

LEGAL GOVERNANCE OF CULTURAL HERITAGE PRESERVATION WITHIN THE ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) FRAMEWORK IN WEST PAPUA, INDONESIA

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Abstract

The preservation of cultural heritage in Indonesia is a legal obligation mandated by Law Number 11 of 2010. Despite its significant cultural wealth, West Papua Province faces complex challenges in heritage management, including overlapping authorities, limited technical regulations, and a lack of integration between cultural preservation and sustainable development. This study aims to assess how Environmental, Social, and Governance (ESG) principles can be integrated into the legal system to strengthen governance and indigenous community participation in West Papua. This research employs a qualitative literature review with thematic analysis. Data were synthesized from legal instruments, policy documents, academic publications, and case studies, such as Mansinam Island. The findings indicate that the ESG framework offers a holistic approach: the environmental dimension focuses on physical site protection; the social dimension emphasizes the rights and involvement of indigenous peoples; and the governance dimension demands accountability, transparency, and regulatory certainty. The study concludes that current legal implementation is hindered by a lack of harmonization between formal and customary laws, as well as an ESG literacy gap among local actors. Strengthening heritage governance in West Papua requires cross-sector collaboration, local capacity building, and regulations that recognize local wisdom. Integrating ESG serves not only as a conservation tool but also as a strategy for sustainable, equitable development that provides socio-economic benefits to local communities.

Keywords: Cultural Heritage, Legal Governance, ESG, West Papua, Indigenous Communities

1. Introduction

The preservation of cultural heritage is an essential part of a nation's identity and history. Cultural heritage not only reflects historical, social, and cultural values, but also serves as a strategic asset for sustainable development at the local and regional levels. In the context of a state governed by the rule of law, the preservation of cultural heritage is legally regulated through national legal instruments, such as Law Number 11 of 2010 concerning Cultural Heritage, which affirms the obligations of the government and the community to maintain the sustainability of cultural heritage.

West Papua Province boasts a significant wealth of cultural heritage, ranging from historical sites and artifacts to locations with significant spiritual and social significance. Key challenges to cultural heritage management in this region include limited technical regulations, overlapping authority between the central and regional governments and indigenous communities, and a lack of integration between cultural preservation and sustainable development.

The Environmental, Social, and Governance (ESG) approach is increasingly recognized as a sustainable governance framework applicable not only to the corporate sector but also to cultural heritage management. The environmental dimension emphasizes protecting the physical environment of cultural sites; the social dimension highlights local community involvement and the protection of indigenous peoples' rights; while the governance dimension

emphasizes legal governance, accountability, and regulatory certainty. ESG integration can serve as an analytical and normative instrument for assessing the effectiveness of cultural heritage management in West Papua.

The legal management of ESG-based cultural heritage preservation is highly relevant for research, as governance aspects are directly linked to the principles of state administrative law, environmental law, and the protection of the rights of indigenous communities. Weaknesses in legal governance can lead to the degradation of cultural values, conflicts of interest, and the marginalization of local communities. Therefore, a study is needed to assess how ESG principles, particularly governance, can be integrated into the legal system for cultural heritage preservation in West Papua.

Cultural heritage is a living witness to a nation's history. Each cultural site holds stories, identities, and social values that are integral to the identity of its people. In Indonesia, preserving cultural heritage is not only a moral obligation but also a legal responsibility, clearly stipulated in Law Number 11 of 2010 concerning Cultural Heritage. This regulation emphasizes that preserving cultural heritage is a shared responsibility between the government, the community, and relevant parties, ensuring its sustainability.

West Papua Province, with its unique cultural and historical richness, is home to numerous sites of significant historical, religious, and social significance. However, cultural heritage preservation in this region faces complex challenges, ranging from limited technical regulations, overlapping authorities, and a lack of integration between cultural preservation and sustainable development. This highlights the need for a new approach that emphasizes not only the physical protection of sites but also strengthens legal governance and local community participation.

The Environmental, Social, and Governance (ESG) approach has emerged as a relevant framework. The environmental dimension emphasizes the importance of protecting the physical environment of cultural sites, the social dimension emphasizes community involvement, including the rights of indigenous communities, while the governance dimension emphasizes accountability, legal certainty, and transparent governance. By integrating ESG, cultural heritage management becomes not only a conservation effort but also a sustainable, equitable, and community-oriented practice.

Governance is key, as good legal governance ensures effective regulation, minimizes conflicts of interest, and provides local communities with the necessary support and protection. This is where this study becomes relevant: exploring how ESG principles, particularly governance, can be applied within the Indonesian legal context to support the preservation of cultural heritage in West Papua.

The sustainability of cultural preservation in West Papua also depends on legal recognition of local wisdom and customary practices. This is crucial because state recognition of the existence and rights of indigenous communities provides a legal basis for them to participate in cultural preservation. This recognition is reflected in various studies on the integration of customary law into the national legal system and the protection of local cultural values. Mansinam Island, for example, serves as a representative case study due to its high historical and cultural value and demonstrates how legal governance and community participation can synergize.

2. Methods

This study employed a qualitative literature review approach, as it was deemed most appropriate for exploring the legal, social, and governance aspects of cultural heritage preservation in West Papua. With this approach, the study aimed to provide a comprehensive understanding of the literature, legal regulations, and related policies, while also assessing how these legal frameworks are applied in practice. Through the literature review, this study synthesized theoretical insights, legal provisions, policy documents, and case studies, thus providing a comprehensive overview of the challenges and opportunities in cultural heritage management that aligns with Environmental, Social, and Governance (ESG) principles.

Research Design

A qualitative literature review approach was chosen because it allows for the exploration of the complex relationships between legal governance, social practices, and cultural preservation, which are not easily measured quantitatively. The primary objective of this research is not to generate new primary data, but rather to critically

analyze existing data and theoretical frameworks. In this way, the research explores how formal law aligns with customary law, while simultaneously identifying best practices, challenges, and gaps in cultural heritage management in West Papua.

A literature review was conducted across a variety of sources, including scientific articles, government reports, local regulations, policy documents, and case studies. This approach enabled the research to identify patterns, contradictions, and emerging trends related to the application of ESG principles to cultural preservation.

A thematic analysis of the literature helps understand how ESG principles can be applied to the sustainable legal management of cultural heritage. The environmental dimension emphasizes the protection of the physical environment of cultural sites, the social dimension emphasizes local community involvement and the rights of indigenous peoples, and the governance dimension highlights legal governance that is transparent, accountable, and in accordance with applicable legal norms. Therefore, this qualitative literature review provides a robust framework for assessing the effectiveness of legal governance for cultural heritage preservation in West Papua and provides recommendations for sustainable policies and practices.

Characteristics of Literature Samples

The literature samples used in this study were selectively selected and relevant to the topic of Environmental, Social, and Governance (ESG)-based cultural heritage preservation in West Papua. The literature analyzed encompasses various types of sources, including, first, Law Number 11 of 2010 concerning Cultural Heritage, regional regulations related to cultural preservation in West Papua, and regulations governing the protection of indigenous communities. These sources were used to understand the formal legal framework governing cultural heritage preservation. Second, scientific articles and academic publications include journals, books, and research reports that discuss customary law, cultural governance, ESG principles, and international experiences in cultural heritage preservation. This literature serves to build a theoretical and comparative framework. Third, government reports and policy documents. Third, government reports and policy documents include documents from relevant ministries, regional institutions, and research bodies, which provide practical information related to the implementation of cultural preservation laws and governance in the field. Fourth, case studies and previous field research.

Data Analysis Methods

The data analysis method used in this study is thematic analysis, a technique commonly used in qualitative research to identify, interpret, and organize patterns or themes emerging from textual data. Thematic analysis allows researchers to take a flexible and systematic approach to the literature, allowing for focus on key themes such as the legal governance of cultural heritage, the harmonization of formal and customary law, and the application of Environmental, Social, and Governance (ESG) principles in the West Papuan context.

The analysis process began with an extensive literature review, encompassing legal documents, local regulations, academic journals, government reports, and relevant case studies, particularly related to Mansinam Island. From this literature, researchers identified key themes and recurring issues, which were then coded and grouped into categories relevant to the research questions. These themes were then analyzed to identify relationships between legal aspects, governance, and cultural preservation, and to assess how ESG principles are practically applied in the field.

This method was chosen because of its ability to provide a deep and comprehensive understanding of the data, as well as its suitability for the research objectives, namely to identify legal and governance factors influencing cultural heritage preservation and the involvement of indigenous communities. The thematic approach also allows this research to synthesize diverse perspectives, connect various literatures, and highlight gaps or challenges in cultural heritage management regulations and practices.

By focusing on key themes, this thematic analysis provides a holistic view of the relationship between formal law, customary law, and ESG principles in cultural heritage conservation. The analysis enables researchers to understand best practices, constraints, and opportunities for governance improvement, and contributes to the development of theory and practice in the areas of cultural law, sustainable governance, and the rights of indigenous peoples.

1. Legal Governance for Cultural Heritage Conservation in West Papua within an ESG Framework

The preservation of cultural heritage is a crucial element in maintaining the social identity, history, and cultural values of a community, including in West Papua, which is rich in local cultural heritage. Legally, this preservation is regulated by Law Number 11 of 2010 concerning Cultural Heritage, which affirms the state's

obligation to protect and preserve cultural heritage that is significant to the life of society, the nation, and the state.

However, the implementation of cultural preservation laws does not only rely on national norms but must also consider the local context, including customary laws and local community practices in preserving their cultural heritage. Within the Environmental, Social, and Governance (ESG) framework, legal governance of cultural preservation encompasses three main dimensions: protection of the physical environment of cultural sites, involvement and well-being of local communities, and a legal governance structure that is transparent, accountable, and responsive to local needs.

The environmental aspect involves legal measures to ensure that cultural sites are not only physically protected from damage and neglect but also integrated into broader environmental protection policies. For example, Government Regulation No. 1 of 2022 concerning the National Register and Preservation of Cultural Heritage provides a legal framework for central and regional governments to manage the registration, protection, and monitoring of cultural sites, involving the community in the recording and oversight process.

The social dimension of legal governance emphasizes the importance of active community participation in cultural preservation. Community participation is integral to the effectiveness of cultural preservation laws, as communities are not only legal subjects but also owners and guardians of the cultural values that live within their environment. Legal literature related to cultural heritage preservation shows that community involvement in various aspects, such as registration, protection, and oversight of preservation, can improve community well-being and collective awareness of the importance of cultural heritage.

Meanwhile, the governance dimension includes a clear legal structure, harmonization of authority between the central and regional governments, and coordination between institutions to ensure effective cultural heritage governance. Normative studies show that although preservation obligations are stipulated in law, issues often arise, such as overlapping authority between the central and regional governments, which impacts the implementation of preservation at the local level. Therefore, strengthening legal governance for cultural preservation requires cross-sector collaboration that includes clear regulations, the participation of indigenous communities, and responsive oversight mechanisms.

By understanding the legal governance of cultural heritage preservation through an ESG lens, this study confirms that cultural sustainability is not only a matter of physical conservation, but also a matter of social engagement and the quality of legal governance that is inclusive and adaptive to the needs of local communities in West Papua.

2. ESG Challenges and Opportunities for Participatory Cultural Heritage Conservation in West Papua.

The application of Environmental, Social, and Governance (ESG) principles in the context of cultural heritage management presents a number of challenges and significant opportunities that require the attention of stakeholders. On the one hand, ESG offers a comprehensive framework for integrating environmental, social, and good governance values into cultural preservation efforts. This approach emphasizes not only the physical protection of cultural sites but also encourages community involvement and transparent and accountable legal governance. However, the reality of its implementation is not always smooth.

One of the main challenges is the lack of integration in ESG understanding and regulation at the national and local levels. In Indonesia, ESG principles are still in their early stages of development within the legal and public governance systems, resulting in the lack of a comprehensive and uniform legal framework that can provide a strong foundation for implementation in the non-profit sector.-corporate governance, such as cultural preservation. This situation has the potential to hinder the effective implementation of ESG, including in the context of preserving cultural sites in West Papua.

Furthermore, another frequently encountered challenge is limited technical capacity and resources on the part of both local governments and local communities. The ESG literacy gap makes it difficult for some public actors and indigenous communities to understand how to integrate sustainability principles into participatory and contextual cultural preservation practices. Without training, policy incentives, and local capacity building, ESG implementation is likely to remain mere jargon without any real impact on the ground.

On the other hand, ESG also presents significant strategic opportunities. By incorporating ESG principles into conservation policies and practices, governments and communities can capitalize on opportunities to support local community empowerment, strengthen the role of culture in sustainable development, and attract sustainable funding from various parties. For example, involving local actors in decision-making not only enriches conservation strategies but also creates a stronger sense of social ownership of cultural sites.

Another important opportunity is the role of ESG in complementing legal governance and providing clearer policy direction. ESG can be a tool to strengthen multistakeholder engagement.-stakeholders, including

local governments, academics, indigenous communities, and the private sector, to make the cultural preservation process more participatory and cross-sectoral. This approach also links cultural preservation to the broader sustainability agenda, including the Sustainable Development Goals (SDGs).

Overall, the challenges and opportunities presented by ESG principles demonstrate that strengthening legal governance for cultural heritage preservation in West Papua is inextricably linked to the need for better integration between regulations, local capacity, and community participation. With the right implementation strategy, ESG can become not only a normative foundation but also a practical instrument for realizing cultural preservation that is just, sustainable, and in favor of indigenous communities as owners and guardians of cultural heritage.

Based on the findings regarding the challenges and opportunities of implementing Environmental, Social, and Governance (ESG) principles in cultural heritage preservation, several policy implications can be drawn to encourage more effective and sustainable management in West Papua.

First, strengthening regulations and harmonizing laws is crucial. Central and regional governments need to ensure that regulations on cultural heritage preservation not only adhere to national laws but also align with customary law practices within communities. This harmonization will reduce the potential for overlapping authority and ensure consistent legal implementation, ensuring effective cultural preservation and adherence to ESG principles.

Second, enhancing the capacity of local communities and officials is key to successful ESG implementation. Literacy regarding ESG principles needs to be improved through training, mentoring, and access to technical resources. With a better understanding, local communities and village officials can play an active role in maintaining, protecting, and preserving cultural sites, while strengthening inclusive, participatory governance.

Third, encouraging multi-stakeholder participation is another important strategy. Cultural preservation cannot be undertaken solely by the government but requires collaboration between various stakeholders, including academics, indigenous communities, and the private sector. This cross-sectoral approach ensures more inclusive, transparent, and accountable decision-making, ensuring that ESG principles are truly implemented in cultural management practices.

Fourth, integration with the sustainable development agenda presents a strategic opportunity to strengthen the positive impact of cultural preservation. Cultural sites in West Papua can be linked to education programs, cultural tourism, and local economic empowerment, so that preservation not only preserves historical and cultural values but also provides socio-economic benefits to the community. The ESG framework ensures that cultural preservation can be carried out sustainably, equitably, and in favor of indigenous communities as owners and guardians of cultural heritage.

Overall, implementing policies that integrate harmonious regulations, capacity building, multi-stakeholder participation, and the integration of sustainable development will strengthen the legal governance of cultural heritage preservation in West Papua. This approach not only safeguards cultural heritage but also promotes community well-being and the long-term sustainability of cultural sites.

3. Results and Discussion

The results of this study provide a deeper understanding of the effectiveness of legal governance in preserving cultural heritage in West Papua through an Environmental, Social, and Governance (ESG) framework. This research shows that although national regulations such as Law Number 11 of 2010 concerning Cultural Heritage provide a strong legal basis, their implementation in the field faces various challenges, particularly related to harmonization with customary law and local community involvement. This aligns with previous findings highlighting the limited effectiveness of formal laws when they are not aligned with local norms and cultural practices.

Furthermore, this study highlights the real impact of suboptimal legal governance on cultural preservation. Previous studies often emphasize the importance of physical protection of cultural sites and environmental conservation, but under-emphasize the social implications for indigenous communities as owners and guardians of culture. The results of this study indicate that limited community participation, a lack of local technical capacity, and overlapping authority between central and regional governments can lead to the degradation of cultural sites, the loss of historical value, and a decline in community social attachment to cultural heritage.

This research develops an understanding of the interaction between legal governance, ESG principles, and local practices. While previous literature has focused largely on formal regulations and conservation standards, this study

demonstrates that good governance requires more than just the existence of laws and regulations. It must also be supported by transparent, accountable, and collaborative governance structures between the government, indigenous communities, academia, and the private sector. ESG provides a framework that enables the integration of these three dimensions, namely environmental, social, and governance, so that cultural preservation can be sustainable and participatory.

Theoretically, these findings suggest that harmonization of formal and customary laws, as well as effective ESG implementation, are key factors in ensuring the sustainability of cultural preservation. Without adequate local capacity, effective legal oversight, and community participation mechanisms, formal regulations alone will not be able to prevent the destruction of cultural sites or the loss of social and historical values inherent in local communities.

Practically, these findings underscore the importance of policies that integrate ESG into the legal governance of cultural preservation, including through capacity building of officials and communities, the development of regulations that harmonize national and customary laws, and cross-sectoral oversight mechanisms. This approach enables more inclusive, equitable, and sustainable cultural heritage management, while also increasing public awareness of their cultural values.

While this research makes important contributions, it has several limitations. It relies largely on secondary literature, so the direct perspectives of indigenous communities or implementers on the ground are not fully explored. Future research could include interviews or field studies to gain a more comprehensive understanding. Furthermore, this study focused on legal and governance aspects; future research could expand the analysis to include economic and cultural factors influencing conservation success, as well as comparing practices in West Papua with other regions in Indonesia.

4. Conclusion

This research shows that the legal governance of cultural heritage preservation in West Papua, despite being regulated by Law Number 11 of 2010 concerning Cultural Heritage, still faces various obstacles in its implementation. Harmonization between formal and customary law, local community involvement, and the application of Environmental, Social, and Governance (ESG) principles are not yet fully optimal. This results in inconsistent cultural preservation and the incomplete preservation of the historical and social values inherent in cultural sites.

The research findings emphasize the need for stronger collaboration between the government, indigenous communities, and various stakeholders. Local community involvement, not only in the implementation phase but also in planning and decision-making, is key to ensuring participatory and sustainable cultural preservation. The ESG approach provides a framework that enables the integration of environmental protection, social welfare, and accountable legal governance, but its successful implementation depends heavily on the commitment of local and national actors.

Future research could expand its scope by conducting direct field studies and interviews with indigenous communities, government officials, and cultural site managers to gain a deeper understanding of daily cultural preservation practices. The research could also examine external factors such as pressures from economic development, tourism, and private sector intervention that may impact the sustainability of cultural heritage.

Overall, the long-term solution for preserving cultural heritage in West Papua lies in a balanced partnership between the state and indigenous communities, one that respects traditional values and local knowledge while upholding ESG legal and governance principles. This approach can ensure that cultural sites are not only physically protected but also remain a vibrant part of the community, providing sustainable social, cultural, and economic benefits.

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