



Liability Against Physical Damages of Tourism Attractions According to the Bali Perda Number 5 Year 2020

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Abstract. Indonesia is a country rich in culture and tourism. Tourism is a dynamic activity that involves many people and revives various fields of business. The importance of the role of tourism in economic development in various countries is no longer in doubt and tourism is one of the development sectors currently being promoted by the government. However, the lack of supervision and public understanding often causes damage and pollution to the environment of tourist objects because tourist visitors or visitors to the place, both local and foreign tourists, assume that the tourist attraction is a public place and free for anyone who visits there. Therefore, what are the rules for the physical destruction of tourist attractions in accordance with the Bali Regional Regulation Number 5 of 2020? and what is the criminal responsibility for the perpetrators of physical destruction of tourist objects in the province of Bali?. This research uses normative legal research. Regulations regarding the destruction of tourist attractions are regulated in Article 7 paragraph (1) of the Bali Provincial Regulation Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism explaining the prohibition of damaging tourist attractions that can reduce the aesthetics of the place. Responsibility for the destruction of tourist attractions by tourists can be charged with Article 37 paragraph (1) of Bali Provincial Regulation Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism.

Keywords: Accountability · Destruction · Tourist Attractions

1 Introduction

Indonesia is a culturally and touristically rich nation. This is clear from the fact that tourist-visited areas are fairly evenly distributed across all Indonesian provinces. Tourism is repeated or recurrent travel, whether planned or impromptu, that produces a comprehensive experience for the perpetrator. Given this view, it is clear that tourist activities are a component of tourism activities, as tourism activities are the plural of tourism activities.

Nowadays people hope to enjoy a good and healthy environment not only free from environmental pollution that can endanger their health, but also free from other disturbances, which although not harmful to health, can damage the aesthetic aspects of their

living environment or the environment in which they live. So that the issue of aesthetics and cleanliness is also a concern of many people (Destiny Rahmadi, 2013: 5). Human actions can result in a decrease in the quality of the beauty of the tourist environment because tourism is a social activity (Wardiyanta, 2006: 85).

Supervision of the threat of destruction and environmental pollution to tourist attractions is essential for maintaining and protecting tourist attractions as national assets that contribute to national development by providing employment and other economic activities and foreign exchange revenues.

The occurrence of environmental damage and pollution of tourist attractions in Indonesia, often due to the end of tourists or visitors to a place, both local and foreign tourists assume that tourist attractions are public places and free for anyone who visits there. Lack of public understanding in the meaning of democracy makes people become wild to interpret the word “free”, especially in behavior (Barda Namawi Arief, 2010: 10).

The problem of waste is another observable and explorable effect of tourism on the environment. The waste produced by tourists becomes an environmental issue that might compromise the quality of tourist places. When the area of a tourist attraction is small, liquid waste typically originates from hotels, guesthouses, and restaurants distributed across the destination. These locations will inevitably serve as ecotourism accommodations. However, care and management of the resulting liquid waste is frequently inadequate. Reducing pollutant sources and treating liquid waste so that it cannot contaminate the environment are two measures typically employed to combat the occurrence of water overpopulation.

The number of cases that occur shows that the mechanism of supervision and monitoring by the government and local governments has not been implemented effectively and in addition, the implementation of criminal sanctions against perpetrators of destruction and environmental pollution of tourist attractions in their area has not been carried out thoroughly. Furthermore, two big questions can also be asked about the usefulness and effectiveness of the threat of coercion (sanctions). First, perhaps the ineffectiveness of the law because the threat of coercion is less severe. The second may also be because the threat of coercion is not adequately communicated to the community (Achmad Ali and Wiwie Heryani, 2013: 137). Achmad Ali and Wiwie Heryani also emphasized that every legal and legal regulation that threatens sanctions must be socialized to the maximum extent in the community, so that both the presence, content of the rules, and the severity of the threat are known to as many citizens as possible.

Based on the explanation of the background of the problem above, therefore the research aims are to know how to regulate the physical destruction of tourist attractions in accordance with the Bali Regional Regulation Number 5 of 2020 and what is the criminal responsibility for the perpetrators of physical destruction of tourist objects in the province of Bali. So the purpose of this research is to determine law enforcement against physical damage to tourist attractions as regulated in Bali Regional Regulation Number 5 of 2020 and to determine criminal liability for perpetrators of physical destruction of tourist objects in Bali Province.

2 Method

The type of legal research in this paper uses the type of normative legal research using the approach to legislation in force in Indonesia and is supported by library materials in the form of literature, articles and journals. The legal materials used in this study are sourced from primary legal materials, which are legal materials whose contents are binding, because they are issued by the government, in this case, namely: Law Number 10 of 2009 concerning Tourism and Bali Regional Regulation Number 5 of 2020 concerning Standards The implementation of Balinese Cultural Tourism and the secondary legal materials used were obtained through library research in the form of literatures, articles and journals.

The method of collecting legal materials is by studying documents and recording techniques, namely by studying existing primary legal materials, both in the form of laws and regulations from secondary legal materials through literature, journals, articles related to research problems. First, an inventory of primary and secondary legal materials is carried out, then they are classified and then legal materials are selected according to the research needs. The existing legal materials will be arranged systematically from general matters to specific matters based on the existing problems. Then the sources of legal materials are selected based on their respective proportions, so that the processing techniques for the sources of legal materials are qualitative. Analysis of primary and secondary legal materials is carried out by descriptive analysis method.

3 Result and Discussion

3.1 Arrangements Concerning Physical Damage of Tourism Destinations in Accordance with Applicable Law

In social life or law enforcement, will play a crucial role in the efforts of society to eliminate crime. In reality, there are several instances in social life where the application of the law is ineffective. To achieve legal objectives, the problems of implementing, executing, and enforcing the law in society are intimately related to the issue of legal effectiveness. In other words, the law applies philosophically, legally, and socially (Soerjono Soekanto, 2004: 13).

Tourism-related conversations inevitably involve the environment, and in an environment, there exist regulations and signs of Legal Awareness. According to Soerjono Soekanto's idea of legal awareness, legal awareness is an abstract human concept concerning the desired or acceptable equilibrium between order and peace. There is a great deal of damage to tourist attractions in Bali caused by tourists who have no knowledge of the applicable rules.

In addition to natural causes, human activities and development processes can also create environmental degradation. This problem is not unique to tourist destinations in Bali. Many tourists intentionally or unintentionally damage these tourist attractions, for instance by climbing Padmasana in the holy place area, which is certainly one of the tourist attractions of destruction and its effect is to diminish the aesthetics.

When viewed from the perspective of law enforcement against tourists, it is carried out when tourists are suspected of committing a criminal act, as evidenced by the damage

or pollution that has been caused and is known by other individuals or the management of tourist attractions, who then report the case to the authorities and enforce the law. repressive, specifically through the process of investigation and investigation, which is the beginning of the process of examining criminal cases, which are the affairs and responsibilities of the Police Agency, followed by the prosecution process by the public prosecutor to carry out the prosecution given by the prosecutor's agency where the jurisdiction where the crime occurred, and then the examination is located in court and is the final determination of whether a person is guarantor.

3.2 Criminal Liability for Criminal Acts of Physical Damage Tourism in Bali

Criminal culpability is a disgusting conduct by the community, who must hold the perpetrator accountable for their crimes. Taking into account the abhorrent activities of the perpetrator determines whether or not the perpetrator is also held accountable. Although in the first scenario, the perpetrator is punished, in the second case, the perpetrator is not penalized.

Criminal culpability refers to the applicant's conviction if he has committed a crime and meets the statutory requirements. From the perspective of the occurrence of a banned conduct, a person will be held liable for the crime if the act breaches the law (*rechtsvaardigingsgrond*). However, from the perspective of the ability to be responsible, only those who are "capable of being responsible" can be held accountable. The legal elements of criminal responsibility are that a person or suspect of a criminal act will not be held criminally liable or sentenced if he did not conduct a crime and that the offense must be against the law, although it is not always possible for him to be punished even if he did commit a crime. Criminals will only be punished if their guilt is legally and clearly established.

Tourism operations are not just related to the country's economic difficulties as a multisectoral industry. Tourism does not exist in a vacuum, but is part of a broad system whose components are interconnected in numerous ways, such as the sociocultural environment, political security, etc. Tourism is one of the primary drivers of sociocultural change in numerous locations, particularly in tourist destinations.

However, apart from the positive impact of tourism, there are still many other impacts caused by tourism, tourism is an activity that directly touches and involves the community, thereby bringing a variety of impacts to the local community, and the impact of tourism has received the most attention in the literature, particularly its impact on society. local as well as environmental.

The repercussions of heavily visited tourist locations include socio-economic issues, their impact on socio-culture, and tourism's influence on numerous elements of people's lives, such as security politics and the environment. In addition to natural causes, human activities and development processes can also create environmental degradation. Regarding the imposition of criminal sanctions on perpetrators of destruction and environmental pollution of tourist attractions in Bali, the Regional Regulation of the Province of Bali Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism regulates the matter in Article 37 paragraph (1).

The application for sanctions for perpetrators of exploitation of tourist attractions by tourists, as stated in Article 37 paragraph (1) of the Bali Provincial Regulation Number

5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism, is subject to a maximum imprisonment term of three months or a maximum fine of Rp. 50 billion (fifty million rupiah). Assessed from the aspect of imposing criminal sanctions, it is hoped that it can prevent the destruction and pollution of tourist attractions, the potential for tourism development is closely related to the environment and resources so that this is considered able to bring order to the community, in this case tourists participate in preserving the tourism object.

4 Conclusion

Criminal culpability is a humiliating conduct on the part of the community, who must hold the perpetrator accountable for their crimes. Taking into account the creator's despicable behavior determines whether or not the maker is likewise held accountable. In the first instance, the perpetrator is certainly punished, whereas in the second instance, the perpetrator is certainly not penalized.

Criminal culpability refers to the applicant's conviction if he has committed a crime and satisfies the statutory conditions. From the perspective of the occurrence of a prohibited act, a person will be held accountable for the crime if the act violates the law (*rechtsvaardigingsgrond*). However, from the perspective of the capacity to be responsible, only someone who is "capable of being responsible" can be held accountable. A person or suspect of a criminal conduct cannot be held criminally liable or condemned if he did not commit a crime, and the offense must be against the law. However, even if he commits a crime, he is not necessarily subject to punishment. Criminals will only be punished if their guilt is shown legally and convincingly.

Tourism operations are not just related to the country's economic difficulties as a multisectoral industry. Tourism does not exist in a vacuum but is part of a broad system whose components are interconnected in numerous ways, such as the socio-cultural environment, political security, etc. Tourism is one of the primary drivers of sociocultural change in a variety of places, particularly in tourist destinations.

However, apart from the positive impact of tourism, there are still many other impacts caused by tourism, tourism is an activity that directly touches and involves the community, thereby bringing a variety of impacts to the local community, and the impact of tourism is the topic that has received the most attention in the academic literature, particularly its effect on society. Local in addition to environmental

The repercussions of heavily visited tourist locations include socio-economic issues, their impact on socio-culture, and tourism's influence on numerous elements of people's lives, including security politics and the environment. In addition to natural causes, human actions and development processes can have a negative effect on the environment. Regarding the imposition of criminal sanctions on perpetrators of destruction and environmental pollution of tourist attractions in Bali, the Regional Regulation of the Province of Bali Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism regulates this in Article 37, paragraph (1). The application for sanctions for perpetrators of exploitation of tourist attractions by tourists, as stated in Article 37 paragraph (1) of Bali Provincial Regulation Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism, is subject to a maximum imprisonment term of three months or a maximum fine of Rp. 50,000,000,000,000. (fifty million rupiah).

5 Suggestion

Based on the formulation of the problems and conclusions that have been conveyed previously, the authors provide suggestions that are expected to apply Article 37 paragraph (1) of the Regional Regulation (PERDA) of the Province of Bali Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism with a maximum imprisonment of 3 (three) months or a maximum fine of Rp. 50,000,000,000 (fifty million rupiah) so that the imposition of criminal sanctions in the regulations does not only have a deterrent effect on the perpetrators, and criminal sanctions as rehabilitation of the perpetrators' destructive actions against tourist attractions. As well as optimizing the synergy between the government and law enforcement officials and also involving the role of the traditional village function (pecalang) which is carried out well in a persuasive and reflective manner.

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