



## Legal Aspects of Protection of Cultural Heritage Objects in Cisaat Village, Subang Regency, West Jawa

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### ABSTRACT

The territory of Indonesia is rich in historical relics of high value as remnants of past glory protected by law. one of them is the historical relics of cultural heritage sites located in Cisaat Village, Subang Regency, West Java. The purpose of the study was to determine whether the cultural heritage site in Cisaat village met the criteria as a cultural heritage and looked at the aspects of legal protection of sites in the cisaat area as well as the community's participation in the maintenance and protection of cultural heritage objects. This research is carried out using qualitative methods with a normative juridical approach is an approach by prioritizing and based on the main legal material by examining theories, concepts, legal principles and laws and regulations, including the results of court decisions related to this research supported by observation and interviews. The results showed that the historical relics contained in the cissat met the criteria based on the regulations that apply as cultural heritage objects.

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## INTRODUCTION

Various relics or historical sources in the form of visual graphics and oral heritage are exposures to the form of the nation's personality. Based on the historical heritage, it can be known the development of various aspects of life. With the intermediary of historical heritage we can know our ability to filter and receive elements from the outside that do not match the personality of the nation. In line with Article 32 paragraph (1) of the 1945 Constitution "The state promotes national culture in the midst of world civilization by guaranteeing people's freedom in maintaining and developing cultural values.

The Indonesian region is rich in high-value historical relics as a remnant of past glory, one of which is the relics of cultural heritage sites located in Cisaat Village, Subang Regency, West Java. There are 3 cultural heritage sites in Cisaat village this Petilasan (meditation place) Cikahuripan Site. Kramat Tengah Site there is Eyang Patih Tomb and Eyang Haji Mustofa Tomb at this site location, Kramat Hilir Site there is a Religious Mantri Eyang Tomb, Eyang Mama Ukim Bin Uyut Egypt Tomb.

In this site there is a tomb of the tomb of an Islamic spreader which is used as a visit by tourists as a place of pilgrimage. The initial information obtained from the existence of this Site has not received adequate attention from local governments and has not received legal protection. The location of this site is partly on the land of PT Perkebunan Nusantara (PTPN) which is rented by private parties which creates problems with private parties who rent land because there are land owners who do not allow their land to be entered by tourists who make pilgrimages.

From a century of cultural heritage management in Indonesia there are quite a lot of challenges, obstacles and changes. Looking back at the history of cultural heritage protection in Indonesia which has been started since the Dutch East Indies government and the attention to cultural heritage is getting bigger and then in 1913 an organization was established in charge of managing and preserving cultural heritage called dinas Kependakwaan the foundation of legal protection of cultural heritage has been established since its enactment *Monumenten Ordonantie stbl 238 (1931)*.

This ordinance already covers the basics of the protection and preservation of cultural heritage in Indonesia such as the categorization of cultural heritage (monuments), monument registration procedures, the process of access and supervision of monuments including the determination of sanctions for violations, as well as the authority in the management and supervision of cultural heritage (Martini,2016).

Referring to the categorization of cultural heritage there is almost no significant change in its substance between MO stbl 238 of 1931 and Law No.5 of 1992 on Cultural Heritage Objects. Both still in focus are tangible cultural heritage, whether single or group, movable or immovable that has a lifespan of at least 50 years and has importance for prehistory, history and art. Value to science. Referring to these two laws, it has not covered the category of cultural heritage in the context of space or region. Legal issues that often occur in Indonesia related to the history of ancient civilizations and cultures are about

Cultural Heritage, especially regarding the law of ownership of asset discoveries. Against that background, the Government has issued Law (UU) No. 11 of 2010 concerning Cultural Heritage, which replaces the previous Law, Law No. 5 of 1992 concerning Cultural Heritage Objects, which is no longer in accordance with the development, demands and legal needs in society. The Indonesian government at the end of 2010 issued a new law on cultural heritage called Law No.11 of 2010 concerning Cultural Heritage. In this law has been fixed some categories of cultural heritage. The purpose of the Government to issue the Law is to preserve Cultural Heritage and make the State immediately responsible for the protection, development, and utilization of Cultural Heritage. By regulating this in laws and regulations that have a strong binding force, it is hoped that a balance of ideological, academic, ecological, and economic aspects can be created, in order to improve the welfare of the people around the Cultural Heritage.

However, until now, the legal aspects of the protection and management of cultural heritage in Indonesia are still inadequate, often inconsistent with the development of preservation at the international level. Based on the description above, the formulation of the problem in this study is :

1. Does the site located in Cisaat village meet the criteria as a cultural heritage object?
2. Do the current laws and regulations provide protection for cultural heritage objects, especially cultural heritage sites in cisaat village?
3. How is the community's participation in the maintenance and protection of cultural heritage sites in Cisaat?

## LITERATURE REVIEW

Law of the Republic of Indonesia number 5 of 1992 concerning Cultural Heritage Objects has been successfully refined by Law number 11 of 2010 concerning Cultural Heritage. In this law there are many things that are new and different from the old laws, both philosophically, sociologically, and juridically. Philosophically, it is not only limited to objects but also includes buildings, structures, sites, and cultural heritage areas that are on land and/or in water. The unit or cluster of cultural heritage needs to be preserved because it has important value for history, science, education, religion, and/or culture through the determination process. Sociologically, these laws include ownership, possession, transfer, compensation, and incentives. Juridically, this law regulates matters related to preservation which include protection, development and utilization. It also contains the duties and authorities of stakeholders as well as criminal provisions. The term protection according to the Big Indonesian Dictionary (KBBI) has the meaning of protection, namely poses or acts of protection. In general, protection means protecting something from things that are dangerous, something that can be in the form of interests or objects or goods. In addition, protection also contains the meaning of protection given by a person to a weaker person.

Cultural heritage according to Davidson is a product or result of physical culture, which comes from different traditions and spiritual achievements in the form of values from the past that are a central part of the identity of a group or nation. So it can be concluded that cultural heritage is the result of physical

culture (tangible) and is a cultural value (intangible) that comes from the past. Meanwhile, cultural heritage is a cultural heritage that is material, in the form of cultural heritage objects, cultural heritage buildings, cultural heritage structures, cultural heritage sites, cultural heritage areas located on land or in waters that must be preserved and maintained because they have important values for history, science, education, religion, and cultural values through a process of determining cultural heritage. Objects that are estimated to have criteria as cultural heritage can be proposed to be cultural reserves. Objects that do not have criteria as cultural heritage but have a meaning for the people or state of Indonesia can also be proposed to be cultural heritage. With a special explanation, the object is a symbol of unity or unifying, pride, and a national identity or a major event on a national or international scale.

## **METHODOLOGY**

This research was conducted using qualitative methods with a normative juridical approach. Normative juridical is an approach that prioritizes and is based on the main legal material by examining theories, concepts, legal principles and laws and regulations, including the results of court decisions related to this research. Another term for this approach is Literature Studies. By conducting a literature study, it is possible to utilize all information and thoughts relevant to the research.

## **RESEARCH RESULT AND DISCUSSION**

### **1. Historical relics in Cisaat that meet the criteria as Cultural Heritage Objects Sites**

The existence of sites in cisaat village is known to have existed during the Dutch colonial period and along with the development of Islamic religious teachings in Cisaat Village. However, the people there believe that these sites have existed since the time of the Padjajaran Kingdom. The spread of Islamic teachings in Cisaat Village began with the arrival of a figure spreading Islam in the Sagalaherang area, more precisely in Wetan, Padukuhan, Cisaat. This character is named Mamak Ajengan Gojali. He is a community leader from Cikalong, Bandung, West Jawa.

The names of these sites are based on the purpose and purpose of pilgrims to visit. Starting from the Cikahuripan Site as the opening site of a series of sites in Cisaat Village. Then, for the four figures each buried in a different area. Eyang Patih and Eyang Haji Mustofa were buried in the central kramat cemetery area. Meanwhile, the tomb of the eyang Mantri Agama and the tomb of Eyang Mama Ukim Bin Uyut Egyut are located after the central burial area.

To maintain and protect cultural heritage sites, the village government has processed sites in Cisaat village to be registered as cultural reserves which were eventually inaugurated by the Subang Regency Government in 2021 as Cultural Heritage Sites. Based on the statement of Mr. Asep as the Secretary of Cisaat Village, it can be seen that the kramat sites/tombs in Cisaat village that really qualify as cultural reserves only have 2 sites, namely Cikahuripan Site and Cilake Beres. Meanwhile, the rest follows the two sites, because the two sites have a

strong history. However, the inauguration of the two sites made Cisaat village a religious tourism village.

Although the search results did not find a certificate indicating that the kramat site/tomb in Cisaat village has been designated as a cultural heritage object containing historical value. However, from the narrative of Mr. Aep as the Secretary of State in Cisaat village, the existence of a caretaker decree is as evidence that, these objects have been inaugurated as cultural heritage sites. Although there is no official certificate from the Ministry of Education and Culture, it is not a problem for the village government or the Cisaat village community to maintain and protect the existence of kramat sites/tombs. However, if there is an official certificate from the Ministry of Education and Culture explaining that the kramat site/tomb in Cisaat village is a cultural heritage, then the kramat site/tomb is even stronger because it is under the legal protection of the Subang Regency local government.

The sites in Cisaat Village meet the criteria in terms of age, which is more than 50 years old. This can be seen because the existence of sites, such as the Cikahuripan Site itself has been used since the time of the Pajajaran Kingdom until today. In addition, when viewed in its function, the sites contained in Cisaat Village also have aspects that can be used as objects of history, science, education, religion, and/or culture (Pasal 5 dan 6 UU No 11 tahun 2010 tentang Cagar Budaya)

## **2. Applicable Laws and Regulations That Provide Protection for Cultural Heritage Objects, especially Cultural Heritage Sites in Cisaat Village**

The increasingly smooth flow of information about the management of cultural heritage from the global world and the proliferation of NGO in various regions triggered more and more vigorous voices to revise Law No. 5 of 1992 so that in November 2010 Law No. 11 of 2010 on Cultural Heritage was born. The Cultural Heritage Law (CB) is expected to be based on a new perspective and regulate more comprehensively cultural heritage that is declared to have important value. Admittedly, the Cultural Heritage Act (CB) has nevertheless implied new perspectives and provisions.

From the results of the data compilation carried out through several stages, some of the laws that are closely related to the protection and preservation of cultural heritage in force in Indonesia today are:

- Undang-Undang Nomor 28 Tahun 2002 tentang Bangunan Gedung. Pasal yang berhubungan dengan perlindungan dan pelestarian cagar budaya yaitu Pasal 38.
- Undang-Undang No. 26 tahun 2007 (sebelumnya UU No.24 tahun 1992) tentang Penataan Ruang. Pasal yang berhubungan dengan perlindungan dan pelestarian cagar budaya yaitu pasal 1,4, 6,11,17, 25, 26, 38, dan 48.
- Undang-Undang Kepariwisata No.10 tahun 2009 (sebelumnya Undang-undang Kepariwisata No.19 Tahun 1990). Pasal yang berhubungan dengan perlindungan dan pelestarian cagar budaya yaitu pasal 23,27,28,29,dan 30.
- Undang -undang Nomor 11 Tahun 2010 tentang Cagar Budaya

In addition, a number of Government Regulations on the implementation of the aforementioned laws along with Ministerial Regulations relating to cultural heritage as an explanation of their implementation as in the following table below.

Table 1. List of Government Regulations Relating to the Protection of Cultural Heritage

No.	Nama Peraturan
1	Peraturan Pemerintah No.10 tahun 1993 tentang Pelaksanaan Undang-Undang Nomor 5 Tahun 1992 tentang Benda Cagar Budaya (Lembaran Negara Republik Indonesia Tahun 1993 Nomor 14, Tambahan Lembaran Negara Republik Indonesia Nomor 3516)
2	Peraturan Pemerintah Nomor 19 Tahun 1995 tentang Pemeliharaan dan Pemanfaatan Benda Cagar Budaya di Museum (Lembaran Negara Republik Indonesia Tahun 1995 Nomor 35 Tambahan Lembaran Negara Republik Indonesia Nomor 3599)
3	Peraturan Presiden Nomor 78 Tahun 2007 tentang Pengesahan <i>Convention For The Safeguarding Of The Intangible Cultural Heritage</i> (Konvensi dalam Perlindungan Warisan budaya Budaya Tak Benda), (Lembaran Negara Republik Indonesia Tahun 2007 Nomor 81)
4	Peraturan Menteri Dalam Negeri Nomor 39 Tahun 2007 Tentang Pedoman Fasilitasi Organisasi Kemasyarakatan Bidang Kebudayaan, Keraton, dan Lembaga Adat Dalam Pelestarian dan Pengembangan Budaya Daerah
5	Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2007 Tentang Pelestarian dan Pengembangan Adat Istiadat dan Nilai Sosial Budaya Masyarakat;
6	Peraturan Bersama Menteri Dalam Negeri Dan Menteri Kebudayaan Dan Pariwisata Nomor : 42 Tahun 2009 dan Nomor : 40 Tahun 2009 tentang Pedoman pelestarian kebudayaan
7	Peraturan Pemerintah Nomor 36 Tahun 2005 tentang Peraturan Pelaksanaan Undang-Undang Nomor 28 Tahun 2002 tentang Bangunan Gedung. Bangunan-bangunan bersejarah sebagai warisan budaya budaya diatur pengelolaannya dalam Pasal 22, 23, 25, 28, dan Pasal 83 hingga 89.
8	Peraturan pemerintah Republik Indonesia nomor 26 tahun 2008 tentang Rencana Tata Ruang Wilayah Nasional. Pengelolaan warisan budaya budaya yang berhubungan dengan perencanaan tata ruang nasional dalam peraturan ini diatur dalam Pasal 1, 6, 8, 9, 50,51,52,53,54,57, 63, 70, 75, 78,86,88,101,104, dan 112

Related to the concept of decentralization of protection and preservation of cultural heritage in Indonesia as stated in Law No.11/2010, this has been synchronized with Law No.32 of 2004 concerning Regional Government (revised to Law on Regional Government No.12 of 2008). Then its implementation is regulated in several government regulations in the following table below.

Table 2. Government Regulations on the Implementation of Local Government Administration

NO	Nama Peraturan
1	Peraturan Pemerintah No.38 tahun 2007 tentang Pembagian Urusan Pemerintah Daerah. Pasal-pasal yang berkaitan dengan warisan budaya budaya dan pengelolaannya termaktub dalam Pasal 2 ayat (4), kebudayaan dan pariwisata adalah bagian dari urusan pemerintahan daerah. Pasal 7 ayat (2), kebudayaan menjadi urusan wajib pemerintahan daerah, sedangkan pariwisata menjadi urusan pilihan.
2	Peraturan Pemerintah Nomor 25 tahun 2000 Tentang Kewenangan Pemerintah dan Kewenangan Propinsi Sebagai Daerah Otonom Peraturan Pemerintah No.41 tahun 2007 tentang Organisasi Perangkat Daerah (sebelumnya Peraturan Pemerintah Nomor 8 Tahun 2003 tentang Pedoman Organisasi Perangkat Daerah
3	Peraturan Menteri Dalam Negeri Nomor 57 tahun 2007 tentang Petunjuk teknis Penataan organisasi perangkat daerah.

Peraturan (undang-undang) tentang perlindungan warisan budaya di Indonesia saat ini serta organisasi pengelola					
Nama Undang-Undang	UU No.11/2010	UU No.28/2002	UU No.26/2007	UU No.10/2009	UU No.5/2017
Item dan Lingkup perlindungan terhadap cagar budaya	Benda (Tangible), termasuk benda yg bergerak dan tidak bergerak, kawasan dan situs	Benda yang tidak bergerak (Bangunan)	Kawasan bersejarah atau kawasan strategi budaya	Lebih spesifik ke perlindungan objek wisata bersifat Benda (tangible)	10 objek. (intangible)
Pasal perlindungan terhadap warisan budaya	Seluruhnya	Pasal 38	Pasal 1,4, 6,11,17, 25, 26, 38, dan 48	Pasal 23,27,28,29,30	seluruhnya
Peraturan Pemerintah (PP) tentang pelaksanaan UU	Belum terbit	PP No.16 tahun 2021 PP No. 36 Tahun 2005 (pasal 22, 23, 25, 28, dan pasal 83 hingga 89)	PP No21 tahun 2021 PP No. 26 tahun 2008	PP No.50 tahun 2011 Perpres No.63 tahun 2014	Belum terbit
Lembaga pemerintah yang bertugas	Kementerian Pendidikan dan Kebudayaan	Kementerian PU dan Perumahan Rakyat	Kementerian Agraria dan Tata Ruang	Kementerian Pariwisata	Kementerian Pendidikan dan Kebudayaan

Figure 1. The Various Laws and Regulations

The various laws and regulations above should also be a reference to regulations for the protection of cultural heritage sites in cisaat village. Although it must be admitted from the results of the researcher's search, the process and procedure for recognizing and determining the site are carried out by cisaat village government officials.

### 3. Cisaat Village Community Participation in the Maintenance and Protection of Cultural Heritage Sites

Until finally, the existence of sacredness can make a person afraid to do something inappropriate. The people of Cisaat Village have a high belief in ancestral spirits, making the village community have a view of life, that human life is interconnected whether it is with God, nature, humans, or other humans who are gone. The kramat site/tomb is a cultural heritage that should be preserved or preserved, even if the object is not considered sacred. However, the existence of sacredness further strengthens that, the kramat site / tomb must be maintained and protected with efforts made by the community in Cisaat Village

to maintain the cultural heritage site is by enforcing a rule that the Cisaat community and everyone who is a visitor to the cultural heritage site must protect the existing cultural heritage site. This is referred to in Law No.11 of 2010, article 75 paragraph (1) which reads that everyone is obliged to maintain the Cultural Heritage owned and/or controlled by him.

In addition, the community's efforts in maintaining their cultural heritage sites are to clean kramat sites/tombs and carry out religious activities on Islamic holidays. Like Ibu Sari as a community in Cisaat village who gave an explanation, that: "Masyarakat di sini rajin untuk membersihkan makam-makam itu. Apalagi ketika menyambut Maulid Nabi, semua berbondong-bondong untuk membersihkan makam hingga bersih."

The people of Cisaat village still preserve the traditions or teachings that have been given by the ancestors of Cisaat village. This is shown from the awareness of the community and the village government to jointly maintain the site/tomb of kramat. How not to do this, considering that the people in Cisaat village still hold devotional work to clean tombs or sites that are carried out on Islamic holidays. On Islamic holidays like Muharram and Ashura. People flocked to clean up cultural heritage sites to preserve the cultural heritage site of Cisaat Village.

The people of Cisaat village can protect kramat sites by registering them with the Ministry of Education and Culture as cultural heritage. Registration of cultural heritage should be carried out because it is to protect against misuse and damage to cultural heritage. According to Koesnadi Hardjosoemantri (in Harjiyatni, 2012: 348), the importance of protecting cultural heritage objects to avoid various forms of damage to these objects caused by war, cultural infiltration, natural disasters, trade in cultural heritage objects and the desire of the community to own cultural heritage objects as private property.

The community actively participates in helping to protect cultural heritage sites with all practices that have been established and prohibited by elders or community leaders. The community also actively participates in socializing related to prohibitions when visiting cultural heritage sites to visitors who are doing religious tourism. The community must comply with the established prohibitions. In addition, the community also obeyed village regulations that prohibit taking the proceeds of wealth in the tomb. In other words, the village government has succeeded in providing appeals to the village community.

The people of Cisaat village also protect kramat sites by registering them with the Ministry of Education and Culture as cultural heritage. Registration of cultural heritage must be carried out because it is to protect against the misuse of cultural heritage especially from damage to cultural heritage.

## **CONCLUSIONS AND RECOMMENDATIONS**

1. Of the several cultural heritage sites in the cisaat village area, there are 3 sites that meet the criteria for reserve objects, namely Petilasan (meditation place) Cikahuripan Site, Central Kramat Site there is Eyang Patih Tomb, Eyang Haji Mustofa Tomb. Kramat Hilir site there is the Tomb of Eyang Mantri Agama Makam Eyang Mama Ukim Bin Uyut Egypt. However, there is no Decree of

- Designation as a Cultural heritage object from the Subang regional government, there is a new decree of the caretaker of the tomb.
2. Until now, the legal aspects of the protection and management of cultural heritage in Indonesia are still inadequate, often inconsistent with the development of preservation at the international level. Legislasi and guidelines in the protection and management of cultural heritage in Indonesia contained in Law No.11/2010 are still inadequate. However, until now a Government Regulation explaining Law No.11/2010 has not been issued, while previous government regulations have been unable to accommodate new concepts in the protection and management of cultural heritage in Indonesia as stated in the Law. Several laws that participate in protecting and regulating the preservation of cultural heritage in Indonesia are still fragmented and confined by the management in charge of implementing them.
  3. The people of Cisaat village play an active role in the maintenance and protection of cultural heritage sites in Cisaat. The community carries out devotional work to clean tombs and obey those that have been determined and prohibited by elders or community leaders. The community also actively participates in socializing related to prohibitions when visiting cultural heritage sites to visitors who are doing religious tourism. The community also obeyed village regulations that prohibit taking the proceeds of wealth in the tomb.

#### **ADVANCED RESEARCH**

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

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