

An Advocacy Approach on Underwater Heritage in Indonesia, Case Study: An auction on underwater heritage from Cirebon waters in 2010

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Abstract

Despite the country's assertion about its ancient, international history and its diverse culture, there are many cases in Indonesia where some cultural heritage objects are under the threat of ignorance of both the people and the government. Various sites and/or artifacts are damaged or lost due to infrastructure development, or being looted to be sold to some collectors or goes out to some auction houses abroad. A Bill was issued in 1992 to manage this situation, and recently (2011) another bill was issued to put a more severe punishment and to put a more relevant context toward this matter, but so far these seem to be ineffective. No one was ever punished for any crimes regarding this matter. Based on experience mentioned above, an advocacy for the law deemed necessary to preserve and protect the nation's cultural heritage, including its underwater cultural heritage.

In 2010 treasures were surfaced from a shipwreck on Cirebon waters. The treasure went to an international auction, committed by the government of Indonesia, and actively monitored by the media, activists, and the community in general. The government supported looting and auction could start a through advocacy for preserving and protecting underwater cultural heritage. Some clues include: prohibition for local fishermen to come near the area, permissions improperly issued for international divers around the shipwreck, a Presidential Decree issued against a higher law (*Act No. 5 Year 1992 on Cultural Heritage*), and the auction itself which disrespects the artifacts status as a cultural heritage.

This experience can become a precedent for advocating a better policy and enforcement toward preserving and protecting underwater cultural heritage, particularly in Indonesia.

Keywords: advocacy, Indonesia, preservation and protection of cultural heritage, policy.

Introduction

Advocacy is a way or a systematic and organized strategy to influence and push the gradual changes in public policy-forward involving a variety of strategies including lobbying, campaigns, creating coalitions, creating pressures through mass action, as well as research (Insist Pers 2002). Various strategies and forms of advocacy have been conducted as part of efforts to strengthen the bargaining position of advocate side in their effort to make a deal with regulators so that the policies resulted have sense of justice. Advocacy is also an effort to defend parties who are harmed by authorities so that a proper balance and fairness in society can be reached. Advocacy approach is very useful in order to encourage a policy that is oriented to the preservation of cultural heritage, as well as a vehicle for public awareness at the community level. This is an important thing to

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do as the complexity of preservation of cultural heritage management issues in Indonesia are either with underwater cultural heritage (UCH) or cultural heritage in general and involve stakeholders such as government, business/private sector, and society.

Masyarakat Advokasi Warisan Budaya (MADYA) had started to implement an advocacy approach by conducting the first public discussion with the theme, "Pannas BMKT: Solution or Euphoria?" It was conducted at the Centre for Asia Pacific Studies of Universitas Gadjah Mada in Yogyakarta on September 12th, 2009. The discussion and results were published by local newspapers and via online media (Ulm 2009). Coverage through the online media was very effective to consolidate the ideas or concepts of the campaign of UCH preservation. This had become one of the triggers encouraging other communities to conduct similar advocacy such as the Consortium for Rescuing National Assets (KPAB, *Konsorsium Penyelamat Aset bangsa*) has implemented the concepts by trying to reveal illegal cases that have surfaced on the UCH in Ujung Pamanukan West Java, as will be described below.

The Potentials of UCH in Indonesia

Geographical location of Indonesia which is located between two continents, Asia and Australia, and two oceans, the Pacific and Indian oceans, has put this country into a main traffic of international trade since ancient times until the present time. As most of its territory are waters, there has been a lot of shipwrecks containing valuable goods in Indonesian waters; they are valuable not only for Indonesian history but also for world history as well. They are important as a clue for reconstructing maritime inter-connection, international relations, migrations, and globalizations in past time. Besides that, they also have high economic value due to their nature as trade and diplomatic goods of the past. According to the Ministry of Ocean and Fisheries, there are roughly 700-800 potential shipwrecks located in Indonesia, 463 locations are positively identified. Below is the list of the number and locations of shipwrecks in Indonesia:

Table 1. The Location of Shipwreck Treasure in Indonesia (Maritime Affairs and Fisheries Research Department, Ministry of Maritime Affairs and Fisheries of Republic of Indonesia)

ID No.	Territorial/Location	Amount of shipwrecks at Location
1.	Bangka Strait	7
2.	Belitung	9
3.	Gaspar Strait, South Sumatera	5
4.	Karimata Strait	3
5.	Riau Waters	17
6.	Malaka Strait	37
7.	Seribu Archipelago	18

8.	Perairan Jawa Tengah Waters	9
9.	Karimun Jawa, Jepara	14
10.	Madura Strait	5
11.	NTB/NTT	8
12.	Port of Ratu	134
13.	Makasar Strait	8
14.	Cilacap Waters, Central Java	51
15.	Arafuru Waters, Maluku	57
16.	Ambon Waters, Buru	13
17.	Halmahera Waters, Tidore	16
18.	Morotai Waters	7
19.	Bay of Tomini, North Sulawesi	3
20.	Irian Jaya	31
21.	Enggano Archipelago	11
Total		463

The origins of shipwrecks in Indonesia waters are varied. These shipwrecks generally were coming from China, Asian countries and European countries such as the Dutch *Verenigde Oost-Indische Compagnie* (VOC), England, France and Spain. These ships were sunk near the main route of trade or harbor at that time. Some of them carried valuable goods such as various types of ceramics, coins, statues and figurines, gold, silver, gems, diamond, and Other objects such as merchandise or for a gift of special items. They are artifacts with high economic value which attracts both domestic and foreign looters. There are some shipwrecks, however, that their economic values are low or have no economic values but contain great values for science due to the historical information they encapsulate. For archaeologists such shipwrecks are important but they are not too important for the treasure hunters.

Treasure Hunt: Indonesian Problems

Based on data from Kompas Information Center cited by Yurnaldi (2010) in his article *Bermitra dengan Media Massa untuk Sosialisasikan Warisan Budaya Bawah Air* it is known that illegal hunting of UCH in Indonesia has existed at least since 1965. The first article by Kompas about this problem titled *Pemburu Harta Karun* was published on August 24th 1965. Five months later Kompas published again about this problem in an article titled *Harta Karun Terpendam di Dasar Lautan*.

The next period of illegalities that surfaced concerning shipwreck treasure in Indonesia was in 1985. In that year Michael Hatcher, an Australian and international salvage diver, conducted an illegal removal in Karang Heloputan, Riau Islands and reaped huge benefit. Hatcher continued his action on early January 2001 in Ternate-Tidore waters collaborating with PT Tuban Oceanic Research and Recovery. On October 2004, PT Marindo Alam Internusa (MAI) requested survey permission for legally surfaced objects to be sent to the National Committee for the Salvage and Utilization of Valuable Objects from

Sunken Ships (PANNAS BMKT, *Panitia Nasional Pengangkatan dan Pemanfaatan Barang Asal Muatan Kapal yang Tenggelam*). In the letter the name of Michael Hatcher was written as the leader of the survey, attached with his working document. However, when PANNAS BMKT rechecked the document it was full of tricky (Marbun 2009: 2).

Consolidating for Advocacy

On April 20, 2010 the Consortium for Rescuing National Assets (KPAB, *Konsorsium Penyelamat Aset Bangsa*), conducted a limited meeting, a Focus Group Discussion, in Jakarta to analyze the problems and to plan an advocacy action to the illegal activities involving foreign parties, especially Hatcher cases. Based on their reports and data KPAB convicted Hatcher and his syndicate to have committed violations of law in Indonesian waters, especially for their activities in Java Sea waters.

The legal basis KPAB used was Presidential Decree of Republic of Indonesia number 19 Year 2007; in conjunction with (Juncto) Presidential Decree of Republic of Indonesia number 12 Year 2009 about the National Committee for the Salvage and Utilization of Valuable Objects from Sunken Ships. In article 2 paragraph (1) of the Presidential Decree of Republic of Indonesia number 12 Year 2009, it is described that, "BMKT is an object owned by Republic of Indonesia and managed by the government". It means that all BMKT wealth is controlled by the state and administered by the government so that all activities of private/business entities that do not obtain permission from the government are unlawful (illegal).

The KPAB noted some illegal activities by Hatcher in Indonesian waters, as follow:

- The surfaced artifacts on 1986 of VOC shipwreck *Vec De Geldermalsen* (sunk around 1751), in Bintan Timur waters, Riau Islands Province,. The value is at United States of America (US) \$ 15,000,000 and the historical values lost because of the illegal removal are invaluable. The artifacts surfaced were 100 bars of gold and 20,000 ceramics of Ming and Ch'ing dynasties. It was published in a book titled *The Nanking Kargo* (1987).
- The surfaced artifacts in Tek Sing shipwreck in Bangka Islands waters, South Sumatera in 1999 with value at Indonesian Rupiah (Rp) 500,000,000,000 and cultural value which is invaluable. Hatcher collaborated with PT Pratama Cakrawala Dirga in doing the illegal activity. The Indonesian government found out about the looting after 43 containers of artifacts surfaced from Tek Sing Ship had arrived in Australia. The information delivered from the customs and excise institution of Australia in 2000 before the valuable things were brought to the auction in Germany (the interview with Bambang Budi Utomo: 2009; see also KPAB: 2010).
- From November 2008 to June 2009 it was believed that Hatcher came back to Indonesia and did illegal activity. On June 2009 he published the Catalog of Investment Opportunity Document of *Ming Dynasty Porcelain* and BMKT CD to international public with sample of porcelain surfaced by him from the shipwreck in North Cirebon waters, Blanakan, Subang regency, West Java.

His activities were illegal because he had not obtained a work permit as a surveyor/researcher recommended by Indonesian Institute of Science (LIPI, *Lembaga Ilmu Pengetahuan Indonesia*). On the other hand, survey permission of UCH Removal issued by the PANNAS BMKT was just on August 11, 2009 with No. B.435/MEN-KP/VII/2009, while the surfaced permission was on November 25, 2009 with No. B.666/MEN-KP/XI/2009. The permission was given to PT Comexindo Usaha Mandiri.

Hatcher activities had been detected by PANNAS BMKT. The indication came from a letter of PANNAS BMKT secretary II on February 5th, 2010, and letter from main military station of Indonesian navy III in Cirebon on March 22nd, 2010 delivered to chairman of PANNAS BMKT.



Figure 1. Hatcher dive to do a survey and held UCH in Bintan Timur Waters, Riau Islands Province on 2002 (resources: MADYA)

The Performance of PANNAS BMKT

The National Committee for the Salvage and Utilization of Valuable Objects from Sunken Ships (PANNAS BMKT) was established on August 14th, 1989 based on *Presidential Decree of Republic of Indonesia No. 43 Year 1989* as a response to illegal surfaced activities of Underwater Heritage done by Hatcher in 1985 in Riau waters. The Indonesian government seemed to realize that shipwrecks and the valuable goods spread in Indonesian waters are valuable state assets needed to be managed as well so that they can be beneficial to Indonesia.

However, there are some problems faced by PANNAS BMKT in managing the Indonesian Underwater Heritage. Some of these are:

- In the tender system the third party has an interest to obtain maximum profit from the sale of UCH objects. On the other hand, the government, especially the Ministry of Culture and Tourism, also has interests to save the objects of

high historical, scientific and cultural values. Another stakeholder is Local Government. With *Act No. 32 Year 2004* they have the rights to receive distribution of profits from the auction of UCH objects from their territory (as is the case in Cirebon from 2004 to 2005). Conflict can occur between employers and government because every object containing very high historical value would be valued very expensive. Expensive prices are expected by employers but on the other side it should not be sold because of the high historical value.

- Conflicts of interest in PANNAS BMKT relate to the utilization of UCH. There are interests of making the UCH objects an economic commodity. On the other hand there are interests of preserving the historical and cultural values. These problems affect the decision to ratify the United Nations Educational, Scientific and Cultural Organization (UNESCO) *2001 Convention on the Protection of the Underwater Cultural Heritage* (2001 Convention). The rise of illegal treasure hunt in Indonesian waters shows that the government still has no good intentions in preserving the cultural heritage. One of the examples was the government planning to auction the UCH objects surfaced from Cirebon waters on May 2010. Public had opposed the auction and the results was that no one was any longer interested to buy the objects. After the failure of the auction, there has been no official statement from the government related to the steps to be taken.
- The committee of PANNAS BMKT has become a prosperous arena for corruption and manipulative activity with the presence of law enforcement officers such as police, army and prosecutors. The law enforcement agencies should remain neutral in the management of State assets. They have an obligation, whether requested or not, to oversee and secure any unlawful action.

In regards to public demands to arrest Michael Hatcher and bring him to court, the Police of the Republic of Indonesia did just block him. Communities are looking forward to decisive action the Government to end the international mafia adventure treasure hunter. In addition, the government can conduct real steps to manage the underwater cultural heritage so that it can be useful for science and public welfare.

Paradigm of UCH Utilization

From problems described above the following can be concluded about the condition of underwater cultural heritage preservation in Indonesia:

- Government lacks attention on underwater heritage
- Handling of law violations tend to not complete
- Coordination of inter-institutions is not yet solid
- Law enforcement is not optimal and now more complex because it must deal with the conventions and international laws
- Surfaced UCH objects can not simultaneously benefit financially as well as for culture.

In the context of the nation's wealth, the utilization of underwater heritage to cultural and economic interests cannot be separated. The utilization merely for economic interest without concerns towards cultural interests are an action with narrow paradigms that are focused on short economic benefit and not for the future generations (Arif Budiman pers. comm. 2010).

One of achievements and great works of archaeological institutions in the protection and preservation of cultural heritage is the preservation of Borobudur Temple. It is one of the seven wonders of the world and is still an endless benefit to science, history, culture and economy for Indonesian people and world community. Many communities such as hawkers, food stalls, hotel entrepreneurs, taxi drivers and others benefit from the tourism around the Temple. This historic site is even one of the big foreign exchange producers. It also occurs at underwater archaeological sites such as Tulamben site in Bali where the Liberty ship belonging to the US Navy from World War II sunk. This site has attracted many tourists. This situation can be perceived by anyone and can continue to impact future generations.

Decree of President of Republic of Indonesia Number 19 Year 2007 in conjunction with Decree of President of Republic of Indonesia Number 12 Year 2009 has become a reference for the PANNAS BMKT to perform legal acts of UCH management, as opposed to Act No. 5 Year 1992 on Heritage objects which it is hoped can be terminated immediately. The birth of Act No. 11 Year 2010 on Cultural Heritage to replace the Act No. 5 Year 1992 is hoped to become a bridge in managing the nation's cultural heritage, including underwater heritage.

Conclusion

Public policy advocacy in the cultural sector is expected to encourage the participation of communities to preserve cultural heritage and encourage governments to be more transparent and able to act as facilitators in the nation's cultural heritage preservation. In the future, UCH may be managed properly by a professional and independent institution. Especially for the management of UCH there are some things to note:

- Research and disclosure of evidence of the Underwater Heritage/Shipwreck need to be conducted intensively so that it can be added to efforts in the development of understanding of history, science, and culture as well as the development, preservation, and utilization to advance the national culture for people's prosperity. The management should not solely be exploited by economic interest. Economic interests that are too big in the management of cultural heritage has proven to be highly detrimental to the public. The motivation to do the treasure theft or illegal cooperation became more and more increasing. It is not a positive impact for improving the welfare of society.
- In managing and utilizing cultural heritage, it should be based on legal norms, socio-cultural conditions, global development and international law. The birth of *Act No. 11 Year 2010 on Cultural Heritage* is a hopeful solution and

encourages the good will of stakeholders to protect the nation's wealth. Economic utilization of cultural heritage should not be narrowly conceived as it can sacrifice the cultural and historical values. The management of Borobudur Temple or Underwater Site in Tulamben can be positive lessons in the nation's cultural heritage preservation.

- It is important to strengthen the capacity of each stakeholder, whether they are government, private sector, and enthusiasts societies of cultural heritage preservation.

Bibliography

Insist Pers., 2002	<i>Memecah Ketakutan Menjadi Kekuatan: Kisah-kisah Advokasi di Indonesia</i> , Insist Pers, Yogyakarta.
Kuswardono A.A., Edy, C., Indra, D., 2009	"Hatcher dan Becking Maut", in <i>Tempo Magazine No. 43/XXXIII</i> , December 20th 2004, viewed 10 September 2009. (http://majalah.tempointeraktif.com/id/arsip/2004/12/20/NAS/mbm.20041220.NAS95244.id.html)
Marbun, J., 2009	"Pannas BMKT : Solusi Atau Sekedar Euforia? (Sekelumit catatan tentang BMKT)", in <i>On Public Discussion</i> , 22 September, PSAP UGM, Yogyakarta, Tidak terbit.
Nn, 2006	"Harta Karun Di Laut Indonesia", in <i>Inovasi online</i> , Vol.6, XVIII, Maret.
Pannas BMKT Publishing 2008	<i>Laporan Tahunan 2008 Pengelolaan Benda Berharga Asal Muatan Kapal Yang Tenggelam</i> , Panitia Nasional BMKT, Jakarta.
1992	Act No. 5 Year 1992 on Cultural Heritage
2010	Act No. 11 Year 2010 on Cultural Heritage
2007	Presidential Decree of Republic of Indonesia number 19 Year 2007 about the National Committee for the Salvage and Utilization of Valuable Objects from Sunken Ships
2009	Presidential Decree of Republic of Indonesia number 12 Year 2009 about change to the Decree of Republic of Indonesia number 19 Year 2007 about the National Committee for the Salvage and Utilization of Valuable Objects from Sunken Ships.
Ulum, M., 2009	"Benda Cagar Budaya Bawah Laut Tak Terjaga: Pencurian Harta Karun Marak", in <i>Harian Jogja</i> , 14 September, Yogyakarta.
Yurnaldi., 2010	<i>Bermitra dengan Media Massa untuk Sosialisasikan Warisan Budaya Bawah Air</i> , viewed 28 August 2011 (http://sejarah.kompasiana.com/2010/09/20/warisan-budaya-bawah-air/)