

REGULATION OF THE PROVINCE OF WEST SUMATERA  
NUMBER 7 OF 2018  
ON  
*NAGARI*

BY THE BLESSINGS OF ALMIGHTY GOD

GOVERNOR OF WEST SUMATERA,

- Considering : a. that *nagari* as an customary law community unit in West Sumatera fulfills the requirements to be determined as governance administrator under customary law as referred to in Law Number 6 of 2014 on Villages;
- b. that in accordance with Article 109 of Law Number 6 of 2014 on Villages, the Provincial Government has authority to issue regional regulation as a guidance for Regency/Municipality in determining *nagari* as a governance administrator under customary law especially related to institutional structure, filing positions, and term of office of *kapalo nagari*;
- c. that Regulation of the Province of West Sumatera Number 2 of 2007 on Principles of *Nagari* Governance has no longer in line with the spirit to strengthen *nagari* as a governance administrator under customary law;
- d. that based on considerations as referred to in point a, point b and point c, it is necessary to establish a Regional Regulation on *Nagari*;
- Observing : 1. Article 18 section (6) of the 1945 Constitution of the Republic of Indonesia;

2. Law Number 61 of 1958 on Enactment of Emergency Law Number 19 of 1957 on Establishment of Autonomous Regions Level 1 West Sumatra, Jambi and Riau as Law (State Gazette of the Republic of Indonesia of 1958 Number 112, Supplement to the State Gazette of the Republic of Indonesia Number 1646);
3. Law Number 6 of 2014 on Villages (State Gazette of the Republic of Indonesia of 2014 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 5495);
4. Law Number 23 of 2014 on Local Governance (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587), as amended several times, last by Law Number 9 of 2015 on the Second Amendment to Law Number 23 of 2014 on Local Governance (State Gazette of the Republic of Indonesia of 2015 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 5679);
5. Law Number 30 of 2014 on Governance Administration (State Gazette of the Republic of Indonesia of 2014 Number 292, Supplement to the State Gazette of the Republic of Indonesia Number 5601);
6. Government Regulation Number 43 of 2014 on Implementation of Law Number 6 of 2014 on Villages (State Gazette of the Republic of Indonesia of 2014 Number 123, Supplement to the State Gazette of the Republic of Indonesia Number 5539), as amended by Government Regulation Number 47 of 2015 on Amendment to Government Regulation Number 43 of 2014 on Implementation of Law Number 6 of 2014 Implementation of Law Number 6 of 2014 on Villages (State Gazette of the Republic of Indonesia of 2015 Number 157, Supplement to the State Gazette of the Republic of Indonesia Number 5717);
7. Government Regulation Number 60 of 2014 on Village Fund Sourced from State Budget as amended by

- Government Regulation Number 22 of 2015 on Amendment to Government Regulation Number 60 of 2014 on Village Fund Sourced from State Budget (State Gazette of the Republic of Indonesia of 2015 Number 88, Supplement to the State Gazette of the Republic of Indonesia Number 5694);
8. Regulation of the Minister of Home Affairs Number 113 of 2014 on Guidance on Village Financial Management;
  9. Regulation of the Minister of Home Affairs Number 4 of 2016 on Designation and Confirmation of Village Borders;
  10. Regulation of the Minister of Home Affairs Number 44 of 2016 on Village Authority;
  11. Regulation of the Minister of Home Affairs Number 46 of 2016 on Report of Village Head;
  12. Regulation of the Minister of Home Affairs Number 1 of 2017 on Village Arrangement;
  13. Regulation of the Province of West Sumatera Number 6 of 2008 on *Ulayat* Lands and Their Utilization;
  14. Regulation of the Province of West Sumatera Number 6 of 2014 on Strengthening of Customary Institution and Preservation of Minangkabau Cultural Values;

With the Joint Approval of  
THE PROVINCIAL HOUSE OF THE REPRESENTATIVES  
and  
THE GOVERNOR OF WEST SUMATERA

HAS DECIDED:

To issue : REGIONAL REGULATION ON *NAGARI*.

CHAPTER I  
GENERAL PROVISIONS

Article 1

In this Regional Regulation:

1. Regency/Municipality means Regencies/Municipalities in the West Sumatera Province.

2. *Nagari* means genealogical and historical Customary Law Community Unit, has boundaries in certain region, has its own properties and assets, has authority to elect its head through discussion and regulates and manages local community interest based on customary philosophy and code, *Adat Basandi Syara' – Syara' Basandi Kitabullah* and/or based on local origins and customs within the West Sumatera Province.
3. *Nagari* Governance means implementation of government affairs and *Nagari* community interest in governance system of the Unitary State of the Republic of Indonesia.
4. *Nagari* Government means *Kapalo Nagari* or other names assisted by *Nagari* Instruments as administrator elements of *Nagari* Governance.
5. *Kapalo Nagari* or so called by other names means the Head of *Nagari* Government.
6. *Kerapatan Adat Nagari*, hereinafter abbreviated as KAN or so called by other names means an institution as the deliberation of the highest representatives discussion in *Nagari* Government implementation of which the memberships consist of representatives of *Nagari ninik mamak* and *alim ulama* element, element of *cadiak pandai*, element of *Bundo Kanduang*, and element of *parik paga* within *Nagari* concerned in accordance with *adat salingka Nagari*.
7. *Jorong/Korong/Kampuang* means a part of *Nagari* region.
8. *Nagari* Customary Court or so called by other names means a community dispute settlement institution in *Nagari* based on *adat salingka Nagari* which has mediation characteristic;
9. Customary Law means community original law sourced from unwritten law regulations of which are grown and developed as well as maintained with legal awareness in providing justice to its community for generations, dynamic and adaptive in several legal considerations.
10. Local customs means customs and habits apply in *Nagari* community lives.

11. *Adat Salingka Nagari* means customary apply in a *Nagari* in accordance with customary principles accepted in general or *sebatang panjang* customary and inherited for generations in Minangkabau.
12. *Manti Nagari* means a *Nagari* Government Instrument having duties to assist *Kapalo Nagari* in implementation and administrating *Nagari* correspondence and making performance reports.
13. *Bandaharo Nagari* means a *Nagari* Government Instrument having duties to assist *Kapalo Nagari* in managing *Nagari* finance, accounting and financial reports maker.
14. *Dubalang Nagari* means a *Nagari* security and order guard.
15. *Tungku Tigo Sajarangan* means a *limbago* or representative element of the *Nagari* community of which may be elect and elects to fulfill position in *Kerapatan Adat Nagari*, *Nagari* Government, and *Nagari* Court, consisted of *Ninik Mamak*, *Alim Ulama*, and *Cadiak Pandai*.
16. *Niniak Mamak* means a person appointed as *pangulu adat* by tribe/group in a *Nagari*.
17. *Alim Ulama* means a member of tribe/group who is an expert in Islamic field or an Islamic scholar.
18. *Cadiak Pandai* means a member of tribe/group or a member of community who is an expert in general knowledge of various disciplines or has broad knowledge.
19. *Parik paga* in *Nagari* means element of young people in *Nagari* functions in the field of peace and security.
20. *Bundo kanduang* means a female leader in Minangkabau depicting a wise woman who makes Minangkabau customs preserved for generations.

## Article 2

This Regional Regulation is established as guidance for Regencies/Municipalities in establishing *Nagari* as a governance administrator under Customary Law in accordance with legislation.

### Article 3

This Regional Regulation is aimed to make *Nagari* as genealogical and historical Customary Law Community Unit to have boundaries in certain region, have its own properties and assets, have authority to manage local community interest based as well as elect its head, be able to administrate governance based on origins rights and Customary Law.

### Article 4

Scope regulated in this Regional Regulation covers *Nagari* Institutional structure, Position Fulfillment as well as Term of Office of *Kapalo Nagari* in implementing *Nagari* Governance based on Customary Law.

## CHAPTER II

### NAGARI INSTITUTIONAL

#### Part One

##### General

### Article 5

*Nagari* Institutional consists of:

- a. *Kerapatan Adat Nagari*;
- b. *Nagari* Government; and
- c. *Nagari* Customary Court.

#### Part Two

##### *Kerapatan Adat Nagari*

### Article 6

- (1) *Kerapatan Adat Nagari* is established in each *Nagari* as the highest consultative institution in implementing *Nagari* Governance.
- (2) Membership of the *Kerapatan Adat Nagari* as referred to in section (1) consists of representatives of *Niniak Mamak* and element of *Nagari Alim Ulama*, element of *Cadiak Pandai*, element of *Bundo Kanduang*, and element of *Parik*

*paga* in *Nagari* concerned in accordance with *Adat Salingka Nagari*.

- (3) *Kerapatan Adat Nagari* is led by a leader assisted by 2 (two) vice leaders appointed or elected from and by members in accordance with *Adat Salingka Nagari*.
- (4) Establishment, election or appointment of members, leader and vice leaders of *Kerapatan Adat Nagari* as referred to in section (1), section (2) and section (3) are regulated by Regency/Municipal Regulation in accordance with *Adat Salingka Nagari*.

#### Article 7

- (1) *Kerapatan Adat Nagari* has duties to:
  - a. supervise *Nagari* Governance implementation by *Kapalo Nagari*;
  - b. draft *Nagari* regulation along with *Kapalo Nagari*; and
  - c. discuss and agree on Draft *Nagari* Regulation on *Nagari* Budget.
- (2) *Kerapatan Adat Nagari* has authority to:
  - a. choose and appoint *Kapalo Nagari* through deliberation and consensus;
  - b. pass the aspiration of *Nagari* community;
  - c. supervise implementation of *Nagari* customs and culture;
  - d. request for accountability of *Nagari* Governance implementation to *Kapalo Nagari*; and
  - e. preserve customs and cultural values in accordance with *Adat Salingka Nagari*.

#### Article 8

- (1) Term of Office of *Kerapatan Adat Nagari* is determined based on *Adat Salingka Nagari*.
- (2) In the event that *Adat Salingka Nagari* as referred to in section (1) does not determine the term of office of *Kerapatan Adat Nagari*, the term of office of *Kerapatan Adat Nagari* is determined for 6 (six) years and may be re-appointed for 2 (two) terms of office.

Part Three  
*Nagari* Government

Article 9

- (1) *Nagari* Government is established in each *Nagari* as a *Nagari* Governance administrator along with *Kerapatan Adat Nagari*.
- (2) The *Nagari* Government as referred to in section (1) is led by a *Kapalo Nagari* assisted by *Nagari* instruments.

Article 10

The *Kapalo Nagari* has duties to administrate governance, development, public service, community development, and *Nagari* community empowerment.

Article 11

The *Kapalo Nagari* has authority to:

- a. lead *Nagari* Governance implementation;
- b. appoint and dismiss *Nagari* Instruments;
- c. hold the power to manage *Nagari* finance and assets;
- d. establish *Nagari* Regulation;
- e. determine *Nagari* Budget;
- f. foster *Nagari* community lives;
- g. foster public tranquility and order; and
- h. foster, preserve and develop *Nagari* community cultural social life and customs.

Article 12

- (1) The *Kapalo Nagari* is elected or appointed by *Kerapatan Adat Nagari* based on deliberation and consensus.
- (2) Procedures for election or appointment of *Kapalo Nagari* as referred to in section (1) are regulated by Regency/Municipal Regulation.

Article 13

- (1) The Term of Office of *Kapalo Nagari* is determined based on *Adat Salingka Nagari*.

- (2) In the event that the *Adat Salingka Nagari* as referred to in section (1) does not determine the term of office of *Kapalo Nagari*, the term of office of *Kapalo Nagari* is determined for 6 (six) years and may be re-appointed for 2 (two) terms of office.

#### Article 14

- (1) The *Nagari* Instruments as referred to in Article 9 section (2) consists of:
  - a. *Manti Nagari*, assisted by *Kapalo Urusan*;
  - b. *Bandaharo Nagari*;
  - c. *Dubalang Nagari*; and
  - d. *Kapalo Jorong/ Korong/ Kampuang*.
- (2) A *Manti Nagari* has duties to assist *Kapalo Nagari* to administrate correspondence, archival and report making of *Nagari* Governance activities.
- (3) A *Bandaharo Nagari* has duties to assist *Kapalo Nagari* to administrate finance, accounting and financial report making.
- (4) A *Dubalang Nagari* has duties to keep security and order in *Nagari*.
- (5) A *Kapalo Jorong/ Korong/ Kampuang* has duties to assist *Kapalo Nagari* as technical administrator in *jorong/ korong/ kampuang*.

#### Part Four

#### *Nagari* Customary Court

#### Article 15

- (1) In each *Nagari*, *Kerapatan Adat Nagari* establishes a *Nagari* Customary Court as the highest community dispute settlement institution in *Nagari* in accordance with *adat salingka Nagari*.
- (2) Before the dispute as referred to section (1) is settled by *Nagari* Customary Court, it must be first settled among kinship, *paruik*, group and/or tribe in *bajanjang naiak batanggo turun way*.

- (3) The *Nagari* Customary Court as referred to in section (1) has duties to:
- a. settle dispute of *sako* and *pusako* in *bajanjang naiak batanggo turun* way through peace process.
  - b. settle customary civil case through deliberation and consensus based on agreement in assembly session of *Kerapatan Adat Nagari* as “*kato putuih*” to be obeyed by court institutions; and
  - c. impose customary sanctions to community members violating Customary Law in accordance with provisions of *Adat Salingka Nagari*.

#### Article 16

- (1) The *Nagari* Customary Court as referred to in Article 15 section (1) is led by a chief justice assisted by a *manti* and several judges of *Nagari* Customary Court.
- (2) Guidance on, structure, appointment and dismissal, term of office of *Nagari* Customary Court Judge as well as the financing of *Nagari* Customary Court are regulated in Regency/Municipal Regulation.

### CHAPTER III

#### FOSTERING AND SUPERVISION

#### Article 17

The Governor fosters and supervises *Nagari* in general in implementing governance under Customary Law.

#### Article 18

- (1) The fostering of *Nagari* as referred to in Article 17 is carried out by Instruments Organization of West Sumatera Province in accordance with its main duty and function.
- (2) The fostering as referred to in section (1) is carried out in the form of capacity building for *Nagari* institutional in implementing their respective duties and functions.

Article 19

- (1) In fostering *Nagari* as referred to in Article 17, the Governor may establish Board of Supervisors and Developers of *Nagari* in Provincial level and by Regency/Mayor in Regency/Municipal levels.
- (2) Membership of Board of Supervisors and Developers of *Nagari* consists of elements of *Niniak Mamak*, *Alim Ulama*, *Cadiak Pandai*, Universities, and Non-Government Organizations.

Article 20

- (1) The Regency/Municipal government through related Regional Instruments Organization is obligated to submit *Nagari* implementation report to the Governor.
- (2) The *Nagari* implementation report as referred to in section (1) is submitted periodically, at least 1 (one) time in 1 (one) year.

Article 21

Supervision and evaluation against *Nagari* implementation in Regency/Municipality are carried out by the Governor in accordance with the provisions of legislation.

CHAPTER IV

MISCELANEOUS PROVISIONS

Article 22

*Nagari* implementation and resource management under Customary Law are regulated by a Regency/Municipal Regulation.

Article 23

The establishment of Customary Villages in Mentawai Islands Regency is regulated by Regulation of the Regency of Mentawai Islands in accordance with the provisions of legislation.

CHAPTER V  
TRANSITIONAL PROVISION

Article 24

- (1) *Nagari* Governance implementation that has taking place, still carrying its governance duties in accordance with the provisions of legislation.
- (2) Regency/Municipality that changes its status of *Nagari* Governance implementation to become *Nagari* Government based on Customary Law, follows it up by establishing Regency/Municipal Regulation on *Nagari* by obeying this Regional Regulation and is adjusted with *Adat Salingka Nagari*.
- (3) The appellation of term *Nagari* that implementing governance based on customary law is returned to its original term.

Article 25

The *Nagari* Institutional existing to this day is still acknowledged until the end of its term of office.

CHAPTER VI  
CLOSING PROVISIONS

Article 26

At the time this Regional Regulation comes into force, Regulation of the Province of West Sumatera Number 2 of 2007 on Principles of *Nagari* Governance, (Provincial Gazette of West Sumatera of 2007 Number 2) is repealed and declared ineffective.

Article 27

This Regional Regulation comes into force on the date of its promulgation.

In order that every person know hereof, it is ordered to promulgate this Regional Regulation by its placement in the Regional Gazette of the Province of West Sumatera.

Issued in Padang  
on 5 April 2018  
GOVERNOR OF WEST SUMATERA,

signed

IRWAN PRAYITNO

Promulgated in Padang  
on 5 April 2018

REGIONAL SECRETARY  
OF THE PROVINCE OF WEST SUMATERA

signed

ALI ASMAR

REGIONAL GAZETTE OF THE PROVINCE OF WEST SUMATERA OF 2018  
NUMBER 7

Jakarta, 23 January 2020

Has been translated as an Official Translation  
on behalf of Minister of Law and Human Rights  
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,

  
WIDODO EKATJAHJANA

ELUCIDATION  
OF  
REGULATION OF THE PROVINCE OF WEST SUMATERA  
NUMBER 7 OF 2018  
ON  
*NAGARI*

I. GENERAL

Before Villages and Urban Villages are enforced as the most prominent Government Unit, the most prominent Government Unit in West Sumatera Province was *Nagari* that was led by *Kapalo Nagari* or other names. One level lower was *Jorong/Korong/Kampung* led by a *Kepala Jorong/Kampung* as the *Nagari* Government work region.

Under mandate of Law Number 5 of 1979 on Village Government, resulting uniformity policy of the most prominent Government Unit in the entire region of the Unitary State of the Republic of Indonesia, Villages in a Regency and Urban Villages in a Municipality. As of 1 August 1983, the Government of the Province of West Sumatera enforced Law Number 5 of 1979 within West Sumatera Province, so the functions and duties of the most prominent Government implemented by Head of Village was transferred to *Kapalo Nagari*. Under Law Number 5 of 1979 on Villages, the Village Government only regulates its Government Implementation while fostering of socio-culture and customs do not belong to its duties and functions. The *Nagari* position as Customary Law Community Unit is still acknowledged by the issuance of Regulation Level 1 of the Province of West Sumatera Number 13 of 1983 on *Nagari* as a Customary Law Community Unit in Region Level 1 of the West Sumatera Province, along with its Institution named *Kerapatan Adat Nagari* (KAN) led by a leader called *Ketua Kerapatan Adat Nagari*. Since the issuance of Regional Regulation Number 13 of 1983, dualism of *Nagari* Leadership named

Leader of KAN as a Customary Leader and Head of Village as a Government leader arises.

Since the reform era of 1999 there is a government paradigm change from centralize to decentralize. The change is based on the amendment to the 1945 Constitution of the Republic of Indonesia. Among the paradigm change aspects, there are acknowledgment and respect of the state to customary law community unit and its traditional rights as confirmed by Article 18 B of the 1945 Constitution.

“The state recognizes and respects entities of the *adat* (indigenous) law communities along with their traditional rights as long as these remain in existence and are in accordance with the development of community and the principles of the Unitary State of the Republic of Indonesia, are regulated by law”.

This provision mandates the government, that the establishment of government in regions must not threaten let alone exterminate the existence of customary law communities. Article 18 B of the 1945 Constitution is second amendment to the 1945 Constitution was stipulated on 18 August 2000, however the spirit to acknowledge and respect the customary law community unity in village government establishment had been born before that. Law Number 22 of 1999 on Local Governments issued in 7 May 1999 has already preceeded the constitutional spirit in acknowledging and respecting customary law communities. Historically, Law Number 22 of 1999 repeal two Laws on government in region at once namely Law Number 5 of 1974 on Principles of Government in Region and Law Number 5 of 1979 on Village Government.

Relating to village government establishment, Law Number 22 of 1999 firmly states that uniformity approach to the forms of village government under Law Number 5 of 1979 is a misled policy. It results in the customary law community lives' integrity/unity, development, welfare, and harmony are hampered. The provision of considering point e of Law Number 22 of 1999 states:

“Law Number 5 of 1979 on Village Government (State Gazette of 1979 Number 56; Supplement to the State Gazette Number 3153) to synchronize name, form, structure and position of the village governance, not in accordance with the spirit of the 1945 Constitution

and the needs to acknowledge and respect rights of origins of special Regions so it is necessary to be replaced.”

Thus, Law Number 22 of 1999 gives opportunity for regions to establish the most prominent governance to not have the same name as village government anymore; it can be called with other names aside from village in accordance with local customs origin. This opportunity is authentically included in village definition as referred to in Article 1 point o of Law Number 22 of 1999 as follows:

“Village or so called other names, hereinafter referred to as village, means a law community unit having authority to regulate and manage local community interest in accordance with local origin and customs that are acknowledged in National Government system and located in a regency”.

At regional level, the spirit has existed for a long time in West Sumatra, even before Law Number 22 of 1999 was enacted. The urge to go back to use *Nagari* government system after 20 years as the community mutual wish “forces” them to use village system. However, before the enactment of Law Number 22 of 1999, the urge cannot be realized yet since in juridical, it cannot be detached from “village” under Law Number 5 of 1979. Therefore, Law Number 22 of 1999 becomes the moment for West Sumatra to realize its wish to go back to *Nagari*.

Immediately, the Government of the Province of West Sumatra together with Regional House of Representatives approves the establishment of a Regional Regulation to regulate *Nagari* government as the replacement for village government, namely Regulation of the Province of West Sumatra Number 9 of 2000 on Principles of *Nagari* Government. This Regional Regulation has successfully declared West Sumatra to go back to *Nagari* government system. However, since the authority of establishment of village government is in regency/municipality so there are respective Regional Regulation to establish *Nagari* government in each regencies of West Sumatra.

In 2004, the government amends Law Number 22 of 1999 on Local Governments with Law Number 32 of 2004. Even though there are differences in material substances in regulating from both Laws, they have the equal spirit to acknowledge and respect the customary law community

in establishing government in regions to village level. The Government of the Province of West Sumatera adjusts the regulation of *Nagari* government with Law Number 32 of 2004 by replacing Regional Regulation Number 9 of 2000 with Regulation of the Province of West Sumatera Number 2 of 2007 on Principles of *Nagari* Government. This Regional Regulation mandates the establishment of *Nagari* government in all regencies and municipalities in West Sumatera except for Mentawai Islands Regency. Once more, since the authority to establish village government is in regency/municipality so the regency/municipality in the Province of West Sumatera also replaces Regional Regulation on *Nagari* Government with a new Regional Regulation in accordance with Law Number 32 of 2004.

In reality, not all regencies/municipalities in the Province of West Sumatera obey the mandates in Provincial Regulation Number 2 of 2007. All municipalities in West Sumatera keep urban villages as the most prominent government. Even for two Cities namely Kota Sawahlunto and Kota Pariaman still apply two government systems for their *Nagari* community; half using urban villages and another half using villages. The municipalities' disobedience against Regulation of the Province of West Sumatera Number 2 of 2007 obviously becomes the key point for West Sumatera community in *Nagari* government development history.

Even though it already uses *Nagari* government system, in practice, it has not used *Nagari* government character. The figure in *Nagari* government implementation is the same as village figure; separated between government administrations affairs and customs affairs based on origins rights. This is proven by the separation of *ninik mamak* or customary holders of *Nagari* government implementation. The *Nagari* government is implemented fully in accordance with Law and not *adat salingka Nagari*. *Ninik mamak* is still confined in customary institution namely *kerapatan adat Nagari* (KAN), it resulted in customary holders are marginalized even the most prominent government has become *Nagari* government.

In other words, the implementation of *Nagari* government is just a name; cannot go back to the real *Nagari* government system; cannot restore customary holder to become *Nagari* government implementation, since Law Number 32 of 2004 does not give opportunity for regions to do them. Even there is an opportunity to not synchronize the government

names to become village, the type of the most prominent government is still village government administratively (administrative village). So, even though the most prominent government is called *Nagari* government, in juridical it is an administrative village. In juridical, Law Number 32 of 2004 does not provide other choice for regions to determine type of village, so it becomes juridical obstacle to go back to *Nagari* based on *adat salingka Nagari*.

This juridical obstacle is answered by Law Number 6 of 2014 on Village. This Law is a replacement for a part of Law Number 32 of 2004 regulating village, especially Article 2000 to Article 2016. Different from Law Number 32 of 2004, Law Number 6 of 2014 gives opportunity for regions to establish village (government) in accordance with customs based on origins rights from local customary law community unit, aside from common village (administrative). In this Law, village established based on origins rights of customary law community is a “customary village”. In other words, the local government may determine customary law community as the most prominent government implementing unit. The most prominent government implementation for customary village is carried out based on local customs. If there is any government affairs implementation that is not regulated in the new customary law, the provisions of Law are in effect.

This opportunity needs to apply immediately by the Province of West Sumatera to re-function *Nagari* government system based on *adat salingka Nagari* under customary philosophy of *basandi sara’, sara’ basandi kitabullah, sara’ mangato, adat mamakai*. In juridical, those wishes may only be realized by establishing a Regional Regulation on *Nagari* as a replacement of Regulation of the Province of West Sumatera Number 2 of 2007 on Principles of *Nagari* Government. In this new Regional Regulation, *Nagari* as a customary law community unit is restored to its true identity as the most prominent government implementer under customary law. In line, the customary holders of each *Nagari* are restored to their positions as *Nagari* government administrators, not being customary institutions marginalized from government affairs anymore.

However, Law Number 6 of 2014 only gives period of one year for government of regency/municipality to determine customary law community unit as a customary village implementing the most prominent government under customs. Article 116 section (2) and section (3) of Law Number 6 of 2014 state:

- (1) The Regency/Municipal Governments issue Regional Regulations on establishment of Villages and Customary Villages in their regions.
- (2) The establishment of Villages and Customary Villages as referred to in section (2) is not later than 1 (one) year as of the date of promulgation of this Law.

Law Number 6 of 2014 is promulgated on 15 January 2014, so at this time 2017 it is already expired, the regency/municipal governments in West Sumatera cannot determine *Nagari* as customary village directly. The determination *Nagari* as a customary law community unit must first through mapping. Article 96 of Law Number 6 of 2014 states the Government, Provincial Governments, and Regency/Municipal Governments plan customary law community units and determined as Customary Villages.

As known and experienced by West Sumatera people, that until this day the existence of *Nagari* as a customary law community unit. Since 2000, *Nagari* has been established as the most prominent government implementer until this day. Since *Nagari* as a customary law community unit still exists, so *Nagari* meets the requirement to be determined as a customary village. Thus, *Nagari* government may be implemented based on origins rights and *adat salingka Nagari* law. It is in accordance with Article 107 of Law Number 6 of 2014 states:

“Regulation and implementation of Customary Village Government are carried out in accordance with origins rights and customary law applied in existing Customary Village as well as in accordance with community development and not contrary to principle of Customary Village Government implementation in Principle of the Unitary State of the Republic of Indonesia”.

Even though the determination of *Nagari* to become a customary village is the authority of regency/municipal governments, Law Number 6 of 2014 has already special authority to the provinces in planning of customary villages. Based on this authority, the government of West Sumatera Province needs to establish a Regional Regulation on *Nagari* of which regulating scope only for the authority concerned. This provision is stated in Article 109 of Law Number 6 of 2014 that states “organizational structure, position filling, and term of office of Head of Customary Village under customary law are determined in Provincial regulation”.

Thus, sociologically the position of this Regional Regulation is very strategic in West Sumatera community efforts in restoring *Nagari* as government implementer based on origins rights and *adat salingka Nagari* law. Next, in juridical, this Regional Regulation is a prerequisite for regency/municipal governments to establish Regional Regulation on *Nagari* establishment as a customary village. Without this Regional Regulation, the regency/municipal governments in West Sumatera cannot establish Regional Regulation on *Nagari* as a customary village as referred to in Law Number 6 of 2014. In addition, this Regional Regulation also becomes guidance for regency/municipal governments in drafting Regional Regulation on *Nagari* especially for three materials namely organizational structure, position filling, and term of office of *kapalo Nagari*.

Thus, this Regional Regulation is a legal base and protection as well as a reference for Regency/Municipal Governments to establish and implement *Nagari* Government system as the most prominent government unit applied in accordance with local custom and culture.

*Nagari* as a customary law community unit has philosophy of *Adat Basandi Syarak, Syarak Basandi Kitabullah*. In the philosophy, there are social, cultural, religion and custom values, so those values need to preserve and exist among communities as a life value. Therefore, regulation with custom and religion values as well as its authority are well-expected by the West Sumatera people. With *Nagari* life philosophy, the ideal life of *Nagari* will be realized in West Sumatera.

## II. ARTICLE BY ARTICLE

### Article 1

Sufficiently clear.

### Article 2

Sufficiently clear.

### Article 3

Sufficiently clear.

### Article 4

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Section (1)

The term “KAN” means *Kerapatan Adat Nagari* that already existed before this Regional Regulation on *Nagari* was issued and still functions as an institution that preserves customs in accordance with accepted customary in *salingka Nagari*.

Section (2)

The term “*Niniak Mamak*” means a customary institution consisting of several *penghulu* from various groups in Minangkabau tribes, and filled with heads from big kinships or groups or clans called *penghulu*, of which the leadership is inherited for generations in accordance with Minangkabau matrilineal customs. The position of *penghulu* is hold by a Minangkabau man as an elder and is assumed able to lead wisely;

The term “*Alim Ulama*” means a Minangkabau community leader having broad knowledge in Islam religion, is experienced and may be a role model for *Nagari* community in the field of Islam religion;

The term “*cadiak panda*” means an intellectual, thinker, or scholar, that be able to apply those knowledge for the interests of *Nagari* community and must give view and opinion/consideration in drawing policies and decision in *Nagari*.

The term “*Bundo Kanduang*” means a female leader in Minangkabau portraying a wise female figure that preserves Minangkabau Customary for generations.

*Parik Paga Nagari* is functioned to maintain order and safety as well as enforce and supervise *Nagari* regulation.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Section (1)

Sufficiently clear.

Section (2)

Kapalo Nagari may serve for not more than 3 (three) terms of office continuously or not continuously.

Article 14

Sufficiently clear.

Article 15

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Sufficiently clear.

Article 22

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.