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## The Existence and Relevance of Betawi Customary Law: Maintaining Local Wisdom Amidst Jakarta's Megapolitan Development

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**Abstract:** As the indigenous people of Jakarta, the Betawi community faces an existential paradox where their identity is the foundation of the city's culture, yet they are systematically marginalized by rapid megapolitan development. Massive urbanization and modernization have not only displaced them spatially to the outskirts but also eroded their customary law practices and local wisdom. The existing legal framework, particularly Regional Regulation (Perda) No. 4 of 2015, tends to focus on preserving symbolic culture, such as arts and icons, but fails to provide substantive recognition to the Betawi community as a customary law community with collective rights. This study aims to analyze the legal limitations of Perda No. 4 of 2015 in protecting the existence of the Betawi community, examine the relevance of living Betawi customary law, such as deliberation, as a dispute resolution mechanism, and formulate the urgency of a paradigm shift from cultural preservation to rights recognition. This study uses a normative juridical method by analyzing laws and regulations, particularly Perda No. 4 of 2015, and linking it to the concept of customary law communities in the constitution and relevant legal theories. It found that the "cultural preservation" approach in the current regulation is ineffective in stemming marginalization because it does not provide a legal basis for essential rights such as land rights. On the other hand, customary law practices such as deliberation (*musyawarah*) have proven relevant and effective in maintaining social harmony within communities, demonstrating the persistence of local wisdom. However, without formal recognition, these mechanisms lack the legal force to withstand external pressures from development. The existence of the Betawi community is threatened because the existing legal framework is superficial. A policy reform that recognizes the Betawi community as a customary law community is needed. This recognition would provide a strong legal basis for protecting their collective rights and ensure that local wisdom is not merely preserved as an object but lives on as a relevant legal subject amidst modern Jakarta.

**Keyword:** Betawi Customary Law, Customary Law Community, Local Wisdom, Urbanization, Legal Protection.

## INTRODUCTION

Paradox The existence of Betawi in Jakarta describes condition unique experience Betawi society in the middle Jakarta's transformation into a global megapolis. Betawi, which is historically recognized as resident original at a time foundation culture city, facing paradox big: they still recognized in a way symbolic as host, but in a way factual experience marginalization. Development process infrastructure, urbanization massive, and the entry of newcomers on scale big has caused pressure structural threats existence community this. Pressure the present in two forms: spatial and legal. Pressure spatial looks from depreciation land traditional, while legal pressure is visible from weakness protection law to right collective Betawi society. Situation This puts them in position paradox, between symbol pride culture city and reality increasing marginalization real (Nurlela, 2010; Sumardjono, 2009).

Pressure is the clearest spatial seen in change function land in various areas of Jakarta. Uncontrolled urbanization has changed room life Betawi society, for example area Condet which used to be famous with garden snake fruit and langsung now has become area congested newcomers with function housing area and commercial. Changes demographics This No just shift amount population, but a process of marginalization physical force Lots Of family Betawi sells land inheritance ancestors. As a result, space movement is narrower as community customs the narrower. This is forming marginalization and emerging spatial consequence weakness protection law on land Betawi collective. Failed state present device law that is capable guard sustainability existence community local in the middle megapolitan dynamics (Nurlela, 2010; Sumardjono, 2009).

Besides the pressure spatially, the Betawi people also face deep- rooted legal pressure from weak instrument law Regional Regulation of DKI Jakarta No. 4 of 2015 which is expected capable guard existence Betawi culture, it turns out more emphasize aspect symbolic than substance protection rights. Regional Regulation tend objectify Betawi identity through icons, arts and symbols culture, without giving legitimacy clear laws on right customary law or ownership land customs. With Thus, the Betawi people remain prone to dynamics of the land market in Jakarta, a crowded city speculation property. They No own umbrella law adequate for endure face current increasing development aggressive (Saputra & Siregar, 2023; Sumardjono, 2009; UIN Sunan Kalijaga, 2017).

Limitations DKI Jakarta Regional Regulation No. 4 of 2015 are increasingly clear If analyzed in a juridical way. Regional Regulation This only arranges preservation Betawi culture in aspects arts, traditions, and museums. The focus nature administrative, even part big its implementation handed over through rule derivative in the form of Governor's Regulation. As a result, the regulation of the No touch aspect is the most important substantive, namely protection right collective upper Betawi society land They. Implementation in the field is also assessed weak, so that no capable realize welfare or justice substantive. More Far again, approach preservation culture kind of This criticized as form commodification identity, because its orientation more on interest's tourist or image city than fulfillment rights base community customs (Sumardjono, 2009; BPK RI Jakarta, 2017; Nurlela, 2010).

Paradox is next precisely seen when a number of designated area as Reserve Culture, such as Condet, experiencing gentrification. Instead of protecting Betawi society, determination This rather increase mark speculation property so that speed up the eviction process economy. Change of function land become housing area newcomers the narrower down room existence community local. Condition This shows weak fundamental Regional Regulation, namely neglect to dimension right collective public law Betawi customs, which should be protected through device law stronger (Wibowo, 2024; Sumardjono, 2009).

Based on problem said, research This Then formulate question at a time objective main. First, to analyze limitations juridical Regional Regulation No. 4 of 2015 in give protection rights collective Betawi society. Second, examine relevance law Betawi customs that still exist life, especially mechanism deliberation as instrument settlement dispute. Third, submit urgency shift paradigm policy from just preservation culture symbolic going to formal recognition of the Betawi Customary Law Community (MHA) as a fundamental solution juridical.

Significance study This located in two dimensions. From the side theoretical, research enriches literature about law customs and pluralism law, in particular in rare metropolitan context become object study. From the side practical, research This provides a model of MHA protection in dense urban areas, something that is increasingly relevant in the middle the rise conflict agrarian urban areas. Recognition of the status of MHA Betawi is considered key for overcoming structural marginalization, at the same time ensure fulfillment rights constitutional as guaranteed Article 18B Paragraph (2) of the 1945 Constitution.

Under Review Literature and Framework Conceptual, foundation constitutional MHA rights become point step main. Article 18B Paragraph (2) of the 1945 Constitution in particular firm acknowledge and respect unity public law customs along with rights traditionally, throughout Still alive and in harmony with principles of the Unitary State of the Republic of Indonesia. Provisions This confirm that right the origin of MHA is prior, meaning must be respected more formerly before the state's rights over territory are implemented. In technical, rules more carry-on set-in Minister of Home Affairs Regulation No. 52 of 2014 concerning Guidelines MHA Recognition and Protection. Regulation This arranges formal stages begins from identification until determination through decision head area.

Draft law customs as living law then confirm that law customs are living law in society, growing from values, norms, and practices inherited habits hereditary. Within the framework pluralism law, existence law customs No may be positioned as subordinate state law, but rather system law parallel autonomy. This is what is called strong legal pluralism approach This demand existence confession real to jurisdiction law custom, not just assimilation to in law national. Betawi living law, for example through mechanism deliberation, to become real mark justice restorative as it should be getting place in system modern law (Siregar, 2024; Yusuf, 2024; Pradhani, 2020).

Furthermore, Constitutional Court Decision No. 35/PUU-X/2012 becomes references important in strengthening position law custom. Decision This confirms that forest customs No Again state forests, but rather right MHA collective. The fundamental principle is MHA rights are not automatic subject to state control. The decision This own implications wide Not only for forest areas, but also for potential right customary law public customs urban like Betawi. With this base, the Betawi community can demand confession right over customary areas they, at the same time fill in gap protection the law that has been in effect This ignored by regulations region (MK RI, 2012; Mawardi, 2017; Wati, 2018).

## **METHOD**

In the study This designed for give framework clear and systematic work in answer question study about existence Betawi society and limitations juridical Regional Regulation No. 4 of 2015. First, research This use type study normative juridical (Akbar, 2024). This method chosen Because focus study lies in the analysis material law and studies related libraries with confession public law Betawi customs (MHA). Through approach normative, research This examines connection between ius constitutum (law) positive at the moment This applies, such as Regional Regulation 4/2015) with ius constituendum (the law that should be applies, namely confession rights MHA Betawi collective as mandate of the 1945

Constitution and Home Affairs Ministerial Regulation 52/2014). With Thus, research This Not only nature descriptive, but also evaluative, because make an effort evaluate to what extent norms law positive has fulfil need protection substantive Betawi society (Ramadhani, 2024).

Within the methodological framework, research uses a number of approaches to research. First, the approach legislation (statute approach) emphasizes analysis to hierarchy, substance, and coherence between regulation legislation. This study started from constitution as norm the highest, namely Article 18B Paragraph (2) of the 1945 Constitution, up to to level regulation minister like Minister of Home Affairs Regulation 52/2014, and regulations area like Regional Regulation 4/2015. Its purpose is to see whether existing regulations consistent in providing protection MHA Betawi rights. Second, the approach conceptual approach that utilizes theories law relevant, including living law concept, paradigm pluralism law strong (strong legal pluralism), as well as idea justice restorative. Theories This used for strengthening analysis normative with perspective academic and philosophical, so that results study richer and more contextual (Pradhani, 2020; Siregar, 2024). Third, the approach case approach, namely with reference to the current condition the Betawi community in the area is facing pressure urbanization like Condet. In addition, research also examines existence institutional customs, such as the Betawi Consultative Body (Bamus), as proof that practices and structures Betawi social still alive and worthy get confession as MHA.

Next, research utilise various material law as base analysis. Primary legal materials consist of regulation related legislation, such as the 1945 Constitution, Home Affairs Ministerial Regulation 52/2014, and DKI Jakarta Regional Regulation No. 4 of 2015. Legal materials secondary covering results research, journals scientific, dissertations, and literature other academics who study role law customs, pluralism law, as well as marginalization community local in context urbanization. Meanwhile that, material law tertiary covers dictionary law, encyclopedia, and sources other references of nature complete. The analysis technique used juridical interpretation to understand meaning norm in a systematic way, construction argument logical for build consistency analysis, as well as comparison juridical use compare two frameworks big, namely framework preservation culture as arranged Regional Regulation 4/2015 and framework MHA recognition based on the 1945 Constitution. With method this research expected capable produce comprehensive argumentation, both in a way normative and conceptual, in formulate protection rights Betawi society.

## RESULTS AND DISCUSSION

### Legal Criticism Regional Regulation 4/2015: Dilemma Objectification Betawi Culture

#### 1. Preservation as Commodification Culture and Failure Protection Spatial

Regional Regulation 4/2015 treats Betawi identity as assets that can perform (iconography) and commercialized, right as system rights that must be protected in an autonomous way (Sumardjono, 2009). Phenomenon This is called commodification culture. Example real is determination Condet as Reserve Betawi Culture. Determination this, instead of giving protection structural, in fact increase Power pull properties and triggers speculation land in the area (Nurlala, 2010; Sumardjono, 2009). As a result, there was acceleration over function land that is pushed by immigrants, changing Condet from area plantation become an area with pattern settlement heterogeneous and dense (Nurlala, 2010; Wibowo, 2024).

Analysis This show that determination area as Reserve Culture, in Jakarta context, functioning as *catalyst* acceleration change spatial, not as mechanism protection right origin (Sumardjono, 2009). Failure This happen Because Regional Regulation only arrange aspect culture and art (symbolic) (Saputra & Siregar, 2023; DKI Jakarta, 2015), but No touch root problem, namely right collective on land. This is strengthening view that policy the nature

superficial and accelerate eviction economy Betawi society, because they are not capable maintain land they oppose market pressure (Nurlela, 2010).

## **2. Legal Gaps (Lacuna Juris) in Framework Regional Regulation**

Regional Regulation 4/2015 contains gap significant laws Because No give runway adequate legal for Betawi society to uphold right collective (such as Non- Forest Customary Rights) in face national development or private sector (Mawardi, 2017). In the context of Indonesian law, rights collective MHA above land only can enforced if the MHA status has been recognized formally through the Decree of the Regional Head, in accordance with mechanism Minister of Home Affairs Regulation 52/2014 (Minister of Home Affairs Regulation, 2014).

Without recognition of MHA status, rights on land community considered subject to state power, which at any time can be converted for interest development (Mawardi, 2017). Paradigm law urban areas of DKI Jakarta that refuse confession right *origin* This is root reason failure Regional Regulation. Therefore that, the existing Regional Regulation No provide the mandated "benefits" in review justice, because No give legitimacy law to Betawi for manage and maintain source Power they himself (UIN Sunan Kalijaga, 2017).

## **Evidence of the Existence of Betawi Customary Law as Living Law**

### **1. Institutions Customs and Structure Collective**

Although it is in the heart of modern city, Betawi society still maintain structure institutional collective. Existence organizations such as the Betawi Tribe Consultative Body (Bamus) and the Assembly Betawi Association, which is functioning as a forum for dialogue and representation collective, are proof real ability necessary organization for fulfilling MHA criteria (Bamus Betawi, 2024; Detikcom, 2022). Institutional this, which is now also demanding Betawi's role in Jakarta's development after the DKJ Law, functions as embryo system government customs required by Home Affairs Ministerial Regulation 52/2014 for MHA verification (Bamus Betawi, 2024; Permendagri, 2014).

### **2. Relevance Mechanism Deliberation (Justice) Restorative)**

Practice law Betawi customs, in particular mechanism *deliberation*, continues alive and relevant as method settlement disputes at the level community (Siregar, 2024). Consultative body This emphasizes local and norms community for reaching restorative justice, which is different fundamentally from approach retributive state law (Siregar, 2024; Emirzon, 2001).

Settlement process conflict in institution customs characterized by a flexible character, which can adapt with change social events that occur, and use authority as well as legitimacy public local (Yusuf, 2024). Implementation law custom, in Lots Of case, felt more ensure justice substantive compared to implementation law rigid national (Yusuf, 2024). Sustainability practice *deliberation* in the middle pressure Jakarta 's urbanization fulfil definition *living law* and show that MHA Betawi has system the law that must be recognized and protected formally by the state, as recognized by the Supreme Court in proposal compilation Design Regulation Government about *Living Law* (MA RI, 2025).

## **Urgency Recognition of the Betawi Customary Law Community: Shift Legal Paradigm**

### **1. Analysis MHA Criteria: Betawi as an Urban MHA**

For protect Betawi existence in general effective, Government DKI Jakarta Province must in a way proactive do verification to Betawi community based on criteria Minister of Home Affairs Regulation 52/2014 (Minister of Home Affairs Regulation, 2014). Three criteria are key *customary territory*, *law customs* and *strong relationships with land* — fulfilled through proof empirical and historical. In historical, Condet is an agricultural area that is managed down passed down by the Betawi people (cultivation duku and salak)



(YouTube, 2024). Although morphology urban has changed drastic, history ownership and management communal This give strong claims on *customary territory* (ulayat) non- forest) which should be acknowledged, regardless of density population or over function land moment this (Wibowo, 2024).

## 2. Implementing MK Decision 35/2012 in Context of DKI Jakarta

Implications MK Decision 35/2012 demands Regional Government for No Again look at right MHA collective as something inferior or fully subject to state interests (Wati, 2018; Mawardi, 2017). Obligations For determine MHA not limited to context forestry but valid for all right collective over customary areas wherever MHA is located (Wati, 2018).

Inaction regulations in DKI Jakarta related to MHA recognition are juridical negligence that perpetuates Betawi vulnerability. Formal recognition of Betawi MHA is necessary to be set through the Governor's Decree, which is instrument strong law for give protection to right collective they, far away beyond the regulation that only nature preserves culture (Minister of Home Affairs Regulation, 2014).

## 3. Comparison Juridical: Preservation Symbolic vs. Recognition Substantive

Difference fundamental between framework applicable laws and framework the necessary laws summarized in comparison juridical following:

**Table 1. Comparison Paradigm Betawi Legal Protection: Preservation Culture (Regional Regulation 4/2015) vs. Recognition of MHA (Minister of Home Affairs Regulation 52/2014)**

Aspect Protection	Paradigm Regional Regulation 4/2015 (Preservation) Culture	Paradigm MHA Recognition (Minister of Home Affairs Regulation 52/2014)
Legal Status of the Community	Object Culture (State Controlled) (UIN Sunan Kalijaga, 2017).	Legal Subjects (Customary Legal Autonomy) (Pradhani, 2020).
Rights Focus	Symbolic (Art, Tradition, Iconography) (Saputra & Siregar, 2023).	Substantive (Rights to Land/ Customary Territory, Customary Law) (Minister of Home Affairs Regulation, 2014; Mawardi, 2017).
The Power of Customary Law (Living Law)	Recognized in a way cultural, without strength external formal juridical (Yusuf, 2024).	Own guaranteed jurisdiction constitution (Article 18B of the 1945 Constitution).
Implications on Land Rights	Weak; speed up commodification and transfer function land (Nurlela, 2010; Sumardjono, 2009).	Strong; giving right collective, to be shield law to development external (Supported by MK 35/2012) (MK RI, 2012).

The comparison above shows that Regional Regulation 4/2015 does not give protection substantial, but rather only secure Betawi image for interest development city. Just a confession as MHA, based on Minister of Home Affairs Regulation 52/2014 and Constitutional Court Decision 35/2012, which can give shield strong law to pressure metropolitan development.

## CONCLUSION

Based on results analysis, we can conclude that DKI Jakarta Regional Regulation No. 4 of 2015 concerning Preservation Betawi culture has fundamental weakness due to more emphasizing preservation symbolic and commodification culture than protection substantive to right collective Betawi society. Betawi identity is treated as asset cultural for interest tourism and image city, meanwhile right base they on customary lands and territories ignored. This is proven in the case Condet, where the determination as area reserve culture precisely triggers speculation land, transfer function land, and acceleration marginalization economy Betawi society. With Thus, the Regional Regulation the failure answer challenge main in the form of pressure spatial and legal issues faced Betawi community in the middle current urbanization of Jakarta.

Legal criticism to Regional Regulation This confirms the existence of lacuna juris or gap law, because no provide mechanism protection on right collective Betawi society as a Customary Law Community (MHA). In fact, Article 18B Paragraph (2) of the 1945 Constitution and Home Affairs Ministerial Regulation 52/2014 specifically explicit open room for recognition and protection of MHA, including in urban areas. Without formal recognition through decision head area, rights Betawi collectively law still be under state power, so that prone to marginalize by the project development and market interests. Paradigm law urban areas that only emphasize administrative and cultural aspects This show failure of the state in fulfil justice substantive that becomes mandate constitution.

On the other hand, the empirical evidence shows that Betawi people still fulfil MHA criteria. Existence institutional customs like Betawi Bamus and Assembly Betawi Unity shows structure functional collective as a representation forum interest community. In addition, the practice law customs in the form of deliberation that emphasizes justice restorative still alive and relevant in the midst modernization, so that show that law Betawi customs still valid as living law. Continuity law customs This in line with principal pluralism law that recognizes system law customs as entity autonomous and equal, not just subordinate from state law.

With Thus, the urgency formal recognition of the Betawi people as MHA becomes an inevitability. Implementation MK Decision 35/2012 must be expanded to in context urban areas of Jakarta, so that the rights non- forest customary land like land Betawi customs are recognized as right unknown origins submit automatically in the interests of the state or the market. Juridical Comparison shows that paradigm preservation culture as arranged in Regional Regulation 4/2015 does not adequate, because only give birth to symbolic protection. In contrast, formal recognition as MHA is based on Minister of Home Affairs Regulation 52/2014 provides shield law strong substantive, guaranteeing right collective, and allows Betawi people to survive pressure metropolitan development. Therefore, shift paradigm law from just preservation culture going to MHA's recognition is fundamental solution for ensure sustainability existence Betawi people as hosts originally from Jakarta.

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