

Construction Of Local Policy For Paseban Preservation as A Cultural Heritage In Indigenous Communities Sunda Wiwitan In Kuningan Regency

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Abstract

Paseban is a building as a cultural heritage place and center for ritual and non-ritual activities, used as a museum and hermitage, is also a tourist attraction and has the potential to increase Regional Original Income. The cultural heritage building, located within the Sunda Wiwitan Indigenous Community in Cisantana Village, Cigugur District, Kuningan Regency, West Java, should have its existence preserved, protected and conserved in order to avoid extinction as a form that contains local wisdom values. In an effort to preserve it, questioning how the implementation of local policies through the Kuningan Regency Regional Regulation Number 8 of 2018, relating to Paseban, is a form of partisanship of local stakeholders in recognizing the existence of cultural heritage buildings/objects, on the other hand it must be supported by the concern of the Sunda Wiwitan Indigenous People to function Paseban as traditional village, especially during the COVID-19 pandemic, as one of the regional cultural assets that can be optimized to improve the welfare of the community in the area of the cultural heritage building. This study uses a normative juridical method. Research findings indicate that Paseban Tri Panca Tunggal is a cultural heritage building/object, for that preservation and management has been pursued through local policies by the local government, for its protection and preservation, as well as its management under the supervision of the Regional Government through the Education and Culture Office, through the Section Head of the Cultural Heritage Museum as the manager through the Caretaker. And, to prevent crowds during the COVID 19 pandemic, the Regional Government has imposed restrictions on traditional activities and tourist visits to the Paseban Building as a museum and tourist attraction, as an effort to optimize contributions in the welfare of the regional community.

Keywords: Local Policy; Preservation of Paseban Cultural Conservation; Public welfare.

A. Introduction

Cultural Conservation is the cultural wealth of the nation as a form of thought and behavior of human life which is important for understanding and developing history, science, and culture in the life of society, nation and state so that it needs to be preserved and managed appropriately through efforts to protect, develop and utilization in the context of advancing national culture for the greatest prosperity of the people¹. And Indonesia as a multicultural nation that was born from a long history and has formed its identity, the protection of objects of the past as cultural heritage should be one of the nation's big agendas. As a cultural heritage of the past, cultural heritage owned by each tribe spread throughout the Indonesian archipelago which is a valuable asset both materially and immaterially for the survival of the community and nation. Therefore, it is necessary to protect and maintain cultural heritage objects.

Paseban is a building as a place for the center of cultural, social, religious and community beliefs to take place within the *Sunda Wiwitan* Indigenous Community in Cigugur Village, Kuningan Regency, West Java. The full name of the building is "*Paseban Tri Panca Tunggal*", which literally means a place to unite the three desires, namely *Cipta*, *Rasa*, and *Karsa* which are manifested in behavior. In the end, *Paseban* as a cultural heritage is very important, in addition to the life of the nation and state, especially the *Sunda Wiwitan* Indigenous People, it can be used as a tourist attraction that generates regional income in Kuningan Regency, West Java, it must be protected or preserved. Support for local government policies is very much needed to encourage the achievement of these goals, considering that there are many problems faced for social problems, issues of local government policy alignments, must always be present in the middle to find the right solution. For example, in terms of poverty in rural areas, it is often the case that the existing potential of the area has not been fully explored properly. Among other things, regarding economic problems become the

¹ Mas'ad Syam, *Potret Cagar Budaya di Indonesia*, Tangerang Selatan: Pusat Data dan Teknologi Informasi Kementerian Pendidikan dan Kebudayaan, 2020, hlm.13.

most crucial problem; this is very contradictory to the geographical conditions of Indonesia as a large country in a strategic area with the mention of an archipelago, which is surrounded by a vast sea. Areas that are very rich with the potential of marine resources are abundant. However, on the other side along the coastline poverty coastal communities can be easily found².

The existence of local autonomy cannot be used as alternative solution of development to prosper communities. Another approach is needed for the sake of community's interest. Local should be able to understand its communities better. In this case, state existence (local government) among communities' interest is the absolute pre-requisite in order that the development can reach the target³. The Government's policy of turning to the economic potential of marine resources has changed the perspective of achieving the concept of welfare state because in previous years Indonesia's development policy was too oriented and more land-based, at the same time, marginalizing roles ocean (maritime orientation) whereas it must be realized that the vast and large potential of the archipelago's marine economy geographically and geopolitically is very strategic⁴. The question is regarding how local policies in the legal product of the Kuningan Regency Regional Regulation Number 8 of 2018 concerning the Preservation of Regional Culture in the context of *Paseban* as a Cultural Conservation, are able to provide the achievement of legal objectives for benefit, namely the protection and preservation of cultural heritage buildings/objects.

B. Research Method

The research approach used is a normative approach, namely research based on law as norms/rules, both written rules (Acts, Government Regulations), the legal concept is written norms. This approach emphasizes using document data, literature and analyzed using a qualitative descriptive approach. The use of analysis through understanding data in the form of documents or legal materials, references are then examined with a positive legal point of view, emphasizing the norms of the Kuningan Regency Regional Regulation Number 8 of 2018 concerning the Preservation of Regional Culture. This research is also supported, with primary data obtained through field/empirical research to obtain additional information about the legal order relating to cultural heritage, based on the product of laws and regulations that are enforced as positive legal norms.

C. Concept Foundation

Legal protection in maintaining cultural heritage as a form of ancestral heritage needs to be done as well as for the *Paseban* building in Kuningan Regency, West Java. *Paseban* is a cultural heritage located in the Sundanese indigenous people in Cisantana Cigugur, Kuningan Regency, West Java. Its existence in Kuningan Regency is guarded by Kuningan Regional Regulation Number 7 of 2006 concerning Museum Management, Archaeological, Historical, and Values.

The norm in the 1945 Constitution of the Republic of Indonesia, in particular Article 32 paragraph (1), is that the state advances Indonesian national culture in the midst of world civilization by guaranteeing the freedom of the people to maintain and develop their cultural values. Act Number 5 of 1992 concerning Cultural Conservation objects, it is explained that Cultural Conservation objects are the nation's cultural wealth which is very important for understanding and developing history, science, and culture, so they need to be protected and preserved to foster awareness of national identity and national interest. Cultural Conservation is material cultural heritage in the form of Cultural Conservation Objects, Cultural Conservation Buildings, Cultural Conservation Structures, Cultural Conservation Sites, and Cultural Conservation Areas on land and/or in water that need to be preserved because they have important values for history, science, education, religion, and/or culture through the determination process. Furthermore, Cultural Conservation Building is a built structure made of natural objects or man-made objects to meet the needs of walled and/or non-walled spaces, and roofs.

Cultural heritage is the cultural wealth of the nation as a form of thought and behavior of human life which is important for understanding and developing history, science, and culture in the life of society, nation and state so that it needs to be preserved and managed appropriately through efforts to protect, develop and utilize in order to promote national culture for the greatest prosperity of the people. Article 1 of Act Number 11 of 2010 concerning Cultural Conservation states that cultural heritage is defined as material cultural heritage in the form of Cultural Conservation Objects, Cultural

² Endang Sutrisno, *Relations Between Legal Culture and Economic Empowerment among Marginalized Group of Farmers*, *Journal of Legal, Ethical and Regulatory Issues*, Volume 22, Issue 3, 2019, 1 1544-0044-22-3-329.

³ Endang Sutrisno, *the Local Governments Dilmema in Accomodating the National Regulation*, Lambert Academic Publishing, Saarbrucken, Deuthschland/ Germany, 2015, p.4.

⁴ Endang Sutrisno, *Relations between Legal Culture and Economic Empowerment among Marginalized Group of Farmers*, *Op.Cit*, p. 1544-0044-22-3-329.

Conservation Buildings, Cultural Conservation Structures, Cultural Conservation Sites, and Cultural Conservation Areas on land and/or in water whose existence needs to be preserved because it has important values for history, science, education, religion, and/or culture through the determination process. Based on this understanding, cultural heritage is divided into five categories, namely:

- a. Cultural Heritage Objects
- b. Cultural Heritage Buildings
- c. Cultural Heritage Structures
- d. Cultural Heritage Sites
- e. Cultural Heritage Areas

The preservation of the cultural heritage area includes all types of cultural heritage and the environment that forms around the cultural heritage area as a unit that forms the cultural heritage.

D. Discussion

The problem of law enforcement in Indonesia has become a big problem in itself which requires in-depth study because law enforcement will involve many components⁵. The problem of law enforcement in this country is a big problem that must be studied in depth, considering that law enforcement involves many components. Indonesia today is faced with a very "unique" problem of law performance regarding the formal truth treated as the most dominant consideration of legal decision embracing *reine Rechtslehre* Kelsenian's way of thinking. An approach that is still in further discussion through a more holistic alternative paradigm⁶. This condition must be rethought regarding the understanding of the working process of the law, in the realm of the text alone the law is not fully capable of achieving legal justice based on a happy conscience. Partial paradigm approach, focused on purely normative Kelsenian concepts, the law becomes dry and the achievement of legal goals for legal justice, legal certainty and benefit in Gustav Radbruch's concept is difficult to achieve. Justice is only limited to the realm of formal justice without being able to provide directions for realizing the greatest prosperity and happiness for the people. This goal, which is emphasized in Satjipto Rahardjo's thought, is that the legal order is not limited to efforts to achieve social order and security⁷.

Several laws and regulations have been drafted to protect and preserve Cultural Conservation in Indonesia. Among these laws and regulations include:

- a. 1945 Constitution of the Republic of Indonesia.
- b. Act Number 11 of 2010 concerning Cultural Conservation.
- c. Government Regulation Number 66 of 2015 concerning Museums.
- d. Regulation of the Minister of Education and Culture Number 28 of 2013 concerning the Details of the Duties of the Cultural Conservation Preservation Center. Regulation of the Minister of Education and Culture Number 52 of 2012 concerning the Organization and Work Procedure of the Cultural Conservation Preservation Center.
- e. Regulation of the Minister of Public Works and Public Housing Number: 01/PRT/M/2015 concerning Preserved Cultural Heritage Buildings.
- f. Kuningan Regency Regional Regulation Number 8 of 2018 concerning Preservation of Regional Culture.

The legal provisions in question must be able to achieve the desired goals, namely legal justice, legal certainty and legal benefits, through the norms built in waste management must be able to achieve these goals, although according to Gustav Radbruch, the three things must complement each other and do not exclude each other. If there is a tension between these three things, it will result in a tension (spanning) between each of these legal values⁸, because there are times when justice conflicts with benefits, or justice conflicts with legal certainty, it is also possible that there will be tension between benefits and justice.

Local policies in the form of a product of the Kuningan Regency Regional Regulation Number 8 of 2018, especially regarding the *Paseban* Cultural Heritage building must be carried out consistently, considering that culture is very closely related to the community. Culture invites all understandings, values, norms, knowledge and all social, religious, etc. structures, in addition to all

⁵ Endang Sutrisno dkk, *Environmental Law Enforcement in Hazardous Waste Management in West Java Indonesia: A Critical Trajectory of Green and Anthropogenic Based Environmental Policy Orientations, International Journal of Scientific & Technology Research* Vol.8, Issue 08, August 2019 ISSN 2277-8616 429 IJSTR©2019, p.1.

⁶ Endang Sutrisno, *Tracing the Performance of Law in Indonesia (A Perspective of Thomas Kuhn's "Normal Science")*, *Journal of Law, Policy and Globalization, International Institute for Science, Technology & Education Accelerating Global Knowledge Creation and Sharing*, p.126.

⁷ Satjipto Rahardjo, *Negara Hukum yang Membahagiakan Rakyatnya*, Yogyakarta: Genta Publishing, 2006.

⁸ Endang Sutrisno, *Bunga Rampai Hukum & Globalisasi*, Bogor, In Media, 2014, hlm.17-18.

intellectual and artistic statements that characterize a society. Culture is a complex whole, which includes knowledge, belief, art, morals, law, customs, and other capabilities acquired by a person as a member of society⁹.

In the Kuningan Regency Regional Regulation No. 8 of 2018, relating to Article 3, the preservation of regional culture aims to:

- a. Protect, secure, and preserve local culture
- b. Maintaining and developing regional traditional values which are the identity and symbol of the pride of the local community in a multicultural society
- c. Increase public awareness of local culture
- d. Increase consciousness, awareness, and aspirations of the community towards regional cultural heritage
- e. Awaken the spirit of love for the homeland, nationalism, and patriotism
- f. Generating motivation, enriching inspiration, and expanding repertoire for the community in working in the cultural field
- g. Develop regional culture to strengthen national cultural identity.

Sectors of life governed by the rule of law must be able to reach the point of order and a sense of justice, including economic management, human resources, and natural resources, in order to achieve happiness together¹⁰. The formation of regional regulations that are in line with the agenda of decentralization and wider regional autonomy, needs to be strengthened in its position as an independent regional government power. As stated in Article 236 Paragraph (3) of Act Number 23 of 2014 concerning Regional Government, the content of regional regulations concerns the following issues: a. Implementation of regional autonomy and assistance tasks; and b. Further elaboration of higher statutory provisions¹¹.

Kuningan Regency is one of the regencies located in West Java Province. The district is famous for its tourist areas, both natural tourism and historical tourism which until now has become a factor that raised the name of Kuningan Regency in West Java Province. The natural beauty contained in it makes Kuningan Regency a natural tourist area and is said to be a historical tourist area because there are several historical relics in Kuningan Regency such as Cultural Heritage Sites.

Cultural heritage sites are locations that are on land and/or contain cultural heritage objects, cultural heritage buildings as a result of human activities or evidence of past events. Cultural heritage sites and cultural heritage objects stored therein are managed by the Kuningan Regency Education and Culture Office, based on the data obtained about 141 sites with different types of sites including buildings, rocks and terraces. Some of these sites have been recognized as cultural heritage of Kuningan Regency through a series of testing criteria for Cultural Conservation by the Central Education and Culture Office¹². *Paseban Tri Panca Tunggal* is an ancient heritage building that was used by Indonesian fighters to hide against the Dutch. So that it is designated as a Provincial Level (West Java) Cultural Reserve. The building is located in Cigugur Village, Cigugur District, Kuningan Regency.

Kuningan Regency Regional Regulation No. 8 of 2018, in particular Article 6 explains that:

- 1) The duties of the Regional Government in the preservation of regional culture are as follows:
 - a. Fostering community participation and creativity.
 - b. To develop and increase the awareness of the local community towards the preservation of regional culture.
 - c. Coordinate between government agencies, the community, and the business world in an effort to preserve regional culture.
 - d. Coordinate the implementation of the preservation of regional culture with the surrounding area
- 2) To carry out the tasks as referred to in paragraph (1), the Regional Government has the authority to:

⁹ Muhammad Syukri Albani Nasution, *Ilmu Sosial Budaya Dasar*, Jakarta, RajaGrafindo Persada, 2015, hlm. 15.

¹⁰ Endang Sutrisno, "the legal problem of using non environmentally friendly fishing gear in the fisher community of Indonesia", *EurAsian Journal of BioSciences Eurasia J Biosci* 13, 2105-2109 (2019), p.2107-2108.

¹¹ Endang Sutrisno-Alip Rahman-Jihan Syifa Asmarani, "Konstruksi Kebijakan Lokalitas dalam Pengelolaan Sampah di Kawasan Pantai: Persoalan Keadilan untuk Lingkungan Hidup", dalam *Konstruksi Hukum dalam Perspektif Spiritual Pluralistis: Kumpulan Pemikiran dalam Rangka Purnabakti Prof.Dr.Esmi Warassih Pujirahayu, SH.MS*, Yogyakarta, Thafa Media, 2021, hlm.429.

¹² Elsa Maitsa, *Implementasi Augmented Reality untuk Pengenalan Gedung Bersejarah di Kabupaten Kuningan Menggunakan Algoritma Lucas Kanade*, *Jurnal Buffer Informatika*, Volume 6 Nomor 2, 2020.

- a. Formulate and determine policies and strategies for preserving regional culture based on national policies
- b. Organizing the preservation of regional culture in accordance with the norms, standards, procedures, and criteria set by the government
- c. Cooperating between regions, ministries, and networks in the preservation of regional culture
- d. Carry out guidance and supervision of the implementation of regional cultural preservation activities
- e. Establishing a regional cultural area
- f. Facilitate the implementation of local cultural preservation organized by the community.

These legal provisions have confirmed the commitment of the Regional Government of Kuningan Regency to formulate policies capable of translating national regulations on cultural heritage through the legal product of Act Number 11 of 2010 concerning Cultural Conservation. On the other hand, the community around the area must be given education, socialization and legal empowerment to be able to maintain and protect and preserve the objects or buildings of the cultural heritage, so that they can provide benefits for the socio-economic welfare of the community.

The construction of locality policies has formulated positive and constructive efforts in accordance with the objectives of the normative order being built, which was carried out by the Regional Government of Kuningan Regency. The partisanship and concern of the Kuningan Regency Government must be supported by community participation so that the desired goals can be achieved

E. Conclusion

Local policies in the form of a legal product of the Kuningan Regency Regional Regulation Number 8 of 2018 concerning the Preservation of Regional Culture in the context of Paseban as a Cultural Conservation, must be implemented to support the principle of expediency as one of the objectives of the legal norm being built. On the other hand, the enactment of these norms needs to be supported by genuine community participation. This effort is intended for the protection and preservation of cultural heritage objects or buildings as mandated by the national legal product, namely Act Number 11 of 2010 concerning Cultural Conservation.

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