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Constitutional Protection of Cultural Heritage in Indonesia: The Role of Museums in Preserving National Identity and Public Welfare

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Article	Abstract
<p>Keywords:</p> <p>Cultural Heritage; Indonesian Constitution; Museum; Public welfare.</p> <p>Article History Received: Nov 27, 2023; Reviewed: Jan 9, 2025; Accepted: Jan 24, 2025; Published: Jan 31, 2025.</p> <p>DOI: 10.28946/slrev.Vol9.Iss1. 3348.pp49-70</p>	<p>Cultural heritage is a fundamental asset in promoting cultural diversity and facilitating access to education, social values, science, technology, and tourism. Museums play a pivotal role in preserving cultural heritage and fulfilling constitutional obligations, as enshrined in the Indonesian Constitution. Protecting cultural heritage is essential for maintaining national identity and upholding citizens' constitutional rights, particularly in education and cultural participation. This study analyses the constitutional framework and government policies related to cultural heritage protection, with a specific focus on museums in Indonesia. Employing a statute-based and comparative approach, the research examines constitutional provisions such as Article 18B(1) of the Indonesian Constitution, which mandates the state's responsibility to preserve cultural heritage and safeguard indigenous communities' rights. Despite this constitutional obligation, challenges such as limited financial resources, inadequate maintenance, and institutional constraints hinder the effective operation of museums. The findings emphasize that strengthening museums is not only necessary for heritage conservation but also for fostering national and local values that define Indonesia's constitutional identity. The study argues that the government must implement more comprehensive policies and allocate sufficient resources to enhance museums' role in cultural preservation, ensuring their sustained contribution to public welfare and national development.</p>

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INTRODUCTION

Indonesia is a country rich and diverse in cultural heritage. This can be seen in the historical relics of the Indonesian people, which are found in almost all regions of the Republic of Indonesia.¹ Cultural heritage encompasses historical structures like statues, temples,

¹ Meitya Yulianty, "Rekonstruksi Hukum Cagar Budaya Sebagai World Heritage Berbasis Nilai Keadilan" (Universitas Islam Sultan Agung, 2020).

monuments, and buildings, and also extends to encompass a series of historical events. A collection of historical artefacts is placed in the museum as evidence that this has existed and occurred in Indonesia in the past.²

Rules related to museums are specifically contained in Government Regulation No. 66/2015, which is a continuation of Law No. 11/2010 on Cultural Heritage. The main purpose of issuing the Cultural Heritage Law is that the wealth of (tangible) material forms the cultural heritage for the greatest prosperity of the people together. This places humans and society at the subject's centre, allowing them to ensure that their cultural heritage remains protected and can be developed and utilised. Efforts to safeguard it aim to enhance welfare and uphold dignity. However, the desired prosperity and well-being are increasingly elusive. This is due to the government's lack of attention to protecting historical relics, especially museums.³

A Ministry of Education and Culture report shows that Indonesia had 439 museums in 2020, of which 152 were privately owned.⁴ The number of museums in Indonesia is quite large, but the interest in visiting museums in Indonesia is declining. For example, the Jakarta History Museum, through 2022, experienced a decline from the previous year, from 714,825 to 334,621 visitors.⁵ A similar trend can also be found in Surabaya, where the number of Heroes' Museums has declined. In the era of modernisation that we face today, museums are declining because they only function as city decorations that are ignored because people tend to visit malls, cinemas, and cafes.⁶ Hence, a typical city that focuses on industrial development, trade, and the service sectors to prioritise physical modernity has led developers to overlook historical factors.⁷

This article aims to analyse how the constitutional framework addresses cultural heritage protection, particularly in the context of museums, and to identify measures to strengthen the alignment between constitutional commitments and practical governance. Museums have an important role as places where cultural heritage can be protected. They are intended for research, learning, and entertainment purposes.⁸ Some aspects of the protection efforts undertaken by the government are related to the constitutional obligations and constitutional commitments in the Constitution of the Republic of Indonesia. The Indonesian government's effort to return the "stolen" cultural heritage of Indonesia to the Dutch government may be one

² Museum Kepresidenan, "Pengertian Museum," 2020, <https://kebudayaan.kemdikbud.go.id/muspres/pengertian-museum/>.

³ Hafidz Putra Arifin, "Politik Hukum Perlindungan Cagar Budaya Di Indonesia," *Dialogia Iuridica* 10, no. 1 (2018): 056–076.

⁴ Kementerian Pendidikan dan Kebudayaan, "Statistik Kebudayaan 2021," Pusat Data dan Teknologi Informasi Sekretariat Jenderal Kementerian Pendidikan dan Kebudayaan, 2021., n.d.

⁵ CNBC Indonesia, "Minat Ke Museum Memprihatinkan, Ini Penyebabnya Kata Ahli," 2023, <https://www.cnbcindonesia.com/entrepreneur/20230421042423-25-431525/minat-ke-museum-memprihatinkan-ini-penyebabnya-kata-ahli>.

⁶ Dewi Ayu Miftahul Jannah, Nurita Andriani, and Mohammad Arief, "Pengaruh Strategi Experiential Marketing Terhadap Kepuasan Pengunjung Museum Sepuluh Nopember Surabaya," *Jurnal Studi Manajemen Dan Bisnis* 1, no. 1 (2014): 53–64, <https://doi.org/DOI:https://doi.org/10.21107/jsmb.v1i1.1515>.

⁷ Idrus Khoirudin, "Kebijakan Manajemen Aset Daerah Dalam Upaya Pelestarian Bangunan Cagar Budaya Di Kota Surabaya" (Universitas Airlangga, 2015), <https://repository.unair.ac.id/15971/16/4>. BAB I PENDAHULUAN.pdf.

⁸ American Association of Museums, "Official Museum Directory 1998 (28th Ed)" 2 (1997).

of the efforts to bring back and protect the Indonesian cultural heritage.⁹ This may have a constitutional aspect of the government's duty to compensate national assets for the public and national interest. On the one hand, the Indonesian government's claim to bring back the artefacts has to be seen as the claim of the people of Indonesia. To this extent, the people of Indonesia have their cultural rights and ownership rights to the "stolen" artefacts.

From the constitutional perspective, protecting cultural heritage is one of Indonesia's constitutional commitments, as stated in Article 32 of the Republic of Indonesia Constitution in Section (1). The article stipulates that "The State shall advance the national culture of Indonesia among the world's civilisations by assuring the freedom of society to preserve and develop cultural values". To this extent, the Constitution put the constitutional obligation on the government of the Republic of Indonesia to make sure that the national cultural values of Indonesia exist and develop throughout the years in the framework of freedom of society.

The preservation of cultural heritage has some constitutional importance on several points. First, that cultural heritage preservation is a constitutional obligation for the government, at this point as the executive. This may be relevant to Article 4 of the Indonesian Constitution, which states that the president, as the executive branch, has the executive power to run the state administration and implement the law. Running state administration includes making sure that the state's identity flourishes. Protecting cultural heritage is one of the efforts to ensure the state's identity. On the other hand, measures for cultural heritage protection may be one of the state affairs run by the executive branch. At this point, the Constitution addresses the constitutional obligation of the executive branch as the state's government to protect cultural heritage. Furthermore, cultural heritage protection is relevant to people's welfare. This may also be referred to in Article 33 Section (2) of the Indonesian Constitution. As a consequence, the constitutional commitment of the government to achieve the goal of state welfare may be constructed through any measures taken to protect, utilise, and obtain benefits from the cultural heritage. In general, any preservation efforts directed to the cultural heritage are both a constitutional obligation and a constitutional commitment that urgently needs to be honoured and fulfilled.

There are three issues that can be raised; the first is about constitutional authority and constitutional obligation in which the Constitution of the Republic of Indonesia addresses a sharing commitment and authority regarding the cultural heritage protection measures among the central government and the local government under the executive branch. Second, about the purpose of cultural heritage protection according to the Constitution. The Constitution of the Republic of Indonesia emphasises that all measures to protect cultural heritage have to be based on the people's welfare. The third constitutional issue is relevant to the cultural rights in the Constitution, in which the Constitution guarantees that cultural heritage protection is actually about the fulfilment of the cultural rights of the people in Indonesia. According to Law No. 11/2010 concerning Cultural Heritage, it is the responsibility of the government of the Republic of Indonesia to regulate and manage the safeguarding, advancement, and use of Indonesia's

⁹ VOA Indonesia, "Indonesia Sambut Baik Pengembalian Artefak Budaya Oleh Belanda," 2023, <https://www.voaindonesia.com/a/indonesia-sambut-baik-pengembalian-artefak-budaya-oleh-belanda-/7175101.html>.

cultural heritage. The law set a legal basis for cultural heritage protection measures for preserving objects, buildings, structures, sites, and areas. The legal basis gives significant authority to the government of the Republic of Indonesia and the local government in the scheme of public participation to protect, develop and use the cultural heritage. Article 3 of the Cultural Heritage Law stipulates that the aims of cultural heritage preservation include the mechanism of the nation's cultural heritage preservation as well as humanity's heritage preservation, the intensification of national honour and dignity, people's welfare, and the promotion of the national cultural heritage to the international society. One of the more technical issues is preserving cultural heritage by storing it in a museum. Indonesia has approximately 435 museums all over the country. The museums are administered under the Ministry of Education and Culture (*Kementerian Pendidikan dan Kebudayaan*). Under the new Indonesian presidency, President Prabowo, cultural heritage, particularly the museums, belongs to the area of the Ministry of Culture.¹⁰ This institutional model might closely resemble those found in other countries. For example, the authority of museums' cultural heritage in Italy belongs to the Ministry of Culture (renamed in 2021) with a specific Department of *Direzione Generale Musei*. In France, museums are funded by the Ministry of Culture. The Ministry of Culture sets the museum policy for museums throughout France. Under the Directorate General for Heritage and Architecture, the ministry is responsible for defining and coordinating state policy on heritage and the collections of more than 1222 museums. In France, museums have become one of the most precious and important state assets. Museums with the special name of *Musee de France*, established in all regions, receive priority support from the state. In Turkiye, museums are under the Ministry of Culture and Tourism, and there are 151 private museums in 36 provinces all over Turkiye. In other countries, such as New Zealand, the museums are under the Ministry for Culture and Heritage. In Poland, the museums are under the Ministry of Culture and National Heritage. In India, it is under the Ministry of Culture, the same as in Slovenia. In Chile, it is under Chile's Ministry of Culture, Art, and Heritage. In Kosovo, the ministry in charge is the Ministry of Culture, Youth, and Sports, which is directly responsible for implementing and issuing permits and other administrative decisions. For the policy and political decisions, inspection, and advising and consultancy issues, it is responsible on a daily basis; responsible Periodically it is based on request or appeal (reactive responsibility); it is responsible periodically, based on the law or regulation; annual responsibility is based on the management plan monitoring schedule.¹¹ The fact that the duties to maintain the cultural heritage of museums are laid down in the ministerial departments in most countries shows how important and precious cultural heritage values are. Governments worldwide make efforts by establishing a special ministry that carries out duties to protect cultural heritage. The ministry, as the daily executive for heritage conservation, generally has at least the authority over the designation and protection of heritage properties and, in some cases, control of the

¹⁰ CNN Indonesia, "Fadli Zon Buka Suara Alasan Dipilih Prabowo Jadi Menteri Kebudayaan," 2024, <https://www.cnnindonesia.com/hiburan/20241024151851-241-1159212/fadli-zon-buka-suara-alasan-dipilih-prabowo-jadi-menteri-kebudayaan>.

¹¹ OSCE, "Guidebook on Standards for Drafting Cultural Heritage Management Plans," Organization for Security and Co-operation in Europe Mission in Kosovo, 2020, <https://www.osce.org/files/f/documents/2/d/461188.pdf>.

development which may affect the character of the cultural heritage and may be responsible for protecting both natural and built sites or have purview over both culture and related areas such as tourism.¹²

According to the Indonesian Government Regulation No. 66 of 2015 concerning Museums, museums are institutions that function to protect, develop, utilise collections, and communicate them to the public. Nowadays, museums can become the identity of a timeless nation because they preserve a collection of events, cultural heritage, and cultures that have occurred in Indonesia. However, several museums are outdated and not properly maintained. This article tries to find the constitutional aspects related to cultural heritage protection and the government policies addressing the issue of the government's effort to preserve, protect, and promote cultural heritage in Indonesia. This study is relevant to gain perspective on the more comprehensive measures needed to protect the museum as a national identity.

RESEARCH METHODS

This article uses a normative with statutes approach. The normative approach focuses on formulating legal norms to analyse the constitutional aspects of cultural heritage protection through the Constitution and Laws as legal rules and sources of law. This approach emphasises the analysis of constitutional provisions, particularly Articles related to cultural heritage and museums. The data supporting the arguments in this article are collected from various reliable sources, including government (ministerial) reports such as the Directorate General of Culture Performance Report 2023, to get information on the budget allocation for museum management and efforts for cultural heritage protection. This data brings the analysis closer to the validity of the analysis regarding the constitutional aspects of cultural heritage and cultural rights and educational rights through museums. Meanwhile, the comparative approach in this article will be limited to only looking at the best constitutional experiences of other countries (Turkey and Italy).

ANALYSIS AND DISCUSSION

The Protection of the Cultural Heritage in Indonesia: Maintaining Museums at One Blow Preserving the National Identity

One benchmark for a nation's civilisation's high or low status can be seen from the remains of its cultural heritage objects. Cultural heritage objects are generally interpreted as objects produced by a group of people or a community related to the cultural works of the era.¹³ Cultural heritage is very important for fostering awareness of national identity, enhancing national dignity, and strengthening bonds of a sense of unity for realising the nation's ideals in the future. Therefore, it must be maintained, protected, and preserved for the national interest. Cultural heritage includes important and unique values for humankind, such as history, aesthetics, science, and ethnology.¹⁴ As a state of rule of law, Indonesia should maintain and

¹² James K. Reap, "Introduction: Heritage Legislation and Management," *SpringerOpen*, 2022, 6–9, <https://doi.org/https://doi.org/10.1186/s43238-022-00059-9>.

¹³ Introduction: Heritage legislation and management, "Strategi Pelestarian Benda/Situs Cagar Budaya Berbasis Masyarakat," *Jurnal Konservasi Cagar Budaya* 8, no. 1 (2014).

¹⁴ Arifin, "Politik Hukum Perlindungan Cagar Budaya Di Indonesia."

preserve its culture. The ground basis of cultural heritage protection in Indonesia is stipulated in Article 18B (2) of the Indonesian Constitution. The article explicitly states that the state recognises and respects the Indigenous community and their traditional rights. Furthermore, the protection of the cultural heritage is also in accordance with the constitutional mandate of Article 32 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia), which states that: "The state promotes Indonesian national culture in amidst world civilisation by guaranteeing the freedom of the people in maintaining and developing their cultural values." The two articles imply that there are at least several constitutional aspects laying down the government's obligation to protect the cultural heritage, ensure the fulfilment of the constitutional rights of the Indigenous community and traditions, promote national culture, and guarantee the rights of the people in Indonesia in developing the cultural values. In order to make those constitutional aspects come true, the government of Indonesia has ensured the mechanism of protection. The government has also adjusted the politics of cultural heritage protection in the regulations and government policies.

Two types of protection are needed: 1.) protection against extinction or damage and 2.) Legal protection.¹⁵ The legal policy concerning cultural heritage in Indonesia can be understood through involvement in shaping laws to protect cultural heritage. This involves contributing insights for developing necessary legal frameworks at national, regional, and international levels aligned with the ideal laws (*ius constituendum*) in the future. These efforts are rooted in the evolving aspirations of a society that values people's sovereignty. Laws and regulations governing cultural heritage must comply with the cultural values contained therein. These cultural values constitute a source of future knowledge for the nation's cultural and historical awareness. As Indonesia is an archipelagic country, Indonesia has many great remains of various events that have occurred and are often placed in a museum.¹⁶ The inheritance of physical artefacts and intangible attributes of a group or society inherited from the past should be preserved in the present and given for the benefit of the future.¹⁷ However, not a few produce activities that damage buildings and historical objects. Some of them concern development and goals of national interest, such as the construction of the Jatigede reservoir in Sumedang, which submerged several Jatigede cultural heritage sites.¹⁸ The dilemma faced is how to maintain this legacy.¹⁹ The Law of the Republic of Indonesia Number 11 of 2010 Concerning Cultural Heritage point a) stipulates "That cultural heritage is a nation's cultural wealth as a form of thought and behaviour in human life which is important for the understanding and development of history, science and culture in the life of society, nation, and

¹⁵ Arifin.

¹⁶ Khalid Rosyadi, "Analisis Pengelolaan Dan Pelestarian Cagar Budaya Sebagai Wujud Penyelenggaraan Urusan Wajib Pemerintahan Daerah (Studi Pada Pengelolaan Dan Pelestarian Situs Majapahit Kecamatan Trowulan Kabupaten Mojokerto)," *Jurnal Administrasi Publik* 2, no. 5 (2014).

¹⁷ Magdalena Pasikowska-Schnass, "Cultural Heritage in EU Policies," *EPRS / European Parliamentary Research Service*, 2018.

¹⁸ Arifin, "Politik Hukum Perlindungan Cagar Budaya Di Indonesia."

¹⁹ Mitja Guštin and Terje Nypan, *Cultural Heritage and Legal Aspects in Europe*, ed. Mitja Guštin and Terje Nypan (University of Primorska: Institute for Mediterranean Heritage and Institute for Corporation and Public Law Science and Research Centre Koper, 2010).

the state so that it needs to be preserved and managed appropriately through efforts to protect, develop and utilise it in the framework of advancing national culture for the greatest prosperity of the people".

Cultural heritage is essential for the nation, national development, and contemporary society. As mentioned in the 1945 Constitution in Article 32, "The State promotes Indonesian national culture amid world civilisation by guaranteeing the freedom of the community to maintain and develop its cultural values." This was followed by the issuance of Law Number 5 of 2017 concerning the Promotion of Culture. The government passed the law as Indonesia's first legal-formal reference for managing cultural wealth.

Cultural heritage plays an important role in forming national identity and national development, as stated in Article 4 of Law No. 5/2017, which states that some of the objectives of cultural promotion include strengthening the nation's identity and influencing the direction of development of world civilisation, making culture the direction of national development. Culture encourages development by shaping the mentality and insight of the community needed to increase economic growth. Culture also empowers development by presenting attitudes and perspectives prioritising harmony between humans and their environment. This attitude and perspective based on cultural awareness will safeguard development so that it does not deplete natural resources or marginalise the weak for economic accumulation for a few people.²⁰

Cultural heritage also supports the transmission of skills and knowledge across generations, considering everyone has the right to access cultural information as stipulated in Chapter III Article 41 of Law No. 5/2017 concerning rights and obligations. In contemporary society, cultural heritage can also be a tool to maintain national harmony.

Moreover, cultural heritage enhances Indonesia's active role and influence in international relations while engendering new challenges for its conservation. In September 2024, the Netherlands returned 288 artefacts from Indonesia's colonial past. Some objects are confirmed to be relics of the Singasari Kingdom and the Badung Kingdom.²¹ State governments are obligated to protect cultural heritage in the face of globalisation and other challenges. Therefore, in repatriating the 288 artefacts, some of which are believed to be relics of the Singasari Kingdom and the Badung Kingdom, it is important that they are returned to their areas of origin rather than kept in Jakarta (as they also reflect the past life of the locals and its historical traces). Archaeologists from Malang and cultural experts from Bali stated that the objects are significant to their regions.²² In this case, the government also intends to move in accordance with the cultural heritage zoning system stipulated in Article 72 paragraph (2) of Law No. 11/2010. However, the management of these repatriated artefacts remains a concern,

²⁰ Pemajuan Kebudayaan, "UU Pemajuan Kebudayaan Adalah Jalan Untuk Mewujudkan Cita-Cita Bangsa Indonesia: Menjadi Masyarakat Berkepribadian Dalam Kebudayaan, Berdikari Secara Ekonomi, Dan Berdaulat Secara Politik," 2018, [https://pemajuankebudayaan.id/undang-un-dang/#:~:text=Istilah tersebut sudah digunakan para,kebudayaan merupakan pilar kehidupan bangsa.](https://pemajuankebudayaan.id/undang-un-dang/#:~:text=Istilah%20tersebut%20sudah%20digunakan%20para,kebudayaan%20merupakan%20pilar%20kehidupan%20bangsa.)

²¹ Eri Sutrisno, "Dari Kolonialisme Ke Diplomasi: Artefak Bersejarah Pulang Ke Indonesia," 2024.

²² BBC News Indonesia, "Belanda Pulangkan Benda Bersejarah Kerajaan Singasari Dan Kerajaan Badung Bali – 'Kami Ingin Artefak Itu Dipulangkan Ke Tempat Asal, Bukan Di Jakarta,'" 2024, <https://www.bbc.com/indonesia/articles/c781789rereo>.

particularly regarding the ability of museum authorities to preserve museum objects.²³ On this occasion, the expert also viewed this as an opportunity to revitalise the museum building. This aligns with Article 26, paragraph (3) of Law No. 5 of 2017, which states that preserving cultural promotion objects can be achieved through revitalisation, especially since the artefacts have been absent from the country for a long time.

It posits that heritage sustainability largely hinges on implementing policies and measures that safeguard cultural heritage amid the challenges and effects of globalisation, neglect, and overuse. Additionally, it emphasises investing in processes of enhancement and revitalisation to create conditions that allow cultural heritage to thrive and yield new benefits in the future. In Indonesia's particular context, the government's obligations to protect cultural heritage may be classified into three areas: registration and inscription, preservation, maintenance, transmission, and mobilisation of cultural heritage objects.²⁴

The government's authority as the regulator makes the regulation one of the umbrellas of preservation. Preserving cultural heritage in all aspects may have challenges, mainly in terms of funding and human resources, which may contribute to people's awareness through public participation in any cultural heritage protection measures. In this context, the extent to which public authorities adopt and implement key policies and measures are protecting and safeguarding heritage from damage (e.g. natural disasters) or illegal activity (e.g. theft of cultural objects), promoting the active conservation of heritage elements, providing the necessary financial resources for heritage activities, conducting capacity-building and training programs to increase expertise, as well as involving the local community as custodians of the heritage elements concerned. Several aspects and challenges in the politics of law and development may have impacts on the tangible cultural heritage, particularly on museums of cultural heritage, which cover aspects of education, technology, and economy. In Indonesia, there are several problems, namely the cases of counterfeiting, theft, and buying and selling cultural objects, which are then taken abroad. One example is the theft at the Sonobudoyo Museum, Yogyakarta, of 17 types of gold collections.

In term of implementation, compared to the laws of other countries such as Italy, cultural heritage in this context operates within a decentralized structure organized across three tiers: national, regional, and municipal. Local authorities play an active role in heritage efforts within a highly regulated and strictly defined national framework. This may also be a concern in the Spanish experience. The Spanish Constitution is the fundamental basis for preserving and conserving cultural heritage. In Indonesia, according to the Government Regulation (PP) No. 66 of 2015 concerning Museums, museums are defined as institutions whose function is to protect, develop, utilise collections, and communicate them to the public. Considering the current conditions, the government's role in promoting museums throughout the Republic of Indonesia is still ineffective. In fact, the Ministry of Tourism and Creative Economy is more active in promoting strategic areas frequented by tourists, such as Bali. This threatens the

²³ Indonesia.

²⁴ Antonius Satria Adinugraha, "The Rights and Obligations of the State in the Restoration of Cultural Heritage: A Review on International Law and the Practice of Indonesia," *Indonesian Journal of International Law* 13, no. 4 (2015): 2.

sustainability and existence of cultural heritage in museums, so people are likely to undervalue this cultural heritage.

Indonesian Government Measures to Fulfil Constitutional Commitment in Protecting Cultural Heritage in Indonesia

The Constitution obligates the state to fulfil its constitutional commitment to preserve and develop cultural heritage and imposes this obligation on the government. According to Article 4 of the Indonesian Constitution, the president has executive power. These powers include the power to conduct any measures of preservation, management, and administration to protect Indonesia's cultural heritage.

In the daily administration, the president is represented by the ministers who exercise his power. In the context of cultural heritage, the minister of education and culture has the authority to take measures to preserve and uphold Indonesia's cultural heritage. President Prabowo's new regime has shown a strong commitment to improving the efforts to protect cultural heritage by establishing a new ministry, the Ministry of Culture.²⁵ To implement Law No. 11/2010 on Cultural Heritage, the government of Indonesia issued a derivative law, the Government Regulation of 66/2015 on Museums. Furthermore, in technical matters, the Ministry of Education and Culture of the Republic of Indonesia issued ministerial regulation No. 24/2022 on the Regulation Instrument of the Government Regulation of 66/2015 on the Museums. As mentioned in Article 1 of the Government Regulation, the museum is an institution that functions to protect, develop, and utilise the benefits of collection, and it has the function of publicising its work. The law makes it specific that the museum collections include cultural heritage objects, cultural heritage buildings and/or cultural heritage structures, and/or other objects which are not part of the cultural heritage but are the material proof of the cultural results and/or the natural material or its environment which has essential values for the history, science, religious values, cultural values, technology, and/or tourism. In Indonesia, a museum may be owned by the government, local government, private or individual person, or “*adat*”/indigenous community. The main role of the government in maintaining the museums may include administrative matters such as the registration and documentation of the cultural heritage and other cultural heritage objects, inventory, and integrated system of protection, development, and utilisation of the museum collections through the policy of planning, implementation, and monitoring all the preservation measures which have the main goal of people's welfare in Indonesia. This is also relevant to Article 33 (2) of the Constitution of the Republic of Indonesia, which stipulates that “Earth, Water, and the Natural Wealth Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State”. With regards to cultural heritage protection, we may connect to that any effort related to the use, utility, management, and preservation of cultural heritage, particularly museums, has to address public welfare. It is cultural heritage may be a national asset.

²⁵ Antara News, “Kementerian Kebudayaan Di Era Prabowo Bisa Majukan Pemekaran Budaya,” 2024, <https://www.antaranews.com/berita/4398989/kementerian-kebudayaan-di-era-prabowo-bisa-majukan-pemekaran-budaya>.

Law No. 11/2010 on the Cultural Heritage stipulates that cultural heritage objects in the form of objects, Buildings, Cultural Reserves, Cultural Conservation Structures, Reserve Site Culture, and Cultural Heritage Areas on land and/or in water need to conserve their existence the regulation stresses that the cultural heritage is an important value for history, science, education, religion, and/or culture through the determination process. In addition, relevant measures addressing the preservation and utilisation must address people's welfare according to the Indonesian Constitution Article 33. The government also has to make sure that any studies with regard to the museum, including scientific activities, are carried out according to systematic rules with methods to obtain data, information, and information for preservation purposes. Utilisation or any activities to get benefits from the museum is the utilisation of Collections for the greatest benefit of welfare in society while maintaining sustainability. Furthermore, according to Ministerial Regulation No. 24/2022, the Minister of Education and Culture conducts several technical measures, including the registration of the museum by issuing the registration number of the museum, standardisation of the museums by assessing and classification the museums to the criteria, as well as evaluation of the museum in accordance with the standardisation.

Legal measures in order to fulfil the constitutional obligation may also be issued by Law No. 5/2017 on the Promotion of Culture. The law provides a legal basis for the government to conduct any preservation measures relevant to the object of cultural heritage. The law puts any measures to protect the cultural heritage, including measures in keeping with the sustainability of culture by any measures of inventory, safeguarding, maintenance, repressive efforts, and publication. In technical matters, the Minister of Education and Culture issued a ministerial decree, namely Minister of Education and Culture Regulation Number 45 of 2019, concerning the Organization and Work Procedures of the Ministry of Education and Culture. In general, the law provides the legal framework for fulfilling the constitutional obligation of the government related to the preservation, protection, and promotion of cultural heritage. However, the implementation of the law may find its dilemma regarding the budget, and the lack of coordination among the government institutions authorised the measures and management of cultural heritage.

Cultural Heritage and the Constitution: Museum, Challenges, and Prospect in Indonesia

The important role of museums in Indonesia is mostly relevant to the common role of museums in other countries. A museum may have roles not only to testify to the society's cultural heritage but also to provide evidence of significant historical events. Museums act as guardians and provide education to fulfil the educational rights of the people. In general, a museum has the role of preserving, developing, expressing, and disseminating Indonesia's national identity, history, culture, language, traditions, and customs. It aims to revive and re-enact social, cultural or political milieus of the past, thus providing the visitor with a context that may offer new learning experiences, combining education and recreation simultaneously.²⁶ Nowadays,

²⁶ Liliana Popescu and Liliana Popescu, "Museums as a Means to (Re)Make Regional Identities: The Oltenia Museum (Romania) as Case Study," *Societies* 12, no. 4 (2022): 110, <https://doi.org/https://doi.org/10.3390/soc12040110>.

museums' role in (re) building identities is becoming increasingly real; several studies have focused on the role of national museums in the politics of (re)branding and rebuilding national identities, namely post-colonial museum representations of identities or ways in which identity is constructed and negotiated.²⁷ At this point, Indonesia needs museums to strengthen its national identity. According to Article 28I (3) of the Indonesian Constitution, cultural identity and Indigenous rights have to be respected in line with the current development and civilisation. This article implies that the Constitution allows the public communities to control and manage their cultural heritage, particularly the museum. However, public participation in managing and utilising the museums is not about shifting the government's obligation to take cultural heritage protection measures. It still requires the government to improve cultural heritage protection efforts seriously.

Until now, the Indonesian government has already made the constitutional commitment to protecting cultural heritage a serious issue. One effort to demonstrate this commitment is creating a legal framework to serve as the foundation for protecting cultural heritage. However, this framework is still developing and might be limited, disorganised, and less effective compared to global trends in heritage conservation.²⁸ As stipulated in Article 18B(2) and Article 32 (2) of the Indonesian Constitution, the framework for the government to make an effort to conservation, education, and respect the respectful of representation of the culture of museums find its rationality that the museums have the values of cultural resources, historical artefacts, and preservation of diverse cultural identities. Museums are very important to balance the need for conservation, education, and the respectful representation of culture. In this context, museums are one of the facilitations that help fulfil the cultural and educational rights of the people in Indonesia.

In practical matters, the government of Indonesia has focused on training and certification of heritage experts with multidisciplinary backgrounds for distribution at the national, provincial, and municipal levels.²⁹ In this context, the government should encourage communities and individuals to participate in the training and certification as it is part of empowering local communities and ensuring that individuals are aware of the cultural heritage including the museum preservation and conversation. This is also to encourage public participation not only in the management process but also in the decision-making process to safeguard the museums of cultural heritage.

The Constitution of the Republic of Indonesia indicates the government's dedication to safeguarding cultural heritage and leveraging it for the benefit of the people. It puts an obligation on the government to implement such constitutional commitment. From the legal perspective, the government has also already set a legal framework to make it implement the preservation measures by issuing laws and other regulations. However, there is still a lack of implementation of the government's constitutional commitment, which may be due to the consequences of several weaknesses, including financial matters. Not all local governments

²⁷ Popescu and Popescu.

²⁸ Isnen Fitri, Yahaya Ahmad, and Ratna, "Cultural Heritage and Its Legal Protection in Indonesia Since the Dutch East Indies Government Period," *Advances in Social Science, Education and Humanities Research* 81 (2017): 127–34, <https://doi.org/DOI.10.2991/icosop-16.2017.18>.

²⁹ Fitri, Ahmad, and Ratna.

prioritise spending their budget on the preservation measures of cultural heritage. At this point, the museums of cultural heritage are facing challenges in terms of budget and maintenance. According to the Ministry of Education and Culture of the Republic of Indonesia, 80 % of the museums all over Indonesia, including museums the local government owns, lack maintenance due to major budget problems, particularly at the local government level.³⁰ This may be because the budget priority for museums of cultural heritage lacks concern. The awareness that museums of cultural heritage are the most precious investment and the signature of local wisdom may be found to be very poor. As a precious investment, museums may benefit people's welfare; for example, museums may be like tourism destinations.

However, the government does not stop at the coordination function as a regulation maker or functions for revitalisation; it has to encourage more public participation by creating opportunities for collaboration in maintaining museums so that museums are sustained.³¹ Creating opportunity is part of an active constitutional commitment, which is fulfilling the constitutional obligation that the government, on behalf of the state, is to protect the state's identity. There has to be collaborative work among not only one ministry but also among ministerial staff under the executive branch. The ministry budget may cover preserving the cultural heritage budget to make it effective. This may be done to build a philosophical aim of preserving the state identity. In Indonesia, several museums are essential and have significant storytelling to the Indonesian state-building process, such as *Museum Indonesia*, *Museum Nasional Indonesia*, *Museum Sejarah Jakarta*, *Museum Bahari*, *Museum Fatahillah*, *Museum Wayang*, *Museum Benteng Vredenburg*, *Museum Taman Prasasti*, *Museum Balai Kirti (museum kepresidenan Republik Indonesia)*, *Museum Bank Indonesia*.³² The development of museums in Indonesian history can be traced back to the ancient pre-Indonesian civilisation era. Another notable period during the early Indonesian state was that in 1965, the Department of Museum Affairs was elevated into a National Commission of Museums, which in 1968 changed into the Directorate of Museums and has developed since 1975.³³ To this extent, developing protection mechanisms for cultural heritage in Indonesia may have found a legal basis, as it is also guaranteed in the Constitution. This may be the same as in Italy, where the protection of cultural heritage is stipulated in Article 9 and Article 117 of the Italian Constitution.³⁴ Furthermore, the constitutional protection of cultural heritage in Italy has received affirmation from the Italian Constitutional Court, especially on the subject of shared authority between the state and the Regions. The Court emphasised that the protection of cultural heritage in Italy is a task of the state and that the state has to set up a standard of protection mechanism that has to be implemented in the Regions.³⁵ Several principles may apply to standardisation, such as the protection of cultural diversity principle, the balancing and equality principle, and the non-

³⁰ Berita Satu, "Pengembangan Museum Di Indonesia Terganjil Pendanaan," 2018, <http://lipi.go.id/lipimedia/pengembangan-museum-di-indonesia-terganjal-pendanaan/20625>.

³¹ Satu.

³² R. Tjahjopurnomo et al., "Sejarah Permuseuman Di Indonesia," Direktorat Jenderal Kebudayaan, 2011.

³³ Tjahjopurnomo et al.

³⁴ Giulia Baj, "Beyond Resolution 2347 (2017): The Search for Protection of Cultural Heritage from Armed Non-State Groups," *Constitutional Review* 7, no. 1 (2021): 153–87, <https://doi.org/DOI:https://doi.org/10.31078/consrev716>.

³⁵ Baj.

discrimination principle, which may be the case for Indonesia. Discrimination may impact the cultural heritage protection mechanisms, the protection scheme may be against ethnic cultures, and it negatively affects the chances of ethnic individuals prospering economically and otherwise.³⁶ Meanwhile, no constitutional dispute exists about cultural heritage protection by the Constitutional Court of the Republic of Indonesia in Indonesia. In this context, the utilisation of the museums as cultural heritage has to be for the people's welfare according to the Constitution. At this point, people should not just enjoy the last goal of welfare but also be involved in the management and decision-making process of the preservation scheme. There has to be a transparency mechanism so that people know their rights to enjoy and benefit from the museum's cultural heritage activities. The Law on Cultural Heritage and the relevant Directive Regulations provided a scheme and standard for the protection scheme and public participation in such activities. However, there may still be unclear and concrete mechanisms in what process public participation has to be conducted. How can the mechanism of encouraging people's awareness of the efforts to protect museums of cultural heritage?

In 2021, the Indonesian government made a budget realisation of almost 64 billion (Rp 63.639.011.555,-) or 93,70 % of budget spending from the 68 billion Rupiah (Rp 67.920.959.000,-) budget.³⁷ Museums may face challenges such as a small budget allocation by the local government, which also provides a supporting budget for the preservation of cultural heritage in the provinces, municipalities, cities, and regions.³⁸ Meanwhile, the government budget allocation is not categorised as a priority.³⁹ Other challenges are climate change, floods, and natural disasters like fire. In 2018, one of the museums in Jakarta caught fire.⁴⁰ Other museums, such as Museum Adam Malik, were bankrupt and shut down because the government did not provide a budget. The museum holds historical paintings, photography, books, traditional weapons, statutes, gold, textiles, and other items with historical values from the house of the former Indonesian vice president.⁴¹

In general, small percentages of the state budgets are allocated to cultural heritage preservation, including museums. The government still views the cultural heritage budget as a non-priority budget. This is also the same as the local government, which allocates a small budget for cultural heritage. On the other hand, the income from cultural heritage tourism is insignificant. A museum in Sumbawa only has 200.000 IDR as the annual budget for museum maintenance.⁴² In other regions such as Gorontalo, a small region in Indonesia, the local government commits to preserving the historical monument by allocating a budget of

³⁶ Jean Paul Sarrazin Martínez, "The Protection of Cultural Diversity: Reflexions on Its Origins and Implications," *Justicia* 3, no. 27 (2015): 99–117, <https://doi.org/DOI: 10.17081/just.3.27.322>.

³⁷ Sri Hartini, "Laporan Akuntabilitas Kinerja Instansi Pemerintah Museum Nasional," 2021.

³⁸ Dewan Perwakilan Rakyat Republik Indonesia, "Alokasi Anggaran Perawatan Museum Masih Minim," 2018, <https://www.dpr.go.id/berita/detail/id/19005/t/Alokasi-Anggaran-Perawatan-Museum-Masih-Minim>.

³⁹ Indonesia.

⁴⁰ BBC News Indonesia, "Museum Bahari Di Kawasan Kota Tua Jakarta Terbakar," 2018, <https://www.bbc.com/indonesia/indonesia-42699402>.

⁴¹ Medcom, "Anggaran Kecil Untuk Tugas Besar," 2018, <https://www.medcom.id/telusur/medcom-files/yKXV6Zab-anggaran-kecil-untuk-tugas-besar>.

⁴² Samato Media, "Miris! Anggaran Museum Daerah Sumbawa Hanya Rp 200 Ribu Setahun," 2022, <https://samotamedia.com/miris-anggaran-museum-daerah-sumbawa-hanya-rp-200-ribu-setahun/>.

approximately IDR 244.730.000 in 2023 to maintain the museum and as an effort to increase supporting facilities for the house museum of one of the national heroes “Nani Wartabone” who fought for Gorontalo people.⁴³ During the pandemic, the Republic of Indonesia Ministry of Education and Culture issued the ministerial regulation No. 2/2021 on the second amendment of the ministerial regulation of 5/2019 on the technical guidance for the use of the special allocation budget for such managerial, operational aid of the museum and cultural park. There are 3 components according to the ministerial regulation, including collection maintenance, public programs such as temporal exhibitions and publications and other programs that benefit the public, and facilities maintenance. According to the Ministerial Regulation, the museums' operational aid addresses the government's help in boosting the quality of the museum maintenance so that the museums meet the technical service standard according to the standard set up by the government in the Laws and regulations.

The other museum, “*Sumpah Pemuda*” (Youth Pledge), faces various challenges, such as less optimisation of event publications and information, fewer visitors, fewer human resources, and minimum parking facilities. The museum has historical values as it has not only the historical object of the “*Sumpah Pemuda*” as evidence of the Indonesian youth movement but also inspires, embeds, and motivates the Indonesian Youth.⁴⁴ On the other hand, the National Museum, which is located in Jakarta, has the mission of sustainable and professional cultural heritage governance, ecosystem cultural heritage governance towards the public welfare, and the empowerment and effectiveness of cultural heritage diplomacy.⁴⁵ In general, there are more than 190 thousand historical objects in the National Museum of Indonesia.⁴⁶ Another historical museum in Indonesia is “*Museum Kebangkitan Nasional*.” Maintained by the provincial government of the Special Region of Jakarta, the museum has important historical values as it holds evidence of the birth of national movement organisations such as “*Boedi Oetomo*, *Trikoro Dharma* atau *Jong Java*, *Jong Minahasa*, and *Jong Ambon*,” as well as the educational journey of the Indonesian elite figures.⁴⁷ *Museum Proklamasi Kemerdekaan*.⁴⁸ The museum has historical evidence of the establishment and independence of the Republic of Indonesia. It is the house of Laksamana Muda Tadashi Maeda, the Japanese Admiral during the Pacific War of Hindia Belanda and one of the important figures for Indonesia's independence.⁴⁹ Museum

⁴³ Antara Gorontalo, “Pemerintah Alokasikan Dana Perawatan Rumah Museum Nani Wartabone,” 2023, <https://gorontalo.antaranews.com/berita/218268/pemerintah-alokasikan-dana-perawatan-rumah-museum-nani-wartabone>.

⁴⁴ Museum Sumpah Pemuda, “Laporan Kinerja Museum Sumpah Pemuda,” 2022, https://museumsumpahpemuda.kemdikbud.go.id/sdm_downloads/laporan-kinerja-2021-museum-sumpah-pemuda/.

⁴⁵ Museum Nasional, “About the Museum Nasional,” n.d., <https://www.museumnasional.or.id/tentang-kami/>.

⁴⁶ CNN Indonesia, “Museum Nasional Indonesia: Harga Tiket, Aktivitas, Hingga Fasilitas,” 2023, <https://www.cnnindonesia.com/gaya-hidup/20230222151233-275-916452/museum-nasional-indonesia-harga-tiket-aktivitas-hingga-fasilitas>.

⁴⁷ Kompas, “Sejarah Museum Kebangkitan Nasional Sejak Tahun 1899,” 2021, <https://www.kompas.com/tren/read/2021/05/20/113000165/sejarah-museum-kebangkitan-nasional-sejak-tahun-1899?page=all>.

⁴⁸ “Museum Perumusan Naskah Proklamasi,” n.d., <https://munasprok.go.id/>.

⁴⁹ Kompas, “Museum Perumusan Naskah Proklamasi: Sejarah, Perkembangan, Dan Isinya,” 2021, <https://www.kompas.com/stori/read/2021/04/16/150755079/museum-perumusan-naskah-proklamasi-sejarah-perkembangan-dan-isinya?page=all>.

Kepresidenan of Balai Kirti is a hall-of-fame museum that accommodates various historical objects and relics from the historical journey of the leadership of all the Presidents of the Republic of Indonesia.⁵⁰

The Museum Kepresidenan's collection includes the legacy of the six Presidents of Indonesia in the form of photographs, documents, medals won by each president, memorabilia, and books.⁵¹ The government or local government runs some other museums, and the private sector runs museums in several provinces. In Bali, most museums (at least 21) are owned by the private sector.⁵² According to the Ministry of Education and Culture Report of the Republic of Indonesia, there were more than 439 museums in 2020. At least 25% of Indonesia's museums (approximately 152 museums) are owned by the private sector. In other provinces, such as Jakarta (20), East Java (20), Yogyakarta (16), West Sumatra (15), and West Java (14), at least 20 museums are owned by the private sector. Meanwhile, the rest are owned by the government, the local government and the state institutions, including the ministries. Indonesia has at least 439 museums in all provinces. East Java has approximately 63 museums. On the other hand, Central Java has 62 museums, and the Special Region of Jakarta has 61 museums. In other provinces like West Java, there are at least 41 museums. In the special region of Yogyakarta, there are at least 35 museums, while in West Sumatera, there are 12 museums and at least nine in Aceh. However, each province has one museum in Bengkulu, Gorontalo, and Maluku. In other provinces, such as West Papua, there is no museum.

Constitutional Commitment and Public Participation: Learning from Other Experiences

Museums and cultural heritage may need budgets allocated. However, there are important potential benefits that the government of the Republic of Indonesia, as well as the local government, ranging from the provincial, municipality, city and village governments, could benefit from the cultural heritage of the museum. Besides the economic benefits, which significantly impact the people's welfare as one of the constitutional commitments, cultural heritage may significantly impact the preservation of national and local values, which is the root of the Indonesian constitutional identity as a nation.

To boost the implementation of the commitment, the government of the Republic of Indonesia may give guidelines for the local government to spend at least a small budget to make it a priority of the local budget for the preservation efforts. This may be done by inserting a small percentage of the local government's annual budget. In implementing the budget spending for the preservation of the cultural heritage effort, public participation must be encouraged to become involved in the monitoring and maintaining of the cultural heritage objects, which by this time belonged to the Department of Education and Culture in 1980.

In the US, museums have long played an important role as centres of education and enlightenment and purveyors of cultural values. Consequently, most Americans expect

⁵⁰ "Museum Kepresidenan RI," n.d., <https://museumkepresidenan.id/>.

⁵¹ Kompas, "Museum Kepresidenan Balai Kirti Simpan 280 Koleksi," 2018, <https://travel.kompas.com/read/2018/05/22/131200627/museum-kepresidenan-balai-kirti-simpan-280-koleksi?page=all>.

⁵² Detikcom, "Museum Bali: Sejarah, Lokasi, Dan Daya Tariknya," 2022, <https://www.detik.com/bali/wisata/d-6381309/museum-bali-sejarah-lokasi-dan-daya-tariknya>.

museums in other parts of the world to serve the same function.⁵³ However, during the pandemic, most museums faced risks. In the US, one-third (33%) of museum directors surveyed confirmed there was a "significant risk" of permanent closing. The vast majority (87%) of museums had only 12 months or less of financial operating reserves remaining, with 56% having less than six months left to cover operations.⁵⁴ The budget system for museums is working to win new funding from the federal government and state and local governments this year to help with the crisis. A study shows that, on average, museums receive less than 25% of their total funding from government sources, including public and private sources, which is crucial to saving the museum field. In the US, The American Alliance of Museums has been bringing museums together since 1906, helping to develop standards and best practices, gathering and sharing knowledge, and advocating for issues of concern to the entire museum community.⁵⁵ The US experiences may be different from Indonesia's, where museums of cultural heritage play several important roles in religious, social, educational, science, technology, culture, and tourism.⁵⁶ The government's constitutional responsibility may include all measures aimed to ensure its viability, such as identification, documentation, research, preservation, protection, promotion, enhancement, diffusion through formal education and non-formal and revitalisation of this heritage in its various aspects. Such measures are the direct responsibility of the States, but they must be carried out with the participation of the relevant communities, groups, and non-governmental organisations and, when appropriate, the individuals who create, maintain and transmit this heritage and who are actively associated with its management.⁵⁷

In Indonesia, the law on cultural heritage already outlines commitments such as the responsibility for the identification, documentation, research, preservation, protection, promotion, and enhancement of cultural heritage. However, challenges and barriers may be visible during the implementation. In that case, the need for public participation is an immediate requirement. Public participation can be by sharing the burden of co-responsibility with the entire social community and group, which may be developed by good collaboration between the government and the community. One of the bridging mechanisms is emphasising the obligation to keep the public informed of the threats that affect the heritage and, in a preventive or restorative reaction to them as well as of the activities carried out to protect it

Public participation is part of cultural heritage protection, and cultural rights, in particular, are universal human rights. Cultural rights may include the right to access, participate in, and

⁵³ Jennifer Dickey, Samir El Azhar, and Catherine M. Lewis, *Museums in a Global Context: National Identity, International Understanding* (Washington, DC: The AAM Press, 2013).

⁵⁴ American Alliance of Museums, "United States May Lose One-Third of All Museums, New Survey Shows," 2020, <https://www.aam-us.org/2020/07/22/united-states-may-lose-one-third-of-all-museums-new-survey-shows/>.

⁵⁵ Museums.

⁵⁶ Dewi M Djukardi, I Gusti Ayu Ketut Rachmi H, and Endang Sumiarni, "Indonesian Government Policy and The Importance of Protection of Cultural Heritage for National Identity," *Advances in Social Science, Education and Humanities Research* 389 (2020): 213–19.

⁵⁷ Cunha Filho and Francisco Humberto, "Safeguarding Intangible Cultural Heritage in Brazil in Accordance with the UNESCO Convention," *Pravovedenie* 64, no. 1 (2020): 112–23, <https://doi.org/https://doi.org/10.21638/spbu25.2020.109>, p. 120.

enjoy the outcomes of a society's cultural activities, regardless of whether or not they are recognised as heritage.⁵⁸ Respect for cultural rights and awareness of the value of cultural heritage is essential for development, peace, building social cohesion, and promoting mutual respect, tolerance, and understanding between individuals and groups in all their diversity.

In protecting museums' cultural heritage, there are dual aspects of public and private, which, in this context, are associated with the public and individual spheres.⁵⁹ In this context, the Constitution guarantees individual and community rights. The individual rights may be in the way that the government well maintains the cultural heritage on behalf of the state. In the discussion on the protection of cultural heritage, this was exemplified by the following issue of the owner of the cultural heritage. The issue covers all aspects of protecting interests in trade and cultural property and protecting and preserving cultural heritage in the public interest. In a way, property is the central concept by which citizens can measure the individual's exclusive right against the public domain. In that sense, we may understand the discussion of the ownership of cultural heritage as reflecting the individual's rights and running counter to the community's rights. In this Section, two other aspects of the individual's position will come to the fore: first, how individuals are regarded in the International Conventions, followed by the human rights perspective on the individual's position. In practice, this means that a State is obliged to protect heritage but is not bound to acknowledge and safeguard the link between community and heritage.⁶⁰

Other nations might offer beneficial examples regarding cultural heritage. The first is Italy. Concerning the Italian Constitution, Article 9, Section (1) stipulates that the Republic must promote the development of culture and scientific and technical research. Furthermore, Section (2) of the Article stipulates that the state must safeguard the nation's natural beauties and historical and artistic heritage. "Heritage" has traditionally been the main focus of cultural policy, starting from the name of the first ministry established in the mid-70s: the Ministry of Cultural Heritage. Financial resources allocated to the cultural sphere focus on "safeguarding" and "restoration". Italy sees heritage as the cornerstone of cultural policy (the government is primarily aware that heritage can benefit if preserved and a detriment if neglected). Italy's cultural policy model can be viewed from an economic and administrative point of view. The economic model is closely linked to the mixed economic system, where the public sector has historically been the main funding source for cultural heritage, museums, archives and libraries, and, to some extent, for the performing arts. In contrast, the cultural industries are mainly supported by the market, although supplemented by public subsidies in the case of poor market performance. The constitutional "subsidiarity principle" is particularly relevant, as it provides the basis for private individuals to participate in public interest activities, especially if they own cultural assets. Regarding government action, the administrative model has traditionally been one of direct public administration intervention in support of cultural activities and, in many

⁵⁸ Karolina Sikora, "The Right to Cultural Heritage in International Law, with Special Reference to Indigenous Peoples' Rights," *Santander Art and Culture Law Review* 2, no. 7 (2021): 149–72, <https://doi.org/DOI:10.4467/2450050XSNR.21.022.15267>.

⁵⁹ Lucky Belder, "The Legal Protection of Cultural Heritage in International Law And Its Implementation in Dutch Law," *Utrecht University Repository*, 2013.

⁶⁰ UNESCO, "Convention for the Safeguarding of the Intangible Cultural Heritage," 2003.

cases, in managing cultural institutions (museums, sites, theatres, etc.) through national ministries or ad hoc local departments.⁶¹

Another country as a comparison is Turkey. Referring to the Turkish Constitution, Article 63 on the Conservation of Historical, Cultural, and Natural Wealth stipulates that the state should ensure the conservation of historical, cultural, and natural assets and wealth and should take measures that support and promote this objective. Furthermore, the article also stipulates that any restrictions to be imposed on privately owned assets and wealth and the compensation and exemptions to be granted to their owners as a result of these restrictions should be regulated by law. Turkey is famous as one of the largest sources of cultural property. The state is highly vulnerable to looting and theft. An interesting finding was that Germany, a country that has conducted many excavations in Turkey since the 19th century, argued that objects in its museums were taken out of Turkey because the Turkish government was destroying, not preserving them.⁶² Turkey itself ratified the 1970 International Convention (UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the "1970 Convention") on April 21, 1981, and the 1972 Convention on the Protection of the World Cultural and Natural Heritage ("World Heritage Convention") on March 16, 1983. Regarding cultural heritage-related task sharing, the Directorate General of Cultural Heritage and Museums, part of the Ministry of Culture and Tourism ("Directorate General"), based in Ankara, is the designated task force for protecting cultural property in Turkey. The Directorate General operates in conjunction with 63 regional Directorates, each specialising in protecting, surveying, or restoring cultural assets. It coordinates with 193 museums and 138 archaeological sites to accomplish its various tasks. As for its oversight and public engagement, the Directorate General has initiated the Museum National Inventory System ("MUES") to create a unified national database containing detailed information on movable cultural heritage objects and develop a single model for inventory and storage that can be used nationwide. The Directorate General has trained museum staff from around 100 museums to use this system. The project provides tools for museums and experts to coordinate research activities, exhibitions, and other projects related to these artefacts and monitor their location at any given time to combat damage, loss, and/or theft.⁶³

On the other hand, in France, laws and regulations have long been concerned with cultural heritage, but not always to its advantage. In France, each heritage sector has its own legislation. In general, the objective of heritage policy is threefold: to preserve, i.e., to conserve, maintain, restore and transmit, to manage and to enhance through openness to the public, animation and dissemination in order to meet cultural, economic, tourism, educational and social challenges. Therefore they have an improvement plan such as: 1) conservation and enrichment of cultural heritage collections; 2) preparation of information resources: focusing on the completion of the main catalogues in progress (in particular incunabula, the music collection dating from the 19th century) and on-going (in particular incunabula, a collection of music dating from the 19th

⁶¹ Compendium Cultural Policies & Trends, "Italy 1.1.," 2019, https://www.culturalpolicies.net/country_profile/italy-1-1/.

⁶² Merve Stolzman, "Turkey Rules: Cultural Heritage Protection Efforts Explained," Center for Art Law, 2019.

⁶³ Stolzman.

century) and on the expansion of the guild catalogues, in particular the Catalogue of the French Guild (CCFr), including the project currently undergoing the reconversion of the General Catalogue of France (CCFr), including the project currently undergoing the reconversion of the General Catalogues of Manuscripts at the French Public Library 3) collection enhancement: the publication of online catalogues by libraries, the creation of virtual libraries and innovations in exhibition and distribution are the three main axes; 4) expansion of readers and audiences, based on more systematic studies and evaluations initiated by the Book Services and Reading Service; 5) staff training, with the objective of reinvesting heritage issues in the field of initial and continuing training.⁶⁴

Best practices from other countries may be a good lesson for Indonesia. The case of the return artefacts from the Dutch government demonstrated the challenges of the Indonesian government's readiness to preserve and protect the nation's valuable assets.⁶⁵ The case of the returning "stolen" artefacts by the Dutch government may show how important it is to improve the management of museums as one of the facilities to preserve, protect, and promote cultural heritage. Besides the need to find a strategy for funding, the government should consider accommodating public participation and ensuring the transparency of the preservation, protection, and promotion process. This may be in line with the democratic values of all efforts taken by the government since cultural heritage is the national asset, the people's asset for public welfare.

CONCLUSION

The Indonesian Constitution provides a framework to address the protection of cultural heritage, particularly in the context of museums. There are several constitutional principles laid down in the Indonesian Constitution addressing the protection of cultural heritage. Article 18B (2), which provides the ground for the government's obligation to recognise, respect and fulfil indigenous rights, as well as Article 32 (1) of the Indonesian Constitution, provides the constitutional basis for the state obligation to advance the national culture in Indonesia and ensures the freedom of society to preserve and develop the cultural values have consequences of constitutional aspect in cultural heritage protection. Particularly, these articles set up the framework for the government to make efforts on conservation, education, and the respectful representation of culture. One of the efforts is to facilitate museums. Museums have the value of cultural resources, historical artefacts, and preservation of diverse cultural identities. Museums are very important in balancing the fulfilment of the cultural and educational rights of the people in Indonesia, the state's interests, and the economic benefits. According to Article 28I (3) of the Indonesian Constitution, cultural identity and indigenous rights have to be respected in line with the current development and civilisation. This article must be followed up by allowing the communities to control and manage their cultural heritage, particularly the museum. The government must ensure public participation to improve the utilisation and

⁶⁴ Joumana Boustany, "Cultural Heritage in France," [Research Report] Universite Gustave Eiffel, 2019.

⁶⁵ CNBC Indonesia, "Ratusan Artefak Jarahan Penjajahan Belanda Pulang Kampung Ke RI," 2024, <https://www.cnbcindonesia.com/news/20240921110538-4-573502/ratusan-artefak-jarahan-penjajah-belanda-pulang-kampung-ke-ri>.

management of the museums in Indonesia. In this context, the government has to give opportunities to the public by conducting public consultation intensively, particularly when museums display their cultural artefacts. On the other hand, the government has to ensure public access and the educational roles of museums. This is very important to fulfil the right to cultural participation, the right for the citizen to access the museum, gain knowledge, and get benefits from the museums, as well as promoting the cultural dialogue by promoting the inclusiveness of museums. In general, those are the constitutional aspects that government policies should realise and implement. Important aspects of community, public funding besides the state budget, and effective governance structures must be improved to achieve accountability of practical governance in the context of cultural heritage protection of museums. The article extensively explores Indonesia's constitutional obligation to protect its diverse cultural heritage, particularly focusing on museums as essential custodians of this legacy. It highlights museums' significant role in upholding national identity, preserving historical events, and fostering cultural values. Indonesian laws, including Law No. 11/2010 and Government Regulation No. 66/2015, establish the legal framework for cultural heritage protection, emphasising the government's responsibility to ensure the preservation, management, and public dissemination of heritage collections.

The central issue is a constitutional commitment, highlighting the government's duty to enforce and maintain preservation efforts. Despite the legal framework in place, challenges persist, notably financial constraints hindering effective preservation efforts, particularly at the local government level. This underscores the pressing need for proactive action to address these limitations and prioritise cultural heritage conservation as a vital national interest. The urgency to fortify Indonesia's commitment to safeguarding its cultural heritage emerges as a central theme. The need for strategic budgetary allocation, active public participation, and comprehensive preservation strategies becomes evident. Understanding and assimilating the lessons from global practices are crucial to reinforcing Indonesia's dedication to preserving its rich cultural heritage for future generations. Lessons learned from other countries such as Italy, Turkiye, France, and others could make the standard for the preservation efforts as they maintain sustainable professionalism with cultural heritage objects and benefit from the preservation measures for the national assets to the people's welfare. With its diverse and rich cultural heritage, Indonesia could move forward with all precious national assets in order to fulfil the constitutional obligation, as the purpose of the state is state welfare.

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