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State and Protection of Cultural Heritage in Bone, South Sulawesi: Perspective of National Law and Islamic Law

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Abstract: Indonesia possesses a rich cultural heritage consisting of both tangible and intangible artifacts that continue to exist in the present day. This cultural heritage has significantly contributed to the advancement of human civilization, encompassing economic, social, and scientific dimensions. This study seeks to examine the state's involvement in safeguarding cultural assets in Bone Regency, located in South Sulawesi, Indonesia. The article employs an empirical research methodology that applies both the constitutional law and the Islamic law. Data were gathered by comprehensive interviews, direct observation, and the collection of relevant documents. The sources for the study included the tourism office, members of the People's Representative Council (DPR), as well as religious and community leaders. The investigated papers consisted of legal regulations, including laws, regulations, and relevant journal articles. The findings indicate that the government plays a crucial role in the protection of the cultural assets in Bone Regency. Within the realm of the constitutional law, the government has enacted Law No. 11 of 2010, which pertains to Cultural Heritage. Similarly, the Bone Regency government has also enacted Regional Regulation No. 7 of 2020, which concerns the Preservation and Management of Cultural Heritage. To enforce this protection, many cultural legacies have been designated, such as the burial grounds of the Bone monarchs and significant cultural and historical locations. Within the framework of the Islamic law, the preservation of cultural assets is considered advantageous. The advantages derived from cultural heritage include the reinforcement of national identity and character, historical education, the promotion of tourism attractions, and the provision of a religious lesson for present and future generations.

Keywords: State's role, cultural heritage, cultural preservation, constitutional law, Islamic law

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Abstrak: *Indonesia merupakan negara memiliki warisan budaya dalam bentuk benda dan tak benda yang masih dapat dijumpai sampai saat ini. Warisan budaya tersebut mempunyai kontribusi besar terhadap kemajuan peradaban manusia di samping, ekonomi, sosial dan ilmu pengetahuan. Kajian ini bertujuan untuk membahas peran negara dalam melakukan perlindungan terhadap cagar budaya di Kabupaten Bone, Sulawesi Selatan, Indonesia. Artikel tersebut menggunakan metode penelitian empiris dengan pendekatan hukum tata negara dan hukum Islam. Data dikumpulkan dengan cara wawancara mendalam, observasi, dan dokumentasi. Informan penelitian tersebut adalah dinas pariwisata, anggota Dewan Perwakilan Rakyat (DPR), tokoh agama dan masyarakat. Dokumen yang dianalisis adalah aturan hukum seperti undang-undang, perda dan artikel jurnal yang berkaitan. Penelitian ini menyimpulkan bahwa pemerintah memiliki peran penting dalam melakukan perlindungan terhadap cagar budaya di Kabupaten Bone. Dalam konteks hukum tata negara pemerintah telah menetapkan undang-undang Undang-undang No. 11 Tahun 2010 tentang Cagar Budaya demikian juga pemerintah Kabupaten Bone juga telah menetapkan peraturan Daerah tentang Pelestarian dan Pengelolaan Cagar Budaya Nomor 7 Tahun 2020. Sebagai implementasi perlindungan tersebut telah ditetapkan sejumlah cagar budaya misalnya, makam raja-raja Bone, situs budaya dan bersejarah. Sedangkan dalam konteks hukum Islam menjaga warisan budaya merupakan sesuatu yang dapat dikategorikan sebagai sesuatu yang maslahat. Kemaslahatan yang didapatkan adalah cagar budaya tersebut mampu memperkuat identitas dan karakter bangsa, pendidikan sejarah, destinasi wisata dan dari segi agama dapat menjadi ibrah (pelajaran) bagi manusia dan generasi saat ini dan di masa yang akan datang.*

Kata Kunci: *Peran negara, Cagar Budaya, pelestarian budaya, hukum tata negara, hukum Islam*

Introduction

UNESCO has established one of its sustainable development goals (SDG) to emphasize the significance of safeguarding and preserving the global cultural and natural heritage. In addition, culture is now recognized as the fourth factor in discussions of sustainability, following the environmental, social, and economic dimensions. Various cultural heritages, including both physical and non-physical aspects, face the risk of being wiped out, stolen, sold, lost, or damaged due to human activities or natural forces.¹

Egypt boasts a rich cultural past, including renowned landmarks like the Pyramids and relics from the Pharaohs. The country is also home to a plethora of

¹ Doaa Abouelmagd and Sara Elrawy, "Cultural Heritage and Sustainable Urban Development: The Case of Port Said city in Egypt," *Cogent Social Sciences* 8 (2022). Katerina Papaioannou, "The International Law on The Protection of Cultural Heritage," *IJASOS-International E-Journal of Advances in Social Sciences* 3, No. 7 (2017).

cultural items and distinctive architectural structures seen in cities like Port Said. Egypt's cultural heritage encompasses both tangible and intangible forms, and is abundant in quantity. Egypt, with its rich cultural past, is making efforts to safeguard its urban and architectural legacy and establish a cultural management framework to enable the sustainable development of the Arab neighborhood and the city of Port Said. In order for Egypt's cultural heritage to continue to have a positive impact on both Egypt and the global community.²

Conversely, the looting of cultural treasures in South Africa serves as a regrettable illustration. As to the report from SAHRA, the institution responsible for cultural heritage matters, the theft of the items occurred through illegal smuggling, leading to the disappearance of numerous invaluable heritages. The SAHRA institution endeavors to safeguard South African cultural heritage, despite its apparent lack of efficacy.³

Meanwhile, in China, particularly in Xinjiang, the cultural legacy is closely associated with Yili, Kashgar, Tacheng, and Bayin. Cultural heritage, specifically encompassing folk music and traditional dance, falls under the intangible category. Presently, the government has initiated efforts to focus on and safeguard this cultural treasure. This safeguard commenced subsequent to a period of reform and socio-political transformation characterized by increased transparency in China.⁴

Instances of cultural heritage and historical buildings being harmed during times of conflict, such as by ISIS (Islamic State in Iraq and Sham), have resulted in significant destruction of valuable cultural heritage and historical places. Similarly, the destruction to the Apamea region in Syria, a historic city situated along the Orentes River. Numerous structures, including the Mosque constructed in the 16th century under the rule of the Ottoman Empire, sustained significant damage. The Libyan conflict also inflicted harm on the city of Cyrene, a historic Greek and Roman settlement that dates back to 630 BC and holds the prestigious status of being a UNESCO World Heritage site. Nevertheless, this city was decimated during the Libyan conflict. The war in Afghanistan resulted in significant destruction to numerous historical structures, as the Taliban deliberately targeted and demolished non-Islamic sites, including temples and Buddha statues.⁵

² Doaa Abouelmagd and Sara Elrawy, Cultural Heritage and Sustainable Urban Development..., p. 1-29.

³ Jen Snowball, "Legal and illegal export of cultural heritage artefacts from developing countries: Protection of cultural heritage in South Africa," *Cogent Social Sciences* 9, (2023).

⁴ Tiannuo Xu, "Evolution of The Policy For The Protection of Intangible Cultural Heritage In Xinjiang," *Highlights in Science, Engineering and Technology* 43, (2023).

⁵ Yanti Fristikawati, "Perlindungan Bangunan Cagar Budaya Saat Konflik Bersenjata Dalam Perspektif Hukum Internasional," *Justicia Sains: Jurnal Ilmu Hukum* 5, No. 2 (2020).

Indonesia, being a nation governed by the rule of law, places great importance on the preservation of its cultural heritage, as mandated by Article 32 paragraph (1) of the 1945 Constitution. This article states that "the state promotes Indonesian national culture within the global civilization by ensuring the freedom of society to uphold and enhance its cultural values." Presently, in Indonesia, particularly in Aceh, the participation of families or inheritors as custodians of cultural heritage will yield advantages and benefits for the inheritors themselves, the state, tourists, and the wider community.

The protected cultural treasure is the mausoleum of Sheikh Abdurrauf al-Singkili, a cleric who authored the initial Tafsir book in Southeast Asia (*tarjuman al-mustafid*). Heirs receive economic and responsibility-related advantages as a legacy from their predecessors. Cultural sites shall be conserved and safeguarded for the sake of the nation, while also serving as sources of foreign currency. For both travelers and the local people, it serves not just their tourism requirements but also caters to their religious and economic aspects.⁶

The imperative to preserve and safeguard Indonesia's cultural legacy is well-founded. Numerous cultural heritage artifacts and locations, both on land and underwater, have not undergone proper maintenance. Out of the total 66,513 cultural heritages in the country, which includes 54,398 mobile cultural heritages and 12,115 immovable cultural heritages, only 1895 have been preserved. There are just 2,988 individuals serving as caretakers.⁷

Cultural heritage is an invaluable legacy from the past that contributes to the formation of a nation's cultural identity and character. The preservation of national culture is essential for safeguarding the heritage of the Indonesian state, including inscriptions, buildings, statues, ancient locations, and other historical artifacts. Cultural heritage is significant for history, education, science, and culture. According to Law Number 11 article 1 number 1 of 2010, Cultural Heritage refers to cultural assets that have a physical form, such as Objects, Buildings, Sites, Structures, and Cultural Heritage Areas on land or in water. These assets must be conserved due to their significant historical and scientific value, as determined during the assessment process. When discussing cultural heritage, it can be categorized into two types: cultural heritage sites that are well-preserved and sustainable, and cultural heritage that is in a critical situation and at risk of being destroyed.⁸

⁶ Marduati Mukhtar, et.al., "Involvement of Families as Owners of Cultural Heritage Improving Religious Tourism in Banda Aceh: Perspective of Maslahah Theory," *Samarah: Jurnal Hukum Keluarag dan Hukum Islam* 6, No. 2 (2022).

⁷ Hafidz Putra Arifin, "Politik Hukum Perlindungan Cagar Budaya di Indonesia," *Jurnal Dialog Iuridical* 10, No. 1 (2018).

⁸ I Made Dandi dan I Ketut Sudiarti, "Perlindungan Hukum oleh Pemerintah Daerah terhadap Situs Warisan Cagar Budaya," *Jurnal Kertha Negara* 10, No. 3 (2022). p. 247-258.

This study aims to build upon the previous research by examining the state's role in safeguarding cultural heritage in Bone, South Sulawesi. This study is an empirical legal study that employs the methodologies of the constitutional law and the Islamic law.⁹ The field of constitutional law examines the government's function as defined by legal laws pertaining to cultural heritage, whereas Islamic law focuses on the aspects of welfare and benefits. Extensive interviews were carried out with various sources including government officials, members of the Legislative Assembly (*Dewan Perwakilan Rakyat/DPR*), community leaders, religious leaders, and academics. Literature studies encompass the examination of legal statutes, regional regulations, scholarly articles, books, and other pertinent research materials.

Bone as a Prominent Hub of the Bugis Kingdom and Culture

Bone served as a prominent hub for the Bugis kingdom and its governance during the pre-independence era. Bone is a constituent of the tallumpoccoE alliance, namely consisting of Bone, Soppeng, and Wajo. This alliance is formed with the intention of strengthening the bonds of fraternity among the three Bugis kingdoms. Furthermore, the objective is to unify in opposition to the aggression of the Gowa Kingdom, which held dominion over the mainland of Sulawesi during that period. Prior to the formation of this alliance, specifically during the rule of King Bone VII, Latenri Rawe Bong-kang'ngge, the Gowa Kingdom launched multiple military attacks in response to Bone's involvement in the "*Tellulimpo'e*" merger, which included Luwu, Gowa, and Bone.¹⁰

Historically, once *Manurung'e ri* Matajang ascended to the throne as King of Bone I, he successfully maintained law and order, and effectively restored the well-being of the people. Following *Manurung'e's* appointment as the King of Bone, the King's Advisory Council, known as "*Ade' Pitu'e*," was established. This council consists of seven members and is responsible for providing guidance and advice to the king. The Seven Hadat Council derived its name from the fact that it comprised of seven Wanua communities. With the assistance of *Ade' Pitu'e*, King Bone I established regulations and legislation for the kingdom. King Bone I implemented legislation and established societal norms in order to maintain and preserve public tranquility. Under his rule, the inhabitants of Bone attained a high level of prosperity and well-being. One day, King Bone I, also known as Arungpone Mata Silompo'e, perished in a mysterious manner and vanished to an unknown location. The inhabitants of Bone referred to him as "*mallajang*".¹¹

⁹Irwansyah and Ahsan Yunus, *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel*, Yogyakarta: Mirra Buana Media, 2020.

¹⁰Mattulada, *Bugis-Makassar: Manusia dan Kebudayaanannya*, Jakarta: Fakultas Sastra Universitas Indonesia, 1974.

¹¹Ansar Abdullah, "Kerajaan Bone dalam Lintasan Sejarah Sulawesi Selatan (Sebuah Pergolakan Politik Dan Kekuasaan Dalam Mencari, Menemukan, Menegakkan dan

Bone was a prominent kingdom that exerted significant influence over political power and authority dynamics in South Sulawesi, particularly from the 13th to the 16th centuries AD. The kingdom of Bone managed to persist until the onset of the 20th century. By 1905, the Dutch had gained control over Bone, resulting in the decline of its political influence and authority in the first half of the 20th century. The Bone Kingdom, for a period of over four centuries, seemed to maintain dominant control in South Sulawesi following the Bongaya Agreement of 1669. Subsequently, Bone has emerged as the most formidable adversary to the Dutch Colonial in establishing its political dominance in South Sulawesi. It is important to highlight that the Bone Kingdom, one of the major kingdoms in South Sulawesi, successfully destroyed the Gowa Kingdom and took over its role as the leader and dominant political power in South Sulawesi and the Eastern Nusantara region following the Bongaya Agreement from 1669 to 1905 AD.¹²

Bone not only served as the political hub of the Bugis kingdom, but also gradually emerged as the cultural epicenter of Bugis traditions, exemplified by the Bugis traditional attire, including the *songko* (traditional cap) and *baju bodo*. These clothing items have persisted as the customary garments of the Bugis ethnic group up to the present day. Bugis men presumably started wearing shirts or closed jackets in the 17th century, as evidenced by the use of the term "*waju kameja*" (derived from the Portuguese word "*camisa*"). However, these garments were not widely used at that period. Furthermore, there is another type of traditional attire known as *songko'* to Bone, which was exclusively donned by individuals of high social status such as the affluent, nobility, and their followers. The *Songko 'wennang pulaweng*, fashioned from gold thread, was exclusively worn by nobles, with its design varying according on the wearer's rank. If Petta Mangkau-E attends, wearing a headband (*passapu*) is strictly prohibited for everyone. In previous times, one might determine the aristocratic position of the person wearing a *songko'* to Bone by examining the thickness of the gold embellishment on their *songko'*.¹³ Similarly, Bugis women used the color of their *bodo'* garments to signify their social status or affiliation. For instance, green represented the nobility, while white denoted those responsible for caring for aristocratic children, and so forth

Within the Bugis Bone group, there existed a harmonious integration of *sara'* (sharia) and *ade'* (custom) in their socio-religious practices. This integration exemplified the cohesive relationship between the steadfastness of tradition and the adherence to religious principles. Similarly, both are constructs in

Mempertahankan Nilai-Nilai Entitas Budaya Bugis)," *Lensa Budaya: Journal of Cultural Sciences*, 12, No. 2 (2017).

¹²Ansar Abdullah, "Kerajaan Bone dalam Lintasan Sejarah Sulawesi Selatan...", p. 15.

¹³ Masgaba, "Pakaian Adat Dan Maknanya Bagi Masyarakat Bone," *Jurnal Walasuji* 11, No. 2, (2020).

pangngaderreng (social law), which serves to combine the roles of both in governing life. Furthermore, some conventional activities have been modified to adhere to the tenets of the Islamic law. The principles of the Islamic law are incorporated into the local culture, adapting existing practices to align with the teachings of monotheism. Thus, the meeting between *Sara* and *Ade* in Bugis culture signifies a process of conversation and the formation of a new culture with a distinct local values. The integration of Islamic law and customary law was facilitated by the significant influence of *Petta Kalie*, who served as advisors to the monarch and played a pivotal part in achieving this success.¹⁴

The integration of the Islamic law and customary law was facilitated by the pivotal role played by *Petta Kalie*, the king's adviser cleric, who emerged as the key figure in ensuring its success. The collaboration between *Sara* and *Ade*, facilitated by *Petta Kalie* and later endorsed by the King of Bone, has the potential to be successful. The integration process is evident in various traditions, including *barzanji*, *sompa*, *mappacci*, and *mappanre tamme*, all of which contribute to the reinforcement of Islamic and customary law. *Sompa*, sometimes known as dowry, refers to the practice of a man giving gifts or money to his future wife. Prior to the adoption of the term dowry in accordance with the Islamic law, the Bugis Bone group had long been engaging in the practice of *sompa*. Currently, if the prospective husband declares the *ijab qabul*, it is obligatory to specify the term "real" (the currency of Saudi Arabia) rather than using Rupiah. For instance, 10 reals may become 88 reals based on the agreement and social status of the person getting married. The *mappacci* tradition refers to a sequence of marriage proposals within the Bugis community. *Mappacci* is conducted on the evening of the wedding ceremony. Following the establishment of Islam as the official religion, the *mappacci* tradition was upheld alongside the recitation of *barzanji*, which consists of praise and prayers dedicated to the Prophet Muhammad PBUH.¹⁵

Similarly, the Bugis Bone parents engage in the practice of *mappanre tamme*, a ceremonial act carried out to celebrate their children's successful completion of Qur'an studies. This practice can be compared to a graduation ceremony at a university. *Mappanre Tamme* symbolizes the community's happiness and appreciation towards Allah SWT for the achievement of their children in mastering the skill of reading the Qur'an. *Petta Kalie* further reinforced this custom, which continues to be practiced by the Bugis Bone community up to

¹⁴Ridhwan Ridhwan and A Nuzul A Nuzul, "The *Petta Kalie*'s Contribution in The Development of Islamic Law during The Kingdom of Bone," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, No. 1 (2021). Mursyid Djawas, et.al., "The Integration Between *Syara*' and *Ade*' in Marriage Tradition Bugis Bone, South Sulawesi," *al-Ihkam: Jurnal Hukum dan Pranat Sosial* 18, No. 2 (2023).

¹⁵Syarifuddin Latif, *Fikih Perkawinan Bugis Tellumppocoe*, Jakarta: Gaung Persada Press, 2017, p. 110 dan 294.

the present time. This practice serves as more than just a typical ceremony, but rather operates as a mechanism to uphold the Bugis community's identity as a deeply religious and tradition-oriented community. Furthermore, it serves as a binding agent for the philosophical principles of the Bugis community, specifically sipakatau, sipakalebbi, and siamase-masei, in their interactions with society.¹⁶

Furthermore, within the realm of religious observance, the Bugis Bone community adheres to the predominant Islamic legal school in Indonesia and Southeast Asia, specifically the Imam Syafi'i school. The followers of Sufism adhere to the teachings of Imam al-Ghazali, while on matters of Aqidah they follow Imam Abu Hasan al-Asy'ary. As a result, they are recognized as adherents of Ahlu Sunnah wa al-Jama'ah. Thus, it is unsurprising that every qadhi possesses a sanad and scientific pedigree tracing back to the Haramayan academics, just like other scholars from the archipelago, including Sheikh Yusuf al-Makassary, Sheikh Abdurrauf al-Singkily, and Sheikh Abdussamad al-Palimbangi.¹⁷

Thus, it is unsurprising that the religious rituals in Bone continue to be inspired by the Sunni school of thinking. Thus, as the focal point of the Bugis kingdom and its customs, this legacy subsequently exerted its effect on other Bugis territories, particularly Soppeng and Wajo, which share political, social, and cultural ties, known as *TallumpoccoE*.

The State's Role in Safeguarding Cultural Heritage

Humans are inherently intertwined with socio-cultural variables and cannot be exempt from the issues that develop from them. Hence, the local administration, vested with the power to foster the advancement of its territory, particularly in the realm of culture, ought to be attuned to the prevailing socio-cultural dynamics. Therefore, the government has the ability to promptly identify and address both internal and external challenges that develop within the cultural sphere.¹⁸

In Indonesia, the legal safeguarding of cultural assets traces its origins back to the enactment of Monumenten Ordonnantie No. 19 of 1931 during the era of Dutch colonial rule. The Athens Charter, a significant achievement in international collaboration for the preservation of cultural assets, was published

¹⁶ Mursalim, et.al., "The Qur'an and the Mappanre Temme Aqorang Tradition of the Bugis Ethnic in East Kalimantan," *Jurnal Adabiyah* 23, No. 2 (2023). Abdul Waris and Hadiah Ahmad, "Mappanre temme': The Exotic Side of Cultural Acculturation in Belawa District, Wajo Regency," *Pusaka: Jurnal Khazanah Keagamaan* 10, No. 2 (2022).

¹⁷ Azyumardi Azra, *Jaringan Ulama, Timur Tengah dan Kepulauan Nusantara Abad XVII & XVIII*, Jakarta: Kencana, 2007. Anny Nalilatur Rohmah dan Ashif az Zafi, "Jejak eksistensi mazhab Syafi'i di Indonesia," *Tamaddun: Jurnal Sejarah dan Kebudayaan Islam* 8, No. 1 (2020).

¹⁸ Karen Angela Batara Tuppang, "Perlindungan Hukum Terhadap Hak Cipta Benda-Benda Bersejarah Menurut Undang-Undang Nomor 11 Tahun 2010 Tentang Cagar Budaya," *Jurnal Lex Et Societatis* 7, No. 7 (2019), p. 19.

four months following the introduction of the legal restrictions. The motivation behind this initiative stems from the significance of safeguarding both the physical and non-physical aspects of Indonesia's cultural legacy, which has been shaped by the nation's extensive past. It has a crucial role in shaping a country's ideals and fostering national pride through the knowledge it contains in the fields of science, education, and culture. The preservation of Indonesian heritage assets is a challenging endeavor primarily due to the lack of synchronized understanding and unity between the government, local governments, and relevant institutions/agencies. This is further compounded by deliberate ignorance of laws and regulations. The preservation mentioned here is a direct result of the Pancasila mandate and the 1945 Constitution, which require the safeguarding of natural resources found on land, sea, and in the air.¹⁹

Therefore, it is the responsibility of the government to undertake measures to safeguard and uphold the distinctiveness and essence of the Indonesian country. Thus, the previous and current preservation endeavors share a common objective: to safeguard cultural values and processes from the past, as well as their subsequent evolution, and to protect cultural heritage artifacts due to their significance in historical events. Nevertheless, as our country continues to progress, it also poses unique obstacles to the preservation endeavors. Development frequently exerts an adverse influence on the conservation of cultural heritage artifacts. This type of issue is ubiquitous, particularly in urban regions. Development activities continue to take place without considering the presence of cultural heritage assets. This is evident from the declining the quality and quantity of cultural heritage artifacts.²⁰

Undoubtedly, the present state of regional development has prioritized regional progress over the preservation of historical artifacts, neglecting the significance of their historical value that is at risk of being lost. The involvement of the Regional Government in the formulation and execution of a policy is crucial to prevent complications during its implementation. Therefore, it is imperative for the government to implement the appropriate policies. Policies are formulated in response to unresolved problems or issues that are outside the scope of civil law. The government requires a formulation to address this issue. Given Indonesia's status as a sovereign nation, it is imperative that the government has a responsibility to safeguard the welfare of its citizens, which includes the preservation of cultural assets such as historical and prehistoric artifacts. In this scenario, it is imperative for the government to adopt a more forward-thinking

¹⁹Dewi M Djukardi, et.al., "Indonesian Government Policy and The Importance of Protection Cultural Heritage for National Identity," *Proceedings of the Third International Conference on Social Transformation, Community and Sustainable Development (ICSTCSD 2019)*.

²⁰ Karen Angela Batara Tuppong, *Perlindungan Hukum Terhadap Hak Cipta Benda-Benda Bersejarah...*, p. 19.

approach in addressing cultural issues specific to each region. This responsibility falls upon the regional administration, with coordination from the central government.²¹

Hence, the government undertakes the safeguarding and conservation of cultural heritage through the process of identification and documentation, which includes active involvement of the community, with the aim of promoting knowledge and advancing the nation.²² The government has established Law No. 11 of 2010 regarding Cultural Heritage as a legal foundation. The concept of cultural heritage encompasses a wide range of elements, such as items, buildings, structures, sites, areas, both on land and in water.

Preservation of Cultural Heritage in accordance with National Legislation

Safeguarding cultural assets is a crucial aspect of cultural-based national development. The state strategically establishes legal restrictions on heritage and cultural heritage across the archipelago. This is because these artifacts acquire the status of cultural legacy, with significant worth in the realms of history, science, education, religion, and culture. The *Monumenten Ordonantie* 1931 was substituted by Law of the Republic of Indonesia Number 5 of 1992, which pertains to Cultural Heritage Objects. The modification of this legislation has had minimal impact on policy pertaining to cultural heritage. The majority of the provisions of Law No. 5/1992 can be seen as a direct translation of the text included in the 1931 *Monumenten Ordonantie*, which carries a colonial undertone. Law No. 5/1992 reinforces the government's authority as the primary entity responsible for managing and interpreting cultural heritage. The articles pertaining to control and ownership can be found in Chapter III, part one, namely Articles 4 to 9. The involvement of the community and other external stakeholders in archaeology has not been adequately addressed.²³

The year 2000 witnessed significant shifts as a result of the escalating global geopolitical landscape. The outcome was a heightened recognition of the significance of cultural heritage as both an economic asset and a defining characteristic of a community. Conversely, the extensive development activities had a detrimental effect on the preservation of cultural assets. The government's implementation of regional autonomy had a detrimental effect on the administration of cultural heritage. Several events that took place after 2000 have intensified the need to amend Law No. 5/1992 in order to incorporate a wider range of community roles, provide a more contemporary preservation framework,

²¹ Karen Angela Batara Tuppong, *Perlindungan Hukum Terhadap Hak Cipta Benda-Benda Bersejarah...*, p. 19-20.

²² Risma M. Sinaga, et.al., "Preservation of Intangible Cultural Heritage: The Role of Documentation in Cultural Conservation in the Semaka District, Tanggamus Regency," *International Journal of Advanced Technology and Social Sciences* 2, No. 3 (2024). 375–388.

²³ Hafidz Putra Arifin, *Politik Hukum Perlindungan Cagar Budaya...*, p. 74

and address the growing number of challenges arising in the conservation of cultural assets. This aspiration was fulfilled on November 24, 2011 by the enactment of Law Number 11 of 2010 about Cultural Heritage. The Cultural Heritage Law defines cultural heritage in an archeological context, stipulating that it must be at least 50 years old to be considered as such. The government plays a crucial role in determining community involvement in cultural assets, particularly in activities such as registration, discovery, and upkeep.²⁴

Referring to Article 1 paragraph (1) of Law No. 11 of 2010 regarding Cultural Heritage. Key elements of the law include:

1. cultural heritage refers to objects, buildings, structures, sites, and areas of significant historical, scientific, educational, religious, and cultural value that require preservation. This preservation is carried out through a process of determination. Objects, buildings, or structures may be designated as Cultural Heritage Objects, Cultural Heritage Buildings, or Cultural Heritage Structures if they satisfy the following criteria:
 2. are 50 years old or older;
 3. depicting a period of artistic style lasting for a minimum of 50 years; Science, religion, or a systematic procedure
 4. hold significant meaning in the realms of history, science, education, religion, and/or culture Possesing significant cultural competence in enhancing the national identity
- Cultural Heritage Objects refer to both natural and man-made objects, which can be moved or immovable. They can exist as a whole or as parts, and they have a significant connection to culture and the historical progress of humanity.
5. cultural heritage buildings are architectural constructions composed of either natural or man-made materials, designed to provide enclosed areas with walls and roofs.
 6. cultural Heritage Structures refer to constructions composed of both natural and man-made elements, designed to provide activity spaces that harmoniously blend with the surrounding environment, while also offering necessary amenities and infrastructure to cater to human requirements.
 7. cultural Heritage Sites refer to specific areas on land or in water that possess Cultural Heritage Objects, Cultural Heritage Buildings, and/or Cultural Heritage Structures due to human actions or remnants of historical events.

²⁴ Hafidz Putra Arifin, *Politik Hukum Perlindungan Cagar Budaya...*, p. 74.

8. cultural Heritage Areas are defined as geographical regions that contain two or more Cultural Heritage Sites in close proximity to each other and/or exhibit unique spatial attributes.²⁵

Since the implementation of regional autonomy and the passing of Law Number 23 of 2014, which addresses the transfer of power from the central government to the regions for local and independent governance, while still being monitored by the central government. Regional autonomy is a democratic system within a unitary state where the people elect representatives in their respective regions. These representatives participate in government institutions to discuss matters of sovereignty. Regional autonomy is based on the principle of decentralization, giving the people the power to govern their own affairs within the framework of government policies. The government is responsible for both optional and mandatory matters. One of the mandatory affairs is cultural protection, which includes the obligation of the central and regional authorities to preserve cultural heritage places.²⁶

In addition, the Bone Regency Regional Regulation Number 7 of 2020, known as the Bone Cultural In addition, Heritage Preservation and Management Regulation, serves as the legal framework for safeguarding cultural heritage in the region of Bone. Article 27, which pertains to the safeguarding of cultural heritage, stipulates the following: (1) It is the responsibility of every individual to ensure the protection of cultural heritage; (2) The protection mentioned in paragraph (1) is achieved by various measures, including rescue, security, zoning, maintenance, and restoration. According to article (40), cultural heritage is utilized for various purposes including religious, social, educational, scientific, technological, cultural, and tourism interests.²⁷

Andi Muh states. As a member of the Bone Regency DPR, actively promote and endorse the conservation of cultural assets in the Bone region as part of my legislative responsibilities. The application of legislative responsibilities as a regulator and overseer of statutory regulations involves the creation of legal regulations for the protection of cultural heritage. This is reflected in the Bone Regency Regional Regulation Number 7 of 2020, which specifically addresses the preservation and management of cultural heritage. The rule is a legally binding commitment that requires the executive to carry out the protection and preservation of cultural heritage.²⁸

²⁵ Karen Angela Batara Tuppang, *Perlindungan Hukum Terhadap Hak Cipta Benda-Benda Bersejarah...*, p. 17-18.

²⁶ I Made Dandi dan I Ketut Sudiarti, *Perlindungan Hukum oleh Pemerintah Daerah...*, p. 250.

²⁷ Peraturan Daerah Kabupaten Bone tentang Pelestarian dan Pengelolaan Cagar Budaya Nomor 7 Tahun 2020.

²⁸ Interview with Andi Muh. Salam from a Member of the Bone Regency DPR, 7 December 2023.

Andi Promal Pawi, the Head of the Tourism Office in Bone Regency, has stated that the Bone administration has shown its commitment to protecting cultural heritage by implementing regional laws in 2020. These regulations focus on the preservation and management of cultural assets. These legal requirements are an embodiment of the implementation of cultural heritage preservation, thereby enhancing the program's legal strength and providing a solid legal foundation. Although it operates within the tourism and cultural sectors, it is imperative for it to have a solid legal foundation.²⁹

One way the government fulfills its responsibilities in safeguarding cultural heritage in Bone Regency is by promoting three historical artifacts as Cultural Heritage. The three artifacts consist of Uhalie Cave located in Langi Village, Bontocani District, We Mappalo Bombang Tomb situated in Nagauleng Village, Cenrana District, and *Saoraja* (traditional dwelling) Andi Mappanyukki. In the academic brief, it was suggested that three cultural heritage objects may be officially recognized as cultural heritage. This project aims to foster and identify new cultural heritage with the support and determination of the local administration. The preservation of Cultural Heritage allows the present generation to gain knowledge about the regional culture and history, which in turn contributes to the national identity. Cultural heritage refers to things, buildings, structures, locations, and cultural practices that hold significant cultural value and are identified through a decision procedure. Similarly, cultural heritage locations located on land and/or in water require preservation due to their significant historical, scientific, educational, and religious value.³⁰

Furthermore, on December 1, 2023, a cultural heritage determination session will take place. This session involves the government granting cultural heritage status to various objects, buildings, structures, locations, or geographical spaces. The decision is made based on the recommendations provided by the Cultural Heritage Expert Team. The three cultural heritage sites designated were the Goro'e Stone Structure (Sumpang Labbu) in Bengo District, the Tomb of King Bone XVI La Patau Matanna Tikka Matinroe Ri Nagauleng in Cenrana District, and the La Paijo Tomb Complex in Kajuarra District. The process of identifying cultural heritage sites commenced with the submission of a proposal to register Objects Suspected of Cultural Heritage (ODCB) by the Cultural Heritage Registration Team to the Cultural Heritage Expert Team (TACB). The TACB then recommended objects, buildings, structures, locations, and/or geographical areas that should be registered as cultural heritage sites. These recommendations

²⁹ Interview with Andi Promal Pawi, the head of Tourims Service, Bone Regency, July 9, 2021.

³⁰ Redaksi, 3 Peninggalan Sejarah Didorong Menjadi Objek Cagar Budaya Bone, <https://bone.go.id/2022/12/01/3->, Accessed October 1, 2023.

were further evaluated and determined during the Determination Session. Finally, in 2023, the Regency government made the official determination of these sites.³¹

Andi Yushand Latenritappu, Chairman of the Bone Regency Customary Council, expressed his appreciation and support for the action aimed at preserving the cultural and customary history in Bone. The forum serves as a crucial platform for the local community to enhance their comprehension, admiration, and conservation of the traditional and historical significance embedded in the cultural heritage. This also demonstrates the government and society's dedication to upholding and safeguarding the cultural legacy, which serves as the community's identity and collective wealth.³²

Cultural Preservation Analyzed via the Lens of Islamic Law

The preservation of cultural legacy in Islamic law holds great significance due to the fact that Islam serves as a primary legal authority in numerous Muslim nations. Hence, the examination of legal aspects concerning the safeguarding of cultural legacy and the advancement of human rights in the Islamic realm holds significance. Formulation of guidelines for safeguarding cultural heritage in compliance with both international law and Islamic law. These ideas provide a hopeful foundation for the potential implementation of a comprehensive policy on universal cultural assets. Although Islamic law does not explicitly mention the concept of cultural heritage, it does create guidelines for legally protecting cultural assets.³³

Preserving cultural legacy, particularly cultural objects, holds significant value from an Islamic legal standpoint. Preserving cultural assets has a positive impact on both the government and society at large. For instance, tourism yields both economic and cultural advantages. Tourism is considered as an integral component of “*maqāṣid al-sharī'ah*,” which encompasses the preservation of religion, spiritual well-being, intellectual growth, family honor, and material gain. Tourism can encompass all facets of “*maqāṣid*” as indicated in the Qur'an and Hadith, which highlight the merits and advantages of tourism.³⁴

Ruslan Sangaji, a professor at the Bone Islamic Institute, advocates for the safeguarding of cultural assets and the preservation of culture within the framework of the Islamic law. According to him, the Islamic law, as stated in the

³¹ Redaksi, Kompleks Makam La Paijo Kajuara Ditetapkan sebagai Cagar Budaya Bone, <https://analisa.co.id/kompleks-makam-la-paijo-kajuara-ditetapkan-sebagai-cagar-budaya-bone/>, Accessed, December 5, 2023.

³² Interview with Andi Yushand Latenritapu, Chair of the Bone Regency Traditional Council, December 5 2023.

³³ Fatimah M Alshehaby, “Cultural Heritage Protection in Islamic Tradition,” *International Journal of Cultural Property* 27, No. 3 (2020), p. 291-322.

³⁴ Marduati Mukhtar, et.al., *Involvement of Families as Owners of Cultural Heritage...*, p. 672-673.

Qur'an al-A'raf: 7, underlines that religion prohibits bringing harm to the planet thereafter. Furthermore, in verse 92 of the Qur'an, Allah elucidates that the preservation of Pharaoh's body serves as a moral instruction for present and future generations. The preserved remains of Pharaoh's body, which are still visible today, serve as a testament to the immense power of Allah.³⁵

Wahbah Al-Zuhaili asserts that the act of destruction, known as al-itlaf, incurs the responsibility to provide compensation. This is because al-itlaf is a type of transgression that results in harm and loss. Compensation is required for the destruction of cultural heritage.³⁶ Engaging in the destruction and eradication of cultural heritage is unequivocally in violation of the Islamic law, particularly in regards to the fundamental objective of Islamic law, which is to promote the well-being of humanity.

According to Lukman Arake, a member of the Indonesian Ulema Council in Bone Regency, the preservation of cultural heritage might be considered advantageous under the Islamic law. Benefit refers to the act of preserving and safeguarding cultural legacy in order to obtain advantages and benefits for both present and future generations of humanity. The objective of Allah is to preserve historical heritage and artifacts, like the body of Pharaoh, the construction of the Pyramids, and the buildings of the Ad and Thamud civilizations. This serves as a timeless lesson for all of humanity until the Day of Judgment.³⁷

Conversely, the regional regulation on the preservation of Cultural Heritage in Bone 2020 specifies that community involvement in cultural heritage preservation can be achieved through activities such as safeguarding, enhancing, and utilizing cultural heritage, offering financial support, ensuring security, promoting and raising awareness, providing input and reporting any damages or discoveries, registering cultural heritage objects, and conducting oversight or supervision.³⁸

Ridhwan, a professor of the Islamic law at the Bone Islamic Institute, stressed that safeguarding cultural legacy aligns with the aims of the Islamic law, known as *maqāṣid al-sharī'ah*, which aim to serve humanity. The Islamic law mandates that humans refrain from causing harm to the Earth. It emphasizes the importance of comprehending this principle, and directs individuals to effectively preserve the environment, including its natural and cultural legacy. Cultural heritage serves important purposes and offers several advantages to humanity in

³⁵ Interview with Ruslan Sangaji, Professor of Ilmu Tafsir at Institut Agama Islam Negeri Bone, July 9, 2022.

³⁶ Wahbah Az-Zuhaili, *Al-Fiqh al-Islam Wa Adillatuhu* (Damaskus: Darul Fikir, 1985), V: 740.

³⁷ Interview with Lukman Arake, member of the Indonesian Ulama Councils, Bone Regency, December 6, 2023.

³⁸ Peraturan Daerah Kabupaten Bone tentang Pelestarian dan Pengelolaan Cagar Budaya Nomor 7 Tahun 2020.

the present and future, encompassing historical, educational, and economic aspects for the society³⁹

The practice of tracing the benefit, within the framework of the Islamic law, was extensively implemented by Umar bin Khattab, the second caliph succeeding Abu Bakr al-shiddiq. Umar bin Khattab's *ijtihad* system was characterized by a meticulous consideration of the social transformations taking place in the society. One notable instance was the case of a criminal whose hand was not amputated, owing to the prevailing economic crisis during that period. When conducting *istinbath*, the law is completely and totally focused on the welfare of the Muslim community.⁴⁰

Furthermore, the *ijtihad* conducted by the leader, namely in the realm of the Islamic constitutional law or modern constitutional law, is commonly known as *siyasah syar'iyah* or government policy. *Siyasah syar'iyah* refers to a government policy that is executed across several domains of life, with the objective of promoting the welfare of the society, the nation, and the state. It is evident that the management of the Hajj must adhere to legal regulations, the administration of the Covid vaccine, and the handling of financial services should be carried out in a manner that avoids injury to any party and aligns with the purposes of Islamic law. The purposes of the Islamic law, also known as *maqāṣid al-sharī'ah*, are directly linked to the implementation of laws for the betterment of humanity.⁴¹ The *maqāṣid al-sharī'ah* refers to the objectives of the government's policy, which are focused on promoting the welfare of the pilgrims and the community at large.

According to this viewpoint, safeguarding and conserving cultural assets align with the goals of the Islamic law, which encompass elements of well-being and advantages for humanity. Historical, religious, economic, educational, and character-building aspects of a nation can be exemplified by cultural heritages such as Borobudur Temple in Indonesia, Taj Mahal in India, the Pyramids in Egypt, and the Kaaba in Saudi Arabia. These landmarks have not only been acknowledged by their respective nations and countries but have also been recognized by UNESCO as world heritages that require protection and

³⁹ Interviewed with Ridhwan, a professor in the Islamic Law at Institut Agama Islam Negeri Bone, December 6, 2023.

⁴⁰ Muhammad Yusron, "Rational Reasoning and Maslahah: Umar ibn al-Khattab's *Ijtihād* on Cases of Islamic Inheritance," *Journal of Islamic Law* 2, No. 2 (2021). Budi Rahmat Hakim, et.al., "Reactualization of Maslahat and Social Justice Principles in the Contextualization of *Fiqh Zakat*," *Syariah: Jurnal Hukum dan Pemikiran* 24, No. 1 (2024).

⁴¹ Amir Tajrid, "Tracing the Genealogy of *Maqāṣid al-Sharī'ah* Concept: A Historical Approach," *Ahkam* 31, No. 1 (2021). Syaikhu Syaikhu, et.al., "The *Maqashid* Sharia Construction on Inheritance in Dayak Ngaju Customs within the Tumbang Anoi Agreement," *El-Mashlahah* 13, No. 2 (2023). Agus Waluyo, "The Developmental Policy of Halal Product Guarantee in The Paradigm of *Maqāṣid Sharī'ah* In Indonesia," *Ijtihad: Jurnal Wacana Hukum dan Kemanusiaan* 20, No. 1 (2020).

preservation. Cultural legacy serves as both a symbol of national identity and an economic asset that can generate foreign currency for a country.

Legally, the state is responsible for protecting and preserving cultural heritage. This responsibility is outlined in the Cultural Heritage Act of 2010, specifically in Article 11. In addition, regional regulations, such as the Preservation and Management of Cultural Heritage Act of 2020, further support this role. From an Islamic legal standpoint, safeguarding and conserving cultural legacy is considered a lawful action as it brings about advantages and well-being for humanity.

Conclusion

Cultural heritage significantly contributes to the progress of human civilization, along with its economic, social, and scientific dimensions. The Bone Regency serves as the administrative hub for the Bugis kingdom government, which is commonly referred to as the TellumpocoE. It represents an alliance between Bone, Soppeng, and Wajo. Furthermore, Bone serves as the epicenter of Bugis culture and traditions, which explains the presence of a rich history consisting of tangible artifacts and intangible elements. Thus, in Bone, the government, through various organizations and institutions, has safeguarded the cultural legacy. In the field of the constitutional law, the government has enacted Law No. 11 of 2010, which pertains to Cultural Heritage. Additionally, the Bone Regency government has also enacted Regional Regulations, namely Number 7 of 2020, which address the preservation and management of Cultural Heritage. Three cultural heritages have been identified for protection, notably the *Goro'e* Stone Structure (Sumpang Labbu), the Tomb of King Bone XVI, and the La Paijo Tomb Complex. Within the framework of the Islamic law, the preservation of cultural legacy might be classified as advantageous. The advantages derived from cultural heritage include the reinforcement of national identity and character, the promotion of historical education, the development of tourism attractions, and the potential for religious teachings to serve as lessons for present and future generations. This study also indicates that the collaboration of various stakeholders, including the government, religious leaders, cultural experts, and the community, is essential to collectively preserve the cultural and historical significance of Bone, as well as South Sulawesi and Indonesia as a whole.

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