

IMPLIKASI LAW OF AN OBJECT THAT IS NOT DESIGNATED AS CULTURAL HERITAGE IN LAW NUMBER 11 OF 2010 CONCERNING CULTURAL HERITAGE

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Abstract - Culture as objects of human work is cultural heritage. cultural heritage is the nation's cultural heritage that has meaningful socio-cultural values. In addition, cultural heritage can also be thought of as the nation's cultural roots (national cultural roots) that have built the identity of our nation which is colored by local patterns or distinctive local wisdom. Law No. 11/2010 on Cultural Heritage is the legal basis for the protection and preservation of Indonesia's cultural heritage. Events in the field there are many objects of cultural heritage that have not received the determination of the government. These objects, such as ancestral tombs, have met the criteria as cultural heritage Law Number 11 of 2010 concerning Cultural Heritage.

Keywords: Legal Certainty, Cultural Heritage;

A. INTRODUCTION

Culture as objects of human work is cultural heritage. Archaeological investigations that have been carried out so far show that Indonesia is one of the countries that is very rich in diverse cultural heritage, both in form and function (Mas'ad, 2020). Indonesian cultural heritage as evidence or historical documents must have some messages that at some point will reflect the nation's ties with the surrounding natural areas and also its relations with other social groups. Cultural heritage is the nation's cultural heritage that has significant socio-cultural values. In addition, cultural heritage can also be thought of as the nation's cultural roots (national cultural roots) that have built our nation's identity colored by local patterns or unique local wisdom. As the base of the nation's culture, this cultural heritage must be very potential for the future development of the nation.

Law Number 11 of 2010 concerning Cultural Heritage is the legal basis for the protection and preservation of the cultural heritage of the Indonesian nation, and to promote Indonesian culture. To protect culture, the State has a very important role. The state is responsible for the protection, utilization, and development of culture.


Law Number 11 of 2010 concerning Cultural Heritage Cultural Heritage is a material cultural heritage. Furthermore, there are 5 classifications of Cultural Heritage objects, namely:

1. Cultural Heritage Object
2. Cultural Heritage Building
3. Cultural Heritage Structure
4. Cultural Heritage Site
5. Cultural Heritage Area

An object, building, or structure can be proposed as a Cultural Heritage Object, Cultural Heritage Building, or Cultural Heritage Structure if it meets the following criteria:

- a. is 50 (fifty) years old or more;
- b. represents a style period of at least 50 (fifty) years old;
- c. has special significance for history, science, education, religion, and/or culture; and
- d. has cultural value for strengthening the nation's personality.

Social problems that occur in Indigenous Peoples, namely the rights of Indigenous Peoples are violated and the increasing development that ignores Cultural Heritage in various regions. Conflict is a social symptom that is completely present in social life, so conflict is inherent, meaning that conflict will always exist in every space and time, anywhere and anytime. Conflict is the process of achieving goals by weakening the opposing party, without regard to prevailing norms and values (Soekanto, 1993). In another sense, conflict is a social process that takes place involving people or groups challenging each other with the threat of violence (Suyanto, 2005). In the field, there are many cultural heritage objects that have not yet been designated by the government. The object, for example, ancestral tombs have met the criteria as cultural heritage Law Number 11 of 2010 concerning Cultural Heritage.



Based on the problems in this paper, it can be seen how the legal Implikasi of an object that is not designated as cultural heritage in Law Number 11 of 2010 concerning Cultural Heritage.

B. RESEARCH METHOD

The research method used in the study of the legal Implikasi of an object that is not designated as cultural heritage in Law Number 11 of 2010 concerning cultural heritage is normative legal research. The collection of legal materials is done by identifying and inventorying positive law as an initial activity. In normative legal research, only library materials or secondary data are studied, which include primary, secondary, and tertiary legal materials. The approaches used in the discussion of this research are philosophical approach, statutory approach, conceptual approach, and case approach. This research is descriptive analytical because it is intended to obtain a description or conditions that exist in the situation and provide legal certainty regarding an object that is not designated as cultural heritage, but the object has met the criteria to be declared a cultural heritage object.

C. RESULTS AND DISCUSSION

1. Legal Implikasi Of An Object That Is Not Designated As Cultural Heritage In Law Number 11 Of 2010 Concerning Cultural Heritage

According to Hans Kelsen, law is a system of norms. Norms are statements that emphasize the aspect of 'should' or *das sollen* by including some rules about what should be done. Norms are the product of deliberate human action. Laws that contain rules that are general in nature become guidelines for individuals to behave in society, both in relationships with fellow individuals and in relationships with society. The rules become a limitation for the community in burdening or taking action against the individual. The existence of these rules and the implementation of these rules give rise to legal certainty.

The certainty of the law comes from the doctrine of jurisprudence-dogmatics which is based on the Positivism alliance in the legal world which tends to see the law as something autonomous and independent, because for adherents of this alliance, the purpose of the law is nothing but to guarantee the realization of the general nature of the law. The general nature of legal rules proves that the law does not aim to realize justice or expediency, but solely for certainty (Syahrani, 1999).

Legal certainty refers to the clear, fixed, consistent and consequent application of the law whose implementation cannot be influenced by subjective circumstances. Certainty and justice are not just moral demands, but factually characterize the law. A law that is not certain and does not want to be fair is not just a bad law (Cst Kansil, 2009).

Legal certainty is also the purpose of every law. Legal certainty will be achieved if the words and sentences of the law are arranged so clearly that it does not give rise to different interpretations. Legal certainty has a close relationship with law enforcement. Law enforcement itself is a process of realizing the law into reality.

Gustav Radbruch stated in realizing the purpose of the law needs to be used the principle of priority of the three basic values that become the purpose of the law. This is because in reality, legal justice often clashes with expediency and legal certainty and vice versa. Among the three basic values of legal objectives, when there is a clash, then something must be sacrificed.

Law No. 11/2010 on Cultural Heritage stipulates that everyone can own and/or control Cultural Heritage Objects, Cultural Heritage Buildings, Cultural Heritage Structures, and/or Cultural Heritage Sites while taking into account their social functions as long as they do not conflict with the provisions of the Law. Any person may own and/or control Cultural Heritage if the number and types of Cultural Heritage Objects, Cultural Heritage Buildings, Cultural Heritage Structures, and/or Cultural Heritage Sites have met the needs of the state.

Ownership can be obtained through inheritance, grant, exchange, gift, purchase, and/or court decision or determination, except those controlled by the State. Owners of Cultural Heritage Objects, Cultural Heritage Buildings, Cultural Heritage Structures, and/or Cultural Heritage Sites who have no heirs or do not hand them over to others by will, grant, or gift after the owner dies, have their ownership taken over by the state in accordance with the provisions of laws and regulations. Cultural Heritage areas can only be owned and/or controlled by the State, except those that are hereditary owned by customary law communities.

Foreign nationals and/or foreign legal entities cannot own and/or control Cultural Heritage, except for foreign nationals and/or foreign legal entities who live and settle in the territory of the Unitary State of the Republic of Indonesia. Foreign nationals and/or foreign legal entities are prohibited from



bringing Cultural Heritage, either in whole or in parts, outside the territory of the Unitary State of the Republic of Indonesia. Cultural Heritage whose ownership is unknown is controlled by the State.

Cultural Heritage owned by any person may be transferred to the State or any other person. The State takes precedence over the transfer of ownership of Cultural Heritage. The transfer of ownership can be done by inheritance, donation, exchange, gift, sale, compensation, and/or court ruling or decision. Cultural Heritage that has been owned by the State cannot be transferred. Any person is prohibited from transferring ownership of Cultural Heritage of national rank, provincial rank, or regency/city rank, either in whole or in parts, except with the permission of the Minister, governor, or regent/mayor in accordance with the level.

Cultural Heritage Objects, Cultural Heritage Buildings, and/or movable Cultural Heritage Structures owned by the Government, Regional Government, and/or any person can be stored and/or maintained in a museum. A museum is an institution whose function is to protect, develop, utilize collections in the form of objects, buildings and/or structures which have been designated as Cultural Heritage or which are not Cultural Heritage, and communicate them to the public. The protection, development and utilization of museum collections is under the responsibility of the museum management. In carrying out its responsibilities, the museum is obliged to have a Curator.

Every person who owns and/or controls Cultural Heritage no later than 30 (thirty) days after discovering that the Cultural Heritage owned and/or controlled is damaged, lost or destroyed is obliged to report it to the competent authority in the field of culture, the National Police of the Republic of Indonesia, and /or related agencies. Every person who does not report damage to the Cultural Heritage they own and/or control to the competent authority in the field of culture, the National Police of the Republic of Indonesia, and/or related agencies no later than 30 (thirty) days from the date of discovery of the Cultural Heritage they own and/or control If damaged, its management can be taken over by the Government and/or Regional Government. The return of Cultural Heritage from Indonesia that is outside the territory of the Unitary State of the Republic of Indonesia is carried out by the Government in accordance with ratified international agreements, bilateral agreements, or handed over directly by the owner, unless agreed otherwise as long as it does not conflict with the provisions of laws and regulations.

Cultural Heritage or objects, buildings, structures, locations, or geographical spatial units suspected of being Cultural Heritage that are confiscated by law enforcement officers are prohibited from being destroyed or auctioned. Cultural Heritage or confiscated objects, buildings, structures, locations or geographical spatial units suspected of being Cultural Heritage) are protected by law enforcement officials in accordance with the provisions of the Law. In carrying out protection, law enforcement officers can ask for assistance from authorities in the cultural sector.

Every person who owns and/or controls Cultural Heritage has the right to receive compensation if they have carried out their obligations to protect Cultural Heritage. Incentives in the form of reductions in land and building tax and/or income tax can be provided by the Government or Regional Government to Cultural Heritage owners who have protected Cultural Heritage in accordance with the provisions of statutory regulations,

In the discovery stage, people who find objects suspected of being Cultural Heritage Objects, buildings suspected of being Cultural Heritage Buildings, structures suspected of being Cultural Heritage Structures, and/or locations suspected of being Cultural Heritage Sites are obliged to report them to the competent authority in the field of culture, the National Police of the Republic of Indonesia , and/or related agencies no later than 30 (thirty) days after discovery. Findings that are not reported by the discoverer can be taken over by the Government and/or Regional Government. Based on the report in question, the competent authority in the field of culture conducted a review of these findings.

Everyone has the right to receive compensation if the objects, buildings, structures or locations they find are designated as Cultural Heritage. If finds that have been designated as Cultural Heritage are very rare in type, unique in design, and few in number in Indonesia, they are controlled by the State. If the findings that have been designated as Cultural Heritage as intended are not rare in type, not unique in design, and the quantity meets the needs of the state, they can be owned by the discoverer. Further provisions regarding the discovery of Cultural Heritage and compensation are regulated in Government Regulations.

The government is obliged to search for objects, buildings, structures and/or locations suspected of being Cultural Heritage. Searching for cultural heritage or suspected cultural heritage can be carried out by anyone by digging, diving and/or lifting on land and/or in water. Searches can only be carried



out through research while still paying attention to ownership rights and/or control of the location. Every person is prohibited from searching for Cultural Heritage or suspected Cultural Heritage by digging, diving and/or lifting on land and/or in water, except with permission from the Government or Regional Government in accordance with their authority.

The National Register of Cultural Heritage is an official list of the nation's cultural assets in the form of Cultural Heritage located at home and abroad. In carrying out the stages of the national register of cultural heritage, namely:

- a. Registration
- b. Assessment
- c. Determination
- d. Recording
- e. Ranking
- f. deletion

Registration is an effort to record objects, buildings, structures, locations and/or geographical space units to be proposed as Cultural Heritage to district/city governments or Indonesian representatives abroad and then included in the National Register of Cultural Heritage. The district/city government cooperates with everyone in carrying out registration. Every person who owns and/or controls Cultural Heritage is obliged to register it with the district/city government free of charge. Furthermore, everyone can participate in registering objects, buildings, structures and locations that are suspected of being Cultural Heritage even if they do not own or control them. Regency/city governments carry out registration of Cultural Heritage controlled by the State or whose owners are unknown in accordance with their level of authority.

Registration of Cultural Heritage abroad is carried out by representatives of the Republic of Indonesia abroad. Registration results must be accompanied by a description and documentation. Cultural Heritage that is not registered by its owner can be taken over by the Government and/or Regional Government. The government facilitates the establishment of a digital and/or non-digital Cultural Heritage Registration system and network.

The assessment aims to identify and classify objects, buildings, structures, locations and geographical spatial units that are proposed to be designated as Cultural Heritage. The results of the registration are submitted to the Cultural Heritage Expert Team to review its suitability as a Cultural Heritage or not. The Cultural Heritage Expert Team is a group of preservation experts from various fields of science who have competency certificates to provide recommendations for determining, ranking and eliminating Cultural Heritage. The Cultural Heritage Expert Team is appointed by:

- a. Ministerial Decree at the national level;
- b. Governor's Decree for the provincial level; And
- c. Regent/Mayor Decree for district/city level.

The Cultural Heritage Expert Team can be assisted by technical implementation units or regional work units responsible for the field of Cultural Heritage in conducting studies. During the assessment process, objects, buildings, structures or locations discovered or registered are protected and treated as Cultural Heritage. An assessment of the registered museum collections is carried out by the Curator and then handed over to the Cultural Heritage Expert Team.

Determination is the granting of Cultural Heritage status to an object, building, structure, location or geographical space unit carried out by the district/city government based on the recommendation of the Cultural Heritage Expert Team. The regent/mayor issues a determination of Cultural Heritage status no later than 30 (thirty) days after a recommendation is received from the Cultural Heritage Expert Team stating that the registered object, building, structure, location and/or geographical space unit is worthy of being a Cultural Heritage. After being recorded in the National Register of Cultural Heritage, the owner of the Cultural Heritage has the right to obtain legal guarantees in the form of:

- a. certificate of Cultural Heritage status; And
- b. certificate of ownership based on valid evidence.

Finders of objects, buildings and/or structures that have been designated as Cultural Heritage Objects, Cultural Heritage Buildings and/or Cultural Heritage Structures are entitled to compensation. Cultural Heritage Sites or Cultural Heritage Areas located in 2 (two) districts/cities or more are designated as provincial Cultural Heritage. Cultural Heritage Sites or Cultural Heritage Areas located in 2 (two) or more provinces are designated as national Cultural Heritage. The district/city government submits the results of the determination to the provincial government and then forwards it to the Government. Objects, buildings, structures, locations or geographical units of space that have special meaning for



the Indonesian people or nation can be designated as Cultural Heritage by Ministerial Decree or Governor's Decree after obtaining a recommendation from the Cultural Heritage Expert Team according to their level.

The government established a National Register of Cultural Heritage system to record data on Cultural Heritage. Objects, buildings, structures, locations and geographical space units that have been designated as Cultural Heritage must be recorded in the National Register of Cultural Heritage. Museum collections that meet the criteria for being a Cultural Heritage are recorded in the National Register of Cultural Heritage.

The Government and Regional Governments make active efforts to record and disseminate information about Cultural Heritage while still paying attention to the security and confidentiality of data deemed necessary in accordance with statutory provisions. Management of the National Register of Cultural Heritage, the data of which comes from government agencies, regional governments and abroad, is the responsibility of the Minister. Management of the National Register of Cultural Heritage in the regions according to their levels is the responsibility of the provincial government and district/city governments. The government supervises and guides the National Register of Cultural Heritage which is managed by the provincial government. The provincial government supervises and provides guidance to the National Register of Cultural Heritage which is managed by the district/city government.

The Government and Regional Governments can rank Cultural Heritage based on their importance into national rankings, provincial rankings and district/city rankings based on the recommendations of the Cultural Heritage Expert Team. A Cultural Heritage can be designated as a National Rank Cultural Heritage if it meets the following requirements:

- a. the realization of national unity and integrity;
- b. noble works that reflect the uniqueness of Indonesian culture;
- c. Cultural Heritage which is very rare in type, unique in design, and few in number in Indonesia;
- d. evidence of the evolution of national civilization as well as cross-country and cross-regional cultural exchange, both extinct and still alive in society; and/or
- e. important examples of traditional residential areas, cultural landscapes, and/or unique uses of space that are threatened with extinction.

A cultural heritage can be designated as a provincial level cultural heritage if it meets the following requirements:

- a. representing the interests of preserving Cultural Heritage Areas across districts/cities;
- b. represents creative work that is unique to the province;
- c. rare in type, unique in design, and few in number in the province;
- d. as evidence of the evolution of national civilization and cultural exchange across districts/cities, both those that have become extinct and those that still live in society; and/or
- e. associated with ongoing traditions.

A cultural heritage can be designated as a district/city level cultural heritage if it meets the following requirements:

- a. as a cultural heritage that is prioritized to be preserved in the district/city area;
- b. represents a distinctive period style;
- c. the level of threat is high;
- d. the types are few; and/or
- e. the number is limited.

The ranking of cultural heritage at the national level is determined by a Ministerial Decree, at the provincial level by a Governor's Decree, or at the district/city level by a Regent/Mayor's Decree. Nationally ranked cultural heritage that has been designated as a National Cultural Heritage can be proposed by the Government to become a world cultural heritage.

Cultural Heritage that no longer meets the requirements to be designated as a national ranking, provincial ranking, or district/city ranking can have its ranking corrected based on the recommendations of the Cultural Heritage Expert Team at each level. The Cultural Heritage rating can be revoked if the Cultural Heritage:

- a. destroyed;
- b. loses its original shape and form;
- c. lost most of its elements; or
- d. no longer in accordance with the requirements for national-ranked cultural heritage, provincial-ranked cultural heritage, and district/city-ranked cultural heritage.



Cultural Heritage that has been recorded in the National Register can only be deleted by Ministerial Decree on the recommendation of the Cultural Heritage Expert Team at the Government level. The decision to delete as intended must be followed up by the Regional Government. Removal of Cultural Heritage from the National Register of Cultural Heritage is carried out if the Cultural Heritage:

- a. destroyed;
- b. lost and not found within 6 (six) years;
- c. undergo changes in form and style so that it loses its authenticity; or
- d. Later it was discovered that its status was not a cultural heritage.

After the cultural heritage has received designation from the government, the cultural heritage has received protection. The Government and Regional Governments are responsible for supervising Cultural Heritage Preservation in accordance with their authority. The community participates in monitoring cultural heritage preservation.

State laws imposed and enforced by the Government tend to dominate and marginalize local values, traditions and religion as well as the customary laws of indigenous communities. Conventionally, it is stated that the basic function of law is to maintain public order and protect legal order in maintaining the legal function of law as a tool of social control and societal order (Nurjaya, 2015).

Conflict is a conflict that occurs between what someone expects of themselves, other people, and the organization and the reality of what they expect (Mangkunegara, 2015). Etymologically, conflict comes from the Latin *configere* which means hitting each other. According to Antonius, et al. conflict is an action by one party which results in obstructing, hindering or disturbing another party, where this can occur between groups of people or in interpersonal relationships (Atosokhi, 2002).

Conflict is a situation where two or more people want goals that, according to their perception, can be achieved by one of them, but which are impossible for both parties to achieve (Winardi, 2004). A conflict or dispute about something occurs between two or more parties. Conflict or dispute is almost inseparable from human life and society, so it is difficult to imagine a society without conflict (Safa'at, 2017).

Conflict typology mapping is carried out by grouping them into conflict spaces. According to Fuad and Maskanah, the conflict space criteria are divided into five conflict spaces, namely:

1. Data Conflict. Occurs when a person lacks the information needed to make wise decisions, gets wrong information, disagrees about relevant data, interprets information in different ways or uses different assessment procedures. From the interpretation above, it can be understood how information circulating in cultural heritage can give rise to open conflict or not. The existence of regulations regarding cultural heritage also contributes to the potential for conflict, whether in the form of lack of clarity in monitoring regulations or ambiguous regulations. The authority to oversee regulations regarding cultural heritage between the Central Government, Regency/City Regional Governments, and Provincial Governments also makes it difficult to carry out the process of taking action and prevention quickly.

2. Conflicts of interest are caused by perceived or actual competing interests that are incompatible. Conflicts of interest occur due to fundamental or substantive issues (e.g. money and resources), procedural issues (attitudes in handling problems) or psychological issues (perception or sense of trust, fairness, respect). Conflict of interest is the most dominant conflict typology. The government, private sector, indigenous peoples and society have a very big interest in preserving cultural heritage.

The people in the area see the activity in two ways:

- a) The community is harmed by the destruction of cultural heritage, and is threatened with the loss of cultural values of the cultural heritage site.
- b) The community feels that they have benefited from the development because they have a livelihood at the development site, have access to public facilities, and receive economic compensation.

Local governments see it in three ways:

- a) Cultural heritage can be a source of regional income.
- b) The government sees cultural heritage as an obstacle to development.
- c) The government views cultural heritage within a regulatory framework that must be monitored and enforced.

3. Third, conflict in relationships between humans occurs due to strong negative emotions, misperceptions, miscommunication or repetitive negative behavior. These problems often give rise to unrealistic or unnecessary conflicts. This typology occurs in various regions where there is migration in

the area which results in fewer native people, resulting in jealousy and competition between native people and immigrant communities which often causes friction which results in horizontal conflicts. Based on facts that occur in the field regarding horizontal conflicts between indigenous communities and immigrant communities. Conflicts occur due to the absence of socialization regarding cultural heritage.

4. Value conflict, caused by incompatible belief systems, whether only perceived or real. Values are beliefs that humans use to give meaning to their lives. So a value conflict occurs when someone tries to impose a value system on others or claims an exclusive value system in which there is no possibility of a bifurcation of beliefs. Regulatory enforcement is the most dominant source of conflict.

5. Structural conflict, occurs when there is inequality in access and control over cultural heritage, the party in power and having formal authority to determine general policy, usually has the opportunity to gain access and exercise unilateral control over other parties. On the other hand, indigenous communities have difficulty applying for cultural heritage designation on the grounds that there is no Cultural Heritage Expert Team in the region.

Society has the dual side of conflict and consensus which are mutually necessary. There can be no conflict unless there is consensus. Conflict will not arise without prior consensus. This position of a group of people in the social structure determines authority over other groups (authority resides in the position). Dahrendorf categorized interests into hidden interests and real interests (Susan, 2010).

Conflict can create consensus and integration. Therefore, the process of social conflict is the key to the existence of social structure. Dahrendorf argues that in every association characterized by conflict there is tension between those who participate in the power structure and those who are subject to that structure. Power strictly separates those who rule and those who are controlled, so that in society there are two parties who conflict with each other because of differences in interests (Sjamsudin, 1986).

In general, various cultural heritage conflicts that occur in various regions can be classified into several forms of conflict as follows:

a. Based on its nature; This conflict can be divided into destructive conflict and constructive conflict.

1) Destructive conflict is a conflict that arises because of feelings of displeasure, hatred and revenge from a person or group towards another party. Examples in the regions because they are based on the majority and minority in cases of destructive conflict that occur in ritual activities carried out in cultural heritage sites. Apart from that, competition occurs between indigenous communities and private entrepreneurs.

2) Constructive conflict is a functional conflict, this conflict arises because of differences of opinion between groups in dealing with a problem. This conflict will produce a consensus from the various opinions and result in improvements. In a constructive conflict, indigenous peoples protest against development that ignores cultural heritage, resulting in negotiations regarding a resolution of the problem.

b. Based on the Position of the Conflicting Actor;

1) Vertical Conflict Is a conflict between components of society within a structure that has a hierarchy. In the case of cultural heritage, conflict occurs in the formulation, creation and decision-making of policies. The existence of regulations as a product of government policy, both the Central Government, Provincial Government and Regency Government, must provide legal certainty and guarantees, both in terms of regional authority, community rights and legal processes, which are absolutely necessary. In the case of cultural heritage, the authority of the Provincial Government and Regency Government is related to the determination of cultural heritage. This condition triggers vertical conflict between the Provincial Government, Regency Government and the community and indigenous peoples.

2) Horizontal Conflict Is a conflict that occurs between individuals or groups who have relatively the same position. Almost all areas experience conflict between society and society (pros and cons), resulting in casualties.

3) Diagonal Conflict: This is a conflict that occurs due to unfair allocation of resources throughout the organization, giving rise to extreme conflict. The reluctance of some private companies to involve indigenous communities has also resulted in conflicts.

The case occurred in Kalimantan with Court Decision Number 67/Pid.Sus/2021/PN Sbs. At that time Norman damaged the sacred tomb of Bantilan. The Bantilan sacred tomb has been designated as a cultural heritage site. Furthermore, the Panel of Judges at the Sambas District Court, on Tuesday,



June 29 2021, stated that the Defendant, Norman Alias Azi Alias Pak Teh Bin Usman, was legally and convincingly proven guilty of committing the criminal act of "deliberately destroying the Cultural Heritage, both in whole and in parts, of unity, group, and/or location of origin". Furthermore, Norman was sentenced to imprisonment for 1 (one) year and a fine of IDR 500,000,000.00 (five hundred million rupiah) with the provision that if the fine was not paid, it would be replaced by imprisonment for 3 (three) months. .

Next is the case in Yogyakarta with Court Decision Number 330/Pid/Sus/2014/PN.Yyk. At that time Mochamad Zakaria and R. Yogo Trihandoko gave the order to renovate the SMA N 17 Yogyakarta school. The SMA N 17 Yogyakarta building is a cultural heritage and has received designation from the Governor. The Panel of Judges at the Yogyakarta District Court stated that Mochamad Zakaria and R. Yogo Trihandoko had been legally and convincingly proven guilty of committing the crime of "giving orders to damage cultural heritage". Next, the Defendants were sentenced to a fine of Rp. 500,000,000,- (five hundred million Rupiah) provided that if the fine cannot be paid, it will be replaced by imprisonment for 12 (twelve) months.

Legal protection is an activity to protect individuals by harmonizing the relationship between values or rules which are manifested in attitudes and actions in creating order in social interactions between fellow humans. Based on the two criminal cases above, it is stated that cultural heritage that has been designated as cultural heritage has received legal protection from public destruction.

Case in Jakarta with Court Decision Number: 29/G/2014/PTUN-JKT. PT. Manunggal Sentral Baja is challenging the determination of cultural heritage areas carried out by the Minister of Education and Culture. Decree of the Minister of Education and Culture of the Republic of Indonesia Number 260/M/2013 concerning the Determination of the Trowulan Geographical Space Unit as a National Rank Cultural Heritage Area made PT. Manunggal Sentral Baja suffered losses. These losses are obstacles to the establishment/construction of the PT factory. Manunggal Sentral Steel.

The Panel of Judges at the Jakarta State Administrative Court stated that it rejected PT's application. Manunggal Sentral Baja to postpone the implementation of the decision on the object of the dispute. In the main case, PT. Manunggal Sentral Baja is unacceptable. And punished the Plaintiff to pay the court costs arising in this Dispute amounting to Rp. 12. 603,400,- (Twelve million six hundred three thousand four hundred rupiah). Based on this case, it further confirms that cultural heritage that has been designated receives legal protection.

Case in Medan with Court Decision Number 756/Pdt.G/2020/PN Mdn. At that time the community sued the mayor of Medan. The community is demanding that the mayor of Medan declare Tanah Lapang Merdeka as a Cultural Heritage. The people of Medan city feel uneasy about the development carried out by the Medan city government regarding this cultural heritage. Initially, Tanah Merdeka Medan Field had an area of 48,877 m² or 4.88 Ha, but the area changed to 8,800 m² or 2.88 Ha. This is due to the construction of permanent buildings and parking lots by the government.

The Panel of Judges Decided to Declare the Mayor's actions to be unlawful (*onrechtmatige overheidsdaad*). Furthermore, Order the Mayor to issue a Designation of the Medan Merdeka Field as a Cultural Heritage through: Medan Mayor Regulation which strictly stipulates the Medan Merdeka Field as a Cultural Heritage. Based on this case, it can be seen that cultural heritage that has not received a designation is not protected.

According to Sudikno Mertokusumo in his book entitled *Getting to Know the Law*, "In enforcing the law there are three elements that must be taken into account, namely legal certainty, expediency and justice." Legal certainty is the basis for a country in implementing applicable laws or regulations. Sudikno Mertokusumo interprets "Legal certainty is protection for justice seekers against arbitrary actions, which means that someone will be able to obtain something they hope for in certain circumstances. "The community hopes for legal certainty because with legal certainty the community will be more orderly."

Legal certainty is a country's legal instruments that are able to guarantee the rights and obligations of every citizen. A legal instrument is a rule that must be obeyed by every citizen, so the state must consider it carefully so that the legal instrument is able to guarantee the rights and obligations of every citizen so that the existence of these citizens is protected. The embodiment of legal certainty in a legal state is written regulations, in this case laws. Legal implications of an object that is not designated as a cultural heritage in Law Number 11 of 2010 concerning Cultural Heritage, namely an object that is not designated as a cultural heritage based on the theory of legal certainty does not receive legal protection because cultural heritage is protected if it has received a determination from the government.



D. CONCLUSION

Legal implications of an object that is not designated as a cultural heritage in Law Number 11 of 2010 concerning Cultural Heritage, namely an object that is not designated as a cultural heritage based on the theory of legal certainty does not receive legal protection because cultural heritage is protected if it has received a determination from the government.

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