



Legal Certainty in The Implementation of Regional Regulations in West Sumatra Based on Minangkabau Customary Values

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ABSTRACT

This study evaluates legal certainty in the implementation of Regional Regulations (Perda) in West Sumatra based on Minangkabau customary values. Using a juridical-empirical approach and normative analysis, this research examines how well these regulations can be integrated into the existing legal system without disregarding local customs. The main findings indicate that although Minangkabau-based Perda are legally recognized, there are inconsistencies in their implementation due to differences between positive law and customary law. This leads to challenges in applying the law consistently and fairly. This research contributes to the literature by highlighting the need for more effective harmonization between state law and customary law to enhance legal certainty in culturally rich regions like West Sumatra. The practical implications include the importance of strengthening cooperation between policymakers and customary communities in the legislative and legal implementation processes.

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INTRODUCTION

Regional Regulations (Perda) are legal instruments that play a crucial role in regulating local community life, including in West Sumatra, Indonesia. This region is renowned for its cultural richness, particularly Minangkabau customs, which have become an integral part of the local community's identity (Elcaputera, 2022). Integrating customary values into Perda is an effort to maintain cultural continuity amidst the development of national law, which tends to be more homogeneous (Dewangga et al., 2023). However, the process of harmonizing positive law and customary law does not always proceed smoothly, raising questions about legal certainty in the application of Perda based on Minangkabau customs.

This study focuses on normative and juridical-empirical analysis to assess the extent to which Perda in West Sumatra can provide legal certainty while preserving customary values (Tahir et al., 2023). In this context, legal certainty is not only measured by adherence to existing legal norms but also by how these laws are interpreted and applied in a society with strong customary legal traditions (Azami, 2022). The challenges faced in implementing these Perda include the differences between universal positive law principles and local, contextual customary norms.

The research findings reveal that inconsistencies between positive law and customary law can create legal uncertainty, affecting the effectiveness of Perda in achieving its objectives. This indicates the need for a more collaborative approach among policymakers, academics, and customary communities to ensure that Perda are not only legally valid but also relevant and accepted by local communities. Additionally, this study makes a significant contribution to the legal literature by emphasizing the importance of a multicultural approach in policy-making in culturally rich regions. The practical implications suggest that policymakers need to consider not only formal legal aspects but also social and cultural norms in the legislative process (Dianisa & Suprobowati, 2022).

The importance of legal certainty in the context of Perda based on Minangkabau customary values should also be viewed from the perspective of responsive and inclusive governance. When customary values are integrated into the formal legal framework, there is potential to strengthen legal legitimacy in the eyes of local communities (Dewa Gede Edi Praditha & I Made Bagus Wibisana, 2024). However, this process also presents challenges, especially when dynamic customary law must be adapted into a national legal system that tends to be more rigid and bureaucratic. In West Sumatra, Minangkabau customs not only serve as daily life guidelines but also as a moral foundation influencing the interpretation and application of law. Therefore, inconsistencies between customary law and positive law can lead to a crisis of legitimacy and public trust in the prevailing legal system (Ali Aridi & Yana Sukma Permana, 2022).

Furthermore, this study aims to identify the factors causing the gap between the objectives of Perda and its implementation in the field. In some cases, Perda designed with the good intention of protecting and promoting customary values face rejection or resistance from the community due to perceived discrepancies with existing social realities (Sahara & Susanto, 2023). This indicates that the success of implementing Perda depends not only on alignment with formal legal principles but also on social and cultural acceptance at the local level. The study also explores the role of customary institutions and community leaders in bridging the gap between formal law and customary law, and how their involvement can enhance legal certainty and the sustainability of Perda.

In a broader context, this research contributes to the discussion on legal pluralism in Indonesia, where various legal systems coexist and influence each other. West Sumatra, with its Minangkabau traditions, offers a unique case study to understand the dynamics between customary law and state law. The findings from this research can serve as a reference for policymakers in other regions facing similar challenges in integrating local values into formal legal frameworks. Additionally, the results of this study can enrich the literature on legal certainty within pluralistic legal systems and provide insights for more inclusive and socially just legal reforms in Indonesia.

METHOD

This study employs a qualitative approach with a case study method. Data were collected through in-depth interviews with stakeholders, including local government officials, customary leaders, and legal academics. Additionally, document analysis was conducted on various relevant Perda in West Sumatra to identify the extent to which Minangkabau customary values are integrated and their impact on legal certainty. The obtained data were then analyzed using a descriptive-analytical approach to identify patterns and issues arising from the implementation of these Perda.

RESULT AND DISCUSSION

Integration of Customary Values into Perda

The integration of customary values into Regional Regulations (Perda) in West Sumatra is a strategic effort to accommodate and preserve local culture while adhering to national legal frameworks. Minangkabau customary values, which are an integral part of the local community's identity, encompass various aspects of life, including law, ethics, and social norms. This integration process involves merging customary principles with regional legal rules, aiming to create regulations that are not only legally valid but also consistent with local beliefs and practices (Hisam, 2023).

In an interview with the Governor of West Sumatra, Mahyeldi, it was revealed that integrating Minangkabau customary values into Perda is one of the efforts to preserve and maintain local culture while complying with national legal frameworks. Mahyeldi emphasized the importance of ensuring that each Perda is not only in accordance with state law but also acceptable to the customary community. He acknowledged the challenges in this process, such as differences in interpretation between customary law and positive law. However, he also highlighted progress in harmonization, particularly through consultations with customary leaders and local stakeholders during the drafting of Perda.

Currently, there are several Perda that have emerged from integrating these customary values into regulations in West Sumatra, including (*PPID Provinsi Sumatera Barat*, n.d.):

1. Perda No. 5 of 2007 on Natural Resource and Environmental Management.
This Perda reflects Minangkabau customary values by accommodating principles of ulayat land management and indigenous community rights to natural resources. It stipulates that natural resource management must involve consultation with customary institutions to ensure that customary practices in land and forest management are respected and protected.
2. Perda No. 11 of 2018 on the Protection and Development of Minangkabau Culture.
This Perda is a concrete example of efforts to preserve and integrate customary values within the regional legal framework. It includes various provisions that support the preservation of local traditions and culture, such as the implementation of customary events, the use of Minangkabau language in official documents, and protection of important cultural sites. It demonstrates how regulations can be designed to support and preserve essential aspects of Minangkabau culture.
3. Perda No. 7 of 2020 on the Implementation of Customary Education.
This Perda regulates the implementation of customary education in schools and communities, aiming to ensure that younger generations understand and appreciate Minangkabau customary values. The regulation integrates customary education curriculum into the formal education system and involves customary leaders in teaching and outreach about local culture.
4. Perda No. 9 of 2022 on the Regulation of the Role and Function of Customary Institutions.
This Perda affirms the role of customary institutions in the design and implementation of regional policies. Customary institutions, such as LKAM, are granted the authority to provide input in the creation of regional regulations and to participate in monitoring the implementation of regulations related to customs. This ensures that the voices of indigenous communities are heard and valued in decision-making processes that affect their lives.

Harmonization of Customary Law and State Law

Harmonizing customary law and state law in West Sumatra is a complex and crucial process for creating a fair and sustainable legal system in the region. West Sumatra, known for its cultural richness and Minangkabau traditions, faces challenges in aligning long-standing customary laws

with broadly applicable national legal regulations. This harmonization effort involves several key aspects that require careful attention and handling.

The Chair of the West Sumatra Regional House of Representatives (DPRD), Supardi, provided insightful comments on the harmonization of customary law and state law in West Sumatra, emphasizing the importance of balancing the two legal systems. According to Supardi, this harmonization is a crucial aspect of maintaining legal stability and cultural sustainability in the region. He noted that despite significant challenges, such as differences in principles between customary law and positive law, the harmonization efforts must continue with an inclusive and collaborative approach.

Supardi explained that the DPRD plays an active role in this process by ensuring that each proposed Regional Regulation (Perda) not only complies with national legal provisions but also respects Minangkabau customary values. He emphasized the importance of constructive dialogue between local government, customary institutions, and the community in formulating regulations that can accommodate both legal systems. In this regard, the DPRD is committed to upholding principles of justice and equality, and ensuring that policies are acceptable to all involved parties.

The Chair of the DPRD also highlighted that harmonization of customary law and state law requires ongoing evaluation and revision mechanisms. Supardi pointed out the need to periodically assess the effectiveness of existing regulations and make adjustments if necessary to ensure alignment between customary law and state law. He expressed hope that through these efforts, West Sumatra could serve as an example for other regions in creating a legal system that integrates customary values with national regulations harmoniously.

Supardi urged all parties, including legislative bodies, executive branches, and customary communities, to work together in addressing these challenges and ensuring that the legal system in West Sumatra not only adheres to national law but also preserves the local wisdom that has long been a part of Minangkabau cultural identity. With an approach based on dialogue and collaboration,

The joint agreement aims to achieve effective harmonization between customary law and state law, with the expectation of benefiting justice and the sustainability of culture in West Sumatra.

Role of Customary Institutions in the Implementation of Regional Regulations

Customary institutions play a crucial role in the implementation of Regional Regulations (Perda) in West Sumatra, especially considering the rich cultural heritage and deep Minangkabau traditions in the region. The integration of customary values into the local legal system and the harmonization between customary law and state law cannot be effectively achieved without the active involvement of customary institutions.

Fauzi Bahar Dt. Nan Sati, Chairman of the Minangkabau Customary Council (LKAM) of West Sumatra, highlights the role of customary institutions in the implementation of Regional Regulations (Perda) in West Sumatra. According to Fauzi Bahar, these institutions play a strategic role in this process, and their contributions are crucial to ensure that customary law and state law can function harmoniously.

Fauzi Bahar explains that the customary institutions in West Sumatra, which represent Minangkabau cultural values, have a significant responsibility in assisting the local government in formulating and implementing Perda that accommodate customary principles. He emphasizes that integrating customary values into Perda is not just about complying with national laws but

also about ensuring that the laws reflect local wisdom and provide direct benefits to the indigenous community.

According to Fauzi Bahar, customary institutions act as a bridge between state law and customary law, enabling the indigenous community to have a voice in decision-making processes that affect their lives. These institutions play an important role in providing valuable advice and input during the formulation of Perda and in overseeing the implementation of these regulations on the ground. This is essential to ensure that the implementation of Perda is not merely a formality but is also aligned with customary practices and cultural norms.

Fauzi Bahar also underscores the importance of education and socialization regarding Perda involving customary institutions. He believes that outreach conducted by these institutions helps the community understand how the new regulations will be applied and how they can participate in the process. In this way, customary institutions help create a better understanding and support community acceptance of the existing regulations.

In terms of dispute resolution, Fauzi Bahar states that customary institutions play an effective role as mediators. They use existing customary dispute resolution mechanisms, which are often more accepted by the local community compared to formal legal processes. Thus, customary institutions help maintain harmony and justice in resolving disputes arising from the implementation of Perda.

Fauzi Bahar concludes his remarks with his belief that the active role of customary institutions in implementing Perda in West Sumatra will continue to be a key factor in creating a just and sustainable legal system. He hopes that with close cooperation between customary institutions and local government, and ongoing support for local wisdom, West Sumatra can serve as a successful example of integrating customary values with national regulations.

The research shows that integrating Minangkabau customary values into Perda in West Sumatra is an important yet complex effort. Although progress has been made in harmonizing customary law and state law, several issues still need to be addressed to achieve optimal legal certainty.

First, the differences between customary law principles and positive law remain a significant barrier. Governor Mahyeldi and Chairman of the Regional House of Representatives (DPRD) Supardi emphasize the need for ongoing dialogue and deep understanding between the two legal systems. Efforts to accommodate customary values in Perda should be accompanied by efforts to align legal interpretations on the ground.

Second, the role of customary institutions such as LKAM is crucial in mediating between the indigenous community and the government. These institutions act as intermediaries that help resolve conflicts and ensure that Perda is implemented fairly and in accordance with local values. Active involvement of customary institutions can enhance the legitimacy of Perda and reduce legal uncertainty.

Third, challenges in implementing Perda indicate the need to improve implementation and oversight mechanisms. Better socialization and training for law enforcement officials and the public are important steps to enhance understanding and compliance with Perda. Additionally, periodic revisions of Perda can help adjust to social and cultural changes.

Overall, this research provides valuable insights into how customary values can be effectively integrated into formal legal systems, as well as the challenges and solutions in this process. The findings are expected to contribute to the development of legal policies in other regions with strong customary traditions and enrich the discussion on legal pluralism in Indonesia.

CONCLUSION

This study shows that the implementation of Regional Regulations (Perda) in West Sumatra is significantly influenced by Minangkabau customary values. Interviews with the Governor of West Sumatra, Mahyeldi, revealed that harmonizing regulations with customary values is key to ensuring policy effectiveness. Customary values not only shape the community's perspective on law but also affect the implementation of Perda.

Perda designed with consideration of customary values tends to have a higher level of legal certainty because the community feels more involved and understands the regulations better. For example, Perda concerning the management of customary land and the prohibition of opening forest areas not aligned with Minangkabau customs shows a better level of legal certainty. However, there are significant challenges in this alignment, such as differences in interpretation between the government and customary communities regarding the meaning and application of customary values.

Chairman of the DPRD Supardi revealed that there is often a lack of understanding among policymakers about the actual customary practices. Additionally, law enforcement also faces challenges, especially in less accessible areas where resource shortages hinder the implementation of Perda. The role of the Lembaga Kerapatan Adat Alam Minangkabau (LKAM) as a mediator between the government and customary communities is crucial. LKAM Chairman Fauzi Bahar emphasizes the importance of cooperation between LKAM and local government to ensure that Perda is not only legal but also in accordance with customary practices. To improve legal certainty, it is recommended to enhance socialization and education about Perda to the community, strengthen the capacity of law enforcement, and encourage active participation of customary communities in the creation and revision of Perda.

This study also reveals that the implementation of Perda based on Minangkabau customary values creates a more conducive and accepted legal environment. In many cases, local communities feel more valued and involved when regulations reflect their cultural values. This positively impacts community compliance with Perda, which in turn enhances the effectiveness of legal implementation (Eka nisa, 2022). For instance, regulations governing the traditional use of customary land are more readily accepted and followed compared to regulations that do not consider customary aspects, thereby strengthening legal certainty within the community.

However, the study also highlights several difficulties in aligning formal regulations with customary values. Conflicts often arise when regulations designed at the government level do not fully reflect the complexity of local customs. Interviews with customary leaders show that there are differences in understanding regarding the boundaries and application of customs, which can lead to tensions between customary communities and government authorities. This issue requires serious attention in policy planning and implementation to ensure that regulations not only meet legal standards but also align with customary expectations and practices.

Furthermore, the effectiveness of law enforcement is also influenced by administrative structure and resource capacity. Some areas in West Sumatra face shortages in terms of law enforcement training and logistical support, which hinders their ability to enforce Perda effectively. This is exacerbated by limitations in supporting facilities and budgets available for law enforcement programs, affecting the local government's ability to apply regulations consistently across the region.

The study recommends more coordinated efforts between local government and customary institutions in the process of creating and enforcing Perda. Enhancing dialogue and cooperation between both parties can help create regulations that are more suitable and accepted by customary communities. Implementing transparent reporting and evaluation systems is also

advised to ensure that Perda is applied fairly and effectively. This way, legal certainty in the implementation of Perda can be further improved, providing greater benefits to the community and increasing their trust in the legal system.

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Legal certainty in the implementation of Regional Regulations (Perda) in West Sumatra, based on Minangkabau customary values, faces significant challenges in harmonizing customary law and state law. Despite efforts to integrate customary principles into Perda, fundamental differences between the two legal systems often lead to conflicts and uncertainties. This study indicates that achieving effective legal certainty requires ongoing dialogue between customary institutions and the government, as well as regulatory adjustments that allow both legal systems to operate synergistically. Involvement of customary institutions in the formulation and implementation of Perda, along with flexible adjustments to local needs, can reduce discrepancies and improve public acceptance of the existing regulations.

The role of customary institutions is crucial in the implementation of Perda based on Minangkabau customary values. Customary institutions not only serve as advisors in the formulation of Perda but also as mediators, overseers, and educators for the community. This study highlights that the active role of customary institutions in overseeing implementation, resolving disputes, and conducting socialization is essential to ensure that Perda is enforced fairly and in line with customary values. Consistent support for customary institutions and strengthening their capacities are important steps in creating a fair, sustainable legal system that aligns with local culture.

REFERENCES

- Ali Aridi, & Yana Sukma Permana. (2022). Kedudukan Hukum Adat Dalam Penguatan Pelestarian Nilai-Nilai Adat Dalam Yurisprudensi. *The Juris*, 6(2), 352–362. <https://doi.org/10.56301/juris.v6i2.602>
- Azami, T. (2022). Dinamika Perkembangan Dan Tantangan Implementasi Hukum Adat Di Indonesia. *Qistie*, 15(1), 42. <https://doi.org/10.31942/jqi.v15i1.6487>
- Dewa Gede Edi Praditha, & I Made Bagus Wibisana. (2024). Hukum Kearifan Lokal: Tradisi, Nilai, Dan Transformasi Dalam Konteks Kepemilikan Warisan Budaya. *Jurnal Yusthima*, 4(1), 207–214. <https://doi.org/10.36733/yusthima.v4i1.8940>
- Dewangga, P., Wahyuni, S., & Isnaini, A. (2023). Analisis Pembentukan Perda Nomor 4 Tahun 2019 Tentang Desa Adat Di Bali. *Jurnal Ilmiah Muqoddimah : Jurnal Ilmu Sosial, Politik, Dan Humaniora*, 7(1), 1. <https://doi.org/10.31604/jim.v7i1.2023.1-8>
- Dianisa, T. R., & Suprobawati, G. D. (2022). Penerapan Teori Legislasi Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia. : *Jurnal Demokrasi Dan Ketahanan Nasiona*, 1, 298–305.
- Eka nisa. (2022). Kesadaran dan Ketaatan Masyarakat terhadap Hukum di Indonesia. *De Cive : Jurnal Penelitian Pendidikan Pancasila Dan Kewarganegaraan*, 2(2), 70–78.
- Elcaputera, A. (2022). URGENSI HARMONISASI RANCANGAN PERATURAN DAERAH : Sebuah Analisis Tantangan dan Strategi Pembentukan Peraturan Perundang-undangan Indonesia Dalam Rangka Penguatan Otonomi Daerah. *Jurnal Ilmu Hukum*, 11(1), 121. <https://doi.org/10.30652/jih.v11i1.8236>
- Hisam, A. (2023). *Hukum Adat*. Whidina Bhakti Persada Bandung.
- PPID Provinsi Sumatera Barat*. (n.d.). PPID Provinsi Sumatera Barat.
- Sahara, A. R. R., & Susanto, C. A. (2023). Eksistensi Hukum Adat Dalam Mempertahankan Kearifan Lokal di Era Modern. *MOTEKAR: Jurnal Multidisiplin Teknologi Dan Arsitektur*, 1(2), 422–427. <https://doi.org/10.57235/motekar.v1i2.1308>

- Tahir, R., Anggraeni, A. F., Tamrin, S., Yulianti, M. L., Lestari, W., Wahidah, A. N., Hidayah, A. J., Sa'dianoor, Pranata, A., Sari, N., Indahyani, T., Misno, Prisuna, B. F., Pangestuti, R., Rahman, R. S., Leuwol, F. S., & Patria, T. M. (2023). *Metodologi Penelitian (Teori, Masalah dan Kebijakan)* (Issue September).
- Ali Aridi, & Yana Sukma Permana. (2022). Kedudukan Hukum Adat Dalam Penguatan Pelestarian Nilai-Nilai Adat Dalam Yurisprudensi. *The Juris*, 6(2), 352–362. <https://doi.org/10.56301/juris.v6i2.602>
- Azami, T. (2022). Dinamika Perkembangan Dan Tantangan Implementasi Hukum Adat Di Indonesia. *Qistie*, 15(1), 42. <https://doi.org/10.31942/jqi.v15i1.6487>
- Dewa Gede Edi Praditha, & I Made Bagus Wibisana. (2024). Hukum Kearifan Lokal: Tradisi, Nilai, Dan Transformasi Dalam Konteks Kepemilikan Warisan Budaya. *Jurnal Yusthima*, 4(1), 207–214. <https://doi.org/10.36733/yusthima.v4i1.8940>
- Dewangga, P., Wahyuni, S., & Isnaini, A. (2023). Analisis Pembentukan Perda Nomor 4 Tahun 2019 Tentang Desa Adat Di Bali. *Jurnal Ilmiah Muqoddimah : Jurnal Ilmu Sosial, Politik, Dan Humaniora*, 7(1), 1. <https://doi.org/10.31604/jim.v7i1.2023.1-8>
- Dianisa, T. R., & Suprobowati, G. D. (2022). Penerapan Teori Legislasi Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia. : *Jurnal Demokrasi Dan Ketahanan Nasiona*, 1, 298–305.
- Eka nisa. (2022). Kesadaran dan Ketaatan Masyarakat terhadap Hukum di Indonesia. *De Cive : Jurnal Penelitian Pendidikan Pancasila Dan Kewarganegaraan*, 2(2), 70–78.
- Elcaputera, A. (2022). URGENSI HARMONISASI RANCANGAN PERATURAN DAERAH : Sebuah Analisis Tantangan dan Strategi Pembentukan Peraturan Perundang-undangan Indonesia Dalam Rangka Penguatan Otonomi Daerah. *Jurnal Ilmu Hukum*, 11(1), 121. <https://doi.org/10.30652/jih.v11i1.8236>
- Hisam, A. (2023). *Hukum Adat*. Whidina Bhakti Persada Bandung.
- PPID Provinsi Sumatera Barat*. (n.d.). PPID Provinsi Sumatera Barat.
- Sahara, A. R. R., & Susanto, C. A. (2023). Eksistensi Hukum Adat Dalam Mempertahankan Kearifan Lokal di Era Modern. *MOTEKAR: Jurnal Multidisiplin Teknologi Dan Arsitektur*, 1(2), 422–427. <https://doi.org/10.57235/motekar.v1i2.1308>
- Tahir, R., Anggraeni, A. F., Tamrin, S., Yulianti, M. L., Lestari, W., Wahidah, A. N., Hidayah, A. J., Sa'dianoor, Pranata, A., Sari, N., Indahyani, T., Misno, Prisuna, B. F., Pangestuti, R., Rahman, R. S., Leuwol, F. S., & Patria, T. M. (2023). *Metodologi Penelitian (Teori, Masalah dan Kebijakan)* (Issue September).