/catatan-akhir-tahun-aman-2018-organisasi-tidak-menyatakan-dukungan-ke-kandidat-capres-cawapres-mana-pun/> accessed on 5 August 2019.

<sup>72</sup> <https://pilpres.tempo.co/read/1171844/aliansi-masyarakat-adat-nusantara-bersikap-netral-di-pilpres-2019/full&view=ok>, accessed on 5 August 2019.

<sup>73</sup> <https://tirto.id/aman-semua-capres-abaikan-hak-masyarakat-adat-saat-debat-pilpres-deMa>, accessed on 5 August 2019.

<sup>74</sup> <http://documents.worldbank.org/curated/en/267401482125671084/pdf/Audit-Report-TF-12020-AMAN.pdf>, accessed on 6 August 2019.

<sup>75</sup> The yearly publication of IWGIA can be downloaded from its website <https://www.iwgia.org/en/resources/publications>.

*desa*.<sup>76</sup> Later, changes also can be seen in the fourth amended 1945 Constitution. Article 18-B (2) of the amended Constitution asserts that the state recognises and respects the *adat* communities and their traditional rights. *Adat* rights and land are also respected in the MPR decision No. 9/2001 on the agrarian renewal and the management of natural resources (AMAN 2001:18; AMAN 2003: 8-17).

The recognition of *adat* in the local context can be seen, for instance, in the regencies of West Lampung and Lebak. The regent of West Lampung I Wayan Dirpa states that Law No. 32/2004 on local government (which was revised by Law No. 23/2014) has increased the role of *adat* practices and institutions in West Lampung. Responding to Law No. 22/1999 the government of West Lampung changed the term *desa* with the local one *pekon*. In addition, until 2003 West Lampung had issued at least 13 local regulations pertaining to *pekon* (Dirpa 2003: 35-37). Like West Lampung, Lebak also has issued a local regulation to respect and protect its *adat* society, the Baduy, through the local regulation No. 32/2001 on the Protection of the *Adat* Land of the Baduy. This regulation sets the boundaries of the *adat* land (articles 6 and 7) and gives the Baduy full authority to manage and make use of the *adat* land (article 4). A non-Baduy who “disturbs, destroys and use the Baduy land can be jailed for six months or fined for the maximum Rp.5 million” (article 9).<sup>77</sup>

Commenting about *adat* movements in Indonesia Henley and Davidson (2007: 41) state that the *adat* movements have contributed “to the development of civil society, for supporting local land rights, and for bringing pride and a political voice to a marginalized and maltreated section in the Indonesian population”. In line with the *adat* movements in other parts of Indonesia and at the national level, the Baduy changed their world view that they are not only hermits but also citizens of Indonesia. This change is followed by their demand to the government and the state to recognise and protect them, the same demand as voiced by AMAN.

## **E. The 2017 Constitutional Court's Decision on Local Religions: The Latest Development of Politics of Religion in Indonesia<sup>78</sup>**

The *adat* communities, including the Baduy, have struggled for the recognition of their religions. Their religions are not recognised by the state because they

<sup>76</sup> Law No.22/1999 on Local Government.

<sup>77</sup> The Local Regulation of Lebak No.32/2001.

<sup>78</sup> This section is based on the decision of MK No. 97/PUU-XIV/2016, except mentioned otherwise.

do not comply with the definition of religion provided by the state which relies mainly on Islam and Christianity. The adherents of these local religions have been marginalised since the beginning of the making of the state. The first principle of Pancasila asserts that the state is based on the belief in God. At this point, everything is relatively clear. People start to have different interpretations when reading Article 29 (2) of the 1945 constitution which states that “the state guarantees every citizen to adhere his/her religion and to do worship based on his/her religion and belief.” The controversy appears in understanding the last word “*kepercayaan* (belief)”: is belief part of religion or does the word “belief” refer to local religions? In the fourth amended Constitution, the topic of religion exists in Article 28E. Point 1 states that “everyone is free to adhere to a religion...” and point 2 states that “everyone has the right to have a belief...”

In 1953 the government formed the Pakem (*Pengawasan Aliran Kepercayaan dan Aliran Keagamaan dalam Masyarakat*/ Surveillance of Belief and Religious Streams in Society). In that year the BKKI (*Badan Koordinasi Kebatinan Indonesia* the Coordinating Body of Indonesian Spirituality) recorded 360 organisations of belief systems. In 1965 the government issued Law No. 1/1965 on Religious Blasphemy. The reason behind the issuance of this law was the existence of many religious streams. The decision of the MPR No. IV/MPR/1973, however, mentions that religions and beliefs are valid and equal.<sup>79</sup> A reverse view appears in the decision of the MPR No. IV/MPR/1978<sup>80</sup> which declares that beliefs are not religion. In 2006 the government stipulated Law No. 23/ 2006 on the Administration of Population which was amended by Law No. 24/ 2013. These two laws state that the column of religion on the identity cards of the adherents of belief systems should be emptied.

The exclusion of local religions from the definition of religion has affected greatly the life of the adherents of the religions. For instance, before they could register their marriage to the civil registry office they had to obtain a permit from the court (Agastia *et al.* 1994: vii). If not, their marriage was not considered valid by the state. It means they could not have marriage and family certificates. When the baby was born, he would not have an identity card because to have it he had to have a family certificate. Even if he could have it, his religion would not be printed on his identity card because the law prevented it from doing so. Other problems would soon follow: he would probably not be able to register at a school, apply for a job, or open a bank account. Being unable to bear

<sup>79</sup> <https://mediaindonesia.com/read/detail/131929-kesetaraan-agama-dan-aliran-kepercayaan> and <https://www.youtube.com/watch?v=j0hy16acZ98&t=7s>, accessed on 6 August 2019.

<sup>80</sup> Decision of the MPR No. IV/MPR/1978 on *Garis-Garis Besar Haluan Negara* (Main Guidelines of the State).

the problems, many of them decided to convert to one of the six recognised religions. But people challenged such discrimination by bringing the case to the Constitutional Court (*Mahkamah Konstitusi* MK).

### 1. *The Lawsuit against Laws on the Administration of Population*

Laws No. 23/ 2006 and No. 24/ 2013 on the Administration of Population which required the government to make the column “religion” on the identity cards of the adherents of local religions were contested. The lawsuit was proposed by Nggay Mehng Tana (farmer) from East Nusa Tenggara, Pagar Demanra Sirait (student) from North Sumatra, Arnol Purba (entrepreneur) from North Sumatra, and Carlim (entrepreneur) from Central Java. They had their case represented by 18 lawyers on 1 September 2016. The lawsuit was directed to challenge the Law No.23/2006 on the Administration of Population which was amended by Law No.24/2013. The laws ordered that the identity cards of the people whose religions are local religions or religions that have not been recognised by the state should remain empty. The articles they disputed are article 61 (2) of Law No.23/2006 and article 64 (5) Law No.24/ 2013:

Information about religion as it is meant by point (1) for people whose religions are not considered as religion as the law states so or for the adherents of beliefs, is not filled in; but they are still served and recorded in the database of population.

Article 61 (2) Law No 23/ 2006 on the Administration of Population.

The element of population's data on religion as it is meant by point (1) for people whose religions are not considered as religion as it is ruled by the law or for the adherents of belief, is filled in, but they are still served and recorded in the database of population.

Article 64 (5) Law No.24/2013 on the Change of Law No. 23/2006.

These two laws were the source of the religious discrimination the plaintiffs, and many other followers of local religions, experienced. Nggay Mehng Tana, Pagar Demanra Sirait, Arnol Purba, and Carlim account how the laws discriminated them and affected other aspects of their lives. Nggay Mehng Tana states that he is one of around 61,000 - 81,953 followers (in 2008) of the Merapu belief system. The number of the followers has decreased greatly because many of them converted to the religions recognised by the state. They did it to ease civil matters and to access “social donation and public services”. When they were still the adherents of the belief, their marriage was not recognised by the state and not

registered. Accordingly, their children could not have birth certificates and later identity cards.

The problem of civil registry was also experienced by Pagar Demanra Sirait who is a follower of Parmalim. The followers of this belief, around 465 people, are spread in various *kecamatan* in North Sumatera. Because getting an identity card with local religions was not easy, the officials who managed the issuance of identity cards recommended them to choose one of the six recognised religions. In addition, because of adhering Ugamo Bangsa Batak, the column of religion on Arnol Purba's identity card is emptied. As a consequence, he could not apply for a fund from a bank. His daughter's application to a company was rejected because of the same reason. A severe experience was also undergone by Carlim, a follower of Supto Darmo, in Central Java. In the 1960s, he says, the number of the followers of Supto Darmo could be thousands. In the 2000s, there are only around 192 people. People often told the adherents of this belief that Supto Darmo was deviant. When they died, their corpses were rejected to be buried in public cemeteries. Their children were also forced to follow Islamic subjects at school.

On 7 November 2017 a team of nine MK judges, led by Arief Hidayat, stipulated through its decision No. 97/PUU/2017 that article 61 (2) Law No.23/2006 on Population Registry and article 64 (5) Law No.24/2013 on the Change of the Law No.23/2006 are against the 1945 Constitution and therefore it does not have the binding power (see Sudarto 2017). This decision has given fresh air to the adherents of local religions, but hot air to some Muslim groups such as the MUI, the United Development Party (PPP), and Muhammadiyah. Although there is a resistance from these three groups, the adherents of local religions have new hopes for their future. Afiat Ginanjar Akil, a follower of Sunda Wiwitan (not Sunda Wiwitan of the Baduy), responds to the decision of the MK positively. He says:

“This decision delights us. But it is not the end of our struggle. And basically as the adherents of the ancestral teaching we love the [foreign] religions that came in here. So we have no intention to lessen the role of other religions at all. At the same time we want our existence is recognised by all.”<sup>81</sup>

The secretary of AMAN Rukka Sombolinggi responds this decision positively. She says that it is a new phase in the history of Indonesia and would be recorded by the *adat* communities that had been discriminated by the state. She hopes after the issuance of the decision of the MK the adherents of local religions can access public funds provided by the state. AMAN, she says, will ensure that the

<sup>81</sup> <https://www.youtube.com/watch?v=3fgLExxFJZ4>, accessed on 22 July 2019.

government will implement the decision of the MK and that discrimination against the followers of local religions will no longer happen. The same view is expressed by Setara Institute, one of the promoters of religious freedom in Indonesia. In addition, the deputy of Setara Institute Bonar Tigor Naipospos and also Sudarto (2017: 8) state the government should revise other laws which are impacted by the decision of the MK, including the law on marriage.<sup>82</sup>

Commenting about the MK's decision Minister of Religious Affair Lukman Hakim Saifuddin asserts that:

“The decision of the MK is to fulfil the civil rights of the Indonesian citizens who adhere a religion out of the six recognised religions which is called a belief. They want their civil rights to be recognised by the state. One of the state's recognitions is the identity card. The MK fulfilled this aspiration which in fact had existed since a long time ago.”<sup>83</sup>

It is very important to underline here that for Saifuddin belief systems are another name of local religions. However, in understanding the local religions he is trapped by two problems: the conceptual and technical. Conceptually, religion, he says, can be approached from two perspectives: the essence and the practice. Essentially, local religions are a religion because “they believe in God(s), teach virtues, avoid badness, have a love for other humans and protect nature.” Practically, religion has expressions like rituals. The first problem appears when Saifuddin judges the local religions with the standard of Islam and Christianity: a sacred book. His view of religion reflects the state's definition of religion from which it includes or excludes a religion into the category of recognised religions. He states:

“They don't have an agreed procedure of ritual so that it is not easy to include them theologically and sociologically into religion. There is no common platform which is agreed by the followers that a certain teaching is fixed (*baku*) because they do not have a sacred book.”<sup>84</sup>

The second problem is that Saifuddin problematizes the technical aspects of the management of the local religions. For instance, he asks where the phrase “Belief in the Almighty God” will be put: in the column “religion”

<sup>82</sup> <https://www.merdeka.com/peristiwa/suku-baduy-sambut-gembira-putusan-mk-soal-penghayat-kepercayaan.html>, accessed on 2 September 2019.

<sup>83</sup> <https://www.youtube.com/watch?v=ztieF1R5IIg>, accessed on 22 July 2019.

<sup>84</sup> <https://www.youtube.com/watch?v=ztieF1R5IIg>, accessed on 22 July 2019; <https://beritagar.id/artikel/bincang/lukman-hakim-saifuddin-secara-substansial-kepercayaan-itu-agama>, accessed on 7 August 2019.

or in a new column? Or will the adherents of local religions have a new [different] identity card.<sup>85</sup> He also asks in what ministry the belief affairs will be managed: still in the Ministry of Education and Culture or will it be moved to the Ministry of Religious Affairs.<sup>86</sup>

Responding to the decision of the MK, Metro TV did broadcast a discussion entitled *Setelah Kepercayaan Diadministrasikan* (After Beliefs Were Administered) by inviting the member of parliament Sodik Mudjahid, the observer Refly Harun, a representative of the Indonesian Ulama Council (Majlis Ulama Indonesia/ MUI) Masduki Baidlowi, and an adherent of Sunda Wiwitan (not of the Baduy) Afiat Ginanjar Akil. The Deputy of Commission 8 of the DPR Sodik Mudjahid asked all religious adherents to accept the decision of the MK. This is, he says, a new phase in the history of religious life in Indonesia where the state dared to recognise the existence of the belief systems. The government, however, asks the public to use the phrase “*agama dan kepercayaan*” or “religion and belief”, denoting that these two are different. The first, undoubtedly, as confirmed by Minister of Religious Affairs, refers to the religions recognised by the state and the second refers to the local religions.<sup>87</sup> Without explaining the difference between both, Sodik Mujahid insists that religion and belief are different.<sup>88</sup>

Refly Harun who is known in Indonesia as an observer of state administration questions the possibility of religions other than the six, to be recognised by the state. He argues that the decision of the Constitutional Court should have recognised all religions. Practically, the government has to allow all citizens to fill in whatever religion they believe in their identity cards.<sup>89</sup> Like Refly Harun, Gunoto Saparie from the Indonesian Association of Muslim Intellectuals (*Ikatan Cendekiawan Muslim Indonesia/ ICMI*) of Central Java thinks that the decision of the MK is still discriminative because it does not guarantee other religions, except the six recognised religions and local religions.<sup>90</sup> The status of Judaism and Bahai, for example, is not clear because both the law on the Administration of Population and the decision of the MK do not mention these religions. One may ask whether the names of Judaism and Bahai can be printed on

<sup>85</sup> <https://www.youtube.com/watch?v=ztieF1R5llg>, accessed on 22 July 2019.

<sup>86</sup> <https://www.youtube.com/watch?v=vOncjsi5T1Q>, accessed on 16 July 2019.

<sup>87</sup> <https://www.youtube.com/watch?v=FvbgYPXbHs8>, accessed on 17 July 2019.

<sup>88</sup> <https://www.youtube.com/watch?v=vOncjsi5T1Q>, accessed on 17 July 2019.

<sup>89</sup> <https://www.youtube.com/watch?v=FvbgYPXbHs8>, accessed on 17 July 2019.

<sup>90</sup> <https://mediaindonesia.com/read/detail/131929-kesetaraan-agama-dan-aliran-kepercayaan>, accessed on 6 August 2019.



the identity cards of their adherents and whether they can have the same protection and support from the state.

The decision of the MK is also deemed to be discriminative because, unlike the followers of the six recognised religions, the followers of local religions cannot print the name of their religions on their identity cards.<sup>91</sup> Following the decision of the MK, the Minister of Religious Affairs Lukman Hakim Saifudin confirmed that, starting from July 2018, the adherents of beliefs would have identity cards on which the phrase “Belief in the Almighty God” (*Kepercayaan kepada Tuhan Yang Maha Esa*) is printed. What the name of the belief is, however, is not allowed to be mentioned.<sup>92</sup>

## 2. *The Baduy's Response to the Decision of the MK*

The Baduy appreciate the decision of the MK on the permit to fill in the column ‘religion’ on the identity cards and family certificates. They say that it is a form of recognition from the state to its citizens. But ‘*Kepercayaan Terhadap Tuhan Yang Maha Esa*’ or ‘belief in the Almighty God’ is not what they want. It is the name of their religion ‘Sunda Wiwitan’ which is printed on their identity cards and family certificates. Baduy leaders and people have told the *jaro pamarentah* Saija about this issue. Although it is not like what they want, until January 2019 more than 4,000 Baduy have had new identity cards on which the phrase ‘*Kepercayaan Terhadap Tuhan Yang Maha Esa*’ is printed.<sup>93</sup>

A Baduy man named Sarkan states that an identity card and family certificate are important because they often become administrative requirements. He wants that ‘Sunda Wiwitan’ could print on his new identity card, not ‘*Kepercayaan terhadap Tuhan Yang Maha Esa*’. But this choice is not available because the government has decided that for the adherents of beliefs or local religions it is ‘*Kepercayaan terhadap Tuhan YME*’ which is printed on their identity cards. Another Baduy man Santa (45) says that he does not change his identity card with a new one and lets the column religion on his identity card empty because for him ‘belief’ is not his religion, but ‘Sunda Wiwitan’. He hopes the government will consider changing this policy by letting the Baduy mention the name of their religion on their identity cards.<sup>94</sup>

<sup>91</sup> <https://www.youtube.com/watch?v=vOncJsi5T1Q>, accessed on 17 July 2019.

<sup>92</sup> <https://www.youtube.com/watch?v=ztieF1R5llg>, accessed on 17 July 2019.

<sup>93</sup> <https://www.cnnindonesia.com/nasional/20190313140835-32-376888/kolom-agama-ktp-warga-baduy-diisipenganut-kepercayaan>; <https://news.detik.com/berita/d-4442578/akhirnya-warga-baduy-bisa-tulis-kepercayaan-an-di-kolom-agama-ktp>; <https://daerah.sindonews.com/read/1382179/174/4462-warga-baduy-miliki-e-ktp-dengan-kolom-kepercayaan-tme-1551177450>; accessed on 2 September 2019.

<sup>94</sup> <https://www.cnnindonesia.com/nasional/20190313140835-32-376888/kolom-agama-ktp-warga-baduy-diisipenganut-kepercayaan>, accessed on 2 September 2019.

As one of the Baduy leaders, Saidi hopes that ‘Sunda Wiwitan’ can be printed on the identity cards of the Baduy. But he is still thankful and happy with the decision of the MK which allows the Baduy, and the other followers of local religions, to have identity cards on which *‘Kepercayaan terhadap Tuhan YME’* is printed. He states that the inclusion of the religion of citizens on their identity cards is the recognition of the state to its citizens.<sup>95</sup> The same view is expressed by a Baduy man named Samari (55).<sup>96</sup>

### 3. *The Support of the Council of Churches in Indonesia in the Decision of the MK*

The group of Christian churches, represented by *Persekutuan Gereja-gereja di Indonesia* (the Communion of Churches in Indonesia/ PGI)<sup>97</sup>, supported the decision of the MK and pushed the government to soon implement it. The secretary of the PGI Gomar Gultom thinks that the government should soon create the procedure for the implementation of the decision so that local governments have a guide. This is also important because the decision of the MK will be related to other laws. Law No.1/1974 on marriage, for example, mentions that marriage is valid if it is conducted based on the religious teaching of the people that will marry. With the decision of the MK, Gultom argues, the marriage of the adherents of local religions should be validated and recognised by the state. He also argues that by the decision of the MK religions like Judaism can have the same right to be printed on the identity cards and family certificates of its adherents.<sup>98</sup>

<sup>95</sup> <https://www.merdeka.com/peristiwa/suku-baduy-sambut-gembira-putusan-mk-soal-penghayat-kepercayaan.html> and <https://www.beritasatu.com/nasional/462530/warga-baduy-gembira-dengan-putusan-mk>, accessed on 2 September 2019, accessed on 2 September 2019.

<sup>96</sup> <https://www.liputan6.com/regional/read/3155511/berkat-putusan-mk-warga-baduy-kini-tak-malu-lagi>, accessed on 2 September 2019.

<sup>97</sup> *Persekutuan Gereja-gereja di Indonesia* (PGI) is the new name of *Dewan Gereja-gereja Indonesia* (DGI/ the Councils of Churches in Indonesia). The name change was done in 1984 (Hartono 1999: 36, Mmujiburahman 2000: 309). With this new name PGI includes various theological and denominational backgrounds. <https://pgi.or.id/sejarah-singkat/>, accessed on 19 November 2019.

<sup>98</sup> <https://nasional.kompas.com/read/2018/01/18/10012631/pgi-desak-pemerintah-realisasikan-putusan-mk-soal-penghayat-kepercayaan?page=all>; <https://www.hidayatullah.com/berita/nasional/read/2017/11/14/127939/pgi-dengan-putusan-mk-yahudi-dan-bahai-dapat-menuliskan-agamanya.html>; <https://www.jpnn.com/news/pgi-sambut-positif-putusan-mk-soal-penghayat-kepercayaan>; <https://www.jpnn.com/news/pgi-sambut-positif-putusan-mk-soal-penghayat-kepercayaan>; <https://www.jawapos.com/nasional/11/11/2017/aliran-kepercayaan-masuk-kolom-agama-ktp-pgi-ini-langkah-maju/>; <https://www.republika.co.id/berita/nasional/hukum/17/11/10/oz7gjz384-pgi-sambut-adanya-kolom-agama-bagi-penghayat-kepercayaan>; <https://nasional.kompas.com/read/2018/01/18/10012631/pgi-desak-pemerintah-realisasikan-putusan-mk-soal-penghayat-kepercayaan?page=all>; accessed on 2 September 2019.

That decision of the MK means that the adherents of the religions that have been recognised and local religions, and religions that have not been official or recognised such as Baha'i, Judaism, and so on; based on the decision, can write down the name of their religions (on the identity cards and family certificates).<sup>99</sup>

Furthermore, the PGI appreciates the decision and deems it as a step forward from the previous policies which give a privilege only to the six religions. The efforts to get the recognition, it says, was a long process. And this decision has made the PGI believe that the state has taken a step not to discriminate its citizens based on their religions. Moreover, the PGI also expresses that it has been involved in struggling for the right of *adat* societies and their religions, including in revoking Law No.1/PNPS/1965 where the discourse of recognised religions first appears. But this effort, as has been discussed in chapter 5, failed because it was rejected by the MK. Gomar Gultom hopes other discriminative regulations, especially on the rights of *adat* communities, will soon be revoked. Besides, he congratulates the adherents of local religions on the decision of the MK:

“In this occasion the PGI congratulates the brothers and friends of beliefs, Sunda Wiwitan, Parmalim, Merapu, Kejawen and hundreds of other belief systems. All of you are the native and valid holders of this republic who have been here long before the coming of the six recognised religions in the Archipelago.”<sup>100</sup>

#### 4. *The Objection of Muslim Groups to the Decision of the MK*

Some Muslim groups such as the Majelis Ulama Indonesia (MUI), Muhammadiyah and the PPP, objected the decision of the MK. On 17 January 2018 the MUI conveyed its views about the decision of MK. In summary, it views that the MK has been “careless and hurt the feeling of religious societies, especially Muslims of Indonesia, because the decision means that the MK has aligned belief (*kepercayaan*) with religion (*agama*)”. By referring to the decision of the MPR No.4/1978, the then head of Advisory Council of the MUI Din Syamsuddin states that beliefs are not the same as religions. He expresses that the MK should have invited related parties before issuing the decision. Because of the decision, the MUI, he says, is disappointed. Furthermore, the MUI asks the belief affairs to remain in the Ministry of Education and Culture, to be not moved to the Ministry of Religious

<sup>99</sup> <https://www.hidayatullah.com/berita/nasional/read/2017/11/14/127939/pgi-dengan-putusan-mk-yahudi-dan-bahai-dapat-menuliskan-agamanya.html>, accessed on 2 September 2019.

<sup>100</sup> <https://www.hidayatullah.com/berita/nasional/read/2017/11/14/127939/pgi-dengan-putusan-mk-yahudi-dan-bahai-dapat-menuliskan-agamanya.html>, accessed on 2 September 2019.

Affairs. The MUI also demands the government to rename the column “religion” on the identity cards of the adherents of local religions with “belief”.<sup>101</sup>

Like the MUI, the general leader of Muhammadiyah Haedar Nashir expresses his disappointment about the decision of the MK which allows local religions can be printed on the identity cards and family certificates.<sup>102</sup> Nashir says if people in academia think that belief and religion are the same, it will not become a problem. But when this view becomes a positive law, it will bind all citizens.<sup>103</sup>

The PPP is another example of a group that minds the MK’s decision. The Deputy Secretary-General of the party, Ahmad Baidowi, opines that the MK’s decision which allows the word “belief” to be printed on the identity cards of the adherents of local religions could cause “horizontal conflicts”. He argues that “our people are not ready to be different”. He is worried that Muslims will not pray or the Christians will not go to church by saying that they are the followers of a local belief. He is also worried about the supporters of communism, a forbidden ideology in Indonesia, will choose the option “belief” for their identity card.<sup>104</sup> The general leader of the PPP, Djan Faridz, also says that the MK’s decision has made society anxious. “The decision arises worry and anxiety and complicates the government to implement it,” he said.<sup>105</sup>

The question is why the MUI, Muhammadiyah and the PPP insist on refusing local religions to be aligned with religions that are already recognised by the state? The statement of Masduki Baidlowi from the MUI might give us some clarity. He states that the decision of the MK could become a challenge for *da’wa* activities.<sup>106</sup> His statement reminds us of the joint regulation between the Ministry of Religious Affairs and the Ministry of Home Affairs No.1/1979 on the Procedures of the Application of Religious Propagation and Foreign Aid to Religious Institutions in Indonesia. Article 4 of the joint law asserts that “The application of the religious propagation is not justified towards a man or a group of people who already adhere a religion....”<sup>107</sup> Because in Indonesia local religions

<sup>101</sup> <https://khazanah.republika.co.id/berita/dunia-islam/islam-nusantara/18/01/18/p2qiq9313-8-sikap-mui-soal-pencantuman-aliran-kepercayaan-di-ktp>, accessed on 22 July 2019; and <https://www.liputan6.com/news/read/3172387/mui-curigai-putusan-mk-soal-aliran-kepercayaan-di-ktp>, accessed on 2 September 2019.

<sup>102</sup> <https://www.hidayatullah.com/berita/nasional/read/2017/11/14/127939/pgi-dengan-putusan-mk-yahudi-dan-bahai-dapat-menuliskan-agamanya.html>, accessed on 2 September 2019.

<sup>103</sup> <https://www.hidayatullah.com/berita/nasional/read/2017/11/11/127776/muhammadiyah-kecewa-putusan-mk-soal-kolom-agama-dan-kepercayaan.html>, accessed on 2 September 2019.

<sup>104</sup> <https://tirta.id/wasekjen-ppp-sayangkan-putusan-mk-soal-penghayat-kepercayaan-czQa>, accessed on 24 July 2019.

<sup>105</sup> <https://news.okezone.com/read/2017/11/14/337/1814134/berpotensi-picu-berbagai-masalah-ketum-ppp-kritisiputusan-mk-soal-penghayat-kepercayaan>, accessed on 24 July 2019.

<sup>106</sup> <https://www.youtube.com/watch?v=j0hy16acZ98>, accessed on 16 July 2019.

<sup>107</sup> Law No.1/1979 on the Procedures of the Application of Religious Propagation and Foreign Aids to Religious Institutions in Indonesia.

are excluded from the definition of religion, religious propagation, therefore, is intended to the adherents of local religions. Baidlowi from the MUI states: "For us in the MUI this [decision] is a challenge to do *da'wa* activities. How our *da'wa* activities facing our fellows from the adherents of belief systems can run well. Even we can invite them to become part of our religion."<sup>108</sup> Here the MUI, Muhammadiyah and PPP try to maintain the previous status quo of local religions in Indonesia.

## F. Conclusion

Initially, the Baduy believed that they were hermits and because of it they did not participate in politics. They would approve whichever candidates won the General Elections. Their principle was "to follow the winner" of the General Elections. But then they changed their view that they were not only hermits, but also citizens of Indonesia. By changing this view they began to participate in the General Elections. The *adat* leaders' attitude towards politics changed from just letting their people to participate or not participate in inviting them to participate in the General Elections as part of their citizenship. By becoming citizens they demand the state/ government to recognise and protect their land and religion. Moreover, the *adat* leaders also permitted the Muslim Baduy Haji Kasmin to become their representative in the MPR to strengthen their political position. All of these efforts were fruitful when the border of the Baduy land was marked with concrete poles in the late 1980s and the local government issued local regulations which protect their *adat* rights and land.

To strengthen their struggle, the Baduy and other *adat* communities formed *Aliansi Masyarakat Adat Nusantara* (AMAN) in 1999. AMAN and other organisations have succeeded in pushing the government and the parliament to revise or revoke certain laws that harm the existence of the *adat* communities. The latest development was in 2017 when the Constitutional Court (MK) passed the lawsuit against Law No.23/2006 on the Administration of Population and its amended version No.24/2013, which was filed by four adherents of local religions. Although this decision is still deemed discriminative, it has given new hopes to the adherents of local religions because it has guaranteed their civil rights. The road to the full recognition for their religions seems still long. The

<sup>108</sup> <https://khazanah.republika.co.id/berita/dunia-islam/islam-nusantara/18/01/18/p2qiq9313-8-sikap-mui-soal-pencantuman-aliran-kepercayaan-di-ktp>, accessed on 22 July 2019; <https://tirto.id/wasekjen-ppp-sayangkan-putusan-mk-soal-penghayat-kepercayaan-czQa>, accessed on 24 July 2019; <https://www.youtube.com/watch?v=j0hy16acZ98&t=78s> accessed on 22 July 2019.

rejection of the decision of the MK, especially from Muslim groups such as the MUI, Muhammadiyah, and the PPP, remains strong. In addition, from the experience of the Muslim Baduy Haji Kasmin and Haji Sarmedi who brought the Baduy identity into politics we witness that *adat* communities in the wider arena are still weak and vulnerable to the powerful practice of patronage and clientelism.