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Contesting sharia : state law, decentralization and Minangkabau custom

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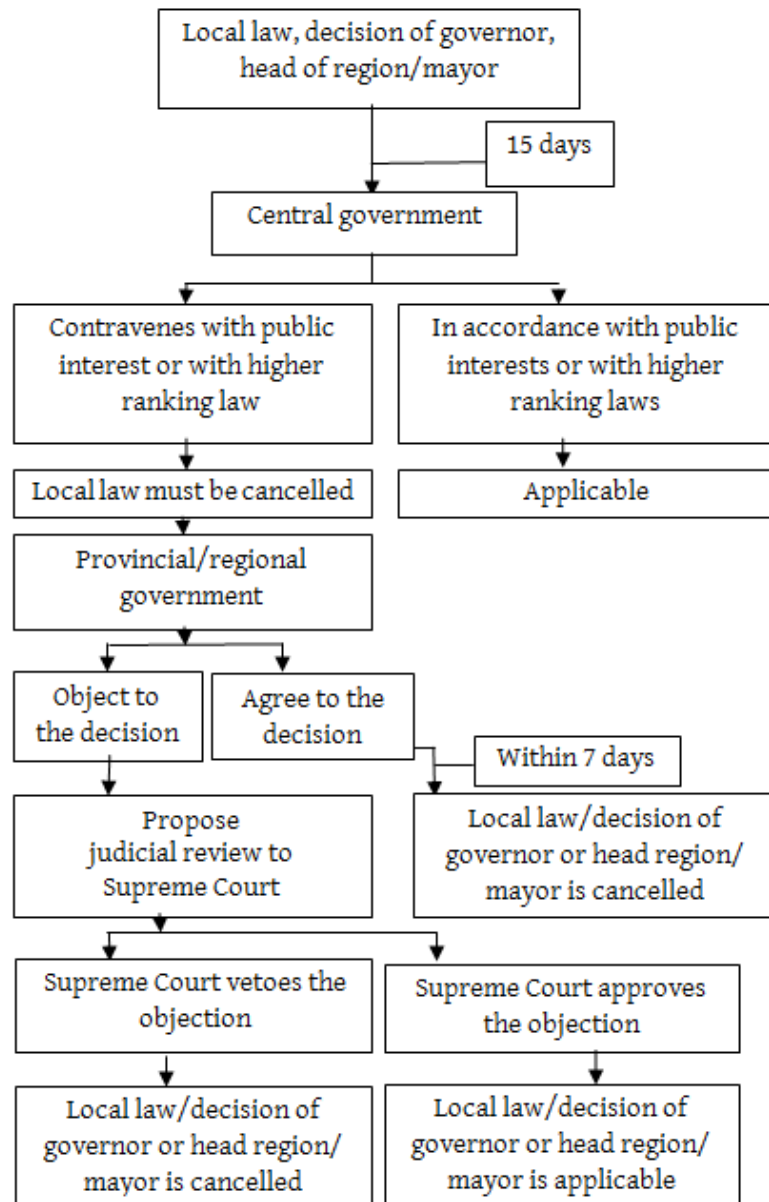
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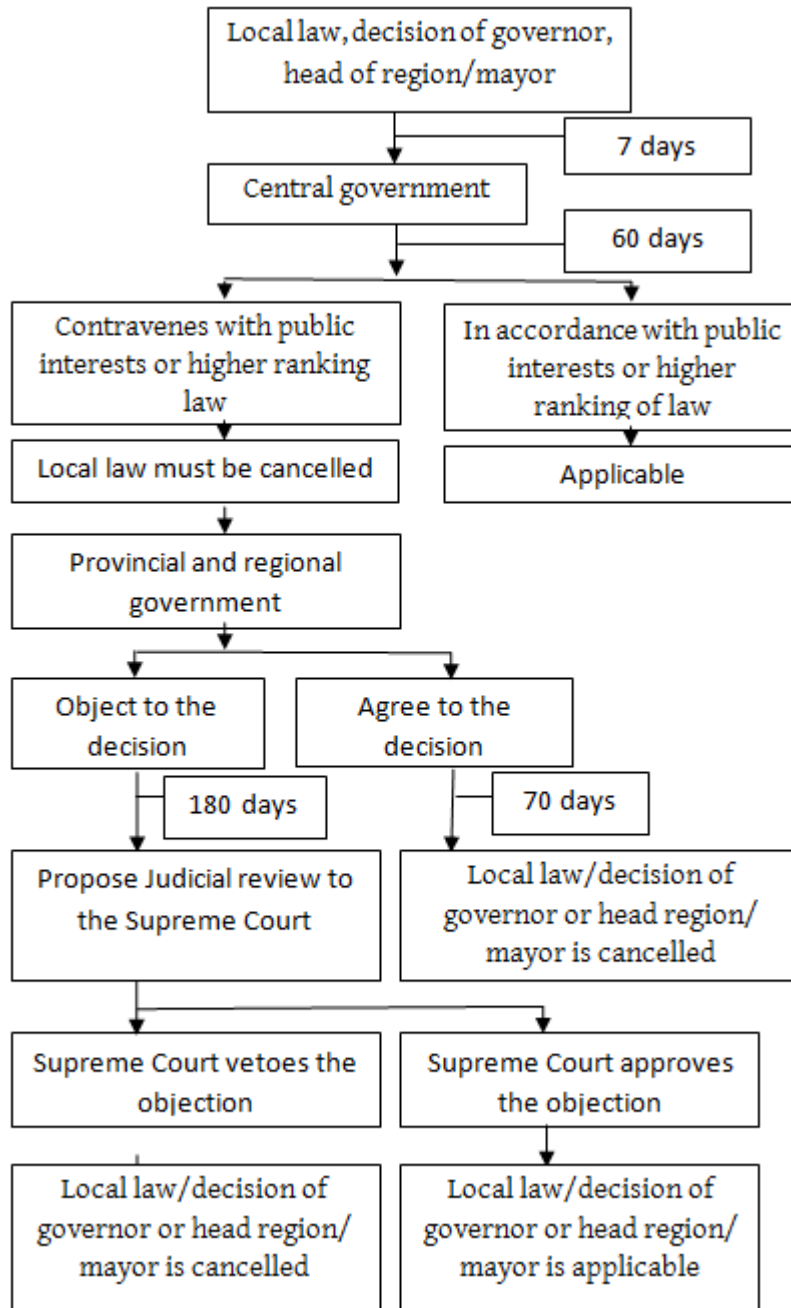
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Appendices

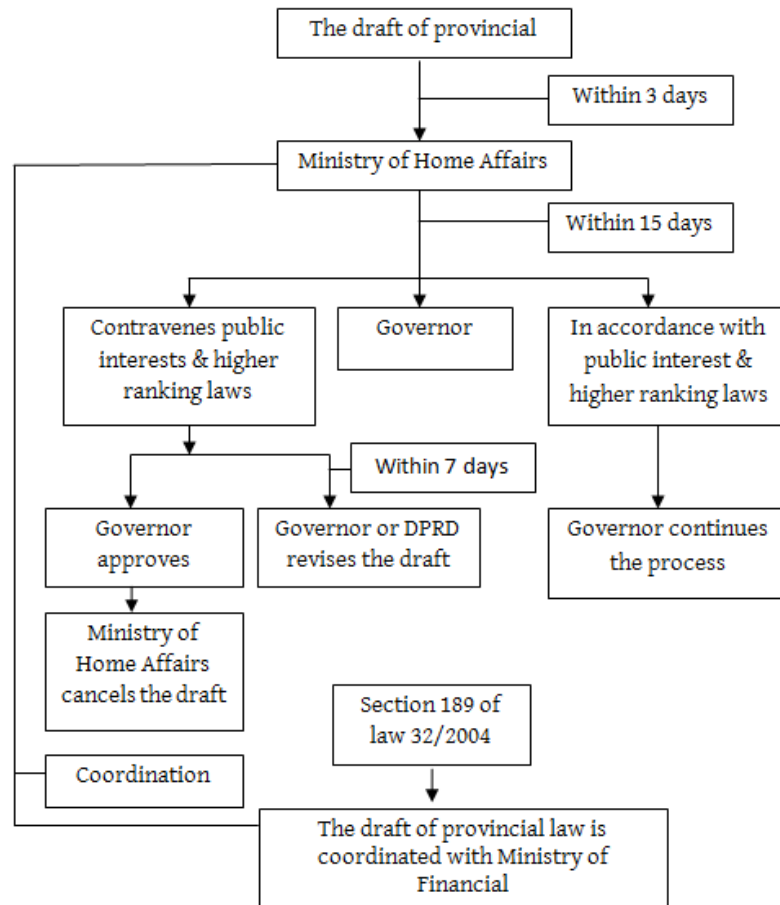
Appendix 1. Executive review to provincial and regional law/decision of governor/head of region/mayor according to section 114 law No.22/1999



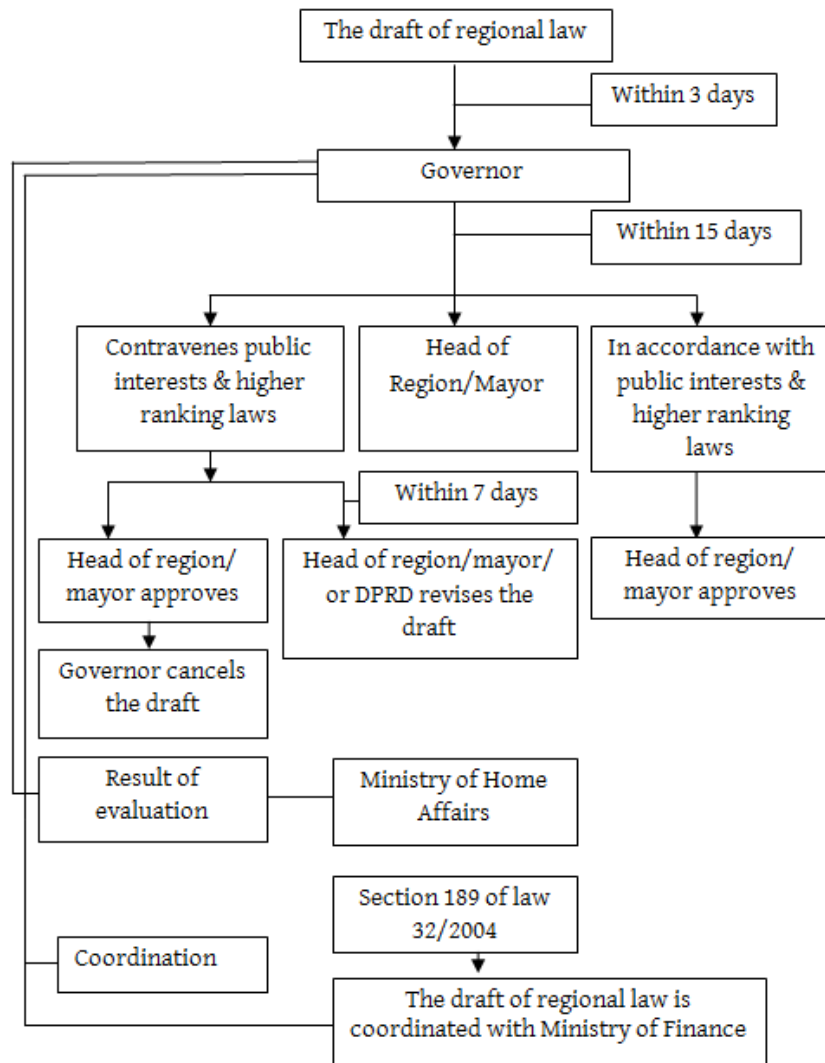
Appendix 2. Executive review procedure for provincial and regional law/decision of governor/head of region/mayor according to section Procedure according to section 145 of law No.32/2004



Appendix 3. Executive preview procedure for the draft of provincial laws according to section 185 of law No.32/2004



Appendix 4. Executive preview procedure for the draft of regional law according to section 185 of law No.32/2004



Appendix 5. The draft provincial law on the prohibition and prevention of public immorality.

DRAFT OF
PROVINCIAL LAW OF THE PROVINCE OF WEST SUMATRA

NUMBER: YEAR 2001

ON
PROHIBITION AND PREVENTION PUBLIC IMMORALITY

WITH THE MERCY OF THE ONE AND ONLY GOD
MAYOR OF THE MUNICIPALITY OF PADANG

Considering : 1. Province of West Sumatra is a province that has a distinctive tradition based on 'adat is based on Sharia, Sharia is based on the Quran, Sharia commands, adat implements'.

2. Several forms of public immoralities including prostitution, unlawful sexual intercourse, homosexuality, pornographic acts, abuse of alcoholic substances and other public immoralities have been disturbing security and social order and damaging social principles. These public immoralities are in contradiction with the norms ruled by state law, religion and adat.

3. In order to maintain social stability and community in general, as well as to protect the new generations from the negative impact of public immoralities in particular, preventive measures are necessary.

4. Taking into consideration the above factors, it is necessary to outline these rules in provincial law.

Justified by 1. National law 1/1946 on Penal Code.

2. National law 61/1958 on the Establishment of the provinces of West Sumatra, Jambi and Riau. The government regulation 29/1979.
3. National law 8/1981 on the Criminal law procedure.
4. National law 23/1997 on Health.
5. National law 5/1997 on Psychotropic substances.
6. National law 22/1997 on Narcotics.
7. National law 24/1997 on Broadcasting.
8. National law 22/1999 on Local autonomy.
9. National law 39/1999 on Human rights.
10. Government regulation 6/1988 on Coordination among local government institutions in the regions.
11. Government regulation 25/2005 on the authority of the central government and provincial government as the frame for autonomy.
12. Decision of DPRD of the province of West Sumatra 18/SB/1999 on the rules of conduct of DPRD.

DECIDED TO:

Agreed with PROVINCIAL LAW OF THE PROVINCE OF WEST
SUMATRA ON PREVENTING AND ELIMINATING
PUBLIC IMMORALITY IN WEST SUMATRA

CHAPTER I

GENERAL ELUCIDATIONS

Section 1

Definitions used in this provincial law are as below:

- a. Region means the province of West Sumatra;
- b. Local government means the government of West Sumatra;

- c. Governor means the governor of West Sumatra;
- d. Public immorality means any conduct that may disharmonize the foundations of social and contravene state laws, religion and *adat* including a number of offences of prostitution/gigolo, unlawful sexual intercourse, abortion, homosexuality, pornographic conduct, gambling, abuse of alcohol, narcotics and other forms of public immorality.
- e. Prostitution means sexual intercourse between a man and a woman who are not married and with a view to financial gain.
- f. Unlawful sexual intercourse means sexual intercourse that is committed by a couple who have no marriage relationship, whether it is committed for reason of pleasure or not.
- g. Abortion means the expulsion of a fetus from the womb, without medical reason, before it is able to survive independently.
- h. Homosexuality means sexual intercourse that is committed by members of the same sex.
- i. Pornographic act means any conduct that may provoke sexual desire.
- j. Gambling means any conduct or games that result in financial gain and depend solely on luck and where money or property are used as a stake.
- k. Abuse of narcotics means the abuse of alcohol and includes consuming, distributing, storing narcotics and other psychotropic substances that are prohibited by law.
- l. Alcoholic drink is drink containing alcohol.
- m. Pornography means a pornographic picture, writing or behavior that may provoke sexual desire.

- n. Transvestite means somebody who dresses as a member of the opposite sex.
- o. Obligation means tasks that have to be conducted by people.
- p. Prohibition means something that is prohibited conduct.

CHAPTER II SCOPE AND PURPOSES

Section 2

- (1) The scope of public immorality in this provincial law includes any conducts relating to public immoralities that is mentioned in Section 1, subsection d, and carried out conducted in West Sumatra.
- (2) Any activity and/or conduct relating to public immorality that is mentioned in the subsection of this section is an offence.

Section 3

The purposes of this provincial law are:

- a. to guarantee the stability of society.
- b. to prevent moral disorder of society in general, and the younger generation in particular;
- c. to restore and maintain the philosophy of the people of West Sumatra, '*adat* is based on Sharia, Sharia is based on the Quran, Sharia commands *adat* applies' and apply it to daily life.

CHAPTER III OBLIGATION AND PROHIBITION

Part one

Obligation

Paragraph I

The owner of a hotel/motel/home stay

Section 4

Any owner of hotel/motel/home stay is obligated to:

- a. report the identity of guests who are staying at the hotel/motel/home stay to the local authority in the neighborhood.;
- b. provide a visitors room or a lobby;
- c. enforce the rule that guests of the hotel/motel/home stay only receives guests in the visitors room;
- d. rule that hotel/motel/home stay are not allowed to receive guests between 10pm and 6am;
- e. provide rules about guest conduct in accordance with this provincial law;
- f. prevent any public immorality offences;
- g. report to the authorized or law enforcement institution any suspected public immorality offence;
- h. provide transportation for staff returning homes after 10pm.

Paragraph 2

The owners of public entertainment and tourist establishments

Section 5

Any owner of a public entertainment or and tourist establishment has an obligation to:

- a. guarantee that no public immorality offences occur in their venues;
- b. announce to the public that public immorality is prohibited in their venues;
- c. provide rules of conduct in accordance with this provincial law;
- d. prevent any public immorality offences;
- e. report to law enforcement institutions any suspected public immorality offences;
- f. provide transportation for staff returning homes after 10pm.

Paragraph 3
Educational institutions

Section 6

Any principal of an educational institution has an obligation to:

- a. maintain public morality in his institution;
- b. announce that public immoralities are an offence;
- c. announce that the educational institution supports the provincial law;
- d. cooperate with parents of the students and the legal enforcement institution if a suspected public immorality has occurred;
- e. prevent any public immorality offences;
- f. report suspected public immorality offences to the law enforcement institutions;
- g. provide transportation for staff returning homes after 10pm.

Paragraph 4
State and private institutions

Section 7

Any officer of a state, private, civil or military institution has an obligation to:

- a. maintain public morality;
- b. announce that public immoralities are an offence;
- c. provide rules of conduct in accordance with this provincial law;
- d. prevent any public immorality offences;
- e. report any suspected public immorality offence to authorized or the law enforcement institution;
- f. provide transportation for staff returning homes after 10pm.

Paragraph 5
Businesses/companies

Section 8

Any owner of a business or company has an obligation to:

- a. maintain public morality;
- b. announce that public immoralities are an offence;
- c. provide rules of conduct in accordance with this provincial law;
- d. not run any business related to public immorality offences;
- e. prevent any public immorality offence;
- f. report any suspected public immorality offence to authorized or law enforcement institutions;
- g. provide transportation for staff returning homes after 10pm.

Paragraph 6
Media

Section 9

Any owner of printed or electronic media has an obligation to:

- a. maintain public morality;
- b. announce that public immoralities are an offence;
- c. provide rules of conduct in accordance with this provincial law;
- d. not publish any form of public immorality;
- e. prevent any public immorality offence;
- f. report any suspected public immorality offence to authorized or legal enforcement institutions;
- g. provide transportation for staff returning homes after 10pm.

Part two
Prohibition

Section 10

- (5) Any person who commits public immorality (*maksiat*) shall be guilty of an offence;
- (6) Any person whose conduct stimulates or triggers another person to commit immoralities shall be guilty of an offence;
- (7) Any female who leaves her house between 10pm and 04am without being accompanied by family members (*muhrim*), and/or she is not on duty or obligated by laws and/or she is not doing any work justified by other legal norms, shall be guilty of an offence;
- (8) Any owner of hotel/motel/inn/guest house who allows any guest to visit outside of visiting times or not in a visiting room (guest room/lobby) or allows anyone to commit immoralities, or provides massage services, or allows men and women who are not married to each other to stay in the same room shall be guilty of an offence.
- (9) Any person working in the above establishments regulated in sections 4, 5, 6, 7, 8, and 9, who allows any person to commit public immorality shall be guilty of an offence.

CHAPTER IV
SUPERVISION AND CONTROL

Section 11

- (1) The governor or other authorized institution regulated under the state law and regulations is obliged to implement provincial law.
- (2) Supervision of the implementation of this provincial law is conducted by the government, law enforcement institutions, parents, *adat* leaders, ulama, scholars, educators and the public.
- (3) The provincial government shall be restricted in controlling activities in relation to public immorality offence that occur in border areas.

- (4) The government shall establish an institution that controls public morality in the villages. Members of this institution should be representative of the local ulama, adat leaders, youth, NGO activists, and the village government. The establishment of this institution is managed by the regional/municipal government.

CHAPTER V ADDITIONAL RULES

Section 12

- (1) Provincial, regional and municipal government and other related institutions have the responsibility to control, prevent and prohibit any person from committing any public immorality.
- (2) Provincial, regional and municipality government and other related institutions have an obligation to censor any news or broadcast content that relates to public immorality offences.
- (3) Provincial, regional and municipality government and other related institutions shall publicize the penalties for committing offences regulated in this provincial law via various printed or electronic media including stickers, billboards, and advertisements.

Section 13

- (1) This provincial law aims to reemphasize the public immorality offences that have been regulated under the national public law.
- (2) Regional and municipal government may determine other public immorality offences that are excluded in this provincial law.

CHAPTER VI PENALTY AND INVESTIGATION

Section 14

- (1) Any person who commits public immorality that has been regulated under the national public law is punished

according to the national public law and, in addition to this penalty, the name of the offender and the offence will be published in three local media. The costs publishing are the responsibility of the offender.

- (2) Any person who commits public immorality that has not been regulated under the national public law will be imprisoned for a maximum six months or fined with a maximum 5 million rupiah. In addition, the name of the offender and the offence will be published in three local media. The costs of publishing are the responsibility of the offender.
- (3) Any person who commits offences under sections 4, 5, 6, 7, 8, and 9 will be imprisoned with a maximum six months or fined to a maximum 5 million rupiah and an administrative penalty.
- (4) Any business owner, principal or other government officer who commits a public immorality offence will be imprisoned for a maximum of one year or fined with a maximum 10 million rupiah, plus an administrative penalty. In addition their business license will be confiscated.
- (5) Any person who protects a place of public immorality or an offender will be imprisoned with a maximum of one year or fined with a maximum 10 million rupiah.
- (6) Any government officers, civil or military, who commit a public immorality offence will be imprisoned with a maximum of one year or fined with a maximum 10 million rupiah, plus an administrative penalty.
- (7) Any offender who has been imprisoned or fined must subsequently participate in a mental rehabilitation program for six months.
- (8) All verdicts must be executed within fifteen days.
- (9) The public immoralities regulated in this provincial law are offences.
- (10) Other public immoralities excluded in subsections 1, 2, 3, and 4 of this section may be punished if they affect and destabilize society.

Section 15

- (1) Besides the public investigator the civil servant investigator at government institutions may investigate the offences ruled in section 14.
- (2) The investigator has the authority to:
 - a. Receive public reports concerning suspected offences;
 - b. Take immediate and necessary action in response to the report;
 - c. Remove the offender from his or her activities and examine the offender's identity;
 - d. Confiscate property or documents belonging to the offender;
 - e. Take fingerprints of the offender;
 - f. Call any person who is a witness or suspect in the investigation;
 - g. Present any expert who has authority related to the case;
 - h. Withdraw the case if the required evidence is not met or if the case is not an offence;
 - i. Take any legal action according to the law.
- (3) The investigator mentioned in subsection (1) of this section must write a report consisting of:
 - a. Investigation of the offender;
 - b. Searching for evidence of the offence;
 - c. Confiscation of evidences;
 - d. Administrative investigation;
 - e. Examination of witnesses;
 - f. Investigation of the location of the offence.
- (4) The investigator mentioned in subsection (1) of this section coordinates with the police concerning with the offence and subsequently pass the case to the public prosecutor in accordance with national law No.8/1981 on the Criminal procedure code.
- (5) An investigation, as ruled under subsection 1, 2 ,3, and 4 of this section, must be conducted within three months, unless the suspect is not under arrest.
- (6) An investigation is legally invalid if it is not conducted according to this law.

BAB VII
FINAL ELUCIDATION

Section 16

- (1) Implementation of this provincial law is the responsibility of the governor of the province of West Sumatra and the Civil Service Police Unit is the law enforcement institution.
- (2) Any revenue from fines regulated under section 14 of this law belongs to the provincial or regional/municipal budget.
- (3) Any consequences of this law are under the concern of the provincial, regional/municipality government.
- (4) Further elucidation of this provincial law is regulated under the governor's decree.

Section 17

- (1) This provincial law comes into effect at the time of promulgation.
- (2) In order gain public acknowledgment, this provincial law shall be noted in the provincial documents of West Sumatra.

Issued in : Padang

Date :

GOVERNOR OF WEST SUMATRA

Appendix 6. The provincial law of West Sumatra No.11/2001 on the prevention and elimination of public immorality

PROVINCIAL LAW OF WEST SUMATRA
NO.11 OF 2001
ON
PREVENTION AND ELIMINATION OF PUBLIC IMMORALITY

WITH THE MERCY OF GOD
GOVERNOR OF WEST SUMATRA PROVINCE

- Considering: a. West Sumatra Province is a region whose society has the social philosophy, *adat* is based on Sharia and Sharia is on the Quran. The norms of this philosophy must be implemented in society;
- b. This philosophy must be implemented through attempts to prevent and eliminate public immorality;
- c. Social immorality disturbs and destabilizes society. There is evidence that such immorality disturbs religious norms, *adat* and other regulations;
- d. In order to obey the social norms, local regulations on the prevention and elimination of social immorality are required.

- Justified by: 1. National Law No.1/1946, on the Criminal Law (announced on 26 February 1946);
2. National law No.61/1958, on Establishment of *Swatantra* West Sumatra, Jambi and Riau provinces and Government regulation No.29 of 1979;
3. National law No.8/1981, on Criminal Procedure code (State paper, 1981, no.76, additional of State Paper No.3209);

4. National law No.23/1992, on Health (State paper, 1992 No. 100, Additional of State Paper No.3495);
5. National Law No.5/1997, on Psychotropic substances (State paper, 1997 No. 10, Additional of State Paper No.3671);
6. National law No.22/1997 on Drugs (State paper, 1997, no. 67, additional of State Paper No. 3698);
7. National law No.24/1997 on Broadcasting;
8. National law No.22/1999 on Local government (State paper, 1999 No. 60, additional of State Paper No. 3839);
9. National law No.40/1999 on Press (State Paper, 1999 no.166, additional of State Paper No.3887);
10. National law No.6/1988, on Coordination of local governments activities (State Paper, 1988, No. 10, Additional State paper No. 3373);
11. Government law No.25/2000, on Government authority and Provincial authority as an autonomous region (State paper, 2000, No. 54, Additional State paper, No. 3952);
12. Presidential decision No.44/1999, on Techniques for arranging regulations, drafts of government regulations, and draft of Presidential decree;
13. Provincial law of West Sumatra Province No.9 of 2000, on General principles of authorities in *nagari*.

Under the Agreement of

THE PROVINCIAL PARLIAMENT

OF WEST SUMATRA PROVINCE

DECIDED TO:

In Agreement with PROVINCIAL LAW OF THE PROVINCE OF WEST
SUMATRA ON PREVENTION AND ELEMINATION OF
PUBLIC IMMORALITY

CHAPTER ONE

GENERAL ELUCIDATIONS

Section 1

The following terms are used in this provincial law:

- a. Region means the province of West Sumatra;
- b. Local government means the government of West Sumatra;
- c. Governor means the governor of West Sumatra;
- d. Public immorality means conducts that may disharmonize the foundations of society and contravene religious and *adat* norms, whether or not they have been regulated in national or local regulations;
- e. Unlawful sexual intercourse means sexual intercourse that is committed by a couple who are not married, whether or not it is committed for pleasure, or under duress, or for the promise of benefits to one of the two. Homosexuality and lesbianism are categorized as unlawful sexual intercourse;
- f. Gambling means all actions aimed at financial benefits and depending solely on luck, or all types of games that use money

or property as a stake, including buying a ticket that aims to gain or win a prize;

- g. Alcohol means any type of drink that contains alcohol or any type of drink that causes inebriation and can damage physical metabolism including the brain.
- h. Drugs and other psychotropic substances mean any kind of drugs or substance, whether or not synthetic or semi-synthetic or derived from plants, which can cause a decrease of human consciousness, feeling of confusion, or for reducing a pain as mentioned in the appendices of law no.5/1997 on Psychotropic substance and law No.22/1997 on Drugs.
- i. Publishing and producing material that can stimulate people's desire to commit public immorality means any acts of publishing and producing pornographic stories, pictures, posters and other form of entertainments that contravene religious and *adat* values.

CHAPTER II

SCOPES AND OBJECTIVES

Section 2

- (1) The scopes of preventing and eliminating of public immorality in this local regulation means all actions and/or activities related to public immorality;
- (2) Actions and/or activities such as those mentioned above means any kind of unlawful sexual intercourse, or an action that is intended to commit unlawful sexual intercourse, gambling,

drinking alcohol, drugs and the publishing or producing of pornographic materials.

- (3) If the above acts and/or activities have been regulated under higher ranking laws and regulations, they remain regulated by those laws and regulations.

Section 3

The objectives of preventing and elimination public immorality are:

- a. To implement the principles and philosophy of *Adat is based on Sharia, Sharia is based on the Quran*;
- b. To protect society from the disturbing effect of public immorality;
- c. To support law enforcement of regulations that concern public immorality;
- d. To improve social participation in preventing and eliminating public immoralities.

Section 4

Detailed rules on the prevention and elimination of public immoralities will be further regulated in regional or municipal law.

CHAPTER III

PREVENTION AND ELIMINATION OF PUBLIC IMMORALITIES

Part One

Unlawful sexual intercourse

Section 5

- (1) Every person who commits unlawful sexual intercourse shall be guilty of an offence;
- (2) Every person who facilitates an unlawful sexual intercourse and also acts that trigger sexual desire as a result of a physical movement and/or not covering parts of the body that religion and *adat* state should be covered shall be guilty of an offence;
- (3) Every person who produces any kind of writings, pictures, and entertainment that triggers sexual desire shall be guilty of an offence.

Section 6

Every person, including military or civil servants, who are involved in protecting or facilitating any kind of unlawful sexual intercourse shall be guilty of an offence.

Part Two

Gambling

Section 7

Every person who allows his property to be used for facilitating gambling or to support gambling activities shall be guilty of an offence.

Section 8

- (1) Every person who commits gambling or is involved in a gambling business shall be guilty of an offence;
- (2) Every person who allows his own business facilities or house to be used as a place of gambling shall be guilty of an offence.

Section 9

- (1) Every person, including military or civil servants, who support gambling activities shall be guilty of an offence;
- (2) Every person who permits or licenses gambling activities shall be guilty of an offence.

Section 10

Any person who lives on the earnings from gambling or participates in gambling for pleasure shall be guilty of an offence.

Part Three

Abuse of alcohol, narcotic and psychotropic substances

Section 11

- (1) Every person has an obligation to prevent the distribution and spread of alcohol, narcotics and psychotropic substances.
- (2) Every person has an obligation to prevent other people from abusing alcohol, narcotics and psychotropic substances.

Section 12

- (1) Every person who blends, produces, stores, sells, distributes and presents alcohol, narcotics or psychotropic substances shall be guilty of an offence;
- (2) Use of alcohol, narcotics and psychotropic substance is meant solely for medical reasons and must be justified and prescribed by a professional physician.

Section 13

- (1) Every person who blends, produces, stores, distributes and sells alcohol, narcotics and psychotropic substances without an official from the authorized institution shall be guilty of an offence.
- (2) Every person who plants any kind of plantations that can be used as ingredients for any type of narcotics, narcotics and psychotropic substances shall be guilty of an offence;

- (3) Every person who licenses other people involves in the abuse of alcohol, narcotics, psychotropic substances shall be guilty of an offence.

Section 14

Every person, including military or civil servants involved in the abuse of alcohol, narcotics and psychotropic substances shall be guilty an offence.

Part Four

Publishing and producing pictures that trigger public immorality

Section 15

Every person who in charge of the state or private institutions, or any person who has business and is involved in publishing, producing, and distributing mass media including printing and electronically producing or storing, pictures, posters that contravene religious or *adat* values and trigger public immorality shall be guilty of an offence.

CHAPTER FOUR
PUBLIC PARTICIPATION

Section 16

- (1) The public has the right and responsibility to participate in preventing public immorality in order to maintain a social order;
- (2) Public participation is proved by reporting suspected public immorality to the authorized institution;
- (3) Every person who catches a suspected offender of public immoralities should report it to an authorized institution;
- (4) Every person who in charge of an authorized institution has an obligation to guarantee the security and protection of a witness that is mentioned in section 16, points 1 and 2.
- (5) Every person has the right to complain about, object to or express their dissatisfaction with the credibility of the authorized institution in protecting a witness.
- (6) A comprehensive regulation on the issue of participation in preventing public immorality will be further regulated in regional or municipal law.

Section 17

Every person has an obligation to participate in preventing and eliminating public immoralities, as follows:

- a. to warn people not to commit public immoralities;

- b. to prevent the abusing of places for public immoralities;
- c. to report suspected offences of public immorality to the government officers in the neighborhood.

Section 18

- (1) The authorized institutions, mentioned in section 17 (c) above, should immediately follow up such as report and pass it to the police department or to other law enforcement institutions.
- (2) The authorized officers who receive the report of the case should follow up the case.
- (3) Any authorized officers who delays or postpones the follow up of a case shall be guilty of an offence.
- (4) Any person who facilitates public immorality shall be guilty of an offence.

Section 19

The authorized institution may provide a reward to any person or institution who has been actively participating in preventing public immoralities.

CHAPTER FIVE

CONTROLLING AND MAINTAINING

Section 20

Local government has the obligation to control and observe all activities relating to the prevention and elimination of public immoralities.

Section 21

The obligations that mentioned in section 20 are focused on:

- a. the prevention and elimination of public immoralities;
- b. protecting the society from the effects of public immoralities;
- c. preventing youth from committing public immoralities.

CHAPTER SIX

PENALTY

Section 22

- (1) Any person who commits offence regulated in chapter three will be charged under the related laws.
- (2) Authorized officers who do not follow up reported may be punished with the administrative punishments regulated under related regulations.

CHAPTER SEVEN
FINAL ELUCIDATION

Section 23

The procedure for the implementation of this provincial law will be further regulated under a Governor's decree.

Section 24

This provincial law is legally valid at the time of the issuance.

In order to implement this provincial law, it must be recorded in the Provincial Government Paper of West Sumatra Province.

Issued in : Padang

Date : 14 November 2001

GOVERNOR OF WEST SUMATRA

ZAINAL BAKAR

Promulgated in: Padang

Date : 14 November 2001

Secretariat of the province West Sumatra,

Signed by

Drs. H. Ali Amran

Provincial Government Paper of West Sumatra, No. 36 of 2001

Appendix 7. The draft of the municipal law of Padang on the control, prohibition and prevention of public immorality

THE DRAFT
MUNICIPAL LAW OF PADANG
NUMBER: YEAR 2001

ON

CONTROL, PROHIBITION AND PREVENTION OF PUBLIC
IMMORALITY

WITH THE MERCY OF THE ONE AND ONLY GOD
MAYOR OF THE MUNICIPALITY OF PADANG

- Considering:
- a. Public immoralities that have been occurring in society are causing social disharmony, disturbed social order and are not in accordance with religious rules, traditions or good conduct. These public immoralities have not yet been covered by the national public law and regulations. Consequently, these immoralities cannot be tackled by the Municipal authorities.
 - b. In order to maintain public morality in a Municipal of Padang, a municipal law aimed at controlling, prohibiting and preventing all forms of public immorality is required.
 - c. In relation to this, and as specified above under letters 'a' and 'b', the issuance of a Municipal law on this subject is required.

Legal basis: 1. National law No.9/1956 on the establishment of autonomous regions in the province of Middle Sumatra (State paper No.20/1956)

- 2. National law No.73/1958 on the implementation of national law No.1/1946 on penal code (State paper No.12/1958, State paper 1660).

3. National law No.8/1981 on criminal procedure code (State paper 76, State paper 3209).
4. National law No.22/1999 on regional autonomy (State paper No.60/1999, State paper 3039).
5. Government regulation No.6/1988 on coordination among local government institutions in the regions (State paper No.10/1988).
6. Presidential decree No.44/1999 on techniques for the preparation of draft government regulations, and presidential decree.
7. Ministerial decree of the Ministry of Judiciary 04.PW-07-03/1984 on the authority of civil servants investigators.
8. Ministerial decree of the Ministry of Home affairs No.4/1997 on civil servants investigation.
9. Municipal law of Padang No.7/2000 on the Municipality grand plan.
10. Decision of the Mayor of Padang No.11/1996 on civil service police unit in following up the decision of the Ministry of Home Affairs No.33/1990.

Under consideration:

Suggestions and recommendations addressed by various elements of society including academics, village elders, learned religious scholars, religious figures, intellectuals, women's organizations, NGOs, legal aid experts, businessmen, government officers and law enforcement officers.

THE MUNICIPAL PARLIAMENT OF PADANG
DECIDES TO

In agreement with: MUNICIPAL LAW ON CONTROL, PROHIBITION
AND
PREVENTION OF PUBLIC IMMORALITY

CHAPTER I
GENERAL ELUCIDATIONS

Section 1

Within these Regional Regulations, the intended meaning of:

1. Region means the Municipality of Padang
2. Regional government means the Government of Padang
3. Head of the Region means Mayor of Padang
4. DPRD means the Municipal Parliament of Padang.
5. Public officer means civil servant tasked to enforce rules of conducts in accordance with the laws and regulations.
6. Public order means a dynamic situation that allows the government and society to undertake activities safely, orderly and peacefully.
7. Public immorality means any conduct that occurs in society that disturbs the peace in society and that is in accordance with religious teachings, traditions and other rules of conduct, but these public immoralities have not yet been ruled as offence under the national public law.
8. Prostitute means a woman who is paid to provide sexual intercourse and aimed to earn a living from this conducts, which is in contradiction with the state laws, religious teachings, adat and the living law in the society.
9. *Lelaki hidung belang* means the local colloquial term used for a man who enjoys sexual intercourse with a prostitute.
10. Middleman means any person who directly or indirectly works to facilitate the opposite sex to commit public immorality, whether or not he receives payment for the service.
11. The month of the Ramadan means the holy month when Muslims are obligated to fast during the hours of daylight.
12. *Kedai kaki lima* means the local colloquial term used to identify a kiosk where food, drink and other products are sold.
13. *Warung nasi* means the local colloquial term used for a restaurant or canteen where food and drink is serviced.

14. Alcoholic beverage means any drink containing with 5 per cent of or more of alcohol.
15. Games, such as video games and Play Stations or other similar products mean games that required payment.
16. Billiards means a game that uses small balls of ivory and a long stick on a square table covered with felt.
17. A billiard house means a place where billiards is played.
18. A music café means a drinking place or other similar type of place where the customers are entertained by music.
19. Guest house means a type of temporary shared accommodation.
20. Hotel means a building or commercial establishment where people pay for lodging, and where other public services, such food and beverage are often available.

CHAPTER II PUBLIC IMMORALITY

Section 2

Public immorality offences in this Municipal law are classified as follows:

1. Any person who commits an offence directly or indirectly:
 - a. Public immorality ruled in Chapter I, Section 1, subsection 7;
 - b. Any conduct that disturbs public order or contravenes either traditional or religious rules of conduct;
 - c. Drink and sell alcoholic beverages in public places;
 - d. Sell food and drink including opening restaurants and food centers, during the day during the month of Ramadan, except in places permitted by the local authorities;
 - e. Producing, distributing, displaying and selling any indecent material that is in contradiction with public morality
2. Abuse of public places, business places or transportation in relation to public immorality offences. These places include:
 - a. Hotel, motel, guest house, public building, student dormitory or similar venues.
 - b. Restaurant, music café, and other drinking venues.
 - c. Billiard house, beauty salon, VCD and Play Station rental venues, massage houses and other places.

- d. Tourist destination, parks, public places and other entertainment venues.
- e. Taxi and other types of transport.
- 3. Any person who becomes a middleman involved in public immoralities, as ruled in Section 2, subsections 1 and 2 above.

CHAPTER III CONTOROL, PROHIBITION AND PREVENTION

Section 3 Part One Control

Based on this Municipal law, Mayor as the Head of the Region has the authority to establish a law enforcement institution that has the authority to enforce the law in respect of:

- 1. Offences of public immorality, both preventative and repressive measures.
- 2. Places or locations where it is permitted to open rice stalls during the month of Ramadan and taking into account the interests of religious tolerance.
- 3. Activities taking places, in billiard houses, music cafes, VCD and Play Station rental venues, massage houses and other places during the month of Ramadan.
- 4. The stipulation in Section 2, subsection 1 (d) and (e) during the month of Ramadan.
- 5. The stipulation in Section 2, subsection 2 to establish the rules of conduct for the owners of these public places.

Section 4 Part two Prohibition

Every person who:

- 1. commits a public immorality offence regulated under chapter 1, section 1, subsection 7 of this Municipal law, or makes any transactions, negotiations or acts as a middleman in connection with public immorality offences, or provides facilities for the

committing of public immorality offences, shall be guilty of an offence;

2. abuses alcoholic beverages in public or public places shall be guilty of an offence;
3. owns, carries, prepares, distributes, controls, receives, stores or trades alcoholic substances without permission shall be guilty of an offence;
4. carries out public immorality offences ruled in section 2, subsection 1 of this municipality law shall be guilty of an offence;
5. conducts public immorality ruled in section 2, subsection 2 of this municipal law shall be guilty of an offence;
6. conducts public immorality ruled in section 2, subsection 3 of this municipal law shall be guilty of an offence;
7. Persuades, invites or forces another person to conduct public immorality in public place shall be guilty of an offence.

Section 5 Part three Prevention

Every person who violates the stipulations of chapter four shall be guilty of a criminal offence.

CHAPTER IV PENALTY

Section 6

1. Every person who commits an offence under section 2 and 4 shall be imprisoned for a maximum 5 months or fined with a maximum 5 million rupiah.
2. Criminal offences stated in section 6 are classified offences.

CHAPTER V STIPULATION FOR INVESTIGATION

Section 7

1. Investigators of public immorality offences are:
 - a. National Police officer
 - b. Civil Servant Investigator of the municipal government.

- c. Other law enforcement institutions that have the authority to carry out an investigation.
- 2. An investigator has the authority to:
 - a. Receive public reports concerning suspected offences;
 - b. Take immediate and necessary action in response to the report;
 - c. Remove the offender from his or her activities and examine the offender's identity;
 - d. Confiscate property or documents belonging to the offender;
 - e. Take fingerprints and photographs of the offender;
 - f. Call any person who is a witness or a suspect for the purpose investigation;
 - g. Present an expert who has the authority related to the case;
 - h. Withdraw the case if the required evidence is not met or if the case is not an offence;
 - i. Take any legal action according to the law.
- 3. An investigator mentioned in subsection 1 of this section must write a report consisting of:
 - a. Detail of the investigation of the offender;
 - b. Detail of the searching for evidence of the offence;
 - c. The confiscation of any evidences;
 - d. Detail of the administrative investigation;
 - e. Detail of the examination of the witnesses;
 - f. Detail of the investigation at the location of the offence.
 - g. Detail of contact with the family or relatives of the offender.
- 4. Investigation outcome as stipulated in section 7, subsection 3 is submitted to the public prosecutor via the investigator of the police officer.

CHAPTER VI FINAL ELUCIDATION

Section 8

- 1. The mayor of the municipality of Padang has the authority to extend public immorality offences that are excluded in this municipal law on the condition that there is consultation the municipal parliament.

2. This municipality law is entitled Control, Prohibition and Prevention of public Immorality.

Section 9

This municipal law takes effect from the date of promulgation and in order for it to be legally acknowledged it shall be recording in the Regional Paper of the municipality Padang.

Issued in : PADANG

Date :

Mayor of the Municipality of Padang

Appendix 8. Zakāt revenue collected by BAZDA in Padang 2006-2011

No.	Months	Years		
		2006	2007	2008
01	January		107,528,712.00	159,314,211.00
02	February		95,540,124.00	166,943,788.00
03	March		105,580,180.00	183,186,101.00
04	April		111,044,749.00	211,707,820.00
05	May		122,912,367.00	193,183,439.00
06	June		166,879,730.00	209,183,459.00
07	July		208,591,176.00	196,829,256.00
08	August		163,086,124.00	163,590,750.00
09	September		140,211,761.00	246,170,987.00
10	October		132,791,779.00	192,929,101.00
11	November		171,135,856.00	170,923,875.00
12	December		142,183,065.00	206,289,615.00
Total amount		885,070,143.00	1,667,485,632.00	2,300,506,534.00

No.	Months	Years		
		2009	2010	2011
01	January	220,232,939.00	822,997,621.00	1,088,877,751.00
02	February	429,957,662.00	1,070,604,851.00	907,639,256.00
03	March	783,640,249.00	951,747,962.84	1,007,722,049.00
04	April	817,152,204.00	820,156,763.00	1,046,828,391.00
05	May	843,419,981.00	898,480,119.00	1,038,706,903.00
06	June	1,571,745,536.00	1,118,258,577.00	1,084,601,669.00
07	July	965,529,585.00	1,432,255,861.00	2,015,288,177.00
08	August	863,913,714.00	875,815,239.00	2,463,494,476.00
09	September	941,254,182.00	1,000,834,511.00	875,295,803.00
10	October	830,073,149.00	839,667,550.00	1,079,786,743.00
11	November	817,307,946.00	903,837,253.00	1,016,444,623.00
12	December	901,875,336.00	1,045,030,771.00	2,035,591,342.00
Total amount		885,070,143.00	10,033,089,718.00	11,779,686,718.84

Sources: BAZDA Annual report 2006-2011