



# Management Approaches for Indigenous Peoples-Based Tourism Destination

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**Abstract.** This research paper aims to explore sustainable development with the objective of enhancing societal welfare while considering various factors that must be taken into account. These factors encompass social and cultural needs, ensuring that sustainable development does not solely focus on materialistic gains but also aligns with community values, including those of indigenous peoples. By prioritizing harmony among all elements, including culture and the environment, the research investigates two key issues: 1) the governance of tourism destinations, and 2) the impact of tourism management policies on the existence of indigenous peoples. The primary goal of this study is to establish a comprehensive framework for regulating tourism management, which incorporates the needs and rights of indigenous communities, ultimately fostering sustainable development without reducing them to mere objects. Employing a normative legal research approach, specifically utilizing the statute approach, the study examines the norms outlined in statutory provisions. Through this analysis, the research aims to formulate provisions and develop a framework within the realm of tourism law that accommodates the existing indigenous populations. The findings of this research endeavor are intended for publication in esteemed international journal.

**Keywords:** Sustainable Development, Societal Welfare, Indigenous Peoples, Tourism Governance, and Tourism Management Policies

## 1 INTRODUCTION

### 1.1 Background

Indonesia has a very strategic position. In addition, Indonesia is known to have natural resources and has potential cultural resources in the context of implementing development in the national tourism sector. Bearing in mind that Indonesia not only has

biological riches, but also non-biological wealth, ethnic diversity and 718 languages, ancient historical heritage, arts and community traditions that are of interest to tourists. The existence of cultural wealth and natural resources (natural capital) and socio-cultural capital (social culture-capital) to drive the tourism industry, in the context of increasing foreign exchange and state revenue in national development aimed at the welfare and prosperity of the people.

In order to improve people's welfare, the existence of tourism development has a significant impact on increasing the country's foreign exchange earnings. This is caused by the fact that the tourism industry is growing more sophisticated as a key driver of state revenue and distribution, business opportunity creation, employment creation, infrastructure development, and regional welfare improvements as a result of an increase in tourism destinations and investment. Tourism development is developed to encourage the economy and improve Indonesia's image, improve people's welfare, by exploiting the diversity of natural charm and beauty, the national potential as the world's largest marine tourism area wisely and sustainably, and encouraging the development of national culture. (Nurjaya; 2022)

The preservation of the environment, religious values, and cultural traditions in society are all protected while tourism is an essential component of a country's systematic, planned, integrated, and sustainable growth. Since the growth of tourism has become a worldwide phenomenon to meet demands, it is a human right that tourism players have an obligation to uphold. Because of this, it is the duty of the federal government, local governments, travel agencies, and the general public to promote tourism growth within the framework of a sustainable national development plan.

By issuing Law Number 10 of 2019 Concerning Tourism, the policy aims to manage the development of national tourism. According to this law, "tourism" refers to all multifaceted, multidisciplinary tourism-related activities that result from the needs of each individual and nation as well as interactions between travelers and other travelers, local and federal governments, and players in the tourism industry. Because of this, the rules outlined in Article 5 of the Tourism Law have established the fundamentals that must be taken into account when developing the tourism industry.

In order to support these efforts, the Government has issued Presidential Instruction Number 6 of 2005 concerning Culture and Tourism Development Policy. Furthermore, in order to explain it at the regional level, Minister of Tourism Regulation Number 14 of 2016 concerning Guidelines for the Sustainable Tourism Industry has been issued. This provision explicitly mandates that regional heads, including governors, regents and mayors who have tourism destinations in their regions, should increase information. In various policies such as those above, towards tourism destinations in areas where the factual reality is that they are within the area of customary rights of customary law community units. This existence has received recognition by the state based on the provisions of Article 18B paragraph (2) of the 1945 Constitution. This recognition shows that tourism development is mandatory, among other things; uphold human rights; respect and protect cultural diversity and local wisdom.

## 1.2 Problem Statements

Drawing from the aforementioned reasoning, the subsequent deductions can be made:

1. What are the management arrangements for national tourism destinations?
2. What is the tourism destination management policy based on customary law communities?

## 2 METHODOLOGY

Normative research is the kind of study that was conducted for this project. Positive legal inventories, legal theory and principles, legal discoveries in concrete situations, legal systematics, degrees of synchronization, legal comparison, and legal history are the main topics of normative legal study. (Muhammad Abdulkadir, 2004). The statutory regulation approach is the research approach used in this study (Marzuki, Peter Mahmud; 2008). Since the core and main theme of a normative legal research project is a variety of legal laws, it is only natural for the research to take a legislative approach. The nature of the research in this study is descriptive-analytic, namely the researcher uses a method of describing rules and phenomena that are related to the governance of tourism destinations, which are also vulnerable to not being fulfilled so that they can damage the image of a tourism area. Data collection techniques include inventory methods, identifying legislative regulations, classifying and organizing legal resources in accordance with research difficulties, and so forth. Thus, literature study was the method of data gathering employed in this study. Reading, analyzing, jotting down notes, and studying relevant library materials are all part of the literature study process. In terms of the data sources utilised, this study is normative legal research, or legal research.:

1). Primary Data Source, and 2) Secondary Data Source. Meanwhile, for data analysis, using analysis (Content Analysis), which starts by reviewing all available data from various primary sources.

### 2.1 Literature Review

#### a. Management concept

The process of management involves keeping an eye on everything related to putting policies into action and accomplishing objectives. In general, management is the activity of changing something so that it becomes better and has higher values than before. Another way to think about management is as taking action to improve something's appropriateness and suitability in order to make it more useful. In management science, the word "management" is employed. According to its etymology, the word "management" refers to the act of handling or controlling something in order to accomplish specific objectives. Consequently, the science of management pertains to the art of overseeing and directing an entity in order to accomplish specific objectives (Nugroho Riant; 2003). Thus, management is a systematic process in carrying out a

goal which includes good planning, direction, control, and utilization of existing human resources as best as possible so that all planned goals can be achieved effectively and efficiently.

#### b. Tourism Destination Concept

Tourism is defined as "a variety of tourist activities supported by various facilities and services provided by the community, entrepreneurs, government, and regional governments" in Law Number 10 of 2009, Chapter I, Article 1 addressing Tourism. As stated in the KBBI (2021), the meaning of destination is a destination. Conventionally, a destination can be said to be a geographical area such as a country, island or city. Oriented to geographical areas, A destination is a physical location that has all the facilities and services required for a specific tourism market to stay there. Oversight of Travel Destinations Tourism destinations are geographical areas within one or more administrative areas that are oriented toward the allocation of geographical areas and contain tourist attractions, public facilities, tourism facilities, accessibility, and communities that support and enhance the realization of tourism [34]. Product-oriented, tourist destinations have tangible product attributes such as hotel beds, food and intangible product attributes (service delivery) [35]. A destination that prioritizes sustainability is made up of a range of goods and services, such as public spaces, tourism facilities, accessibility, and communities that work together to support sustainable tourism that is socially, environmentally, and financially viable while still allowing consumers of the product to meet their needs without compromising the needs of future generations. According to Wardiyanto, the English word "travel"—which is defined as a repeated trip from one location to another—is etymologically related to the term "tourism". Accordingly, considering the state of affairs at the moment, tourism can be understood as a prearranged journey taken either alone or in a group from one location to another with the intention of obtaining pleasure and satisfaction. (Wardiyanto: 2011) According to Yoeti, Selanjunta defines tourism as a short-term, planned journey from one location to another that is taken purely for leisure or sight-seeing, rather than for business or the purpose of making a living at the destination (Yoeti Oka; 1996). Meanwhile, Hadinoto stated that a destination is a specific area chosen by a visitor where he can stay for a certain time. The word destination can be used for a planned area, which is partly or wholly equipped with amenities and services, tourist products, recreational facilities, restaurants, hotels, attractions, retail shops that visitors need. (Kusudianto Hadinoto: 1996).

#### c. Concept of Customary Law Community

The concept of customary law communities was first introduced by Cornelius Van Vollenhoven. Ter Haar studied customary law communities in further detail while he was a student. According to Ter Haar, a community governed by customary law is one in which every member of the group lives in society and is a well-organized group that has settled in a particular location, has its own riches in the form of tangible and intangible items, and is endowed with power. as a natural thing in accordance

with nature, and none of the members has the desire or idea to break the link that has formed or depart, meaning to permanently separate from it. (Husen Alting: 2010)

The composition and organization of a legal community, or legal association, whose members are connected by ancestry and geography. A legal community, or territorial legal association, is defined by legal experts of the Dutch East Indies era as a permanent and orderly society whose members are confined to a specific area of residence, both in the material sense as a place of life and in the spiritual sense as a place of worship for ancestral spirits (Hilman Hadikusuma: 2023).

### **3 RESULT AND DISCUSION**

#### **3.1 Tourism Destination Management Arrangements in Indonesia**

Tourism is the activity and process of spending time away from home in an effort to carry out travel, recreation, relaxation and pleasure activities, while utilizing the provision of commercial services. Basically, humans always travel. Travel has existed since the time of primitive life. In this era, travel activities were carried out in an effort to fulfill life's needs, such as looking for food and hunting animals. Then the history of travel began to develop, humans traveled for the purposes of trade, spreading religion, war, migration, and other motivations that were considered interesting. In the Roman era, wealthy nobles and high government officials also traveled for pleasure. Resorts by the sea are people's travel preferences to escape the summer heat in Rome. (Fauziah Eddyono:2021). It goes on to state that tourism as we know it today is clearly a 20th century phenomenon. History has recorded that the rapid development of science and technology has had an influence on various forms of life globally. Including influencing the development of the tourism sector. So in turn, the management of tourism destinations has become a concern for a number of countries in the world because it not only provides new job opportunities, but is also a source of foreign exchange for the country.

Taking into account this global trend, the government has enacted Law Number 10 of 2009 concerning Tourism (Tourism Law) which is used as the legal basis for the freedom to travel and use free time in the form of tourism which is part of human rights (HAM). However, in reality it still has a big impact regarding the impact of tourism which is caused by the influence of tourists (visitors) who tend to have "too free" behavior in their behavior at tourist destinations.

The Indonesian government is very concerned with developing tourist destinations. Considering that the tourism sector is very important to develop. Because through the tourism industry the country's economy can improve, such as; to increase the country's foreign exchange, people's income, increase employment opportunities, create business opportunities so as to reduce unemployment and eradicate poverty, especially in tourist destination areas. Apart from that, it is necessary to encourage equal distribution of business opportunities and obtain benefits and be able to face the challenges of changes in local, national and international life.

Considering the complexity of developing tourism development, the government's role in creating tourist attractions is needed. The government's role mainly concerns the provision of road access facilities, construction of other public facilities, such as; parking area, provision of toilets, internet network. Likewise, it is related to the preparation of human resources through facilitation to collaborate with professional institutions such as; PHRI, the tourist guide community (guide), and others, as well as facilitating the promotion of tourist attractions.

In its development, various steps are needed in the form of policies with the involvement of stakeholders, namely: business actors and the community. Some of the policies needed include: 1) Increasing understanding of all levels of society regarding the benefits of tourism in development, 2). Improving the image and quality of national tourism services, and 3). Improving the implementation of Indonesian tourism promotions abroad. Apart from this, the government has determined 6 (six) steps for tourism to become a tourist destination, including: 1) completing infrastructure projects more quickly, 2) promoting the creation of tourism destinations, 3) Enhancing the standard of facilities, 4). stepping up the promotion of travel, 5). Promotion of Investment, and 6). Creating standardized processes for tourism management.

To maximize several of the policies above, by paying attention to It is envisaged that tourist development that is based on the diversity, individuality, and uniqueness of nature and culture will spur economic growth and improve the well-being of society without neglecting the demands of the future. Minister of Tourism Regulation Number 14 of 2016 concerning Guidelines for Sustainable Tourism Destinations was revoked by Minister of Park and Creative Economy Regulation Number 9 of 2021 in order to support the customs and local wisdom of multicultural communities in managing the attractiveness of the natural and cultural environment as well as adapting to international standards.

The direction of development and policy in the tourism sector, the policies include tourism politics initiated by the government such as marketing policies, security guarantees, visa exemptions, support for cultural events, standardization of tourism products and services, certification of human resource competency, and so on. Expansion of local and international road networks, railways, shipping lines and flights including the development of tourism institutional policies. The government has an interest in doing this so that people have more opportunities to travel and opportunities to try to facilitate tourism activities. In this way the government can also receive benefits in the form of taxes and levies. The concept of tourism development and development in Indonesia refers to the Tourism Law. The preamble to the Tourism Law emphasizes that tourism is an essential component of national development that is carried out in a methodical, planned, integrated, sustainable, and responsible manner, all the while protecting national interests, religious values, and the culture that is part of society.

One of the tourism policies practices in Indonesia; the issuance of Government Regulation Number 50 of 2011 concerning Plan 86 Management of Main Tourism Destinations for National Tourism Development for 2010-2025, national tourism development includes tourism destinations, tourism marketing and tourism institutions. Policy objectives for national tourism development include: 1). enhancing the

number and caliber of tourist attractions. 2). Promote Indonesian travel destinations through the responsible, effective, and efficient use of marketing media. 3). establishing a tourism sector capable of propelling the country's economy. 4). Create tourism organizations and governance that can effectively and efficiently combine the tourism sector, marketing, and destination development in a professional manner.

### **3.2 Customary Law Community-Based Tourism Destination Management Policy**

Traditional Law Communities whose existence is still alive, with their customary rights guaranteed by the Constitution's Article 18B, paragraph (2) (UUD.NRI 1945). This indicates that communities governed by customary law are acknowledged by the constitution as having the legal ability to protect their customary rights. This legal capability extends to the State's activities as well as those of individuals (Putra in Sari Adnyani: 2021). Customary law communities as supporters of customary law play a very important and strategic role. To obtain the right to manage tourism areas in their territory, there are several criteria for the existence of customary law communities which must pay attention to the policies of cultural tourism management in their territory, including maintenance of those under village ownership of customary law communities. The cultural tourism management paradigm is a scheme that places customary law communities as owners or cultural institutions as management actors due to the close connection that exists between indigenous populations and culture, which serve as the primary supporting subjects. Accordingly, it's critical to complete these requirements, including: 1). The community still exists in the relevant domain of customary law and is organized as a community (*rechtsgemeenschap*); 2). the persistence of institutions in the shape of the conventional institutional structure, which serves as the ruling machinery; having a defined customary forest area that is acknowledged and approved by the local community and the surrounding customary law communities; 3). Customary justice is being upheld, and there are still customary legal structures pertaining to forests; 4). The affected group continues to have religious and communal ties to their customary forests, as well as uses and gathers forest products from the nearby forests to support their daily needs.

Customary Law Communities, in their participation, exercise control and access to tourism management, especially in the territorial areas of traditional villages. The community has rights, including: 1). Managing tourism areas within their customary legal area; 2). Using expertise, technology, and local knowledge to manage tourism; 3). Seek aid and support in the context of empowerment from the national, local, and/or tribal governments as well as non-governmental organizations; 4). Seek protection from the national or local authorities and 5). Take part in managing the tourism business and oversee its operationalization. Recognized communities under customary law have obligations., in the form of: 1). Maintaining and guarding tourism areas from damage; Utilize tourism areas in accordance with their main functions, according to the stages of utilization of tourism areas in the region

Customary Law Communities as legal subjects, legal objects and authorities, indigenous communities are involved in structuring their territories, including in preparing and planning them as tourism destinations. In the current development of in order to accomplish the aims of sustainable tourist development, community-based tourism development involves community participation as the primary component of tourism (Telfer and Sharpley in *I Made Kampana*: 2017). This understanding is in line with the thoughts of Timothy and Boyd in *I Made Kampana* (2017) who mention community-based tourism as community participation in tourism development. Participation in decision making means that the community has the opportunity to voice their hopes, desires and concerns regarding tourism development, which can then be used as input in the tourism planning process. Meanwhile, taking a role in sharing the benefits of tourism implies that the community should have the opportunity to gain financial benefits from tourism and links with other sectors. For this reason, the development of tourism destinations should be able to create job opportunities, business opportunities and receive training and education for the community so they know the benefits of tourism (Timothy in *I Made Kampana*: 2017). According to Murphy in *I Made Kampana* (2017) Since tourism is a "community industry," community acceptance and support for the industry have a significant influence on how sustainably tourism develops. It follows that the community will undoubtedly take part in the development of tourism as a communal industry.

Likewise, with traditional law communities whose existence has traditional values and local wisdom. Its existence is maintained consistently and always preserved. In terms of autonomy, customary law communities have their own rules to maintain the existence of their customary law communities. For this reason, the development of tourism development in the form of a tourist destination does not exclude or ignore the order of authenticity that it has. Thus, in developing it, it is always oriented towards the existing order as a form of strengthening as a destination area that characterizes its uniqueness and uniqueness.

## **4 CLOSING**

### **4.1 Conclusion**

Based on the description above, the following conclusions can be drawn:

1. The regulation of tourist destination management policies is based on the issuance of The 2009 Law Number 10 pertaining to Tourism. The former Regulation of the Minister of Tourism Number 14 of 2016 concerning Guidelines for Sustainable Tourism Destinations was revoked through the Regulation of the Minister of Tourism and Creative Economy/Tourism Agency and Creative Economy Number 9 of 2021 in order to strengthen the customs and local wisdom of multicultural communities in managing the attractiveness of the natural and cultural environment as well as adapting to international standards.



2. Tourism destination management policy, its implementation includes community participation, including customary law communities. Tourism development is developed to encourage the economy and improve Indonesia's image, improve people's welfare, by exploiting the diversity of natural charm and beauty, national potential as a world region wisely and sustainably, and pushing towards the development of national culture. Tourism plays a crucial role in the methodical, planned, integrated, and sustainable growth of a country, all the while safeguarding cultural and religious traditions.

## 4.2 Suggestion

1. To the government in developing tourist destinations, to involve the participation of local communities from planning to management. By providing facilitation in various forms starting with preparing human resources, providing opportunities to work, and even opening a business in order to improve their welfare.
2. To the community, especially traditional law communities, to always maintain traditional values and local wisdom which are inherited as a way of life that provides comfort and security. In order to strengthen the existing order and remain stable, it needs to be strengthened through appropriate regulations currently in force in customary law communities.

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