

Establishment of An Academic Papers of Nagari Regulations Regarding Road Maintenance (Study at Nagari Sunua Padang Pariaman)

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Abstrak

Pengabdian kepada masyarakat dalam bentuk sosialisasi, dan penyuluhan hukum pembuatan Peraturan Nagari yang dilaksanakan di Nagari Sunua Kecamatan Nan Sabaris adalah untuk memberikan pengetahuan seputar tata cara pembentukan Peraturan Nagari dalam bentuk Naskah Akademik. Naskah Akademik merupakan naskah hasil penelitian dan/atau kajian hukum yang ditemukan di Nagari Sunua yang terfokus kepada fungsi penyelenggaraan jalan. Kondisi faktual dari fungsi jalan yang ada pada Nagari Sunua tidak digunakan sebagaimana yang fungsinya yang tertuang di dalam Peraturan Pemerintah No. 34 Tahun 2006 tentang Jalan. Terhadap hal ini, diharapkan dengan adanya Naskah Akademik yang merupakan salah satu tahapan pembentukan Peraturan Perundang-Undangan sebagaimana yang tertuang di dalam Pasal 1 angka 11 Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan diharapkan bisa menjadi jalan keluar akan permasalahan fungsi jalan di Nagari Sunua Kecamatan Nan Sabaris Kabupaten Padang Pariaman. Tujuan penelitian ini adalah untuk memberikan pengetahuan seputar tata cara pembentukan Naskah Akademik terkhusus kepada permasalahan yang terjadi pada Nagari Sunua berupa penyelenggaraan jalan, dan dengan adanya Naskah Akademik ini diharapkan bisa menghasilkan suatu produk hukum baru bagi Nagari Sunua dalam bentuk Peraturan Nagari. Dalam penelitian ini menggunakan metode sosialisasi, dan penyuluhan hukum untuk memberikan gambaran tentang Naskah Akademik tentang Penyelenggaraan Jalan. Hasil yang dicapai setelah pengabdian ini adalah meningkatnya pemahaman dan keterampilan dari Aparatur Nagari dan Badan Badan Permusyawaratan Nagari untuk pembuatan Naskah Akademik tentang Penyelenggaraan Jalan.

Abstract

Formation of an Academic Paper on Nagari Regulations Regarding Road Operations (Study at Nagari Sunua Padang Pariaman)



Community service in the form of socialization and legal counseling on the making of Nagari Regulations carried out in Nagari Sunua, Nan Sabaris District, is to provide knowledge about the procedures for forming Nagari Regulations in the form of Academic Papers. Academic Papers are the results of research and/or legal studies found in Nagari Sunua, which focus on the function of road administration. The factual condition of the existing road functions in Nagari Sunua is not used as its function is contained in Government Regulation no. 34 of 2006 concerning Roads. About this, it is hoped that the existence of an Academic Paper, which is one of the stages of the formation of Legislation, as stated in Article 1 number 11 of Law Number 12 of 2011 concerning the Establishment of Legislation, is expected to be a solution to the problem of road function. in Nagari Sunua, Nan Sabaris District, Padang Pariaman Regency. The purpose of this study is to provide knowledge about the procedures for the formation of an Academic Paper, especially regarding the problems that occur in Nagari Sunua in the form of road management. This Academic Paper is expected to produce a newly legal product for Nagari Sunua in the form of a Nagari Regulation. In this study, the socialization and legal counseling method are used to provide an overview of the Academic Papers on Road Operations. The result achieved after this service is an increase in the understanding and skills of the Nagari Apparatus and the Nagari Consultative Body for preparing Academic Papers on Road Operations.



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INTRODUCTION

Based on the constitutional mandate as stated in Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution), the state is responsible for the provision of proper health service facilities and public service facilities. Hal was then embodied by the presence of Law Number 38 of 2004 concerning Roads (Road Law) as experienced the second amendment through Law Number 2 of 2022. As stated in Article 1 paragraph (4) defines a road as a land transportation infrastructure that includes all parts of the road, including connecting buildings, auxiliary buildings and equipment intended for traffic, which are at ground level, above ground level, below ground level, and/or water, as well as above water level, except rail roads, lorry roads, and cable roads.

Based on Government Regulation Number 34 of 2006 concerning Roads. That the Government and/or Local Governments as public road operators are obliged to workso that roads can be used as much as possible for the prosperity of the people, especially to increase national economic growth, by striving to keep the general cost of travel as low as possible. The implementation of public roads must push towards the realization of inter-regional balance. Furthermore, in an effort to realize balanced distribution services, public road operators must pay attention to the fact that roads are a unified road network system.



As one of the infrastructures in the transportation system, it is necessary to strive so that the road can serve smoothly the flow of distribution of goods or services starting from the source / origin location and continuously until the final consumer, including transportation services as an inseparable part. Gangguan or the uninterrupted flow of goods/services on one of the road sections, will also result in disruption of distribution services.

However, the function of the road as stated in the Road Law and PP No. 34 of 2006 is not in accordance with the factual conditions that occur in Nagari Sunua. Along with the development of society, more and more people are also using roads in various fields. Many times, the main road is utilized far beyond its main function. The function of the road that is supposed to promote the welfare of the public is often used by the community for their personal interests, and often even the use of public roads can cause harm to the interests of others. In the case of conducting road maintenance, it is often found that diversions are caused by people who use the road body or shoulder of the road to set up stages and/or tents to carry out events such as weddings or other events. This then caused unrest in the local community, due to the obstruction of community mobility.

Based on Law Number 38 of 2004, the main function of roads is for the benefit of general traffic. Then Article 28 of Law Number 22 of 2009 concerning Road Transport Traffic confirms that everyone is prohibited from committing acts that result in damage and/or disruption of road function. Although roads are intended for the public interest, people who use roads as the main infrastructure for transportation must of course remain orderly and not bring harm to others in the use of roads. Article 1 number 4 of Law Number 2 of 2022 concerning Roads states that road implementation is an activity that includes road regulation, construction, construction, and supervision.

In the current era of regional autonomy, villages are given broader authority in regulating and taking care of the interests of the community. As in Article 1 number 7 of Law Number 6 of 2014 concerning Villages, accommodating village regulations as laws and regulations set by the Village Head after being discussed and agreed upon with the Village Consultative Body. According to the head of the law, Bagir Manan, he stated that regional regulations are the name of regional level laws and regulations determined by regional heads with the approval of the Regional People's Representative Council. The authority of local governments to form regional regulations is one of the characteristics that shows that the regional level government is an autonomous government unit, berhak regulates and takes care of its own regional households (Manan, 1992). In this context, a number of Village Regulations must be made to streamline the implementation of this authority (Sunarno, 2006). In making regulations that have a p context in one nagari, a Nagari Regulation (Pernag) is needed. The Nagari Regulation itself is a Legislation established by the Wali Nagari after being discussed and agreed upon with the Nagari Consultative Body (Bamus). Nagari Regulations can be established after the establishment of the Nagari Regulation Formation Program (Propemperda) which is a planning



instrument for the formation of Nagari Regulations which is prepared in a planned, directed, integrated and systematic manner.

In terms of drafting the Pernag, there are several factors that make it difficult for the Nagari Government to make, one of which is that due to the limited ability and understanding possessed by the Nagari Apparatus and Bamus Nagari, the need for the Pernag cannot be realized as soon as possible. This is because the Nagari Apparatus and Bamus Nagari do not have the ability in the field of *legal drafting* nor do they have any special government units serving in that area at the Nagari level. This condition makes nagari in carrying out legal products very dependent on assistance and direction from the higher legal part of the government (Iswari et al., 2019).

Based on Article 1 number 1 of Law Number 15 of 2019 concerning Amendments to Law Nomor 12 of 2011 concerning the Establishment of Laws and Regulations, the formation of laws and regulations is the making of laws and regulations that include the stages of planning, drafting, discussing, ratifying or determining, and inviting an. Where in this case, the first and main thing that must be done before enacting a law is to make an Academic Manuscript.

According to Article 1 number 11 of Law Number 15 of 2019 concerning Amendments to Law Nomor 12 of 2011 concerning the Establishment of Laws and Regulations, what is meant by Academic Manuscripts is manuscripts resulting from research or legal studies and other research results on a particular problem that can be accounted for a scientific regulation of problems in a draft law, a draft provincial regulation, or a draft district/city regulation as a solution to the problems and legal needs of the community.

In the process of drafting and discussing the Nagari Regulation on Road Administration, it is due to the limited ability of the Nagari Government to draft the Pernag text. So it is necessary to make an academic manuscript that is expected to be a guide and reference in designing a peraturan that will further regulate the Implementation of the Road. The description above shows that this community service is very important to be carried out in Nagari Sunua, Padang Pariaman where the creation of academic manuscripts that can be strengthened from philosophical, sociological and also juridical aspects that will direct and provide a concept of how the content material will be included in the Nagari Draft Regulations to be formed.

METHOD OF EXECUTION

Community service is part of academics' efforts to apply their knowledge in order to bring benefits to the community. The method used in this service is socialization and legal counseling (Sukohar et al., 2015). Socialization of menurut big dictionary Indonesian, is an attempt to popularize something so that it becomes known, understood, lived by society. Legal socialization (Luthfi et al., 2021) is given with the aim of growing and



improving people's legal knowledge through the preparation of Academic Manuscripts on Road Implementation.

Legal counseling is one of the activities that aims to disseminate information and provide understanding to the public regarding legal norms and applicable laws and regulations. Legal counseling has one of the functions, namely the preventive function, the corrective function, the maintenance function, and the development function (Sudjana, 2017)

Community service from the Faculty of Law of Andalas University in the form of Legal Socialization and Counseling held in Nagari Sunua, Nan Sabaris District, Padang Pariaman Regency on Thursday, August 25, 2022 to Friday, August 26, 2022, took place at the Nagari Sunua Guardian Office which was attended by (35) participants consisting of Nagari Apparatus, Wali Korong, Nagari Consultative Body and Andalas University Students.

Table 1. Schedule of Academic Manuscript Socialization Activities Thursday, August 25, 2022

No.	Time	Activities	Person in Charge
1.	09.00 - 09.30	Registration	Committee
2.	09.30 - 09.35	Opening by MC	Ibn
3.	09.35 - 09.40	Recitation of the Holy Verses of the Koran	Asrul
4.	09.45 - 09.50	Singing the Song Indonesia Raya	All Participants
5.	09.50 - 10.00	Remarks by the Chairman of the Department of State Administrative Law of Andalas University	Gusminarti, S.H., M.H.
6.	10.00 - 10.10	Remarks by Wali Nagari Sunua	Efrizal
7.	10.10 - 11.00	Material Submission	Gusminarti, S.H., M.H.
8.	11.00 - 11.50	Q&A Session	Participants and Committees
9.	11.50	Cover	Ibn

Table 2. Schedule of Academic Manuscript Counseling Activities Friday, August 26, 2022

No.	Time	Activities	Person in Charge
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1.	09.00 – 09.30	Registration	Committee
2.	09.30 – 09.35	Opening by MC	Ibn
3.	09.35 – 10.15	Material Presentation	Students of the Faculty of Law of Andalas University
4.	10.15 – 10.40	Q&A Session	Participants
5.	10.40	Cover	Ibn

RESULTS AND DISCUSSION

The Function of the Road in Social Life

Law Number 38 of 2004 concerning Roads confirms that roads in accordance with their designation consist of public roads and special roads. A public road is a road designated for public traffic (Undang-Undang (UU) Nomor 2 Tahun 2022 Perubahan Kedua Atas Undang-Undang Nomor 38 Tahun 2004 Tentang Jalan, n.d.). Meanwhile, a special road is a road built by agencies, business entities, individuals, or community groups for their own interests.

Basically in the Law on Roads and the Law on Road Traffic and Transport specifies that the main function of the road is intended for traffic activities. However, in the Law on Road Traffic and Transport, there is a provision regarding dispensation or activities that are allowed against the use of roads other than for traffic activities. This is regulated in Article 127, as follows:

- a. The use of roads for the implementation of activities outside their functions can be carried out on national roads, provincial roads, regency/city roads, and village roads.
- b. The use of national roads and provincial roads as referred to in paragraph (1) may be permitted in the public interest of a national nature.
- c. The use of district/city roads and village roads as referred to in paragraph (1) may be permitted for public interests of a national nature, daerah, and/or personal interests

As for what is meant by "organizing activities outside its function (road function)", among others:

- a. religious activities;
- b. state activities;
- c. sports activities; and/or
- d. cultural activities.



Meanwhile, what is meant by "personal interest", among others, is for marriage parties, death, or other activities (Explanation of Article 127). Under Section 127 of the Law on Road Traffic and Transport, the use of the road for the maintenance of roads outside the main function of the road other than for traffic activities may be permitted. The permitted activities as mentioned in the Act are forms of community activities by the community, including:

- a. customs activities;
- b. religious activities;
- c. sports activities; and/or
- d. cultural activities.

This includes the use of the road for activities or personal interests, among other things, for weddings, deaths, or other activities. However, the use of roads other than For traffic, namely for community activities including for personal interests, can be granted with the prerequisite of permission. So the context of the use of the road in this case is through the permits granted by the authorized appointee. As stated in Article 128 paragraph (3) that: Road use permits as referred to in Article 127 paragraphs (2) and (3) are granted by the National Police of the Republic of Indonesia.

The Urgency of Nagari Regulation In The Dynamics Of Nagari Law

Juridically, the Nagari Government is nomenclaturely not rigidly regulated in Law Number 6 of 2014 concerning Villages, but if we look comprehensively in the general provisions of the West Sumatra Regional Regulation Number 8 Tahun 2021 concerning Community Empowerment and Nagari Government precisely in article 1 number 6 states that:

"Nagari or Village hereinafter referred to as Nagari or other designations is the unity of a legal community and an indigenous law community that hasb over the territory authorized to regulate and manage government affairs, the interests of local communities based on community initiatives, rights of origin, and/or traditional rights that are recognized and respected in the system of Government of the Unitary State of Republik Indonesia."

This provision seems to give legitimacy to the Nagari Government in nomenclature to equate its arrangements with Village Government as stipulated in Law Number 6 of 2014 concerning Villages. It is therefore a logical consequence that the legal products issued by the nagari government are hierarchically equated with the legal products issued by the villages.

If we refer to the general explanation number 7 of Law No. 6 of 2014 concerning Dinyatak Village, the determination of Village Regulations/Nagari Regulations/Nagari Regulations is an elaboration of the various authorities that villages have referring to the provisions of higher laws and regulations. Thus, the content of the Village Regulation / Peraturan Nagari consists of:

- a. elaboration of the various authorities that the village has; and
- b. refers to higher legislation.

In line with this, in principle the delegation of authority in the formation of laws and regulations can be divided into 2 (two) forms, namely:

- a. Delegation of delegate authority; and
- b. Delegation of attribution authority.

Delegation of authority is the delegation of authority to form laws and regulations granted by higher laws and regulations to similar or lower laws and regulations, whether the delegation is expressly stated or not. Meanwhile, the delegation of attribution authority is the granting of authority to form a Statutory Regulation granted by the Basic Law or Law to a State / Government Institution.

Systematics of Nagari Regulation Drafting

As a political product, based on Law Number 6 of 2014 concerning Villages, the Village Regulation / Nagari Regulation / Nagari Regulation Determined by the Village Head after being discussed and agreed upon with the Village Consultative Body is a legal and policy framework in the implementation of Village Government and Village Development. Des a Regulations/Nagari Regulations/Nagari Regulations are processed in a democratic and participatory manner, i.e. the drafting process involves the participation of the Village community. Village Communities have the right to propose or provide input to the Village Head and Village Consultative Body in the process of drafting Village Regulations/Nagari Regulations. By referring to the principle of openness in the formation of laws and regulations (Article 5 of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations) then all levels of society have the widest opportunity to provide input in the process of forming laws and regulations. In article 1 number 1 of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations, it is stated that the enforcement of laws and regulations is the making of laws and regulations that include the stages of planning, drafting, discussing, ratifying or determining and promulgating.

The quality of the material of a law is an inseparable part of the process of forming a law. Understanding quality is how it can be anticipated the possibility of a law being forced to be revised in the short term, long or sustainable prevailing power, synergy with other laws and regulations, and synchronization between norms in the law itself (Yuliandri, 2011). According to Adolf Merlk, that a legal norm is sourced to the norm above it, but under it it must also be the basis and source of law under it again which causes a legal norm to have a relative validity period due to the validity period of the legal norm above it (Farida, 2002).

In the process of preparing a law there is a stage that becomes an urgency and crucial to be carried out, namely preparing an academic manuscript which is the stepping stone of a draft law. Juridically, Law Number 12 of 2011 concerning Laws and Regulations provides a definition of the Academic Manuscript in Article 1 number 11 which reads:

"Academic manuscripts are manuscripts resulting from research or legal studies and other research results on a particular problem, which can be scientifically accounted for regarding



the regulation of the problem. Academic manuscripts are used as a solution to the problems and legal needs of the community, as well as a prerequisite for drafting a bill, a draft provincial regulation, or a draft district or city regulation."

In terms of implementation, the academic manuscript will be a material for dissemination to the public about the content and politics of the law that will be carried by the law being drafted. This has also become crucial since the second amendment of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations to Law Number 13 of 2022 which adds the phrase "*Meaningfull Participation*" which requires public participation to be listened to and followed up on concerns in establishing a law.

For this reason, it is necessary to plan the formation of laws and regulations through the preparation of Academic Manuscripts in the context of forming good and sustainable laws and regulations. According to Yuliandri, an undang-law can be said to be of good quality and has sustainable characteristics, which can be judged from the point of view of success in achieving its goals, implementation, and law enforcement.

The existence of academic manuscripts is also an application of the principle of conformity between the type and material of content in the formation of laws and regulations, because in the preparation of academic manuscripts must really pay attention to the exact content material that will be regulated by the laws and regulations to be formed. Furthermore, academic manuscripts must also describe the principle of enforceability. Every formation of laws and regulations must pay attention to the effectiveness of these laws and regulations in society, both philosophically, sociologically, and jurisprudence. It cannot be ignored, through academic texts, we can see the application of the principles of usefulness and usefulness. Laws and regulations are certainly made because they are really needed and are expected to provide benefits in regulating the lives of the community, nation, and state.

In line with what has been stated above, the importance of academic manuscripts in the process of forming or preparing a law includes, among others, that academic manuscripts are a real condition for community participation in the process of forming or drafting laws and regulations and even the initiative for the preparation or formation of academic manuscripts can come from the community. Thus, the Academic Manuscript will explain the reasons, facts of fact or background of the problem or affair so that the thing that encourages the preparation of a problem or affair so that it is very important and urgent is regulated in a law and regulation. The aspects to be considered are aspect ideological, political, cultural, social, economic, defense and security. The benefit is being able to know for sure about why it is necessary to make a law and whether the legislation is indeed disputed by the community.



Figure 1. Material Delivery Activities by Gusminarti



Figure 2. Group Photo with Legal Socialization Participants

Implications of Making Academic Manuscripts in the Preparation of Nagari Regulations on the Implementation of Nagari Sunua Road

Roads are a very strategic means of transportation in smoothing the wheels of the economy, strengthening unity and unity and affecting all aspects of people's lives. The importance of road transportation is reflected in the increasing need for services for the mobility of people and goods throughout the region. In addition, roads as transportation act as a support, driver and driver for regional growth in an effort to increase and equalize



development and its results. The main function of the road is intended for traffic activities. So that the use of roads is actually intended as one of the infrastructures a transportation that has an important role in efforts to develop the life of the nation and state, as well as the infrastructure for the distribution of goods and services that are used for the greatest prosperity of the people. Within this framework, roads have a role to play in realizing development goals such as equitable development and its results, economic growth, and the realization of social justice for all Indonesians. But in reality, the paths used for civic activities that are the embodiment of the culture and customs that live and develop in society, as well as include in this case religious activities.

In the Sunua Induk area, the use of public roads is not only for traffic and road transport activities, but is also used for the implementation of community activities. However, these community activities sometimes often hinder the implementation of the proper function of the road which is actually intended as a means of transportation for traffic. Adapun Community activities in the main sunua area which in its implementation often use the road, among others are activities related to customs, culture, religious activities, and / or activities of a personal nature, namely perkawinan parties.

So important is the meaning of this marriage, that its execution is always and so on accompanied by various ceremonies complete with the like. This all seems to be superstitious, but in fact this is still very disturbing to the beliefs of most Indonesians. Therefore, it is still carried out in many places of residence of Indonesian customary law communities (Dewi, 2010). The ceremony before the wedding includes marambah jalan, maminang consists of bakampuang-kampuang, maminang calon minantu, memasak siriah, and conveys the purpose and purpose. The marriage ceremony includes the preparation of the "baralek", which consists of the execution of the marriage contract and the reception. The ceremony after the wedding in Minangkabau covers manjalang to the in-laws' house and congratulatory prayers are carried out according to their respective customary methods (Fazira, 2017).

Based on the aforementioned conditions and problems, in an effort to optimize the use of roads according to their designation, the Nagari Government as a road operator in accordance with its authority needs to regulate, develop, and supervise the use of roads for the implementation of community activities in the Sunua Induk area through Regulation Nagari on road implementation which is the focal point of this research.

To achieve a nagari regulation that is in accordance with the systematics of the laws and regulations that have been stipulated by law, it is necessary to prepare the academic manuscript first. nature of the process of drafting and discussing the Nagari Regulations on Road Administration, this Academic Manuscript is expected to be a guide and reference in designing regulations that will further regulate the Running of the Road. It is hoped that this Academic Manuscript can be a reinforcement of philosophical, sociological and also juridical aspects that will direct and provide a concept of how the content material will be included in the Nagari Draft Regulations which will be formed

This Academic Paper is expected to be the basis and guideline for making a regulation in the form of a Nagari Regulation on Road Implementation, as well as to assist the Nagari Sunua Government in overcoming problems related to Road Implementation for community activities.



Figure 3. Legal Counseling Academic Manuscripts by Students of the Faculty of Law of Andalas University





Figure 4. Submission of Legal Counseling Results in the Form of Academic Manuscripts on Road Implementation

CONCLUSION

West Sumatra Regional Regulation Number 8 of 2021 concerning Community Empowerment and the Nagari Government gives authority to each nagari to regulate and take care of the interests of its community. This later became the cornerstone in the establishment of nagari regulations in Nagari Sunua. The use of roads that are not optimal in accordance with their functions has become a public unrest. The establishment of tents for events that use part of the road body has disrupted people's mobility. In fact, the implementation of events that use part of the road body is not prohibited, it is just that administrative permission is required for the use of the road body for personal use. The nagari arrangement then became one of the fitting solusi to create order in the permit for the use of the road body for personal gain.

The creation of a structured and complete regulation requires the creation of an academic manuscript as a basis for the formation of nagari regulations. The nagari sunua government can then form a nagari regulation based on the academic text that has been prepared. As raw material, this academic manuscript can then become a medium for the public to participate in its preparation. The public can express their opinions and voices in the formation of this academic manuscript so that things that are troubling to the community can be accommodated in this academic manuscript.

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