

LEGAL PROTECTION OF LOCAL CULTURE THROUGH REGIONAL CULTURAL ADVANCEMENT GOVERNANCE

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ABSTRACT

Local culture represents living knowledge, practices, values, expressions, and tangible heritage maintained and transmitted by communities across generations. This article examines the legal regulatory framework governing the preservation of local culture, with particular attention to state obligations, governmental authority, community participation, and cultural continuity. The study employs doctrinal legal research combined with an academic literature review by examining constitutional provisions, cultural advancement legislation, cultural heritage law, implementing regulations, and legal instruments concerning intangible cultural heritage. The synthesis indicates that cultural preservation cannot be confined to maintaining cultural forms in an unchanged condition. Legal protection must accommodate the different characteristics of tangible heritage and living cultural practices while supporting documentation, safeguarding, development, responsible utilization, capacity building, transmission, and evaluation. Community participation constitutes a central element because cultural meaning and continuity depend upon the people who create, practise, and transmit cultural knowledge. A sound regulatory framework consequently requires coordinated state protection and local governance while preserving the ability of communities to determine the continuation and development of their cultural heritage.

Keywords: Local culture, cultural preservation, cultural heritage law, intangible cultural heritage, community participation, cultural rights, cultural governance.

INTRODUCTION

Local culture is an integral part of community life formed through a long process of transmitting values, knowledge, social practices, language, traditions, arts, skills, objects, spaces, and various forms of expression that derive meaning from their supporting communities. Its position cannot be reduced to a mere relic of the past, as culture continuously undergoes interpretation, utilization, and intergenerational transmission. The development of cultural heritage law demonstrates a shift in understanding from protection that initially centered heavily on objects and monuments toward a scope that

incorporates values, identity, and the relationship between communities and that heritage (Djulaeka & Zulkifli, 2018). Blake (2000) explains that the concept of cultural heritage has evolved through the creation of various legal instruments that expand the objects and reasons for its protection. This shift provides the foundation for understanding that the preservation of local culture requires a legal framework capable of accommodating both tangible heritage and living cultural practices within society. Traditional communities maintain local values and heritage knowledge through customary rules, collective rituals, and shared decision-making that govern community relations with the environment and natural resources (Mardikaningsih et al., 2021).

This development aligns with the growing recognition that cultural heritage is intrinsically linked to the people and groups who create, maintain, use, and pass it on (Macmillan, 2018). Francioni (2011) shows that international cultural heritage law increasingly pays attention to the human dimension, including the connection between cultural heritage, group identity, cultural rights, and the responsibility to transmit it to future generations. This perspective is particularly relevant to local culture because the value of a tradition is not solely determined by its unique form or official government recognition; it also stems from its role in the lives of the culture-bearing community. Multicultural policies must build legal and social frameworks that recognize the rights of cultural communities while offering them space to thrive and participate in societal life (Oluwatosin & Rojak, 2023). Preservation regulations must therefore safeguard the bond between cultural objects or practices and their communities. Policies that focus exclusively on storage, cataloging, or exhibition without considering the supporting community risk turning culture into an administrative object detached from the social processes that keep it alive.

The issue becomes more complex regarding intangible cultural heritage because its survival depends on human knowledge and practice. Oral traditions, rituals, traditional craftsmanship, knowledge concerning nature, performing arts, and social practices require practitioners who understand and pass them forward. Lenzerini (2011) describes intangible cultural heritage as a form of living culture that is constantly recreated in line with the social evolution of its supporting communities and is deeply tied to their identity. This characteristic distinguishes the preservation of living culture from the maintenance of physical artifacts. Legal regulation cannot merely focus on prohibitions against damaging or destroying cultural expressions. Instead, law must provide room for knowledge transmission, the sustainability of cultural practitioners, community participation, and the community's capacity to adapt its traditions without losing the core connection to its inherited cultural identity (Bak, 2018).

Social change, population migration, technological advancements, commercialization, shifting educational patterns, and a decline in intergenerational transmission can all impact the sustainability of local culture. Modern society is increasingly open to change, yet it also faces shifts in long-standing traditions (Al Hakim et al., 2021). This situation

does not necessarily mean that every change must be halted by law. Culture is a social practice that naturally evolves according to the needs of its supporting community (Oktavianus et al., 2025). Rather, legal issues arise when changes occur under pressures that deprive communities of their ability to determine their culture's continuity, when cultural heritage is damaged or lost without adequate protection, or when public policies sever an expression from the community that nurtures it. Insights into the human dimension of cultural heritage law show that protection is linked to identity and the rights of groups to maintain their cultural life. As understanding of sustainability deepens, there is also a growing awareness of the need to integrate local cultural values into broader sustainability policies (Mardikningsih & Darmawan, 2023). Adequate regulations must be able to differentiate between cultural changes arising from community dynamics and the loss of culture resulting from neglect, destruction, or policies that fail to support community continuity.

The need for clear regulation becomes even more evident because preservation involves multiple interests. Governments have a stake in safeguarding cultural wealth, communities hold a direct connection to their inherited heritage, cultural practitioners require space to sustain their practices, while the education, tourism, creative economy, and research sectors may utilize cultural elements for various purposes (Kahar & Muhaimin, 2022). These competing interests necessitate clear boundaries regarding authority and responsibility. Implementing cultural preservation policies faces several challenges, including strong primordial sentiments, identity politics, inter-group disparities, and legal frameworks that are not yet fully supportive (Hariani & Halizah, 2024). Blake (2000) highlights that the evolution of cultural heritage law has occurred alongside the expansion of protective objectives and the types of interests recognized by law. Consequently, the preservation of local culture demands regulatory provisions covering identification, documentation, maintenance, safeguarding, development, utilization, and community engagement. Without a clear division of authority, culture risks being treated merely as a resource to be exploited without balanced guarantees for the sustainability of its values and supporting communities.

A scholarly gap emerges when local cultural preservation is narrowly understood as keeping cultural forms static over time. This interpretation fails to align with the nature of living culture, which naturally evolves through transmission. Lenzerini (2011) identifies continuous recreation as a core defining feature of intangible cultural heritage. Thus, the legal challenge is not simply to freeze a specific form, but to determine how regulations can sustain values, knowledge, practices, and community connections with their heritage. Another gap lies in the interplay between state authority and community participation. While regulations grant governments the power to enact policies, manage documentation, offer protection, and allocate resources, preservation efforts that marginalize local communities risk yielding decisions that clash with the cultural meaning held by the owners themselves.

This study frames legal regulation as an instrument to structure the relationship between state protection, local government authority, community participation, and the sustainability of local culture. This approach stems from the understanding that cultural heritage possesses both a legal dimension and a strong connection to community identity. Francioni (2011) demonstrates that the evolution of cultural heritage law has shifted toward greater recognition of the human and group interests tied to that heritage. The discussion aims to explain how the legal system can regulate cultural identification and protection, the division of governmental responsibilities, the preservation of tangible and intangible culture, and the involvement of communities as owners and successors of cultural knowledge. The contribution of this analysis lies in linking national regulations, implementing instruments, and community participation principles into a unified normative framework for local cultural sustainability. The central research question asks: How is the legal framework for local cultural preservation constructed to ensure protection, sustainability, and the participation of culture-bearing communities? Addressing this question allows preservation to be understood as a comprehensive legal process encompassing identification, documentation, protection, maintenance, development, utilization, transmission, and community capacity building. It also provides a foundation to distinguish the protection of cultural heritage artifacts from the continuity of living cultural practices, while clarifying their intersection within local cultural governance.

METHODS

This study employs a doctrinal legal method integrated with an academic literature review. The doctrinal approach is used to analyze norm construction, inter-regulatory harmonization, the distribution of authority, and the fundamental principles of local cultural protection. In line with the framework outlined by Hutchinson and Duncan (2012), doctrinal analysis focuses on systematically examining, organizing, and synthesizing legal sources. Primary legal materials encompass constitutional provisions, statutes relating to cultural advancement and cultural heritage, implementing regulations, and intangible cultural heritage instruments. These normative documents were evaluated based on regulatory objectives, objects of protection, institutional authority, forms of preservation, and the legal standing of communities. The document analysis refers to Bowen's (2009) principles, which emphasize examining the origin, purpose, relevance, content context, and interrelation of documents with the research issues.

The literature review functions to bridge legal norms with academic discourse on cultural preservation, community participation, and state-society relations. The literature search was restricted to official legal sources and verified academic articles reviewing protection obligations, cultural governance, and community rights. Popular articles and sources without clear publication credentials were excluded from the primary foundation. As explained by Snyder (2019), a literature review plays a vital role in consolidating scattered knowledge to build a comprehensive conceptual synthesis and normative interpretation. The entirety of

the analysis rests on the examination of normative texts and academic literature.

RESULTS AND DISCUSSION

The constitutional basis for cultural preservation stems from Article 32 of the 1945 Constitution of the Republic of Indonesia. This provision mandates the state to advance national culture in the midst of world civilization while guaranteeing the freedom of society to maintain and develop its cultural values. This formulation contains two interconnected elements. First, there is an active state responsibility toward culture. Second, the execution of this responsibility must safeguard the freedom of society to preserve and develop cultural values. This structure indicates that state authority is not a basis to strip communities of their culture. Rather, the legal function is properly directed toward creating guarantees so that society can safely maintain, transmit, develop, and utilize its culture. This constitutional mandate serves as the foundation for formulating cultural policies that bridge state protection with the freedom of society as cultural actors (Fitrianto et al., 2025).

The need for such legal protection becomes increasingly crucial when culture is embodied in living traditional practices maintained by communities (Romlah et al., 2024). This framework receives more specific regulation through Law No. 5 of 2017 on the Advancement of Culture. This law remains in force and positions regional cultural diversity as a national asset and identity. The advancement of culture is structured around four primary activities: protection, development, utilization, and capacity building (pembinaan). This framework demonstrates that culture is not treated as a mere relic to be stored away. Protection must be linked with development so that culture has the space to remain alive, while utilization must be kept within boundaries that preserve cultural values. Capacity building is required to enhance human and institutional capabilities in sustaining cultural processes (Apriani et al., 2025). Sound policy must support both the preservation and development of local cultural identities as part of a diverse cultural heritage (Zulkarnain, 2024). This regulation provides a national baseline to connect central and regional cultural policies through a more structured direction for cultural advancement.

The meaning of local cultural preservation must be understood within the scope of cultural advancement. While the general term "preservation" (pelestarian) encompasses efforts to maintain cultural existence, the Law on the Advancement of Culture utilizes more detailed operational terms. Protection (pelindungan) relates to the sustainability of cultural objects; development (pengembangan) opens space to enhance and disseminate cultural values; utilization (pemanfaatan) permits cultural application; and capacity building (pembinaan) pertains to upgrading human and institutional resources (Zein et al., 2025). This delineation prevents the misconception that preservation means freezing culture into a fixed state. Local culture can remain living through adaptation, provided the process maintains its link with supporting communities and does not destroy the values that give it meaning. Such a legal framework establishes sustainability as the ultimate goal, while specific actions can

adapt based on the character of the object and community needs.

Government Regulation No. 87 of 2021 operationalizes the Law on the Advancement of Culture by regulating master plans for cultural advancement, an integrated cultural data system, protection, development, utilization, capacity building, and awards. An integrated data system carries normative significance because culture cannot easily receive adequate protective policies if its existence, condition, practitioners, and sustainability threats are not systematically known. Data also enables the government to connect preservation with planning and resource allocation. However, data collection cannot be treated as an end in itself (Widyananda, 2023). Cataloged culture can still lose its practitioners, spaces of practice, or transmission channels if follow-up actions falter. Implementing regulations must therefore be read as a continuum of actions progressing from object identification to protection, development, controlled utilization, and resource capacity building.

Local culture may also possess tangible elements that meet the criteria of cultural heritage (cagar budaya). For this category, Law No. 11 of 2010 on Cultural Heritage provides a distinct legal framework governing heritage items, buildings, structures, sites, and areas. Preservation within the cultural heritage regime is defined as a dynamic effort to maintain the existence and value of cultural heritage through protection, development, and utilization. This distinction demonstrates that cultural law operates across several regimes with differing objects and instruments. A local tradition can simultaneously encompass buildings, sites, objects, knowledge, rituals, and social practices. Protection relying on a single legal category risks severing other interconnected cultural dimensions. Coordination across legal instruments is essential so that protecting tangible objects does not detach them from the values and community practices that give them meaning.

The preservation of intangible cultural heritage receives additional support from Indonesia's commitment to the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, ratified via Presidential Regulation No. 78 of 2007. The Convention outlines goals for safeguarding intangible cultural heritage, respecting community heritage, raising awareness of its value, and fostering international cooperation. Protection within this instrument involves measures ensuring viability, including identification, documentation, research, preservation, promotion, enhancement, transmission through formal and non-formal education, and revitalization. This structure shows that successful preservation of living culture cannot be measured solely by the number of elements listed. Sustainability depends on the community's capacity to continuously practice and pass cultural knowledge down to future generations.

The legal standing of society is a decisive element in constructing protection frameworks. Lixinski (2011) criticizes dominant state authority in intangible cultural heritage mechanisms when communities are granted overly restricted roles in identifying and protecting their heritage. He argues that enhanced community participation is vital because the meaning of cultural heritage is rooted in the identity and practices of its supporting society. Local community participation carries high urgency given their vital

role in maintaining and managing local culture (Ramle et al., 2022). This perspective is relevant for analyzing national regulations. Data collection conducted without culture-bearers can yield administrative descriptions that diverge from community meanings. Utilization designed without community involvement risks altering cultural practices for external interests. Participation must therefore be embedded across all stages—from identification, planning, and selecting protective forms, to development and policy evaluation (Ceribašić, 2022). The government fulfills facilitation and protection roles, while the community remains the core subject possessing direct knowledge of and connection to its cultural heritage.

Community participation also intersects with cultural selection issues prioritized by the government. Administrative and budgetary resources are limited, compelling governments to set priorities. This process can produce inequities if selection privileges easily staged practices, high-value tourism assets, or widely recognized expressions (Noya, 2024). Lixinski (2011) highlights that heritage designation mechanisms can be influenced by identity politics and state interests. Regulations oriented toward cultural justice must accommodate minor community cultures, traditions with low economic yield, and practices facing fragile transmission. Protective metrics should consider sustainability, community value, practitioner conditions, and the risk of knowledge loss. Every community possesses unique ways of interpreting risk, shaped by its history, traditions, and values (Seran & Khayru, 2025). This approach prevents preservation from using popularity as the primary benchmark for protection eligibility.

The legal construction must also differentiate preservation from commercialization. The Law on the Advancement of Culture allows cultural utilization as a component of cultural advancement, making commercial use permissible in principle as long as it aligns with regulatory goals (Isnaini & Roisah, 2023). Commercial utilization can support cultural practitioners when benefits strengthen community capacity, provide space for regeneration, and sustain living practices. Problems emerge when economic return becomes the dominant objective, altering cultural elements without community involvement. Regulations must link licensing, capacity building, documentation, and utilization to cultural sustainability goals. While regulatory forms may vary based on cultural typologies and institutional mandates, the core principle remains: cultural use must not negate the values that preservation policies seek to protect (Wen et al., 2025). The quadruplet framework protection, development, utilization, and capacity building in the Law on the Advancement of Culture supplies the normative foundation for this balance.

The relationship between central and local governments holds distinct significance because local culture exists within specific geographies and communities. National policies set general directions and standards, whereas implementing preservation requires localized knowledge of community conditions, practitioners, cultural spaces, and regional needs. Government Regulation No. 87 of 2021 reinforces connections among cultural planning, data gathering, protection, development, utilization, and capacity

building within the implementation framework for cultural advancement. Local governments possess administrative proximity to cultural communities, enabling them to execute identification and facilitation in ways tailored to local realities. Recognizing local roles in environmental stewardship and resource management highlights the importance of their knowledge and involvement in sustaining community vitality (Nurmalasari & Nuraini, 2021). Nevertheless, proximity requires participatory mechanisms to ensure regional policies do not devolve into unilateral decisions on which cultures represent the public (Fitrianto et al., 2025). Regional regulations should translate national norms into responsive instruments for local diversity without creating homogenous standards that erase community differences.

Enforcement and evaluation represent another decisive component of regulatory effectiveness. Protecting tangible culture requires oversight against destruction, relocation, unauthorized alteration, or uses that degrade cultural heritage values under its specific legal regime. Intangible culture demands a different evaluation model, as threats manifest through the loss of practitioners, severed transmission, shrinking practice spaces, or usages that alienate expressions from communities. The 2003 UNESCO Convention establishes the viability of intangible cultural heritage as the primary goal of protection, emphasizing transmission and revitalization (Fitri & Ahmad, 2017). These distinct characteristics show that a single preservation metric cannot be applied uniformly across all local culture. Evaluation must align with object typology, threat profiles, and community needs. Legal success is more accurately measured by preserved viability and ongoing transmission than by the volume of produced regulations or administrative listings.

The legal regulatory construction for local cultural preservation is built multi-layered through constitutional mandates, cultural advancement regulations, cultural heritage regimes, implementing regulations, and intangible cultural heritage obligations. This framework positions the state as a guarantor and facilitator of protection, while the community remains the knowledge owner, practitioner, and successor of culture. Legally sound preservation must encompass data collection, protection, development, controlled utilization, capacity building, intergenerational transmission, and evaluation. Structural differences between tangible objects and living culture demand distinct instruments, yet both are unified by the objective of safeguarding cultural existence and value for society. Community participation remains the central element ensuring regulations do not reduce culture into administrative objects detached from the people who create, practice, and pass them down.

CONCLUSION

The legal regulation of local cultural preservation forms a protective structure that connects state obligations, governmental authority, the character of cultural objects, and the right of society to maintain and develop its cultural values. The constitutional mandate

serves as the foundation for more specific regulations through regimes of cultural advancement, cultural heritage (cagar budaya), and the protection of intangible cultural heritage. Preservation cannot be understood as an attempt to maintain all cultural forms without change. For living culture, sustainability depends precisely on the community's capacity to transmit, develop, and reframe the meaning of its traditions. Regulations function to guarantee data collection, protection, maintenance, intergenerational transmission, development, controlled utilization, and capacity building (pembinaan). Community participation is a fundamental element because culture derives its meaning from its supporting communities. The quality of legal protection is ultimately determined by the ability of rules to safeguard the connections between culture, values, practitioners, spaces, and the process of intergenerational transmission.

Cultural preservation law needs to shift from an object-centered approach toward a framework that recognizes the relationship between heritage, society, identity, and the sustainability of cultural practices. Academically, the distinction between the cultural heritage regime and the advancement of culture provides a basis for evaluating the type of protection that aligns with the character of both tangible and intangible culture. Central and regional governments must link data collection with protective measures and capacity building that can sustain the transmission process. Designating a cultural element in an administrative register is insufficient if practitioners, spaces of practice, and transmission mechanisms continue to weaken. Economic utilization policies must also be directed so that the benefits support the sustainability of the culture-bearing communities. Community participation must be embedded from identification through evaluation so that legal decisions gain legitimacy and align with the needs of the protected culture.

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