

# THE CULTURAL ROLE OF TRADITIONAL LEADERS IN INITIATING THE FORMULATION OF SHARIA REGIONAL REGULATIONS IN WEST SUMATRA

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## Abstract

This research aims to explore and analyze the role of the traditional leaders (Ninik Mamak) in West Sumatra in initiating and controlling the implementation of Sharia Regional Regulations (Perda Syariah) and how they act as a bridge between culture and religion. These traditional leaders play an important role in maintaining the balance between Minangkabau customs and the principles of Islamic law. The data sources for this qualitative research were the results of observations of Minangkabau customary life phenomena, interviews with Minangkabau customary figures and relevant parties, and documentation of research findings and news related to the Sharia Regional Regulation in West Sumatra. After analyzing the data using a sociological approach, specifically Max Weber's theories of Charisma and Authority, it was found that the traditional leaders of the Ninik Mamak played a significant role in initiating and controlling the implementation of the Sharia Regional Regulation in West Sumatra, while also taking on a moderating role between culture and religion. This is in line with the motto "Adat Basandi Syarak, Syarak Basandi Kitabullah" (ABS – SBK). Their presence has helped create harmony between Minangkabau culture and Sharia law in the region, while also preserving cultural sustainability and ensuring the implementation of Islamic legal principles in accordance with the Minangkabau people's way of life.

## Abstrak

Penelitian ini bertujuan mengeksplorasi dan menganalisis peran Ketua Adat (Ninik Mamak) di Sumatera Barat dalam menginisiasi dan mengontrol implementasi Peraturan Daerah Syariah (Perda Syariah) dan bagaimana mereka berperan sebagai penghubung antara budaya dan agama. Para pemimpin tradisional ini memiliki peran penting dalam menjaga keseimbangan antara adat Minangkabau dan prinsip-prinsip hukum Islam. Sumber data penelitian kualitatif ini adalah hasil dari observasi terhadap fenomena kehidupan adat Minangkabau, wawancara dengan para tokoh adat Minangkabau dan para pihak terkait, dan dokumentasi hasil penelitian serta berita-berita yang terkait dengan Perda Syariah di Sumatera Barat. Setelah data tersebut dianalisis dengan pendekatan sosiologis, yakni teori Karisma dan Otoritas Max Weber menunjukkan peran signifikan para tokoh adat Ninik Mamak dalam menginisiasi dan mengontrol implementasi Perda Syariah di Sumatera Barat, sekaligus mengambil peran moderat antara budaya dan agama. Hal itu selaras dengan semboyan Adat Basandi Syarak, Syarak Basandi Kitabullah (ABS-SBK). Kehadiran mereka telah membantu menciptakan harmoni antara budaya Minangkabau dan hukum Syariah di wilayah tersebut sekaligus menjaga keberlanjutan budaya dan memastikan penerapan prinsip-prinsip hukum Islam yang sesuai dengan cara hidup masyarakat Minangkabau.

## Background

The phenomenon of regional regulations (Perda) with a Sharia flavor being legislated after the reform is one of the interesting topics to study, partly due to its complexity. Referring to Constitution Number 32 of 2004 concerning Regional Government juncto



Constitution Number 23 of 2014<sup>1</sup> and Constitution Number 12 of 2011 juncto Constitution Number 15 of 2019 juncto Constitution Number 13 of 2022 concerning the Formation of Legislation as a standard in the systematic drafting of regulations,<sup>2</sup> many provinces and regencies/cities have euphorically implemented religious – themed regional regulations,<sup>3</sup> including West Sumatra Province.<sup>4</sup> Many people assess the emergence of these sharia regulations (Perda Syariah) from their respective perspectives, ranging from positive evaluations to cynical and pejorative ones. The template for this article format was created in MS Word 2007, and then saved in doc format. The file of this template can be downloaded at <https://www.ejournal.iainbukittinggi.ac.id/index.php/islamt/index>. This template helps the article writers to write the articles in accordance with the rules relatively, quickly and accurately, especially for the needs of electronic articles to be published in Islam Transformatif: Journal of Islamic Studies published by the State Islamic University of Bukittinggi, West Sumatra, Indonesia.

The motivation and factors behind the emergence of sharia regulations in several regions have been studied by previous researchers. For example, Gugun al – Guyanie and Moh Tamtowi believed that the enactment of sharia regulations in West Sumatra—among others—was determined by the practical political interests of certain politicians, public officials, and traditional leaders.<sup>5</sup> It is acknowledged that such practical political nuances do exist, but does this become a determining factor? The existence and role of traditional figures like Ninik Mamak as a traditional and cultural entity that has existed long before the emergence of sharia regulations and has nurtured and maintained the religious – based Minangkabau customs cannot be ignored.

In terms of its movement, as Haedar Nashir puts it, religious legal products, or more specifically, the implementation of Islamic law through Sharia regulations in several regions, were a significant phenomenon during the formation era of 1998. This movement coincided with the struggle to implement the Jakarta Charter in 2000, which was led by Islamic groups in various religious organizations. The Islamic movement advocating for the formalization of Islamic law had developed quite widely in South Sulawesi, West Java, Aceh, and not to be overlooked, West Sumatra. Consequently, the districts in six provinces such as West Java, West Sumatra, South Kalimantan, South Sulawesi, West Nusa Tenggara, and East Java—are very enthusiastic about implementing regional regulations that are supposed to be emic but are predominantly eclectic.<sup>6</sup>

The emergence of sharia – based regulations in West Sumatra is inseparable from the role of traditional figures, such as the Ninik Mamak. As explained in Article 1, point 16 of West Sumatra Provincial Regulation Number 7 of 2018 concerning Nagari:

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<sup>1</sup> See: Article 1 paragraph 6, which reads: Regional Autonomy is the right, authority, and obligation of autonomous regions to independently regulate and manage governmental affairs and the interests of the local community within the unitary state system of the Republic of Indonesia.

<sup>2</sup> Lita Tyesta Addy Listya Wardhani & Adissya Mega Christia, *Perda Berbasis Muatan Agama: Problematika, Pembinaan dan Pengawasan* (Yogyakarta: Penerbit Bildung, 2020), p. 3.

<sup>3</sup> Mohamad Hidayat Muhtar & Nur Mohamad Kasim, *Peraturan Daerah Syariah dalam Sistem Hukum Indonesia* (Banjarnegara: Eureka Media Aksara, t.t.), p. 95.

<sup>4</sup> Syafuan Rozi dan Nina Andriana, *Politik Kebangsaan dan Potret Perda Syariah di Indonesia: Studi Kasus Bulukumba dan Cianjur* (Jakarta: LIPI, t.t.).

<sup>5</sup> Gugun El Guyanie and Moh Tamtowi, "Politik Legislasi Perda Syari'ah di Sumatera Barat", *Staatsrecht: Jurnal Hukum Kenegaraan dan Politik Islam*, 1.1 (2022), doi:10.14421/staatsrecht.v1i1.2377.

<sup>6</sup> Komnas Perempuan, *In the Name of Regional Autonomy: The Institutionalisation of Discrimination in Indonesia A Monitoring Report by The National Commission on Violence Against Women on The Status of Women's Constitutional Rights in 16 Districts/Municipalities in 7 Provinces*, (2010) p. III.

*"Niniak Mamak is a person appointed as a customary leader by a tribe / clan in a Nagari"*<sup>7</sup>

The existence of the Niniak Mamak as a traditional leader is inseparable from the presence of a culture that has been deeply ingrained among the Minangkabau people of West Sumatra for a long time. Culture has become a tool for the values adopted and believed by society in general today, particularly in terms of governance. Culture is considered as a source of values that must be preserved and sustained, making it highly valued by society, including the Nagari government.<sup>8</sup> In this regard, culture or customs have become a daily habit and need for society, thus becoming the benchmark for right or wrong.

Constitution Number 17 of 2022 concerning the Province of West Sumatra in conjunction with Law Number 61 of 1958 concerning the Determination of "Emergency Constitution No. 19 of 1957 concerning the Formation of Autonomous Regions of Level I in West Sumatra, Jambi, and Riau" has become an instrument for the implementation of the Sharia regional regulations, in accordance with paragraph (2), which are implemented in District/City Areas consisting of sub – districts, and sub – districts consisting of villages, urban villages, and/or nagari in accordance with the provisions of the law. Therefore, one of the characteristics of West Sumatra Province, among others, is its uniqueness or distinct features, namely:

*"Minangkabau customs and culture based on the philosophical values, adat basandi syara', syara' basandi kitabullah in accordance with the applicable rules of adat salingka nagari, as well as the rich history, language, arts, traditional villages / nagari, rituals, traditional ceremonies, cultural sites, and local wisdom that show the religious character and height of the customs of the people of West Sumatra."* (Article 5).<sup>9</sup>

Meanwhile, the scope of the region, urban issues, and characteristics of West Sumatra province, where Sharia – based regional regulations are implemented, are stipulated in Article 3, paragraph (1), which consists of 12 (twelve) districts and 7 (seven) cities, namely: Pesisir Selatan District; Solok District; Sijunjung District; Tanah Datar District; Padang Pariaman District; Agam District; Lima Puluh Kota District; Pasaman District; Kepulauan Mentawai District; Dharmasraya District; Solok Selatan District; Pasaman Barat District; Padang City; Solok City; Sawahlunto City; Padang Panjang City; Bukittinggi City; Payakumbuh City; and Pariaman City.<sup>10</sup>

The existence of custom ('urf) plays an important role in the social life of the Minangkabau people because it is a way of life that regulates relationships between members of society. In Minangkabau, this custom is said to be "followed according to Islamic law," meaning it is guided by Islamic law. Therefore, this custom is still maintained, as the Minang proverb says, "tak lapuak dek hujan, tak kalak dek paneh"

<sup>7</sup> Peraturan Daerah Provinsi Sumatera Barat Nomor 7 Tahun 2018 tentang Nagari.

<sup>8</sup> Andri Hamidun & Wijayanto, "Peran Niniak Mamak (Kepala Suku) Terhadap Perumusan kebijakan Pemerintahan Desa (Studi Nagari Jopang Manganti, Kecamatan Mungka, Kabupaten Lima Puluh Kota)," *Journal of Politic and Government Studies*, vol. 11, no. 4, (2022), pp. 185 – 194.

<sup>9</sup> In its explanation, it is stated in letter (c) that: The implementation of the philosophical values of adat basandi syara', syara' basandi kitabullah is based on the values of Pancasila and within the framework of the Unitary State of the Republic of Indonesia. What is meant by "adat salingka nagari" is the customs that apply in a nagari in accordance with the generally accepted customary principles and are inherited from generation to generation in Minangkabau, and serve as a means of mediation for resolving the issues of the customary residents in that nagari. See: Undang – Undang Nomor 17 Tahun 2022 Tentang Provinsi Sumatera Barat..

<sup>10</sup> See: Undang – undang Nomor 17 Tahun 2022 Tentang Provinsi Sumatera Barat.

(not damaged by rain and not lost by heat).<sup>11</sup> Several issues of Sharia nuance have attracted the attention of traditional leaders in exercising their significant authority within the community. This is because the existence of the mamak (uncle) in a family or clan in Minangkabau can be seen as social control, as if a family has a mamak who is respected by the community,<sup>12</sup> all the actions of the family members will also attract the attention of the community, and vice versa.

This authority is rooted in the deep respect and trust shown to Ninik mamak by the local residents and encompasses cultural and religious matters. Even in traditional Minangkabau society, the leadership of the Ninik Mamak is part of the "tungku tigo sajarangan" or "tali tigo sapilin" leadership, which includes the Ninik Mamak, religious scholars, and intelligent ulama. Before the arrival of Islam, Ninik Mamak were believed to be the official leaders in the strong and powerful Minangkabau society, particularly in the Nagari.<sup>13</sup> In her research, Betty Sumart explained that in the context of West Sumatra, which is dominated by the Minangkabau ethnic group, the agreements made during the formation of local government were naturally influenced by the possibility of a return to the nagari system. Communal lifestyles are deeply ingrained in society, where customs and religion go hand in hand, as the saying goes, "adat bertemu syarak, syarak ikut kitabullah" (custom meets sharia, sharia follows the book of Allah), with the leadership of "tali tigo sapilih" (three – stranded rope) and "tungku tigo jejarang" (three cooking stones) can be interpreted as a unity in leadership: the state, democracy, and religion.<sup>14</sup> Meanwhile, Feri Amsari, a constitutional law expert, views Adat Basandi Syarak – Syarak Basandi Kitabullah (ABS – SBK) as merely referring to the Pancasila foundation.<sup>15</sup>

From the above description of the leadership of the Minangkabau traditional chiefs, it is clear that they hold a very strategic position and role in fostering and controlling the customs themselves,<sup>16</sup> whose values are largely accommodated in the Syariah regulations of West Sumatra, which have their own unique characteristics.<sup>17</sup> This means that the emergence of sharia regulations, which on one hand reflect an accommodation of local wisdom<sup>18</sup> aspirations and on the other hand implement Minangkabau customary values, is not as simple as it sounds due to pragmatic and temporary factors, such as practical political interests. However, it is more about how the interests of indigenous communities, represented by their leaders, are involved in preserving and practicing customs and culture

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<sup>11</sup> Yahya Samin SmHk et al, *Peranan Mamak Terhadap Kemenakan dalam Kebudayaan Minangkabau Masa Kini* (Sumatra Barat: Bagian Proyek Pengkajian dan Pembinaan Nilai – nilai Budaya Sumatera Barat, 1996), p. 53.

<sup>12</sup> *Ibid.*, p. 3.

<sup>13</sup> *Ibid.*, p. 43 – 44

<sup>14</sup> Betty Sumarty, *Revitalisasi Peran Ninik Mamak dalam Pemerintahan Nagari* (Yogyakarta: PolGov, 2007), p. 3.

<sup>15</sup> <https://www.cnnindonesia.com/nasional/20220706065350-20-817756/implikasi-uu-sumbar-yang-baru-antara-perda-syariah-atau-sebatas-adat>. Accessed October 12, 2022, at 04:34..

<sup>16</sup> Umar Congge & Supardi, "Peran Lembaga Adat Ammatoa dalam Mempertahankan Adat Istiadat Kajang di Kecamatan Kajang Kabupaten Bulukumba," *Jurnal Ilmiah Administrasi*, ISSN 2301 – 7058, Vol 8. No. 02, (2017), p. 144. Read also: Tolib Setiady, *Intisari Hukum Adat Indonesia* (Bandung: Alfabeta, 2009), p. 142.

<sup>17</sup> Mohamad Hidayat Muhtar & Nur Mohamad Kasim, *Peraturan Daerah Syariah dalam Sistem Hukum Indonesia* (Jawa Tengah: Eureka Media Aksara, 2023), p. 95.

<sup>18</sup> Erond L. Damanik, *Politik Lokal, Dinamika Etnisitas pada era Desentralisasi di Sumatera Utara* (Medan: Penerbit Simetri Institute, 2018), p. 322 – 323.

within a more ideological context. Traditional figures feel a responsibility to uphold religious values as taught by their ancestors.<sup>19</sup>

Based on the above discussion, this article attempts to examine the diverse roles of traditional figures in initiating the formulation of sharia regulations in West Sumatra. Considering the implementation of sharia regulations in West Sumatra has raised complex issues related to cultural, religious, and political dynamics. Traditional leaders, also known as "penghulu adat," hold an important position in Minangkabau society. They are trusted to preserve local customs/traditions while upholding Islamic values. Therefore, understanding their role in the initiation and formation of Sharia law is crucial for comprehending the broader implications of this transition. In addition, the purposes of this study are also to answer the following questions: (1) How are traditional leaders involved in the implementation of Sharia law, considering their unique position at the intersection of cultural and religious domains? (2) To what extent does the role of the traditional leader influence the content and application of Sharia law, and (3) How does the role of the traditional leader balance the preservation of Minangkabau customs with the application of Islamic legal principles?

To analyze these three issues, the author used two basic theories to analyze the role of traditional leaders' culture: charisma and traditional theory. Max Weber's concept of charismatic theory is highly relevant for understanding the role of traditional leaders in initiating the formulation of Sharia regulations. As Weber explained, charisma is a specific form of heroism: "The power of charisma rests on belief in revelation and heroes...; it rests on the 'heroism' of an ascetic, military, judicial, magical, or any other type".<sup>20</sup> Therefore, charismatic uniqueness is not determined by personality traits. This cannot be separated from the product of the interplay between personality traits and social circumstances.<sup>21</sup> A charismatic leader can have extraordinary qualities, but their charisma depends more on their group of followers and how they define a charismatic leader.<sup>22</sup> Through the concept of charismatic authority, Max Weber's aim was simply to provide a theoretical lens for understanding the influence of traditional leaders. Charismatic leaders have the ability to inspire and mobilize their communities, and this charisma often bridges cultural and religious divides.

Similarly, traditional authority theory is based on the claims of leaders and beliefs of their followers that there is virtue in the sanctity of rules and regulations that have existed since ancient times. The leader in this kind of system is not a superior but a personal master. Traditional leaders in West Sumatra can leverage their charisma to influence the adoption of Sharia regulations within their communities. That traditional tribal leaders often use their influence based on traditional authority, which is rooted in long-standing customs and cultural practices. This theory provides insights into how traditional leaders can influence the development of sharia regulations and their implementation in accordance with the cultural norms of the community in West Sumatra.<sup>23</sup>

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<sup>19</sup> *Ibid.*, p. 82.

<sup>20</sup> Andrew D. McCulloch, *Charisma and Patronage Reasoning with Max Weber*, (England: Ashgate Publishing Limited, 2014), p. 24.

<sup>21</sup> *Ibid.*, p. 25.

<sup>22</sup> George Ritzer & Jeffrey Stepnisky, *Sociological Theory* (Los Angeles: SAGE Publications, 2018), p. 191.

<sup>23</sup> *Ibid.*, p. 192.



## Method

The research design for this study was qualitative research, aimed at uncovering the role of Minangkabau traditional figures in West Sumatra in initiating the enactment of Perda Syariah (Sharia Regional Regulations) and controlling their implementation in the lives of the Minangkabau traditional community. This qualitative research design aimed to gain in – depth field data regarding the role of Minangkabau traditional figures in West Sumatra in initiating the enactment of Sharia Regional Regulations and the role of social control over the behavior of the traditional community. If previous research stated that Sharia Regional Regulations emerged from traditional figures as a practical political commodity, this study revealed that the birth of Sharia Regional Regulations was a religious awareness mixed with culture by traditional figures, which often intersected with the practical political interests of certain traditional figures. This awareness can be seen in the role of social control played by traditional figures, which remains strong in some areas to this day.

The data sources in this study were divided into two groups: primary and secondary data sources. The primary data sources for this research were the interviewees who were also respondents, namely Lembaga Kerapatan Adat Alam Minangkabau (LKAAM), Minangkabau Natural Customary Institution, of West Sumatra Province, a politician, ten customary figures from the LKAAM of Bukittinggi Regency (Agam), three customary figures from Tanah Datar Regency, two customary figures from Limapuluh Koto Regency and Payakumbuh City, a figure from the LKAAM of Pariaman, a customary figure from Solok Regency, two religious scholars, four Minangkabau customary researchers, and several customary figures and community members. Those respondents were divided into six groups: three regencies/cities representing the origin of Minangkabau customs or the Darek region, three regencies/cities representing the Rantau region, religious scholars, researchers, politicians, and community members. Mapping was including the primary sources for this research, included Sharia Regional Regulation documents, observations, and field documentation. The secondary sources of this research were the results of previous studies and news related to Minangkabau customs and Sharia Regional Regulations in West Sumatra.

The data collection techniques in this study were observation, interviews, and documentation. Observations were made while observing the religious practices and social behavior of the Minangkabau indigenous community and related aspects, such as customary symbols. Interview techniques were conducted with customary leaders, both at the Nagari Customary Council (KAN) level and the Minangkabau Customary Institution (LKAAM) at the district/city and provincial levels, as well as with religious scholars, researchers, community leaders, and residents. As for the documentation technique, it was carried out when documenting the customary phenomena of the Minangkabau people and collecting data from previous research. The data collected was then analyzed using a sociological approach with Max Weber's theory of charisma and authority framework to determine the extent to which traditional leaders were involved in initiating and controlling the implementation of Sharia Regional Regulations, especially in playing a moderate role between the cultural and religious domains. The data analysis method to be used was the data analysis stages recommended by Huberman and Miles, namely, data reduction, data display, and conclusion drawing/verifying. Through this stage, the researchers selected and sorted the data obtained in the field and verified its validity.<sup>24</sup>

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<sup>24</sup> Matthew B. Miles and A. Michael Huberman, "Data Management and Analysis Methods", in *Handbooks of Qualitative Research* (London: Sage Publications, 1994), p. 88 – 89.

## Results and Discussion

### *The Involvement of the Role of Customary Chiefs in the Implementation of Sharia Local Regulations: The Intersection of Cultural and Religious Domains*

The role of traditional leaders (Ninik Mamak). Regarding the traditional Minangkabau society, as Yahya Samin stated, the leadership of ninik mamak is one of the elements of the "tungku tigo sajarangan" or "tali tigo sapilin" leadership, which consists of ninik mamak, alim ulama (malin), and cerdik pandai. Before the arrival of Islam, it is strongly suspected that ninik mamak were the leaders. They were the strong and powerful official of the Minangkabau community, especially in Nagari.<sup>25</sup> Therefore, the position and role of ninik mamak always become an interesting question because their customary status and power are always expected to regulate the life of the ethnic community. Clearly, at one time, ninik mamak were what is referred to as "unofficial leaders" in Minangkabau society, who were expected to cooperate with formal leaders such as government officials in Nagari, sub – districts, regions, and even within formal leadership circles.<sup>26</sup> The informal leadership of the customary chief was marked by the absence of an inauguration ceremony in the appointment of the leader. Leadership thus emerges based on functional positions such as handling religious affairs, governance, and security, or its role as the guardian of the nagarisub – district in the society which refers to nagari in West Sumatra.<sup>27</sup>

The most important role of ninik mamak in society is as the head of the "ninik mamak balantai nagari," which means the pillar of the community's welfare.<sup>28</sup> Ninik mamak is not a symbol of power in the narrow sense, because ninik mamak is also the spokesperson of every person or community that possesses charisma.<sup>29</sup> In the context of the decision – making system in the administration of Nagari governance, deliberation is prioritized to reach consensus, both in conducting meetings of the Nagari Deliberative Body to discuss various governance issues and in planning and implementing development. Every decision made by the Nagari deliberative body, whether it involves the formulation of Nagari regulations, Nagari policies, or Nagari development plans, prioritizes discussions to reach consensus. No decisions are made through voting. Voting only applies to the election of the Nagari head because it is conducted directly and involves many Nagari residents.<sup>30</sup>

In Minangkabau, specifically Payakumbuh, the tradition of deliberation and consensus is used as an instrument by the ninik mamak—based on collective agreement in determining a resolution to find the common thread of existing problems.<sup>31</sup> Before reaching a consensus, not everything can be achieved or realized.<sup>32</sup> Ninik mamak in the nagari, as Mansoer MO stated in 1970, served as the nagari caretaker who collaborated with mamak, the andiko. seandiko is the same as penghulu pucuk, panghulu payung, which refers to the highest sprouting part that ensures the continuity of plant life, while payung is a shelter from the scorching heat or rain, and the term "andiko" means the one

<sup>25</sup> Samin [at.al], *Peranan Mamak terhadap Kemenakan*, p. 43.

<sup>26</sup> *Ibid.*, p. 44.

<sup>27</sup> *Ibid.*, p. 45.

<sup>28</sup> Interview with Syafruddin, a Prominent Cleric in West Sumatra, October 30, 2023.

<sup>29</sup> *Ibid.*, p. 46.

<sup>30</sup> Muhammad Fachri Adnan and others, "Integration of Local Wisdom Values in Realizing Good Nagari Governance", *Jurnal Ilmu Sosial*, 21.1 (2021), pp. 39 – 56, doi:10.14710/jis.21.1.2022. p. 39 – 56.

<sup>31</sup> Interview with the Chairman and Head of LKAAM Payakumbuh City, November 1, 2023.

<sup>32</sup> Samin [at.al], *Peranan Mamak terhadap Kemenakan*, p. 49 – 50.

who governs. So, "seandiko" can be interpreted as *ninik mamak* or the traditional leader who sit as the member of the Kerapatan Adat Nagari (KAN) or the governing council in the nagari.<sup>33</sup>

From the interview data with several customary leaders in Minangkabau, such as the Chairman of the Lembaga Kerapatan Adat Alam Minangkabau (LKAAM) of West Sumatra Province<sup>34</sup>, the Chairman and Management of LKAAM of Bukittinggi Regency<sup>35</sup>, the Chairman of LKAAM of Fifty Cities Regency and Payakumbuh City<sup>36</sup>, as well as several customary leaders in Tanah Datar, it shows that the role of *ninik mamak* in Minangkabau is very strong in leading, nurturing, and educating their community members. Moreover, that role and function are also demonstrated as a control over the behavior of their community or nephews. That role is performed, not only for the sake of preserving their customs but also in connection with adherence to the practice of Islam, because the Minangkabau people are always connoted as "definitely Muslim." This ideological awareness is then manifested in the form of the initiation of Sharia bylaws in West Sumatra.

In Max Weber's view, the role of the traditional leader (*ninik mamak*) is that of a charismatic leader who may possess extraordinary characteristics, with their charisma more dependent on their group of followers and the way they define a charismatic leader.<sup>37</sup> That centralistic leadership is described as the holder of authority in determining policies for governing their community, namely traditional or charismatic authority. This charismatic authority becomes the strength of the traditional leaders in determining how the lives of their community are shaped and directed. On one hand, that authority will become a force to unite its people, but on the other hand, it is also vulnerable to abuse by traditional leaders for certain interests, such as practical politics during elections.

In the framework of Weber's theory of Traditional and Charismatic Authority, the effectiveness of the *ninik mamak* leadership in Minangkabau highly depends on their ability to maintain legitimacy derived from customs and a respected personality. Weber stated that traditional authority is based on the belief in long – standing customs, while charismatic authority arises from the recognition of the extraordinary qualities possessed by the leader. However, in the modern context, the role of *ninik mamak* has undergone transformation due to the influence of external factors such as education, economy, politics, advancements in science and technology, and changes in societal lifestyles. A case study in Nagari Saniang Baka shows that modernization and changes in family structure had shifted the traditional role of *ninik mamak*, which previously served as the central reference point in social life. Therefore, to maintain the effectiveness of their authority, *ninik mamak* need to adapt to the changes of the times without neglecting the customary values that form the basis of their leadership legitimacy.

The Involvement of the Role of Customary Chiefs at the Intersection of Custom and Religion. The involvement of traditional leaders in relation to Sharia by laws has caught the authors' attention, especially since the enactment of Law Number 17 of 2022

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<sup>33</sup> *Ibid.*

<sup>34</sup> Interview with Fauzi Bahar, Chairman of LKAAM West Sumatra Province, October 31, 2023.

<sup>35</sup> Interview with the Chairman and Management of LKAAM Bukittinggi, November 1, 2023.

<sup>36</sup> Interview with the Chairman and Head of LKAAM Payakumbuh City, November 1, 2023.

<sup>37</sup> Ritzer and Stepnisky, *Sociological Theory*, p. 191.



concerning the Province of West Sumatra in conjunction with Law Number 61 of 1958 concerning the Establishment of "Emergency Law No. 19 of 1957 on the Formation of Autonomous Regions Level I of West Sumatra, Jambi, and Riau." Through this law, local governments were given a clear path to formulate Sharia bylaws based on ABS, which have risen to several dilemmas.

Based on Betty Sumarty's research, the first policy on Nagari governance was enacted as Regional Regulation No. 9/2000, which took effect in January 2001. The regional regulation provided a foundation for returning to the local Minangkabau policy base as the foundation of the nagari through the ritual formulation "Adat basandi Syarak, Syarak basandi kitabullah, Syarak mangato, Adat mamakai, Alam takambang jadi guru." Although there were debates during the process about KAN and its replacement name, the Adat institution was eventually regulated by a regional regulation but did not become part of the official nagari government.<sup>38</sup>

After all, the concept of returning to Nagari can be understood as an effort to restore the cultural and traditional values, property, territory, and governance of the traditional Minangkabau community within a framework called Nagari.<sup>39</sup> Marriage between the state, customs, and religion does not solely arise from unilateral decisions. The policies of the Nagari chief, in particular, must be discussed together, involving elements such as religious scholars, wise individuals, community leaders, and youth, especially those related to the role of *ninik mamak*.<sup>40</sup>

In the case studied by Adam Alfarid et al., they questioned the existence of the regulation in Law Number 17 of 2022, due to the lack of substantial clarity on the direction of the regulation because there were no parameters regarding *adat basandi syarak, syarak basandi kitabullah* (ABS – SBK). The local government only explained that the regulations in West Sumatra must not deviate from Islamic rules.<sup>41</sup> This, will give local governments the freedom to create regulations based solely on Islamic teachings. The ambiguity of these sharia parameters could lead to sharia regulations in the region, which are also said to potentially cause conflicts within the community, due to local biases considering the significant differences between Minangkabau and Mentawai customs.<sup>42</sup> As a solution, the traditional leaders are greatly needed because they serve as an intermediary between religious authority and the local communities, helping to bridge the gap between cultural customs and the principles of Islamic law.

In Max Weber's view, traditional authority is based on legitimacy that is inherited through generations and accepted by society as part of an established order. In this context, the involvement of traditional leaders such as *ninik mamak* in the formulation and implementation of sharia regulations in West Sumatra reflects a blend of local socio – cultural structures with normative Islamic principles. This shows that the Islamic law implemented in the region is not solely text – based but also derived from long – standing social practices. In the midst of the predominantly Muslim Minangkabau community, traditional leaders serve as a bridge that connects *adat basandi syarak* and *syarak basandi*

<sup>38</sup> Betty Sumarty, *Revitalisasi Peran Ninik Mamak*, p. 74.

<sup>39</sup> *Ibid.*, p. 75.

<sup>40</sup> *Ibid.*, p. 76.

<sup>41</sup> Interview with Fauzi Bahar, Chairman of LKAAM West Sumatra Province, October 31, 2023.

<sup>42</sup> Adam Alfarid, Chindy Trivendi Junior, and Putri Ramadani, "Implikasi Penetapan Adat Basandi Syarak – Syarak Basandi Kitabullah dalam Undang – Undang Nomor 17 Tahun 2022 Tentang Sumatra Barat terhadap Politik Hukum Pemerintah Daerah Sumatra Barat", *Jurnal Hukum Lex Generalis*, 3.10 (2022), pp. 776 – 94, doi:10.56370/jhlg.v3i10.325.

Kitabullah. Their dual role as holders of cultural authority and bearers of religious values allows them to align the normative interests of sharia with local values. The presence of customary leaders in this socio – religious structure demonstrates how traditional authority remains relevant in the modern world through the adaptation of Islamic norms. Therefore, the contribution of *ninik mamak* in the process of formulating regional Sharia regulations is a concrete manifestation of the dual role of traditional leaders and the harmonization between customs and religion based on traditional legitimacy.<sup>43</sup>

The role of *ninik mamak* in the context of nagari reconstruction in the era of regional autonomy emphasizes the importance of revitalizing traditional leadership based on the principle "adat basandi syarak, syarak basandi Kitabullah." In the "tungku tigo sajarangan" leadership system, *ninik mamak* is one of the main pillars that functions to maintain social balance between tradition, religion, and governance. The strengthening of the "regime" of the nagari government administration system has marginalized traditional leaders.<sup>44</sup> The marginalization has weakened social cohesion and the community's sense of ownership towards the nagari government structure.<sup>45</sup> The non – involvement of traditional leaders in decision – making has also created emotional and structural distance between the community and the nagari apparatus. Therefore, restoring the authority of *ninik mamak* becomes a strategic step in rebuilding public trust and strengthening socio – political legitimacy at the nagari level.

The Role of the Customary Chief in Influencing the Content and Implementation of Sharia Local Regulations Sharia Regional Regulations issued in West Sumatra from 2000 – 2008, totaling twenty – five (25) legal products, as previously explained, cannot be separated from the Regional Autonomy Law (Law No. 23 of 2014) and Law No. 15 of 2019 on the Formation of Legislation. By delegating authority from the central government to the regions to independently manage and govern local administration, regional governments have the freedom, especially in developing public policies that align with the needs and expectations of the communities they lead. The establishment of regional regulations is an important step taken by the local government to utilize regional and community resources. This is closely related to how the local government views issues or interprets social situations.<sup>46</sup>

Therefore, policymakers must first identify and formulate policy issues in order to interpret them correctly. The policy development process is closely related to the policymakers' ability to discover, identify, and formulate issues accurately, especially in Padang city.<sup>47</sup>

Nur Nafsi Mutmainnah stated that there must be a distinction between the private and public domains in the context of Sharia bylaws. According to her, the Sharia by law leaves a dilemma, including matters related to the private and public domains; regulations that are optional or mandatory; and discrimination based on law or public order. The majority consider regional regulations to be legal rules in the private domain, such as the obligation to complete the Quran, the imposition of zakat, and the command of Ramadan. Meanwhile, the regional regulation prohibiting alcoholic beverages is considered a legal regulation in the public domain. The fact is, most sharia – based regulations in the regions

<sup>43</sup> McCulloch, *Charisma and Patronage Reasoning with Max W*, p. 24 .

<sup>44</sup> Sumarty, *Revitalisasi Peran Ninik Mamak...*, p. 82.

<sup>45</sup> *Ibid.*, p. 83.

<sup>46</sup> Heru Permana Putra and Desi Syafriani, "Otonomi Daerah dan Pengaruhnya terhadap Kebijakan Daerah Bernuasa Syariah di Kota Padang", *Islam Transformatif: Journal of Islamic Studies*, 3.2 (2019), p. 118, doi:10.30983/it.v3i2.2417, p. 126.

<sup>47</sup> *Ibid.*

that govern the private sector show that the tendency of local governments to enforce Islamic sharia is partly due to the incompleteness of these regulations. Other serious issues faced by this country, such as poverty, environmental degradation, and corruption, are not the focus of sharia.

Looking at the current regional regulations based on sharia law, all of which are accompanied by clear and binding sanctions, this indicates that these regulations must be accepted by all actors in the region. Some regional regulations are based on Sharia law, such as the obligation to complete the Quran, the prohibition of alcohol circulation, and orderliness during the month of Ramadan. The ban on the distribution of alcoholic beverages has no possibility of withdrawal or exceptions. Similarly, the sanctions imposed by sharia-based regulations in the region are not based on the provisions of Islamic criminal law regulated by hudud and qishāsh, but rather on the principles of diyat and ta'zīr. Indeed, the regulations created prioritize softer issues related to Islamic sharia law. In addition, the sanctions that can be imposed on violators of Regional Regulations are regulated under the provisions of Law No. 32 of 2004 concerning Article (143) letter b of the Regional Regulation, specifically threatening imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000 (fifty million rupiah).

In determining whether a regional regulation contradicts the public interest, a thorough and detailed study of the text and content of the regulation is required. If the regional regulation explicitly regulates obligations related to legitimate discrimination against certain groups or general coercion against all groups, while the regional regulation only governs specific aspects of a society, then the zoning regulation can be declared a discriminatory zoning regulation. Thus, the role of the customary chief should rightfully have a significant influence on the content and implementation of regional Sharia regulations. Their role is not limited to symbolic representation but extends to actively participating in the decision-making process. It is precisely through their involvement in initiating the issuance of sharia regional regulations and paying attention to their content and implementation that the traditional leaders have positioned themselves as a control system over the behavior of their community, supported by the authority of official government administration. As is well known, the Minangkabau customary law, or adat, is an important part of the local legal system. Traditional leaders work to ensure that Sharia regulations align with the customs, values, and traditions of the community. They act as mediators between the principles of Islamic law and the unique Minangkabau way of life. Thus, the effectiveness of implementing regional Sharia regulations heavily depends on the extent to which traditional authorities.

### ***The Role of Traditional Leaders in Balancing the Preservation of Minangkabau Customs with the Application of Islamic Law Principles***

According to Dian Bakti Setiawan and Neneng Oktarin, before the introduction of ABS-SBK, the philosophy of life of the Minang people, before the significant influence of Islam – was "adat basandi alua, alua basandi patuik." Patuik or morality depends on reason.<sup>48</sup> This was also inseparable from the history of the agreement between Ninik Mamak and the ulama in the Marapalam hills in the 19th century, or more precisely during the Paderi War, which formed a solid formulation regarding the relationship between customary law and Islamic law.<sup>49</sup> In Alirman Hamzah's observation (2003), this

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<sup>48</sup> *Ibid.*, p. 53.

<sup>49</sup> Aulia Rahmat, "Reaktualisasi Nilai Islam Dalam Budaya Minangkabau Melalui Kebijakan Desentralisasi," *El-Harakah* Vo.13 No.1 (2013): 1 – 33,

formulation was reinforced by the meeting of the four traditional leaders held in Bukittinggi in 1952 and confirmed by the conclusions of the Minangkabau Customary Law seminar held in Padang in July 1968. However, this ABS was not implemented due to the strong Dutch colonialism at that time. After the issuance of Regional Regulation of West Sumatra Province Number 9 of 2000 concerning the Basic Provisions of Nagari Governance,<sup>50</sup> the Nagari government is considered effective in realizing the democratic and cultured Minangkabau indigenous community that acts in accordance with customary and religious values, as formulated by the ABS SBK philosophy.<sup>51</sup>

Law is formulated as an instrument through which individuals can align their actions and behaviors with the ideal principles they acknowledge. The way of "reconciling" implicitly means "not forcing." Thus, the law balances the needs of individual behavior with the needs of society to avoid causing too much harm and not inciting unrest. All of this will allow social life to continue. Therefore, the law must align with the ideal principles recognized by society. This law is manifested in what is called Custom. Custom in relation to the law is called customary law.<sup>52</sup>

As is well known, law is formulated as an instrument that enables individuals to align their actions and behaviors with the ideal principles recognized by society. Ideally, the law grows from the habits of life so that it "implicitly reconciles" without coercion, but rather relies on consensus and the internalization of shared values to regulate individual behavior within society. This approach creates a balance between individual needs and collective interests, allowing the law to maintain social order without causing conflict and unrest. The sustainability of social life in indigenous communities heavily depends on the alignment of laws with the ideal principles recognized by those communities. In this context, customary law not only reflects cultural values but also serves as an effective dispute resolution mechanism accepted by the community. Thus, customary law, as a manifestation of traditional authority, plays a crucial role in maintaining social harmony and the continuity of cultural values within the community.

The philosophy of ABS – SBK is a fundamental principle in Minangkabau society that places customary law as subordinate to Islamic law, so that every aspect of social life must be in harmony with Islamic sharia. This reinforces the implementation of the Receptie Exit Hazairin theory and the Receptio a Contrario Sayuti Thalib theory as a negation of the Receptie Snouck Hurgronje theory. This philosophy not only serves as a normative guideline but also shapes the social structure and cultural values of the Minangkabau community. In this context, customary law functions as a manifestation of traditional authority that integrates Islamic values into social practices. Therefore, all societal arrangements must adhere to that philosophy, and likewise, all regulations created must be in the spirit and philosophy of ABS – SBK.<sup>53</sup>

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<https://doi.org/https://media.neliti.com/media/publications/23743-ID-reaktualisasi-nilai-islam-dalam-budaya-minangkabau-melalui-kebijakan-desentralis.pdf>.

<sup>50</sup> Pemerintah Daerah Propinsi Sumatera Barat, "Peraturan Daerah Propinsi Sumatera Barat Nomor 9 Tahun 2000 Tentang Ketentuan Pokok Pemerintahan Nagari," 2000.

<sup>51</sup> Yuhaldi Yuhaldi, "Falsafah Adat Basandi Syarak Syarak Basandi Kitabullah dan Implikasinya dalam Bimbingan dan Konseling", *Kaganga: Jurnal Pendidikan Sejarah dan Riset Sosial Humaniora*, 5.2 (2022), pp. 403, doi:10.31539/kaganga.v5i2.4534.

<sup>52</sup> Dian Bakti Setiawan and Neneng Oktarina, "Pelebagaan Filosofi Adat Basandi Syara', Syara' Basandi Kitabullah dalam Struktur Kelebagaan Nagari Sebagai Satuan Pemerintahan Terendah di Sumatera Barat", *UNES Journal of Swara Justisia*, 6.4 (2023), p. 552, doi:10.31933/ujsj.v6i4.300.

<sup>53</sup> *Ibid.*, p. 554.

The traditional leader, as the head of customs, plays an important role in maintaining the balance between cultural traditions and Islamic law. They work to ensure that Sharia regulations are culturally sensitive and well – accepted by the local population. Therefore, one of the most important roles of traditional leaders is to maintain the balance between preserving Minangkabau customs and applying the principles of Islamic law. The Minangkabau culture is rich and deeply rooted in the community's life, and traditional leaders play an important role in preserving these customs. At the same time, they guide the application of Islamic principles to ensure that they align with the way of life of the Minangkabau people. The concept of "tungku tigo sajarangan, tali tigo sapilin" serves as the socio – political and cultural foundation in Minangkabau society, demonstrating a balance between the forces of tradition, religion, and knowledge in public decision – making. This structure serves as the foundation for the synergy between *ninik mamak* (traditional leaders), *alim ulama* (religious leaders), and *cerdik pandai* (intellectuals), each of whom plays a strategic role in navigating the values.

## Conclusion

In the context of implementing Sharia Regional Regulations in West Sumatra, the role of the Traditional Leaders (*Ninik Mamak*) is very important in bridging customs and religion. They play the role of charismatic leaders in the community, facilitating deliberation and consensus in decision – making. Their role helps maintaining the balance between Minangkabau cultural traditions and the principles of Islamic law. The Traditional leader has the authority to influence the content and implementation of Sharia Regional Regulations, ensuring that these regulations are culturally sensitive and accepted by the local community. They play a role in ensuring that the Sharia Regional Regulation is not discriminatory and aligns with the ABS – SBK principles (*Adat Basandi Syarak, Syarak Basandi Kitabullah*). By understanding and appreciating the cultural roles of these traditional leaders, policymakers and legal experts can collaborate to create culturally sensitive sharia regulations that are widely accepted by the local community. The role of the chief in the context of West Sumatra allows for a harmonious coexistence between Minangkabau customs and Sharia law, reflecting an essential balance in preserving cultural traditions and applying Islamic principles in the region.

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