



Establishing Regional Regulations for the Protection of Local Wisdom

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Abstract

Local governments structure legislation into a policy rule regarding the protection of local wisdom that must be carried out due to globalization. Globalization is something that cannot be avoided. Its influence can become a problem or negatively impact fading cultural identity if the community wrongly addresses it. This is different if the community and local government can respond positively to globalization because this can increase the community's cultural identity. This paper focuses on the study of how local government policies maintain cultural traditions as a pearl of local wisdom? and what is the paradigm of the local government in establishing regional regulations regarding the protection of local wisdom. The approach method utilized is a socio-legal or socio-juridical approach. This research was carried out in the city of Pariaman, West Sumatra. The research data, both primary and secondary data, were analyzed qualitatively. Based on the research result, the concrete paradigm of the Regional Government in protecting the values of local wisdom is a regional legislation on safeguarding indigenous culture as a Pariaman community's local wisdom. It can be interpreted that the Regional Regulation is a concrete agreement towards the ideal concept of protecting local wisdom in the Pariaman community. The ideal concept seen from the substantive values of protecting Local wisdom's worth in the Pariaman community must be founded on sociological, philosophical, and legal considerations. These three factors prioritize or rank the values within this local wisdom.

A. Introduction

The diversity of indigenous peoples represents a wide range of Indonesian cultures. As a country's ancient legacy, the Indonesian nation has a diverse range of traditions that provides rules for human behavior and actions.¹

To understand the behavior of indigenous peoples, an interdisciplinary approach is needed, primarily sociological and psychological approaches. This interdisciplinary approach is important to know and understand certain patterns called "way" or due to continuous interaction in society. G.A Theodorson & A.G Theodorson define "usage" as a uniform or customary way of behaving within a social group². Aligns with Soerjono Soekanto's statement that "usage" is a certain form of human behavior that is more prominent in interpersonal relations Hazairin also states this

*"...the Indonesian people generally have three kinds of ideals about the perfection of it in society, ideals that have become their flesh and blood, become the goal and clothing of their daily life, namely first spiritual cleanliness, which is deep in the word of God, the second is politeness in actions, in behavior, in temperament, which is in the word adat, and the third is unity, hospitality, in speech and speech which is in language."*³

Customary law, as unwritten law, emerges and arises in society through the cultural mindset of the Indonesian people, which contrasts with the mindset of the Western judicial system. In this regard, Soepomo said that to fully comprehend the customary legal system, it is necessary to have a basic understanding of the Indonesian people's mindset.⁴ This customary law, according to the Indonesian nation's mind preserved. In today's logic, customary law originates from continuous "usage." The "usage" continuously carried out is sourced from the order of values the community holds. This value order is formed from the relationship between people (in the community), the social environment, and its ecosystem. These continuous relationships form an orderly pattern and create the obligation to obey them (there is an opinion *juris sive necessitatis*) by the community, thus it becomes customary law. The presence of this customary law predates the Republic of Indonesia's 1945 Constitution.

In Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), it has been regulated that "Customary law community units and their traditional rights are recognized and respected by

¹Amir MS, *Adat Minangkabau Pola dan Tujuan Hidup Orang Minang*, 1999, Jakarta, PT Mutiara Sumber Widya, hal. 73.

²A uniform or customary way of behaving within a social group means: a uniform or customary way of behaving within a social group

³Soerjono Soekanto and Soleman B. Taneko, *Hukum Adat Indonesia* (Jakarta: Raja Grafindo Persada, 2002) p. 79-80.

⁴Lastuti Abubakar, "Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia," *Jurnal Dinamika Hukum* 13, no. 2 (2013): p. 320.

the state as long as they are alive and in line with community growth and values. The Republic of Indonesia's Unitary State, as defined by law". The original substance P shows that the protection of the rights of indigenous and tribal peoples in Indonesia is recognized and needs to be preserved both from tradition. In addition, this origin also makes indigenous peoples legal subjects in the state. The formulation of Article 18 B paragraph (2) of the 1945 Constitution is also in line with Article 32 paragraph (1) of the 1945 Constitution, stating that the state promotes Indonesian national culture in the middle of the global civilization by ensuring the independence of the community in nourishing and developing its values of culture.

The existence of customary law as unwritten law is also formulated in MPR Decree No. III of 2000 concerning Sources of Law and Order of Legislation. Article 1 paragraph (2) of the MPR Decree asserts that "legal sources consist of written and unwritten legal sources." Article 67 of Law No. 39 of 1999 concerning Human Rights also regulates this. People living on the Republic of Indonesia's territory must follow legislative rules, unwritten laws, and international human rights legislation. Human beings authorized by the Republic of Indonesia".

The preamble of the Draft Law on the Recognition and Protection of the Rights of Indigenous Peoples declares that the country acknowledges and honors the unity of Indigenous peoples and their traditional rights as long as they are still alive and in the light of the society's development and the principles of the unitary State of the Republic of Indonesia, further demonstrates the importance of the recognition and protection of indigenous peoples and their cultures. This aims to make the customary law community a special legal subject after all the interests of the customary law community are accommodated in national Regulation.

The Regulation of the existence of customary law communities can only be recognized if four conditions are met, namely:

- a. The customary law community is still alive,
- b. In accordance with the development of society,
- c. In accordance with the principles of the unitary state of the Republic of Indonesia and
- d. Its existence is regulated by law.

This requirement is a normative juridical benchmark that the national government must consider to recognize the presence of indigenous peoples. It is clear here that this condition implies that the state's interests must always come first. The problem is that the state's interest is interpreted as the "recognition" that must be requested by the members of the orthodox law community themselves. The application will result in the burden of proof being imposed on the presence of customary law communities. Meanwhile, the power to admit or not acknowledge what was done is solely in the national authorities' hands, who are in the center of power. With this policy, it is very

unlikely that customary law communities that are unique and autonomous from the start will immediately and easily gain recognition and protection.⁵

This protection and maintenance are increasingly important when it is associated with the era of globalization, which creates the potential for cultural fading, including the value of the local wisdom tradition of an area if the community is not wise in understanding the importance of preserving and protecting the culture, customs or traditions of the local wisdom.

Protecting the value of traditional marriage traditions in indigenous peoples must be based on the justification that can be accounted for. These foundations are 3 basic legal values, which are justified from a philosophical standpoint, justified from a juridical standpoint, and justified from a sociological standpoint, according to what was stated by Gustav Radbruch. The justification of the 3 basic legal values may be identified by the table below:⁶

Table 1. The Concept of Protecting the Value of Traditional Marriage Traditions in 3 Foundations

Theoretical Basis		
Philosophical /Contained Values	Sociological /Facts in society	Juridical /Legal basis
a. Noble values in merging 2 (two) families into one family in the customary marriage tradition	a. There has been a shift in values in imposing Indigenous traditions on Indigenous peoples due to the impact of globalization.	a. Article 18B paragraph 2 of 1945 Constitution b. Article 32 paragraph 1 of the 1945 Constitution c. MPR Decree No. III of 2000 concerning Sources of Law and Order of Legislation
Theoretical Basis		
Philosophical /Contained Values	Sociological /Facts in society	Juridical /Legal basis

⁵ R Yando Zakaria, "Strategi Pengakuan Dan Perlindungan Hak-Hak Masyarakat (Hukum) Adat: Sebuah Pendekatan Sosio-Antropologis," *BHUMI: Jurnal Agraria Dan Pertanahan* 2, no. 2 (2016): p. 133.

⁶ Yenny Febrianty, *Perkawinan Bajapuik Menantang Nilai-Nilai Tradisional Dalam Dinamika Hukum Dan Globalisasi* (Yogyakarta, 2020), Genta Publishing. p. 11

<p>b. <i>Adat basandi syara' syara' basandi kitabullah.</i></p> <p>c. Men are honored as people who are invited to become <i>sumando</i> people.</p> <p>d. The values of cooperation and kinship.</p>	<p>b. The role of the <i>ninik mamak</i> has weakened due to the strengthening role of the father in carrying out his son's marriage.</p>	<p>d. UU no. 1 of 1974 concerning Marriage</p> <p>e. Article 67 Law no. 39 of 1999 concerning Human Rights</p> <p>f. Law No. 23 of 2014 concerning Regional Government</p> <p>g. Constitution no. 5 of 2017 concerning the Advancement of Culture</p> <p>h. Minister of Home Affairs regulations No.52 of 2007 concerning Guidelines for the Preservation and Development of Community Customs and Socio-Cultural Values</p> <p>i. Article 1 point 4 Minister of Home Affairs regulations No. 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples</p> <p>j. Minister of Home Affairs regulations No. 5 of 2007 concerning Preservation and Development of Customs</p> <p>k. Minister of Home Affairs regulations No.39 of 2007 concerning Preservation and Development of Regional Culture</p>
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		<p>l. Article 7 paragraph 1, and Article 16 Minister of Home Affairs regulations No.44 of 2016 concerning Village Authority</p> <p>m. Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration No.11 of 2019 concerning Priority for the use of Village Funds</p> <p>n. Minister of Home Affairs regulations No. 18 of 2018 concerning Village Community Institutions and Village Institutions</p> <p>o. West Sumatra Regional Regulation No. 6 of 2014 concerning strengthening traditional institutions and preserving cultural values.</p>
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According to A. Safril Mubah, mistakes in responding to globalization can result in the fading of national identity and local culture. Mistakes in formulating strategies to maintain Indonesian identity and culture can also result in unique Indonesian values being increasingly abandoned by people who are now increasingly addicted to the culture brought about by globalization. This is the biggest problem in the relationship between globalization and Indonesian identity in the present era. Therefore, revitalizing Indonesian cultural identity is an important and urgent step. Accurate strategies need to be formulated to maintain tradition.⁷

⁷ Muhammad Rizal Syawal and Ernawati Hendrakusumah, "Revitalisasi Desa Adat Budaya Hibua Lamo Di Desa Kakara Lamo Kabupaten Halmahera Utara," *Jurnal Riset Perencanaan Wilayah Dan Kota*, 2023, p 21.

Post-Globalization (1990) saw the emergence of new global discourses that influenced the consciousness of the world's people in the country and state. The conversation encompasses the following topics:

- a. Democracy and human rights implementation;
- b. Environmental preservation;
- c. Labor standards improvement; and
- d. Expanding women's roles;
- e. Eradicating corruption and emphasizing moral ethics to realize good governance (clean government).

The five challenges stated here are gaining worldwide attention and are thought to be advancing toward the global community level, with communication technology serving as the primary catalyst. At a higher level, the notion of citizenship (socially) extends beyond being a national citizen to becoming citizens of the globe (global community). The inference does not rule out the potential that a government's hegemonic notions (subsequently thought to have public consent by its residents) might be appreciated anew by citizens of the nation in question after engaging with citizens of the globe. Multinational corporations, non-governmental organizations (NGOs), local governments, and even individuals are increasingly involved in deciding problems inspired by democratic awareness, such as democracy, social justice, gender, labor, and the environment. This understanding is subsequently packaged in legislation via state legislative procedures. So, the good part about globalization is that it accelerates the process of democracy in a nation, despite the difficulties it produces.⁸

Based on the description above, globalization cannot be avoided. Its influence can become a problem or negatively impact the form of fading cultural identity if the community misunderstands it. This is different if the community can respond positively to globalization because this can enhance the community's cultural identity.

Looking at the history of globalization, the values that come will not just be accepted but are always related to power and strength, both in science, technology, economy, and politics. Superior science and technology, established economic power, and their power and strength will facilitate the penetration of values in other societies where everything is weaker. Related to this, local community entities as cultural supporters will be unable to withstand globalization's homogeneity values without the government's support and facilitation.

The government has to promote ⁹Indonesian national culture in world civilization by ensuring the people's freedom to preserve and advance their

⁸FX Adji Samekto, *Revealing the Relationship of Capitalism, Democracy and Globalization (Study in the Perspective of Critical Legal Studies)*, Paper in Focus Group Discussion (FGD) Atmajaya University, Jogjakarta, 23 September 2010.

⁹Culture is everything related to creativity, taste, initiative, and the work of the community (Article 1 number 1 of Law No. 5 of 2017)

cultural values, as stipulated in Article 32 of the Republic of Indonesia's 1945 Constitution. Regional cultural variety is a source of richness and national identity vital to national culture's growth.

The responsibility for protecting the values of local wisdom is a shared responsibility. Functionally, traditional and cultural institutions have a role in preserving customary and cultural values in the community, and structurally the government has an important role in protecting customary and cultural values following their authority. The role of the government following its authority to preserve traditional and cultural values is an effort aimed at promoting culture. The important role of this government is to realize the ideals of the Indonesian people to become a society with a personality in culture. As a basis for protecting local wisdom, the government can do the following:

- a. Permendagri Number 52 of 2007 about Guidelines for the Development of Preservation of Community Socio-Cultural Indigenous Values.
 - 1) Chapter V Article (9); *“The Regent/Mayor Coordinates the Guidance and Supervision of Cross-Village/Kelurahan on the maintenance and growth of community practices and social and cultural values.”*
 - 2) Chapter VI Article (12) *“ Funding for the preservation and development of customs and socio-cultural values of the community comes from: Regional Revenue and Expenditure Budget (letter b)*
 - 3) Chapter I Article 1 paragraph (3) *Preservation is an endeavor to preserve and sustain the community's traditions and socio-cultural values, particularly the ethical principles, morals, and values at the heart of customs, habits in society, and traditional institutions so that its life is preserved and sustained.*
 - 4) Chapter I Article 1 paragraph (4) *“Development” is a planned, integrated and directed effort so that the customs and socio-cultural values of the community can develop following ongoing socio-cultural and economic changes.*
- b. West Sumatra Province Regional Regulation No. 6 of 2014 Concerning the Bolstering of Customary Institutions and the Preservation of Minangkabau Cultural Values.
- c. Pariaman City Regional Regulation Number 12 of 2013 concerning Guidelines for the Establishment of Pariaman City Community Institutions
- d. Law Number 5 of 2017 concerning the Advancement of Culture

Based on this, efforts to protect the culture of indigenous peoples, as well as to maintain the noble values embedded in local wisdom traditions and the government's paradigm in protecting the local wisdom. This is by Article 32 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.¹⁰

¹⁰Article 32 paragraph (1) of the 1945 Constitution; The state promotes national culture in the midst of global civilisation by ensuring people's freedom to preserve and develop their cultural values.

According to Article 18B paragraph (2) and Article 32 paragraph (1) of the Republic of Indonesia's Constitution of 1945, the state implicitly upholds the traditional values of local knowledge to maintain those values. On the other hand, in the development of pluralistic indigenous peoples, the position of local wisdom traditions has undergone social changes and values shift due to globalization's influence.

The problems identified to explore the focus of the study in this paper are as follows:

- a. What is the Regional Government's Policy for Maintaining Cultural Traditions as Local Wisdom?
- b. What is the paradigm of the Regional Government in establishing Regional Regulations regarding the protection of local wisdom?

This study follows the tradition of qualitative research, which is included in the flow of non-doctrinal or empirical research. This study is also included in socio-legal research, where interdisciplinary methods are used to determine how the law can be effective in society. Not just talking about normative understanding in legal texts. Therefore, this research emphasizes searching for data in the field where the relationship between the researcher and the object under study is equal (equality).

The law can be studied from a legal or scientific perspective, social sciences, or a combination. Socio-legal studies study law through the lens of the social sciences and law.¹¹

This study was carried out in the province of West Sumatra, precisely in Pariaman City. This study relied on primary and secondary data. Informant interviews were used to collect primary data or informants determined by a snowball, starting from the Regional Government, the Pariaman City DPRD, and Deputy Chair of the Pariaman City DPRD, Stakeholders of Customary Institutions and customary law communities in the Pariaman area.

This study relied on primary and secondary data sources. Primary data is information received directly in the minds of informants from the community through empirical data in the form of behavior and non-empirical data (symbolic meaning) that exists and underlies their behavior.

Primary legal resources, secondary legal materials, and tertiary legal materials are all examples of secondary data. Statutory rules are the principal legal substance employed. Key legal documents used in the study include the Republic of Indonesia's 1945 Constitution and any relevant laws and regulations. Secondary legal resources are those that give explanations for main legal documents, such as books, research findings, periodicals, and journals connected to cultural traditions based on local knowledge. For tertiary legal resources, dictionaries and encyclopedias are employed. *This study employed Black's Law Dictionary as a tertiary legal source.* To enrich the

¹¹ Fachrizal Afandi, "Penelitian Hukum Interdisipliner Reza Banakar: Urgensi Dan Desain Penelitian Sosio-Legal," *Undang: Jurnal Hukum* 5, no. 1 (2022): p. 136.

discussion, this study incorporates non-legal sources, such as works on politics, philosophy, culture, economics, and legal literature.

The novelty of this research is to analyze efforts to protect local wisdom in Pariaman customs through the local government paradigm in responding to local wisdom values contained in Regional Regulations as part of preserving the local culture that Pariaman indigenous peoples have fully held. The conceptualized Regional Regulation will be a substantial part of the application of law to fulfill the protection of the local wisdom of the community, as well as the role of the community and strong customary institutions.

B. Discussion

1. Regional Government Policies in Maintaining Cultural Traditions as Local Wisdom

Public policymaking must be based on law because Article 1 paragraph (3) of the Republic of Indonesia's 1945 Constitution states it is determined that "The State of Indonesia is a state of law." According to Immanuel Kant, the rule of law is one of the state's goals: The state must guarantee the order of the individuals who are its people. The individual legal order is the main requirement of a country's goals. The state aims to establish and maintain laws and guarantee its citizens' freedom and rights. The people must obey the laws made with their consent.

Kant sees the individual as an equal party to the state itself. Both the state and individuals are legal subjects who must view each other as each other, as parties with rights and obligations. This asserts that the state cannot view individuals as inanimate objects and have no rights."¹²

According to James E. Anderson, the policy is the conduct of a group of players (officials, organizations, government agencies) or actors in a certain sphere of activity.¹³ This understanding is related to Carl Friedrich's policy refers to the course of action advocated by a person, organization, or government in a specific environment that gives barriers and chances for the proposed policy to exploit and overcome to attain a goal or realize a specific aim or a goal.¹⁴

In this regard, Robert Eyestone defines public policy as "the connection of a government unit with its environment," consistent with Thomas R. Dye's statement that "public policy is anything the government decides to do and not do."¹⁵

¹² Didi Nazmi Yunas, *Konsepsi Negara Hukum* (Padang: Angkasa Raya, 1992).

¹³ Andi Cudai Nur and Muhammad Guntur, "Analisis Kebijakan Publik," *Makassar: Publisher UNM*, 2019.

¹⁴ Budi Winarno, *Kebijakan Publik Teori Dan Proses* (Yogyakarta: Media Pressindo, 2004) p. 16.

¹⁵ *Ibid*

Public policy and privacy policy are two types of policy. Public policy is a collective action taken by lawful government power to promote, restrict, prohibit, or regulate private conduct (private individuals or institutions). There are two fundamental features of public policy. First, government agencies create or process it or follow official regulations. Second, it is coercive or influences the private actions of the wider community (the public). On the other hand, a privacy policy is an action done by a person or private entity that is not coercive on other persons or institutions.¹⁶

Political activity in structuring legislation and policy regulations can be evident in various activities such as agenda setting, policy adoption, policy creation, policy assessment, and policy implementation. Meanwhile, problem formulation, policy proposals, forecasting, policy evaluation, and monitoring are more intellectual activities.¹⁷

Three activities must be completed while developing a policy agenda:¹⁸

- a. Create a sense among stakeholders that a phenomenon is a concern. Because it may be a symptom that some people perceive as an issue, but it is not deemed a problem by others or the political elite.
- b. Setting up problem limitations
- c. Get enough support to put the topic on the government's agenda. This support may be mobilized via social groupings, political forces, and mass media outlets, among other means.

Law grows and develops in society, and its existence is not as an independent institution but as an institution that cooperates with other institutions to achieve the goals set in public policy. To prevent the emergence of anomalies in regional government administration, the law may be utilized as a way to accomplish this aim since the law can theoretically do the following things:

- a. Law is a way to guarantee certainties and ensure predictability in the life of a society;
- b. Law is a way for the Government to apply its sanctions;
- c. Governments often use laws as a means to protect against criticism;
- d. The law may be utilized to allocate resources.¹⁹

Based on the above explanation, it can be said that the law may be utilized as a tool for public policy to achieve its objectives set through the political process. The main product of the political system is the law. Thus, the basis for making public policies by local governments in local government administration must be written and unwritten law.

¹⁶ Hermanto Suaib et al., *Pengantar Kebijakan Publik* (Humanities Genius, 2022) hal. 76.

¹⁷ Victor Imanuel Nalle, "Kedudukan Peraturan Kebijakan Dalam Undang-Undang Administrasi Pemerintahan," *Refleksi Hukum: Jurnal Ilmu Hukum* 10, no. 1 (2016): p. 6.

¹⁸ *Ibid*, p.19.

¹⁹ Bambang Sunggono, *Hukum Dan Kebijakan Publik* (Jakarta: Sinar Grafika, 1994). P.76-77

Copyright laws are difficult to enforce to protect culture. For this reason, it is necessary to establish a separate regulatory framework (*sui generis*) that regulates the preservation of traditional knowledge and cultural expressions. In addition, it is necessary to create arrangements that provide a clear legal basis (*legal standing*) for parties who will make demands against outside parties which are considered to have taken against the rights to the cultural heritage assets.²⁰

According to Jimly Asshiddiqie, the foundation for the development of laws must be represented in the "considerations" of law while looking at the technical aspect of the production of laws. In consideration, a law must have strong legal standards, which serve as the foundation for the legislation's legality:

- a. Philosophical basis. Laws always include legal rules cherished by society, towards which the lofty aspirations of state life are to be aimed.
- b. The sociological basis. Every legal norm established by legislation must reflect the community's requirements for legal norms consistent with public legal awareness.
- c. The political base. In contrast, the consideration must also characterize the presence of a constitutional reference system based on the 1945 Constitution's principles and fundamental norms as a source of basic policies or sources of legal politics that underpin the construction of the relevant legislation.
- d. Legal foundation. Its legal foundation must be included in the "in light of" examination in drafting any statute.
- e. Administrative foundation. This foundation includes references in the case of an administrative regulation order. Its premise is "facultative" (as required) because it is not included in all laws. The premise is frequently included in the "Paying attention to" concerns in the technicalities of legislation formulation.²¹

Suppose the five foundations are fulfilled in every process and substance of the formation of legislation. In that case, the fundamental law produced will presumably become good, quality, and sustainable.²²

Good laws or regulations are regulations that adopt all the inspiration of the community with the development of existing cultural globalization without leaving the noble values or identity of the culture as local wisdom.

²⁰ Dyah Permata, "Perlindungan Dan Pengelolaan Budaya Lokal Di Kota Yogyakarta," *Jurnal Kajian Hukum* 1, no. 1 (2016). p. 15

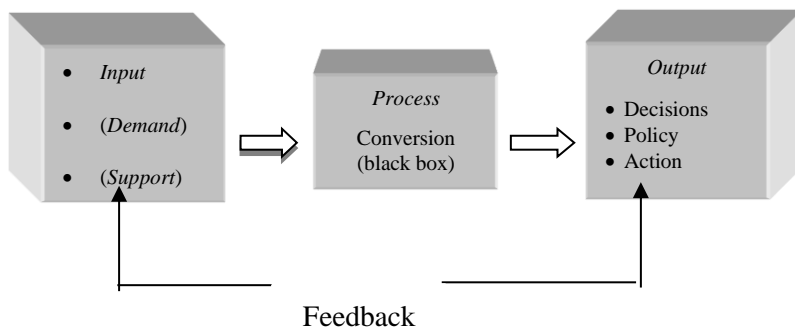
²¹ Jimly Asshiddiqie, "Pengantar Ilmu Hukum Tata Negara Jilid I," *Sekretariat Jenderal Mahkamah Konstitusi Republik Indonesia* 1 (2006): 200, www.jimly.com/pemikiran/getbuku/4.

²² Yuliandri, *Asas-Asas Pembentukan Peraturan Perundang-Undangan Yang Baik (Gagasan Pembentukan Peraturan Perundang-Undangan Yang Berkelanjutan)* (Jakarta: PT Raja Grafindo Persada, 2011).

This aligns with the system theory formulated by David Easton, explaining that the resulting policy results from converting inputs into demands and supports systematically processed by the political system to produce decisions or actions called *outputs*. Furthermore, Easton states that the model of the system is a public policy that is viewed as a response of a system of politics to the demands that arise from the environment.²³

A system must be able to govern conflict resolution and impose these solutions on the parties involved to transform demands into policy outputs. A system will defend itself in three ways, namely: first, producing reasonably satisfactory outputs; second, aware of the bonds rooted in the system itself; and third, using or threatening to use force (use of authority) since it is constructed on the parts that sustain the system and this is dependent on the relationships between the different subsystems.²⁴

Schematic 1. Public Policy System Adopted From David Easton²⁵



Starting from David Easton's thinking in the formulation of a public policy, it can also be accommodated in the formation of Regional Regulations as a concrete form of cultural protection by the local government regarding the traditional values of local wisdom in the Pariaman area, which focuses more on the first (input) demands, support and sources from local wisdom that exists in the Pariaman community, thus producing (output) a public policy as an effort to the function of local government in preserving the cultural values of local wisdom traditions so that the impact of globalization does not swallow them up. David Easton's view is supported by Eugen Ehrlich's view, which states that a new positive law would be efficient if it contains or is harmonious with the existing laws in society.²⁶

²³ Budi Winarno, "Kebijakan Publik, Teori, Proses, Dan Studi Kasus (Cetakan Kedua)," *Yogyakarta: Center of Academic Publishing Service, CAPS*, 2014. P. 98

²⁴Ibid, pp. 99-100

²⁵Ibid, page 101

²⁶ Muhammad Ridwan Lubis and Cut Nurita, *SOSIOLOGI HUKUM* (Mafy Media Literasi Indonesia, 2023).

2. The Paradigm of Local Government in Establishing Regional Regulations Concerning the Protection of Local Wisdom (Towards Regional Regulations for the Protection of Local Wisdom in Kota Pariaman)

Respects unity customary law communities and their traditional rights for as long as they are alive and in line with the development community within the Unitary State of the Republic of Indonesia.

Due to a shift in understanding and a decline in traditional and cultural values Minangkabau in Kota Pariaman is the result of various influences of globalization and it is demanded efforts to nourish traditional institutions and protect traditional and cultural values Minangkabau in Kota Pariaman the Regional Government has the responsibility and obligation to work for the protection of regional culture as well as to guarantee legal certainty for the preservation of regional traditional and cultural values in the context of implementing regional autonomy.

Strengthening Customary Institutions and Preserving Customs and Culture is an effort to protect, nourish and facilitate traditional institutions and preserve data and culture in Pariaman City. The objectives of strengthening customary institutions and preserving customs and culture are:²⁷

- a. Enhance the resources and compass of indigenous stakeholders;
- b. Increasing the role of traditional institutions in preserving cultural values in Nagari;
- c. Strengthening cultural values in people's lives;
- d. Preserving cultural values that already exist and apply so that they can be passed down from the current generation to future generations; and
- e. Protect existing and applicable cultural values so unauthorized parties do not lose or use them for bad interests.

Furthermore, the Chairperson of the Pariaman City DPRD explained that the preservation of Minangkabau cultural values in Pariaman was carried out to protect, preserve and evolve regional cultural identity. The Minangkabau cultural values in Pariaman City in question include:

- a. Children take a bath;
- b. Folklore ;
- c. Nagari children's traditional games;
- d. marriage process includes;
 - 1) sign weight,
 - 2) *babaua*,
 - 3) marrying *bajapuik*,
 - 4) *baretong*,
 - 5) *Bacapiang* night,

²⁷ Interview with Mulyadi, Deputy Chairperson of the Pariaman City DPRD, on April 1, 2022 at 10.00 WIB

- e. Traditional medicine;
- f. Traditional cuisine;
- g. Traditional architecture;
- h. Traditional clothes and fabrics;
- i. Nagari ;
- j. Traditional knowledge and technology;
- k. Traditional weapons;
- l. language and literature;
- m. Sako and pusako inheritance; and/or
- n. Values, norms, customs, and other traditions live in the middle of society.²⁸

Pariaman City Regional Government contributes to the long-term viability of local knowledge. The roles include:²⁹

a. Facility Role

The Pariaman City Government, preserving traditional and cultural values in Pariaman City and Regency, provides facilities to Traditional Institutions to maintain the preservation of traditional and cultural values in the Pariaman community. The facilities provided include: Facilitating Kerapatan Adat Alam Minangkabau Institution (LKAAM) and *Bundo Kanduang* in the implementation of the Work Meeting which discusses:

1). Implementation of Marriage Traditions and Culture

- a) The arrangement of the color of the wedding dress, namely in the work meeting, it was agreed that the color of the wedding dress was returned to the typical Minangkabau colors, namely Red, Yellow, and Black.
- b). Setting the color of the tent and aisle, it is agreed that the specific colors of Minangkabau are Red, Yellow, and Black.

2). *Ninik Mamak* and *Bundo Kanduang* clothes, it was agreed to propose to the Regional Government to instruct the village to budget for *Ninik Mamak* and *Bundo Kanduang* clothes through village funds (this has been realized, every village has budgeted for *ninik mamak* and *bundo* biological clothes through village funds).

3). *The Batagak Gala mechanism* is agreed upon for implementing the *Batagak Gala facilitated* by the Government. At least ten *penghulu* will be crowned.

b. The Role of Social Institutions

Pariaman City and Regency Governments have strengthened Social Institutions such as KAN LKAAM and *Bundo Kanduang* in the form of:

- 1) Capacity building through training started at the village level (using village funds) at the City and District levels through the APBD.

²⁸ Interview with Fitri Nora, Chair of the Pariaman City DPRD, on April 1, 2022 at 11.00 WIB

²⁹ Interview with Priyaldi, Secretary of LKAAM Kota Pariaman, 05 April 2022 at 13.00 WIB

- 2) Increased knowledge and experience through cooperative studies carried out annually within and outside the region.
- 3) Construction of KAN (Nagari Customary Density) Offices for every Nagari.
- 4) Procurement of wedding party equipment in each village (such as *Tabia, Tirai, Carano, Kampia Siriah, and Tambua Tasa*) through village funds strengthened by the Pariaman Mayor Regulation (Perwako).
- 5) Issuing a Perwako regarding village authority (in the Perwako there is village authority in the preservation of Traditional Institutions and the preservation of local wisdom) and then each village is ordered to make a Village Regulation on Village Authority which includes the authority to preserve local wisdom.

c. Regulatory Role

Preservation of the traditional values and culture of bajapuik marriage *has* not been made in a regional regulation. LKAAM was tasked with developing a set of local norms for the safeguarding of traditional wisdom, and the village government was ordered to make a Village Regulation containing the Preservation of Local Wisdom, namely:

- 1) Magrib Reciting Village Regulations
- 2) Village Regulations for Public Order and Security
- 3) Village Regulations for the Preservation of Traditional and Cultural Values.

Pariaman City Government is based on the Minister of Home Affairs Regulation Number 52 of 2007 concerning Guidelines for the Preservation and Development of Customs and Socio-Cultural Values. The community has carried out various policies in facilitating traditional institutions and other community institutions in Nagari and Villages/wards in the Pariaman area. And has also implemented various policies through Regional Regulations that regulate Socio-Cultural and Religious Values, such as the local regulations for Maghrib Koran, 12 years of compulsory education, Mandatory Reading and Writing of the Quran (local regulations Kota Pariamana No. 6 of 2009), and Regulations in the Order of Values. Socio-

Cultural Society/ PEKAT (local regulations No. 10 of 2013, concerning prevention, prosecution, eradication of community diseases and immorality).³⁰

Pariaman City Regional Government, other efforts made as recommendations to The Regional Government's role in preserving culture as the Pariaman community's local knowledge may be seen, among other things, in the table below:

³⁰Remarks from the Mayor of Pariaman (Genius Umar), At the Opening of the Training for the Development and Preservation of Minangkabau Natural Culture in Pariaman City 2018, at the Ananda Kp.Pondok Meeting Room, November 21 2018, pp. 2-3

Table 2. Activities for Cultural Protection as Local Wisdom as Recommendations³¹

No	Name of activity	Activity Purpose	Recommendation	Activity time
1	Pariaman <i>Batagak Gala</i>	Held in the context of preserving local wisdom for social leaders	Budgeted in the APBD	In 2015, Musda LKAAM and Bundo Kandang at the Pariaman City Government Hall
2	<i>Basiba</i> Shirt and <i>Taluak Balanggo</i> Shirt Competition Event	Preservation of <i>Basiba</i> 's <i>Kuruang</i> Shirt and <i>Balanggo Taluak</i> Shirt	To be accommodated for the <i>Kuruang Basiba</i> Shirt and <i>Balanggo Taluak Shirt</i> competition activities every year	Pariaman Mayor's Office, 2016 and 2017
3	Training for Strengthening the Mutual Nagari Customs	Understanding of the cultural customs of the Pariaman people	There needs to be a regulation on the preservation of the understanding of the adat of Mutuka Nagari	Held from 12 to 13 October 2018 at the Jaya Makmur bypass restaurant, Pariaman City, with participants from KAN

³¹Interview with Mr. Priyaldi, Secretary of LKAAM Pariaman City, on April 5, 2022 at 13.30 WIT

No	Name of activity	Activity Purpose	Recommendation	Activity time
				members and Community Leaders throughout Pariaman City and Padang Pariaman Regency, facilitated by the Culture Service of West Sumatra Province
	Socialization of the Utilization of Customary Land for Investment	Utilization of <i>ulayat</i> land is one of the local wisdom which are the communal rights of indigenous peoples.	<p>For the Regional Government to make regulations regarding <i>ulayat</i> land as cultural property, because <i>ulayat</i> land as cultural property and communal rights of adat law communities has only had social recognition, there is no proof of legal ownership other than the tax return.</p> <p>Also, the City Government and the private sector in investing are constrained by land or land in the Pariaman area which is <i>ulayat</i></p>	<p>August 28, 2019, at Safari In Hotel Kota Pariaman.</p> <p>The event was held by DPMTSP (Investment, Labor, and Licensing Office).</p>

No	Name of activity	Activity Purpose	Recommendation	Activity time
			land whose ownership is communally (owned by the tribe, belongs to the people, and belongs to the Nagari).	

In addition, regional rules, such as regional regulations, are required to maintain the Minangkabau people's culture, particularly the importance of local knowledge. Based on the findings of the author's interview sessions with several informants regarding the tangible form of local government's role in the preservation of Pariaman culture, the Pariaman indigenous community suggests the creation of a regional regulation that would include the Regional Regulation on the Protection of Pariaman Indigenous Culture as a Local Wisdom. The following table summarises the community's viewpoints:

Table 3. Community Recommendations Against Local Governments To Protect Pariaman Indigenous Culture (Bajapuk Marriage Tradition Values) As Local Wisdom³²

No	Respondent	Opinions on the Protection of Pariaman Culture and Customs	Recommendations / Suggestions
1	Fitri Nora Chairman of the DPRD Pariaman City	Strongly agree that local regulations for the following reasons strengthen local traditions and wisdom in Pariaman: 1). So that the traditions and culture that already exist and have been running in the community are maintained, 2). So that the role of ninik mamak in society gets recognition from the local	Regional Regulation on the Protection of Community Culture and Customs

³²Interview with Pariaman community and leaders, April 5, 2022, 10:00 am

No	Respondent	Opinions on the Protection of Pariaman Culture and Customs	Recommendations / Suggestions
		government because so far, what ninik mamak has done has only been based on group initiatives, 3). So that there is a strengthening of the role of ninik mamak in maintaining local sustainability, which has been inherited from generation to generation.	
2	Mulyadi Deputy Chairperson of the Pariaman City DPRD	Suppose the Regional Government strengthens local wisdom through regional or regional regulations. In that case, this can strengthen the partnership between <i>tali tigo sapilin</i> , <i>tigo sajarangan furnace</i> in implementing customs and culture.	Regional Regulation on Local Wisdom
3	Priyaldi Secretary of LKAAM Kota Pariaman	To protect local wisdom and traditional values that have grown and developed in the community, the function of ninik mamak must be strengthened and protect existing partnerships, namely <i>tigo sapilin rope</i> , <i>tigo sajarangan stove</i> , through regional regulations. Then there are the socio-cultural values embedded in the community's existing traditions and practices to	Regional Regulation on Protection of Culture and Customs of the Pariaman Community

No	Respondent	Opinions on the Protection of Pariaman Culture and Customs	Recommendations / Suggestions
		maintain their sustainability, which need to be protected by the local government through Regional Regulations. Such as the value of cooperation in <i>balance</i> and <i>batagak pondok</i> , the value of communication and social interaction through <i>babau</i> , the value of unity and unity in <i>baralek</i> , and the value of harmony in <i>manduo bitch</i> .	
4	Indra Samsu Head of Division. Pariaman City Government Law	The government must pay attention to local culture and wisdom. This attention is a form of coaching and strengthening through Regional Regulations.	Regional Regulation of Local Wisdom and Culture

Based on the description above, before the draft Regional Regulation is submitted to the Regional People's Representative Council (DPRD) from the executive (regional government). The regional regulations must have a solid foundation.³³ This foundation can be called the basis of the initiative because it is the basic reason used as a guide to explain the making of regional regulations. The initiative base is a standard for measuring the scope and breadth of the material limits for draft regional regulations, in addition to being a standard and guideline in drafting regional regulations.

The foundation of this initiative can also provide direction so that the material compiled does not conflict with the nation's philosophy, existing laws and regulations, and other positive legal regulations. Thus, the regional regulations get philosophical, juridical, and political support.³⁴ The Regional Government, in collaboration with the legislature, has adopted some Regional Rules governing community life and Salingka Nagari standard order. This is

³³ Yenny Febrianty and Agus Satory, "Peraturan Daerah Sebagai Bentuk Konkret Pemerintah Daerah Dalam Melindungi Nilai Tradisi Kebudayaan Masyarakat (Pariaman Sumatera Barat)," *PENERBIT FH UII PRESS*, 2021, 189.

³⁴Ibid

a joint obligation of the government, religious leaders, traditional institutions, and the younger generation (Tali Tigo Sapilin, Tungku Tigo Sajarangan). Nevertheless, it has not been executed optimally up until this point.³⁵

The government and the DPR RI must put unwritten laws into contesting national law to preserve Indonesian national identity amid emerging global legal flows and affecting the national legal system.³⁶

National identity in national law with Indonesian character is carried out by being receptive to customary and religious law. However, it should be remembered that the empowerment of customary law is carried out against its principles and principles, not the norm. Thus, state and customary law can coexist, complement, support, and not dominate or subordinate one another.³⁷

Thoughts about the nature of unwritten legal empowerment can only be done if the restrictions or conditions must be met by customary law or customary law communities, fulfill a sense of justice, are obeyed by the community and do not violate the rights of other parties.³⁸

Four (4) requirements to be able to include laws that live in the community into laws and regulations:

- a. Indigenous peoples must need it
- b. Fulfill the sense of justice
- c. Obeyed by indigenous peoples
- d. Does not violate the rights of others.³⁹

The Pariaman community can issue or stipulate a Regional Regulation only to protect customs and culture as local wisdom. No customary provisions are violated.⁴⁰

The protection of customs and culture, especially for the Pariaman community, has been seen in local government policies in budgeting, training, and seminars on culture and customs and making rules to protect and preserve Pariaman customs and culture. The rules that form the basis for the Pariaman City and Regency Regional Governments in mobilizing community participation in preserving Pariaman customs and culture are:

- a. 1945 Constitution of the Republic of Indonesia Article 18B paragraph 2

³⁵Interview with the Mayor of Kota Pariaman, Genius Umar, 21 November 2018

³⁶Benny Riyanto, remarks at the National Law Development Seminar organized by the National Legal Development Agency (BPHN) in Jakarta, Thursday (25/6/19) with the theme of *Empowering Unwritten Laws in the Grand Design of National Law Development*

³⁷I Nyoman Nurjaya, delivered in a seminar on the development of National Law organized by the National Legal Development Agency (BPHN) in Jakarta, Thursday (25/6/19) with the theme of *Empowering Unwritten Laws in the Grand Design of National Law Development*

³⁸Sukirno, delivered the seminar on the development of the National Law organized by the National Legal Development Agency (BPHN) in Jakarta, Thursday (25/6/19) with the theme of *Empowering Unwritten Laws in the Grand Design of National Law Development*.

³⁹Sukirno, delivered in a seminar entitled; Empowerment of Unwritten Law in the Grand Design of National Law Development, organized by BPHN, Jakarta, 27 June 2019, page 3

⁴⁰Interview with Mr. Mulyadi, Deputy Chairperson of the Pariaman City DPRD, April 5, 2022, at 10.00 WIB

- b. 1945 Constitution of the Republic of Indonesia Article 32, paragraph 1
- c. MPR Decree No. III of 2000 concerning Legal Sources and Order of Legislation
- d. Law No.39/1999 on Human Rights Article 67
- e. Law No. 5 of 2017 concerning the Advancement of Culture, Article 1 paragraph 2 and Part Two Article 24
- f. Minister of Home Affairs Regulation No. 5 of 2017 concerning Guidelines for Structuring Social Institutions
- g. Minister of Home Affairs Regulation No. 52 of 2007 concerning Guidelines for Community Socio-Cultural Indigenous Preservation Development.
- h. Minister of Home Affairs Regulation No. 53 of 2011 concerning establishing Regional Legal Products.
- i. Pariaman City Regional Regulation No. 12 of 2013 concerning Guidelines for establishing Pariaman City Community Institutions.
- j. West Sumatra Regional Regulation No. 6 of 2014 concerning Strengthening Customary Institutions and Preserving Minangkabau Cultural Values.
- k. Articles of Association/Budgets of West Sumatra LKAAM Chapter III Article 6 paragraph 5 (preserving Minangkabau customs and culture as a whole and bequeathing them to the next generation in a standardized manner).

Aspects that need to be considered in the formation of regulations as an effort to protect customs and culture are as follows:⁴¹

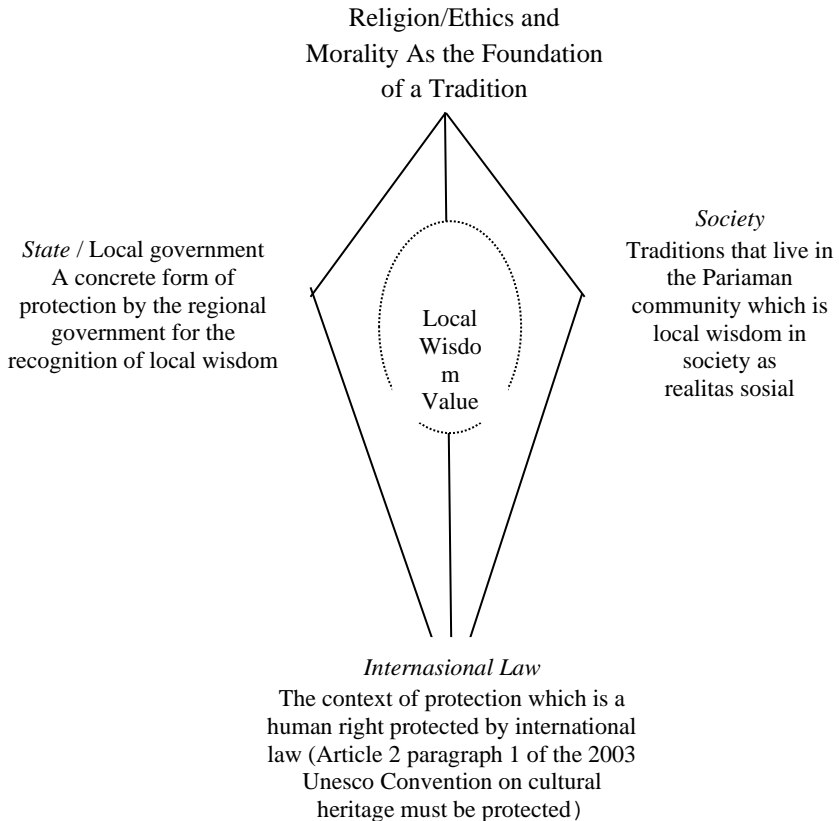
- a. Sociological aspects include processes passed from generation to generation and social recognition from the Pariaman indigenous people about a custom and culture as local wisdom.
- b. Juridical aspects include legality in forming regional government regulations that protect customs and culture during society.
- c. Operational Aspects or Foundations. The operational basis, in this case, is in the form of suggestions or opinions from the community, both from meetings, discussions, and seminars to promote introducing culture and customs.

Protection of traditional values from local wisdom in Menski's theory to realize a rule regarding the protection of local wisdom following the times without fading the essence of the noble values or moral messages contained in the tradition of local wisdom. State law in this case the Regional Regulation, is an alternative for preserving the traditional values of the Pariaman community's local wisdom. The substance of the rules from local wisdom This must be a rule created by the Pariaman community, then protected by the state for eternity and with due regard to the aspects of religion/ethics and morality,

⁴¹Interview with Fitri Nora, Chair of the Pariaman City DPRD, April 1, 2022, 13.00 WIB

and is a human right protected by international law. The above explanation can be illustrated in the following scheme:

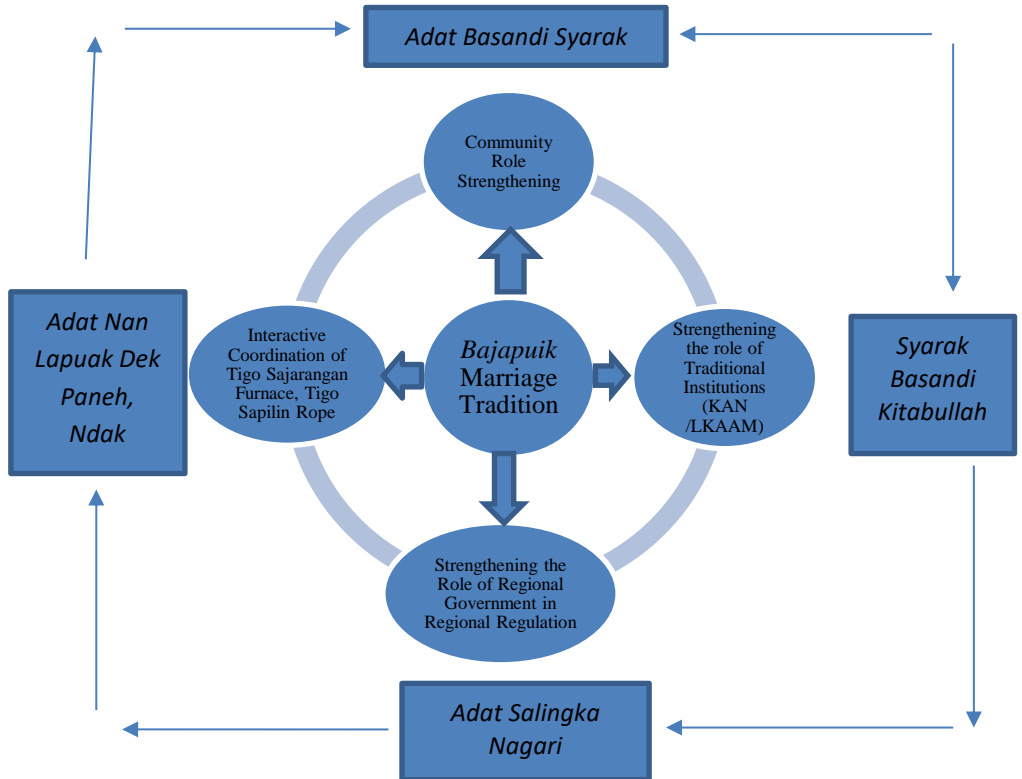
Schematic 2. Protection of Adapted Local Wisdom from Wener Menski



Utilization and implementation of the repertoire of local socio-cultural wisdom of the Minangkabau community, which is so important in the implementation of public service development, of course it should be an element of regional government administration as stated in Law Number 32 of 2004 which has been replaced by Law Number 23 of 2014 concerning Regional Governments in formulating activity programs in the implementation of development and improvement of public services can give

more attention and portions to the use of the values of local wisdom of the Minangkabau community as contained in existing customs.⁴²

Schematic 3. Building the Concept of Protecting the Value of the Bajapuik Marriage Tradition



C. Conclusion

Protecting local wisdom in an area for the future is to protect the substantive values of local wisdom through strengthening the role of indigenous peoples in Pariaman traditional institutions (furnace *tigo sajarangan*, *tali tigo sapilin*) and local government.

The core values of maintaining the value of local knowledge in the Pariaman community must be founded on philosophical, sociological, and legal considerations. These three factors rank or rank the values included in local knowledge.

The concrete paradigm of the Regional Government in protecting the values of local wisdom is a regional regulation on the preservation of

⁴² Erni Hastuti et al., "Local Wisdom Socio-Cultural of Minangkabau Society in Indonesia," *The International Journal of Social Sciences* 17, no. 1 (2013): p. 75–79.

indigenous culture as local wisdom of the Pariaman community. It can be interpreted that the Regional Regulation is a concrete agreement towards the ideal concept of protecting local wisdom in the Pariaman community.

The material in the Regional Regulation on the Protection of the Culture of local wisdom must be based on the religion, ethics, and morals adopted by the Pariaman community as the legal culture of the Pariaman community. Werner Menski's theory of flying kites describes the interaction between dimensions such as ethical values, social norms, and legal rules made by the state as a fact of human life in behavior.

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