

Legal Formulation and the Direction of Legitimacy of the Carok Madura Tradition as Folklore for Strengthening National Identity

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ABSTRACT: This study examines the legal positioning of the carok tradition within the framework of Indonesian cultural and legal governance. Rather than approaching carok as a normative or value-laden practice, the research analyzes it as a socio-cultural phenomenon whose status remains legally ambiguous. Using a normative legal research method with a statutory and conceptual approach, the study explores how existing legal instruments regulate cultural preservation and how they relate to the transformation of traditional practices into recognized cultural expressions. The findings indicate that although various national legal instruments provide a general framework for cultural protection, they do not specifically regulate or classify carok as an object of cultural preservation. This regulatory gap limits its formal recognition within cultural policy and constrains its potential integration into cultural and creative development programs. The study concludes that a clearer legal framework is required to situate carok within the domain of cultural heritage, not as an endorsement of past practices, but as a regulated cultural expression aligned with principles of legal certainty, cultural preservation, and sustainable cultural development.

Keywords: Legal Formulation, Carok, Folklore, National Identity



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INTRODUCTION

Indonesia is a multicultural nation endowed with a rich diversity of cultures, customs, and traditions (Mariyono, 2024). This diversity serves as a foundational element of national identity, as affirmed in Article 32 paragraph (1) of the 1945 Constitution, which mandates the state to promote national culture while guaranteeing the freedom of communities to preserve their local cultural values. However, not all local traditions receive adequate recognition and protection within the national cultural system. One such tradition whose position has become increasingly marginalized is the Madurese Carok tradition, a practice that historically emerged as an expression of honor and a mechanism for conflict resolution within the Madurese community (Ratnasari et al., 2021).

As articulated in Eugen Ehrlich's concept of the living law, carok constitutes a social norm that lives within and is recognized in the practices of the Madurese community (Suyanto & Bakhtiar, 2024). Although it is not recognized as state law, this tradition stands alongside state law within Indonesia's legal pluralism. However, it does not always align with the principles of positive law enforcement, as carok is now identified as an act of violence. (Mauludy & Setyorini, 2024). The absence of legal instruments capable of bridging the gap between living law and state law has placed carok in a vulnerable position: it is not recognized as culture, yet it continues to live within the social practices of the community (Negara, 2023).

This condition stands in contrast to the mandate of Law Number 5 of 2017 on Cultural Advancement, particularly Article 5, which obligates the state to protect objects of cultural advancement, as well as Article 1 point 3, which includes traditions as cultural elements that must be preserved. However, in practice, the carok tradition has not been recorded in the Integrated Cultural Data System as regulated in Article 8 paragraph (4) of Government Regulation Number 87 of 2021, and therefore cannot be designated as an object of cultural advancement. This situation poses a risk of the cultural values inherent in carok being lost from the collective memory of society (Pearson & Thompson, 2023).

Indonesian Tourism Law, as regulated in Law Number 10 of 2009 on Tourism, stipulates in Article 5 that tourism development must be carried out based on the principle of 'preserving cultural values.' Similarly, Article 26 paragraph (1) letter a of Government Regulation in Lieu of Law (Perppu) Number 2 of 2022 on Job Creation requires tourism business operators to 'respect religious norms, customs, culture, and the values upheld by local communities.' These provisions were reaffirmed in Law Number 6 of 2023. However, to date, there are no implementing regulations that govern how traditions such as carok may be preserved through a transformation of values into non-violent cultural forms (Tabarok et al., 2025).

In fact, the strengthening of culture is closely linked to the enhancement of regional economic development, as emphasized in Article 2 paragraph (4) of Government Regulation Number 50 of 2011 concerning the National Tourism Development Master Plan, which directs tourism development toward a sustainable creative industry grounded in local cultural wealth. Within this framework, cultural transformation becomes a crucial element in advancing cultural tourism in Madura (Wahyudi et al., 2024).

Despite the growing recognition of cultural heritage within Indonesia's legal and policy frameworks, the legal status of the carok tradition remains ambiguous and insufficiently examined. Existing studies and regulations tend to address carok either as a form of violence or as a cultural phenomenon, without providing a clear analytical framework for its transformation into a legally recognized cultural expression (Nuruddin, 2025). This gap indicates the absence of a coherent legal approach that reconciles cultural preservation with contemporary legal norms. Accordingly, this study seeks to examine the legal position of carok within the existing framework of cultural and tourism law and to identify the extent to which current regulations accommodate its transformation into folklore. By analyzing relevant legal instruments and conceptual approaches, this research aims to clarify the regulatory gap surrounding carok and to propose a structured legal

perspective that supports its reinterpretation as a form of cultural heritage rather than as an act of violence (Hidayatulloh et al., 2025).

This condition reflects a legal gap in the protection of the carok tradition, which, according to Krabbe's Theory of Legal Sovereignty, holds that a norm gains legitimacy only when it receives formal recognition through state law. Meanwhile, under the principle of the rule of law, all aspects of state governance including cultural preservation must be carried out on the basis of regulations that are comprehensive, certain, and accountable.

In this context, transforming the cultural values of carok into a form of folklore becomes essential as a safe, educational, and legally compliant strategy for cultural preservation. Folklore enables the values embedded in carok such as honor, courage, solidarity, and local identity to be expressed through cultural narratives, artistic performances, folktales, and creative works without retaining its violent elements. This new form can be integrated into the creative industry, cultural festivals, and tourism destinations, thereby strengthening national identity while simultaneously supporting regional economic development.

However, such a transformation requires a comprehensive legal formulation in the form of regeling (Regional Regulations, Governor Regulations) as well as beschikking (Head of Region Decrees) to provide clear directions for legitimacy, ensure community acceptance, and prevent conflicts between living law and state law. Without this legal formulation, the carok tradition remains in a grey area between culture and criminality, making it impossible to develop and placing it at risk of disappearing from the national cultural system.

Thus, the main issue addressed in this study is how to formulate an appropriate legal framework and legitimacy direction to transform the Madurese Carok tradition into a form of folklore so that it may be legally recognized, socially accepted, and function as an instrument for strengthening national identity and advancing the creative economy in Madura.

METHOD

This study is a normative legal research that integrates a statutory approach and a conceptual approach. Through these two approaches, legal materials are analyzed using legal interpretation techniques to deeply examine relevant norms and legal doctrines. This is conducted to gain a comprehensive and systematic understanding of the legal issues under investigation.

The legal materials consist of primary legal sources derived from legislation, including the following statutory regulations:

1. Undang-Undang Dasar Republik Indonesia Tahun 1945
2. Undang-Undang Nomor 10 Tahun 2009 tentang Kepariwisataan
3. Undang-Undang Nomor 5 Tahun 2017 tentang Pemajuan Kebudayaan
4. Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja

5. Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang
6. Peraturan Pemerintah Nomor 87 Tahun 2021 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 5 Tahun 2017 tentang Pemajuan Kebudayaan
7. Peraturan Pemerintah Nomor 50 Tahun 2011 tentang Rencana Induk Pembangunan Kepariwisataan Nasional Tahun 2010-2025
8. Peraturan Presiden Nomor 114 Tahun 2022 tentang Strategi Kebudayaan
9. Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2007 Tentang Pelestarian dan Pengembangan Adat Istiadat dan Nilai Sosial Budaya Masyarakat
10. Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2007 Tentang Pelestarian dan Pengembangan Adat Istiadat dan Nilai Sosial Budaya Masyarakat
11. Peraturan Bersama Menteri Dalam Negeri dan Menteri Kebudayaan dan Pariwisata Nomor 40 Tahun 2009 Tentang Pedoman Pelestarian Kebudayaan

Meanwhile, tertiary legal materials were obtained from relevant scientific journals. The collected legal materials were then analyzed using the legal reform method.

RESULT AND DISCUSSION

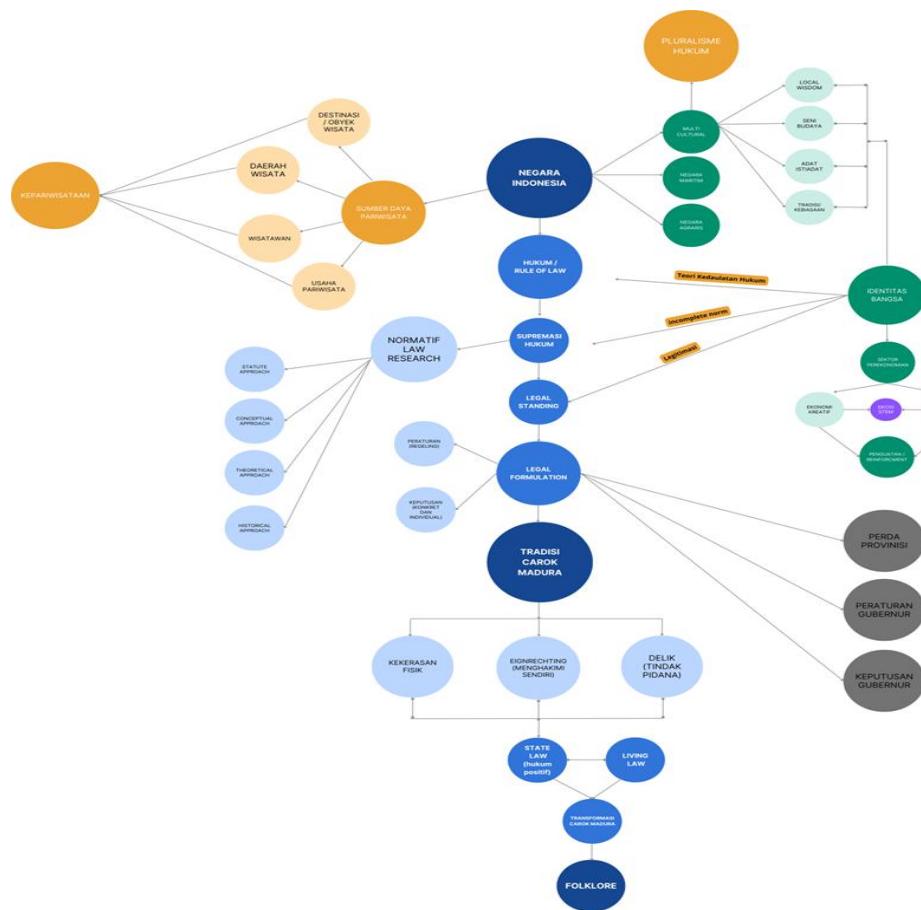
A. Legal Position of the Carok Tradition within the Indonesian Legal System

Historically, Indonesia is an archipelagic nation rich in a wide variety of traditional arts and cultural expressions (Fatmawati, 2021). This is consistent with the ethnic, cultural, customary, traditional, and religious diversity that collectively constitutes a national asset requiring protection (Isra & Faiz, 2021). Providing maximum protection for cultural arts is essential, as the identity of a nation is, in many ways, closely tied to the traditional artistic expressions originally produced by that nation (Giannini & Bowen, 2023).

National development, in an integral sense, is carried out systematically, deliberately planned, integrated, sustainable, and with full responsibility, providing legal protection for the noble values that grow within society, particularly those related to culture, traditions, customs, and local practices. This is one of the primary objectives of tourism development in ensuring a sustainable economic system based on local wisdom tourism. This aligns with the mandate of Article 1 paragraph (4) of Law Number 10 of 2009 on Tourism, which affirms that tourism is multidimensional and multidisciplinary in nature. (Lubis et al., 2025) thus, all tourism-related studies must be strengthened through the refinement of regulatory frameworks.

The results of this study, presented as an analytical overview of the Legal Formulation and the Direction of Legitimizing the Madurese Carok Tradition in the Form of Folklore as a Strategy for Strengthening the Creative Economy Ecosystem and Preserving National Identity, are illustrated in the figure below:

Figure 1. The research results indicate the need for a legal formulation of the Madurese carok tradition in the form of folklore through both regeling and beschikking



The tourism industry, being multidimensional in nature, provides space for economic development, particularly within the creative economy sector. Fostering a creative economy ecosystem requires attention to environmental potential, tourism resources, human resources, and tourism management systems. In cultivating this ecosystem, tourism entrepreneurs are obligated to 'preserve and respect religious norms, customs, cultural values, and the living traditions of local communities,' as mandated in Article 26 paragraph (1) letter a, Chapter 13 on Tourism, Article 67 of the Government Regulation in Lieu of Law of the Republic of Indonesia Number 2 of 2022 concerning Job Creation (Yasa et al., 2025) as stipulated in Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (Marpaung et al., 2022).

It is clearly stated that all legal subjects involved in the tourism industry are obliged to preserve and safeguard ancestral heritage in the form of culture, traditions, customs, and local practices that live within the community as local wisdom (Gobel et al., 2023). This includes the Madurese 'carok' tradition, which must continue to be protected, developed, utilized, and supported through cultural advancement measures as mandated in Article 1 point 3 of Law Number 5 of 2017 on Cultural Advancement (Wulandari, 2024).

The Indonesian government advances cultural development by establishing an integrated cultural data system. This system is intended to serve as the primary reference for cultural advancement.

However, the current cultural data system has yet to include carok as part of the cultural heritage of the Madurese community that requires preservation, and it has not yet been incorporated into the integrated cultural database. This condition is reflected in Article 8 paragraph (4) of Government Regulation No. 87 of 2021 concerning the Implementing Regulation of Law No. 5 of 2017 on Cultural Advancement (Basundoro et al., 2024). This has become the initial point of concern regarding why the existence of 'carok' is on the brink of being unrecognized and increasingly abandoned, or even unknown, as an original cultural product of local communities (Daulay et al., 2022).

B. Legal Reconstruction of Carok as Folklore: From Cultural Practice to Regulated Heritage

Historically, the Madurese 'carok' tradition represents a form of resistance and self-defense against actions that undermine the dignity and honor of an individual and their family. This practice has existed in Madura since the 19th century, exemplified by the figure of Pak Sakera whose real name was Sudirman a Madurese descendant who lived in Pasuruan (Arafah et al., 2025). His use of the celurit as a weapon of resistance came to be regarded as a symbol of the people's struggle against the arbitrariness of the Dutch East Indies government. here is a well-known Madurese proverb that reflects the profound sanctity of the carok tradition should it occur, namely Lebbi Bagus Pote Tollang atembang Pote Mata, which means 'It is better to die than to live in disgrace. However, based on the definition presented by anthropologist A. Latif Wiyata, carok is an act of defending one's honor in response to triggers such as adultery, defamation, revenge, or disputes over inheritance among relatives, carried out using a sharp weapon known as the celurit, often resulting in the loss of life(Kopcha, 2021).

To conduct an inventory of cultural advancement objects, a formal process of designation must first be carried out. In this context, the designation of carok as a culture that originated organically from Madura cannot yet be proven authentically or through updated evidence, and can currently only be traced through historical accounts. This, of course, remains insufficient for inclusion in the inventory, as the process requires three stages: recording and documentation, designation, and data updating. Therefore, the inventory of cultural advancement objects through the integrated cultural data system cannot yet be applied to the Madurese carok tradition, resulting in a suboptimal implementation of cultural advancement that does not fully encompass the carok tradition. This requirement is stipulated in Article 17 of Government Regulation No. 87 of 2021 concerning the Implementation of Law No. 5 of 2017 on Cultural Advancement.

Referring to the vision of national tourism development as stated in Article 2 paragraph (4) of Government Regulation Number 50 of 2011 concerning the National Tourism Development Master Plan for 2010–2025, the policy is directed toward establishing an internationally competitive and sustainable tourism industry in order to generate positive impacts on regional economic development and public welfare. Thus, the urgency of a legal reformulation regarding the designation of the carok tradition as part of the Indonesian national identity particularly for the Madurese community must be directed, revised, and transformed into a new form, namely folklore, and guaranteed through statutory regulations (regeling). This is necessary so that the

tradition may be fully and legitimately recognized by society, thereby supporting the realization of the national tourism development vision. Enhancing regional economic growth through strategies for strengthening the tourism industry can be achieved by developing conceptual and comprehensive approaches that take into account the characteristics and dynamics of creative industries based on arts and culture (Mairita et al., 2023).

In the national cultural advancement strategy, a twenty-year vision for cultural development is formulated. However, within the current cultural advancement period, namely 2010–2025, the strategic issues surrounding the Madurese carok tradition have not been prioritized as part of the efforts to accelerate the achievement of the national tourism development goals (Sørensen & Grindsted, 2021). In fact, the problem mapping, the progress mapping of cultural advancement objects, and the analysis of cultural issues across Indonesia have yet to recognize the carok tradition as a potential cultural asset that could serve as a primary object in cultural advancement, particularly in the Madura region.

Main findings, this condition aligns with Article 3 paragraph (2) of Presidential Regulation No. 114 of 2022 on the National Cultural Strategy and therefore requires the support of a legal formulation for the Madurese carok tradition. Through a concrete analytical perspective based on Krabbe's theory of legal sovereignty in relation to the Rule of Law principle, it is evident that state governance particularly in advancing the national economy through the tourism industry and in enforcing the law is bound and limited by formal regulatory frameworks (Sosnowski, 2025).

Legitimacy within the local community can be achieved by maximizing both living law and state law so that they may be collaboratively integrated based on the naturally formed legal pluralism in Madura (Hariri & Babussalam, 2024). The transformation of the Madurese carok tradition is not regarded as a form of deviation, as moral values and public propriety can be rearticulated within a different form namely, as folklore. However, problems arise when this transformation is not balanced with the establishment of regulations or regeling, nor with concrete and individualized legal decisions in regional legal instruments such as provincial regulations, governor regulations, and governor decrees. For centuries, the Madurese community has held firmly to the belief that the carok tradition fulfills their sense of justice, as it is perceived to effectively resolve disputes and address conflicts between parties, and is considered far more efficient than resolving such matters through formal legal processes.

Such deviations occur under highly critical conditions and contribute to a negative public image of the Madurese community in particular, due to the presence of physical violence, acts of vigilantism or eigenrichting, and perceptions that categorize it as a criminal offense, which is deemed inconsistent with socio-cultural values. According to Article 1 point 6 of the Minister of Home Affairs Regulation No. 52 of 2007 on Guidelines for the Preservation and Development of Customs and Socio-Cultural Values of Society, socio-cultural values are defined as the authentic creations of a nation concerning notions of good and bad regarding the essence of human life in its relations with other human beings, with the Creator, with nature, and with the dimensions of space and time (Redhani & Hadin, 2024). However, this can be achieved through the formulation of regulations based on norms that remain incomplete, which may subsequently be refined through the issuance of provincial-level regional regulations, governor regulations, or even governor

decrees. This is possible because, under the principle of broadest autonomy, the administration of governmental affairs is carried out by regional governments together with the Regional House of Representatives (DPRD).

Empowering communities in the preservation and development of customs and socio-cultural values in Madura is grounded in Article 7 of the Minister of Home Affairs Regulation No. 52 of 2007 concerning Guidelines for the Preservation and Development of Community Customs and Socio-Cultural Values. Its implementation has not been carried out in accordance with regulatory provisions due to the absence of implementing regulations concerning the establishment of task forces (satgas) at the sub-district and village/urban-village levels to preserve and develop the Madurese Carok tradition. In practice, the Carok tradition is considered an act prohibited under national law however, based on the perspective of legal pluralism, this practice constitutes an action taken to preserve personal honor and remains applicable within the Madurese community (Zaman & Taun, 2023). From a historical analysis and historiographical approach, it cannot be entirely condemned as a practice that inherently produces adverse consequences for social sustainability and communal harmony. Nevertheless, concrete efforts are required in the form of a legal formulation to provide legal standing for the transformation of the Madurese Carok tradition into folklore and to ensure its legitimacy within the Madurese community. Complementary regulations are needed to reinforce the existing legal framework, particularly those concerning the preservation and development of local customs and socio-cultural values, the advancement of culture, and the development of national tourism.

To concretely translate the objectives of the Regional Cultural Preservation Master Plan as stipulated in Article 3 of the Joint Regulation of the Minister of Home Affairs and the Minister of Culture and Tourism Number 42 of 2009; Number 40 of 2009 on Guidelines for Cultural Preservation, it is necessary to foster public participation and creativity based on the principles of mutual cooperation, self-reliance, and justice through collaboration with regional government work units (SKPD) responsible for cultural affairs and the relevant Technical Implementation Units (Firdausi & Muhsin, 2024). However, these efforts cannot be fully carried out at the regional level specifically by local government agencies responsible for cultural affairs and their Technical Implementation Units due to the absence of regulations establishing the Madurese carok tradition as an authentic cultural identity of the Madurese people and its transformation from an act of violence into a new form, namely folklore.

Folklore is a form of traditional narrative that remains deeply rooted and strongly embedded within a particular community or region (Cristina, 2024). Folklore provides a space for expression and communication through a comprehensive narrative that conveys purposes such as advice, moral messages, historical accounts, and other forms of storytelling. Naturally, when the Madurese carok tradition is presented as a folktale with compelling narrative elements and showcased through cultural performances, it can attract significant interest from tourists to visit Madura. Such presentations generate substantial benefits for tourism-related enterprises, which are closely linked to the success of the regional tourism industry in Madura. This is because Madura is not only endowed with abundant natural resources but also rich in cultural and artistic tourism potential. The effort to transform the Madurese carok tradition into a form of folklore will provide a new

dimension to tourism objects or destinations, ultimately becoming a distinctive attraction and an integral element of the local identity of the Madurese community (Savolainen, 2022).

CONCLUSION

This study concludes that while carok constitutes an important part of Madurese cultural history, it cannot be legitimized in its original form due to its association with violence. Instead, the findings emphasize the need to reinterpret carok as a cultural and symbolic expression through a legal and normative framework that excludes violent elements. Existing legal instruments provide a general foundation for cultural preservation; however, the absence of specific regulations designating carok as an object of cultural transformation limits its effective integration into cultural policy and creative development. Therefore, the study highlights the necessity of formulating clear legal instruments at the regional level to formally recognize carok as cultural heritage, ensuring its preservation in a manner consistent with the rule of law, cultural values, and sustainable cultural development.

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