

LEGAL REGULATION IN TOURISM DEVELOPMENT WITHOUT DISCRIMINATION

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ABSTRACT

Keywords: legal arrangement; tourism; discrimination.

Tourism plays a vital role in supporting the economy while preserving cultural values. Several things need attention in tourism development, one of which is the emergence and arrangement of tourism destinations, which the development of a sustainable tourism sector must support. Based on this background, the problem was formulated: how to regulate the law against discriminatory acts in the tourism sector and how the phenomenon of discriminatory acts against tourism entrepreneurs in Indonesia. The research method used in this research is normative law research. This study concludes that legal arrangements for safe tourism development are regulated based on Article 26 paragraph (d) of Law no. 10 of 2009 concerning Tourism is obliged to provide comfort, friendliness, protection of security, and safety of tourists. In addition, according to Article 23 paragraph (1) letter a of Law no. 10 of 2009, the government and regional governments are obliged to provide tourism information, legal protection, security, and safety to tourists.



Introduction

Tourism plays a vital role in supporting the economy while preserving cultural values. Several things need attention in tourism development, one of which is to bring up and organize tourism destinations that the development of a sustainable tourism sector must support (Hamzana, 2018). In addition, this activity must be used as momentum to raise the spirit of solidarity and togetherness to build the tourism industry in building the economy through self-awareness always to explore, grow, and preserve cultural values as an essential aspect (Lestari, Sh, Suharyanti, & SH, 2020).

Indonesia's tourism development is an integral part of national development carried out sustainably to improve human capabilities and Indonesian society based on national capabilities. Indonesian tourism relies on uniqueness, distinctiveness, and locality, thus placing diversity as an essential, inherent tourism development to preserve and strengthen the nation's identity and natural environment (Lestari et al., 2020).

According to Ketut Sumadi's view, tourism is a human activity in specific symptoms or phenomena, as a result of movement or movement, or staying and going in and out of people who are not making a living moving from a city or region of origin that can bring dynamics in life (Arjana, 2017).

The word tourism comes from the word tourism to tourism; things like this have become a habit to provide a broader understanding of a word or plural understanding. Tourism is related to tourism, which is called "tourism" in English. The term "tourism"

includes people who travel away from their homes and companies that serve them by facilitating or facilitating their journey or making it more enjoyable (Dermawan & Akmal, 2020).

Research Methods

The research method used in this study is normative law research. The type of research used in this study is normative law research, where normative juridical law research is legal research conducted by examining library materials or secondary data using normative case studies. The author uses a comprehensive legal analysis in reviewing the legal substance related to the discussion. The author describes the research results comprehensively regarding disadvantages, weaknesses, and disadvantages. He also reveals advantages and advantages and shows the best solutions that need to be done.

The approach method used in this study uses several techniques as follows:

a. Legal Approach (Statute Approach)

That is an approach using legislation and regulation. Legal research at the level of legal dogmatics cannot escape the statutory approach because the subject matter studied comes from laws and regulations.

b. Conceptual approach (Conceptual approach)

That approach departs from the views and doctrines that develop in legal science to find ideas that give birth to legal understandings and legal principles or legal arguments that are the basis for researchers to build legal arguments in solving the issues faced.

Results and Discussion

Legal Regulation Against Acts of Discrimination in the Tourism Sector

Law as a collection of rules or rules has a general and normative content: general because it applies to everyone, and normative because it determines what should be done, what should not be done or should be done, and how to comply with the methods (Dermawan & Akmal, 2020). Law is a whole of written and unwritten rules that are usually coercive for human behavior in state society (as well as between states), leading to justice, realizing a peace order, and humanizing people in society. The law has several elements, namely:

Rules on human behavior in association with society;

1. The regulation is enforced by official authorities;
2. The sanctions for violation of these regulations are firm.

The law serves as the protection of man. Laws must be implemented so that human interests are protected. Implementation can occur normally and peacefully, but it can also occur due to law violations (Putra, Budiarta, & Ujianti, 2023). In this case, that breakable law must be enforced through the enforcement of this law so that the law becomes a reality.

The law cannot be separated from human life. So, to talk about the law, we cannot escape talking about it from human life. Law serves as the protection of human interests. In order for human interests to be protected, laws must be implemented. The execution of the law can usually take place peacefully, but it can also occur due to law violations (Hadrian & Hakim, 2020).

Tourism at this time is an absolute need for humans, both those who travel and the community around the tourist destination (Ridwan, 2020). Tourists must be satisfied with their desires, while the community around the location hopes it will benefit from increased income and welfare (Sunarso & SH, 2023). This phenomenon must be the concern of policy aides as mandated that national tourism development directed to become a mainstay and leading sector will broadly translate into the most significant foreign exchange income that will encourage economic growth, increase regional income, empower the community's economy, and expand employment and business opportunities (Yusuf, 2016).

Tourism, according to the provisions stipulated in Article 2 of Law Number 10 of 2009, is organized based on the principles:

- a. benefit;
- b. Family;
- c. fair and even;
- d. Balance;
- e. Independence;
- f. pedestrian;
- g. Participatory;
- h. Sustainable
- i. demokratis;
- j. Equality; and
- k. Union.

Tourism meets every tourist's physical, spiritual, and intellectual needs with recreation and travel and increases state income to realize people's welfare (Article 3 of the Tourism Law).

The legal basis for tourism can be seen from the set of rules, principles, provisions, institutions, and mechanisms, national and international, which are used as a basis for regulating trade in tourism services, such as UNWTO's approval of the principles in the Global Code of Ethics for Tourism (GCET) which has been incorporated into the principles of tourism implementation in the provisions of Article 5 of Law Number 10 of 2009 concerning Tourism (Suherman, 2022).

Tourism business activities are multi-faceted activities. Therefore, the discussion for the legal basis of tourism is not sufficiently based on trade and tourism law but must include related areas of law. This activity is a voluntary travel phenomenon carried out by tourists and is closely related to human life and existence. So, it is not wrong to say that tourism manifests human rights.

The commitment of the Indonesian state to recognize the right to travel as a human right can be seen in the section weighing Article 5 letter (b) of Law Number 10 of 2009 concerning Tourism, which states that freedom to travel and utilize leisure time in the form of travel is part of human rights. Furthermore, Law Number 10 of 2009 concerning Tourism affirms that the principle of tourism implementation in Indonesia must uphold human rights and the right to obtain the opportunity to meet tourism needs is the right of everyone as affirmed in Article 19 paragraph 1 letter (a) of Law Number 10 of 2009 concerning Tourism.

The reflection of recognition can be seen at the constitutional level as a manifestation of government legal politics; the reflection of recognition can be seen in Article 28 H paragraph 4 of the 1945 Indonesian Constitution concerning recognition and guarantee of individual property rights from arbitrary expropriation by anyone.

The legal basis of tourism can also be seen in government policies regarding tourism, such as:

1. Presidential Regulation of the Republic of Indonesia Number 2 of 2007 concerning the Ratification of the ASEAN Tourism Agreement
2. Presidential Regulation of the Republic of Indonesia Number 64 of 2014 concerning Cross-Sector Strategic Coordination of Tourism Implementation
3. Government Regulation Number 50 of 2011 concerning the Master Plan for National Tourism Development 2010-2015
4. Regulation of the Minister of Culture and Tourism Number: Km.67 / UM.001 /MKP / 2004 concerning General Guidelines for Tourism Development in Small Islands

Along with the promulgation of Law No. 23 of 2014 concerning Regional Government, which states the development of regional autonomy. The local government makes regulations in the tourism sector, namely the issuance of Bali Provincial Regulation Number 2 of 2012 concerning Bali Cultural Tourism (from now on, Bali Cultural Tourism Regional Regulation) to be the main foundation of Bali tourism development which aims to encourage equal distribution of business opportunities and obtain the maximum benefit for the welfare of the community so that tourism ideals are realized for Bali and not Bali for tourism.

Based on the description above, concrete provisions of the legal basis regarding tourism are contained in Law Number 10 of 2009 concerning Tourism and for regions, especially the province of Bali, namely Regional Regulation Number 2 of 2012 concerning Bali Cultural Tourism.

In national provisions, Article 1 paragraph (4) of Law Number 10 of 2009 concerning Tourism, Tourism is the entire activity related to tourism. It is multidimensional and multidisciplinary and arises as a manifestation of the needs of each person and state as well as interactions between tourists and local communities, fellow tourists, Government, Regional Government, and entrepreneurs. Thus, the definition of tourism based on Law Number 10 of 2009 concerning Tourism contains the following elements:

- a. Tourism activities that are multidimensional and multidisciplinary;
- b. The needs of every person and country;
- c. tourists interact with the local community, fellow tourists, government, local government, and entrepreneurs.
- d. The Phenomenon of Discrimination Against Tourism Entrepreneurs in Indonesia

Tourism is a very multidimensional concept. Some notions of tourism are inevitably used by practitioners with different goals and perspectives according to the goals to be achieved. The definition of tourism cannot be the same among experts. Here are some notions of tourism.

Tourism is a variety of tourist activities supported by various facilities and kites provided by the community, entrepreneurs, government, and local government.

Tourism is a journey made for a while, organized from one place to another, with the intention not to try or earn a living in the place visited but solely to enjoy the journey of life for sightseeing and recreation or fulfill diverse desires.

The elements of a simple tourism system concern a traveler's home area, a tourist destination, a transit point, and a generator that reverses the process. There are five main elements: traveler-generating region, departing traveler, transit route region, tourist destination region, and returning traveler. However, it concerns three main elements: the tourist element, three geographical elements (a combination of traveler generator, transit route, and tourist destination), and the tourism industry element. According to Mathieson and Wall, there are three elements in tourism, namely:

- a. A dynamic element, which is a trip to a tourist destination.
- b. A statistical element, that is, stopping at the destination.
- c. A consequential element is the result of two things above, namely travel to a tourist destination and stopover in tourist areas (especially local communities), which includes the economic, social, and physical impacts of contact with tourists.

The main elements that must receive attention to support tourism development in tourist destinations, according to Suwantoro, include:

Tourist attractions and attractions Tourist attractions, also called tourist objects, are potential that encourage the presence of tourists to a tourist destination. In general, the attractiveness of a tourist attraction is based on:

1. The existence of resources that can cause a sense of pleasure, beauty, comfort, and cleanness.
2. There is high accessibility to visit it
3. The existence of specifications or unique characteristics that are rare
4. The existence of supporting facilities and infrastructure to serve tourists

Natural attractions have high attractions (mountains, rivers, beaches, forests, and others. Cultural tourism objects have high attractiveness because they have exceptional value in the form of art attractions, traditional ceremonies, and noble values contained in an object of human work in the past.

Tourism infrastructure Tourist infrastructure is natural and artificial resources that tourists need in their journey to tourist destinations, such as roads, electricity, water, telecommunications, terminals, bridges, etc.

Tourist facilities Tourist facilities are the completeness of tourist destinations needed to serve the needs of tourists in enjoying their tourist trips. Various tourist facilities that must be provided in tourist destinations are hotels, travel agencies, means of transportation, restaurants and restaurants, and other supporting facilities.

Suppose a tourist destination country cannot provide a sense of security disorder and cannot provide adequate safety and services for tourists. In that case, the country will be shunned by tourists, and in the end, it will significantly affect tourism development.

The increasing progress of national tourism, marked by an increase in the number of tourists to Indonesia, needs to be maintained by providing maximum legal protection for tourists by maintaining the security and safety of the tourists concerned from possible adverse actions or events. The laws and regulations of a country should regulate legal protection for tourists because the management of tourist objects essentially requires security for the comfort and safety of tourists. For this reason, this paper will discuss the regulation of tourist legal protection in Indonesian national legislation.

According to Article 26, paragraph (d), tourism entrepreneurs must provide tourists comfort, hospitality, security protection, and safety. In addition, according to Article 23 paragraph (1) letter a, the government and local governments are obliged to provide tourism information, legal protection, and security and safety to tourists.

Efforts to provide legal protection and tourist safety involve the government and tourism entrepreneurs. Tourism entrepreneurs' involvement in protecting tourists is logical, considering that those concerned also enjoy the benefits of the presence of tourists. The back and forth of tourism business activities/businesses that are carried out depends on the level of tourist visits. In order to optimize the role of the Government, especially Regional Governments, Regional Regulations are urgently needed to strengthen the foothold for related institutions, tourism entrepreneurs, and the community in their policies to provide legal protection and security to tourists. The Regional Regulations formed will undoubtedly refer to the Tourism Law (Law No. 10 of 2009) and other regulations in the field of Tourism that the government has issued. This needs to be considered and become the basis for reference for Regional Governments to create synchronization and harmonization between laws and regulations in the field of tourism by the Central Government and Regional Governments.

Conclusion

Legal arrangements for the safe development of tourism are regulated based on Article 26 paragraph (d) of Law No. 10 of 2009 concerning Tourism is obliged to provide comfort, hospitality, security protection, and safety of tourists. In addition,

according to the provisions of Article 23 paragraph (1) of the letter of law No. 10 of 2009 concerning Tourism, the government, and local governments must provide tourism information, legal protection, and security and safety to tourists. The phenomenon of discrimination against tourism entrepreneurs in Indonesia is an effort to provide legal protection and tourist safety involving the government and tourism entrepreneurs. Tourism entrepreneurs' involvement in protecting tourists is logical, considering that those concerned also enjoy the benefits of the presence of tourists. The back and forth of tourism business activities/businesses that are carried out depends on the level of tourist visits.

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