



LOCAL GOVERNMENT AUTHORITY IN EXERCISING RIGHTS OF CULTURAL PROTECTION AND PRESERVATION IN MALINAU REGENCY

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Abstract

This study critically examines the authority of local government in protecting and preserving regional culture in Malinau Regency. It aims to analyze the legal basis for cultural preservation and assess its implementation by the regional government. Using a normative legal research method grounded in the 1945 Constitution and relevant legislation, the study employs a statutory approach supplemented by empirical data collection. Findings indicate that Malinau Regency possesses the authority to enact regional regulations to safeguard local arts and culture from the erosion of traditional values. Such regulations are essential to ensure the sustainability of cultural heritage and must balance academic, ideological, sociological, and economic interests. Furthermore, regional regulations should empower local authorities and promote community participation in the protection, development, utilization, guidance, and supervision of regional culture..

Keywords: Local Government; Local government Authority; Rights to Preserve and Develop Regional Culture.

A. Introduction

Indonesian art and culture are dynamic entities that continuously evolve, with the pace of socio-cultural transformation varying across regions, ethnic groups, and historical periods. As a diverse nation composed of thousands of islands and numerous ethnic communities, Indonesia is characterized by cultural pluralism and rich artistic traditions. Each ethnic group contributes distinct cultural expressions, embodying high social and artistic values.¹ However, in the current era, cultural neglect has become increasingly evident, with some segments of society even experiencing a sense of shame toward their own cultural heritage—an essential component of national identity.²

¹ Sekretariat Dewan Perwakilan Kota Salatiga, "Naskah Akademik Dan Raperda Tentang Pemajuan Kebudayaan Daerah Kota Salatiga," no. 0298 (n.d.): 1–82.

² Muhammad Syarif et al., "Kewenangan Pemerintah Daerah Dalam Pemajuan Kearifan Lokal Di Kabupaten Padang Pariaman" 5, no. 3 (2023): 653–62, <https://doi.org/10.31933/unesrev.v5i3.402>.

Malinau Regency, established under Law No. 20 of 2012 dated November 16, 2012, is one of five regencies in North Kalimantan Province³ and the largest in terms of area. Its topography consists primarily of hills and lowlands.⁴ Development initiatives in Malinau have integrated local customs, traditions, arts, and wisdom, reflecting a commitment to cultural preservation.⁵

The constitutional foundation for cultural preservation is articulated in Article 32(1) of the 1945 Constitution of the Republic of Indonesia, which mandates that the state promote national culture within the global civilization while safeguarding the people's freedom to preserve and develop their cultural values. Article 28I(3) further affirms that cultural identity and the rights of traditional communities must be respected in accordance with the progress of time and civilization.⁶ Accordingly, efforts to empower regional arts and culture should be seen as strategic investments in the nation's future and civilization, rather than as financial burdens.⁷

In the framework of the 1945 Constitution of the Republic of Indonesia, the existence of local governments is stipulated in Article 18. Paragraph (1) states: "The Unitary State of the Republic of Indonesia is divided into provincial regions, and these provinces are further divided into regencies and cities, each of which has its own local government, regulated by law." Paragraph (2) affirms that "Provincial, regency, and city governments manage and organize their own governmental affairs based on the principles of autonomy and assistance duties." This constitutional provision has been implemented since Indonesia's independence, though its practical realization has experienced various challenges in the pursuit of decentralization.⁸

One vital element of national culture that requires protection is cultural heritage, which includes buildings, sites, statues, temples, and other historical or archaeological artifacts. These objects hold significant historical, scientific, educational, religious, and cultural value.⁹ Law No. 11 of 2010 on Cultural Heritage (hereinafter referred to as the Cultural Heritage Law) defines cultural heritage broadly. Article 1(1) states: "Cultural Heritage is a cultural asset in the form of tangible objects, including Cultural Heritage Objects, Buildings, Structures, Sites, and Areas, whether on land or in water, that must be preserved due to their value for history, science, education, religion, and/or culture through a formal designation process."¹⁰

In Malinau Regency, regional culture and local wisdom emerge from the continuous interaction among communities living and evolving in the area. This development is dynamic, shaped by both internal cultural exchanges and interactions with external and even global influences. Within this context, the people of Malinau face various challenges and opportunities in preserving and promoting their regional arts and culture amidst the broader processes of change and globalization. Generally, there are 7 cultural issues in the regency that are currently strategic in the development of regional culture, namely:¹¹

1. The weakening of the Pancasila ideology and national cultural resilience.
2. The suboptimal advancement of Indonesian culture.

³ Kabupaten Malinau, "Rpjmd Kabupaten Malinau 2021-2026," *Gambaran Umum Kondisi Daerah*, 2021, 1–17.

⁴ Malinau. *Ibid*.

⁵ <https://www.antaranews.com/berita/3768012/kabupaten-malinau-kembali-selenggarakan-pesta-budaya-irau>, Di Akses (4/12/2024), n.d.

⁶ Retnani Amurwaningsih, "Perlindungan Budaya Tradisional Indonesia Melalui Pencatatan Dalam Sistem Pendataan Kebudayaan Terpadu," *Jurist-Diction* 1, no. 1 (2018): 303, <https://doi.org/10.20473/jd.v1i1.9747>.

⁷ Reny Triwardani and Christina Rochayanti, "Implementasi Kebijakan Desa Budaya Dalam Upaya Pelestarian Budaya Lokal," *Reformasi* 4, no. 2 (2014): 102–10, <https://doi.org/10.33366/rfr.v4i2.56>.

⁸ Eddy Asnawi, Birman Simamora, and Andrizal, "Otonomi Khusus Terhadap Eksistensi Negara Kesatuan Republik Indonesia," *Jurnal Analisis Hukum* 04, no. 02 (2021): 242–63, <https://doi.org/10.38043/by.crossref>.

⁹ Hafidz Putra Arifin, "Politik Hukum Cagar Budaya Dalam Perlindungan Identitas Bangsa Indonesia," *Veritas et Justitia* 4, no. 2 (2018): 470–92, <https://doi.org/10.25123/vej.3008>.

¹⁰ Arifin.

¹¹ Pemerintah daerah Kabupaten Malinau, "Bab Iii. Permasalahan Dan Isu – Isu Strategis 3.1.," *RPJMD KABUPATEN MALINAU 2021-2026*, 2021, 54–67.

3. The insufficient development of character education and ethics.
4. The weak understanding and practice of religious values.
5. The inadequate establishment of religious moderation to strengthen tolerance and harmony.
6. The suboptimal role of the family.
7. The low culture of literacy, innovation, and creativity.

The cultural diversity of Malinau Regency offers both potential and vulnerability, especially in the context of globalization and modern development. The region's culture spans belief systems, social organization, education, language, arts, and livelihoods,¹² each rich in local wisdom. However, Malinau's proximity to Malaysia increases its exposure to foreign cultural influences.

One pressing issue is the absence of a regional regulation specifically addressing the preservation and development of local culture. In its absence, the local government refers to Law No. 5 of 2017 on Cultural Advancement, despite Malinau's unique cultural traits that warrant tailored approaches. A Regional Regulation on the Preservation and Development of Arts and Culture is thus urgently needed to safeguard cultural heritage, promote social harmony, and support community welfare.¹³

Cultural preservation is essential, as culture embodies collective memory, identity, and knowledge, while also serving as a potential regional asset. Yet, younger generations are increasingly disconnected from local traditions due to the pervasive influence of global culture. In response, a regulatory framework is crucial to protect and sustain Malinau's arts and cultural heritage for future generations.¹⁴

The empirical condition of regional arts and culture in Malinau Regency underpins the formulation of the Draft Regional Regulation on the Preservation and Development of Regional Arts and Culture. The regulation aims to protect and preserve Malinau's traditional culture—both tangible and intangible—so that it may continue to support the productivity and identity of local communities.¹⁵

This study employs a normative legal research method, focusing on the analysis of legal norms found in the 1945 Constitution and other relevant legislation, using a statute approach.¹⁶ This is complemented by empirical research through the collection of relevant field data. While normative legal research typically aims to provide legal justification, this study presents factual data systematically to inform policy discourse.¹⁷ The research begins with library-based analysis to examine secondary legal materials, followed by fieldwork to gather primary data and observe social realities.

Given this context, the research centers on the theme: "Local Government Authority in Exercising Cultural Protection and Preservation Rights in Malinau Regency."

B. Discussion

1. Local government Authority in Preserving and Regional Culture.

The term *budaya* "culture" originates from the Sanskrit word *buddhayah*, the plural form of *buddhi*, meaning intellect or mind—referring to aspects related to human reason and thought. In English, "culture" is derived from the Latin *colere*, meaning to cultivate or work, which originally

¹² Nur Islamiah, "JURNAL BERITA SOSIAL Dampak Negatif Budaya Asing Terhadap Gaya Hidup Remaja Kota Makassar," *Jurnal Berita Sosial* VII (2022), <https://doi.org/10.24252/beritasosial.v7i1.45041>.

¹³ Yenny Febrianty, Joko Sriwiododo, and Priyaldi Priyaldi, "Establishing Regional Regulations for the Protection of Local Wisdom," *Fiat Justisia: Jurnal Ilmu Hukum* 17, no. 3 (2023): 193–220, <https://doi.org/10.25041/fiatjustisia.v17no3.2708>.

¹⁴ Yuli Tri Astuti, Agus Cahyono, and Eko Sugiarto, "Traditional Art in Building Cultural Identity: A Case Study on a Cultural Degree Event," *Catharsis: Journal of Arts Education* 10, no. 2 (2021): 142–50, <https://doi.org/10.15294/catharsis.v10i2>.

¹⁵ Astuti, Cahyono, and Sugiarto.

¹⁶ Mia Hadiati, Febriansyah Ramadhan "Observing The Differences in Constitutional Court Decision About the Legal Age of Marriage," *Jurnal Konstitusi* 19, no 3(2022):644-672,<https://doi.org/10.31078/jk1937>

¹⁷ Ibid

referred to farming but has since expanded to denote the cultivation of human capacities.¹⁸ Jerald G. and Rober define culture as shared mental programs that shape individual responses to their environment. Meanwhile, E.B. Tylor describes culture as a complex whole encompassing knowledge, beliefs, art, morals, law, customs, skills, and habits acquired by individuals as members of society.¹⁹

The concept of "authority" (*kewenangan*) has been discussed by several legal scholars.²⁰ Philipus M. Hadjon equates authority with the Dutch term *bevoegdheid*. While both terms relate to legal capacity, *bevoegdheid* is used in both public and private law, whereas "authority" is specifically a public law concept. Prajudi Atmosudirdjo distinguishes between authority and power, noting that authority is "formal power" derived from legislative, executive, or administrative sources.²¹ Authority typically involves jurisdiction over a specific group, area, or set of governmental affairs and may comprise several distinct powers (authorities).²²

Bagir Manan further emphasizes that in legal terms, authority is not synonymous with power.²³ While power refers to the capacity to act or refrain from acting, authority entails both rights and obligations (*rechten en plichten*). In the context of regional autonomy, rights imply self-regulation (*zelfregelen*) and self-governance (*zelfbesturen*), while obligations include both horizontal responsibilities to govern effectively and vertical responsibilities to contribute to the orderly administration of the state as a whole.²⁴

Cultural authority encompasses a broad range of functions, from regulating and preserving cultural heritage to shaping state involvement in the development of traditional arts. One manifestation of this authority is the government's role in supporting traditional arts through policies and institutions dedicated to archiving, documenting, and preserving cultural expressions. In Indonesia, the Ministry of Education and Culture holds such authority, particularly in safeguarding regional arts, including dance, music, and visual arts.²⁵

This authority is formally regulated through Law No. 5 of 2017 on Cultural Advancement, which seeks to preserve Indonesia's cultural diversity through community-based programs.²⁶ In this context, the state functions as a facilitator, offering not only financial support but also legal protection to ensure that local arts and traditions are not marginalized by global cultural influences. Initiatives such as the recognition of Intangible Cultural Heritage exemplify the exercise of state authority in cultural protection.²⁷

However, cultural authority is not the exclusive domain of the state. Cultural communities and artistic groups also play a vital role in shaping, transforming, and transmitting culture through social interaction. While their authority emerges organically from community dynamics, it must still align with state policies to balance cultural preservation with innovation.

Viewed more broadly, cultural authority is a systemic construct involving individuals, communities, and state institutions. Its effective exercise requires a shared commitment to

¹⁸ Abdul Wahab Syakhrani and Muhammad Luthfi Kamil, "Budaya Dan Kebudayaan: Tinjauan Dari Berbagai Pakar, Wujud-Wujud Kebudayaan, 7 Unsur Kebudayaan Yang Bersifat Universal," *Journal Form of Culture* 5, no. 1 (2022): 1–10, Link <https://journal.iaisambas.ac.id/index.php/Cross-Border/article/view/1161>.

¹⁹ Syakhrani and Kamil.

²⁰ Aan Efendi dan Freddy Poernomo, "Hukum Administrasi" (Jakarta, 2017), h.111.

²¹ Ibid

²² Ibid

²³ Ridwan HR, "Hukum Administrasi Negara," in *Rajawali Pers* (Yogyakarta, 2010), h.99.

²⁴ Ibid

²⁵ "Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan, Pasal 5 Ayat 1 Menyatakan Bahwa Negara Memiliki Kewenangan Untuk Melestarikan Kebudayaan Yang Berkembang Di Masyarakat Melalui Kebijakan Yang Tepat," n.d.

²⁶ G. R. Trompenaars, "Cultural Dimensions in Practice: The 7-D Model of National Cultures," in *3rd Ed.* (London: TBS, 2017), hal. 102-105.

²⁷ "Kementerian Pendidikan Dan Kebudayaan Republik Indonesia, 'Warisan Budaya Tak Benda (WBTB)'. Diperoleh Dari <https://www.kemdikbud.go.id>," n.d.

recognizing culture's role in shaping national identity, fostering unity, and strengthening nationalism amid diversity.²⁸

From a legal perspective, Indroharto defines authority as the capacity granted by law to produce legal consequences.²⁹ Similarly, Article 1(5) of Law No. 30 of 2014 on Government Administration defines authority as the right of government agencies, officials, or other state actors to act within the realm of public law.³⁰

According to Article 1 Point 6 of Law No. 30 of 2014 on Government Administration, authority is defined as the power held by government bodies, officials, or other state administrators to act within the domain of public law. Authority may be acquired through three mechanisms: Attribution, Delegation, and Mandate. Attribution refers to authority granted directly by the 1945 Constitution or by statute to a government agency or official. Delegation is the transfer of authority from a higher agency or official to a lower one, with full responsibility and accountability shifting to the delegate. Mandate, on the other hand, involves the transfer of authority while responsibility and accountability remain with the mandator. Indroharto affirms that, in a juridical sense, authority is the capacity granted by legal norms to produce legal consequences.³¹

Normatively, Law No. 23 of 2014 on Local government regulates the structure and functions of regional governance, particularly in Chapter VII (Articles 57–207). These provisions cover the organization of provincial and district/city governments, the principles of governance, the roles, duties, and authorities of regional heads and their deputies, and the relationship between regional heads and regional legislative councils (DPRD). To strengthen regional autonomy, central government policies must consider local wisdom, while regional regulations or policies must align with national interests.³² This reciprocal consideration fosters a balanced governance model that integrates national priorities with regional characteristics and needs.³³

Law No. 23 of 2014 aims to improve the efficiency and effectiveness of regional governance in enhancing public welfare, delivering better public services, and increasing regional competitiveness. It also introduces affirmative policies, including the delineation of governmental affairs that fall under regional authority, such as the preservation and development of local culture—thus reinforcing the spirit of broad autonomy in managing cultural affairs at the regional level.³⁴

Indonesia adopts a unitary system of government with a decentralization framework, granting broad authority to local governments while preserving national unity under a centralized structure. The division of authority between central and local governments is governed by the 1945 Constitution and statutory regulations, notably Law No. 23 of 2014 on Local government.³⁵ This

²⁸ P. J. H. (Peter) Janse, “Kebudayaan Dan Identitas: Kajian Interdisipliner,” in *Pustaka Pelajar* (Yogyakarta:, 2015), hal. 88-90.

²⁹ Pratito Suharyo, “Aspek Hukum Kewenangan Pemerintah Daerah Dalam Melaksanakan Kerjasama Ekonomi Dengan Luar Negeri Berdasarkan Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintah Daerah,” *Thesis Fakultas Hukum Universitas Pasundan*, 2014, h.27.

³⁰ Ibid

³¹ Ibid

³² Jhon Alberth Latuny, Hendrik Salmon, and Julista Mustamu, “Interpretasi Hukum Mutatis Mutandis Dalam Pembentukan Peraturan Daerah,” *PAMALI: Pattimura Magister Law Review* 4, no. 2 (2024): 100, <https://doi.org/10.47268/pamali.v4i2.2078>.

³³ Latuny, Salmon, and Mustamu.

³⁴ Gary F. Bell, “INDONESIA : The New Regional Autonomy Laws , Two Years Later Author (s): Gary F . Bell Source : Southeast Asian Affairs , 2003 , (2003), Pp . 117-131 Published by : ISEAS - Yusof Ishak Institute Stable URL : <http://www.jstor.com/stable/27913230> The Ne,” 2003, 117–31.

³⁵ Abdul Rauf Alauddin Said, “Pembagian Kewenangan Pemerintah Pusat - Pemerintah Daerah Dalam Otonomi Seluas - Luasnya Menurut UUD 1945,” *Fiat Justisia Jurnal Ilmu Hukum* 9, no. 4 (2015): 505–30, <https://doi.org/10.25041/fiatjustisia.v9no4.613>.

system is designed to enhance local autonomy in managing domestic affairs while ensuring national coherence through central oversight and policy direction.³⁶

Governmental authority in Indonesia is generally categorized into three types: central authority, regional authority, and shared authority. This classification reflects the distribution of responsibilities to support both national and regional goals. A clear division of authority is expected to promote more efficient governance, responsive public service delivery, and equitable development across all regions.³⁷

However, in practice, coordination between central and local governments often encounters challenges—particularly in budgeting, policy alignment, and implementation. To address these issues, both levels of government must maintain strong synergy and cooperation to ensure that delegated authority functions effectively and contributes to the welfare and progress of the Indonesian people.³⁸

According to Bagir Manan, the basics of relations between the Center and the Regions within the decentralization framework are four types:³⁹

- a. The basics of deliberation in the state government system
The 1945 Constitution requires democracy to be implemented at regional level of government, meaning that the 1945 Constitution requires people's participation in the administration of regional-level government. People's participation in regional-level government is only possible through decentralization;
- b. The basis for maintaining and developing the principles of native governance
At the regional-level, the original government structure that is to be maintained based on deliberation in the state government system;
- c. Principles of Diversity
- d. "*Bhinneka Tunggal Ika*", symbolizing Indonesian diversity, autonomy, or decentralization is one way to relax the "*Spanning*" that arises from diversity; and
- e. Basics of the Rule of Law

In its development, the understanding of the rule of law cannot be separated from popular understanding. Because in the end, laws that regulate and limit the power of the state or government are defined as laws that are made based on the power or sovereignty of the people.⁴⁰

Meanwhile, according to Ismail Suny, there are five levels of relationship between the Central and Local governments:⁴¹

1. Unitary state with limited autonomy. Through Law No. 5 of 1974, Indonesia is an example of a country that adopts limited autonomy. Although the principle of decentralization is emphasized, its substance is highly centralized. It grants significant authority to the central government in many matters.
2. Unitary state with broad autonomy. Economically, broad autonomy must be supported by wealth and finances. Therefore, there is a need for regulations on the equitable distribution of wealth and finances between the central government and local governments.

³⁶ Said.

³⁷ Rahmat Robuwan, Wirazilmustaan Wirazilmustaan, and Rio Armanda Agustian, "Konsep Hubungan Kewenangan Antara Pemerintah Pusat Dan Pemerintah Daerah Dalam Bingkai Negara Kesatuan Dengan Corak Otonomi Luas," *PROGRESIF: Jurnal Hukum* 12, no. 2 (2018): 2131–45, <https://doi.org/10.33019/progresif.v12i2.976>.

³⁸ Robuwan, Wirazilmustaan, and Agustian.

³⁹ Bagir Manan, "Hubungan Pusat Dan Daerah Menurut UUD 1945," in *Pustaka Sinar Harapan*, (Jakarta, 1995), hlm 40.

⁴⁰ Fauzi Iswari, "Aplikasi Konsep Negara Hukum Dan Demokrasi Dalam Pembentukan Undang-Undang Di Indonesia," *JCH (Jurnal Cendekia Hukum)* 6, no. 1 (2020): 127, <https://doi.org/10.33760/jch.v6i1.285>.

⁴¹ Ni'matul Huda and Despan Heryansyah, "Kompleksitas Otonomi Daerah Dan Gagasan Negara Federal Dalam Negara Kesatuan Republik Indonesia," *Jurnal Hukum Ius Quia Iustum* 26, no. 2 (2019): 238–58, <https://doi.org/10.20885/iustum.vol26.iss2.art2>.

3. Quasi-federal state with provinces based on the "goodwill" of the central government. The characteristic of such a state is the central government's power to decide the validity of decisions made by the regional divisions.
4. Federal states with a federal government, such as the United States, Australia, Canada, and Switzerland.
5. Confederation. In its most extreme form, a country is considered a confederation if the central government depends on the goodwill of the member states of the confederation or commonwealth countries.

Theoretically, authority derived from statutory regulations can be obtained through three mechanisms: attribution, delegation, and mandate.⁴² Attribution refers to the original granting of governmental authority by the legislature to state organs.⁴³ H.D. Van Wijk defines attribution as the assignment of authority from the legislator to governmental bodies. This is reinforced by Article 1 Point 22 of Law No. 30 of 2014 on Government Administration, which defines attribution as “the granting of authority to government agencies and/or officials by the 1945 Constitution or law.” Thus, all governmental authority must be grounded in legal norms explicitly stated in formal regulations.

In the cultural sector, attribution-based authority is evident in the government’s direct involvement in funding and managing cultural programs. One example is the Special Allocation Fund (Dana Alokasi Khusus) for regional cultural development, which supports local cultural initiatives with potential for expansion. The government also hosts national and international cultural events—such as the Bali Arts Festival and the Nusantara Cultural Festival—which serve both preservation and promotional functions for Indonesian culture on the global stage.⁴⁴

Attribution is also reflected in the state's role in protecting internationally recognized cultural heritage. Indonesia’s efforts to maintain sites such as Borobudur Temple, Prambanan Temple, and Komodo Island—recognized by UNESCO as World Heritage Sites—demonstrate the government’s authority to conserve cultural assets while involving local communities to ensure sustainability.⁴⁵

Further, the government exercises attributed authority through cultural diplomacy, carried out by institutions such as the Directorate General of Culture.⁴⁶ These efforts include the development of cultural exchange programs, international exhibitions, performances, and festivals aimed at promoting Indonesian culture abroad.

Second, delegation, as defined in Article 1(23) of Law No. 30 of 2014, refers to the transfer of authority from higher to lower government agencies and/or officials, whereby responsibility and accountability are fully transferred to the recipient. Delegation does not create new authority but merely reallocates existing authority between officials.⁴⁷ Juridical responsibility thus shifts entirely to the delegate.⁴⁸ A practical example in the cultural sector is the involvement of local governments in organizing cultural exchange programs at both national and international

⁴² I Made ari Permadi, “Kewenangan Badan Lingkungan Hidup Dalam Pemberian Sanksi Administratif Terhadap Pelanggaran Pencemaran Lingkungan,” *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 5, no. 4 (2017): 650, <https://doi.org/10.24843/jmhu.2016.v05.i04.p02>.

⁴³ Ibid

⁴⁴ I Wayan Salendra et al., “Social-Economic Transformation in Traditional Cultural Festivals : A Study on the Isen Mulang Cultural Festival,” no. McAlexander 2002 (2024): 279–94.

⁴⁵ Ridho Zikrillah, Ismed “Batubara Regulation Analysis In The Protection Of Cultural Heritage In Medan City Study Of Medan City Cultural Service”, Fox Justi and Jurnal Ilmu Hukum, 13 no. 01 (2022): 4–8, Link <https://Ejournal.Seainstitute.or.Id/Index.Php/Justi>.

⁴⁶ Miranda Tsintskiladze, “Role of Community Empowerment in the Sustainable Cultural Heritage Management: A Review,” *Proceedings of The International Conference on Business, Management and Economics* 1, no. 1 (2024): 22–31, <https://doi.org/10.33422/icbmeconf.v1i1.210>.

⁴⁷ Winona H Varnon, “Communications System Departmental Directive” 1, no. 202 (2012): 1–24.

⁴⁸ Ibid

levels.⁴⁹ These programs often involve sending art and cultural groups for performances, workshops, and cultural visits, aiming to promote mutual understanding and strengthen interregional and international relations. For instance, several local governments engage in cultural exchanges with sister cities abroad, showcasing local traditions through art exhibitions, culinary events, and traditional performances.⁵⁰

Third, mandate, as stipulated in Article 1(24) of Law No. 30 of 2014, entails the delegation of authority with the responsibility and accountability remaining with the mandator.⁵¹ In the cultural sector, this includes the role of local governments in cultural education and training. Local authorities are empowered to develop curricula incorporating local arts and culture and to organize training programs that enhance community skills in traditional crafts. These efforts aim to ensure intergenerational transmission and sustainability of cultural heritage.⁵²

In sum, the mandate exercised by local governments in cultural affairs reflects a form of autonomy that enables them to manage cultural resources in accordance with local needs and potential.⁵³ With this authority, local governments play a crucial role in preserving, developing, and promoting local culture as an integral component of Indonesia's national identity. Through well-designed policies and programs, they help ensure that local culture remains vibrant and adaptive to contemporary developments.⁵⁴

Cultural preservation refers to the efforts to safeguard, maintain, and develop various cultural elements rooted in specific communities or regions, including traditions, arts, languages, rituals, local values, and social practices transmitted across generations.⁵⁵ Its primary goal is to ensure the continuity and relevance of cultural identity for future generations. Closely tied to the concept of cultural heritage—defined as the legacy of tangible and intangible assets inherited from ancestors—cultural preservation is essential for sustaining a nation's cultural integrity amidst social change and globalization.

In the context of regional autonomy, one of the key responsibilities of local governments is the preservation of socio-cultural values.⁵⁶ To support this, a well-structured management system involving planning, implementation, and evaluation is required. Such a system facilitates both governmental authority and community participation in the protection, development, and utilization of cultural heritage as a valuable cultural resource for the public good.

The granting of considerable authority to Local governments can be seen in Article 96 of Law Number 11 of 2010 concerning Cultural Heritage Objects. It states 16 authorities as follows:

1. Establishing ethical principles in the preservation of cultural heritage.
2. Coordinating the preservation of cultural heritage across various sectors and regions

⁴⁹ A N Analysis Of and Voluntary Local, "Culture in the Localization of the Sdgs:," n.d.

⁵⁰ BJ Tina Rosaliana, Dyah Estu Kurniawati, and Deva Joshua Kamisi, "Bandung Cooperation with Braunschweig (Germany) in Realizing Smart City," *Journal of Paradiplomacy and City Networks* 1, no. 1 (2022): 1–14, <https://doi.org/10.18196/jpcn.v1i1.16>.

⁵¹ Rustanto, "Accountability of Budget Users and Proxy Budget Users on the Emergence of State Losses in the Procurement of Government Goods/Services," *Yuridika* 37, no. 3 (2022): 591–614, <https://doi.org/10.20473/ydk.v37i3.41280>.

⁵² Vani Dias Adiprabowo, "Cultural Communication in Wayang Sada and Preservation of Local Values," *Communicare: Journal of Communication Studies* 11, no. 1 (2024): 66–77. DOI: <https://doi.org/10.37535/101011120245>

⁵³ Elazigue Javier, "Opportunities and Challenges in Tourism Development Role of Local Government in Philippines," 2019, 1,46, <https://www2.gsid.nagoya-u.ac.jp/blog/anda/files/2011/08/5-rolesjaviere38080.pdf#:~:text=Dr Aser B. Javier is Associate Professor at,of the University of the Philippines Los Banos>.

⁵⁴ Ibid.

⁵⁵ P. A.S. Vasquez and M. L.E. Nagai, *Cultural Heritage Preservation, Encyclopedia of Nuclear Energy*, 2021, <https://doi.org/10.1016/b978-0-12-819725-7.00016-7>.

⁵⁶ Republic of Indonesia, "Law of the Republic of Indonesia Number 6 of 2014 Concerning Village," *Indonesian Ministry of State Secretariat*, no. 6 (2014): 1–89, <https://jdih.setneg.go.id/viewpdfperaturan/UU Nomor 6 Tahun 2014.pdf>. *Indonesian Ministry of State Secretariat*, no. 6 (2014): 1–89.

3. Collecting data on cultural heritage. Determining the assessment of cultural heritage.
4. Establishing and revoking cultural heritage status.
5. Developing regulations on cultural heritage management.
6. Organizing cooperation in cultural heritage preservation.
7. Conducting investigations into legal violations related to cultural heritage.
8. Managing cultural heritage areas.
9. Establishing and dissolving technical implementation units in the fields of preservation, research, and museums.
10. Developing human resource policies in the field of antiquities.
11. Granting recognition to those who have contributed to cultural heritage conservation.
12. Transferring and/or storing cultural heritage for security purposes.
13. Categorizing cultural heritage based on their importance into national, provincial, and district/city rankings.
14. Establishing site and area boundaries.
15. Halting space utilization or development processes that may cause damage, loss, or destruction of cultural heritage, either wholly or partially.

According to Law No. 11 of 2010 on Cultural Heritage, the delegation of authority to local governments aims to enhance the effectiveness of preservation efforts by enabling closer proximity to, and contextual understanding of, cultural heritage objects. Consequently, local governments play a pivotal role in the protection and management of cultural heritage within their jurisdictions.⁵⁷

The authority of local governments to enact local regulations is formally legitimized by Article 18(6) of the 1945 Constitution of the Republic of Indonesia, which affirms that “Local governments have the right to establish regional regulations and other regulations to implement autonomy and co-administrative functions.”⁵⁸ Further, Article 242(1) of Law No. 23 of 2014 stipulates that a draft regional regulation must be jointly approved by the Regional People's Representative Assembly and the Regional Head before it can be enacted.⁵⁹

Additionally, Article 1(5) of Law No. 30 of 2014 on Government Administration defines authority as the right of government agencies, officials, or other state administrators to act within the scope of public law.⁶⁰ This authority is legally derived and specifies the scope of actions permissible for the holder under applicable laws and regulations.⁶¹

The authority of local governments in protecting the rights of indigenous legal communities can be seen in several articles, including:⁶²

1. Article 31, paragraph (2), letter f, which relates to: "The arrangement of the region as referred to in paragraph (1) is aimed at preserving the uniqueness of local customs, traditions, and culture."

⁵⁷ Desti Nur Aini, Ridwan Umpi, and Amalia Arifah Rahman, “The Vital Role of Civics : Understanding Local Identity and Preserving Cultural Heritage in Promoting Local Culture : (An Ethnographic Study in Sumberdem Village , Malang Regency),” *International Journal of Multicultural and Multireligious Understanding* 11, no. 2 (2024): 283–93, <http://dx.doi.org/10.18415/ijmmu.v11i2.5386>.

⁵⁸ Ahmad Jamaludin, “De-Regulation of Criminal Law Provisions in Regional Regulations after the Criminal Code ’ s Enactment” 10, no. 4 (2023): 239–50, <http://dx.doi.org/10.30659/akta.v10i4.33476>.

⁵⁹ Ibid

⁶⁰ Sitti Harlinah and Andi Sri Rezky Wulandari, “Development and Urgency of Administrative Law Tools After the Enactment of Law No. 2 April 2020 During the COVID-19 Pandemic,” *Rechtsnormen Journal of Law* 2, no. 2 (2024): 145–55, <https://doi.org/10.55849/rjl.v2i2.713>.

⁶¹ Ibid

⁶² Febrianty, Yenny, Joko Sriwidodo, and Priyaldi Priyaldi, “Establishing Regional Regulations for the Protection of Local Wisdom.” *Fiat Justisia: Jurnal Ilmu Hukum* 17, no. 3 (2023): 193–220. <https://doi.org/10.25041/fiatjustisia.v17no3.2708>.

2. Explanation of Article 36, paragraph (5), letter b: "Social cohesion is measured by the diversity of ethnic groups, religions, and customary institutions."

These provisions reflect a strong commitment to acknowledging cultural, social, and religious diversity in regional development. Structuring regions in ways that preserve local customs, cultural distinctiveness, and social cohesion—measured through the diversity of ethnicities, religions, and customary institutions—demonstrates a holistic development approach that goes beyond physical infrastructure to include the safeguarding of cultural and social values. In this context, the authority of local governments is essential to ensure that development policies are responsive to and protective of local identities.

2. Analysis of the Implementation of Protection of Rights on the Preservation and Development of Regional Culture in Malinau Regency.

The preservation and development of regional arts and culture are grounded in the principles of Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State framework, and the national motto *Bhinneka Tunggal Ika* (Unity in Diversity).⁶³ These efforts are guided by key principles, including tolerance, diversity, locality, cross-regional collaboration, participation, utility, sustainability, freedom of expression, integration, equality, and cooperation.⁶⁴ The objectives are to cultivate the nation's cultural values, enrich cultural diversity, strengthen both regional and national identity, promote national unity, educate the public, enhance the nation's global image, foster a civil society, improve public welfare, safeguard regional cultural heritage, and contribute to shaping global cultural discourse. In this context, the development of regional arts and culture serves as a strategic direction for regional development, particularly in Malinau Regency.⁶⁵

Providing legal protection for the right to preserve and develop regional culture—both tangible and intangible—particularly in Malinau Regency, has significant implications in several key areas, including the following:

- a. Protecting Rights to cultural heritage and developing regional culture will improve the welfare of regional communities through the preservation of cultural assets which also have significant economic value.
- b. Protecting the Rights to cultural heritage and Regional Cultural Development will be able to shape and make the public aware of the importance of protecting and appreciating existing cultural heritage.
- c. Protecting Rights to cultural heritage and developing regional culture will reduce the risk of exploitation and destruction to the loss of existing cultural values.
- d. Protecting Rights to cultural heritage and developing regional culture will help preserve distinctive cultural identity by local wisdom.
- e. Protecting Rights to cultural heritage and developing regional culture will be able to empower local communities to actively maintain and develop their culture.
- f. Protecting Rights to cultural heritage and developing regional culture will be able to increase recognition of regional culture which can open up opportunities for economic development through tourism and superior cultural products.

Overall, legal protection of the right to preserve and develop a regional culture in Malinau District will strengthen the existence of local cultural heritage existing in Malinau District

⁶³ Mahkamah Konstitusi, Law Of the Republic of Indonesia Concerning the Constitutional Court <https://www.mkri.id/public/content/infomum/regulation/pdf/uud45%20eng.pdf>

⁶⁴ Of and Local, "Culture in the Localization of the Sdgs:"

⁶⁵ Abrar Hiswara, Adit Mohammad Aziz, and Yenik Pujowati, "Cultural Preservation in a Globalized World: Strategies for Sustaining Heritage," *West Science Social and Humanities Studies* 1, no. 03 (2023): 98–106, <https://doi.org/10.58812/wsshs.v1i03.250>.

and will provide economic benefits and social to the community as well as opening up a competitive promotional space.

Several cultural heritage sites in Malinau district are as follows:

1. The ancient cemetery in Sesua Village, West Malinau District is part of a cultural heritage that deserves to be preserved.
2. *Jatung Utang* performing art, is a traditional instrument, *Jatung Utang* is a traditional musical performing art of the Dayak community in North Kalimantan in particular. At first, this music was music to fill free time in the fields. In ancient times, this musical instrument was hung in the fields to be played as a pastime. *Jatung Kunci* is a traditional musical instrument that resembles *kulintang*, which is made of wood. In the past, musical instruments were hung using rattan or rope, but now it has been created to keep up with the times by making wooden boxes to place pieces of wood that function as musical notes. *Jatung Utang* At first the musical notes did not use the pitch notation *fa* and *si*, but in its development, this notation was used when playing modern music. *Jatung Utang* is a form of performing arts that is still alive and growing, especially in Metun Sajau Village. To harmonize the notes on a musical instrument *Jatung Utang* is a job that requires concentration and special skills so that the notes that come out exactly match the notes of a modern musical instrument. Currently *Jatung Utang* is rarely used in the fields anymore, but has begun to be used to accompany traditional ceremonies or in churches as an accompaniment to songs and artistic performances. The way to play *Jatung Utang* is quite simple, namely hitting it with 2 separate wooden sticks on each wooden plate. Each wooden plate is tied on a rope that is attached to a stacked wooden block and will produce a different chord.

Picture 1. cultural equipment *Jatung Ujang*



Source: Researcher Field Documentation Results

Picture 2. Cultural Performances *Jatung Ujang*



Source: Researcher Field Documentation Results

3. Performing Arts *Magunatip Dance* or *Lalatip Dance*. This art is a traditional dance originating from the Dayak Tahol Tribe, North Kalimantan Province. *Lalatip* means clamp. This dance appeared in ancient times and was used as training for foot dexterity in jumping and avoiding obstacles. This is done because there are inter-tribal wars that always occur and threaten the lives of the Tahol Dayak Tribe, so fighting skills are mandatory for the young men and women of the Tahol Dayak Tribe. This dance is thrilling because the dancer can get pinched or have his legs trapped by wooden sticks if he is too late to dodge, especially when the dancer dances with his eyes closed. *The Magunatip or lalatip dance* is divided into three groups of players, namely a group that plays wooden sticks, a group of dancers, and a group of musicians who play traditional North Kalimantan musical instruments in the form of gongs and drums. The first group held two wooden blades about two to three meters long, they both faced each other and squatted on the ground/floor while stomping the wood in a clamping and unclamping position following the rhythm of the accompanying music.

Picture 3. Dance training Magunatip

Source: Researcher Field Documentation Results

Picture 4. Dance Performing Arts *Magunatip*



Source: <https://www.tribunnewswiki.com/2021/07/28/tari-mangunatip>

4. *Babun*: According to Edlin Yanuar Nugraheni and colleagues in the *Journal of Education and Arts Studie* (2016), *Babun* is a musical instrument that has a round shape and is made of wood. The center is covered with skin as a coating. *Babun* is played by striking the skin, which serves as its membrane. This instrument functions as a tempo or rhythm regulator in music. *Babun* is often used in cultural events, such as dance performances.
5. *Sluding*: *Sluding* is made of wood and has a shape similar to a *gambang*. It has eight wooden bars that, when struck, produce sound. The instrument is played by striking the bars with two smaller sticks. One of the unique features of *sluding* is the carving of the head of a hornbill bird, which serves as its main decoration. *Sluding* is frequently used in various traditional ceremonies and cultural events, such as accompanying dances and similar activities.
6. *Rebab*: *Rebab* is a stringed musical instrument from North Kalimantan. It is made of wood, with the resonator made from a coconut shell. This instrument has two strings or wires on its body, and when played with a bow, it produces sound.

The following are some potential protections for rights to cultural heritage and regional cultural development in Malinau Regency:

Types of tangible and intangible cultural heritage Malinau Regency

| | | | |
|---|------------------------------------|---|---|
| 1 | Types of Cultural Heritage | : | Cultural Heritage (Objective Cultural Heritage) |
| | Type of Object (Cultural Heritage) | : | Kenyah Dayak Traditional House, Setulang Village |
| | Location | : | Setulang Village, District. West Malinau, Malinau Regency |
| | Description | : | A place of activity for traditional meetings, village meetings, arts activities, and dances and is one of the attractions of the Setulang tourist village. The distance from Malinau city by car is around 40 minutes |
| 2 | Types of Cultural Heritage | : | Cultural Heritage (Objective Cultural Heritage) |
| | Type of Object (Cultural Heritage) | : | Lundayeh Dayak Traditional House |
| | Location | : | Tanjung Lapang Village, District. West Malinau Type Not Type Not Object |
| | Description | : | The place of activity for traditional meetings, village meetings and artistic |

| | | | |
|---|------------------------------------|---|--|
| | | | activities in the form of dances is about 15 minutes from Malinau City |
| 3 | Types of Cultural Heritage | : | Cultural Heritage (Objective Cultural Heritage) |
| | Type of Object (Cultural Heritage) | : | Berusu Dayak Traditional House |
| | Location | : | In Sesua Village, District. Malinau Bara |
| | Description | : | The place of activity for traditional meetings, village meetings and activities, folk arts and traditional ceremonies is about 30 minutes from the city |
| 4 | Types of Cultural Heritage | : | Cultural Heritage (Objective Cultural Heritage) |
| | Type of Object (Cultural Heritage) | : | Tidung Dayak Traditional House |
| | Location | : | Malinau Sebrang Village, subdistrict. North Malinau |
| | Description | : | The place of activity for traditional meetings, village meetings and arts activities is about 10 minutes from the city |
| 5 | Types of Cultural Heritage | : | Intangible Cultural Heritage |
| | Location | : | Long Pipa Village and Long Sule Village, Kayan Hilir District |
| | Intangible Type | : | <i>Niva bio' Mepun Tukung</i> (Summoning the Spirit of Life in the Universe to Build a Village) |
| | Description | : | The <i>Niva bio' Mepun Tukung</i> ceremony is a traditional Dayak Punan cultural ceremony which means summoning the Spirit of Life in the universe to build a village. |

Source: research data processing results at the Malinau Regency Cultural Service

The protection of cultural-heritage rights and the development of regional culture in Malinau Regency rest on clear legal and policy foundations. Sites and objects over fifty years old that bear historical significance are eligible for designation as cultural heritage, serving as reservoirs of knowledge, education, religion, and culture that reinforce national identity.⁶⁶ In alignment with this, the Malinau Regency Government has adopted policies to preserve local wisdom and uphold diversity through the formal recognition and conservation of these heritage assets.⁶⁷

Article 1(1) of Law No. 11 of 2010 defines tangible cultural heritage to include objects, buildings, structures, sites, and areas—on land or water—whose historical, scientific, educational,

⁶⁶ Nyai Kartika et al., “Preserving Cultural Heritage Through a Traditional Ritual: A Case of Kabuyutan Ciburuy,” *Pangung* 34, no. 2 (2024): 183–99, <https://doi.org/10.26742/pangung.v34i2.2801>.

⁶⁷ Ralph Adolph, “Cultural Preservation in a Globalized World: Strategies for Sustaining Heritage,” *Indonesian Journal of Studies on Humanities, Social Sciences, and Education (IJHSED)* 1, no. 2 (2016): 1–23, <https://doi.org/10.54783/hc94ek70>.

religious, or cultural value warrants preservation via a local-government designation process.⁶⁸ To safeguard these assets from encroachment by urban, rural, or aquatic development, regulatory measures must balance academic, ideological, and economic interests.⁶⁹ Looking ahead, conservation in Malinau will embrace a paradigm of area-based management, community involvement, decentralized governance, and responsive legal frameworks.⁷⁰

Therefore, with the legal framework provided by the Regional Regulation on the Preservation and Development of Regional Culture, it is hoped that it will grant authority to the government and encourage community participation in the implementation of protection, development, utilization, fostering, and supervision of the arts and culture in Malinau Regency.⁷¹

C. Conclusion

Law No. 23 of 2014 on Local government explicitly regulates the authority of local governments in protecting the rights of customary law communities. This is reflected, among others, in Article 31(2)(f), which states that regional structuring is intended to preserve the distinct customs, traditions, and cultures of each region. Accordingly, the Government of Malinau Regency holds the authority to provide legal protection for the preservation and development of regional culture, particularly in safeguarding local arts and cultural expressions from the threat of extinction.

Preservation efforts in this context aim to strike a balance among academic, ideological, sociological, economic, and cultural interests, ensuring that regional culture is not only protected but also sustainably developed in accordance with local values and contemporary challenges.

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⁶⁸ Heritage Destruction, "Jurnal Cakrawala Hukum Heritage Destruction" 3, no. 3 (2023): 346–62, <https://doi.org/10.26905/idjch.v14i3.11309>.

⁶⁹ Lazarus Obed Livingstone Banda et al., "Preserving Cultural Heritage: A Community-Centric Approach to Safeguarding the Khulubvi Traditional Temple Malawi," *Heliyon* 10, no. 18 (2024): e37610, <https://doi.org/10.1016/j.heliyon.2024.e37610>.

⁷⁰ Ibid.

⁷¹ Asti Amelia Novita, Rispa Ngindana, and Endry Putra, "Preserving Cultural Heritage: Integrating Traditional Values and Local Arts for Sustainable Tourism," *Jurnal Inovasi Ilmu Sosial Dan Politik (JISoP)* 6, no. 1 (2024): 68–77, <https://doi.org/10.33474/jisop.v6i1.21925>.

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