

Elements of Negligence by Regional Governments in Designating Cultural Heritage as Cultural Heritage

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ABSTRACT

Cultural heritage refers to objects, buildings, structures, sites, and areas — both on land and in water — that have been designated as Cultural Heritage, are material in nature, and need to be preserved. The determination of Cultural Heritage carries significant meaning within the Indonesian legal system, as it represents an active legal measure taken by the state to protect cultural heritage that is important for history, science, education, religion, and culture. This research aims to analyse the elements of negligence by regional governments in designating cultural heritage as Cultural Heritage, and to identify the legal implications and losses caused by such negligence. This research uses a normative juridical approach, examining legal norms, regulations, and doctrines, as well as a case analysis of Medan District Court Decision Number 756/Pdt.G/2020/PN Mdn concerning Medan Merdeka Square. The determination of Cultural Heritage is the obligation of the regional government (Regent/Mayor) after receiving recommendations from the Cultural Heritage Expert Team. Without an official determination, a cultural heritage object is in a legally vulnerable condition, as it lacks a clear protection status, creating opportunities for theft, destruction, transfer, conversion, demolition, or use contrary to its historical value and the public interest. Government negligence in designation constitutes an unlawful act and violates constitutional obligations and the General Principles of Good Governance, particularly with regard to legal certainty and the protection of the public interest.

INTRODUCTION

The Medan District Court Decision Number 756/Pdt.G/2020/PN Mdn, dated 14 July 2021, partially granted the lawsuit filed by the Medan–North Sumatra Civil Society Coalition Caring for Merdeka Square regarding the designation of Medan Merdeka Square as Cultural Heritage, and declared that the Mayor of Medan had been proven to have acted unlawfully by failing to designate Merdeka Square as Cultural Heritage. The case number refers to 2020, but the verdict was issued in 2021. Following this decision, the Mayor of Medan issued Decree Number 433/28.K/X/2021 on 28 October 2021, concerning Buildings, Sites, Areas, and Structures as Cultural Heritage.

Cultural Heritage is a tangible form of cultural heritage, comprising objects, buildings, structures, sites, and cultural heritage areas — both on land and in water — that need to be preserved owing to their important values for history, science, education, religion, and culture, as established through the formal determination process. This definition emphasises that cultural heritage is not limited to old buildings but encompasses various forms of physical heritage that carry historical and cultural significance (Lovell et al., 2023; Miran & Husein,

2023; Nursanty et al., 2023; Pijet-Migoń & Migoń, 2022; Shrestha et al., 2024). The determination of Cultural Heritage holds considerable importance within the Indonesian legal system, as it represents an active legal measure taken by the state to protect cultural heritage of significant value for history, science, education, religion, and culture. Determination is not merely an administrative policy but a normative mandate with legal implications in the form of protection, utilisation restrictions, and state responsibility for designated objects (Purwanti & Natalis, 2026; Widiyono & Khan, 2023).

Juridically, determination constitutes a formal recognition of status conferred upon cultural heritage (Sinaga & Subiyanto, 2023). The law requires local governments to register, assess, determine, record, rank, preserve, protect, rescue, and secure cultural heritage (Lubis et al., 2024). One of the obligations of local governments is to register cultural heritage that has not been registered by its owner, and to subsequently determine its status (Arifin, 2018). Without an official designation, a Suspected Cultural Heritage Object (ODCB) is in a legally vulnerable condition, as it lacks a clear protection status (Sinaga & Subiyanto, 2023). This condition creates opportunities for disappearance, theft, destruction, transfer, conversion, demolition, or utilisation contrary to historical values and the public interest (Ristawati et al., 2025; Lubis et al., 2024). Within the legal framework, government negligence and/or failure to designate objects that have met the criteria for cultural heritage status may constitute an Unlawful Act (PMH) or a violation of constitutional obligations (Arifin, 2018; Ristawati et al., 2025).

Cultural Heritage Registration is the obligation of the owner or the person in control of the cultural heritage (Boniotti, 2023; Higgins, 2022; Zhang et al., 2024). The central government is obliged to carry out the registration of cultural heritage controlled by the state, and for cultural heritage that has no registered owner, it may be taken over by the central or local government. To be registered, cultural heritage must meet several criteria: it must be at least 50 (fifty) years old, represent a stylistic period of at least 50 (fifty) years or more, and possess special significance in terms of education, history, science, culture, or religion. The registration of cultural heritage is the obligation of all parties, including those who are not the owner or the person in control of it.

Cultural Heritage Assessment is carried out by the Cultural Heritage Expert Team (TACB). The TACB consists of experts from various disciplines and holds a Certificate of Competency issued upon passing the competency test of the Cultural Professional Certification Institute (LSP), which requires a licence from the National Professional Certificate Agency (BNSP). The primary task of the TACB is to provide recommendations for the determination, ranking, and elimination of cultural heritage. The TACB operates at the national, provincial, and regency/city levels. Upon receiving the results of cultural heritage registration, the TACB conducts a study to assess whether the submitted heritage meets the criteria for designation and is worthy of being designated as Cultural Heritage. The assessment aims to classify and identify buildings, structures, objects, sites, areas, and locations registered as cultural heritage. Pursuant to Article 31 paragraph (5) of Law Number 11 concerning Cultural Heritage, the status of an ODCB during the study process — whether an object, building, structure, or location of discovery that has been registered — is protected and treated as Cultural Heritage.

The determination of Cultural Heritage must be issued by the Regent/Mayor no later than 30 (thirty) days after the TACB submits its recommendations for buildings, structures, objects,

sites, geographical spatial units, and/or locations registered as worthy of designation. Each cultural heritage that has been officially determined will be recorded in the National Register and will obtain legal guarantees in the form of a certificate of status and ownership. The determination of cultural heritage serves as the basis for government accountability and legal responsibility. With Cultural Heritage status, every government action or policy relating to the object becomes legally reviewable. Conversely, the absence of determination may be used as a basis for evading legal responsibility; however, it is precisely such negligence in designation that constitutes the source of legal problems. In the perspective of civil law and state administrative law, such negligence may be classified as an unlawful act by a public authority in the form of an act of omission.

From a sociological and historical perspective, the determination of cultural heritage plays an important role in maintaining the identity, collective memory, and historical continuity of a community. Negligence in determination carries the potential to erase historical traces that cannot be restored. The preservation of cultural heritage is expected to extend beyond physical protection to encompass efforts to maintain the historical and cultural values that form the nation's identity. Accordingly, the designation of cultural heritage carries considerable urgency from legal, constitutional, and public interest perspectives. Determination is a legal instrument that ensures the protection of cultural heritage, upholds state obligations, and creates space for the oversight and accountability of government actions and omissions.

The history of Medan Merdeka Square begins with a landmark that is widely recognised both nationally and internationally. Merdeka Square is a public square located in the centre of Medan City and serves as the zero kilometre point of North Sumatra Province, situated between Merdeka Square and the Medan Main Post Office. Merdeka Square falls within the administrative boundaries of Petisah District. Traces of the Dutch colonial era remain visible in the buildings surrounding Merdeka Square, including Bank Indonesia Medan (formerly De Javasche Bank), built in 1906 and operational from 1907; the Medan Post Office, built in 1909 and in use from 1911; and the Medan Railway Station, inaugurated by Deli Spoorweg Maatschappij (DSM) on 25 July 1886. Construction of the square began in 1872, following the relocation of the business administration centre from Labuan Deli to Medan. The square has been in use since 1883 and was originally named De Esplanade. One of the historic events that took place on this square was the first landing of an aircraft on 22 November 1924. In 1942, Japan renamed the square Fukuraido. Following Japan's defeat on 15 August 1945, the square became a significant milestone: from 6 October 1945, Fukuraido served as a gathering place to respond to the Proclamation of 17 August 1945, which had been proclaimed in Jakarta, and the Governor of Sumatra at that time, Muhammad Hasan, officially broadcast the Indonesian Proclamation from this location. On 9 October 1950, the Mayor of Medan, Luat Siregar, ratified the renaming of Fukuraido to Merdeka Square.

During the Old Order and New Order periods, Merdeka Square functioned as a venue for state ceremonies, social activities, people's economic activities, cultural events, and served as a Green Open Space (RTH) for the city. The change in the square's function is reflected in the shifting interaction among social classes: during the colonial period, the square was reserved exclusively for the upper class. A further transformation occurred during the Reform period, when Merdeka Square became a new culinary icon of Medan City, developing into a culinary centre in North Sumatra Province under the name Merdeka Walk (MW). For domestic and

foreign food enthusiasts, MW is regarded as a culinary destination, offering a wide variety of cuisines to suit all tastes, with culinary activities operating 24 hours a day. Food outlets from various countries are represented at MW, including European, Asian, national, and local Medan cuisine, as well as other traditional foods. One of the cultural heritage elements found around Merdeka Square is the Trembesi trees, which have been well preserved since the Dutch colonial period.

This study seeks to answer two main questions: first, how the elements of local government negligence can be legally identified and measured in the process of designating cultural heritage; and second, what legal implications and losses — both material and intangible — arise from such negligence for conservation efforts and community property rights. Accordingly, the research aims to analyse the legal elements of regional government negligence in cultural heritage designation and to identify the resulting legal implications and losses. Theoretically, this study contributes to state administrative law, particularly concerning government negligence and unlawful acts by the state, while practically offering recommendations for local governments to improve compliance with cultural heritage protection laws and prevent legal liability arising from administrative neglect.

METHOD

The writing of this journal uses a research method with a normative juridical approach with descriptive-analytical specifications, examining primary legal materials (Law Number 11 of 2010 concerning Cultural Heritage, Government Regulation Number 1 of 2022, and Medan District Court Decision Number 756/Pdt.G/2020/PN Mdn), secondary legal materials (academic texts, journals, expert opinions), and tertiary legal materials (legal dictionaries) through literature study. Data were analyzed qualitatively using deductive logic to identify legal obligations, indicators of negligence, violations of the General Principles of Good Governance, and causal relationships between government inaction and losses incurred, thereby formulating legal conclusions on regional government negligence in cultural heritage designation.

RESULT AND DISCUSSION

A. Legal Arrangements on the Determination of Cultural Heritage

The Republic of Indonesia consists of 38 provinces, 416 regencies and 98 cities, there are 1340 ethnic groups spread throughout the region. With the many ethnic groups, they must leave a diverse cultural heritage, and each ethnic group has its own characteristics. This cultural heritage is an asset of the nation that cannot be assessed, and it is our collective responsibility to be passed on to the next generation and become a valuable lesson that will be passed down from generation to generation.

Cultural heritage, is a relic of the past in various forms, lives and develops in society, and is inherited from one generation to another, has important values as identity, history, science, education, religion, culture and national identity. Cultural heritage consists of two categories, namely:

1. Tangible Cultural Heritage
 - a) Archaeological sites
 - b) Historic buildings

- c) Historical objects (inscriptions, ancient manuscripts, artifacts)
- d) Monuments
- 2. Intangible Cultural Heritage
 - a) Religious rituals
 - b) Customs
 - c) Regional languages
 - d) Oral traditions
 - e) Dance
 - f) Music

Every cultural heritage does not necessarily have legal status, but it gets social recognition in society.

Cultural Heritage, is a cultural heritage that is tangible and has been officially **designated** by the government because it has important value for history, science, religion, education and/or culture. This definition is expressly regulated in Law Number 11 of 2010 concerning Cultural Heritage. Before a cultural heritage object is designated as a cultural heritage, the cultural heritage is called ODCB, in order to be designated as a cultural heritage, the ODCB must meet the requirements and criteria specified in the regulations that have been determined:

- 1. Types of Cultural Heritage
 - a) Areas
 - b) Structure
 - c) Website
 - d) Objects
 - e) Buildings
- 2. Main Features of Cultural Heritage
 - a) Represents a minimum of 50 years of style
 - b) Be 50 years old or older
 - c) Has important value
 - d) It has been determined through a government decree
 - e) Protected by law

Table 1. The Difference Between Cultural Heritage and Cultural Heritage

Aspects	Cultural heritage	Cultural Heritage
Properties	Intangible and intangible	Only tangible
Legal status	Not necessarily set	Must be determined by the government
Legal protection	General/social	Strong and binding
Example	Traditions/dances	Objects, buildings, structures, sites, areas

Source: Compiled by the author based on Law Number 11 of 2010 concerning Cultural Heritage

Cultural Heritage has a strategic function in the formation of national identity and awareness of people's history. Through the preservation of cultural heritage, the community can understand the historical process, cultural values, and social dynamics that shape the life of the nation. Therefore, the regulation of cultural heritage is not only related to physical

preservation, but also concerns the responsibility of the state in maintaining the collective memory and identity of the nation.

Thus, cultural heritage can be understood as an object of material cultural heritage that has important value and is protected by law, the determination of which is the obligation of the state in order to protect the public interest, ensure legal certainty, and realize the mandate of the constitution for the advancement of national culture.

The lawsuit for unlawful acts with the mechanism of citizen lawsuit to the Medan City Government in this case is an effort by the Medan-North Sumatra Civil Society Coalition (KMS) for legal certainty and legal responsibility of the Medan City Government. The absence of determination is often used as a justification by the government to avoid legal responsibility, in fact, negligence in determining is the source of legal problems.

In accordance with the mandate of Law Number 11 of 2010 concerning Cultural Heritage in Article 1, the government plays an important role as the main regulator in the management, preservation, protection, rescue, security, zoning, maintenance, restoration, development, research, revitalization, adaptation, utilization and propagation of cultural heritage, through the National Registration of Cultural Heritage, the preservation of cultural heritage begins with:

1. Registration

ODCB registration includes: buildings, structures, objects and locations. ODCB registration can be done by the community and the Regency/City government. Specifically for ODCBs abroad, registration is carried out by the Representative of the Republic of Indonesia in the country.

The government and/or local government can take over the registration of cultural heritage that is not registered by the owner. In Law Number 11 of 2010 concerning Cultural Heritage, it is not expressly mentioned as Registration Experts, but to carry out registration, it is necessary to carry out registration Registration Experts who have a certificate of competency from BNSP, who are tasked with describing collecting data from the field.

A team of registration experts can be formed by the government or cultural heritage owners, for a team of registration experts formed by the government, then the position is under the agency in charge of the cultural field, the duties of the registration experts have at least four, namely:

- a) Registrant
Perform ODCB data input according to the provisions.
- b) Data eligibility checker (verifier)
Validate ODCB data.
- c) Data processors
Carry out data processing after the ODCB verification results are declared complete and meet the requirements
- d) File compiler
Based on the results of verification and data processing, a file is prepared that will be submitted to TACB for assessment.

2. Assessment

Based on Government Regulation Number 1 of 2022 concerning the National Register and Cultural Heritage Preservation in Article 7 paragraph (2), there are 3 stages in the implementation of the ODCB assessment, namely:

a) Identification of Objects Suspected of Cultural Heritage

Registered by the community, institutions, foundations, business entities, agencies or researchers.

b) Interview

Document checking, historical data validation, and checking the physical condition of objects.

c) Preparation of assessment reports

TACB conducts a study on the value of history, science, education, culture, and uniqueness or rarity. The assessment of the minimum age criteria of 50 years old, has the importance of history or culture and national identity. TACB recommendations, meet the requirements to be designated as cultural heritage or have not met the criteria and requirements.

Table 2. Elements of ODCB Assessment

Aspects	Explanation
Historical value	Connection to an important event or figure
The value of science	Archaeological, architectural, or cultural research potential
Educational value	Potential as a source of learning
Cultural values	Community identity and traditions
Authenticity and integrity	Original condition of the object
Rarity	Degree of existence of similar objects

Source: Compiled by the author based on Government Regulation Number 1 of 2022 concerning National Register and Cultural Heritage Preservation

3. Determination

The local government determines the status of ODCB as a cultural heritage based on TACB's recommendations. In accordance with Government Regulation Number 1 of 2022 Article 1 paragraph (14), the stipulation is the granting of cultural heritage status to objects, buildings, structures, locations, or geographical spatial units.

4. Kualifikasi

The qualification of the Merdeka Field as a cultural heritage has met the criteria set out in Article (5) of Law Number 11 of 2010, namely:

- a) Over 50 years old; has existed since the end of the 19th century since the Dutch Colonial period.
- b) Have important historical value; was the center of the activities of the Dutch Colonial government
- c) It has important value for science and urban planning; was part of the Dutch Colonial urban spatial planning
- d) Have cultural and social values; as a public space for social and cultural activities.

5. Comparison of the Determination of the Cultural Heritage of the Merdeka Field of Medan with the Old Town Area of Jakarta

The comparison of the policies of the Medan City Regional Government with the Jakarta Government regarding cultural heritage can be seen in the designation of Merdeka Square as a cultural heritage by the Medan City Government after a lawsuit by citizens from the Medan-North Sumatra Civil Society Coalition Caring for Merdeka Field through **Court Decision Number 756/Pdt.G/2020/PN Mdn** dated July 14, 2021.

In contrast to the policy of the Jakarta Government which has established the Jakarta Old Town Area through **the Jakarta Governor's Decree Number 473/1193** by Ali Sadikin who at that time served as the Governor of DKI Jakarta, in the determination to protect 132 cultural heritage, and strengthened by Law Number 11 of 2010 and Regional Regulation Number 36 of 2014, with the existence of the Governor's Decree the Old Town Area has strong legal protection, Such as:

- a) It has been designated as a Cultural Heritage Area through Regional Regulations and Governor's Decrees.
- b) It has a Conservation Zone.
- c) It has had area management carried out through the Old City Area Management Agency.
- d) Revitalization is carried out with the concept of Heritage Conservation
- e) Proposed as a UNESCO World Heritage Site

Table 3. Juridical Comparison of Medan Merdeka Square with Jakarta Old Town Area

Aspects	Merdeka Field Medan	Jakarta Old Town Area
Status of the area	Not yet designated as a Cultural Heritage	Has been designated as a Cultural Heritage
Policy basis	Revitalization is based on the development of public spaces	Revitalization based on heritage conservation
Management system	Direct by the Medan City Government	Specialized management bodies
Conservation studies	It is debated regarding the involvement of conservation experts who have competency certificates from relevant ministries	Involving conservation experts who have a certificate of competence from the relevant ministries
Protection of historic landscapes	Potential for changes in the character of the area	To preserve the historical landscape

Source: Compiled by the author based on Medan District Court Decision Number 756/Pdt.G/2020/PN Mdn and Jakarta Governor Decree Number 473/1193

From the juridical comparison mentioned above, it can be described that:

- a) The determination of the status of cultural heritage by the local government greatly determines the protection of heritage areas.
- b) The local government has full responsibility in preserving cultural heritage.
- c) Delays and indecisiveness by local governments in determining historic areas or ODCB have the potential to cause elements of **negligence by local governments in the perspective of state administrative law.**

B. Legal Indicators

Legal indicators to prove the government's negligence in determining the status of cultural heritage as a cultural heritage

1. **The first indicator**, the legal obligation of the government is the legal obligation imposed on the government, namely:

- a) Article 26 of Law Number 11 of 2010 concerning Cultural Heritage; The government has an obligation to **search** for ODCB objects, structures, and/or structures.
- b) Article 29 of Law Number 11 of 2010 concerning Cultural Heritage; ODCB that is not registered by the owner can **be taken over** by the district/city government.
- c) Article 31 of Law Number 11 of 2010 concerning Cultural Heritage; During the process of assessing or registering **ODCB status is the same** as the status of cultural heritage that has been determined.
- d) Article 33 of Law Number 11 of 2010 concerning Cultural Heritage; The Regent/Mayor issued the determination of the status of ODCB as a cultural heritage after receiving a **recommendation** from TACB.
- e) Rating parameters
 - ✓ Has the Medan city government conducted **an inventory of the** cultural heritage of the Merdeka Square Area?
 - ✓ Has the Medan Merdeka Field gone through a study from TACB which has a **competency certificate** through the LSP competency test that has been licensed by BNSP?
 - ✓ Has the Medan City Government determined the status of Medan Merdeka Square as a cultural heritage **before** the lawsuit?

If the first indicator above is not carried out or implemented by the Regional Government of Medan City, then it can be concluded that **the first indicator of negligence has been met**.

2. **The second indicator**, negligence in the administrative law of neglect (omission) or non-administrative action, forms of neglect can be in the form of:

- a) Article 1 number (14) of Law Number 11 of 2010 concerning Cultural Heritage; It does not form TACB from experts who have a certificate of competency issued by BNSP.
- b) Article 1 number (17) of Law Number 11 of 2010 concerning Cultural Heritage; Not **enabling** TACB to provide recommendations
- c) Article 95 of Law Number 11 of 2010 concerning Cultural Heritage; Not carrying out the task of **protecting** cultural heritage.
- d) Explanation of Article 53 paragraph (4) of Law Number 11 of 2010 concerning Cultural Heritage; Not collecting **data** on cultural heritage.
- e) Rating parameters
 - ✓ The existence of cultural heritage inventory documents
 - ✓ The existence of recommendations from the Cultural Heritage Expert Team
 - ✓ The Existence of the Determination of Cultural Heritage Hundred through the Decision of the Regional Head

If administrative actions according to the second indicator **are not carried out or do not exist**, then there are indications of neglect or omission carried out by the Regional Government.

3. **The third indicator, Violation of the** General Principles of Good Governance (AUPB), government negligence can also be seen from the violation of the AUPB. In accordance with the doctrine of the obligation of the government to act in accordance with the principles of good governance, the relevant principles for the AUPB are:
 - a) **The principle of prudence**, the government must consider existing historical values before setting development policies for cultural heritage areas.
 - b) **The principle of public interest**, the preservation of cultural heritage is in the long-term public interest.
 - c) **The principle of professionalism**, decisions regarding Cultural Heritage must involve many experts, such as historians, archaeologists, conservation, architecture, structures, restoration, registration, zoning and documentation.

If government policies **do not pay attention to the principles mentioned above**, then there are indications of **mal-administration**.

4. **The fourth indicator is the** occurrence of losses to cultural heritage, an negligence must have an impact or loss, losses in the context of Cultural Heritage can be in the form of:
 - a) Loss of historic buildings
 - b) Changes in the character of the Heritage area
 - c) Damage to buildings, structures, objects, cultural heritage sites
 - d) loss of educational and cultural value.

These losses can be **material** (physical or object damage) and **immaterial** (loss of historical and cultural value).

5. **The fifth indicator**, the causal link, to prove a negligence, there must be a **causal relationship between the government's negligence and the losses that occur**, the causal relationship includes the following:
 - a) The government did not designate the area as a Cultural Heritage.
 - b) The area has no legal protection.
 - c) development or revitalization is carried out without considering the historical value of cultural heritage.
 - d) may result in the historical value of the area being reduced or lost

If the series of causes and effects has occurred and can be proven, then **the elements of government negligence are met**.

C. Analysis of Government Negligence

The five elements of these indicators can be simplified into 5 schemes, namely:

Legal obligations of the government

Not carried out (neglect)

Violation of the principles of good governance

Loss to cultural heritage

Causal relationship

If these five elements have been met, then it can be concluded that **there is negligence on the part of the government in determining or protecting cultural heritage**.

D. Opinion of State Administrative Law Experts

1. Philipus M. Hadjon

According to Philipus M. Hadjon (1987) that in state administrative law, the government can be held accountable if it commits an unlawful act by the government (onrechtmatige overheidsdaad), a government action can be categorized as an unlawful act if it meets the elements:

- a) the existence of government acts or actions.
- b) such actions violate the law or legal obligation.
- c) incurring losses
- d) There is a causal relationship between the action and the loss

In the context of cultural heritage preservation, the government's negligence in carrying out the obligation to inventory or determine cultural heritage can be studied through the concept of unlawful acts by the government.

2. Ridwan HR

According to Ridwan HR, government authority is not only a right but also contains an obligation to protect the public interest. The government is obliged to actively exercise all its authority to protect the interests of the community. If the government fails to use its authority to protect the public interest, potential administrative negligence may occur. In the context of cultural heritage, the authority of the local government to designate an object as Cultural Heritage is an important legal instrument to protect cultural heritage.

3. S.F. Marbun

According to S.F. Marbun (2013) in state administrative law, the concept of mal-administration is known, namely the behavior or actions of officials that are not in accordance with the principles of good governance. Mal-administratiedrass can be in the form of:

- a) Abuse of authority
- b) Waiver of legal obligations
- c) protracted delays
- d) Unprofessional actions

In the context of cultural heritage, if the local government does not immediately designate objects that have historical value as cultural heritage, then this action can be considered as a form of neglect of administrative obligations.

4. Indroharto

According to Indroharto, every government authority must be carried out in accordance with the General Principles of Good Government (AUPB). Some of the principles relevant to the preservation of cultural heritage include:

- a) The Basis of Legal Certainty
- b) **The Basics of Prudence**
- c) **The Basis of Public Interest**
- d) Principles of professionalism

In the context of cultural heritage, if the local government does not consider the historical value of an area before carrying out development or revitalization, then this action can be considered contrary to the principles of prudence and public interest.

E. Integration of Expert Opinions in Independent Field Case Analysis

From the opinions of the administrative law experts mentioned above, it can be integrated as follows:

1. According to Philipus M. Hadjon, (2010) the negligence of the local government can be considered as an unlawful act by the government if it does not carry out its legal obligations in the preservation of cultural heritage.
2. According to Ridwan H.R, (2018) the government has an obligation to use its authority to protect the public interest, including the protection of cultural heritage.
3. According to S.F. Marbun (2004) neglect of obligations in the management of cultural heritage can be categorized as mal-administration.
4. According to Indoharto, development policies that do not consider historical values can violate the General Principles of Good Governance (AUPB).

Using the opinions of these experts, the analysis of the Medan Merdeka Square can show that **the** local government has a strong legal responsibility in protecting cultural heritage in accordance with the legal principles of state administration.

CONCLUSION

Based on the results of the research, it can be concluded that the elements of negligence of local governments in the process of designating cultural heritage as Cultural Heritage can be identified through several indicators of administrative law and cultural preservation. First, government negligence can occur when the legal obligation to carry out inventory, assessment, determination, and protection of ODCB is not carried out in a timely manner and in accordance with the procedures stipulated in Law Number 11 of 2010 concerning Cultural Heritage. Delays or non-formal determinations can cause cultural heritage objects to lose legal protection, rendering them vulnerable to alteration, damage, and even the loss of historical and cultural value. Second, negligence can be measured through the fulfilment of the elements of unlawful acts by the government (*onrechtmatige overheidsdaad*), namely the existence of legal obligations that should be carried out by the government, the existence of passive actions or omissions in the form of non-implementation of those obligations, the occurrence of losses to cultural preservation and community interests, and the existence of a causal relationship between the government's negligence and the losses that arise.

In this context, the negligence of local governments not only impacts the loss of the historical value of an object, but can also cause social, cultural, and economic losses to the community. Third, a case study of the Medan Merdeka Square area shows that delays in the process of designating and managing areas of high historical value have the potential to create a conflict of interest between urban development efforts and the principle of cultural heritage preservation. This condition demonstrates that the suboptimal implementation of administrative obligations, institutional coordination, and supervision mechanisms can serve as an indicator of local government negligence in carrying out the function of protecting cultural heritage. The elements of local government negligence in designating cultural heritage as Cultural Heritage can fundamentally be identified through non-compliance with legal obligations, suboptimal implementation of determination procedures, and the emergence of losses affecting the preservation of historical values and community interests. Therefore, strengthening the inventory mechanism, accelerating the determination process, and enhancing

the accountability of local governments are important steps in preventing negligence in the protection of cultural heritage.

The Regional Government of Medan needs to improve consistency in exercising administrative authority in the preservation of cultural heritage by accelerating the processes of inventory, assessment, and designation of historically valuable objects — including Medan Merdeka Square — in accordance with Law Number 11 of 2010 concerning Cultural Heritage. In addition, it is necessary to strengthen the role of the TACB by ensuring that its members are qualified conservation experts who possess competency certificates verified by BNSP-licensed cultural professional certification institutions, so that comprehensive scientific assessments of suspected cultural heritage objects can be conducted objectively, transparently, and on the basis of historical and cultural significance. The Regional Government should also integrate cultural heritage preservation policies into urban development planning to ensure that the revitalisation and development of historical areas continue to uphold the principles of protection, development, and sustainable utilisation. Furthermore, future research is expected to conduct more in-depth empirical studies on cultural heritage preservation practices in other regions, in order to provide broader comparisons and more comprehensive policy recommendations for strengthening the legal protection of cultural heritage in Indonesia.

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