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A Promise of the Future or A Dead End: Occupation and Social Conflict in Palm Oil Plantations in West Pasaman

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ABSTRACT

This paper discusses the conflict that occurred on land owned by PT. PHP I, which was occupied by the Nagari Kapa community as their customary land. The community requested land rights in order to gain access to the land based on the Babingkah Adat customary system. Therefore, this paper analyses the nature of customary provisions in land ownership and the community's actual motives for occupying PT. PHP I's land. Using critical ethnography approach, it analyses social relations, social inequality, and capitalist hegemony in the palm oil industry. Data was collected using participatory observation, in-depth interviews, and text analysis of the perspectives of the community, traditional leaders, and the legality of land use. The study shows that the transfer of land by traditional leaders (*ninik mamak*) Nagari Kapa to the state (West Pasaman government) in 1997 was a statement that contained political, legal, and customary elements. Therefore, the customary framework cannot be accessed and cannot be fully applied. The customary framework cannot be accessed and cannot be fully applied. The occupation of land by the Nagari Kapa community represents their resistance and resilience to defend their land. They are not only fighting and reclaiming the land taken by PT. PHP I, but also opposing the arbitrary actions of their *ninik mamak*, who unilaterally handed over the land to another party. Thus, the social awareness of occupying PHP I's land is a form of aspiration and resistance by the community to reclaim their land rights..

1. Introduction

Conflicts often occur during the expansion of the oil palm plantation industry in Indonesia in the form of land acquisition processes or what is often referred to as “land grabbing.” This is done by both state and corporate actors to control vast tracts of land (e.g Abram et al., 2017; Berenschot et al., 2021; Levien, 2013; Suryadi

et al., 2021). In the process, it often ignores land rights that are de facto controlled by local communities (Hendra et al., 2023). However, the state or corporations take advantage of the local community's situation as unauthorised settlers and exclude them because they have no formal evidence to prove their land claims. In addition, overlapping licences or land permits are a major trigger of disputes. Plantation licences are allocated under state law while communal land rights are based on traditional property rights (Dhiaulhaq & McCarthy, 2020; Herningtyas, 2021; Zulfi et al., 2023). In reality, the former violates the latter. State law therefore provides only limited means and space to resolve traditional claims to land and as a result conflicting parties often seek other approaches to resolving conflicts (Berenschot et al., 2021).

Indeed, addressing land conflicts is a challenging piece of work. Resolution systems such as litigation in the courts tend to be expensive, slow and prone to corruption (Bedner & Arizona, 2019; Berenschot et al., 2022; Noor & Syumanda, 2006). Therefore, they (corporations and the state) make strategic choices in controlling the land by combining legal, political, cultural or historical arguments to mobilise interpretations, propose solutions and call for redress (Berenschot & Dhiaulhaq, 2023). So, it can be said that the land being fought for as an oil palm industry is a chaotic "political land" with argumentative claims. In the end, disputes and conflicts are inevitable (e.g Almutahar, 2017; Baittri, 2022; Borni Kurniawan et al., 2023; Hendra et al., 2023; Rokhim et al., 2020).

It has been almost five years since the conflict between the Nagari Kapa community and PT. PHP I has not found a way out to resolve it. The conflict began in 2020 when the Kapa community occupied the core oil palm plantation owned by PT. Permata Hijau Pasaman I HGU covering an area of 315 hectares. This occupation action was based on news delivered by a customary leader (Pucuk Adat) Alman Gampo Alam that PT. PHP I's HGU period in Nagari Kapa had ended (Indrizal et al., 2024). At that time, PT. PHP I was replanting (removing palm trees) to replace them with new ones. At the same time, the community slowly took over the land. As a result, PT. PHP I could not replant the land because it had been occupied by the community and planted with corn, rice, bananas and papaya.

In 2021 a conflict occurred, where PT. PHP I tried to bring in excavators to clear the land of community crops. However, at that time there was resistance from the Kapa community who occupied the land, causing conflict (Fitri, 2023; Virliani, 2021). The incident was covered by the media and became a hot news story, gaining the attention of NGOs and the West Pasaman government. NGOs such as LBH (Legal Aid Institute) Kota Padang and SPI (Indonesian Farmers Union) Basis Kapa responded that the action violated human rights because it was considered to have intervened in a community dominated by farmers (Berenschot et al., 2023; Colchester et al., 2006). The discourse that spread also included that the customary land of the Kapa community was taken over by PT. PHP I. Thus, the Regent of West Pasaman issued a letter to temporarily suspend PT. PHP I's activities to work on the land (Fitri et al., 2023).

Then, de facto and de jure PT. PHP I still has control over the land with proof of HGU No. 55 which ends until 2034. However, the community has already

occupied the land with the attitude that the land is the customary land of the Nagari Kapa community. This has become a polemic and has yet to be resolved. However, this conflict did not solely occur in 2020. The land occupation carried out by the community is the result of a prolonged conflict since the 2000s with PT. PHP I (Coubut, 2015).

Historically, PT. PHP I obtained land from the local government from *ninik mamak* (the customary leader) Nagari Kapa to be used as an oil palm plantation. According to Anderson et al., (2013) not all *induk* (women) and *ninik mamak* members agreed to surrender the land to the government; there were those who clearly refused. According to them, the surrender of communal land is in direct conflict with Kapa customs, because communal land is intended for the grandchildren of the *kemenakan*, for their future. Those who refused to surrender the land also refused to accept the *siliah jariah* money. As a result, they were ostracised from the community. One way to get rid of *ninik mamak* members is to replace them with new members. At the time, *datuak* (tribal leader) Mansurdin, who was directly elected by his community, was suddenly replaced without the consent of his community and without an appointment by the *ninik mamak* (customary leaders). His successor was one of the families who traditionally "only lived" with *datuak* Mansurdin's people. It was he who later, with several *datuaks*, agreed to the surrender of customary land to the government.

At that time, conflicts between *ninik mamak* and PT. PHP I had already begun. According to research Virliani (2021) from the conflict that occurred, it was stated that the community and PT. PHP I have made efforts to resolve this conflict both by way of deliberation (non-litigation) to the court process (litigation). This conflict resolution is still ongoing, now the community and the company are still waiting for a decision from the court on the civil conflict case between PT. PHP I and the community of Nagari Kapa.

The study from Fitri et al. (2023) stated that the dispute over the use of Nagari Kapa customary land originated from the handover of control of Nagari Kapa Customary Land to investors, namely PT. Permata Hijau Pasaman which was used for oil palm plantation business. This transfer of control is based on a statement letter of agreement to surrender 1,600 hectares of land dated 6 February 1997 which is submitted to the regent as the head of the region. To ensure legal certainty, the company registered the Cultivation Rights Title. Analysis by Fitri et al. (2023) shows that: *First*, in the process of handing over the Nagari Kapa Customary Land there is no transparency between *ninik mamak* and between the regent and *ninik mamak*, meaning that the handover of the customary land does not include all *Ninik Mamak* of Nagari Kapa, namely *Ninik Mamak Penghulu Langgam*, then in the handover there is no good faith from the regent to explain the status of the land after being granted Cultivation Rights. As a note in the leadership structure of the indigenous community in Nagari Kapa, *Ninik Mamak Panghulu Langgam* actually does not have the same position and authority as the *Pucuk Penghulu Adat*, *Ninik Mamak Ampek Nan Didalam* and *Ninik Mamak Ampek Nan Dilua*, but in decision making they must be involved and know what was decided. *Second*, the Cultivation Rights Title certificate

issued by BPN only mentions Nagari Sasak not Nagari Kapa, so there is an administrative legal defect which should only include the name of the district according to the type of right with the Regency/City area unit. *Third*, the way to resolve disputes in non-litigation by negotiating and mediating, while in litigation by suing the court.

Another view is expressed in Rananto & Safrina research (2023), which states that the transfer of Nagari Kapa customary land by the Indigenous Chief of Nagari Kapa fulfils the elements of Unlawful Acts, because it was carried out without a written agreement between the *ninik mamak* and the indigenous community, causing losses to the indigenous community. The transfer also resulted in the loss of Nagari Kapa customary land and also the loss of trust of the indigenous people. Efforts against the transfer, namely conducting deliberations and consensus by involving all *ninik mamak* and indigenous peoples and making a written agreement so that it has legal force. It is recommended to the Pucuk Adat Nagari Kapa to communicate with *ninik mamak* and indigenous peoples before transferring Nagari Customary Land so that there is no uncertainty and avoid misunderstandings and losses.

On the other hand, the results of research by Indrizal et al., (2024) state that the occupation carried out by the Nagari Kapa community on land owned by PT. PHP I is the culmination of a prolonged conflict. The land occupation was carried out with the assistance of Ninik Mamak Langgam who felt left out of decision-making. In addition, there was a misunderstanding about the concept of land tenure between the community and *ninik mamak*. However, PT. PHP I has compensated Pucuk Adat to find a way out of the problem, but instead made the intensity of the conflict even higher, where Pucuk Adat took all the compensation and did not share it with other *ninik mamak* or the community. Thus, the attitude of the community to occupy the land is not only against PT. PHP I but also as a resistance to *ninik mamak* who have forgotten them as members of the tribe.

On that basis – until now, the community has remained in the land that they claim is the customary land of the Nagari Kapa community and they have rights to the land. They do not want to be evicted from their own land and they will wait until PT. PHP I's HGU expires. Another reason, they stay on the land is because it has high economic potential that can be used as plantation land (Afrizal, 2007). Their limitations in accessing land and the absence of land to work on became their motive for occupying land owned by PT. PHP I. Along the way, they were also assisted by NGOs such as SPI (Indonesian Farmers Union), the West Pasaman Regency Agricultural Extension Agency (BPP) and LBH (Legal Aid Institute) (Fitri, 2023). Therefore, the conflict and land occupation cannot be resolved, nor can they be forcibly evicted. So, PT. PHP I has been negotiating and litigating until now (Dingin, 2014; Zulfi et al., 2023).

From various discussions of existing literature, this research explores more deeply what the Babingkah Tanah system means to the community and customary leaders in customary land tenure. In addition, the community movement to occupy land owned by PT. PHP I cannot solely be resolved by litigation, but rather non-litigation. This is possible, because the conflict is not only a matter of resistant access demanded to the company but to the customary

stakeholders who have arbitrarily allowed indigenous peoples to lose land. Likewise, the interests between customary stakeholders are different, which results in internal conflict. This is what has not been discussed in many writings about the conflict in Nagari Kapa.

2. Method

This qualitative research was conducted in Nagari (village) Kapa, West Pasaman Regency which was conducted in 2024. Informants who participated in this study were selected purposively (Creswell & Creswell, 2018). Selection of informants based on their knowledge of customs and their involvement in conflicts and land occupation at PT. PHP II. Our informants consist of 1 PT. PHP I managers, 4 *ninik mamak*, 1 Village Heads, 4 Farmers (Kelompok Petani Pejuang Kapa) who occupied the land and SPI Kapa base.

Tabel 1. Research Informants

No	Name	Gender	Age	Status	Contextual Note
1	Gampo Alam	M	52	<i>Traditional Leader in Nagari Kapa</i>	Customary Systems and Land Tenure
2	Mr. Alim	M	58	<i>Customary Leader</i>	Customary Systems, Land Tenure and Conflict
3	Dt. Jala	M	48	<i>Customary Leader</i>	Social and Cultural Conditions of the Community
4	Mr. Rahmad	52		<i>Customary Leader</i>	Social and Cultural Conditions of the Community
5	Suti	F	38	<i>Farmer/Community</i>	Conflict and Occupation History
6	Ani	F	42	<i>Farmer/Community</i>	Conflict and Occupation History
7	Rara	F	35	<i>Farmer/Community</i>	Conflict and Occupation History
8	Tina	F	38	<i>Farmer/Community</i>	Conflict and Occupation History
9	Haris	M	41	<i>SPI Kapa</i>	Conflict and Occupation History
10	Wanto	M	36	<i>PHP I</i>	Conflict and Occupation History
11	Edah	M	38	<i>Head of Kapa Village</i>	Community Condition

Data was collected using participatory observation, in-depth interviews and text analysis to study the culture and social phenomena in Nagari Kapa (Palmer & Caldas, 2015). Participant observation and in-depth interviews were used to explore indigenous perspectives on the elements of conflict between PT. PHP I and community elites, as well as the symbolic and practical motives for resistance

among the community. In critical ethnography, in-depth interviews are the primary source of data collection, and informants become conversation partners. Interviews help researchers legitimise and see the reality hidden by informants and is contrasted with the results of the researcher's participatory observation. Therefore, researchers can reveal knowledge that is constructed and interpreted from the perspective of the people being studied (Madison, 2020).

In analysing data, we used the type of analysis suggested by Ghanad (2023) which consists of three steps: *Firstly*, domain analysis was conducted to find out what cultural fields are contained in the culture of the community under study. For example, finding local terms, their relation to each other. *Secondly*, taxonomy analysis determines the relationship between categories contained in one cultural field (domain). Local terms are searched for their relationships with each other and classified them. It is possible to discover the relationship between customary systems and communal land and who has authority over the land, and the appropriate mechanisms to be followed in the transfer of land. *Thirdly*, component analysis to find out the smaller components (elements) contained in the classification. The components consisted of the structure of customary stakeholders and their relationship to the customary system of land transfer.

Data analysis using reflective emancipation with several steps (Madison, 2020). Data coding, identifying and coding themes and patterns in data related to power between communities, traditional elites and companies. Narrative analysis, analysing narratives and stories that emerge in the data to understand how individuals and groups experience and interpret their experiences and knowledge of their culture. Discourse analysis, analysing how discourse is used to maintain power and knowledge between companies and communities. Self-reflection, conducting self-reflection on the researcher's position and role in the data analysis process and its influence on the analysis results .

In the three stages of data analysis, we classified the data according to context based on the results of interviews and observations, namely data related to customary regulations as interpreted by the Kapa community and the customary land tenure system. In addition, we also compiled the history of the reasons for the occupation of PT. PHP II's land by the community and their motives. This was also combined with data obtained from handover documents, HGU letters, and previous studies.

In terms of research ethics, we obtained permission from the village head (Nagari Kapa and KAN (Kerapatan Adat Nagari Kapa) and coordinated with PT. Wilmar (PT. PHP I) as the landowner and SPI (Serikat Petani Indonesia) based in Kapa as the community partner of Nagari Kapa. We ensured that meetings, interviews, or observations were conducted with the consent of informants and that data confidentiality and integrity were maintained. All interviews with informants were recorded with consent.

All interviews were conducted with cultural sensitivity, respecting local customs and traditional protocols surrounding knowledge sharing. Some names have been disguised, but traditional leaders are still referred to by their real names as they have already been exposed to the public. Data storage follows strict confidentiality measures, with access limited to the research team. Research

findings are verified through a peer-review process, allowing participants to review and verify their contributions before finalisation.

3. Result and Discussion

The Minangkabau people live in the western part of Sumatra, symbolising the former dominance of the Pagaruyung Kingdom. This kingdom was the centre of development for the Minangkabau people and the establishment of their customary laws, based on the philosophy of "*adat basandi syara', syara' basandi kitabullah*" (custom is based on law, law is based on the Holy Book).

The Minangkabau region is divided into two categories: the *luhak* (core) area and the *rantau* (migration) area. The *luhak* region consists of Tanah Datar, Agam, and Lima Puluh Kota, while the *rantau* region lies outside these areas. These categories are also influenced by two customary systems (*keselarasan*) that govern traditional Minangkabau life: *Keselarasan Koto Piliang* (hierarchical) and *Bodi Caniago* (egalitarian). However, the lineage system still follows the matrilineal system (based on the mother's line) in the inheritance of *Pusako* (communal property). Nevertheless, regarding *Sako* (customary titles) based on the *mamak* (uncle) line and men with customary titles (*Datuk*) are referred to as *ninik mamak/penghulu*.

The division of territory and the Minangkabau customary system also influence the system of land ownership and the authority of the *ninik mamak* over different types of land. This concept is known as *Adat Salingka Nagari* (Customary Autonomy). This is the case in Pasaman Regency.

- ***Nagari Kapa: Land Tenure System and Land Conveyance to Companies***

West Pasaman Regency has a culture that is slightly different from Minangkabau culture in general. They adhere to a kingdom system that is more or less similar to the Koto Piliang system.¹ Due to the different customary systems, West Pasaman is classified as an overseas (migratory) region. This area is ruled by a king called *Daulat Yang Dipertuan Parit Batu* as the leader of the highest adat court (Siregar, 2010). At the present time, there is a dualism between the king who is recognised by the government and the king who is recognised by *Raja Alam Minangkabau* (the centre of the Minangkabau kingdom). Between on two, *Tuanku Jailani Aldiansyah* and *Tuanku Hendri Eka Putra* as the *Pucuk Adat* of Pasaman. Dualism is caused by political interests and not based on lineage anymore.

Daulat Parit Batu, has customary structures in place throughout its territory. The leader in *Nagari Kapa* is titled *Gampo Alam*² is the customary leader in the

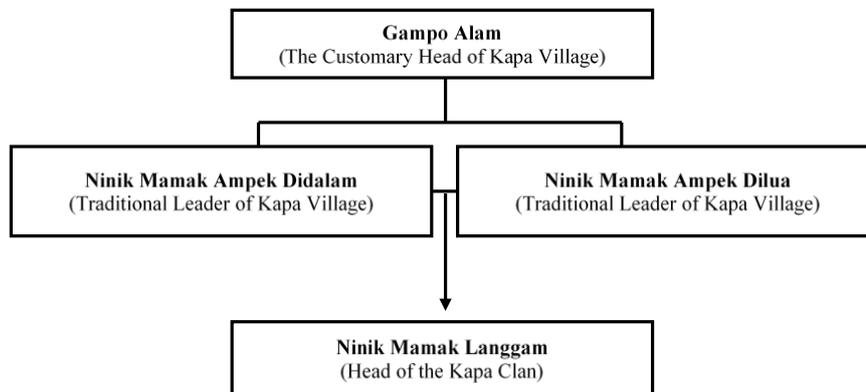
¹ In Minangkabau there are two alignments or customary government systems namely *Koto Piliang* and *Bodi Caniago*. *Bodi Caniago* system is an egalitarian system that prioritises deliberation and is "*duduak samu randah, tagak samu tinggi*." This means that there is no higher customary leader structure, only elevated to a level (*ditinggikan sarantiang*) as *penghulu*. Meanwhile, *Koto Piliang* upholds the principle of "*bajanjang naiak, batango turun*" (there is a structure)- "*Manitiak Dari Ateh*" (command from the highest) - *Adaik Barajo-rajo* (custom has a leader)-"*batinggi barandah*" (there are positions above and below)-"*badahulu-bakudian*" (there are those in front and those behind). This principle emphasises that *Koto Piliang's* customary governance system has the highest leader and the lowest customary stakeholder structure.

² In the traditional structure of *Nagari Kapa* (*Parit Batu Kingdom*), the highest leader holds the title of *Gampo Alam*. The title of *Gampo Alam* is held by *H. Alman, S. H* as *Pucuk Adat* (traditional leader).

Nagari Kapa area. Thus, Gampo Alam has the authority as the highest customary leader in Nagari Kapa and controls all land in Nagari Kapa with the *Babingkah Adat* system (Undri, 2006). Besides that, Gampo Alam has a structure under him, including Ninik Mamak Ampek Didalam, Ninik Mamak Ampek Dilua, and Ninik Mamak Ampek Penghulu Langgam. Ninik Mamak Ampek Didalam, headed by a traditional leader with the titles Datuk Rajo Mahmud, Datuk Jando Lela, Datuk Rangkayo Mudo and Datuk Sutan Ameh. Ninik mamak Ampek Dilua, headed by traditional leaders with the titles Datuk Majo Basa, Datuk Jalelo, Datuk Tan Kabasaran, and Datuk Bungsu. Ninik Mamak Ampek Penghulu Langgam is a *ninik mamak* planted and grown by the sovereign who is the head of Parit Batu Pucuk Adat Pasaman in Luhak Saparampek Nagari Kapa. Which is headed by Datuk Rangkayo Basa and Datuk Rangkayo Mulia. However, in terms of power over customary land they do not have authority because they are considered immigrants and the customary title of *ninik mamak*³ of their people is a title given (a title given later, not the same as the title of *ninik mamak* of the original group).

In the provisions of customary law in Nagari Kapa, Gampo Alam is Basa Luhak Saparampek Nagari Kapa or called Pucuak Adat (Customary Head of Kapa), while Ninik Mamak Ampek Didalam is the customary judge of Nagari Kapa (*Pananai Sako* [Title Designation] Gampo Alam), and Ninik Mamak Ampek Dilua is the *mamak* head of the clan (*Panyambah Tuah* [Order Executor] Gampo Alam). This means that Gampo Alam and Ninik Mamak Ampek Didalam and Ninik Mamak Ampek Dilua are the owners and rulers of Nagari customary territories, Nagari customary land and others (see Chart 1 below).

Chart 1. Customary Structure in Nagari Kapa.



Source: Results of Elaboration Interview with Gampo Alam, 2024

The *ninik mamak* comes from each tribe in Nagari Kapa, both indigenous and migrant tribes. Gampo Alam said that “*some of the original tribes consist of Tanjung, Koto, Malayu, Jambak, and Sikumbang*”. These tribes are led by Ninik Mamak Tuo Adat or Ninik Mamak Rumah Gadang (Head of Clan). This is based on the fact that each tribe or clan is led by its clan *datuak* as a liaison with Ninik Mamak Ampek Dilua and Ampek Didalam to Gampo Alam. This Ninik Mamak Tuo Adat has authority in terms of tribal or tribal groups only, regulating the course of tribal life. In some terms in other areas, this is the same as the function of the

³ In this case, *ninik mamak* is the leader of a group/clan called Datuk in a tribe in Minangkabau.

Mamak Tungganai tribe or *ninik mamak* who controls a Gadang House filled with members of the tribe who are *saparuik* or blood (one mother).

Mr. Alim (customary leader) explained that:

The difference in its function with Ninik Mamak Langgam is about its authority and status. Ninik mamak Langgam and his tribe members are migrants (Sikumbang) who are given management rights over land in Nagari Kapa. His authority is only within the scope of his tribe (clan level). Because they are not considered indigenous people, they are separated from the Ninik Mamak Saparampek Kapa structure and do not have authority and power over customary land in Nagari Kapa. They only have the right to manage what has been transferred (given management rights) to their tribe.

In relation to this, Gampo Alam (traditional leader) elucidated:

Likewise, the 3 traditional leaders who are classified as Ninik Mamak Langgam from the Tanjung tribe are the expansion of the Tanjung tribe members who are too large and want to establish their own *datuak* or tribal leader. So that they are classified as Ninik Mamak Langgam who only take care of their tribal affairs and their tribal customary land and have nothing to do with the customary land controlled by Pucuk Adat and Ninik Mamak Ampek Dilua and Ampek Didalam.

In this case, the *ninik mamak* who holds the title or is called *sako* is passed down from generation to generation. Refer to Dt. Jalal “*sako* is a title that is passed down to *kamanakan* (a brother's son) from generation to generation based on the mother's lineage.” *Sako* is not an object, but a title that is used and transferred due to death or mistakes that violate custom (*sumbang adat*).

In contrast to *Sako*, Dt. Jala (customary leader) described:

Pusako is customary heritage property consisting of wealth and customary power. Wealth assets are in the form of gold, silver, and domesticated livestock, while customary power assets are in the form of territorial areas (*ulayat*) in the form of land forests, rice fields, *pandam pakuburan* (cemeteries), *labuah tapian* (baths), households, and village and their contents which are limited by land boundary areas.

One form of *pusako* is land. The land tenure system in Nagari Kapa refers to the concept of *Babingkah Adat*⁴, is a land tenure system that is recognised by custom in Nagari Kapa by the *ninik mamak* of the original population (Pucuk Adat Gampo Alam, Ninik Mamak Ampek Didalam and Ninik Mamak Ampek Dilua). Customary land can be managed by grandchildren if there is permission from the Customary Head based on deliberations with Ninik Mamak Ampek Didalam and Ampek Dilua. Meanwhile, Ninik Mamak Langgam does not have rights to the land in nagari kapa, including Ninik Mamak Rumah Gadang, whose

⁴ The comparison of the Babingkah Adat system is very different from the Babingkah Tanah system adopted by the Kinali community (Daulat Rajo Kinali) (W. Afrizal, 2018). The Babingkah Tanah system refers to each *ninik mamak* in Nagari Kinali, has clear boundaries and land tenure and only the grandchildren of the Ninik Mamak's tribe can work on it.

authority is limited to his clan. Communal land here refers to land that was originally a livelihood property or commonly referred to as low heirlooms and then inherited by the next generation.

However, if there are other people or parties who want to manage land in Nagari Kapa, they can go through the "*adat diisi, limbago dituang*" (customary requirements) system, which means a series of efforts to fulfil customary provisions to obtain certain rights and in this context are temporary farming rights.

In relation to this, Dt. Rahmad (customary leader) :

After that, they can manage the land with the status of use rights (cultivators), then the management applies the customary provisions '*ka rimbo babungo kayu, ka lauik babungo karang, ka sawah babungo ampiang, ka sungai ba bungo pasie*', meaning that the manager must set aside a portion of the results of his management to be submitted to *ninik mamak*.⁵

Secondly, *siliah jariah* is a compensation for caring (energy) or thoughts in managing the land carried out by traditional leaders or grandchildren of *kemenakan* as members of the indigenous community.

Article 3 of Regional Regulation (Perda) No. 6 of 2008 states: (1) The main objective of the utilisation of customary land is to improve the welfare and prosperity of indigenous peoples; (2) The utilisation of customary land by other parties who are not residents of the local community concerned is carried out with the principle of mutual benefit and risk sharing with the principle of '*adat filled limbago dituang*' through consensus deliberation; (3) If the customary land is no longer utilised by the management party, either a legal entity or other individual, then the land returns to the ruler or owner of the original customary land, while still paying attention to the relevant civil rights related to the customary land.

Regarding customary land in Minangkabau, two local regulations are in force. First, the Regional Regulation (Perda) of West Sumatra Province Number 6 of 2008 concerning Customary Land and its Utilisation. In Article 5 of Perda No. 6/2008, communal land in Minangkabau is categorised into 4 (four) parts, namely: 1) *Rajo Customary Land* is a property right over a plot of land along with its natural resources whose control and utilisation are regulated by the eldest male of the maternal line; 2) *Customary Land of the Kaum*, is land that is jointly owned by the group for generations consisting of *jurai/paruik*, its supervision is in the hands of the *mamak jurai/mamak* head of inheritance and is inherited according to maternal descent (matrilineal). This is in accordance with the traditional saying "*basuku kabakeh ibu, babangso kabakeh ayah, jauh mencari induak, dakek mencari suku*", which means tribe follows mother, nation follows father, far looking for indi, close looking for tribe; 3) *Tribal Customary Land*, defined as property rights to land and natural resources that exist on it and within it are the collective property rights of all members of a particular tribe whose control and utilisation are regulated by the tribal leaders; 4) *Nagari Customary Land*, defined

⁵ Dalam hal ini kami perlu kembali menegaskan bahwa sejatinya Ninik Mamak adalah jabatan adat yang merepresentasikan masyarakat hukum adat Minangkabau yang tidak sama dengan pribadi individu.

as customary land along with the natural resources above it is the right of control by Ninik Mamak Kerapatan Adat Nagari (KAN) and is utilised to the greatest extent for the benefit of the Nagari community, while the Nagari government acts as a party that regulates its utilisation. The utilisation of Nagari communal land by *ninik mamak* or *penghulu-penghulu* in Nagari depends on the customary kinship system that applies in Nagari. Nagari customary land in the Koto Piliang kinship is controlled by Panghulu Pucuak. Whereas in the Bodi Caniago kinship, the control of Nagari customary land is carried out by the upholders in Nagari.

Second, Regional Regulation of West Sumatra Province Number 7 of 2023 concerning Customary Land. It is stated in Article 5 that the applicable law in the ownership and control of Ulayat Land according to this Regional Regulation is the customary *law of Salingka Nagari* (custom that applies in one region). There is a saying related to this: "*lain lubuak lain ikannyo, lain padang lain pulo ilalangnyo*" and based on "*adat basandi syarak, syarak basandi kitabullah*" as a principle and Adat Sabatang Panjang (custom that applies generally in Minangkabau). Thus, land tenure in Minangkabau land cannot be seen as all the same. Because each Nagari has its own wisdom based on the agreement and customary system it adheres to - either Koto Piliang or Bodi Caniago. According to Alman Gampo Alam, the people of Nagari Kapa adhere to the system or harmony (customary government) of Koto Piliang – "*bajanjang naik batanggo turun.*" This means that all elements or customary elements consist of levels that have different functions and authorities.

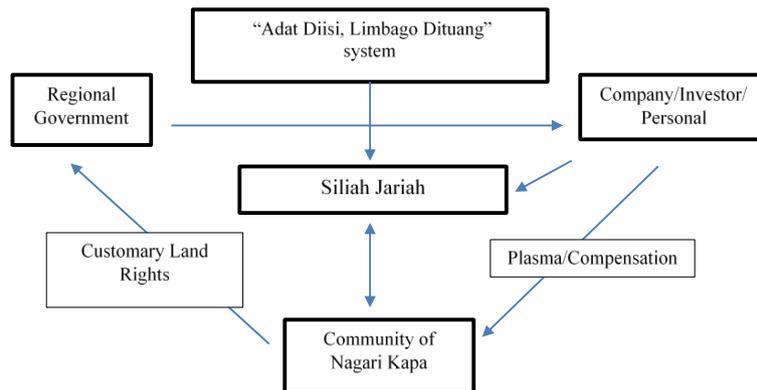
This is the basis, where the handover of land by *ninik mamak* (Gampo Alam and Ninik Mamak Ampek Dilua and Ninik Mamak Ampek Didalam) to the West Pasaman Regency government and PT. PHP I in 1997 where this handover went through the mechanism of "*adat diisi, limbago dituang and silih jariah.*" Thus, it becomes legal by customary rules and the authority to handover is in the highest customary leader, namely Gampo Alam.

This system divides the authority between two elements. Where the *ninik mamak* - Customary Head of Gampo Alam and Ninik Mamak Ampek Didalam and Ampek Dilua become the Tenure of Customary Land and Customary Land Rights of Authorisation in Nagari Kapa absolutely. While the second element, namely the Nagari Kapa community-Grandson-Nephew is as management if given permission by the *ninik mamak* of the customary land ruler. Grandchildren who can be given permission to manage (with conditions) are also regulated based on classification. Thus, Pucuk Adat Gampo Alam is the holder of customary land authority in Nagari Kapa and Ninik Mamak Ampek Didalam and Ampek Dilua are elements that cannot be separated from that authority. This is related to the *keselarasan* system adopted, namely Koto Piliang, where higher status and position can decide something including in the control of heirloom property.

Therefore, the transfer of customary land is regulated in the system of *adat isi limbago dituang* in accordance with the agreement of *ninik mamak* and customary rules. *Adat diisi, limbago dituang* is a customary money requirement. When the power over the communal land has been transferred, the power and authority over the land is released from the *ninik mamak*. The release of power is on the

basis of *siliah jariah* which is interpreted as compensation for control of customary land rights. The compensation of *siliah jariah* is compensation money to *ninik mamak* who has been controlling and supervising customary land. *Siliah* can be interpreted as changing, replacing while *jariah* is difficulty, hardship. So the money or agreement made between the *ninik mamak* and the investor is for the *ninik mamak* as stipulated in the custom. However, this is the point of difference in understanding, where other *ninik mamak* consider that *siliah jariah* is not a transfer of control over customary land rights, but rather a lease. This is true, when *siliah jariah* is paid in the form of money, it is a lease, not a compensation or compensation for profit (see Chart 2 below).

Chart 2. Mechanism of Land Conveyance in Nagari Kapa



Source: Adopted from Indrizal et al. (2024:76)

The transfer of power rights over customary land is customary in the content of *adat diisi, limbago dituang* agreed in 1997 by *ninik mamak* with the Regional Government to PT PHP I in the form of money IDR 75,000/hectare including other agreements (based on the 1997 land transfer document).

According to Mr. Wanto: “This is the absolute strength that there has been a transfer of power rights over the customary land of Nagari Kapa to the Government and then later became PT PHP I's HGU land.”

So that because of that, the communal property rights or customary rights along with the control and management rights of the Nagari Kapa community are automatically lost (Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 18 of 2021 concerning Land Management Rights, Land Rights, Apartment Units, and Land Registration).

This is the origin of the current conflict in Nagari Kapa. The conflict stems from the lack of transparency in the transfer of customary land to the Government in the name of “for the development.” Then the Government gives HGU to the Company, the formal procedures may all be fulfilled, but it is seen and felt differently in the customary law community. Then the concept of *siliah jariah* agreed by *ninik mamak* and the company (PT. PHP I) is only limited to a limited agreement. Limited consensus deliberations were carried out by the Company with Ninik Mamak Pucuk Adat, Ninik Mamak Ampek Didalam and Ninik Mamak Ampek Dilua. This step is considered to fulfil the actual customary mechanism in the sense that it follows the version of the local customary leader

in power. Meanwhile, according to the interpretation version of *Ninik Mamak Langgam*, they should also be involved. Meanwhile, historically, the interpretation of the concept of *babingkah adat* in Nagari Kapa itself is not impossible to have also experienced a shift or perhaps distortion of the influence of the power of customary rulers.

In addition, in the making of the HGU, PT. PHP I made a mistake in not placing the status of the land in Nagari Kapa but in Nagari Sasak⁶. Based on the two HGUs, there are two views of the location when viewed from the map, where HGU No. 54 owned by PT. PHP I is in the Nagari Kapa area covering 9,320,000 m², but what is written is not Nagari Kapa but Nagari Sasak. So this is a gap for the indigenous people of Nagari Kapa to claim their customary land and declare the HGU issued by the State Land Agency (BPN) invalid because the Kapa indigenous people consider the non-recognition of their Nagari customary land in the HGU certificate.

The HGU issued by BPN also contradicts Article 169 (Paragraph 2) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 which reads "The land book of Management Rights and Cultivation Rights is arranged according to the type of right with the Regency/Municipality area unit." So, this triggers conflict and questions for the Kapa community, that PT. PHP I does not have HGU on the customary land of Nagari Kapa and they claim that the land belongs to the Nagari Kapa community and there is no right of PT. PHP I.

In addition to the claim, the basis of the conflict is the status of the land that was handed over. When referring to several regulations, namely Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) and Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 18 of 2019 concerning Procedures for Administration of Customary Land of Local Community Unity states that Cultivation Rights Title (HGU) is the right to cultivate land directly controlled by the State, thus customary land granted for Cultivation Rights Title is released from its rights as customary land to become State land, and when the HGU period has expired, it returns to land controlled by the State. Thus, the customary land of local communities is lost after going through the process of granting HGU to investors. However, this regulation clashes with other regulations, including Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration and Regional Regulation Number 6 of 2008 concerning Customary Land and its Utilisation, which states that if the agreed period for the utilisation of customary land in the context of capital investment has expired, the status of control and ownership of the land returns to its original form, meaning that it returns to being customary land controlled by the local community.

⁶ HGU Certificate No. 55 of 2014 covering an area of 3,150,000 m² (measurement letter No. 748/2014) located in Nagari Sasak, Sasak Ranah Pasisie Sub-District, West Pasaman Regency, West Sumatra Province.

Thus, from 2020 until now, PT. PHP I cannot work on their land because it has been occupied by the Kapa community. This is a form of land occupation by local communities who defend their land, but PT. PHP I considers this a form of occupation of the company's legitimate land.

According to Mrs. Suti:

In 2020 there were clashes between the community and the company due to events over customary land, such as the forced stoppage of land clearing by the company on land planted with corn in 2020. Nagari Kapa women took action to sleep in front of the excavator to stop the company's land clearing action in 2021. Demonstrations took place at PT. PHP I by the community accompanied by *ninik mamak* and SPI. The demonstration continued by involving wider parties such as the police in the company's camp and LBH in the community's camp. The community's resistance system in carrying out the seizure of customary land is to make mothers the executors of demonstrations, on the grounds that women are not vulnerable to acts of violence that might occur.

This is continued by Mr. Haris (SPI Kapa):

Then in 2021 there was a bigger clash with the action of pushing the portal made by the community which made one person injured due to being trampled by the company in the action. Then the demonstration actions that took place in Nagari Kapa reached national news, and demands were filed by the community until now. The process of filing civil claims that took place made the community continue to carry out farming activities in that location as an act of defence against the company.

The occupation of land by the people of Nagari Kapa is not without reason, firstly the issue of livelihood. So far, they have been farm labourers who work on farms and are paid Rp10,000 per sack. They shoplift corn that is ready to harvest on community lands and it is only during the harvest season. So, at the moment, they can work on two hectares of land. They switched from labourers to farmers. Secondly, economic problems. With a relatively small income, they are forced to look for land to cultivate in order to increase their income. So, in 2020 the opportunity to work on the core land opened up, they flocked and the results obtained in one harvest were Rp19,000,000 per two hectares of land. This significant economic increase is what makes people who work on core land unwilling to leave the land and fight to get what they claim as Nagari Kapa customary land.

• **It Goes On: Local Communities, Companies, and the Future**

The conflict in Nagari Kapa between the community and PT. PHP I is a form of resistance and defence of land access by the Nagari Kapa community. They are currently organised into 10 farmer groups (around 300 farmers) assisted by BPP (Agricultural Extension Agency) Luhak Nan Duo Sub-district and have formed a cooperative, KPPI (Indonesian Farmer Producer Cooperative) assisted by SPI (Indonesian Farmers Union) based in Nagari Kapa. In addition, in terms of law enforcement efforts, they are also assisted by LBH (Legal Aid Institute) Padang.

In this reality, it can be seen that the organisation of the protesting community, both in the form of farmer groups and KPPI, shows symptoms of an organised and sustainable social movement. Taking expert thoughts, Tarrow's (2011:132) social movement perspective offers five stages associated with protests against the authorities by distressed groups: (1) Heightened conflict, which is when problems arise in a social system, not only in the industrial context but also in rural environments or educational institutions; (2) Geographic and sectoral diffusion, when ideas or movement ideas spread from the conflict area (central) and extend to other areas (peripheral) this is what then triggers the emergence of a wave of mass protests; (3) Social movement organisations, namely the emergence of organisations to ensure the strategy and results to be achieved; (4) New frames of meaning, when the previous protest movement gave birth to new ideologies that became the basis for understanding the reality experienced; (5) Expanding repertoires of contention. Repertoire is a term often used by Charles Tilly and Sidney Tarrow to analogise the song of the movement that is always echoed in social protests.

In this cycle, the social movement becomes a platform for new movements or protests that will emerge later. The cycle offered by Tarrow (2011: 126). It is not a finished process where the movement will be exhausted or disappear once the protest has been carried out (the 2021 demonstrations). Instead, Tarrow once again emphasises continuity in the fifth cycle where the social movement becomes a platform for new tools of protest, namely forming farmer groups and KPPI. Emphasis is also placed on the third cycle where the existence of an organisation is a way to ensure the movement has a clear strategy and outcome. Social movements are not always associated with formally established organisations. However, Tarrow focuses more on the action of the movement itself as a whole rather than the formalisation of the organisation. Sustainability becomes a strength that is considered an important indicator to realise resistance to the authorities (Tarrow, 2011). While in practice, formal organisations with their attributes are likely to keep struggles going for a long time, Tarrow's study is more about the dynamics that occur within movements to achieve common goals.

In some studies, the existence of capital accumulation of large companies and rural farmers has often been studied from the point of view of conflict rather than efforts to find harmonious solutions (Herdiansyah et al., 2020). The perspectives and analyses often focus on the conflicting interests or incompatible goals between the company's capital accumulation activities and the local population (Kurniawan et al., 2023). Indeed, rural peasants and companies are each distinct social entities. They have different social, cultural, economic, political and historical characteristics. If we only look at the differences in interests and perceptions that are not in line, the debate will never end. Therefore, a harmony-orientated perspective is also needed. The basic assumption or thought is that between local communities, the majority of which are rural farmers (peasant) and large companies (farmer) should be able to live in harmony, side by side and complement each other. The presence of large companies should stimulate the economic improvement of the surrounding population, partner with local

communities and make a real contribution to regional development. On the other hand, local people should not see the company as an enemy, but rather understand that the investment and activities of large companies are increasingly important and strategic (Afrizal & Berenschot, 2022; Bose, 2019; Hendra et al., 2023).

The existence of oil palm plantations in Indonesia is a two-sided coin. On the one hand, the existence of oil palm plantations is beneficial for regional and state revenues, which are allocated for the welfare of the community. However, on the other hand, oil palm plantations leave a handful of agrarian problems, especially with local communities. Agrarian conflicts between indigenous communities and oil palm plantation companies in Indonesia continue to occur. The expansion of oil palm plantations, conflicting land claims, and overlapping policies on oil palm plantation business licences are the causes of the increasing number of agrarian conflicts (Afrizal, 2006; 2007)

Indeed, agrarian conflicts are social conflicts that occur due to a mismatch of perceptions and conflicts of interest. Agrarian conflicts - especially palm oil plantations - are conflicts over what Li & Semedi (2021) call *lit* and *exclusion*. In this concept, they see how land is seen in terms of access. Access is defined as the ability to derive benefits from things. This definition is broader than the classic notion of property, which is defined as the right to benefit from things. Access in this sense implies "a bundle of powers" in contrast to property, which views access as "a bundle of rights" (Afrizal, 2006). In this understanding of access, power is defined as something that consists of material, cultural and political-economic elements that are gathered in such a way as to form a "bundle of powers" and a "web of powers" that then determines access to resources (Afrizal, 2007). This way of looking at access to land that shifts from the perspective of rights to power can explain the process of acquiring land for market purposes. We believe that this perspective is not only useful for understanding the behaviour of companies in conflict with local communities. At the same time, this perspective should also be used to unravel the relations of interest between actors within the internal social structure and the dynamics of social relations between local communities themselves and outsiders. That way we will be able to get a more complete picture of a conflict and be more proportionate in finding efforts towards its harmony.

So far, the study of agrarian conflicts on the company's HGU land has often centred on the company's activities as a structural source of conflict. Whereas the source of conflict between local communities and companies can also originate in the internal dynamics of the local community itself related to the position and relations between local elites, elite relations with community members or citizens themselves, as well as coalitions with local community movements with outside actors or parties. Scoot (1993) mentions that peasant movements often become large because of coalitions with outsiders from the city or middle class, even though their interests are actually different. When the goals of the movement are achieved, the peasants are usually abandoned again. The peasants will remain in their original marginalised position.

The occupation of PT. PHP I's HGU land by the community in Nagari Kapa can also be said to be a manifestation of a social movement in the form of rural peasant resistance. The form of resistance of the local population in Kapa is carried out by occupying land and occupying it for agricultural activities, namely cultivating corn, sweet potatoes and rice. According to Scott (1993:86), the resistance of the Kapa community can also be said to be categorised as everyday peasant resistance as a weapon of the weak. Usually this kind of resistance arises from the existence of circumstances or views about the state of injustice and is usually increased by economic difficulties or problems of poverty and misery. Peasant resistance movements are often covert, informal, dispersed and are actually not strongly organised internally. However, as Wolf (1966:176) notes, peasant movements are often strengthened when organised by "outsiders" such as elites, or by coalitions with outsiders such as urban elites or groups.

In the case of the occupation of the company's HGU land by a group of community members in Nagari Kapa as a form of social resistance, this is clearly relevant to the classic explanations of Scott and Wolf. The pattern of fluctuations in the conflict over oil palm plantation land in Nagari Kapa has almost always been related to the dynamics of the conflict of customary elites within the Kapa community itself. Meanwhile, the pattern of escalation of the peasant resistance movement in Kapa appears to have increased again in 2021, which is closely related to the presence of the SPI and LBH Padang coalition. In fact, the presence of this coalition of NGOs/SMs, which indeed has a core business 'defending the weak', strengthens the peasant resistance movement will continue until the HGU period is over. In the name of reclaiming customary rights, the community is lulled by the ideology of upholding justice to solve the problem of injustice. In fact, how to define the ownership of customary land rights in Nagari Kapa actually remains blurred because their own traditional elites are also not open with their own grandchildren and nephews. The customary elites or local elites themselves have also denied the importance of deliberation and consensus in Minangkabau customs. Whatever customary system is adopted, in the Minangkabau customary system, *musyawarah mufakat* is essentially the highest decision-maker. The institution of consensus is higher than just the leader or individual *ninik mamak* figures. This has been ignored in the course of the history of the indigenous people in Kapa so that the definition of their customary rights has become blurred. Meanwhile, in terms of the new coalition of peasants with outsiders, Wolf (1966) states that actually even if the goal of resistance is successful, usually then the peasants are again abandoned. At such times, the peasant organisation becomes internally weak again.

Agrarian conflicts—particularly those involving oil palm plantations—are conflicts of opposition in the form of land exclusion. In this concept, they see how land or soil is viewed in terms of access. Access is defined as the ability to derive benefit from something. In this sense of access, power is defined as something that consists of material, cultural and economic-political elements that come together to form a "bundle of powers" and a "web of powers" which then determine access to resources. Viewing access to land from the perspective of

rights rather than power can explain the process of land acquisition for the sake of the “market.”

4. Conclusion

This article puts forward several arguments. *First*, the land surrender by *ninik mamak* (customary leaders) of Nagari Kapa Kapa to the state (West Pasaman government) in 1997 was a link between political, legal and customary arguments. In reality, customary framing is still difficult to apply in legal and political ideas due to the limited knowledge of the state (bureaucracy) and corporations (PT. PHP I) or what can be called 'reified adat'. Thus, the framing of adat is inaccessible and cannot be fully applied given the complex socio-legal context of the Nagari Kapa community. *Second*, when adat has not been defined through state law, conflict gaps arise. This opportunity was taken advantage of by NGOs such as SPI and LBH to raise the discourse on the 'land grabbing' of the Nagari Kapa community. Although PT. PHP I and the West Pasaman Government legally obtained written mandates from the customary elite. *Third*, the occupation carried out by the Nagari Kapa community is their resistance and resilience to defend their land and customary rules against land tenure. They are not merely resisting and seizing the land “taken” by PT. PHP I, but opposing the arbitrary attitude of their *ninik mamak* who unilaterally gives land to other parties. Indeed, customary land is managed and reserved for the community (grandchildren and nephews) led by the *ninik mamak*. Ultimately, as long as government policies and regulations ignore or fail to address the roots of conflict and as long as the rights of local communities remain insecure, conflicts will always remain, particularly in Nagari Kapa.

The land case in Nagari Kapa is a case of devolution that has been occurring throughout the country. The fate of the local community is exactly like an old parasite growing on its host. This is a paradox: from “landowners” to “beggars on their own land” – from host to parasite. The fate of the Kapa people's land, who live in conflict with the decisions of the *ninik mamak* as a social institution, is filled with the customs of *ajimumpung* and *adat diisi limbago dituang – silih jariah*. It is as if the *ninik mamak* has been resolved, while the community (grandchildren and nephews) has been sidelined.

Why did this happen? On the one hand, it happened because of external de-customisation (outsiders) who denied the customary law system through the presence of colonial government policies that were continued by national government (state) policies. The presence of non-state actors (NGOs/CSOs) defending farmers (local communities) tends to escalate conflicts and resistance from the Nagari Kapa community by occupying land or occupying disputed land. On the other hand, there are internal issues, namely conflicts among elites within the customary community itself, which tend to ignore consensus-based institutions and the interests of grandchildren and nephews.

It is recommended that in addition to litigation, the cultural concept of the land tenure system in Nagari Kapa has not been fully understood by the community, some *ninik mamak* and outside elements such as SPI and LBH. So it is also necessary to equalize perceptions about the concept of *babingkah adat* adopted by Nagari Kapa. In our review, several studies conducted by academicians and

practitioners have not clearly described the concept of *babingkah adat*. So, it is feared that it will cause dualism of meaning, where the academic reference is used by other elements. On the other hand, we also see that the community in general does not understand the concept of *babingkah adat* ideally or even sometimes gives meaning according to their interests. The people of Nagari Kapa do not fully recognize that the highest customary leader in Nagari Kapa is Gampo Alam as the head of *adat* and tend to look more at Alman as an individual who holds the title. As a result, customary issues and customary land decided by Gampo Alam are opposed by some people including other *ninik mamak*. Likewise with other *ninik mamak*, such as Ninik Mamak Langgam who set aside *adat* as if it could be interpreted according to their interests and influence their tribe members. Therefore, it is necessary for the customary structures (Gampo Alam, Ninik Mamak Ampek Dilua, Ninik Mamak Ampek Didalam, Ninik Mamak Tuo Adat (Rumah Gadang) and Ninik Mamak Langgam) to sit together in solving the PT. PHP I land occupation problem. In order, the people who occupy the land can leave because of the results of the decision of Ninik Mamak Nagari Kapa.

Conflicts of Interest

The authors declare that there is no conflict of interest.

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