

# Legal Protection for Tourists by Doing Law Enforcement on Travel Bureaus That Do Not Have Permit (Illegal) in Bali Province

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## ABSTRACT

The provisions of Law Number 11 the Year 2020 on Copyright Work (Omnibus Law) determine that online Travel Bureaus that do not have permits should follow the provisions to apply for business permits to obtain validity / or legality in the tourism business sector. How was the law enforcement for the Travel Bureau that does not have a business license in the Province of Bali, and how are the legal efforts to take action against the Travel Bureau. The research method used in this study is an empirical research method, using the Fact Approach and the statute. Then the data results of research in Bali Provincial Tourism Office by interviewing Mr. I Nyoman Gede Gunadika were then analyzed based on qualitative analysis, which was then presented in a descriptive analysis. This study showed that the implementation of law enforcement against the Travel Bureaus had not been done optimally. Legal action that can be taken against fraud and default in the travel bureau may be subject to administrative sanctions by the provisions of Article 16 paragraph (1) of the Bali Provincial Regulation Number 1 of 2010 concerning Travel and Tourism Services Business in the form of closure of business premises. The fraud that the travel bureau has done may be subject to the provisions of Article 28 paragraph (1) of Law of the Republic of Indonesia No. 11 of 2008 and section 378 of the Penal Code (KUHP). This can be resolved by the provisions of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution.

**Keywords:** *Illegal, Law Enforcement, Legal Protection, Travel Bureaus, Tourists.*

## 1. INTRODUCTION

In the 1990 Republic of Indonesia No. 9 on Tourism, all tourism entrepreneurs in carrying out their businesses is obliged to protect the comfort, safety, and security of traveling, in order to optimize the achievement of the tourism objectives. Therefore, it is essential to arrange or regulate tourism in indonesia which is international that does not conflict with the philosophy of Pancasila. Recognition of the right to travel as a human right also means applying human rights principles to the right to travel. The principles of human rights in question are the universality principle, human dignity principle, non-discrimination principle, equality principle, indivisibility principle, rights principle that cannot be transferred or taken away or exchanged for certain things, the principle of interdependence, and responsibility principle.[1] recognition of tourism activities as part of human rights (HAM) has been regulated in article 26 of the law of the republic of indonesia number 9 of 1990 concerning tourism concerning the obligation of every

tourism entrepreneur in carrying out his business to protect the comfort, safety, and security of traveling. As a country based on the law (rechtstaat), the republic of indonesia must carry out its obligations to fulfill human rights by means: respect, protect, and fulfill.[2] the travel bureau occupies a critical position in the tourism industry because the travel bureau (BPW) acts as an intermediary between tourism industry companies on the one hand and tourists on the other. the travel bureaus (BPW) that do not have permits to operate in Bali province have received complaints from travel bureaus and official travel agents who already have a travel service business permit.[3] Based on these problems, the author is interested in raising this issue in an article entitled "legal protection for tourists by doing law enforcement on travel bureaus that do not have permit (illegal) in Bali province."

## 2. METHOD

The Empirical Legal method is the method used in this study, another approach model in researching law as

an object of research. In this case, the law is not only seen as a discipline. Prescriptive and applied, but also empirical or legal reality. Empirical Legal Research is research on legal identification and research on legal effectiveness.[4] This study focuses more on studies related to how the implementation of supervision/or law enforcement on Travel Bureaus (BPW) that do not have a business permit (illegal) in Bali Province and what legal remedies can be taken by foreign tourists (overseas) against fraud. The default option by the Travel Bureau is based on the provisions of the laws and regulations that have governed it. The type of writing I am using is the Fact Approach and the Law Approach. The main legal material used in this research are laws and regulations related to the problems, especially the Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism. In this study, the data were analyzed based on qualitative analysis, then compiled systematically then processed and compiled in the form of a description as a written paper in the form of a paper and presented in a descriptive analysis to examine the problems in the discussion related to the implementation of the Regional Regulation of Bali Province Number 1 of 2010 concerning Travel and Tourism Services Business in the context of the supervision of online Travel Bureaus (BPW) that do not have a permit (illegal) in Bali Province.[5]

### **3. RESULT AND DISCUSSION**

#### ***3.1 Implementation of Supervision/or Law Enforcement on Travel Bureaus That Do not Have Business Permit (Illegal) in Bali Province***

Tourism development activities are growing very rapidly, occurring in one of the regencies in Bali Province, namely Badung Regency, thus demanding hard work from the Travel Bureaus (BPW) towards tourists in providing tourism services to prioritize comfort and safety in traveling.[6] Regional Regulation of Bali Province, Number 1 of 2010 concerning Travel and Tourism Services Business, the agency that serves as a supervisor in implementing the Travel Bureau in Bali Province both conventionally and online, is the Bali Provincial Tourism Office. The provisions of Article 3(1) of Law No. 32 of 2004 of the Republic of Indonesia concerning Regional Government stipulates that "Registration of Tourism Businesses is addressed to the Regent or Mayor of the domicile of the office and / sales outlets." The Bali Provincial Tourism Office collaborates with the Association of The Indonesia Tours and Travel Agencies (ASITA) and the Badung Regency Civil Service Police Unit (Satpol PP) to manage online Travel Bureaus not have an operating permit. ASITA is an association of travel agents and travel bureaus whose purpose is to promote and protect the interests of travel companies in general and the interests of members in particular.[7] According to ASITA, if the Travel Bureau does not accept the claims of tourists as service users, then the membership of the Travel Bureau can be revoked

by ASITA. As an intermediary between tourism entrepreneurs and tourists, the Travel Bureau (BPW) is responsible for providing products, services, and management according to standards. Based on the existing legal protection theory, the two types of legal protection theory are preventive and repressive. If it is associated with these problems, one of the preventive steps as a form of legal protection is holding certification for the Travel Bureau (BPW) as a tourism services provider. Meanwhile, related to repressive legal protection that can be used to support tourism activities and tourism security, it requires the role of the police, the role of the prosecutor's office, and the role of the court.

In order to provide protection for human rights for tourists when traveling, of course, the State, in this case, supervises the implementation of the Travel Bureau in the Province of Bali both conventionally and online. Law is a human act that is categorized into three things, namely commands, prohibitions and permissions. The discussion that becomes the focus of discussion in legal philosophy is about the nature of law, its purpose, why it exists, and why people must submit to the law. In this case, the essence of the regulations related to the obligation to legalize the Travel Bureau is to protect the human rights of tourists when traveling by specific standards determined in the legislation so that later tourists feel their human rights in carrying out their activities. The tourism sector can be fulfilled.

Meanwhile, when analyzed based on aspects of legal theory, the legal theory used in analyzing the case is the theory of legal protection. This is because the country is obliged to provide legal protection to its citizens, just like in Indonesia, Indonesia has established its legal status in accordance with Article 1(3) of the Constitution of the Republic of Indonesia in 1945 (hereinafter referred to as the Constitution of the Republic of Indonesia in 1945). Notes that "Indonesia is a rule of law." Legal protection is a state of security granted to legal subjects (from someone's arbitrary actions) by means of legal instruments, both preventive and repressive, both written and unwritten. The function of law is to provide justice, order, certainty, benefits, and peace.

This, of course, applies in analyzing problems related to supervision/or law enforcement against travel agents that do not have a business license (illegal) in the Province of Bali. It should always be based on existing legal theory to provide justice, certainty, and benefit for tourists. This also provides legal protection for honest business actors, namely travel agents who already have a (legal) business license. The government should be more assertive in taking a policy or making specific regulations so that business actors, in this case, tourist travel agencies that do not have a business license (illegal), especially in Bali Province, will not repeat their actions and immediately take care of their permits so that their business becomes legal.

Based on the existing legal protection theory, the two legal protection theory types are preventive and

repressive. If it is associated with supervision/or law enforcement problems against travel agencies that do not have a business license (illegal) in the Province of Bali, one of the preventive steps as a form of legal protection is to hold certification for travel agencies as tourism service providers. The purpose of this preventive protection is to focus on being more predictive in making decisions at the discretion of the government, and oppressive protection is to prevent disputes, including judicial treatment.

### ***3.2 Legal Actions That Can Be Taken Against Fraud and Default in Online Travel Bureaus that Do Not Have Permit (Illegal) in Bali Province***

Travel Bureau (BPW) as a service provider is a type of business that adheres to trust. The trust of tourists as users of travel services is an essential asset for the progress of a travel service business. The Travel Bureau (BPW) is obliged to supervise travel products that have been carried out so that they are carried out correctly. In dealing with online travel bureaus that do not have an operating permit, they may be subject to administrative sanctions by the provisions of Article 16 paragraph (1) of the Regional Regulation of Bali Province Number 1 of 2010 concerning Travel and Tourism Services Business which stipulates that "Every tour operator operating without The Business Registration Certificate as referred to in Article 8 paragraph (1) shall be subject to administrative sanctions in the form of closing the place of business".[9] Against fraud committed by the Travel Bureau (BPW) operating online, criminal legal action can be taken by Article 28 paragraph (1) of the Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions and Article 378 of the Indonesian Law Criminal Code (KUHP) on Fraud.[10] Settlement of problems through alternatives or arbitration is another way to be able to resolve the problem of fraud or default by the online Travel Bureau, it is regulated by the Republic of Indonesia Law No. 30 of 1999 regarding arbitration and alternative dispute resolution, and several solutions have been decided. Disputes, ie: arbitration, consultation, negotiation, mediation, mediation, or expert evaluation.

When analyzed based on the theory of legal responsibility put forward by Hans Kelsen, what is meant by accountability is that a person is is legally responsible or liable for a specific act by his position. Legal responsibility based on default is based on a contractual relationship. A contractual relationship arises because of an agreement or because of the law. The rules regarding contract law in Indonesia are regulated in the Civil Code (KUH Perdata). The third book on engagement means that in this case, the business actors of the Travel Bureau are obliged to be responsible for providing safe, comfortable, and adequate tourism services for tourists, including for tourists. Certify their business.

## **4. CONCLUSION**

Implementing supervision/or law enforcement on travel bureaus that do not have a business permit in the Bali Province cannot be optimally carried out due to the absence of strict regulations regarding procedures for making permits to ratify the online Travel Bureau (BPW). It is carried out concerning preventive legal protection by providing a sense of security, justice, and comfort to tourists according to their primary duties and authorities through its respective institutions. The repressive legal protection that can be used to support tourism activities and tourism security requires the police's role, the role of the prosecutor's office, and the role of the court. Legal actions that can be taken against fraud and default in online travel agencies that do not have a permit (illegal) in Bali Province, the business actor may be subject to administrative sanctions by the provisions of Article 16 paragraph (1) of the Regional Regulation of Bali Province Number 1 of 2010 concerning Travel and Tourism Services Business in the form of closing the place of business. Frauds committed by the Travel Bureau operating online without a permit (illegal) may be subject to the provisions of article 28 of the Law of the Republic of Indonesia No. 11 of 2008 on information and electronic transactions and article 378 of the Criminal Code. The (KUHP) Fraud Code. In a civil context, any dispute that arises may be resolved through arbitration, dispute resolution or alternative dispute resolution in accordance with the Law of the Republic of Indonesia No. 30 of 1999 on Arbitration and Alternative Dispute Resolution.

## **REFERENCES**

- [1] Kleden, M., 2008, *Human Rights in Communal Society*, Lamalera, Yogyakarta.
- [2] Putra, Ida Bagus Wyasa et al., 2003, *Tourism Business Law*, PT. Refika Aditama, Bandung.
- [3] Banakar, Reza and Max Traves, 2005, *Theory and Method in Socio-Legal Research: A Series* published for The ONATI institute for the sociology of law, Hart Publishing, Oxford and Portland Oregon.
- [4] Soekanto, Soerjono, 2008, *Introduction to Legal Research*, University of Indonesia Press, Jakarta.
- [5] Sunggono, Bambang, 2010, *Legal Research Methodology*, Rajawali Press, Jakarta.
- [6] Mulyadi, A., 2012, *Tourism and Travel*, PT. Raja Grafindo Persada, Jakarta.