



# Legal Renewal: The Relationship of Business Law, Local Wisdom and The Tourism Industry

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**Abstract.** This study's objective is to examine (1) legal reforms including tourism business law must accommodate the diversity of local wisdom ; and (2) integration and adaptation of local wisdom potential in resolving tourism business disputes . The method used was the normative legal research approach. (1) Legal reform, including revisions to laws governing the tourism industry, must take into account the diversity of local knowledge because, as a component of culture, law is understood to be more than just the formulation of normative rules by those with the authority to enact state laws, demonstrating how it is structured as a control system. Establishing social order and upholding the rule of law in society is done through social control. As soon as regional autonomy was put into place, a number of awakenings in the regions, ethnic groups, politics, and law emerged. Growing awareness of the significance of local values in fostering sustainable tourism has had an impact on the process of modifying national laws, particularly tourist business law. (2) Integration and adaptation of the potential of local wisdom in resolving tourism business disputes is extremely vital. Customary law and local wisdom should be become a component and cornerstone of national legal reform. It is necessary to continue the process of adapting and integrating the potential of local wisdom in using judicial conflict resolution to settle disagreements so that disputes can be settled quickly, amicably, and amicably while still being founded on certainty, truth, justice, and appropriateness. Tourism industry business owners wish for this type of justice.

**Keywords:** Legal Reform, Business Law, Local Wisdom and the Tourism Industry.

## 1 Background of the problem

Indonesia is a country that is multi-ethnic, religious, racial and class-oriented. The Republic of Indonesia (NKRI), a unitary state which oversees Sesanti Bhinneka Tunggal Ika, de facto illustrates the diversity of the cultures within the country. Along with natural resources (natural resources), the nation's vast territory, which runs from Sabang to Merauke, also contains a variety of cultural resources (culture resources). The ethnic diversity that exists in Indonesia certainly contains a multicultural dimension. Societies with ethnic groups that differ from one another in terms of culture, language, values, customs, and behavior are known as multicultural societies, and they are seen as a constructive method to foster tolerance in a neighborhood.

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A plural society, plural or pluralistic society is one that includes a variety of ethnic groups or diverse communities. Initially, the pluralism paradigm was employed to refute established notions of state sovereignty. This is due to the fact that these conventional theories either ignore or fail to consider the diverse rights, interests, and developments of different groups or factions inside the nation.

The multicultural characteristics of a nation's community should be taken into account when implementing legal reform, much as other factors of development in other fields. Legal developments that fail to take into account the reality that society is pluralistic (political ignorance of legal plurality) may result in conflicts between social ideals and norms. Positive legislation and national law can really be a burden for some local communities, according to study by Benard L. Tanya. This is owing to the fact that Indonesian legal growth continues to place a significant emphasis on the country's legal framework and pays little attention to local communities' systems of self-regulation, religious law, or customary law, despite the fact that there is legal plurality in the country.

The presence of traditional law communities and their local expertise is directly tied to culture in Bali. They have developed a tremendously rich culture over many centuries that you will never tire of appreciating. The natural beauty of Bali is combined with this culture. The current state of affairs in Bali demonstrates the value of culture in structuring tourism service firms. There is no denying that Bali is becoming a well-known travel destination thanks to this cultural attraction. As a result, culture plays a key role in how Bali organizes tourism.

While the traditional Balinese community freely manages and preserves its culture and knowledge, the government and tourism businesses often reap the benefits of the sector's profits. Of the many costs incurred by the Balinese traditional community to maintain and maintain their culture and local wisdom, it seems that there is no adequate reciprocity from either the government or tourism industry entrepreneurs. This is due to the fact that in Balinese culture there is no obvious economic tie between the three characters, who are also stakeholders in the tourism sector, namely the government, entrepreneurs and indigenous communities.

This phenomenon can be described as the use of culture as a resource for the tourism industry on the one hand, and the absence of a definition of culture as a resource for the industry on the other. Ignoring this position certainly results in culture being in an ambiguous/unclear position. Invisibly, culture is employed as a resource for the tourism industry, but indirectly left to be destroyed by the onslaught of tourism organizers. Such treatment results in damage to various markers of Balinese cultural identity which are the fundamental pillars of Balinese culture, such as damage to water resources, damage to spatial planning and the environment, deterioration of attitudes/actions and damage to other Balinese cultural identities.

Culture and local wisdom are discourses caught between politics and economics. The position of culture in the reality of Balinese customary law society provides clearer inspiration regarding the structural and functional (instrumental) position and function of culture in the context of human life. This is where law is needed to maintain and sustain the existence and implementation of cultural functions. The opportunities for maintaining and sustaining Balinese culture are indeed greater, but as mentioned above, culture is not utilized as a resource for the tourism industry.

In addition, law is the concretization of a society's cultural values; it represents the system of cultural values held by a civilization. Each society creates its own culture, thus laws always exist in society and have their own distinctive features. Because of this, Wolfgang Friedman asserted that the rule of law is not absolute.

Actually, during the Dutch colonial period was when legal reform, including tourism business legislation based on culture and local knowledge, began. C. van Vollenhoven carried out research to chart what proportions of Indonesian conventional law in 1925. This research was

successful in identifying the distinctive aspects of customary law practiced by communities in regions with such circumstances and identified 19 such environments in Indonesia. Due to his battle, the state laws that were implemented (by the colonial government's judicial authority) did not significantly diverge from the laws that were already in force in society.

We are shifting the paradigm for legal reform as a result. Laws that provide complete and necessary recognition and protection for legal systems other than state law, as well as for conventional law and local wisdom, including local regulatory procedures (inner order procedures) that objectively exist, live, and operate in society, are prioritized as part of the legal reform paradigm's reorientation.

Meanwhile, in its journey the tourism business industry is not free from tourism conflicts or disputes. Therefore, in reforming tourism business laws that have adopted local wisdom, they need to be empowered to resolve tourism business disputes. The purpose of this study is to examine how local knowledge, business legislation, and the tourism sector interact.

### **Identifying of the Problem.**

The problem formulation in this study can be expressed the study questions as follows based on the backdrop of the problem as indicated above:

1. Why must legal reforms, including tourism business law, accommodate the diversity of local wisdom?
2. How is the integration and adaptation of possibility of local knowledge in resolving tourism business disputes?

## **2 Research methods**

A normative legal research methodology was employed. When there is a gap, uncertainty, or contradiction between standards, normative legal research serves to provide legal arguments. Additionally, this implies that normative legal research contributes to keeping important elements of legal science as normative science. The types of approaches used include the conceptual approach and the legislative approach. Legal sources that are primary, secondary, and tertiary are the ones that were used to gather the information. The method used to gather the necessary legal documents is document examination and literature evaluation. Then, descriptive, interpretive, evaluative, and argumentative analytical methods will be used to examine the gathered legal information.

## **3 Discussion**

### **3.1 Legal Reform, Including Tourism Business Law, Must Accommodate the Varieties of Regional Wisdom**

In actuality, customary law incorporates local wisdom that is currently evolving due to its ability to be a method that is effective in many facets of life. Local wisdom is described in article 1 number 30 of Law Number 32 of 2009 concerning Environmental Protection and Management (also known as the PPLH Law in the following) as "noble values that apply in community life

for, among others, protecting and managing the environment sustainably" according to formal legal definitions.

Local wisdom is defined as the values, norms, rules, and knowledge produced by religious doctrine, traditional values, and life lessons learned through ancestors, which collectively form a system, in accordance with a literature analysis of numerous sources. The community makes use of local knowledge to address common legal concerns. If you look closely at the elements, it will be easy to see that there is a connection or intersection between customs, customary law and local wisdom. The relationship between these three elements can be seen in the following image.

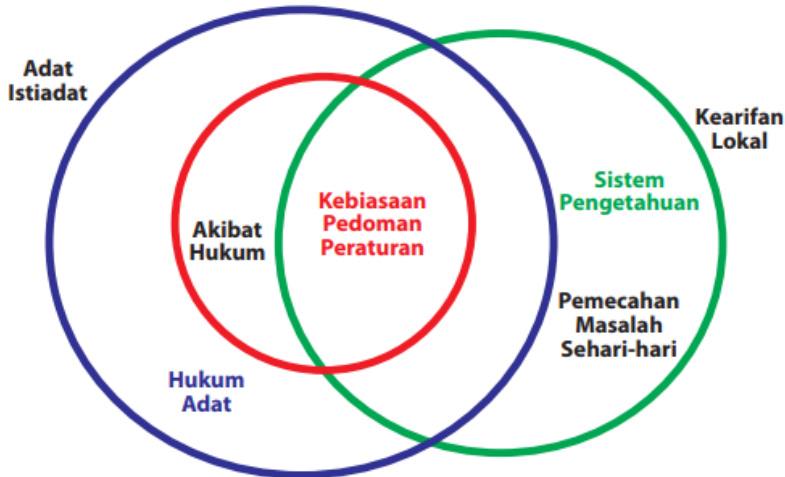


Figure 1. Relationship between Customs, Customary Law and Local Wisdom

According to a study by I Nyoman Nurjaya, the Tenganan Bali community has used local knowledge to sustain forest management in the historic village of Tenganan Pegrisingan Bali. While this is going on, Bunaken Manado residents manage resources and space in response to natural calamities using their local knowledge. In a more straightforward scenario, the residents of Keboromo combat the issue of corruption in their community by applying their local knowledge. Local knowledge is used by residents of Pinrang, Gowa, and Bantaeng to assist the police in solving crimes that take place in those communities.

The country's legal framework needs to be set up to deal with situations that Holleman refers to as hybrid law or nameless law scenarios in order to promote the function and capability of local knowledge in society. Hybrid law, also known as nameless law, is when new legal systems emerge that cannot be classified as state law, common law, or religion law. In Indonesia, it is clear from its current evolution that there have been numerous attempts to institutionalize "new" customary law in the style of state law, specifically as regional rules or village regulations that adhere to the formal logic and structure of state law.

According to Karl Mannheim, improving the equilibrium between order and peace is what legal reform, including changes to the laws governing the tourism industry, aims to achieve. According to Satjipto Rahardjo, legal reform simultaneously has two meanings: an effort to modernize the law to ensure that it serves society's needs at the most recent stage of development (legal modernization) and an effort to make the law useful during the development phase by helping to bring about the necessary social change.

According to Satjipto Rahardjo and Karl Mannheim, legal reform—including changes to the laws governing the tourism industry—must be viewed in the context of broader social and cultural transformation. In essence, legal reform is connected to other facets of life. Law's interrelationship with other factors is also a social phenomena. As a result, sociocultural advancements constantly place restrictions on the legal reform process.

Legal modification meant to be progressive and flexible. Reform is progressive because it constantly works to update the law to reflect societal preferences and aims to bring about societal improvements. Due to its attempts to support society in its most recent stage of development, it is adaptive in the meantime. Law is not just viewed as a structure of regulatory standards created by parties with the power to enact state laws; it is also recognized as a component of a cultural product. Furthermore, a system of social control that seeks to establish social order and uphold social life's order (legal order), according to the anthropological perspective on law, is how law is viewed in society.

Social changes during the reform era gave rise to legal politics, which denotes political aim toward a developed nation distinguished by autonomy. As soon as regional autonomy was put into place, a number of regional, ethnic, political, and legal awakenings appeared. The process of amending national laws, especially tourist business law, has been impacted by growing understanding of the importance of local values in promoting sustainable tourism. Customary law and local knowledge ought to be integrated into and used as the foundation of national legal change.

The various cultures that become tourist objects and attractions can be sustainable and developed, because they are supported by tourism business laws that accommodate the local wisdom possessed by the community as supporters of culture in the area. Local wisdom relies on philosophy, values, ethics, institutionalized methods and behavior that traditionally manage cultural resources for the preservation of these resources for sustainable survival. This means that local wisdom has great potential for the preservation and development of culture as a cultural tourism object and attraction.

Balinese customs can be flexible in their communication to the outside and inside by accepting differences and variations according to factors of place, time, and circumstances thanks to the existence of local wisdom in the form of values contained in Tri Hita Karana, Catur Dresta, Mawa Cara Village, and Kala Patra Village, which are used as a basis in traditional villages in Bali. A safe, tranquil, orderly, and harmonious atmosphere can be established in traditional village life with this way of thinking about the world. Such circumstances inspire the formation of arts and cultures that advance creatively. For this reason, different types of art, including religious art (holy art), exist in Bali's traditional villages, including percussion art, dance art, sculpture, painting, literary art, sound art, and others. Tetekan art, for instance, was born in Krambitan Village under the Tabanan Regency. Jegog art is a form of art that evolved into the creative voice of the Jemberana Regency. Likewise, each region has its own diversity and distinctiveness in literature, sculpture, and painting.

The local wisdom of the Balinese people has a sizable potential for safeguarding and preserving tourism goods, as can be observed from the reinterpretation of the function and meaning of this prospective local wisdom as indicated above. Both the preservation and protection of natural tourism artifacts as well as cultural tourism artifacts. To promote the success of the country's tourism development, particularly in the development of business objects and tourist attractions, a reinterpretation of the meaning and function of local wisdom in legal development is crucial.

### 3.2 Integration and Adaptation of Local Wisdom Potential in Resolving Tourism Business Disputes

The development of world tourism brings golden opportunities for tourist destinations in Indonesia, such as Bali. The development of tourism encourages the further advancement of the tourism business. Business relations between entrepreneurs, both domestic and foreign entrepreneurs, continue and are increasingly open. The increase in tourism business activities does not always run smoothly, but is often followed by the emergence of disputes between them. Because in business transactions there is often discord between those who enter into a relationship, because the rights of one party are disturbed or violated.

Nowadays, especially among entrepreneurs, the courts are not the only option for resolving disputes. This fact is due to the fact that district courts are deemed incapable of meeting the demands for accelerated dispute resolution desired by entrepreneurs, so that parties in the business consider it ineffective if their disputes are conducted through district courts. Therefore, the world of modern commerce has turned to resolving disputes outside of court. The court is only used as a last resort, if the dispute resolution mechanism outside the court is unable to resolve it.

In several developed countries such as the United States, Australia and Japan, dispute resolution outside of court is often carried out. In these countries the use of mediation in dispute resolution has become institutionalized. Mediation is used to resolve dispute cases such as: trade disputes, family disputes, disputes between consumers and producers, as well as environmental disputes.

In line with the development of dispute resolution outside of court, we also need to revive and actualize local wisdom that is rooted in community life in resolving disputes outside of court. For this reason, we need to look at the legal dispute resolution practices that live among the community, perhaps there are still untapped gems of local knowledge that the tourism dispute resolution process needs to make use of.

The majority of Balinese people, like other Indonesians, value harmony, peace, and concord in their daily lives. Each person must make every effort to keep peace and prevent strife. The ideal method of resolving disputes is not through the official court system. Real problems cannot be resolved by the judiciary due to its limits in addressing community desires, stressing solely processes, and resolving only minor conflicts. The finest dispute resolution occurs when persons who are at odds with one another are able to overcome their differences pleasantly and peacefully; nevertheless, this is frequently followed by the creation of a dispute between them. If they are unable to resolve the conflict through negotiations, a mediation pattern is used, in which traditional authorities mediate the resolution of the conflict.

Balinese people in their lives are always guided by Balinese cultural values which have a Hinduistic religious pattern. These values include: Tri Hita Karana, Rwa Bhineda, Tat Twam Asi, and Karma Phala Law. These values guide Balinese people, both as individuals and as groups, to always try to be compromising and harmonious towards their environment, both the physical environment and the social environment. These values guide the Balinese people to always want to create an atmosphere of peace and tranquility between each other.

In social life, Balinese people are very tied to their traditional groups and organizations such as Traditional Villages, Traditional Banjars, Subak, and Dadya (wangsa or clan). All of these traditional groups and organizations are imbued with the cultural values with the Hinduistic religious pattern mentioned above. The attachment of the Balinese people to their traditional groups and organizations has led to a Balinese society that tends to maintain its characteristics or identity. When someone has released himself from attachment to his group, this will create opportunities for conflicts to occur in community life. Attitudes like these direct the Balinese

people to orient their lives towards harmonization in their social life, and try to avoid the occurrence of disputes. Every dispute or conflict is seen as a blemish or stain. Conflict is a wound for individuals, families and society, because conflict has hurt the values of harmony and balance in personal and societal life.

In resolving disputes, Balinese people generally use Prajuru Adat/Sabha Kertha as mediators or mediators for the parties in dispute. In resolving this dispute, Prajuru Adat/Sabha Kertha or Kelihan Subak made every effort to resolve the dispute peacefully and amicably, by prioritizing deliberation to reach consensus. Peaceful dispute resolution is seen as the best way to maintain social harmony in community life. This peaceful and familial resolution, in essence, is an apology from the party who made the mistake to the injured party and the injured party is willing to accept the apology and is also willing to forgive the party who made the mistake. This peaceful dispute resolution process is usually followed by the Prayascita ceremony, it is a ritual to recreate harmony and balance in society after it has been damaged or defiled.

Recognizing the potential of indigenous knowledge to settle these problems, it is very necessary to integrate and adapt local wisdom in resolving the tourism business. The process of adapting and unifying the potential of local wisdom in resolving disputes by means of judicial dispute resolution needs to be pursued, so that resolving disputes in a fast, peaceful, friendly manner, but based on certainty, justice, truth, and propriety can still be put into practice. This method of justice is something that tourism entrepreneurs hope for.

## 4 Closing

**Following the foregoing explanation, the following conclusion can be drawn:**

1. Legal reform, including changes to the law governing the tourism industry, must take into account the diversity of local knowledge because, as a component of culture, law is more than just the creation of norms by those with the power to make state laws. Instead, it takes the form of a system of social control that seeks to establish social order (social order) and uphold legal order (general social order) in society. Regional, ethnic, political, and legal awakenings started to emerge as soon as regional autonomy was established. Strengthening awareness of the role of local values in supporting sustainable tourism has had an impact on the process of updating national laws, including tourism business law. Customary law and local wisdom should be made a component and cornerstone of national legal reform.
2. Integration and adaptation of possibility of local knowledge in resolving tourism business disputes is very necessary. The process of adapting and unifying possibility of local knowledge in resolving disputes by means of judicial dispute resolution needs to be pursued, so that resolving disputes in a fast, peaceful, friendly manner, but based on certainty, justice, truth, and propriety can still be put into practice. This method of justice is something that tourism entrepreneurs hope for.

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