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THE RIGHT TO A CLEAN TOURISM ENVIRONMENT: A PERSPECTIVE ON HUMAN RIGHTS AND TOURISM

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Abstract

Tourism constitutes a vital economic sector for numerous countries, including Indonesia, with Bali serving as a prominent destination. However, the expansion of this industry has precipitated significant environmental challenges, particularly concerning waste management and environmental sanitation. The right to a clean and healthy environment is recognized as a fundamental human right under various international legal instruments, including the Stockholm Declaration (1972) and the Rio Declaration (1992). In Indonesia, this right is enshrined in Article 28H of the 1945 Constitution and further reinforced by Law No. 32 of 2009 on Environmental Protection and Management.

This study employs normative legal research with a comparative approach to assess the consistency of legal frameworks governing the right to a clean tourism environment in Bali and the legal challenges encountered in its implementation compared to other jurisdictions. The findings indicate that despite regulatory measures such as Bali Governor Regulation No. 97 of 2018, which prohibits the use of single-use plastics, enforcement remains hindered by deficiencies in public compliance and waste management infrastructure. A comparative analysis with Japan, Palau, Norway, and Germany underscores that the efficacy of environmental policies is contingent upon a combination of stringent regulations, consistent enforcement mechanisms, and active public participation. Accordingly, an integrative approach—comprising regulatory reinforcement, enhanced public awareness, and innovative environmental management—is imperative to ensure the sustainability of tourism in Bali.

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1. INTRODUCTION

The tourism industry is one of the main economic sectors for many countries around the world, including Indonesia. Notably, Bali is known as one of the most popular tourist destinations in the world for its stunning natural beauty, rich culture, and incredible local hospitality.¹ However, like many other tourist destinations, Bali faces serious challenges related to environmental management, especially in maintaining the cleanliness of its tourist environment. Environmental cleanliness in Bali not only affects the attraction of tourists but is also closely related to Human Rights (HAM), because everyone has the right to a clean and healthy environment.²

From the perspective of human rights, the right to a clean and healthy environment is recognized as part of the basic human right. The 1948 Universal Declaration of Human Rights (DUHAM) affirms that everyone has the right to a decent life, which includes a clean and

¹ Sri, A. M. (2024). Pengaruh Pariwisata Terhadap Perekonomian Daerah Kasus Bali. *Circle Archive*, 1(5).

² Yulias, E. (2022). IMPLEMENTASI PENEGAKAN HUKUM LINGKUNGAN PADA PENGEMBANGAN SEKTOR PARIWISATA DI KAWASAN EKONOMI KHUSUS (KEK) KUTA MANDALIKA LOMBOK TENGAH. *Jurnal IUS Kajian Hukum dan Keadilan*, 9(2), 518-532.

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healthy environment. In addition, various international legal instruments such as the Stockholm Declaration on the Human Environment (1972) and the Rio Declaration on Environment and Development (1992) emphasize that the right to a healthy environment is a fundamental right that must be protected by all countries.³ In Indonesia, the legal basis that regulates the right to a clean and healthy environment can be found in the 1945 Constitution, Article 28H paragraph (1) which states that "Everyone has the right to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment and the right to health services."⁴ In addition, Law No. 32 of 2009 concerning Environmental Protection and Management also affirms everyone's right to a good and healthy environment and the government's obligation to ensure the implementation of these rights.⁵

Bali, as a major tourist destination, receives millions of tourists every year. The Central Statistics Agency (BPS) of Bali Province said that the arrival of foreign tourists (foreign tourists) who visit directly to Bali in the period from January to November 2023 reached 4.79 million visits. The number of foreign tourist visits to Bali reached 46.02 percent of the total foreign tourist visits to Indonesia during January-November 2023, which was recorded at more than 10.409 million visits. The achievements throughout the 11 months of 2023 exceeded the conditions during 2022. Data from the Bali Provincial Tourism Office, shows that the number of foreign tourist arrivals to Bali during 2022 reached 2.155 million visits and the number of Indonesian tourists (wisnus) arrivals was 8.052 million visits.⁶ This surge in tourists makes a significant contribution to the local economy, but it also puts great pressure on the environment. One of the main problems faced by Bali is waste management. With the increase in the volume of tourists, the volume of waste produced has also increased significantly. Many tourist areas in Bali, such as Kuta, Seminyak, and Ubud, are often seen full of plastic waste, bottles, and other waste, which pollutes beaches, rivers, and streets.⁷

One of the efforts to overcome the waste problem in Bali is to prohibit the use of single-use plastic bags since 2019 through Bali Governor Regulation No. 97 of 2019 concerning Restrictions on the Generation of Single-Use Plastic Waste. This policy aims to reduce the amount of plastic waste that pollutes the environment. In addition, various community initiatives such as the "Bye Bye Plastic Bags" movement spearheaded by two young Balinese girls, Melati and Isabel Wijsen, have succeeded in raising public awareness and tourists about the importance of reducing plastic use.⁸ This movement encourages the collection of plastic waste and educates local communities and tourists about the negative impact of plastic waste on the environment.

However, challenges remain. Despite plastic ban policies and successful local initiatives, waste management in Bali still faces serious obstacles. Inadequate waste management infrastructure,

³ Sationo, T. I. (2022). KEWAJIBAN NEGARA DALAM PEMENUHAN AKSES TERHADAP AIR. *Juris Humanity: Jurnal Riset dan Kajian Hukum Hak Asasi Manusia*, 1(2), 102-118.

⁴ Hasibuan, R. (2018). Pengaturan hak atas lingkungan hidup terhadap kesehatan. *Jurnal Ilmiah Advokasi*, 6(2), 9-20.

⁵ Nugroho, A. R., & Najicha, F. U. (2023). Pemenuhan Hak Asasi Manusia Atas Lingkungan Hidup Yang Sehat. *Yustitia*, 9(1), 108-121.

⁶ Cokorda Yudistira M Putra, (2024), Kunjungan Wisatawan Ke Bali Semakin Meningkat Pascapandemi. Available from : <https://www.kompas.id/baca/nusantara/2024/01/02/kunjungan-wisatawan-ke-bali-semakin-meningkat-pascapandemi>

⁷ Citta Maya, (2024), Target Tujuh Juta Wisman Dihadang Masalah Sampah dan Kemacetan. Available from : <https://www.balipost.com/news/2024/02/02/386127/Target-Tujuh-Juta-Wisman-Dihadang...html>

⁸ Rijal, N. K., & Sabila, S. (2022). From local to global: Development and transformation of bye-bye plastic bags movement. In *Social and political issues on sustainable development in the post COVID-19 crisis* (pp. 223-234). Routledge.

lack of recycling facilities, and indiscipline in waste disposal are major problems. For example, many landfills in Bali are not properly managed, so garbage often ends up in rivers and seas, polluting marine ecosystems and harming the tourism industry itself.

To compare this situation with other countries, we can look at examples of countries that have succeeded in managing their tourist environment. For example, Japan is known for its very strict and disciplined waste management policies. In tourist destinations such as Kyoto and Tokyo, environmental cleanliness is highly maintained. Waste is neatly separated according to categories and recycling is carried out effectively. Tourists in Japan are also taught to dispose of their garbage properly, with strategic and easily accessible trash cans. The Japanese government is also active in educating the public about the importance of maintaining a clean environment through various campaigns and educational programs.⁹

Similarly, the small Pacific country, Palau, has implemented innovative environmental policies. Palau banned the use of single-use plastics and required tourists to bring their waste back to their home countries. This policy is known as the "Palau Pledge," where every tourist entering Palau must sign a pledge to respect the local environment and culture. This initiative has not only succeeded in reducing the amount of plastic waste but also increased tourist awareness about the importance of protecting the environment.¹⁰

In Europe, countries such as Switzerland have also shown effective tourism environmental management practices. The city of Zermatt, for example, implemented a zero-emission policy by banning motor vehicles in the city center. Public transport in Zermatt uses electric vehicles, and the city has a very efficient waste management system. Tourists and locals are encouraged to recycle and minimize waste. This policy has succeeded in maintaining the cleanliness and beauty of the city, attracting many tourists who appreciate a clean and healthy environment.¹¹

Apart from an environmental perspective, sustainable tourism must also pay attention to social and cultural aspects. Local communities must be actively involved in the management of tourist destinations, so that they can experience the economic and social benefits of the tourism industry. The preservation of local culture and respect for local customs are also important to maintain a balance between tourism and environmental sustainability.

Based on the previous background presentation, it is very interesting to discuss in the form of a legal journal with the title: **THE RIGHT TO A CLEAN TOURISM ENVIRONMENT: A HUMAN RIGHTS AND TOURISM PERSPECTIVE**, The formulation of the problem in this study is: 1. How is the consistency of legal policies towards the right to a clean tourism environment in Bali from a human rights perspective? As well as 2. How Do Legal Challenges in Guaranteeing the Right to a Clean Environment in Bali Tourism Destinations Compare to Other Countries?

2. RESEARCH METHOD

This study uses a normative legal research method, The normative legal research method is an analytical approach used to understand and evaluate legal rules and applicable norms. It involves the analysis of legal texts, the interpretation of legal theories, and the evaluation of

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⁹ Mekonnen, G. B., & Tokai, A. (2020). A historical perspective of municipal solid waste management and recycling system in Japan: learning for developing countries. *Journal of sustainable development*, 13(3), 85-101.

¹⁰ Medel, I. L. (2020). The Palau legacy pledge: A case study of advertising, tourism, and the protection of the environment. *Westminster Papers in Communication and Culture*, 15(2).

¹¹ Tissot, L. (2016). From alpine tourism to the "alpinization" of tourism. In *Touring Beyond the Nation: A Transnational Approach to European Tourism History* (pp. 73-92). Routledge.

the underlying legal principles. This method aims to interpret the consistency of legal rules with a broader legal framework and provide suggestions to improve legal clarity and effectiveness in responding to complex social challenges.¹²

The approach used in this study is a comparative approach. This approach is used to compare one legal institution of the legal system with another.¹³

3. RESEARCH RESULT AND DISCUSSION

Consistency of Legal Policy on the Right to a Clean Tourism Environment in Bali from a Human Rights Perspective

The consistency of legal policies on the right to a clean tourism environment in Bali, seen from the perspective of Human Rights (HAM), relies on various legal regulations that aim to protect, maintain, and manage the environment in a sustainable manner. The right to a clean environment has been recognized as part of human rights, which places the responsibility on state to protect and promote this right without discrimination, as well as to provide adequate access to information and public participation in environmental decision-making.

If the consistency of legal policies towards the right to a clean environment is examined from the theory of rights, the theory of rights affirms that individuals have an inherent right to a healthy and clean environment as part of their fundamental rights, as argued by John Locke and Immanuel Kant.¹⁴ Meanwhile, when viewed from the theory of environmental justice, such as those developed by John Rawls and Thomas Pogge, emphasizes the need for a fair distribution of environmental resources, taking into account the interests of future generations.¹⁵ On the other hand, the theory of social responsibility (CSR) highlights that parties involved in economic activities, including the tourism industry in Bali, have a moral responsibility to protect and maintain the environment.

Indonesia as a party to various global human rights instruments, such as the 1972 Stockholm Declaration and the 1992 Rio Declaration, has set a commitment to integrate environmental aspects within the national legal framework. The Indonesian Constitution itself, through Article 28H paragraph (1) of the 1945 Constitution, guarantees the right of every citizen to live in a good, healthy environment, and the right to legal protection for a clean and healthy environment. This is in line with human rights principles that emphasize the importance of environmental sustainability as part of human rights in general.¹⁶

The implementation of environmental policies in Bali is based on Law Number 32 of 2009 concerning Environmental Protection and Management, which provides a legal basis for environmental protection efforts throughout Indonesia, including Bali as a major tourism destination. As a concrete example, the Bali Provincial Government implements Bali Governor Regulation Number 97 of 2018 concerning the Reduction of the Use of Single-Use Plastics in the Province of Bali, which aims to reduce the negative impact of plastic waste on the

¹² Ani Purwati, (2020). *Metode Penelitian Hukum Teori dan Praktek*. Jakad Media Publishing.

¹³ Suhaimi, S. (2018). Problem Hukum Dan Pendekatan Dalam Penelitian Hukum Normatif. *Jurnal Yustitia*, 19(2).

¹⁴ Flikschuh, K. (2008). Reason, right, and revolution: Kant and Locke. *Philosophy & public affairs*, 36(4), 375-402.

¹⁵ Wijaya, I. K. K. A. (2024). Pemanfaatan Sumber Daya Alam Yang Berkelanjutan. *Jurnal Ilmu Hukum Keren*, 5(2), 45-53.

¹⁶ Sodikin, S. S. (2021). Perumusan Hak Atas Lingkungan Hidup Yang Baik Dan Sehat Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Serta Upaya Perlindungan Dan Pemenuhannya. *Supremasi: Jurnal Hukum*, 3(2), 106-125..

environment.¹⁷ This step demonstrates the commitment of the local government to implement stricter environmental policies to support the right to a clean and healthy environment for local residents and visitors.

Despite a clear legal framework, policy implementation on the ground often faces significant challenges in the context of human rights. One of them is the lack of awareness and discipline of the community in complying with environmental rules, such as responsible waste management and reducing the use of plastic. Local governments' efforts to strengthen law enforcement and increase public awareness through education and socialization campaigns are important to ensure the success of holistic and sustainable policy implementation.¹⁸

In addition, it is also important to recognize the role of customary law and local cultural values in Bali, such as Subak and Customary Villages, which have an important role in natural resource management and environmental conservation. This customary law system not only supports environmental sustainability by integrating local values into environmental governance, but also has the potential to strengthen the consistency of modern legal policies with relevant human rights principles.¹⁹

In this context, efforts to improve the consistency of legal policies on the right to a clean environment in Bali require an integrated approach between strong legal regulations, effective law enforcement, and active participation from various stakeholders. The next steps must continue to encourage innovation in environmental management, strengthen public awareness, and increase cross-sectoral collaboration to achieve the goal of sustainable environmental sustainability for Bali as a global tourism destination.

Legal Challenges in Guaranteeing the Right to a Clean Environment in Bali Tourism Destinations Compared to Other Countries

Ensuring the right to a clean environment in Bali's tourism destinations faces a number of complex legal challenges, especially in the context of policy implementation and law enforcement. Indonesia has Law Number 32 of 2009 concerning Environmental Protection and Management as the main legal basis that regulates environmental protection in all regions, including Bali. At the provincial level, Bali Governor's Regulation Number 97 of 2018 regarding the reduction of the use of single-use plastics shows concrete efforts to reduce the impact of plastic waste on the environment, which is a positive step in supporting the right to a clean environment for the Balinese people.

However, the main challenge faced by Bali is in the effective and consistent implementation of this policy on the ground. Although there are clear regulations, the main problem remains the lack of awareness and discipline of the community and tourism managers in complying with environmental rules. This often results in environmental sustainability that is threatened, such as marine pollution due to plastic waste and sanitation problems that have not been fully resolved.

In comparison with developed countries such as New Zealand, Norway, and other countries such as Germany and Canada, the difference in approaches in environmental law is striking. In

¹⁷ Fahrudin, M., & Triadi, I. (2024). Kebijakan Hukum Pemerintah Dalam Mengatasi Plastik Sekali Pakai Dan Dampaknya Terhadap Lingkungan. *Jurnal Relasi Publik*, 2(3), 74-85..

¹⁸ Suputra, I. N. A., Mahadewi, K. J., & SH, M. (2023). EFEKTIVITAS KEBIJAKAN PENGURANGAN SAMPAH KANTONG PLASTIK SEKALI PAKAI BAGI KELESTARIAN LINGKUNGAN HIDUP. *Jurnal Dimensi Hukum*, 7(12)..

¹⁹ Adnyani, N. K. S. (2021). Perlindungan Hukum Kesatuan Masyarakat Hukum Adat Dalam Pengelolaan Pariwisata Berbasis Kearifan Lokal. *Media Komunikasi FPIPS*, 20(2), 70-80..

New Zealand, the Environmental Protection Act of 1991 provides a strong legal framework for regulating environmental management in national parks and tourist areas such as Fiordland National Park. This law not only establishes a clear obligation for the government and society to protect biodiversity and natural resources, but also integrates sustainability aspects in all tourism activities.²⁰

In Norway, the Environmental Law of 2001 provides a comprehensive legal framework for protecting nature and promoting sustainable development in tourism destinations such as Lofoten. By regulating nature conservation, land use, and corporate social responsibility, Norway has successfully integrated sustainability principles in all aspects of economic and tourism activities.²¹ In Germany, the Environmental Protection Act of 1974 provides a strong legal basis for controlling air, water, and soil pollution, as well as regulating sustainable development in tourism areas such as Bavarian National Park.²² Meanwhile, Canada, with the Environmental Protection Act of 1999, regulates the management of natural resources and environmental conservation in tourism destinations such as Banff National Park.²³

This comparison shows that the main challenges in ensuring the right to a clean environment in Bali are the implementation of effective policies, strict enforcement of laws against environmental violations, and increasing public awareness and participation in environmental conservation efforts. Developed countries have more mature and well-structured environmental law systems, which support efforts to maintain environmental sustainability in their tourism destinations more effectively. To address these challenges, Indonesia, including Bali, needs to strengthen its environmental law enforcement capacity, increase education campaigns on the importance of the environment, and strengthen cross-sectoral cooperation between governments, the tourism sector, and civil society. With a holistic and integrated approach, Bali can achieve the goal of better environmental sustainability, ensure the preservation of natural resources, and maintain sustainable tourism attractiveness for a better future.

4. CONCLUSION

The consistency of legal policies on the right to a clean tourism environment in Bali is based on various legal regulations to protect the environment in a sustainable manner. This right is recognized as part of human rights with the responsibility of the state to protect without discrimination. Indonesia has set a global commitment to integrate environmental aspects in national laws, including in Bali. The Bali Provincial Government implements a policy of reducing single-use plastics to support a clean environment. The challenges of policy implementation include public awareness in implementing environmental rules. The role of customary law and local cultural values, such as Subak and Customary Villages, is important in environmental conservation. To ensure environmental sustainability in Bali, the integration of legal policies, law enforcement, and stakeholder participation is needed. The next step must be to encourage innovation, public awareness, and cross-sectoral collaboration for the goal of environmental sustainability of Bali as a global tourism destination.

²⁰ Willis, E. (2010). The interpretation of environmental legislation in New Zealand. *New Zealand Journal of Environmental Law*, 14, 135-160.

²¹ Hovelsrud, G. K., Olsen, J., Nilsson, A. E., Kaltenborn, B., & Lebel, J. (2023). Managing Svalbard Tourism. *Arctic Review on Law and Politics*, 14, 86-106.

²² Marchwacki, B. (2014). Sustainable tourism in Germany. *New Trends in Tourism Research-A Polish Perspective*.

²³ Hashimoto, A. (2020). HUMAN RIGHTS, THE ENVIRONMENT, AND TOURISM. *Human Rights Issues in Tourism*

2 The implementation of the right to a clean environment in Bali is faced by complex legal challenges in policy and law enforcement. In Indonesia, Law Number 32 of 2009 concerning Environmental Protection and Management, as well as Bali Governor Regulation Number 97 of 2018 have been enacted to protect the environment, especially related to the reduction of single-use plastics. However, the implementation of this policy is still faced with a lack of awareness and discipline from the community and tourism managers. Comparisons with developed countries such as New Zealand, Norway, Germany, and Canada show significant differences in environmental law approaches in integrating sustainability principles in tourism activities. To improve environmental sustainability in Bali, strict law enforcement, increased public awareness, and cooperation between sectors are needed. With a holistic and integrated approach, it is hoped that Bali can achieve better environmental sustainability for a sustainable future.

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