



Legal Protection of Tourists in Providing a Source of Tax Revenue

Desak Gde Dwi Arini¹, I Nyoman Subamia²

^{1,2}Faculty of Law, Universitas Warmadewa, Denpasar, Indonesia
¹arinidesak1966@gmail.com, ²doktorsubamia@gmail.com

Abstract. One area that might be exploited as a source of income for the region is the tourist industry. The development program and usage of local tourism resources and potential are anticipated to contribute to economic growth in order to improve local revenue. Based on this, the following problems can be studied: how is the form of legal protection against tourists who provide a source of tax revenue, and what are the legal consequences for tourists who avoid paying taxes. Normative legal research is used in the research process, and primary and secondary legal sources are used to create the legal materials. The results of the research also show that Article 20 of Law Number 10 of 2009 Concerning Tourism, which states that "every tourist has the right to obtain accurate information about tourist attractions, tourism services in accordance with standards, legal protection and security, health services, protection of personal rights, and insurance protection for hi..., expressly regulates the type of legal protection for tourists who provide a source of tax foreign exchange." This safeguard is oppressive. The legal repercussions for tourists who do not pay taxes, particularly against foreign tourists in the case of abuse of foreign visitor visas, are subject to administrative sanctions as well as criminal sanctions, such as imprisonment or forcible expulsion from Indonesian territory. However, because it is paid for along with the purchase of tour tickets, the arrangement is established from the start for domestic travelers.

Keywords: Legal Protection, Travelers, Source of Foreign Exchange, Taxes

1 Introduction

1.1 Background of the Problem

Development is an action, or a sequence of actions, that a nation, country, or government consciously does to advance modernity in the framework of nation-building. (Siagian Sondang.P, 1985: 3)

The development of the tourist industry, the constellation and state of the tourism world, and its development and future prospects are some of the key areas in the development of the country and the government of the Republic of Indonesia in the 1980s. Today, it can be argued that Indonesia's tourist sector has a noticeable presence.

© The Author(s) 2023

M. Umiyati et al. (eds.), *Proceedings of the International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, Advances in Social Science, Education and Humanities Research 804,

https://doi.org/10.2991/978-2-38476-180-7_39

For instance, there is a propensity to make the sun and the sea a tourist draw when going to recreational locations. Therefore, increasing tourism is a simple approach to boost the economy. They (countries) are attempting to overcome the issues of balance of payments deficits by only utilizing the beauty of nature.

The advanced expansion of a highly developed tourism industry can lead to balanced growth for the economy. In addition to hotel businesses that can offer lodging, food and drink establishments (bars and restaurants), tour operators, travel agencies, and handicraft businesses are also required, as well economic infrastructure including highways, bridges, port facilities, and airports. In addition, there is a need for infrastructure for power generation, sports and recreation facilities, postal services, telecommunications, banks, money exchanges, insurance firms, marketing firms, and several other economic sectors.

Economic (as a source of foreign exchange revenue), social (by generating jobs), and cultural (by exposing tourists to the local culture) are the three basic pillars on which tourism's contribution to development is based. The three elements are relevant to both domestic and international travelers, who are contributing more and more to the tourism industry. (James J. Spiliarce, 1991: 47)

Bali Island, with its stunning natural surroundings and distinctive culture, is one of the most popular tourist attractions in Indonesia. The opening of the Bali Beach Hotel in Sanur Denpasar in 1966 signaled significant attention to the growth of tourism in Bali. (James J. Spilance, 1991:57)

It is because of the growing dynamics of human existence, which increases the potential for harmful events, that regulations to safeguard tourists both local and foreign tourists as a source of tax income have emerged. The same is true for travelers.

The relationship between tourists and the government is created by law because aspects of tourism involve all aspects of social, economic, cultural, and political life. As a result, it appears that there is a mandatory element imposed on one party by the other party without regard to the conformity of his will, based on observations made at various tourist attractions and preliminary information from the Bali Regional Tourism Office.

The tourism industry has the potential to grow and become a source of local tax revenue. Initiatives to increase local revenue, the development plan, and the utilization of the area's tourism resources and potential are predicted to contribute in economic development. The activity of tourism is seen to have a variety of dimensions and go through a number of developmental cycles. The sociocultural, economic, and political facets of the tourist sector are all involved in its development. According to Law Number 10 of 2009 regarding Tourism, the development of tourism aims to increase national income in order to improve people's welfare and prosperity, expand and equalize business opportunities and employment, promote regional development, introduce and use objects and tourist attractions in Indonesia, foster a love for the nation and strengthen friendship between nations.

The expansion of tourism accelerates and supports economic growth. Tourism-related activities generate demand for products and services through both consumer and investor spending. The market's demand for goods and services is quickly influenced by tourists who shop while on the tour. The demand for the materials and capi-

tal goods required to produce the goods and services that are desired by tourists is also indirectly increased by tourists. In order to meet visitor demand, investment is needed in the transportation and communication sectors, hotels and other lodging, handicraft and consumer product industries, service sectors, restaurants, and other sectors.

In accordance with this, the effects of tourism on the socioeconomic conditions of the local communities are divided into eight major categories; (1) the effects on foreign exchange tax revenues, (2) community income, (3) employment opportunities, (4) prices, (5) community distribution or profits, (6) ownership and control, (7) general development, and (8) government revenues. The development of a region's tourism business depends heavily on how many tourists visit; as a result, it needs to be supported through expanding the use of Tourist Destinations (DTW) in order to do so. The gorgeous natural surroundings of Indonesia are a major factor in the growth of its tourism sector. As an archipelago, Indonesia has enormous potential to expand its tourism industry.

1.2 Problem Formulation

Based on the background of the problem above, the following problems can be studied:

1. What is the form of legal protection against tourists who provide a source of foreign exchange tax?
2. What are the legal consequences for tourists who avoid paying taxes?

2 Research Methods

2.1 Research Type and Problem Approach

This kind of research employs normative legal research, namely through looking at pertinent statutes, rules, and literature, as well as research findings and journals pertinent to the topics covered. Both a conceptual and a statutory approach are used in this text. Legal Research Material Source. The legal research used comes from a source that is connected to how the issue was formulated. Legal reference materials used include:

1. Primary legal materials

The Republic of Indonesia's 1945 Constitution, the Criminal Code (KUHP), the Law of the Republic of Indonesia No. 10 of 2009 Concerning Tourism, the Law of the Republic of Indonesia No. 25 of 2007 Concerning Investment, and the Law of the Republic of Indonesia No. 28 of 2007 Concerning the Third Amendment to Law of the Republic of Indonesia No. 6 of 1993 Concerning.

2. Secondary legal materials

Literature, research findings, articles, legal journals, and other sources relevant to the issue serve as the basis for secondary legal documents.

3. Tertiary Legal Materials

Legal dictionaries and Indonesian dictionaries are secondary legal resources.

Legal Material Collection Technique

The legal material collection techniques used are as follows: to obtain primary legal materials in this study by reading and analyzing laws and regulations with recording study techniques and documentation studies, while secondary legal materials are carried out by reading and analyzing literature materials related to the problem, such as literature, research results, articles, and legal journals.

Analysis of Legal Materials

Using argumentative legal material analysis techniques, the primary and secondary legal materials are collected, processed, and analyzed after which they are presented in a descriptive analysis, that is, they are presented as-is, analyzed, and given descriptions with interpretations to be presented generally and systematically.

3 Research Results And Discussion

3.1 Forms of Legal Protection Against Tourists Who Provide a Source of Foreign Exchange Taxes

Herman V. Schullard (cited by Oka A.Yoeti), (1981: 105) an Austrian economist in 1910 has given the following limitation of tourism:

"The totality of activities, primarily of an economic character, that are directly related to the arrival, stay, and mobility of foreigners inside a certain nation, city, or region is referred to as tourism." (According to him, the term "tourism" refers to a variety of activities, particularly those connected to economic pursuits that are directly related to the arrival, accommodation, and departure of foreign nationals from a given city, area, or state).

E.Guyer Freuler (cited by Nyoman S. Pedit) (1981: 29)

The modern definition of tourism is based on the need for health, the need to adapt to changing weather, a conscious and growing appreciation of natural beauty, and, in particular, the growing association of various nations and classes of human society as a result of the growth of trade, industry, commerce, and advancements in transportation technology.

From some of the limitations mentioned above, it appears that in principle tourism can include all kinds of travel, as long as the trip is with sightseeing and recreation. In this case, a dividing line is given which says that the trip mentioned above does not intend to hold an office in a certain place or area, because this last trip can be classified as a trip not for the purpose of sightseeing or tourism.

The factors intended are: (Oka A.Yoeti, 1981: 109)

- For some time, the journey was made.

- The journey was undertaken between two locations.
- The vacation must always be related to sightseeing or recreational activities, regardless of its format.
- The traveler is only a consumer in the destination and does not work there to support himself.

The concept that is commonly used and accepted by the general assumption at this time is what has been formulated by two great Swiss teachers, namely Hunziker and K.Krapf, 1981: 30) who are the famous "fathers" of tourism science, which reads as follows:

"As long as foreigners' presence does not result in the establishment of temporary or permanent houses and businesses as a full-time business, tourism refers to a variety of interactions and symptoms that are brought on by their presence."

In Law Number 10 Year 2009 on Tourism, it is strictly regulated in Chapter VII from Article 18 to Article 27 on the protection of tourists either as domestic tourists or as foreign tourists, which contains rights, obligations, and prohibitions, as follows: Tourist Rights in Article 18 stipulates that: The Government and / or Regional Government regulates and manages tourism affairs in accordance with the provisions of laws and regulations. Article 19 stipulates that: (1). Every person has the right to be given the chance to meet tourism demands, run a tourism business, work or labor in the tourism industry, or otherwise take part in the growth of the industry. (2). Everyone has priority rights, becomes a worker or laborer, a consignment, and/or management in and around tourist areas. According to Article 20, every traveler has the right to accurate information about tourist sites, services that adhere to industry standards, legal protection and security, access to health care, the preservation of individual rights, and insurance protection for risky travel-related activities. Article 21 on the other hand states that visitors with physical disabilities, young children, and the elderly are entitled to special facilities in accordance with their needs.

The obligations in Article 23 stipulate that: (1) The Government and Regional Governments are obliged to: Provide tourism information, legal protection, and security and safety to tourists (a) Create a conducive climate for the development of tourism businesses which includes opening up equal opportunities in business, facilitating and providing legal certainty (b) Maintaining, developing and preserving national assets that become tourist attractions and potential assets that have not been explored, and (c) Supervising and controlling tourism activities in order to prevent overcoming various negative impacts for the wider community.

(2) Presidential rule shall govern any further provisions relating to the supervision and control of tourism as mentioned in paragraph (1) letter d.

According to Article 24, everyone has a responsibility to maintain tourist attractions, contribute to fostering an environment of safety, order, cleanliness, and polite behavior, and protect the environment of tourist destinations.

According to Article 25, every tourist has a responsibility to uphold and respect local religious norms, customs, cultures, and values as well as to preserve the environment, take part in preserving environmental order and security, and take action to stop any acts that are immoral or illegal.

Article 27 stipulates that: (1) It is against the law for anyone to damage any aspect of the physical tourist attraction, and (2) destroying the aforementioned physical tourist attraction (1) is to alter a tourist attraction in a way that reduces or eliminates its uniqueness, beauty, and genuine value, as determined by the government and/or regional government. This includes altering its color, changing its shape, eradicating certain species, polluting the environment, moving, taking, destroying, or destroying the attraction.

Legal Consequences Against Tourists Who Avoid Tax Payment

Written permission granted to a foreigner by an authorized official at the Representative of the Republic of Indonesia so that the person can travel from abroad to the territory of Indonesia. From the description it can be said that what is meant by Visa is a permit signed by an authorized official in the national passport stating that the person concerned can travel to the destination country. (Directorate General of Immigration, 2007: 2). The goal of granting a visa is to enable the Republic of Indonesia to monitor and control the flow of foreign nationals into and out of its territory.

A visa is granted in the form of documentation that is adhered to one of the pages in the passport of the foreign national in question. This documentation includes information about the visa category, the amount of time the foreign national may stay on Indonesian soil, where and when the visa was granted, and the official's signature. (Mertokusuma, 1999: 145).

It is possible to see the duration of a visa in Article 11 of Government Regulation No. 32 of 1994, which states that a stopover visa granted to foreigners for a stopover in the territory of the Republic of Indonesia is valid for a maximum of 14 (fourteen) days from the date of granting entry permission in the territory of the Republic of Indonesia.

Foreigners who want to visit the Republic of Indonesia's territory for up to 60 days after receiving entry authorisation are then given a visit visa. and numerous visas are provided to foreign visitors to Indonesia who are there for a specific reason; the requirements for multiple visas for such purposes are governed by the Minister of Justice's Decree.

Foreign people with restricted stay visas are permitted to remain on Republic of Indonesian territory for up to a year after receiving entry authorization. In order to ensure benefits and protect various national interests, it is necessary to establish principles, supervision procedures, and service procedures for the entry and exit of people from and into Indonesian territory in accordance with the values and national objectives of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The supervision of foreigners is important to implement these ideals. This supervision is provided during their stay in Indonesia, including their activities, not just at the moment of their admission. It is necessary to regulate the Investigators of Civil Servants in the immigration environment who will carry out their duties and authorities in accordance with the provisions stipulated in this Law and in accordance with Law No. 8 of 1981 concerning Criminal Procedure because Immigration Supervision includes

Immigration Law Enforcement both administrative and Immigration Criminal Offenses.

However, despite the strict provisions regarding the granting of visas for foreigners entering the island of Bali or residing in the jurisdiction of the city, in the end there is also abuse of visas committed by foreigners. According to the results of the research, the things that cause the abuse of visas by foreigners in the jurisdiction are: 1. The increasing flow of foreigners entering Indonesia in general and the island of Bali in particular, with various purposes and activities as well as a lack of understanding and compliance with immigration laws in Indonesia, 2. Lack of active participation of the local community, and lack of knowledge and awareness of the public to provide information about the presence and activities of foreign nationals, both the general public and the people who employ foreign workers, 3. The population data gathering system has not been effectively regulated, particularly regarding the presence (domicile) of foreign people, making it challenging for immigration agents to perform foreigner monitoring, and 4. Lack of supervision and socialization of applicable Immigration regulations / laws from Immigration to the public and foreign nationals. This is due to the lack of officers and facilities and infrastructure that are not proportional to the area and number of foreign nationals entering and residing in Indonesia, Bali Island in particular.

Furthermore, it is said that the implementation of visas that have been listed in Law Number 6 of 2011 concerning Immigration is a national interest and is the interest of all Indonesian people, Therefore, the supervision of foreigners also requires public participation to report foreigners who are known or suspected of being in the jurisdiction illegally or misusing their immigration permits. To increase such participation, efforts should be made to raise the legal awareness of the public, to participate in monitoring the presence and activities of foreigners in the surrounding environment. Because at this time the predicate "Guest is King" perhaps such a paradigm should be reviewed in our thinking, because not a few foreigners who come to Bali Island are for work, and do not meet the requirements as stated in Article 42 of Law Number 13 of 2003 concerning Manpower, especially regarding foreign workers, so that it can harm state finances, especially in the tax sector.

A visa for the Republic of Indonesia, also known as a visa, is defined as a written permit issued by an authorized official at the Representative of the Republic of Indonesia or at another location determined by the government of the Republic of Indonesia and containing approval for foreigners to enter and travel to the territory of Indonesia in Chapter I General Provisions, Article 1 section 7 of Law Number 6 Year 2011. In contrast to passports, the categories of visas are not further defined in Law Number 6 of 2011. Articles 29 to 35 of Law No. 6 of 2011 regulate the provisions relating to the various types of passports. According to Article 29, the Republic of Indonesia's travel documents include: ordinary passports, diplomatic passports, service passports, passports for foreigners, passports for the Hajj, travel letters that serve as passports for Indonesian citizens, travel letters that serve as passports for foreigners, and service passports.

The types of Visas include diplomatic visas, service visas, stopover visas, visit visas, and limited stay visas, according to Government Regulation No. 32 of 1994

concerning Visas, entry permits, and immigration permits in Chapter I Part One concerning the types and forms of Visas in article 1 paragraph (1).

It may be argued that a visa has been misused if foreigners who enter Indonesian territory act in ways that are against the purposes for which the visa or permission was issued to him or in ways that are prohibited by the foreigner's license. For example, a visit visa that must be used for non-working reasons and whose activities include all aspects of government, tourism, socio-cultural, and business activities is granted for a maximum of 60 days, such as: visits for cooperation between the government of another country and Indonesia, family or social, following brief training, and so on.

The permission is not utilized for the purposes listed in the visa after the foreigner arrives in Indonesia (Bali Island), but rather for employment or business, which is against various regulatory regulations, including those relating to labor, tax, immigration, and so on.

Furthermore, according to research by the Immigration Office, foreign tourists who violated their visas accounted for around 18% of all instances from 2009 to mid-2011, or as many as 200 cases, and these cases somewhat hold the position of misuse of residence permits. When foreigners misuse elderly visas issued by the Government of the Republic of Indonesia and utilize them once they reach at their destination for employment or business, albeit this violation is uncommon, the Denpasar Immigration Office can detect it.

According to the results of the aforementioned interview, it is clear that foreign nationals who misuse their visas engage in activities that are prohibited by the granted visa or permit, as determined by Immigration Class I Special Ngurah Rai. Such visa infractions are in violation of Law Number 6 Year 2011 on Immigration and are punishable by up to 5 years in prison or a Rp. 25,000,000 (twenty-five million rupiah) fine. This is in accordance with Article 50 of Law Number 6 Year 2011, and in practice, deportation from Indonesia frequently follows.

Overstaying accounts for around 75% of all incidents of visa misuse, which is the second category. The remaining cases concern different kinds of offenses, including mental illness and other problems. Holders of specific types of visas are allowed to stay on Indonesian soil according to their visa status. The maximum stay in Indonesia is 30 days for visitors with tourist visas, 60 days for visitors with business visas, and 60 days for those with visas for social and cultural activities. If a foreign national overstays their visa and remains on Bali for longer than allowed, they may be subject to criminal penalties under Law Number 6 of 2011, specifically Article 52, which carries a maximum fine of Rp. 25,000,000 (twenty-five million rupiah) or a maximum sentence of 5 years in prison.

Foreign nationals entering Indonesian territory without a visa are known as illegal immigrants. Other violations involving the abuse of visitor visas include obtaining an entry or exit stamp illegally or fraudulently. The immigration officer will then apply an entry permit in the form of a box-shaped stamp whenever a foreign visitor enters Indonesian territory or Bali Island through the designated entrances. The visitor's arrival date, visitation purpose, and validity for a stay of 60 days are all listed on the stamp. Before or when the validity period of the visit permit expires, the visitor must

immediately leave Indonesian territory using the approved departure. The immigration officer will stamp the exit with a triangle object. The stamp contains both the departure date and the name of the immigration office that issued it.

The penalty provision is 6 (six) years, and this is specified in Article 49 of Law Number 6 Year 2011, which reads in full as follows: A foreigner who knowingly fabricates or falsifies a visa or immigration permit, or a foreigner who knowingly uses a visa or immigration permit to enter or remain on Indonesian territory, shall be punished with a maximum prison sentence of six (six) years and a maximum fine of Rp. 30.000.000,- (thirty million rupiah).

The proverb "It is better to prevent than to cure" may also be applicable to the efforts made by the Immigration Office of Special Class I Ngurah Rai Denpasar to stop foreigners from entering Indonesia's territory, and the island of Bali in particular, illegally. This is because of the legal repercussions that can result from misusing a visit visa. This is done because it is more advantageous economically, mentally, and legally to take this step rather than waiting until after a crime has been committed because there are fewer expenses involved. Such precautions are known as preventive measures from a legal standpoint.

The Immigration Office of Special Class I Ngurah Rai Denpasar has implemented the following precautions to prevent the entry of foreigners who abuse visas, in accordance with the study's findings: increasing public access to information on pertinent immigration rules and regulations, strengthening oversight of foreigners' entry, and ensuring that people are aware of their contents and prepared to assist the authorities in carrying out their tasks.

Furthermore, it is asserted that immigration also takes punitive measures or legal handling processes, lawfully handled after a criminal violation, in addition to the preventive steps it takes to combat the misuse of the visa. This countermeasure's first stage starts with knowledge that the foreigner has abused the visa that was issued to him. Typically, the misuse of this visa can be discovered through a notification from a member of the public that the visa holder has abused immigration permission, or the individual is discovered in the act during an inspection, search, or other legally required action. Repressive measures include: collaborating with other parties/agencies to conduct surveillance of foreign nationals entering and residing in Indonesia (Police, Ministry of Manpower, Local Government), taking immigration action by enforcing strict sanctions against foreigners who violate the relevant Immigration Act, and other related actions.

A suspect in an immigration crime may be called in for questioning, searched for, arrested, and held by the aforementioned Civil Servant Investigators. examine and/or seize any documents, tickets, or other materials related to immigration offenses Invite witnesses to testify and look around any suspected hiding places for letters, papers, tickets, or other items related to immigration offenses. Obtain the suspects' fingerprints and pictures. (Mohamad Arif, 1997:75)

4 Conclusion And Suggestion

4.1 Conclusion

Based on the descriptions above, it can be concluded as follows:

1. The type of legal protection for visitors who generate tax revenue is expressly regulated by Article 20 of Law Number 10 of 2009 Concerning Tourism, which states that every tourist has the right to accurate information about tourist attractions, tourism services that adhere to standards, legal protection and security, health services, protection of personal rights, and insurance protection for high-risk tourism activities..

2. The legal repercussions for tourists who do not pay taxes, in this case the abuse of foreign visitor visas, are subject to administrative sanctions as well as criminal sanctions, such as imprisonment or forcible expulsion from Indonesian territory.

4.2 Suggestions

1. Given that there are more foreigners traveling to Indonesia than ever before, whether it be for business, tourism, or employment purposes, immigration officers must be able to take swift action in the event that foreigners abuse the visa system in Indonesia, particularly on the island of Bali. As a result, it is essential to have trustworthy human resources on hand to address issues involving foreigners in the country, particularly when Law Number 6 Year 2011 is in effect.
2. Facilities and infrastructure in terms of immigration are required in the globalization period of the future in order to fulfill the anticipated goals, for instance in the sphere of technology. Additionally, it is essential to have clear laws and provisions in place so that authorities can act against any violations, including those committed by foreigners and by the authorities themselves, who are skilled at maximizing opportunities while minimizing restrictions, and end the practice of foreigners abusing visas in Bali and Denpasar in particular.

Referenecs

1. Arif Mohamad, 1997, *Keimigrasian Di Indonesia Suatu Pengantar*, NV.Tjengkir Mas, Jakarta.
2. Oka A. Yoeti, 1985, *Introduction to Tourism Science*, Publisher Bina Cipta Bandung.
3. Pendit.S.Nyoman, 1999, *Tourism Science, A Preliminary Introduction*, Publisher PT Pradnya Paramita, Jakarta.
4. James J. Spiliance, 1999, *Pariwisata Indonesia Siasat ekonomi dan Rekayasa Kebudayaan*, Kansius, Yogyakarta.
5. Siagian Sondang, 1985, *Administrasi Pembangunan*, Gunung Agung, Jakarta
6. Starke, J.G. 1995, *Introduction to International Law*, Translator, Bambang Iriana
7. Djajaatmadja, Sinar Grafika Publisher Jakarta.
8. Soedargo Gautama, 1973, *Conception of Criminology in Crime Control Efforts*, Alumni Publisher, Bandung.

Laws and Regulations

9. Law Number 6 Year 2011 on Immigration of the Republic of Indonesia.
10. Law Number 10 of 2009 concerning Tourism.
11. Government Regulation Number 32 of 1994 Visa, Entry Permit, and Immigration Permit.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

