

Sharia-based Custom and the Politics of Religious Freedom in Contemporary West Sumatra, Indonesia

Zulfan Taufik

State Islamic University (UIN) Sjech M. Djamil Djambek Bukittinggi, Indonesia

Email: zulfantauфик@uinbukittinggi.ac.id

Abstract

Strengthening religious identity politics can be identified as one of the main factors contributing to the decline in religious freedom in Indonesia. While religious identity politics may serve to mobilize certain groups or advance specific agendas, its escalation often comes at the expense of religious freedom and social harmony. Against Indonesia's pluralistic society and decentralized governance system, West Sumatra stands out for its unique blend of Islamic tradition and local adat (customary law), which often challenge the state's legal framework and constitutional guarantees of religious freedom. This article aims to analyze the impact of Sharia-based custom (ABS-SBK)-based identity politics on religious freedom in West Sumatra, focusing on government and social regulations. This study is based on data from interviews, documentation, and analysis of media reports and coverage related to freedom of religion or belief (FoRB) in West Sumatra, as well as a guidebook for the practice of ABS-SBK issued by the Provincial Government of West Sumatra. This article shows that identity politics based on Sharia and local customs has caused many violations of the freedom of religion or belief of minority groups in West Sumatra. In government regulation, local governments have actively enforced mainstream religious and cultural norms and limited expressions and ideas considered contrary to the mainstream. As for the aspect of social regulation, religion-based identity politics is an effective tool for majority groups in limiting the religious freedom of minority groups.

Keywords: Identity Politics, Religious Freedom, West Sumatra, Sharia-based Custom, Religious Nationalism

I. INTRODUCTION

Violations of the right to freedom of religion or belief (FoRB) are on the rise globally, both as a result of governmental limitations on religion and social conflicts surrounding religion, particularly towards religious minorities.¹ The 771 religious minorities spread across 183 states have been observed globally, shedding light on the various forms of discrimination that these groups face. For example, some of their members have been

¹ *A Closer Look at How Religious Restrictions Have Risen Around the World*, by Pew Research Center (2019).

forced to convert to a different religion; their religious expression is constantly viewed with suspicion and actively resisted by state and non-state actors; and in some instances, their personas are regularly criminalized and prosecuted under blasphemy laws.² This variety of discrimination against minorities shows the shrinking of civic space, which has an impact on civil liberties, especially religious freedom.³

In Indonesia, the end of Suharto's regime (New Order Era) has significantly impacted the understanding of religious freedom and how the state and religion interact. Previous studies have noted the trend of countries increasingly accommodating to the demands of the majority religion, frequently neglecting the needs of the minority religion.⁴ Other studies have described how changes in society and politics following the overthrow of Suharto resulted in a rise in the mingling of state and religion. The rights of Indonesia's religious minorities are in danger due to these circumstances.⁵ More specifically, a study by Sumaktoyo shows that there has not been much of a change in Indonesia's level of governmental discrimination against religious minorities since 1998. On the other hand, there has been a notable rise in the state's religious legislation and social discrimination levels. This suggests that addressing the spread of religious regulations and discrimination by social groups should be the primary goal of measures to enhance Indonesia's religious freedom.⁶

As for the context of West Sumatra, one of the factors considered to have triggered the wretched life of religious freedom is the strengthening of Sharia-based custom identity politics through the use of the Minangkabau aphorism: *adat basandi syarak, syarak basandi kitabullah* (ABS-SBK/custom based upon Sharia, Sharia is based upon the Holy Book—the Qur'an). Despite adhering to custom (*adat*) norms, the Minangkabau society in West Sumatra is recognized in Indonesia as an Islamic society. It should come as no surprise that this region is recognized for enforcing the highest number of Sharia-based regional laws in Indonesia.⁷ With cries to "return to the *Surau*" and "return to the *Nagari*," the collapse of the New Order signaled a new era in the Minangkabau society's identity. Eventually, it led to the establishment of regional

2 J Fox, *Thou Shalt Have No Other Gods Before Me: Why Governments Discriminate Against Religious Minorities* (Cambridge: Cambridge University Press, 2020).

3 Hurriyah, "Asserting Civic Space of Micro Religious Minorities: Evidence from Indonesia" (2023) 15:2 *Asian Polit Policy* 185-204.

4 Zainal Abidin Bagir, "Advocacy for Religious Freedom in Democratizing Indonesia" (2014) 12:4 *Rev Faith Int Aff* 27-39; Paul Marshall, "The Ambiguities of Religious Freedom in Indonesia" (2018) 16:1 *Rev Faith Int Aff* 85-96; Robert W Hefner, "Islam and Institutional Religious Freedom in Indonesia" (2021) 12:6 *Religions* 1-20.

5 Marcus Mietzner & Burhanuddin Muhtadi, "Explaining the 2016 Islamist Mobilisation in Indonesia: Religious Intolerance, Militant Groups and the Politics of Accommodation" (2018) 42:3 *Asian Stud Rev* 479-497; Hurriyah, "Dynamics of Shrinking Religious Freedom in Post-Reformasi Indonesia" (2020) 4:2 *J Southeast Asian Hum Rights* 335-356.

6 Nathanael Gratias Sumaktoyo, "A Price for Democracy? Religious Legislation and Religious Discrimination in Post-Soeharto Indonesia" (2020) 56:1 *Bull Indones Econ Stud* 23-42.

7 Melissa Crouch, "Religious Regulations in Indonesia: Failing Vulnerable Groups" (2009) 43:2 *Rev Indones Malays Aff* 53-103.

autonomy. This moment affected the establishment of local legislation based on Sharia (Islamic law) and forced West Sumatra to base its autonomy on the ABS-SBK values.⁸

In the context of human rights, especially religious freedom, the implementation of Sharia in state policy is a threat to minority groups. Due to their non-mainstream religious practices or accusations of inciting strife among religious believers, certain members of the Islamic religious minority face persecution and incarceration from public courts. The majority of the time, those who commit acts of violence against these communities are given low sentences or are not imprisoned at all. Particular local administrations are also accused of working with extremist religious organizations to impose restrictions on Muslim religious minorities. The fact that the local government is legally permitted to maintain and defend social and religious harmony among religious believers is one factor that frequently contributes.⁹ Religious minorities no longer have the right to proper living conditions, peaceful worship, and freedom of religion in many areas where Sharia laws have been put into place. Because of Sharia regulations, non-Muslims may be treated as second-class citizens.¹⁰

There should still be a connection between Islam and the state, especially in terms of morality and ethical standards. However, to prevent the state from abusing its citizens by assuming excessive authority, it must maintain its neutrality and be held accountable.¹¹ More specifically, using religion as a foundation for a state's logical policy framework—particularly concerning upholding and safeguarding human rights—will promote advancing those rights inside that state. It is important to note, though, that the foundation of rational state policy need not be legally institutionalized. Islamic history as a whole has demonstrated that when religion is articulated in state policy, there will be an exclusive right to truth under the pretext of religious authority.¹² More firmly, Abdullahi Ahmed An-Na'im said, "Sharia principles by their nature and function defy any possibility of enforcement by the state, claiming to enforce Sharia principles as state law is a logical contradiction that cannot be rectified through repeated efforts under any conditions."¹³

Based on the above phenomena, this article, firstly, intends to discuss a general overview of the impact of religious nationalism on religious freedom, especially for religious minority groups. Secondly, it will discuss the use of ABS-SBK by the

8 Yasrul Huda, *Contesting Sharia: State Law, Decentralization and Minangkabau Custom* (Leiden University, 2013) [unpublished]; Delmus Purni Salim, "Islam, Politics and Identity in West Sumatera" (2013) 7:1 *J Indones Islam* 96-118.

9 Al Khanif, *Religious Minorities, Islam and the Law* (New York: Routledge, 2021) at 7-8.

10 Ahmad Fuad Fanani, "Shari'ah Bylaws in Indonesia and their Implication for Religious Minorities" (2011) 5:1 *J Indones Islam* 17-34.

11 David L Johnston, "Islam and Human Rights: A Growing Rapprochement?" (2015) 74:1 *Am J Econ Sociol* 113-148.

12 Fariz Ulul Abshar et al, "Islam and Human Rights: Friend or Foe?" (2021) 15:2 *Addin* 229.

13 Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (London: Harvard University Press, 2008) at 2.

Minangkabau elite as a base for carrying out identity politics in West Sumatra. Thirdly, it will analyze the impact of ABS-SBK-based identity politics on religious freedom in West Sumatra, manifested in government and social regulations. This article argues that identity politics based on Sharia and local customs has caused many violations of the freedom of religion or belief of minority groups in West Sumatra committed by state and community actors. This study is based on data from interviews, documentation, and analysis of media reports and coverage related to freedom of religion or belief in West Sumatra, as well as a guidebook for the practice of ABS-SBK issued by the Provincial Government of West Sumatra.

II. THE TENSION OF RELIGIOUS FREEDOM AND RELIGIOUS NATIONALISM

Religious freedom, also known as freedom of religion or belief (FoRB), is fundamental to human rights, allowing individuals to practice, express, and manifest their religion or belief without interference or coercion from the government, authorities, or others.¹⁴ The fundamental tenet of religious freedom is the acceptance and unrestricted practice of any religion. It implies that every citizen has the freedom to practice their religion, engage in religious fellowship, and evangelize and disseminate their faith. Religious freedom also acknowledges citizens' right to abstain from religious institutions and not to worship.¹⁵ Every religious community or group is free to practice their religion, another aspect of religious freedom. It means that the government cannot restrict one's freedom to follow one's faith.¹⁶

Religious freedom is enshrined in various international human rights instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). It is also protected by many national constitutions and laws around the world. Subject to treaty protection, the right is considered "the oldest of the internationally recognized human rights," which originated in the Peace of Westphalia in 1648. Currently, a cornerstone of international human rights legislation is the right to freedom of conscience, religion, and thought—a broader notion than religious freedom. It is clearly stated in Article 18 of the UDHR, which includes internal freedoms (*forum internum*) and external freedoms (*forum externum*).¹⁷ Internal freedoms include the right to choose a religion and change religions. External freedom includes the right to manifest religion or belief, such as teaching, practice, worship, and obedience.¹⁸

14 Göran Gunner, "Freedom of Religion and Religious Pluralism" (2023) *Freedom Relig Relig Plur.*

15 P A Marshal, *Religious Freedom in the World* (New York: Rowman & Littlefield Publishers, Inc, 2000) at 8.

16 Jonathan Fox, "What is religious freedom and who has it?" (2021) 68:3 *Soc Compass* 321-341.

17 Al Khanif, *supra* note 9 at 27-28.

18 James E Wood Jr, "Religious Human Rights and a Democratic State" (2004) 46:2 *J Church State* 739-765.

At the level of Indonesia's national domestic regulations, guarantees for FoRB have also been regulated through several articles in the 1945 Constitution, the 1999 Human Rights Law, and the Law on the Ratification of the ICCPR. Four amendments were made to the Constitution after the Suharto government fell in 1998. The second amendment added a chapter on human rights to the document. Many of the rights found in international human rights treaties, like the ICCPR, are reflected in this chapter. This chapter affirms the freedom of religion and belief, as stated in Article 28E, which states that "everyone has the right to freedom of belief... and that every person is free to adopt a religion and worship according to his or her religion." The Constitution and its derivatives explicitly mention the guarantee of religious freedom, but they also explicitly mention limitations. According to the Constitution, laws may impose restrictions to meet legitimate demands based on morality, religious beliefs, security, and public order in a democratic society. The addition of Article 28J (2) of the Constitution as a result of the Second Amendment also outlines legal obligations that are utilized to limit religious freedom, especially for followers of minority religions. The argument is that every individual has the responsibility to accept the restrictions set by law when exercising their rights and freedoms to ensure recognition and respect for the rights and freedoms of others and to fulfill fair demands by moral considerations, religious values,¹⁹ security, and public order in a democratic society.

However, in actuality, Indonesia's limits on religious freedom frequently go far beyond those outlined in the ICCPR. Most academic works have also pointed to a worldwide trend in which governments impose different political and legal limitations on religious freedom. Law No. 1/PNPS/1965 has become a pretext for restricting the freedoms and actions of indigenous peoples and minority groups, and it is unacceptable to allow the limitation of freedom of religion or belief. It creates opportunities for the recognition of only six religions, which leads to the violation of economic, social, and political rights for people who follow other religions or beliefs and those who do not practice any religion. This law also implies that only adherents of officially recognized religions are protected by laws and policies safeguarding freedom of religion or belief.²⁰

In addition, from a human rights perspective, the concept of "religious blasphemy" first introduced in Law no. 1/PNPS/1965 and further defined in Article 156a of the Criminal Code is controversial. Hasani and Halili even said that the religious blasphemy law is the antithesis of human rights, especially in light of the freedom of speech and opinion in the framework of the state administration of Indonesia, which is founded on

19 Limiting freedoms or rights based on religious values is a phenomenon that has not been going on for very long in Indonesia but has become stronger over time. Zainal Abidin Bagir et al, *Membatasi Tanpa Melanggar Hak Kebebasan Beragama atau Berkeyakinan* (Yogyakarta: Center for Religious and Cross-cultural Studies (CRCS), 2019) at 74.

20 Nicola Colbran, "Realities and Challenges in Realising Freedom of Religion or Belief in Indonesia" (2010) 14:5 Int J Hum Rights 678-704.

Pancasila, not just one specific religion, but on the rule of law.²¹ Religious minorities in Indonesia are placed in a precarious situation because of the inherent human rights violations and political objectives that can politicize the country's religious blasphemy law. Because just six religions—Islam, Protestantism, Catholicism, Buddhism, Hinduism, and Confucianism—are specifically named and protected under the Blasphemy Law, many people mistakenly believe that Indonesia only acknowledges these six faiths.²² A conviction for breaking the law carries a maximum five-year jail sentence. One of the prominent cases in West Sumatra that has attracted the attention of the wider community is the case of Alexander Aan, a civil servant from Dharmasraya Regency who claims to be an atheist. He was sentenced to two years and six months in prison and 100 million rupiah on charges of spreading hatred against a religion via the social media network Facebook.²³

A number of studies highlight the growth of conservative religious beliefs as a major factor behind the decline in religious freedom. For instance, according to Hamayotsu, the rise in religious-conservative actors' influence over religious discourse and ability to simultaneously influence governmental policies is linked to the decrease in religious freedom in Indonesia.²⁴ While Hamayotsu's argument focuses on the current issue of Indonesian democracy, other studies look more closely at the influence of the *Pancasila* that has defined Indonesia as a religious monotheistic country. *Pancasila* is the name of the official philosophy and national ideology of the state of Indonesia. This compound phrase translates to "five principles" from the old Javanese words *panca* and *sila*. The state can use this ideology's instruments to compel non-theistic, polytheistic, and non-monotheistic religions to change their theological tenets in order to gain official status or recognition. For instance, *Ketuhanan yang Maha Esa*, or the Belief in One Almighty God, is the first pillar of *Pancasila*. It not only declares Indonesia a religious state but also explicitly defines it as a monotheistic state. When referring to religious minorities, this term leaves out religions that do not fit into the classification of monotheistic religions, such as Buddhism, commonly perceived as a non-theistic religion, and Hinduism, frequently perceived as a polytheistic religion.²⁵

Another study by Bouchier looked at how ideology has changed in Indonesia over the last 20 years and discovered that conservative and inward-looking religious nationalism has displaced proponents of post-Suharto democratic standards as the center

21 Ismail Hasani & Halili Halili, "Human Rights and Constitutionality Issues of Blasphemy Law in Indonesia" (2022) 19:2J Konstitusi 406–430.

22 Laura Arman, "In Indonesia, a Rising Tide of Religious Intolerance", (2022), online: *The Diplomat* <<https://thediplomat.com/2022/10/in-indonesia-a-rising-tide-of-religious-intolerance/>>.

23 Liputan6, "Penganut Atheisme Divonis 30 Bulan Penjara", (2012), online: <<https://www.liputan6.com/news/read/412968/penganut-atheisme-divonis-30-bulan-penjara>>.

24 Kikue Hamayotsu, "Conservative Turn? Religion, State and Conflict in Indonesia" (2014) 87:4 Pac Aff 815–825.

25 Abdul Mu'ti & Ahmad Najib Burhani, "The Limits of Religious Freedom in Indonesia: With Reference to the First Pillar Ketuhanan Yang Maha Esa of Pancasila" (2019) 9:1 Indones J Islam Muslim Soc 111–134.

of intellectual gravity. Many reasons for this shift include the failure of reformers to deal with the consequences of Suharto's *Pancasila* indoctrination project and the achievement of conservative New Order elites in regaining control of the political system after 2001. President Susilo Bambang Yudhoyono's concessions to Islamist interests are highlighted, as they granted conservative Islam a level of power and legitimacy never before seen. Because it contributed to Indonesia's transformation into an overtly religious state and allowed for greater state involvement in imposing moral standards based on conservative interpretations of indigenous culture and Islamic principles, the Constitutional Court's approval of the blasphemy law was especially significant in this case. Bourchier also highlights how Prabowo Subianto's populist authoritarian movement's success in establishing ties with sectarian groups was a significant factor in President Joko Widodo's increasingly xenophobic and authoritarian agenda, leaving little room for the open defense of secular law, pluralism, democracy, and human rights.²⁶

Religion and religious freedom have become politicized due to the rise of religious nationalism in the region, which has influenced political discourse on intra- and intergroup dynamics. Religious nationalism would make it easier to label new or different religious movements within the dominant religion as "deviant" or "heretic" by establishing a unified "national" identity based on a single religion. The right to religious freedom gets entangled in political struggles between majority and minority groups. Majority groups try to establish laws that limit the rights of minorities to practice, profess, and manifest their religion in order to maintain their privileged status. Such limitations have guaranteed the superiority of one religion over others despite the justification that they are required to preserve intergroup harmony. The politicization of religious freedom is also evident in the way that the phrase is used to promote and oppose limitations on the rights of religious groups, with both proponents and opponents of discriminatory legislation using the term to support their respective viewpoints.

Simandjuntak looks at the ways that conservative Islamic organizations in Indonesia have used Islamic nationalist narratives to discriminate against religious minorities. She demonstrates how various groups have come together around officially recognized religions and utilized them as the foundation for inclusion and exclusion.²⁷ As for Hefner, tensions like these between various institutional definitions of religion and various social definitions of religion have not only occasionally occurred but persistently characterized Indonesian religious life. Since the beginning of the Indonesian Republic in 1945, there has been intense debate over public perceptions of what defines "religion" and thus qualifies for institutional freedoms, state protection, and recognition.²⁸

26 David M Bourchier, "Two Decades of Ideological Contestation in Indonesia: From Democratic Cosmopolitanism to Religious Nationalism" (2019) *J Contemp Asia* 1-21.

27 Deasy Simandjuntak, "Disciplining the Accepted and Amputating the Deviants: Religious Nationalism and Segregated Citizenship in Indonesia" (2021) *8:1 Asian J Law Soc* 88-107.

28 Hefner, *supra* note 4.

The enactment of the new Indonesian criminal law (KUHP) in early 2023, set to replace existing blasphemy laws from the 1965 Law and 156a of the old criminal law, could potentially impact freedom of religion or belief and the rights of religious minorities in several ways. The new KUHP offers certain improvements for religious freedom over the previous code. One of which was to include the term "belief" (kepercayaan) whenever the word "religion" was used. This enhances acceptance of "beliefs," which in Indonesia relate to traditional, indigenous, or "non-world" religions that do not fit into one of the six "official" religions: Buddhism, Confucianism, Hinduism, Islam, Protestantism, or Catholicism. However, it is not even halfway done. Other non-religious articles include the one on "living law" and the ban on disseminating doctrines that go against Pancasila. This national philosophy can also restrict freedom of religion or belief.²⁹

It can be said that religious nationalism is a political ideology combining aspects of religion and nationalism. It typically asserts that a particular religion is not only a belief system but also a fundamental aspect of national identity. In other words, it merges religious identity with belonging to a specific nation or ethnic group. This ideology often shapes the political, social, and cultural landscape of a country or region where it is prominent. Religious nationalism is commonly interpreted as a social movement and discourse reflecting the autonomy of culture as a source of identity and critique, reflected in the emergence of political-religious organizations. As a replacement or stand-in for the redistributive material politics of class, religious nationalism can be seen as one of the many seemingly new social movements that protect identity rather than pursue interest.³⁰

In many states, including Indonesia, religious nationalism has become a key component of identity and mobilization in recent years.³¹ In cases of religious nationalism, where ethnic, religious, and political beliefs readily become entwined, belief frequently gets enforced in one of two ways. First, as with the Baha'is in Iran or the Christians and non-Wahhabi Muslims in Saudi Arabia, minority groups may find themselves the target of official persecution or mistreatment when their beliefs are seen as posing a danger to the national credo. Second, minority groups may become victims of persecution and discriminatory treatment not because of their religious beliefs but because the national creed ordains that people with a certain race, gender, language, or place of national origin are not complete and equal citizens. In the first case, belief itself is the target of intolerance. Meanwhile, in the second, belief provides a warrant for intolerance that is keyed to race, gender, and language.³²

29 Zainal Abidin Bagir, "Half-hatred Progress: Religious Freedom After the New Criminal Code", (2023), online: *Indones Melb* <<https://indonesiaatmelbourne.unimelb.edu.au/half-hearted-progress-religious-freedom-after-the-new-criminal-code/>>.

30 Roger Friedland, "Religious Nationalism and the Problem of Collective Representation" (2001) 27:1 *Annu Rev Sociol* 125-152.

31 Jaclyn Neo & Brett G Scharffs, "Religious Nationalism and Religious Freedom in Asia: Mapping Regional Trends in a Global Phenomenon" (2021) 8:1 *Asian J Law Soc* 1-18.

32 David Little, "Religion, Nationalism, and Human Rights" (1997) 17 *Annu Soc Christ Ethics* 293-299.

The conceptions of pluralist approaches to constitutional governance, regarded as necessary for fostering peaceful coexistence, are in danger from religious nationalism.³³ The rising alignment of state and religious borders against "cross-sectoral divisions," which can weaken centrifugal impulses in a pluralistic society, is cause for concern. Therefore, the leading cause of religious nationalism is the rejection of legal, cultural, religious, and ethnic plurality. This has a substantial effect on religious freedom, especially that of minorities and minorities inside dominant religious organizations. Moreover, in all cases, the proposals for solutions invariably contain provisions for the rights of tolerance and nondiscrimination, as understood in the human rights literature.³⁴

The explanations above have shown that religious nationalism has a detrimental effect on people's ability to practice their freedom of conscience, religion, and thought. These effects affect both members of the aligned religious group and non-aligned groups, such as the secular community. It is easier to see threats against non-aligned individuals and groups. Religious and nonreligious minorities have been marginalized as a result of the empowerment of religious majorities, particularly when they further the goals of religious nationalism. The government has implemented laws, rules, and policies that restrict religious freedom in several ways. Furthermore, after political decentralization was implemented, governmental restrictions were implemented at both the national and provincial levels. Municipal laws and regulations have become more Islamized due to decentralization, even though the objectives and tactics vary from place to place.

III. ABS-SBK AS THE BASIS FOR IDENTITY POLITICS IN WEST SUMATRA

Although the Minangkabau people also follow adat principles, their community in West Sumatra is well recognized in Indonesia as an Islamic society. This culture saw several stages of religious identity struggle and resolution. Azyumardi Azra pointed out that this pattern of adat-religion interaction emerged from the ongoing Islamization of Minangkabau society, particularly with the introduction of novel Islamic concepts brought back by Minangkabau scholars from Cairo, Mecca, and Medina.³⁵ In Minangkabau society, the revival of Islamic doctrine and practice has created new dynamics and tensions. Furthermore, this region played an important role in spreading the concepts of Islamic revival to other regions in Indonesia. Every facet of Indonesian society has experienced radical change as a result of Islamization. Even now, that process is ongoing. It has produced intricate streams of continuity and change in beliefs, practices, and thoughts.³⁶

33 Neo & Scharffs, *supra* note 31.

34 Little, *supra* note 32.

35 Azyumardi Azra, *Surau: Pendidikan Islam Tradisionalis dalam Transisi dan Modernisasi* (Jakarta: Kencana, 2017) at 3.

36 Adam James Fenton, "Change and Continuity in Indonesian Islamist Ideology and Terrorist Strategies" (2014) 52:1 *Al-Jamiah J Islam Stud* 1-24.

In contemporary West Sumatra, the post-*Reformasi* era provided a dynamic new living space for affirming Minangkabau's identity in West Sumatra based on ABS-SBK. When the national government instituted a decentralization and local autonomy policy, the power of provincial, regional, and municipal governments was increased. After independence in 1945, this was the first time the provincial, regional, and municipal governments had the authority to uphold local governance. Members of parliament and local authorities embraced this new power with great enthusiasm, pushing for the issuance of local laws and regulations. They also believed this change was an opportunity to implement Sharia law at the provincial, regional, and local levels. This political change was believed to present an opportunity to enact Sharia laws at the provincial, regional, and local levels.

The local government widely uses the ABS-SBK claim as an affirmation. Almost all provincial-level political decisions and their offshoots are justified by this assertion.³⁷ For Franz and Keebet von Benda-Beckmann, the *Reformasi* period marks a new phase in the process of Minangkabau people identification, characterized by three interconnected developments: The first was the reorganization of the village government under the slogan "back to the *Nagari*." Within the Minangkabau political organization, *Nagari* is a traditional entity where disagreements arise around the tenure rights of *ulayat*³⁸ areas, which resurrect institutions and rights based on Minangkabau norms. Second, a reconsideration of Islamic legislation and institutions' religious roles, with the motto "back to the *Surau* (traditional mosque)." Within this framework, there is once more intense public discourse on the definition of ABS-SBK and its implications for politics, religion, ideology, and the law. Third, taken as a whole, these advancements offer fresh perspectives on the question of what it means to be Minangkabau in an Indonesian state with a diverse population.³⁹

"Back to the *Nagari*, back to the *Surau*" is a phrase that has been buzzing around since the *Reformasi* era in Indonesia, especially after the issuance of Law Number 2 of 1999 concerning Regional Autonomy. The response to this law then gave birth to West Sumatra Provincial Regulation Number 9 of 2000 concerning the Main Provisions for the Nagari Government. In its development, this regional regulation was revised and strengthened through Provincial Regulation Number 2 of 2007 and Provincial Regulation Number 7 of 2018. This regional regulation explains that:

“*Nagari* is a customary law community unit genealogically and historically, has boundaries within a particular area, has its assets, has the authority to elect its leaders by deliberation, and regulates and manages the interests

37 Huda, *supra* note 8; Salim, *supra* note 8; Zulfan Taufik & Muhammad Taufik, “Nagari Madani: Islamic Favoritism and Religious Freedom in Regional Development in West Sumatra, Indonesia” (2023) 27:2 *Ulumuna J Islam Stud* 649-675.

38 *Ulayat* rights are a series of powers and obligations of a customary law community, which are related to land located within their territory.

39 Franz von Benda-Beckmann & Keebet von Benda-Beckmann, “Identity in Dispute: Law, Religion, and Identity in Minangkabau” (2012) 13:4 *Asian Ethn* 341-358.

of the local community based on the philosophy and customary code, *Adat Basandi Syarak-Syarak Basandi Kitabullah* and/or based on local origins and customs within the province of West Sumatra.”

Departing from the openness of the *Reformasi*, ABS-SBK, which is an unwritten norm and law, controls and regulates government administration in West Sumatra through the Long-Term Development Plan (RPJP) and the Regional Medium-Term Development Plan (RPJMD). This cultural value is the first mission in the West Sumatra medium-term development plan (RPJMD) for the 2016-2021 period. This mission focuses on "improving a harmonious, religious, and cultured life system based on the ABS-SBK philosophy." The RPJMD's missions are translated into government programs and activities in 18 districts and cities in West Sumatra, with the exception of the Mentawai Islands District.

In the following period, the West Sumatra Provincial Government reduced ABS-SBK to a fundamental official government mission and integrated it into the daily life of the populace. Consequently, the Practice Guidebook Related to ABS-SBK was released in 2019 by the West Sumatra Provincial Government. This book provides the official interpretation of the West Sumatra government and the primary source of information on the ABS-SBK values. The West Sumatra Governor also stressed in his remarks at the book that technical preparations tailored to individual groups would be implemented by this guideline, including modules and personalized learning materials.⁴⁰ The existence of an official government interpretation of ABS-SBK and its formalization in various derivative regional regulations shows how religious nationalism works in the local Minangkabau context. Government regulations binding on all citizens are made based on the perspective of the values and understanding of the Muslim majority group.

Most recently, in July 2022, the ABS-SBK officially entered Indonesian positive law while Law No. 17 of 2022 on West Sumatra was passed by the national legislature (DPR). Article 5 Letter C of the West Sumatra Provincial Law states, "Minangkabau customs and culture are based on philosophical values of ABS-SBK by the applicable rules of the *adat salingka nagari*"⁴¹ customs as well as a wealth of history, language, arts, traditional villages/*nagari*, rituals, traditional ceremonies, cultural sites, and local wisdom that show the religious character and high customs of the people of West Sumatra." Guspari Gaus (Member of Commission II DPR RI from the Electoral District of West Sumatra) explained that this is the first time Minangkabau traditional philosophy has been included in the law. Islam's centrality to West Sumatran identity and culture has raised concerns that it may justify prejudice and violence against the province's religious minorities.⁴² This law caused various reactions of opposition, especially from the Mentawai tribe, an

40 Irwan Prayitno, *Sambutan Gubernur Sumatera Barat*, dalam *Pedoman Pengamalan Adat Basandi Syara' Syara' Basandi Kitabullah; Adat Bapaneh, Syara' Balinduang; Syara' Mangato, Adat Mamakai* (Padang: Dinas Kebudayaan Provinsi Sumatera Barat, 2019).

41 *Adat salingka nagari* is customs that apply in a *nagari*.

42 Ulta Levenia & Ivany Arbi, "Is West Sumatra on the Verge of an Intolerance and Violent Extremism Crisis?", (2023), online: *Indones Melb* <<https://indonesiaatmelbourne.unimelb.edu.au/is-west-sumatra-on-the-verge-of-an-intolerance-and-violent-extremism-crisis/>>.

indigenous tribe in West Sumatra, apart from the Minangkabau tribe. For the Mentawai people, this law discriminates against the Mentawai tribe, which has different cultural and religious characteristics from the Minangkabau in West Sumatra. The law regarding West Sumatra Province is considered problematic because it does not contain articles regarding the original culture of West Sumatra as a whole. This law only explains one majority culture, namely the Minangkabau culture. "Even though our culture is a minority culture, we are part of West Sumatra, and this is recognized geographically and regionally," said the Chairman of the United Mentawai Alliance, Yosafat Saumanuk, at a press conference in Padang.⁴³

Furthermore, since decentralization and local autonomy were implemented in 2000, the number of Sharia-based regional regulations helped strengthen the narrative of Islamic identity politics in West Sumatra. The local government, which consists of the governor, mayor, and regent (the head of the district), has made multiple attempts to enact Sharia law. Perda Sharia is the term used to describe Sharia laws implemented at the provincial, district, and municipal levels. Perda is an acronym for regional regulations, which refers to district, municipal, or provincial law. Perda Sharia, therefore, suggests that the laws of provinces and municipalities are meant to put Islamic teachings into practice. These regional regulations contain similarities in their preamble to the ABS-SBK philosophy. Four major topics were covered by this Sharia law: unlawful acts, Islamic dress code, reciting the Quran, and the government's role in overseeing zakāt institutions. The fundamental tenet of Sharia law is that the Minangkabau people must be subject to laws that are compliant with both adat and Sharia norms.⁴⁴

The emergence of these regional regulations is also in line with the growth of hardline Islamic organizations such as the Islamic Defenders Front (FPI), The Committee for the Defense of Islamic Shari'a (KPSI), and Hizbut Tahrir Indonesia (HTI) in West Sumatra. These hardline Islamic organizations consistently urge Governors, Regents, Mayors, and legislators at the provincial, district, and city levels to produce regional regulations based on Islamic law. Demands like this have reaped many results, namely the realization of regional Islamic Sharia regulations as the basis of community life. Parties that take advantage of this situation are Partai Persatuan Pembangunan (PPP), Partai Bulan Bintang (PBB), Partai Keadilan Sejahtera (PKS), Partai Amanat Nasional (PAN), and other political parties. If they do not realize these people's demands, it can be ascertained that the party concerned will no longer receive support for the next election.⁴⁵

Conservative Islamic groups also used the moment of reform and regional autonomy to strengthen their existence in the Minangkabau land. Two Islamic religious

43 CNN Indonesia, "Gubernur Sumbar Respons soal Dugaan Diskriminasi atas Mentawai di UU", *CNN Indones* (2022), online: <<https://www.cnnindonesia.com/nasional/20220819095511-20-836392/gubernur-sumbar-respons-soal-dugaan-diskriminasi-atas-mentawai-di-uu>>.

44 Huda, *supra* note 8.

45 Zainal, "Gerakan Islam di Sumatera Barat Pasca Orde Baru" (2014) 38:2 MIQOT J Ilmu-Ilmu Keislam 446-465; Novi Hendri & Hardi Putra Wirman, "The Radical Islamic Movements in West Sumatra: An Early Investigation and Mapping" (2020) 6:1 Islam Realitas J Islam Soc Stud 100-118.

groups that have emerged in West Sumatra are the Salafis and the Indonesian Mujahidin Council (MMI). Like Padri, Salafis who have existed in West Sumatra since 1998 carry the idea of Islamic purification from superstitious practices, bid'a and khurafat, and tighten themselves on the lives of prophets and friends. The group exists by carrying out the Minangkabau aphorism '*mambangkik batang tarandam*' (reviving the work that the Padri has not completed). Apart from Salafi, the MMI is also involved in many preaching activities in conflict with indigenous peoples. For the MMI, ABS-SBK must be supported by a companion institution, in this case, the Islamic Sharia Enforcement Commission (KPSI). Therefore, on 26 July 2006, KPSI was declared in West Sumatra by the Chairman of the Central MMI, Abu Bakar Ba'asyir. The vision of KPSI is to realize the enforcement of Islamic law as a comprehensive source of law (*kaffah*) in Minangkabau.⁴⁶ These findings validate Homayoutsu's claim that the decrease in religious freedom in Indonesia is associated with the increasing strength and capacity of religious conservative groups to influence public policy while influencing religious discourse.

The twists and turns of the identity of the Minangkabau society that led to ABS-SBK and its use as the basis for government administration in West Sumatra show how identity politics works. As Maarif and Bagir said, identity politics in Indonesia is more filled with ethnicity, religion, and political ideology.⁴⁷ For example, the accommodation of religious values at the national and regional levels, the creation of special regions, and the granting of special autonomy for the separatist movement. A peace agreement between the national government and the leaders of the Free Aceh Movement (GAM) led to the imposition of Sharia as the new administration in Aceh. Later, as a separate territory, the Aceh province was authorized to implement Sharia law and its institutional framework formally. However, Aceh did not fully adopt Sharia as the rule of the land until 2003, when three bylaws (*Qanun*) were passed outlawing gambling, alcohol usage, and *khalwat* (dating in secret locations). The province passed the first fully promised *Qanun Jinayat* in 2009, which listed offenses that could result in death by stoning, including adultery and homosexuality.⁴⁸

Since the decentralization initiatives, which gave local governments the power to create laws that reflected the needs and desires of their constituents, Sharia bylaws have been adopted by local governments in several regions. The number of Sharia bylaws in the sub-national areas has increased dramatically, from 4 regulations in 1999 to 422 in 2013 and 433 in 2018. Sixty-four of these regulations originated as non-regional regulations (*Peraturan Daerah*), such as Regional Head Circulars (*Surat Edaran Kepala*

46 Sefriyono, *Kearifan Lokal Bagi Pencegahan Radikalisme Agama di Luhak dan di Rantau Minangkabau* (Ciputat: Sakata Cendekia, 2018); Zainal, *supra* note 45; Hendri & Wirman, *supra* note 45.

47 Ahmad Syafii Maarif, "Politik Identitas dan Masa Depan Pluralisme Indonesia" in Ihsan Ali Fauzi dan Samsu Rizal Panggabean, ed, *Politik Identitas Dan Masa Depan Plur Kita* (Jakarta: Democracy Project, 2012) 3; Zainal Abidin et al Bagir, *Pluralisme Kewargaan: Arah Baru Politik Keragaman di Indonesia* (Yogyakarta: CRCS UGM & Mizan, 2011).

48 Sehat Ihsan Shadiqin & Eka Srimulyani, "The Contested Authorities: Institution and Agency in the Enforcement of Sharia Law in Aceh, Indonesia" (2021) 5:2 J Contemp Islam Muslim Soc 198–223.

Daerah), Regional Head Instructions (*Instruksi Kepala Daerah*), and Regional Head Regulations (*Perbup/Perwahi*). Of these, 358 became Regional Regulations, which are local laws enacted with the agreement of the regional legislatures and the executive branch.⁴⁹

Globally, international and domestic law empowers states to limit religious freedom to achieve broader goals such as national security, public order, public health, and morals.⁵⁰ However, instances globally demonstrate that religious freedom is susceptible to unjustifiable limitations. When it comes to limiting particular forms of expression that it views as a danger to the values and interests of the majority, the state can rely on those values and interests. Cases like *S.A.S v. France* (2004) and *Leyla Şahin v. Turkey* (2005), for instance, demonstrate how courts have upheld restrictions on the wearing of Islamic headscarves and niqabs, finding that these attires are incompatible with "European" values like "living together" and "secularism." States may also impose restrictions on religious expressions that they believe have the potential to incite violent or disorderly behavior in others by interpreting the term "public order" broadly. In the 1993 decision of *Zaheeruddin v. State*, the Supreme Court of Pakistan conjectured that the Ahmadi community's outward declarations that they were "Muslims" would incite hostility from the Sunni majority. States frequently restrict freedom of expression because they believe that some public interests, such as public order and morals, are best served by the majority's judgment.⁵¹

Therefore, the application of ABS-SBK identity politics in West Sumatra could be a threat to religious freedom, especially for religious minority groups. For example, restrictions or prohibitions on religious organizations that promote certain ideologies, religious broadcasts, and restrictions on the rights of individuals deemed to disturb "public order" because of their religious views or actions. There is a need for firmness and clarity in the conditions of permitted restrictions. Referring to the Siracusa Principles, which have also been adopted by international law in many countries, there are three limiting conditions, namely: "prescribed by law," "in a democratic society," and "necessary to protect," as well as "proportionate."⁵²

49 Michael Buehler & Dani Muhtada, "Democratization and the Diffusion of Shari'a Law: Comparative Insights from Indonesia" (2016) 24:2 South East Asia Res 261-282.

50 Global Citizenship Commission, "Limitations and Derogations" in Gordon Brown, ed, *Univers Declar Hum Rights 21st Century Living Doc Chang World* (Cambridge: Open Book Publishers, 2016) 57.

51 Gehan Gunatilleke, "Justifying Limitations on the Freedom of Expression" (2021) 22:1 Hum Rights Rev 91-108.

52 Bagir et al, *supra* note 19 at 81.

IV. THE IMPACTS OF ABS-SBK ON RELIGIOUS FREEDOM

The analysis of the impact of ABS-SBK on religious freedom in West Sumatra will be seen from two aspects, namely, government regulation and social regulation. Government regulation is interpreted as "the restrictions placed on the practice, profession, or selection of religions according to laws, policies, or official state administrative measures." Social regulation is interpreted as "restrictions placed on practice, profession, or choice of religion by other religious groups, associations, or broadly culture."⁵³ The two aspects related to religious freedom will be analyzed concerning the strengthening of Minangkabau identity based on the ABS-SBK philosophy.

1. Government Regulation

The beginning of the Indonesian *Reformasi* era showed a trend of increasing demands for implementing regulations with religious nuances at the local level. From 1998-2006, Crouch noted that 160 religious regulations were spread across 26 provinces. Three provincial governments have issued religious regulations that apply to the entire province, namely West Sumatra, South Sulawesi, and South Sumatra. West Sumatra is the province that has issued the most religious regulations, with more than 40 religious regulations. She also found that vulnerable groups such as women, children, the poor, and religious minorities are the most frequently targeted for discrimination through these discriminatory regulations.⁵⁴ This is also confirmed by the findings of Komnas Perempuan (Women's National Commission), which concluded that the policies at the provincial, district, and city levels are discriminatory.⁵⁵

Almost all regions in regencies and cities in West Sumatra produced regional policies with Islamic nuances, such as the mandatory Muslim dress policy, compulsory reading of the al-Qur'an for students or prospective brides, compulsory zakat, and community diseases. The main point of the regional policy is that the Minangkabau society should be regulated through rules that conform to Sharia and customary norms. It can be seen clearly from similarities in the content of policies for each region in West Sumatra and the similarity in the preamble to the ABS-SBK philosophy. For example, in the West Sumatra Provincial Regulation Number 11 of 2001 concerning the prevention and eradication of immorality, the first point of consideration is "that West Sumatra province, as a region that upholds the ABS-SBK philosophy, needs to maintain and preserve these values as norms of community life." The same fundamental prejudice can also be seen in similar policies at the district and city levels. For example, City

⁵³ Brian J Grim & Roger Finke, "International Religion Indexs: Government Regulation, Government Favoritism, and Social Regulation of Religion" (2006) 2 *Interdiscip J Res Relig* 1-41.

⁵⁴ Crouch, *supra* note 7.

⁵⁵ *Atas Nama Otonomi Daerah: Pelembagaan Diskriminasi dalam Tatanan Negara-Bangsa Indonesia*, by Komnas Perempuan (Jakarta, 2010).

Ordinance of Bukittinggi Number 3 of 2015 concerning Peace and Public order, the first points to consider are as follows:

"Whereas in order to realize the people of Bukittinggi City, which are based on *'Adat Basandi Syarak, Syarak Basandi Kitabullah, Syarak Mangato, Adat Mamakai'*, it is necessary to carry out an orderly, peaceful, comfortable, clean, and beautiful life order. For this reason, regulations are needed in the field of peace and public order that are able to protect citizens, public infrastructure, and its accessories."

As a result of these Sharia-based regulations, discriminatory practices have emerged against religious minorities. Based on a report published by the Legal Aid Institute (LBH) Padang in 2013, there are quite a lot of cases of freedom of religion, belief, and expression that have occurred in West Sumatra as a result of the implementation of these regional regulations. However, relatively few people are exposed to the public. This is because local governments tend to ignore and secretly support violations. Meanwhile, the victim did not dare to speak out.⁵⁶ The West Sumatra Ombudsman also shared the same opinion that there were reports from the public regarding discriminatory practices in delivering public services due to different religious identities. For example, an employee at the *Nagari* office requires all women who work in the *Nagari* office to wear a veil.⁵⁷

One example of a recent case that has attracted the attention of the national media is the case of non-Muslim students who are required to wear a veil at the SMK Negeri 2 (State Vocational Secondary School) Padang. On January 21, 2021, Elianu Hia, a father, recorded a meeting with the deputy principal of his daughter's school, SMKN 2, in Padang, where the teacher forced him to ask his daughter, who is Christian, to wear the hijab. He asked the teacher, "If my [child] wears a hijab, it's as if I'm lying about my religious identity. Yes, right? Where are my religious rights? My human rights? My one question is, is this just a suggestion or an obligation?" The teacher answered, "For SMKN 2, this is an obligation." Elianu Hia uploaded videos and letters from the school on Facebook. It went viral. He was reported by many media and national television, triggering protests from netizens against the school and education services in West Sumatra. This case inspired the issuance of the Keputusan Bersama 3 Menteri (Joint Ministerial Decree) regarding school uniforms, which, in West Sumatra, saw fierce resistance from religious leaders, traditional leaders, and their politicians.⁵⁸

For the Minangkabau people of West Sumatra, clothing has always been a significant identity symbol. Islamic clothing not only conveys a wearer's religiosity but also their

⁵⁶ Roni et al Saputra, *Ketika Kebebasan Beragama, Berkeyakinan, dan Berekspresi Diadili* (Padang: YLBHI-LBH Padang, 2013).

⁵⁷ Yefri Hariani, Chairman of Ombudsman West Sumatra, Interview at Padang, 15 January 2021.

⁵⁸ Ardi Briantika, "Rombak Peraturan Diskriminatif Wajib Jilbab di Sekolah Sumbar", (2021), online: *Tirto.id* <<https://tirto.id/rombak-peraturan-diskriminatif-wajib-jilbab-di-sekolah-sumbar-f9CC>>.

commitment to Minangkabau adat.⁵⁹ Bureaucratic officials in West Sumatra, when dealing with diversity, especially in the context of religious diversity, often use the local saying "*di mana bumi dipijak, di situ langit dijunjung*" (where the earth is stepped, where the sky is upheld). For example, the regulation regarding the obligation to wear the veil for non-Muslim students at SMKN-2 Padang was implemented in early 2021. At that time, Fauzi Bahar (former Mayor of Padang from 2004 to 2014) said, "Where the earth is stepped, the sky is upheld there. Ideally, they have to follow. If non-Muslim students do not wear a veil, it will show their minority."⁶⁰ It is known that Fauzi Bahar is a figure who produces regulations on the use of the veil for school students in Padang.

What happened in West Sumatra also happened in various other regional contexts in Indonesia. Over the past two decades, women and girls in Indonesia have faced unprecedented legal and social demands to wear clothing deemed Islamic as part of broader efforts to implement Islamic Sharia in many regions of the country. There are various discriminatory regulations and social pressures on women and girls to wear the veil in state schools, among civil servants, and in government offices.⁶¹ In a broader context, bans on the use of religious symbols in various countries have also had a significant impact on Muslim women who wear the veil, for example, in France and Canada.⁶² Not only in non-Muslim majority countries, the ban on wearing veil in public spaces also occurs in Muslim-majority countries such as Turkey, although this has now been abolished.⁶³

Other cases related to government regulations include the prohibition of Christian Christmas worship celebrations in Nagari Sikabau-Dharmasraya Regency and Nagari Sungai Tambang Regency-Sijunjung Regency. The prohibition even occurred in several other areas in West Sumatra, such as Bukittinggi City and Pesisir Selatan Regency. Every year, Christians in some areas face obstacles related to the celebration of worship services and Christmas together because the community refuses, and the local government also prohibits them.⁶⁴ The root causes of the problems are the same, only because there are

59 Huda, *supra* note 8 at 114.

60 Setyo Puji, "Alasan Siswi Non-Muslim Diwajibkan Pakai Jilbab, Mantan Wali Kota Padang: Ini Kearifan Lokal", *KOMPAS.com* (23 January 2021), online: <<https://regional.kompas.com/read/2021/01/23/18072541/alasan-siswi-non-muslim-diwajibkan-pakai-jilbab-mantan-wali-kota-padang-ini>>.

61 "*Aku Ingin Lari Jauh*": *Ketidakadilan Aturan Berpakaian bagi Perempuan di Indonesia*, by Human Rights Watch (Washington DC., 2021).

62 Iffath UB Syed, "Forced Assimilation is an Unhealthy Policy Intervention: The Case of the Hijab Ban in France and Quebec, Canada" (2013) 17:3 *Int J Hum Rights* 428-440; Rojan Afrouz & Beth R Crisp, "Anti-oppressive Practice in Social Work with Women Wearing Hijab BT - Exploring Islamic Social Work: Between Community and the Common Good" in Hansjörg Schmid & Amir Sheikhzadegan, eds, *Explor Islam Soc Work Muslims Glob Soc Ser* (Cham: Springer International Publishing, 2022) 203.

63 Nathalie Grima, "'An Affair of the Heart': Hijab Narratives of Arab Muslim Women in Malta" (2014) 16:4 *Implicit Relig* 461-481; Gi Yeon Koo & Ha Eun Han, "To Veil or Not to Veil: Turkish and Iranian Hijab Policies and the Struggle for Recognition" (2018) 24:1 *Asian J Womens Stud* 47-70.

64 Sudarto, West Sumatra Religious Freedom Activist, Interview on 15 January 2021.

no churches and private houses that serve as places of worship. Based on statements made by the Wali Nagari (Village Head), traditional leaders, community leaders, and *Nagari* youth, they do not allow Christians to worship because Christians in the area are "increasing in number" and to "avoid social impacts." Apart from that, the basis for the rejection is because the government and the *Nagari* traditional community adhere to "*Adat basandi syara, syara' basandi Kitabullah*."⁶⁵

The ABS-SBK-based identity politics narrative is also used to prohibit the Minang language gospel circulation and demand the removal of the Minang language gospel application in the Google Play Store application. The letter of the Governor of West Sumatra (Irwan Prayitno) addressed to the Minister of Communication and Information of the Republic of Indonesia Number 555/327/Diskominfo/2020 dated May 28, 2020, stated "First, the Minangkabau people are very concerned about the application; Second, whereas the application is very contrary to the customs and culture of the Minangkabau people who have the philosophy of *Adat Basandi Syarak, Syarak Basandi Kitabullah*."⁶⁶ Some of these cases show how state actors in West Sumatra played a role in violating religious freedom on behalf of ABS-SBK.

The narrative description of several cases above shows two trends in violations of religious freedom in West Sumatra. First, violations of religious freedom in the form of Sharia-based regional government regulations, both at the provincial, municipal, and district levels, favor Muslim majority groups and discriminate against other religious minority groups. Second, violations of religious freedom are in the form of discriminatory actions carried out by state actors. This finding strengthens previous studies in the Indonesian context, indicating that the primary actor in religious politics and discrimination is the state. It plays a significant role in how it upholds its relationships and alliances with religious communities and how it appropriates specific religious symbols or values.⁶⁷

2. Social Regulation

Social regulation operates independently of state action, in contrast to government regulation. Social regulation describes the limitations imposed by other religious organizations or groups and society on the practice, profession, or choice of religion. In

65 Yose Hendra, "Dugaan Pelarangan Perayaan Natal di Sumbar Terjadi di 4 Daerah", (2019), online: <<https://mediaindonesia.com/nusantara/278555/dugaan-pelarangan-perayaan-natal-di-sumbar-terjadi-di-4-daerah>>; Riyan Setiawan, "Pemerintah Ikut Melanggengkan Larangan Ibadah Natal di Sumbar", *tirto.id* (22 December 2019), online: <<https://tirto.id/pemerintah-ikut-melanggengkan-larangan-ibadah-natal-di-sumbar-eojp>>.

66 Ilham Safutra, "Gubernur Sumbar Surati Menkominfo, Minta Hapus Injil Berbahasa Minang - Jawa Pos", *Jawa Pos* (2020), online: <<https://www.jawapos.com/nasional/01272753/gubernur-sumbar-surati-menkominfo-minta-hapus-injil-berbahasa-minang>>.

67 Ismatu Ropi, *Religion and Regulation in Indonesia* (2017); Setara Institute, *Ringkasan Eksekutif Indeks Kota Toleran Tahun 2018* (Jakarta: Setara Institute, 2018); Hefner, *supra* note 4; Hurriyah, *supra* note 5; Marshall, *supra* note 4.

contrast to government regulation measures, social regulation questions center on societal attitudes toward religion in general and the behaviors of religious organizations and social movements toward other religious groups, particularly those that are new, foreign, or minority. The focus of social regulation is on the capacity of societal actors to shape policies based on religion and to discriminate against religious minorities.⁶⁸ This approach sees religious organizations or communities as the primary agents in determining or reacting to public policy. Studies have shown, for example, that cartels and religious organizations have a similar perspective, function, and degree of influence over religious policy in the government and religion-based social regulations.⁶⁹

In West Sumatra, at its extreme point, ABS-SBK is not only understood as the Islamization of the village community but, more than that, the Islamization of the Minangkabau land. The space for non-Muslim people and households to live in a *Nagari* (Minangkabau villages) is very limited. With ABS-SBK, a person's eligibility to join the Nagari community is now required to be a Muslim in addition to being matrilineal (derived from the mother line). Consequently, the only individuals who can join the *Nagari* community and become Minangkabau are Muslims. As in Nagari Lubuk Basung, a Minangkabau who is apostate (murtad) will no longer be allowed to be a member of the *Nagari* and Minangkabau community.⁷⁰ The customary saying is in line with another expression that is also popular in the Minangkabau society: “*bila seorang Minangkabau sudah tidak Muslim lagi, maka Minangnya sudah hilang. Yang tinggal hanya kabaunya saja*” (if a Minangkabau is no longer a Muslim, their Minangkabau will vanish. What is left is only a buffalo). Indirectly, if a Minangkabau converts to another religion, they will lose their ethnic identity. Thus, they could no longer claim to be a Minangkabau, their customary title would be removed, and they would be no longer entitled to inherit customarily.⁷¹

There are many examples of how the ABS-SBK narrative is used to confirm Minangkabau's Islamic identity and justify the rejection of religious groups outside Islam by religious groups, associations, or broad culture. The rejection of the construction of the Siloam superblock on Jalan Khatib Sulaiman, Padang City, in 2013 by Islamic and Minangkabau traditional groups is one example. The rejection actors are members of the West Sumatra Community Organization Leadership Forum. This forum consists of

68 Grim & Finke, *supra* note 53.

69 Hurriyah, *supra* note 3; *Law, Religion, and the Social Divide in Asia: Contexts and Challenges*, by Dian A H Shah (2017).

70 Afrizal, “Tatanan Masyarakat dan Multikulturalisme: Analisis Sosiologis terhadap Konflik dalam Masyarakat Minangkabau yang Plural” in Ahmad Nurcholish et al., ed, *Alam Takambang Jadi Guru Kearifan Lokal Minangkabau Untuk Keragaman Kebangs Dan Kemanusiaan* (Jakarta: Yayasan Cahaya Guru, 2016) 12.

71 Mina Elfira, “Not Muslim, Not Minangkabau: Interreligious Marriage and its Cultural Impact in Minangkabau Society” in Gavin W Jones, Chee Heng Leng & Maznah Mohamad, eds, *Muslim-Non-Muslim Marriage Polit Cult Contestation Souteasr Asia* (Singapore: Institute of Southeast Asian Studies, 2009) 161; Gregory M Simon, “Conviction without Being Convinced: Maintaining Islamic Certainty in Minangkabau, Indonesia” (2012) 40:3 *Ethos* 237-257.

more than 20 organizations, both Islamic-based community organizations such as the Indonesian Ulema Council (MUI), MMI, Muhammadiyah, and Nahdlatul Ulama at the provincial level, as well as Minangkabau custom-based community organizations such as the Minangkabau Natural Customary Council (LKAAM) and *Bundo Kanduang*.⁷² The rejection began when the foundation stone was laid, which was attended by a number of elite figures from the West Sumatra Provincial and National governments. The reason is that Siloam is synonymous with Christianity, and it is feared that it could erode ABS-SBK values in the Minang land by Christianization through the mode of public service, education, and population distribution in the property sector.⁷³

Apart from the cases above, another critical case of religious freedom to raise is the call to not sell land and rent houses to non-Muslims in several areas of West Sumatra, such as Bukittinggi City and Agam Regency. In Bukittinggi, there is a written customary rule called "village regulation" in the Campago Guguak Bulek area, Mandiangin Koto Selayan District. In the rules made by *ninik-mamak* (the adat leaders) Campago Guguak Bulek in 2014, it is written that the community prohibits selling land to outsiders, especially non-Muslims; prohibits non-Muslims from living and settling; prohibits homeowners from renting out their houses to non-Muslims; and prohibits establishing places of worship or religious activities that contradict the Minangkabau philosophy, namely ABS-SBK in the region. Sanctions are also provided for those who violate them. The sanctions vary, ranging from reprimands and fines to expulsion and revocation of heirloom titles.⁷⁴

Several other regions of West Sumatra experienced similar events to those in Bukittinggi. It is forbidden for non-Muslims to own land, build permanent homes, or open churches as places of worship in Nagari Tiku V Jorong Agam Regency. The following conditions must be met by outsiders who wish to own land and permanent homes in Nagari Tiku V Jorong: they must be Muslims, be aware of Minangkabau customs, and abide by the customs of Tanjung Mutiara District, Agam Regency.⁷⁵ The ban on non-Muslims living in the Minangkabau customary area is a result of a growing citizen backlash against non-Muslims who deviate from universally accepted norms like drug abuse, promiscuity, dirty living conditions, and covert religious practice. This includes the non-traditional clothing style whose essence is drawn from Islam and the ABS-SBK philosophy.

From the explanations above of cases of discrimination and marginalization of non-Muslim minorities in West Sumatra, it can be seen how social regulations shape

72 Literally, *Bundo Kanduang* means true mother or biological mother. However, in the context of Minangkabau, *Bundo Kanduang* refers to female leaders in Minangkabau, who describe the figure of a wise woman who makes Minangkabau customs sustainable.

73 Zulfadli & Beni Kharis Arrasuli, "Kuasa Ormas di Ranah Minang: Penolakan Ormas Keagamaan terhadap Pembangunan Rumah Sakit Siloam di Kota Padang" (2017) 14:1 Sos Budaya 35-54.

74 *Undang-undang Hukum Adat (Peraturan Kampuang) Campago Guguak Bulek Jorong Mandiangin Nagari Kurai*, 2014.

75 Robi Mitra, *Adaptasi Sosial Budaya Etnis Nias di Minangkabau: Studi Kasus Etnis Nias di Nagari Tiku V Jorong, Kecamatan Tanjung Mutiara, Kab. Agam* Universitas Andalas, 2019) [unpublished].

ethnoreligious-based majoritarianism. Ethnoreligious nationalism can be seen in the rise of Bamar Buddhist nationalism in Myanmar, Sinhalese Buddhist nationalism in Sri Lanka, and Hindu nationalism in India, among other countries.⁷⁶ The blending of national identity and an ethnic majority's religious affiliation is known as ethnoreligious nationalism. According to the theory of majoritarianism, an ethnic or religious majority has the power to shape a country's course without taking into account the rights of minorities. Minorities are accepted if they do not oppose the majority, show appropriate deference, and accept being socially, economically, and politically marginalized. Only members of the majority are treated as full citizens.⁷⁷

Using ABS-SBK as the foundation for governance and social regulation in West Sumatra shows how Islamic-based identity politics works. Religion-based identity politics is often used as a tool for the majority group in discriminating against religious or belief minorities. In this context, implemented identity politics can be categorized as ugly because it promotes values that prioritize one's group, emphasizes opposing viewpoints of other identities, and legitimizes violence.⁷⁸ In general, what happened in West Sumatra can also be seen in the Indonesian context. Indonesia has always been regarded as exceptional for its diversity and pluralism despite having a majority of Muslims. However, "majoritarianism" has become more prevalent in recent years as a result of resurgent Islamist groups actively attempting to impose conservative values in public life, often with notable success.⁷⁹ Fears for the future of fundamental human rights, particularly the freedom of religion or belief, have grown due to this.

V. CONCLUSION

The fall of Indonesia's New Order regime created a vibrant new environment for West Sumatra's Minangkabau people to affirm their identity. Through the reform gap, the Long-Term Development Plan (RPJP), the Regional Medium-Term Development Plan (RPJMD), and Sharia-based regional regulations contributed to the control and regulation of government administration in West Sumatra, which was previously an unwritten norm and law. The instance of religious freedom breaches in West Sumatra based on the ABS-SBK is a reflection of the more significant effects of the relationship

76 See Angana P Chatterji, Thomas Blom Hansen & Christophe Jaffrelot, *Majoritarian State: How Hindu Nationalism Is Changing India* (London: Hurst & Company, 2019); Benjamin Schonthal, "Environments of Law: Islam, Buddhism, and the State in Contemporary Sri Lanka" (2016) 75:1 J Asian Stud 137-156; Francis Wade, *Myanmar's Enemy within: Buddhist Violence and the Making of a Muslim Other* (London: Zed Books, 2019).

77 Jeff Kingston, "Ethnoreligious Nationalism and Majoritarianism in Asia" (2019) 6:1 Georget J Asian Aff 20-27.

78 Amy Gutmann, *Identity in Democracy* (Princeton: Princeton University Press, 2003).

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between religion and the state, especially when it comes to the state's discrimination against religious minorities.

This article argues that ABS-SBK-based identity politics in West Sumatra has resulted in violations of religious freedom, especially for religious minority groups. In government regulation, local governments have actively enforced mainstream religious and cultural norms and limited expressions and ideas considered contrary to the mainstream. As for the aspect of social regulation, religion-based identity politics is an effective tool for majority groups in limiting the religious freedom of minority groups. This article's findings support the argument that, in many states, religious nationalism has emerged as a critical source of identity and mobilization. The theory of pluralist constitutional government, which is typically regarded as crucial to fostering peaceful coexistence, is threatened by this trend. Rejecting ethnic, religious, cultural, and even legal plurality is influenced by this religious nationalism. This has a significant impact on religious groups' freedom, particularly that of minorities and minority groups within the majority religious group.

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Zulfan Taufik is a senior lecturer and the head of the aqidah and Islamic philosophy magister study program at State Islamic University (UIN) Sjech M. Djamil Djambek Bukittinggi. He received his BA in 2009, Master's Degree in 2012, and PhD in 2016 at Syarif Hidayatullah State Islamic University (UIN) Syarif Hidayatullah Jakarta in Islamic thought. His research interests include Islamic philosophy, Sufism, human rights, and interfaith relations in Indonesia. He is also the editor-in-chief of the *Jurnal Fuaduna: Jurnal Kajian Keagamaan dan Kemasyarakatan* at UIN Bukittinggi and is a reviewer in various journals on other campuses.