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## Legal Protection of Human Rights and Local Communities: Impact of Tourism Business

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### Abstract

This research aims to describe the government's protection of the human rights of local communities in the tourism sector as stated in tourism law number 10 of 2009 concerning tourism. The method used in this journal is descriptive analysis, based on literature studies. This journal concludes that protecting the rights of local communities in the tourism business sector is something that needs attention. Where it has been stated in the statutory regulations implemented by the government itself regarding the obligations of companies in carrying out their business in Indonesia. The inclusion of these regulations should be able to limit corporate efforts in practicing their business, so that there are no violations of human rights. Apart from that, the relevant government also plays an important role in preventing things that could harm local communities.

**Keywords:** Legal Protection, Human Rights, Local Communities, Impact of Tourism Business.

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### Introduction

In the world of tourism, human rights protection for local communities is still very minimal (Amma et al., 2023) . So sometimes the laws in force in Indonesia do not have the power to protect the rights of local communities in a tourist destination area. With the current tourism sector, it is able to provide convenience for everyone who is involved in a business in the tourism sector, considering the many natural riches that Indonesia has which of course is a selling point in itself in attracting tourists in all corners of the world. By looking at this condition, the existence of tourist destinations in a particular area indirectly provides opportunities for benefits for the local community (Suryani & Kumala, 2021) . The impact of this tourism business, of course, has a big impact on increasing the level of economic income of local communities (P. NH Putri et al., 2022) , or it could cause local communities to experience losses as a result of taking away what is their community's right for the sake of pre-tourism transactions that lead to on violations of human rights, namely local communities.

In a report (Sharpley, 2020) it is explained that there is an impact on human rights

due to tourism activities in relation to the local community environment and has given rise to many new social phenomena. In research conducted by (Sinaga & Siregar, 2020). Legal and Human Rights Research and Development Agency in 2018 regarding business relations and human rights, especially in the tourism sector in the tourist destination area of Labuan Bajo, West Manggarai Regency, East Nusa Tenggara. The results of this research show that the practice of implementing national tourism development in its development shows that there is a gap between achieving tourism development goals and the facts that occur in the field. The government is more focused on pursuing aggregate national economic growth (Kurniawan & Primawardani, 2021) . However, direct economic improvement for local communities is forgotten. Apart from that, the practice of organizing tourism in the name of tourism development actually tends to have a negative impact on the rights of local communities and the socio-cultural conditions of local communities (Jasman et al., 2023) , such as the policy of determining tourism areas by the government which does not provide space for local communities. to participate in tourism development, coastal area zoning policies which have an impact on limiting fishermen's movement space and affecting the livelihoods of local fishing communities, and certain tourism business activities actually give rise to new problems, namely environmental damage, criminal acts, public access controlled by private parties and others.

By looking at the narrative results of the research conducted by the Legal and Human Rights Research and Development Agency above, as well as by looking at the condition of Labuan Bajo, it is quite interesting for further analysis. From here it can be seen that behind the natural and cultural beauty of this tourist spot, it even has the status of a super priority tourist destination from the Ministry of Tourism and Creative Economy, apparently it contains fragments of anxiety. There is involvement of private or foreign corporations as drivers of the tourism industry which incidentally have capital (Sinaga & Siregar, 2020) . Meanwhile, local people were left to starve in their own land. The regional government's efforts to achieve tourist arrivals have impressed the state and government collaborating as a corporation (Ramdhani & Andriana, 2023) .

This condition also occurs in a similar way to local communities who have lived for a long time in the Komodo National Park Tourist Area (Cahyani, 2019) , even before tourism sector activities existed in Labuan Bajo. So, the impact of the tourism business between foreign corporations and regional/state governments makes the space for movement of local communities increasingly narrow. By looking at the conditions above, in the situation of tourism development development in the Komodo National Park Area, there are two

important points which become references in interpreting tourism development development, namely that tourism development cannot be separated from the two elements between the government and local communities because these two people are basic support and support in achieving tourism development goals. Local communities are the foundation for determining the success of tourism development (Mamonto et al., 2021) . This is contained in tourism law number 10 of 2009 concerning tourism, namely increasing economic growth, improving people's welfare, alleviating poverty and reducing unemployment. Local communities have full rights to participate and contribute to tourism development (Herdiana, 2019) . Second, where tourism development is influenced by the development of the tourism sector globally. So it requires the government to make investments with foreign investors and certain corporations. This is a boomerang in tourism development practices, of course it is a problem and will trigger human rights accountability from the potential impact of the tourism business resulting in human rights violations. So things like this are inversely proportional to the meaning of the law regarding tourism.

Dewa Gde Rudy and I Dewa Ayu Dwi Mayasari (2019) in their research results stated, Tourism is an important factor in the economic development of a country, because it encourages the development of several sectors of the national economy. Considering the importance of tourism to a country's economy, tourism must be managed as well as possible so that it can truly bring prosperity to the community. So management can be interpreted as a planning process, implementation policies, and sustainable use of the natural resources contained therein. Regarding tourism management, it is related to a number of management principles which basically emphasize the values of environmental sustainability in the community, and social values that enable tourists to enjoy their tourism activities in a way that is beneficial for the welfare of the local community. Tourism management involves various parties, such as local government, the private sector (tourism business actors) and the community who are expected to participate. In this research two problems are discussed. First, what are the principles of organizing tourism according to Law Number 10 of 2009 concerning Tourism and what are the community's priority rights in management according to Law Number 10 of 2009 concerning Tourism This type of research is normative legal research because it focuses on analysis of existing legal norms. appear. The approach used is a statutory approach and a legal concept analysis approach. Regarding the principles of organizing tourism, it is regulated based on the provisions of Article 5 of Law Number 10 of 2009 concerning Tourism. Regarding community priority rights in management, that is, every community has priority rights to workers/laborers, consignment and management in

the tourism business sector. In the context of this management, every community is given the right to exploit the resources it has in the tourism business sector. This construction means that local communities are no longer marginalized communities, but have greater bargaining power in determining themselves and enjoying the benefits of tourism in their area.

Isaiah Sandang (2019) in his conclusion stated that managing the human rights dimension in relation to tourism requires a careful approach (precautionary principle). Primary attention needs to be paid to the extent to which there is firmness in mainstreaming the implementation of business and human rights for tourism businesses. In short, what has been mandated by the tourism law still needs to be further elaborated at various regulatory levels (down to the destination level) and tourism business subsectors. In the end, several strategic recommendations were proposed in an effort to mainstream business principles and human rights for the tourism sector in Indonesia.

Arief Rianto Kurniawan & Yuliana Primawardani (2021), in their research, said that corporate involvement in tourism development in Labuan Bajo, Komodo, Indonesia has an impact on human rights. Five types of impact of tourism businesses on human rights, namely: tourist area designation, entertainment-drink businesses, accommodation and food businesses, tourism transportation businesses, and recreation and entrepreneurial businesses. The relationship between the impact of tourism businesses and human rights is formed when corporate interests are more dominant than tourism development interests, and then tend to override the rights of local communities. This study concludes that there is a gap in the value of economic benefits for local communities from tourism development due to government policy discrimination regarding opportunities and convenience in conducting tourism businesses which are more likely to be given to corporations.

Mohammad Irfan (2023) states that when we talk in the realm of law, it will appear that there are interests at the local community level that must be protected, this is motivated by the pressure from certain parties with an interest in tourism for security, comfort and sustainability. an effort to help increase tourism movements in the SEZ area. Efforts to protect the activities of local communities who are trying to survive with the tourist movement in the KEK tourist area have had quite an important influence on their daily lives, as legal persons, if they are not protected then arbitrary actions will arise in the name of the state as the holder of regulations. which oppresses their interests.

I Wayan Adrian Rainartha Nugraha (2023) concluded that according to Article 62 of Law Number 8 of 1999 concerning Consumer Protection states that losses suffered by tourists are caused by human error, in this case carried out by tour guides and other

personnel, is an unlawful act as regulated in article 1365 Civil Code. The law provides legal protection for those who are harmed by suing the party who caused the loss to provide compensation to tourists who experienced it losses for travel agents as organizers (producers) are obliged to provide legal protection and provide confidence in the services provided. According to Law Number 10 2009 concerning Tourism, Article 64 paragraph 1 and paragraph 2 states that "(1) Whoever intentionally and unlawfully destroying the physical attractiveness of tourism as referred to in Article 27 is punishable by a maximum imprisonment of 7 (seven) years and a maximum fine Rp. 10,000,000,000.00 (ten billion rupiah). (2) Whoever, through negligence and against the law, physically damaging or reducing the value of tourist attractions as intended in Article 27 shall be punished with a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah).

The first research tends to look at the jurisprudential aspect of the tourism sector, where the law actually regulates the principles of tourism administration Number 10 of 2009. On the basis of this law, the rights that local communities should obtain, such as the rights opportunities as workers, consignment and management in other business fields can be synergized and/or prioritized by regional governments with the central government as the party that bridges private corporations in investing.

The second research on the one hand looks at the business sector while on the other hand looks at the human rights aspects that arise from tourism business actors. This confirms that business principles and human rights cannot be separated because basically the existence of human rights is an important reference for always protecting the rights of local communities in their involvement in managing the surrounding natural wealth.

In this research, aspects of legal regulations that protect the rights of local communities and the involvement of private corporations which result in limited space for community movement are the focus of the study. It can be seen that the law that has been enacted should be able to protect the rights of the community, especially in the Labuhan Bajo area, so that violations can be avoided by related companies.

## **Research Method**

This research is a descriptive analysis research based on literature study. Where it is based on statutory regulations as the basis for human behavior that is considered legal.

## **Results and Discussion**

## Factors that Influence the Negative Impact of Tourism Business

Tourism is all activities related to tourism (Lilik, 2021) and is multidimensional and multidisciplinary in nature which arises as a manifestation of the needs of each person and country as well as interactions between tourists and local communities, fellow tourists, the government, regional governments and entrepreneurs.

The various human rights impacts of tourism activities must of course be understood in the sense that there is a relationship between the tourism business and its impact on human rights (Djati et al., 2023) which is based on the tourism business process. The stages of the tourism life cycle are transformed objectively in describing the relationship between tourism business and human rights (Pristiwasa & Zahari, 2022) . So the tourism business process in Indonesia shows three stages, namely: pioneering and determining national tourism destinations, licensing and tourism development, and after tourism development.

First, the pioneering stage and determining national tourism destinations, the state has the authority to provide correct and detailed information to local communities regarding plans to designate their areas as national tourism areas, and involve local communities to be involved in tourism development planning, including how local communities are involved in promoting the region as a tourist area and contribute to building and maintaining infrastructure that supports tourism.

Second, at the tourism licensing and development stage, the state has the authority to create policies that regulate tourism business licensing mechanisms by including provisions for companies to partner with local communities when running tourism businesses.

Third, the stage after tourism development, the state has the authority to take anticipatory steps towards the carrying capacity of tourism development in order to provide long-term positive impacts from tourism implementation. By understanding the three stages of the tourism life cycle, you can certainly avoid problems.

Minister of Tourism Regulation No. 18 of 2016 explains that tourism businesses include the following business sectors: Tourist attractions, Tourism areas, Tourist transportation services, Tourist travel services, Food and beverage services, Providing accommodation, Organizing entertainment and recreation activities, Organizing meetings, incentive trips, conferences, and exhibitions, tourism information services, tourism consultant services, tour guide services, water tourism, and SPA.

In global business practices in the field of tourism business, the meeting of two interests, namely the government and tourism entrepreneurs, contributes to creating a gap between realizing the receipt of economic benefit value for local communities from tourism

development, and government policies that provide opportunities and convenience to organize tourism businesses for corporations.

One of the factors that influences inequality is the discriminatory behavior of government officials in implementing fair tourism development policies. So it is increasingly felt by the majority of groups who are vulnerable to poverty. This means that tourism development in the area does not provide economic or social benefits and only benefits the government and corporations.

This gap also occurs in the Komodo National Park area, due to the implementation of zoning policies in the area. So this has an impact on narrowing the space for local people who live around this area, which in fact these local people have lived in this area before the emergence of this area into a destination area that has an attraction to attract tourists to come. Of course, the presence of this policy means that local communities have reduced economic rights. Which indirectly forces the local community there to change their livelihood patterns. The relevant government has actually given full permission to corporations.

The above matters really need to be considered for the sustainability of an area where local communities live. If this is left unchecked, future indications will be even more dangerous. Local people will be spectators on their own land. Because, where there is cooperation between the government and corporations which in fact have sufficient capital.

Therefore, policies related to tourism development are not yet real, because they have a significant impact on the lives of local communities in the future, both from an economic and social perspective. Meanwhile, economically alone, local communities are quite depleted because they cannot compete in global business struggles. Apart from that, the fear is that in the future cultural values will also be reduced.

### **Legal Protection of Human Rights (Local Communities) in the Tourism Business**

Development in the economic sector which tends to involve the private sector or corporations has a negative impact on corporate business practices on society and the environment (Philipus, 2021) . The Tourism Law states that corporations have obligations towards local communities, namely that every tourism entrepreneur is obliged to maintain and respect religious norms, customs, culture and values that live in local communities (SK Putri, 2023 ) . Meanwhile, corporate obligations regarding the relevant laws, of course, should be understood as carrying out tourism businesses that require the use of available space and natural resources, including human resources as workers, and this has the potential for impacts that may arise from the use in question.

As stated in Law Number 10 of 2009 concerning Tourism, tourism is everything related to tourism activities and their impacts that occur due to interactions between tourism actors and tourist attractions, tourism supporting facilities and infrastructure provided by the community, private and government.

In (Hughes, 2020) it is stated that the guiding principles for business and human rights, there are three pillars, namely: the first pillar, is that the government has an obligation to protect human rights. The second pillar, companies are responsible for respecting human rights. The third pillar is the fulfillment of victims' rights to access recovery.

Basically, the issue of business and human rights has been started for a long time with various initiatives carried out by various important elements by issuing agreements that are expected to be generally recognized.

At the national level, the current human rights challenges and problems faced by the Indonesian government (Ulfiyyati et al., 2023) are: the gap between the legal framework and the real conditions of human rights in the business sector, which is marked by an increase in human rights violations by private sector, as well as the weak role of the state in protecting the human rights of citizens. In addition, the impact of company practices on respecting human rights includes two aspects, namely: internal impact and external impact. Internal impacts can be seen in the people who work for a corporation itself. Then on the external impact, it is closely related to society and the surrounding environment.

Based on this, apart from having obligations for corporations, the position of the state is also bound by the obligation to protect, where in the provisions of human rights law, the position of the state is as an organization of power from the people to exercise the state's right to control the land, water and the wealth contained therein. according to the constitutional mandate. The form of state accountability must also be realized in concrete form and can also measure the government's moral attitude when tourism development is implemented.

Thus, the principle of upholding human rights is outlined in tourism regulations as a form of government moral statement. However, considering the human rights impacts resulting from corporate business operations, the government's moral statements alone are not enough and must be accompanied by a measuring instrument that describes the government's moral attitude and is responsible for its moral statements.

If we refer back to the previous three stages of the tourism business process. So the government's position is of course obliged to focus on what actions must be taken, including preventing and resolving problems of human rights violations that occur as a result of



tourism business operations. Considering that tourism development activities certainly involve the issue of how the state manages natural resources for the prosperity of the people.

The right to state control is implemented based on the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and by maintaining the balance of progress and unity of the national economy.

## Conclusion

This research focuses on conditions in the Komodo National Park area, protecting the rights of local communities in the tourism business sector is something that needs attention. Where it has been stated in the statutory regulations implemented by the government itself regarding the obligations of companies in carrying out their business in Indonesia. The inclusion of these regulations should be able to limit corporate efforts in practicing their business, so that there are no violations of human rights. Apart from that, the relevant government also plays an important role in preventing things outside of that.

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