

From Custom to Code: Legislative Process Behind Nagari Talang Babungo's Jum'at Haniang Regulation

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Received: 27-08-2025

Revised: 29-08-2025

Accepted: 31-08-2025



Abstract: This study examines procedural compliance and legal synchronization of Nagari Talang Babungo Regulation No. 3/2013 on Jum'at Haniang with superior legislation and principles. Employing qualitative empirical juridical methods, research combines field observations with norm analysis. Primary data from village secretary, BPN members, residents; secondary from documents. Techniques include interviews, document studies, triangulation. Findings reveal procedural validity per Minister of Home Affairs Regulation No. 111/2014—authorized formation meeting legality/institutional standards. However, principles like formulation clarity/openness remain deficient. Substantively synchronized with public regulations, yet formally misaligned with PPU Law: absent normative references, incomplete principles, undocumented participation, layout/cover deviations, inconsistent titling/budget notation. Fiqh Siyasah validates cultural/religious preservation enhancing community welfare/order with strong local legitimacy, though positive law gaps necessitate formal refinement aligning with national hierarchy/rule of law principles.

Keywords: Village Regulations, Procedural Compliance, Principles of Regulation Formation, Regulation Synchronization

Introduction

The Indonesia's government, as state administration executor, bears constitutional mandate to protect the entire nation for societal welfare, including comprehensive public services grounded in legislation. All interventions require statutory foundations, achieved through well-structured regulations. Exemplifying this, Law No. 13 or 2022 (second amendment to Law No. 12 or 2011 on Legislation Formation) establishes procedural rigor. Article 5 mandates formation principles: clear objectives, appropriate institutions or officials, hierarchy or material consistency, executability, utility or effectiveness, formulation clarity, and transparency—ensuring democratic legitimacy and public benefit. Village regulations operationalize village authorities: original customary rights, legislatively delegated village affairs, further elaborations of superior laws, and other governance matters—never contradicting public interest or higher norms. In West Sumatra's Minangkabau context, nagari regulations emerge from collaborative processes between Bamus (Nagari Deliberative Body) or BPRN (Nagari People's Consultative Body) and Wali Nagari (Nagari Head). Unlike standard villages, they bypass bupati ratification but must notify bupati within two weeks post-promulgation, copied to camat, with implementation via head's decisions (Wardana, 2020).

Nagari Talang Babungo Regulation No. 3 or 2013 on Jum'at Haniang (Friday Community Work)—codifying traditional collective labor—exemplifies local norm-making yet reveals substantive flaws:

inconsistent terminology ("Haniang" vs. "Hanieng," "sangsi" vs. "sanksi"), awkward phrasing risking multi-interpretation, and unclear intent undermining efficacy. These defects question procedural adherence to Law No. 12 or 2011 principles and substantive alignment with community welfare. Such phenomena necessitate scrutiny: Does formation follow statutory mechanics? Do content or spirit reflect Fiqh Siyasah (Islamic governance jurisprudence) tenets of justice (al-'adl), public interest (maslahah), community participation (shura), and leadership integrity? Fiqh Siyasah provides evaluative framework for policies like Jum'at Haniang, assessing ethical or normative conformity within Islamic statecraft traditions (Kamma, 2023).

Indonesia's unitary republic balances central uniformity with regional autonomy (Article 18 1945 Constitution, Law No. 6 or 2014 on Villages) – yet customary domains like Minangkabau nagari demand hybridity: statutory rigor meets adat vitality. Regulation No. 3 or 2013 embodies this tension: Jum'at Haniang – communal Friday labor rooted in Minangkabau tungku tumangguyang (three-pillar harmony: religion, adat, consensus) – codifies gotong royong for infrastructure or maintenance, fostering solidarity. Yet linguistic ambiguities erode enforceability, potentially fragmenting intended maslahah. This study addresses dual gaps: procedural (formal compliance gaps) and substantive (Fiqh Siyasah alignment). Procedurally, Article 5 violations (clarity or utility deficits) question Bamus or Wali Nagari efficacy. Substantively, Siyasah Dusturiyah demands regulations serve higher objectives – preserving religion (hifz al-din), life (hifz al-nafs), intellect (hifz al-aql), progeny (hifz al-nasl), property (hifz al-mal) – via maqasid shariah. Does Jum'at Haniang enhance communal welfare or risk mafasadah through ambiguity?

Amid decentralization (post-Reformasi), local regulations surged – yet quality varies, prompting Supreme Court annulments (e.g., 2023: 127 village rules invalidated). Minangkabau's 503 nagari amplify stakes: robust customary legislation strengthens resilience; flawed ones erode legitimacy. Fiqh Siyasah offers antidotes: maslahah mursalah (public interest ijтиhad), siyasah shar'iyyah (shariah-compliant policy), ensuring adat serves syariah. Research interrogates Regulation No. 3 or 2013's genesis: Did participatory musyawarah yield clarity? Does content operationalize Jum'at Haniang sans coercion? Findings inform model frameworks blending statutory rigor, customary wisdom, Islamic governance – fortifying Indonesia's pluralistic legal tapestry for sustainable local autonomy.

Literature Review

Jimly Asshidiqie identifies power limitation as a hallmark of rule of law states – termed legal state, state based on rule of law, *rechtsstaat* (Dutch or German) – restricting state authority via law, foundational to modern constitutionalism. Though *rechtsstaat* and rule of law differ historically, both embody power constraints, rendering states constitutional (constitutional state) bounded by constitutions. This intertwines with democratic sovereignty as constitutional democracy – law-based people's rule (Jimly Asshidiqie, 2015). Salfianus Laritmas defines rule of law states as law-standing entities guaranteeing citizen justice essential for happiness, teaching morality for good citizenship where laws reflect interpersonal equity. Modern Continental developments via Immanuel Kant, Paul Laband, Julius Stahl, Fichte employ *Rechtsstaat* (Salfianus Laritmas, 2024). Ismoyo (2025) views rule of law as governance bedrock ensuring policy or decisions obey law, preventing arbitrariness or equality before law via supremacy, human rights respect, public decision transparency.

Legislation theory (legislation theory, Dutch theorie van de wetgeving) narrowly denotes law-making processes or products, broadly encompassing government regulations or authorized rules – from planning, drafting, deliberation, ratification, promulgation. Focus lies on law formation stages (Basuki Kurniawan & Purbosari, 2022). M. Solly Lubis equates legislation with state regulation-making: planning, discussion, ratification, promulgation. Scope characteristics: written decisions with fixed formats by authorized central or local officials. Key concerns: material aspects (content management), formal aspects (formation execution) per good legislation principles guiding policymakers (Deslavia, 2023). Legislation hierarchy theory, influenced by Hans Kelsen's *Stufenbau Theorie* (inspired by Adolf Merkl), depicts tiered norms: apex *Grundnorm* (basic norm, extra-legal or metajuristic); subordinate general norms dependent thereon; lowest individual norms. Hans Nawiasky elaborates *Theorie vom Stufenaufbau* der

Rechtsordnung. Indonesia's Article 7 Law on Legislation Formation mirrors: 1945 Constitution, MPR Decisions, Laws or Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regulations, Regency or City Regulations – preventing overlaps or nullification (Rizhan, 2020).

Fiqh Siyasah Dusturiyah derives dusturiyah from Persian dusturi (authority figure, Zoroastrian clergy), Arabicized as foundational principles – written or unwritten rules governing societal cooperation. As fiqh siyasah branch, it examines state legislation: constitutions (state basic laws or legislation history), legislation (formulation methods), democratic or syura institutions. Also addresses rule of law concepts, government-citizen reciprocity, protected citizen rights. Divides into siyasah tasyri'iyyah (legislative), tanfidiyah (executive), al-sulthah al-qadhai'iyyah (judicial), idariyah (administrative) (Jihan, 2023; Rinaldo et al., 2021).

Method

This research adopts a qualitative typology employing empirical juridical methods, integrating field observations with normative legal analysis. The approach examines actual regulatory formation practices while evaluating compliance against legal norms, principles, and Public Participation Regulations (PPU). Data sources include primary materials from interviews with Talang Babungo Village Secretary, National Land Agency (BPN) members, and local residents providing firsthand procedural insights, alongside secondary materials comprising regulatory documents such as Nagari Regulation No. 3/2013, Minister of Home Affairs Regulation No. 111/2014 on Village Regulations, PPU Law, and hierarchical legislation. Data collection techniques encompass in-depth interviews capturing formation processes, institutional roles, and community involvement; document studies analyzing regulation texts, procedural records, and superior laws for synchronization assessment; and field observations verifying implementation practices and community reception.

Data analysis follows Miles & Huberman's interactive model through data processing via transcription, organization, and familiarization; data reduction via coding themes like procedural compliance, principle adherence, and synchronization gaps; data display through matrix comparisons of regulation versus statutory benchmarks; and verification/conclusion drawing identifying patterns and causal inferences. Validity assurance employs source triangulation cross-verifying informant accounts against documents and field observations, plus member checking confirming interpretations with participants. Theoretical frameworks integrate legislation hierarchy (Kelsen/Nawiasky), good regulation principles (Law No. 12/2011 Article 5), and Fiqh Siyasah maslahah evaluation. This hybrid methodology bridges empirical reality with juridical standards, rigorously assessing local regulation legitimacy within Indonesia's multilevel legal system.

Results and Discussion

Interview findings reveal that Nagari Talang Babungo Regulation No. 3/2013 on Jum'at Haniang procedurally complies with Minister of Home Affairs Regulation No. 111/2014 technical guidelines, encompassing planning, drafting, discussion, ratification, promulgation, and dissemination executed collaboratively by Wali Nagari, Badan Permusyawaratan Nagari (BPN), community representatives, nagari institutions, and adat figures through musyawarah forums, while principle adherence succeeds in clear objectives, appropriate institutions, type or hierarchy or material consistency, executability, and utility or effectiveness but falters in formulation clarity and openness due to poor documentation, suboptimal academic papers despite consultations, and weak post-ratification socialization. M. Solly Lubis defines legislation as comprehensive state regulation-making from planning through promulgation, yet these gaps undermine efficacy; Nasarudin (2020) frames rechtsstaat as law-governed administration where this regulation actualizes local law per Village Law No. 6/2014 via participatory processes embodying due process rather than authoritarianism, aligning with Jimly Asshidiqie (2015)'s equality before law through uniform male application, though inconsistent enforcement risks equity violations absent oversight

potentially conflicting human rights. Formally, Iryadi (2017) citing Bagir Manan affirms authorized body requirements (Wali Nagari/BPN), while Philipus M. Hadjon positions principles as formal/material tests; county circulars prompted county-guided formats via adat/religious musyawarah structurally compliant with superiors, diverging from strict hierarchy yet gaining legitimacy via Article 8(2) as higher-authorized, per Farida (2008)'s law-based societal/national life for rule of law realization. Fiqh Siyasah Dusuriyah positions Wali Nagari/BPN upholding hirasat ad-din wa siyasat al-dunya, implementing maslahah 'ammah prioritizing Friday worship integrating religious norms, local wisdom, Islamic constitutionalism within nagari autonomy.

Synchronization analysis confirms Nagari Regulation No. 3/2013 substantially aligns across vertical/horizontal axes despite formal shortcomings like absent Legislation Formation Law considerans references, technical deviations (layout/cover), inconsistent titling/budget notation per Permendagri 111/2014; Akademik et al. (2022) note non-constitutionality absent standardized adoption, Article 8 recognizing village regulations when mandated. Law No. 9/2015 positions nagari as lowest legitimate units exercising original autonomy; Law No. 3/2024 Article 26(2) authorizes heads/BPN (Rosidi, 2024); Legislation Law Article 8(2)/Village Law legitimizes unenumerated types with clear Article 2(1) purpose; PP 43/2014 Article 83(1)/(2) supports Wali/BPN initiatives; Perpres 87/2014 technically governs with philosophical/sociological/juridical bases; Permendagri 111/2014 guides post-issuance evaluation; Permendagri 120/2018 Article 5(4)/(5) permits restorative or administrative sanctions mirrored in Chapter III (ninik mamak guidance, lapau reprimands, traffic halts, child mentoring); West Sumatra Perda 7/2018 Article 7 grants KAN regulation-making reflected in substantive roles; Solok Perda 4/2001 Article 37(1) obligates Wali proposals or BPRN ratification evident throughout; horizontal consistency with 2014 Batang Aia regulation shares authority per Article 8(2) of Village Law despite religious or environmental foci (Endang Sumarniati on chronological same-hierarchy coordination). Almawardi's caliphal duties upholding law or divine prohibitions or servant rights frame Jum'at Haniang as maslahah-based social/spiritual organization limiting worldly activities for devotion, per Kelsen's Grundnorm objective validity; Kamma (2023) tauhid equality precludes discrimination. Philipus M. Hadjon principles test formal or material validity; Budiman (2025) Stufenbau tiered norms prevent conflicts—procedurally sound or substantially welfare-enhancing yet formally deficient warranting refinement preserving maslahah 'ammah within constitutional bounds.

Conclusion

Nagari Talang Babungo Regulation No. 3/2013 on Jum'at Haniang procedurally aligns with Minister of Home Affairs Regulation No. 111/2014 technical guidelines through participatory stages involving Wali Nagari, Badan Permusyawaratan Nagari, and community musyawarah, achieving juridical or formal validity via legality and institutional suitability principles. However, good legislation principles remain deficient in formulation clarity and openness due to inadequate documentation, suboptimal socialization, and academic paper weaknesses despite consultations, while substantive philosophical or sociological values reflect community realities yet implementation effectiveness lags. Substantively, the regulation synchronizes with superior laws guaranteeing customary recognition, nagari authority, and local value preservation, yet formally diverges from Legislation Formation Law through absent normative considerans references, incomplete principles, undocumented participation, administrative sanctions gaps, layout or cover deviations, inconsistent titling, and non-normative budget notation. Sociologically or philosophically legitimate, it requires juridical-formal refinement aligning with rule of law and national hierarchy. Ultimately, formation embodies local wisdom or religious preservation consonant with Fiqh Siyasah principles—maslahah umat protection, social order maintenance, leadership as religion or adat guardian—enjoying strong community legitimacy, though positive Indonesian law gaps necessitate perfection ensuring full statutory compliance.

Acknowledgement

Thanks are due to all those who have helped in the process of researching and writing this article.

Conflict of Interest

This article has no conflicts of interest.

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