



## The Survival of Intangible Cultural Expressions and Traditions from Globalization: An Overview of Indonesia's Legal Protection

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### **Abstract**

Developing countries urgently need legal protection of traditional cultural expressions due to globalization could impact cultural values due to human thought development, rapid technology, and the economic principles people use in their lives. On the other side, International organizations began developing efforts and strategies to protect global culture, such as the United Nations (UN). One of the organizations assigned by the UN is the United Nations Educational, Scientific, and Cultural Organization (UNESCO). This study aims to deal with those legal issues relating Legal Protection of Cultural Expressions to Maintain Cultural Traditions From The Flow of Globalization, by using the normative legal method. The result shows that Communities are presented with global culture but must maintain traditions binding their social relations through the meanings created, maintained, and internalized. This dilemmatic reality creates difficulties when people want to maintain a traditional culture full of meaning for their survival. Moreover, globalization's erosion of solidarity, togetherness, and patriotism could threaten traditional values inherited and preserved for a long time. Maintaining culture requires managing, documenting, and disseminating information and knowledge. This could be realized using the sophistication of information and communication technology on the local and national cultural noble values.

**Keywords:** *Cultural Expression; Globalization; Legal Protection*

## Introduction

Melville J. Herskovits and Bronislaw Malinowski<sup>1</sup> stated that culture is closely related to society. Everything in society is determined by its culture, an opinion known as Cultural-Determinism. Herskovits viewed culture as passed down through generations to be referred to as superorganic. Furthermore, it is a social phenomenon inseparable from the behavior and actions of its citizens. Comparing the regularity, pattern, or configuration in the behavior and actions of citizens cannot be understood without being associated with culture.

Culture cannot be separated from society at a higher level when related to the human individual. In this case, society is a human life unit that interacts according to certain continuous customs linked by a shared identity. This means that society is a shared life where citizens live together for a long time, resulting in a culture. It is a system and a forum for social interactions or interpersonal and inter-group relationships.<sup>2</sup> Malinowski understood society through culture, stating that cultural elements are the most important part of society because they have certain functions. Therefore, every pattern of customs is part of the basic function of culture.<sup>3</sup>

National culture is a national identity. Based on TAP MPR No. II of 1998, "National culture based on Pancasila embodies the Indonesians' creativity, work, initiative, and efforts to develop their dignity as a nation. It provides insight and meaning to national development in all life aspects. Therefore, National Development is a development with a culture. Article 1 paragraph (2) of Law No. 5 of 2017 concerning the Advancement of Culture states that national culture is the entire process resulting from the interaction between cultures living and developing in Indonesia.

The richness of Indonesian culture spread throughout the archipelago has been a philosophy of life for indigenous communities for centuries. Even before the country arrived, the culture was a living foundation for every indigenous community.<sup>4</sup> In Indonesia, communities face various problems, challenges, and advancement opportunities. This necessitates strategic protection, development, utilization, and guidance to ensure that Indonesians follow the Trisakti principle of political and economic sovereignty, as well as personality.<sup>5</sup>

The four steps are described as follows:<sup>6</sup>

- Protection implies efforts to maintain the sustainability of culture through inventory, security, maintenance, rescue, and publication.
2. Development is reviving the cultural ecosystem and enhancing, enriching, and disseminating culture.
  3. Utilization refers to using cultural advancement to strengthen ideology, politics, economy, society, culture, defense, and security in realizing national goals.
  4. Coaching is empowering cultural human resources and institutions in increasing and expanding active roles and community initiatives.

<sup>1</sup> Sulasman & Setia Gumilar, 2013, *Teori-Teori Kebudayaan Dari Teori Hingga Aplikasi*, CV. Pustaka Setia, Bandung, pg. 28-29.

<sup>2</sup> Soejono Soekamto & Soleman B. Taneka, 1983, *Hukum Adat Indonesia*, CV. Rajawali Indonesia, Jakarta, pg. 106.

<sup>3</sup> Judistira K. Garna, 1992, *Teori-Teori Perubahan Sosial*, Pasca Sarjana UNPAD, Bandung, pg. 55.

<sup>4</sup> Melkior N.N Sitokdana, Digitalisasi Kebudayaan Di Indonesia, in *Seminar Nasional Teknologi Informasi Dan Komunikasi*, Yogyakarta, 2015, pg. 99, <https://fti.uajy.ac.id/sentika/publikasi/makalah/2015/13.pdf>.

<sup>5</sup> Zulkifli AR & Azhari AR, Perlindungan Objek Pemajuan Kebudayaan Menurut Undang-Undang No 5 Tahun 2017, *DOKTRINA: JOURNAL OF LAW*, vol. 1 no. 1 (July 6, 2018), pg. 62, <https://doi.org/10.31289/doktrina.v1i1.1611>.

<sup>6</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294-495, <https://doi.org/10.14710/lr.v13i2.16162>.

Developing countries urgently need legal protection of traditional cultural expressions. It ensures the survival of intangible cultural heritage and communal creativity.<sup>7</sup> Furthermore, developing and utilizing information technology-based culture or digitization should be revived. This would involve preserving, maintaining, and developing cultural values such as self-identity and the Indonesian national wealth.<sup>8</sup>

Indonesia focuses more on the legal protection of culture, which necessitates managing, documenting, and disseminating information and knowledge. The protection utilizes sophisticated information and communication technology and focuses on the local and national noble cultural values. Subsequently, the culture of each ethnic group is passed on to each generation, becoming maintained as self-identity and showing Indonesia's existence in the world.<sup>9</sup>

The Pancasila Foundation is the state's ideology and philosophy in formulating legal protection in Indonesia. For Westerners, legal protection is based on *Rechtstaat* and the Rule of the Law. From this perspective, legal protection is the principle of recognizing and protecting human dignity based on Pancasila. The principle of legal protection against government actions is based on recognizing and protecting human rights. This is because, in the West, the birth of concepts regarding recognizing and protecting human rights was directed at the limitations and the laying down of community obligations and government.<sup>10</sup>

Satjipto Rahardjo stated that legal protection involves protecting people's interests by empowering them to act in their interests. One characteristic and purpose of the law is to protect the community, which must be realized through legal certainty.<sup>11</sup>

The legal basis of the State should protect traditions, especially traditional marriages, as stated in Article 32 paragraph (1) of the 1945 Constitution. The state advances Indonesian national culture amid world civilization by guaranteeing people's freedom to maintain and develop their cultural values.

The Law for the Advancement of Culture accommodates preserving traditions in a culture. These are the local wisdom of the Indonesian people, especially regarding spatial planning, the promotion of culture, and the determination of strategic socio-cultural, local, and national interests. An example is the traditional marriage of the Pariaman community, which is part of the local wisdom culture of the Indonesian nation.

Intellectual Property Rights could protect traditional knowledge and cultural expressions, especially those developed by individuals, without losing their characteristics.<sup>12</sup> Protection of Traditional Cultural Expressions (EBT) through copyright law is a relevant form of protection in intellectual property law principles.<sup>13</sup>

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<sup>7</sup> OK. Saidin, 2006, *Aspek Hukum Hak Kekayaan Intelektual*, RajaGrafindo Persada, Jakarta, pg. 78.

<sup>8</sup> Melkior N.N Sitokdana, Digitalisasi Kebudayaan Di Indonesia, in *Seminar Nasional Teknologi Informasi Dan Komunikasi*, Yogyakarta, 2015, pg. 108, <https://fti.uajy.ac.id/sentika/publikasi/makalah/2015/13.pdf>.

<sup>9</sup> Melkior N.N Sitokdana, Digitalisasi Kebudayaan Di Indonesia, in *Seminar Nasional Teknologi Informasi Dan Komunikasi*, Yogyakarta, 2015, pg. 100, <https://fti.uajy.ac.id/sentika/publikasi/makalah/2015/13.pdf>.

<sup>10</sup> Philipus M. Harjon, 1987, *Perlindungan Hukum Bagi Rakyat Indonesia*, Bina Ilmu, Surabaya, pg. 38.

<sup>11</sup> Satjipto Rahardjo, 1993, *Permasalahan Hukum Di Indonesia*, Alumni, Bandung, pg. 121.

<sup>12</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 286, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>13</sup> Kholis Roisah, Perlindungan Ekspresi Budaya Tradisional Dalam Sistem Hukum Kekayaan Intelektual, *Masalah-Masalah Hukum*, vol. 43 no. 3 (July 22, 2014), pg. 375, <https://doi.org/10.14710/mmh.43.3.2014.372-379>.

Law Number 38 of 2014 concerning Copyright regulates Traditional Cultural Expressions. Article 38 Paragraphs (1), (2), (3), and (4) of the Copyright Law are submitted successively as follows:<sup>14</sup>

- (1) Copyright on Traditional Cultural Expressions is held by the State.
- (2) The state should take inventory and maintain Traditional Cultural Expressions, as in paragraph (1).
- (3) The use of Traditional Cultural Expressions, as referred to in paragraph (1), must consider community values.
- (4) Further provisions regarding Copyrights held by the State on Traditional Cultural Expressions, as referred to in paragraph (1), shall be regulated by Government Regulation.

Traditional arts or cultural expressions should also be protected by being published.<sup>15</sup> The Indonesian government, through Law No. 5 of 2017, protects traditional cultural expressions by creating a separate wealth database.<sup>16</sup> This protection is called an inventory of objects of cultural promotion through an integrated data collection system. The data is collected on security (Article 22), maintenance (Article 24), rescue (Article 26), publication (Article 28), and development (Article 30).<sup>17</sup>

Article 22 of Law Number 5 of 2017 concerning the Promotion of Culture states that: (1) The Central or Regional Governments should maintain Objects for the Promotion of Culture; (2) Everyone could participate in maintaining the Objects for the Promotion of Culture; (3) Maintenance of Cultural Promotion Objects prevents damage, loss, or destruction of Cultural Promotion Objects; (4) Maintenance of Objects for the Advancement of Culture involves a). maintaining the nobility and wisdom of the Object of Cultural Advancement; b). using the Object of Cultural Advancement in daily life; c). maintaining the diversity of Objects for the Advancement of Culture; d). reviving and maintaining the Cultural ecosystem for each Object of Cultural Advancement, and e). bequeathing the Object of Cultural Advancement to the next generation.

International organizations began developing efforts and strategies to protect global culture, such as the United Nations (UN). One of the organizations assigned by the UN is the United Nations Educational, Scientific, and Cultural Organization (UNESCO). The 2003 UNESCO Convention began defining objects that must be protected. Article 2 Paragraph (1) of the 2003 UNESCO Convention states that intangible cultural heritage includes practices, representations, expressions, knowledge, and skills. Cultural heritage includes instruments, objects, artifacts, related cultural spaces, and community places.<sup>18</sup> In the convention, the indigenous people's culture in customary marriages is classified as intangible cultural heritage worth protecting by UNESCO through established procedures.

It is important to protect local wisdom in Indonesia from globalization development, society, and local government. The state needs affirmation of government rules or laws and regional regulations regarding globalization. This must be anticipated by developing local wisdom values as the society's

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<sup>14</sup> Article 38 Paragraph (1) and Paragraph (2) of Law Number 28 of 2014 Concerning Copyright (State Gazette of the Republic of Indonesia of 2014 Number 266, Supplement to the State Gazette of the Republic of Indonesia Number 5599), 2014.

<sup>15</sup> Abdul Atsar, *Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta*, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>16</sup> Abdul Atsar, *Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta*, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>17</sup> Abdul Atsar, *Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta*, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 295, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>18</sup> Pasal 2 Ayat (1) Konvensi UNESCO Tentang Pelestarian Warisan Budaya Takbenda, 2003.

living basis. The maturity in responding to global values must be addressed wisely while considering the Indonesian local community's wisdom values.

The state establishes and maintains law, guaranteeing people's legal position in society. This means that every citizen has the same legal position and should not be treated arbitrarily by the authorities.<sup>19</sup> Based on the 1945 Constitution, every Indonesian citizen has the same position before the law and the government in Pancasila society. The law established by the competent institution by involving the people applies to anyone without exception.<sup>20</sup> This goal could be achieved when the state holds a separation of powers. The powers have similarly high and low positions and must not influence, interfere with, or review each other.<sup>21</sup>

The government legislation may vary with time depending on the authorities and their mandate to make a decision.<sup>22</sup> Therefore, maximum efforts are made despite a change in state power. The change should not obscure the law's purpose, complicating goal achievement.

In Indonesia, the law is a political product because the House of Representatives holds the power to make laws. Each draft is discussed by the House of Representatives and the President for mutual approval. The President also has the right to submit draft laws to the House of Representatives.<sup>23</sup> Therefore, ratifying a Draft Legislation into Law is a mutual agreement between the President as the Executive and the House of Representatives as the Legislature.

Globalization could impact cultural values due to human thought development, rapid technology, and the economic principles people use in their lives. This necessitates developing the protection concept to maintain the values of cultural traditions and prevent the loss of local community wisdom.

Based on these aspects, there are efforts to protect from the globalization currents on the culture of indigenous and tribal peoples. There are also strategies to maintain the noble values in the cultural traditions stated in Article 32 paragraph (1) of the 1945 Constitution of Indonesia. These efforts motivated the study entitled "*The Survival of Intangible Cultural Expressions and Traditions from Globalization: An Overview of Indonesia's Legal Protection.*"

The state protected traditional values to preserve local wisdom, implicitly following Article 18B paragraph (2) and Article 32 paragraph (1) of the 1945 Constitution. In developing a pluralistic indigenous community, local wisdom traditions have undergone social changes and shifts in values due to the influence of globalization.

The problems identified in this study are: 1) Filtering the Impact of Globalization Flow on National Identity on Culture in Indonesia; 2) The Legal Protection in Maintaining the Sustainability of Cultural Traditions Due to Globalization in Indonesia.

## **Methods**

This study is a qualitative tradition included in the doctrinal school supported by empirical research. It is also included in socio-legal research where interdisciplinary methods determine how the law could be effective in social practice. It is not simply discussing normative understanding in legal texts.

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<sup>19</sup> Ni'matul Huda, 2013, *Ilmu Negara*, Rajawali Press, Jakarta, pg. 56.

<sup>20</sup> S.Toto Pandoyo, 1992, *Ulasan Terhadap Beberapa Ketentuan Undang-Undang Dasar 1945, Sistem Politik Dan Perkembangan Kehidupan Demokrasi*, Liberty, Yogyakarta, pg. 164.

<sup>21</sup> Miriam Budiardjo, 1991, *Dasar-Dasar Ilmu Politik*, Gramedia Persada, Jakarta, pg. 46.

<sup>22</sup> Soehino, 2008, *Hukum Tata Negara Teknik Perundang-Undangan*, Liberty, Yogyakarta.

<sup>23</sup> Undang-Undang Dasar Republik Indonesia Tahun 1945 Article 5 Paragraph (1), 1945.

Furthermore, this study used data comprising primary, secondary, and tertiary legal materials. The primary legal material used is the 1945 Constitution, as well as related laws and regulations. Secondary legal materials explain publications on law, including books, studies, magazines, and journals on cultural traditions based on local wisdom. Tertiary legal materials comprised Black's Law Dictionary and relevant encyclopedias. Additionally, this study used non-legal books on philosophy, economics, politics, and culture to enrich the discussion.

## **Discussion**

### **Filtering the Impact of Globalization on National Identity on Culture in Indonesia**

The current globalization is vulnerable to new values, norms, and ideologies that easily enter society or indigenous communities. These factors enter through mass media such as television shows, and the internet, which now exist throughout the country.<sup>24</sup> The developing globalization significantly influences the culture of society.

Globalization unites the world through economic power, technology, and developments, impacting individual or community survival.<sup>25</sup> It is also a unique phenomenon in human civilization that moves continuously in a global society and is part of the human process.<sup>26</sup>

Furthermore, globalization is often associated with modernity and human civilization development. It was defined by Tomlinson as a reduction in the distance traveled and the time taken in carrying out daily activities. This occurs physically, such as traveling by air or representatively by conveying information and images using electronic media.<sup>27</sup>

Indonesia is a multi-law country within the framework of its legal system. This is because the de facto state and customary laws are applied in community units. Furthermore, religious law institutions are applied in religious communities, while self-regulatory exists in community groups. The legal institutions' diversity applied in the community by John Griffiths is the fact of legal pluralism in the community.<sup>28</sup>

Indonesia's legal institutions have diverse cultures and customs in each region. Its uniqueness makes customary regional culture a national wealth. According to Paul Bohannan, as quoted by Sajipto Raharjo, a common symptom in transitioning from a traditional to a modern national society is the competition between law and custom. Habits in informal institutions must conform to the law, or the law must actively resist them. Similarly, the law must grow to conform to or suppress customs.<sup>29</sup>

The possibilities could vary by attracting, refusing, or competing and pressing each other between state law and local order. Studies show the social reality of the law in local communities and the forces working behind the events around the meeting between law and culture.<sup>30</sup>

<sup>24</sup> Anisa, E.P., Sugeng, T., Imam, R., Achmad, S.A., & Dyah, A.K., Eksistensi Masyarakat Adat Di Tengah Globalisasi, *Jurnal Civics: Media Kajian Kewarganegaraan*, vol. 15 no. 2 (October 31, 2018), pg. 95, <https://doi.org/10.21831/jc.v15i2.17289>.

<sup>25</sup> Ridwan & Nalikoy Insowibinderi Sarwom, Globalisasi Dan Dampaknya Terhadap Kebudayaan Papua; Sebuah Kajian Awal, *Academia.com*, pg. 3, [https://www.academia.edu/26455662/Globalisasi\\_dan\\_Dampaknya\\_Terhadap\\_Kebudayaan\\_Papua\\_Sebuah\\_Kajian\\_Awal\\_pdf?source=swp\\_share](https://www.academia.edu/26455662/Globalisasi_dan_Dampaknya_Terhadap_Kebudayaan_Papua_Sebuah_Kajian_Awal_pdf?source=swp_share).

<sup>26</sup> Suhartini, 2011, *Perspektif Global*, Universitas Negeri Yogyakarta, Yogyakarta, pg. 4.

<sup>27</sup> John Tomlinson, 1999, *Globalization and Culture*, Polity Press, Cambridge.

<sup>28</sup> Sukirno, 2018, *Politik Hukum Pengakuan Hak Ulayat*, Prenada Media Group, Jakarta, pg. v-vii.

<sup>29</sup> Satjipto Rahardjo, 1980, *Hukum Dan Masyarakat*, Angkasa, Bandung, pg. 34.

<sup>30</sup> Bernard L. Tanya, *Beban Budaya Lokal Menghadapi Hukum Negara: Analisis Budaya Atas Kesulitan Sosio-Kultural Orang Sabu Menghadapi Regulasi Negara*, Disertasi Program Doktor Ilmu Hukum Universitas Diponegoro, 2000, pg. 4.

Robert Keohane and Josep Nye defined globalization as a contemporary process of globalism. One form enhanced by globalization is social and cultural globalism, the movement of ideas, information, people, and images. At the highest level, social globalism fulfills the individual's consciousness and attitudes toward culture, politics, and personal identity. Keohane and Nye assessed the previous era of globalism as thin globalization, while the current era is known as thick globalism. The density level of globalism in the contemporary era is marked by more density networks, institutional velocity, and transnational participation.<sup>31</sup>

After globalization in 1990, new global discourses emerged and influenced the awareness of the world's citizens in the nation and state. These discourses include democracy and respect for human rights, environmental protection, and improving labor standards. Other discourses include increasing women's role, eradicating corruption, and emphasizing moral ethics to realize good governance. Therefore, globalization accelerates democratization in a country with all its pressure.<sup>32</sup>

FX. Adji Samekto showed that the main globalization driver is the global capitalism expansion, which demands that a free-market mechanism govern the world economy. The Research and Development Agency for Compass showed that the Uruguay round of negotiations created stricter legal regulations on Intellectual Property, services, agriculture, and trade-related investment issues. These facts characterize the changes in social order in the globalization era.<sup>33</sup>

The discussion of globalization relies on the economy as though other dimensions such as cultural, scientific, and information globalization are less important. The concept of behavior change and civilization may be more comprehensive and true to the actual globalization nature.<sup>34</sup>

Globalization is a general tendency to integrate domestic or local life into the global community in various fields.<sup>35</sup> It is also the spreading of values to become a world culture. The culmination of the value and culture spread could be traced from the journeys of Western European explorers worldwide.<sup>36</sup>

Social order changes in the globalization era are accompanied by global culture. The community must maintain the traditions binding their social relations through the meanings created, maintained, and internalized. This dilemmatic reality creates difficulties when certain people want to maintain a traditional culture full of meaning for their survival. Globalization's erosion of solidarity, togetherness, and patriotism could threaten the traditional values preserved for a long time and inherited. The negative impact could also threaten the harmony of human social relations. This necessitates intervention from the moral education sector. According to Matsuura, as quoted by Endang Retnowati, development should not be limited only to economic growth. It also entails achieving intellectual satisfaction and emotional, moral, and spiritual existence, as stated in the Universal Declaration on Cultural Diversity in 2001.<sup>37</sup>

The law and globalization have a close relationship. Van Apeldoorn stated that law is a social phenomenon unknown to any society, meaning it is a cultural aspect of religion, decency, customs, and habits. In line with this, a global social relationship connects events in different locations, where both experiences change. This means that the link between law and globalization is an unavoidable social

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<sup>31</sup> A. Safril Mubah, Revitalisasi Identitas Kultural Indonesia Di Tengah Upaya Hemogenisasi Global, *Jurnal Global & Strategis, Edisi Khusus*, vol. 2011 (2011), pg. 254.

<sup>32</sup> FX Adji Samekto, Mengungkap Relasi Kapitalisme, Demokrasi Dan Globalisasi, (Kajian Dalam Perspektif Studi Hukum Kritis), *Jurnal Dinamika Hukum*, vol. 14 no. 2 (May 25, 2014), pg. 301, <https://doi.org/10.20884/1.jdh.2014.14.2.298>.

<sup>33</sup> FX. Adji Samekto, 2008, *Kapitalisme, Modernisasi Dan Kerusakan Lingkungan*, Genta Press, Yogyakarta, pg. 49-51.

<sup>34</sup> Osman Bakar, Pengaruh Globalisasi Terhadap Peradaban, *Jurnal Peradaban*, vol. 1 no. 1 (2008), pg. 1.

<sup>35</sup> Riza Noer Arfani, Globalisasi Karakteristik Dan Implikasinya, *Ekonomi Politik Digital Journal Al-Manär* Edisi 1 (2004), pg. 1.

<sup>36</sup> Lucian W. Pye, 1966, *Aspect of Political Development*, 3rd Edition, Little, Brown and Company.

<sup>37</sup> Endang Retnowati, Bahasa Dan Budaya Etnik Kao Di Era Globalisasi: Tinjauan Filsafat Manusia, Pusat Penelitian Kemasyarakatan dan Kebudayaan (PMB-LIPI), September 2014, pg. 419.

phenomenon that covers various aspects and extends worldwide. When globalization has been accepted, it becomes a law that binds the community.<sup>38</sup>

Globalization has become a law that binds society. According to Bachtiar Alam, "Globalization and Cultural Change" should be faced with extreme self-loathing. The construction of culture through discourse and practice means that its plurality could be enriched by globalization.<sup>39</sup>

The cultural imperialism theory is often discussed when talking about cultural globalization. The theory describes new colonialism in which the mass media spread global capitalism that promotes American culture, such as consumerism, instant gratification, and individualism.<sup>40</sup>

Lucian described the development of cultural globalization as follows:<sup>41</sup>

1. The advancing international cultural exchange.
2. The spread of cultural principles and easy access to foreign cultures.
3. The development of the tourism sector.
4. Increasing immigrants between countries.
5. The increasing development of international fashion, film, and lifestyle.
6. Increasing global-scale events, such as sports.
7. The emergence of free economic competition.
8. Increasing cultural interactions through mass media.

Stem cultural globalization requires maintaining local values using:<sup>42</sup>

1. Regulatory Pillars, implying local government regulations on cultural values, sanctions, and monitoring. This supports the implementation of cultural values in everyday life.
2. Normative Pillars. After issuing local government regulations, it is necessary to evaluate obligations and responsibilities.
3. Cultural pillars simply assessing the local culture, categories, typifications, and institutional schemes. This involves maintaining culture to ensure that it is preserved and practiced in the globalization era.

Indonesia accepts the changes caused by world globalization as a determinant of culture, provided the noble values of these traditions are kept pure. This requires the local people's agreement as the main key to changing cultural traditions. This study found negative influences on Indonesia's cultural development. The impacts necessitate maintaining the noble values of cultural traditions as the nation's local wisdom. The maintenance ensures that the negative impacts of globalization do not erode the traditions.

### **Legal Protection in Maintaining the Sustainability of Cultural Tradition Values Due to Globalization in Indonesia**

Indonesia is rich in diverse local wisdom that crystallizes the perspectives and behavior of more than 389 ethnic groups with different customs, languages, values, and cultures in the archipelago. This

<sup>38</sup> Soediro Soediro, Hubungan Hukum Dan Globalisasi : Upaya Mengantisipasi Dampak Negatifnya, *Kosmik Hukum*, vol. 17 no. 1 (2017), pg. 37–38, <https://doi.org/10.30595/kosmikhukum.v17i1.1998>.

<sup>39</sup> Bachtiar Alam, Globalisasi Dan Perubahan Budaya: Perspektif Teori Kebudayaan, *Antropologi Indonesia*, no. 54 (July 16, 2014), pg. 3, <https://doi.org/10.7454/ai.v0i54.3325>.

<sup>40</sup> Lauren Movius, Cultural Globalisation and Challenges to Traditional Communication Theories, *Platform: Journal of Media and Communication*, vol. 2 no. 1 (January 1, 2010), pg. 10.

<sup>41</sup> Lucian W. Pye, 1966, *Aspect of Political Development*, 3rd Edition, Little, Brown and Company.

<sup>42</sup> Khotman Annafie & Achmad Nurmandi, Kelembagaan Otonomi Khusus (Otsus) Dalam Mempertahankan Nilai-Nilai Kebudayaan Di Provinsi Daerah Istimewa Yogyakarta, *Journal of Governance and Public Policy*, vol. 3 no. 2 (2016), pg. 304–338, <https://doi.org/10.18196/jgpp.v3i2.2632>.



cultural diversity and local wisdom make Indonesia a garden of world civilization. Therefore, local wisdom is a permanent truth comprising God's sacred word and various values realized through the local community's cultural superiority.<sup>43</sup>

Local wisdom in the current era could be fortified by the State and society. The state is responsible for the fading of cultural identity and local wisdom. Under the influence of globalization, the state is less consistent in securing territorial lines to maintain domestic power against external threats. It does not always promote domestic interests against anything foreign.<sup>44</sup> However, the state remains an important part of globalization regardless of the resulting world order.<sup>45</sup>

The state is most responsible for the fading of cultural identity. Under the influence of globalization, the state is less consistent in securing territorial lines to maintain domestic power against external threats. It does not always promote domestic interests against anything foreign.<sup>46</sup> However, the state remains an important part of globalization regardless of the resulting world order.<sup>47</sup>

The state plays an important role in its status as the main actor. There should be a tool mediating the meeting between identities to ensure that foreign identities do not enter social lives.<sup>48</sup> In the current globalization, it is difficult to manage a nation as large and wide as Indonesia. Globalization creates external challenges, while threats from diverse cultures and ethnic groups are internal.<sup>49</sup>

Exploring, testing, socializing, and cultivating noble values should be continuously improved and supported. This requires expanding the application of cultural and social capital as sources that could be transformed into added value in building the nation's character.<sup>50</sup> Furthermore, Indonesians have inherited natural and biological wealth and rich socio-cultural diversity. It becomes the basic capital that should be managed for the nation's social welfare. Local wisdom as cultural capital is expected to develop a national identity and become a reference in developing insight. This would also build the quality and dignity that radiates inward for the civilization of the nation's citizens. The results would radiate outward in building the nation's image and international interaction through cultural diplomacy.<sup>51</sup>

The state should revitalize Indonesian cultural identity by building awareness for all people. As the value of community identity, national identity should be built solidly and internalized deeply through educational tools and legal instruments. The state should arrange for the curriculum to teach cultural values to students from an early age to understand the importance of preserving them. Additionally, it should formulate regulations that ensure the preservation of cultural identity.<sup>52</sup>

Boni Argens stated that modernization, liberalization, and globalization should not exclude a country from the global arena, provided there is support from a strong national identity, ideology, and

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<sup>43</sup> Khotman Annafie & Achmad Nurmandi, Kelembagaan Otonomi Khusus (Otsus) Dalam Mempertahankan Nilai-Nilai Kebudayaan Di Provinsi Daerah Istimewa Yogyakarta, *Journal of Governance and Public Policy*, vol. 3 no. 2 (2016), pg. 304–338, <https://doi.org/10.18196/jgpp.v3i2.2632>.

<sup>44</sup> Jan Aart Scholte, 2000, *Globalization: A Critical Introduction*, Palgrave, New York, pg. 139.

<sup>45</sup> Jan Aart Scholte, 2000, *Globalization: A Critical Introduction*, Palgrave, New York, pg. 134..

<sup>46</sup> Jan Aart Scholte, 2000, *Globalization: A Critical Introduction*, Palgrave, New York, pg. 139.

<sup>47</sup> Jan Aart Scholte, 2000, *Globalization: A Critical Introduction*, Palgrave, New York, pg. 134.

<sup>48</sup> A. Safril Mubah, Revitalisasi Identitas Kultural Indonesia Di Tengah Upaya Hemogenisasi Global, *Jurnal Global & Strategis, Edisi Khusus*, vol. 2011 (2011), pg. 259.

<sup>49</sup> Saiman Saiman, Tantangan Budaya Nasional Di Era Globalisasi, *Bestari*, no. 42 (2009), pg. 60.

<sup>50</sup> Novia Wahyu Wardhani, Pembelajaran Nilai-Nilai Kearifan Lokal Sebagai Penguat Karakter Bangsa Melalui Pendidikan Informal, *Jurnal Penelitian Pendidikan*, vol. 13 no. 1 (August 23, 2016), pg. 57, <https://doi.org/10.17509/jpp.v13i1.3504>.

<sup>51</sup> Ida Bagus Brata, Kearifan Budaya Lokal Perkuat Identitas Bangsa, *Jurnal Bakti Saraswati*, vol. 5 no. 1 (2016), pg. 14.

<sup>52</sup> A. Safril Mubah, Revitalisasi Identitas Kultural Indonesia Di Tengah Upaya Hemogenisasi Global, *Jurnal Global & Strategis, Edisi Khusus*, vol. 2011 (2011), pg. 258.

political leadership. Indonesians have adopted religious ethics and morals, as well as local wisdom that helps achieve progress and fame, work ethic, and balance between nature and society.<sup>53</sup>

Many Indonesians, especially teenagers, consider local wisdom an old and outdated thing that should be abandoned. This assumption should be removed because it is an identity that guides life. There should be innovation from the community to synergize between western and local values without leaving national identity. The world demands democracy, human rights, and environmental development. These issues could synergize with actualizing cultural philosophy that teaches people to behave. The synergy should prioritize harmony and balance in the relationship between humans, nature, and God in carrying out life to realize prosperity.<sup>54</sup>

Globalization should be anticipated with local wisdom development as the basis for society in their lives. Efforts to strengthen national identity could start in the family, hamlet, and village. Subsequently, community maturity is formed by responding to global values that should be addressed wisely without neglecting local wisdom. This implies the necessity to revitalize the cultivation of local wisdom values in Indonesian society.

Globalization and maintaining the sustainability of local wisdom in Indonesia by supporting sustainable development requires improving people's welfare by avoiding the overexploitation of natural resources. It is important to increase the carrying capacity of the environment and natural resources. Local wisdom could be empowered through institutional strengthening, information dissemination, technology mastery, and strengthening regulations. This should be followed by their application as Laws, Government and Regional Regulations, and other arrangements supporting sustainable development in the globalization era.

The rich Indonesian culture spread throughout the archipelago has been a life philosophy for indigenous communities for centuries. Even before the nation arrived, the culture was a living foundation for every indigenous community.<sup>55</sup> Indonesia has various problems, challenges, and opportunities in advancing its culture. The issues require strategic protection, development, utilization, and guidance steps to promote culture. This would ensure that people follow the Trisakti principle of political and economic sovereignty and culture's personality.<sup>56</sup>

The four steps are described as follows:<sup>57</sup>

1. Protection implies efforts to maintain the sustainability of culture using inventory, security, maintenance, rescue, and publication.
2. Development is reviving the cultural ecosystem and enhancing, enriching, and disseminating culture.
3. Utilization is using cultural advancement to strengthen ideology, politics, economy, society, culture, defense, and security in realizing national goals.
4. Coaching is empowering cultural human resources and institutions in increasing and expanding active roles and community initiatives.

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<sup>53</sup> Boni Hargens, Indonesia, Halo Soekarno, *Kompas*, April 16, 2011.

<sup>54</sup> E. Suryanti, 2007, *Antisipasi Strategis Perang Nilai Budaya Lokal Di Area Global*, Bappeda Provinsi DIY, Yogyakarta, pg. 44.

<sup>55</sup> Melkior N.N Sitokdana, Digitalisasi Kebudayaan Di Indonesia, in *Seminar Nasional Teknologi Informasi Dan Komunikasi*, Yogyakarta, 2015, pg. 99, <https://fti.uajy.ac.id/sentika/publikasi/makalah/2015/13.pdf>.

<sup>56</sup> Zulkifli AR & Azhari AR, Perlindungan Objek Pemajuan Kebudayaan Menurut Undang-Undang No 5 Tahun 2017, *DOKTRINA: JOURNAL OF LAW*, vol. 1 no. 1 (July 6, 2018), pg. 62, <https://doi.org/10.31289/doktrina.v1i1.1611>.

<sup>57</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294-295, <https://doi.org/10.14710/lr.v13i2.16162>.

Developing countries urgently need legal protection of traditional cultural expressions to ensure the survival of intangible cultural heritage and communal creativity.<sup>58</sup> Developing and utilizing information technology-based culture or digitization should be revived by preserving, maintaining, and developing cultural values as Indonesia's national identity and wealth.<sup>59</sup>

Pancasila is the state's ideology and philosophy in formulating the principles of legal protection in Indonesia. For Westerners, legal protection is based on the concepts of *Rechtstaat* and the Rule of the Law. In line with this, Indonesia's legal protection principle recognizes and protects human dignity based on Pancasila. The principle of legal protection against government actions recognizes and protects human rights. This is because, in the West, the creation of related concepts was directed at the limitations and laying down of the community and government obligations.<sup>60</sup>

Intellectual Property Rights systems could be applied to protect traditional knowledge and cultural expressions developed by individuals without losing their characteristics.<sup>61</sup> Protection of Traditional Cultural Expressions (EBT) through copyright law is a relevant principle of intellectual property law.<sup>62</sup>

Law Number 38 of 2014 concerning Copyright regulates Traditional Cultural Expressions. This is seen in Article 38, Paragraphs (1), (2), (3), and (4) of the Copyright Law submitted successively as follows:<sup>63</sup>

- (1) Copyright on Traditional Cultural Expressions is held by the State.
- (2) The state should take inventory and maintain Traditional Cultural Expressions as referred to in paragraph (1)
- (3) The use of Traditional Cultural Expressions, as referred to in paragraph (1), must consider community values.
- (4) Further provisions regarding Copyrights held by the State on Traditional Cultural Expressions, as referred to in paragraph (1), shall be regulated by Government Regulation.

Traditional arts or cultural expressions could also be protected by publicizing the culture.<sup>64</sup> Law No. 5 of 2017 protects traditional cultural expressions by creating a separate wealth database.<sup>65</sup> This protection is called an inventory of objects of cultural promotion through an integrated data collection

<sup>58</sup> OK. Saidin, 2006, *Aspek Hukum Hak Kekayaan Intelektual*, RajaGrafindo Persada, Jakarta, pg. 78.

<sup>59</sup> Melkior N.N Sitokdana, Digitalisasi Kebudayaan Di Indonesia, in *Seminar Nasional Teknologi Informasi Dan Komunikasi*, Yogyakarta, 2015, pg. 108, <https://fti.uajy.ac.id/sentika/publikasi/makalah/2015/13.pdf>.

<sup>60</sup> Philipus M. Harjon, 1987, *Perlindungan Hukum Bagi Rakyat Indonesia*, Bina Ilmu, Surabaya, pg. 38.

<sup>61</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 286, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>62</sup> Kholis Roisah, Perlindungan Ekspresi Budaya Tradisional Dalam Sistem Hukum Kekayaan Intelektual, *Masalah-Masalah Hukum*, vol. 43 no. 3 (July 22, 2014), pg. 375, <https://doi.org/10.14710/mmh.43.3.2014.372-379>.

<sup>63</sup> Article 38 paragraph (1) and paragraph (2) of Law Number 28 of 2014 concerning Copyright (State Gazette of the Republic of Indonesia of 2014 Number 266, Supplement to the State Gazette of the Republic of Indonesia Number 5599).

<sup>64</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294, <https://doi.org/10.14710/lr.v13i2.16162>.

<sup>65</sup> Abdul Atsar, Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *LAW REFORM*, vol. 13 no. 2 (September 28, 2017), pg. 294, <https://doi.org/10.14710/lr.v13i2.16162>.

system. The data is collected on security (Article 22), maintenance (Article 24), rescue (Article 26), publication (Article 28), and development (Article 30).<sup>66</sup>

Article 22 of Law Number 5 of 2017 concerning the Promotion of Culture states that: (1) The Central or Regional Governments should carry out the maintenance of Objects for the Promotion of Culture; (2) Everyone participates in maintaining the Objects for the Promotion of Culture; (3) Maintenance of Cultural Promotion Objects prevents damage, loss, or destruction of Cultural Promotion Objects; (4) Maintenance of Objects for the Advancement of Culture is carried out by a). maintaining the nobility and wisdom of the Object of Cultural Advancement; b). using the Object of Cultural Advancement in daily life; c). maintaining the diversity of Objects for the Advancement of Culture; d). reviving and maintaining the Cultural ecosystem for each Object of Cultural Advancement, and e). bequeathing the Object of Cultural Advancement to the next generation.

## Conclusion

The filtering of globalization flows for national identity against culture in Indonesia changes the social order. Communities are presented with global culture but must maintain traditions binding their social relations through the meanings created, maintained, and internalized. This dilemmatic reality creates difficulties when people want to maintain a traditional culture full of meaning for their survival. Moreover, globalization's erosion of solidarity, togetherness, and patriotism could threaten traditional values inherited and preserved for a long time. The negative impacts could also threaten the harmony of human social relations. This shows the need for intervention from moral education.

Legal protection in maintaining cultural values due to globalization in Indonesia is protection for culture. Maintaining culture requires managing, documenting, and disseminating information and knowledge. This could be realized using the sophistication of information and communication technology on the local and national cultural noble values. Subsequently, the culture of each ethnic group would be passed on to generations and maintained as self-identity, showing Indonesia's existence.

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