



# Responsibility of Tourism Place Management for Tourist Safety

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**Abstract.** Bali is a tourism destination that is very well known by tourists. Many tourism business actors open tourist destinations without regard to security and safety for tourists. This study examines the responsibilities of tourist attraction managers in the event of an accident and legal protection for tourist safety. This research is a normative legal research. The results of the study show that the manager of tourist attractions must be responsible if an accident occurs as long as the losses incurred are caused by negligence which is regulated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection, Article 26 of Law Number 10 of 2009 concerning Tourism and Article 6 number (3) Regional Regulation of the Province of Bali Number 5 of 2020 concerning Standards for Implementing Balinese Cultural Tourism. Legal protection for the safety of tourists visiting tourist attractions can refer to Article 20 letters (c) and (f) of the Tourism Law regarding tourist rights, and as consumers who use tourism services can refer to Article 4 numbers (1) and numbers (5) Consumer Protection Act. Based on the results of the research, it can be suggested that managers of tourist attractions pay attention to security and safety for visiting tourists.

**Keywords:** Responsibility, Managers of tourist attractions, Tourists

## 1 Introduction

Tourism is a significant economic sector that contributes substantially to a country's foreign exchange earnings. Consequently, the government is actively pursuing measures to enhance this industry through the implementation of strategic tourism programmes. Based on its geographical location, Indonesia can be characterised as an archipelagic nation that possesses abundant natural resources. The allocation of resources towards the enhancement of the tourist sector is vital, as it allows for the utilisation of the abundant natural and cultural assets available within the region.

Tourism can be defined as the temporary displacement of individuals or groups from their habitual place of residence to an alternative location. [Gamal Suantoro, 2004.3] But the current development of tourism has become the interests and necessities of life for the community. Tourism development activities have long been always in-

creasing from year to year. Tourism encompasses a range of activities and temporary travel undertakings undertaken by individuals, families, or organisations with the objective of seeking tranquilly, inner peace, and spiritual contentment. Tourism is supported by various facilities and services provided by local communities, businesses, government and local government.

According to Article 1 of Law Number 10 of 2009 concerning Tourism, "Tourism is a travel activity carried out by a person or group of people by visiting certain places for recreational purposes, personal development, or studying the uniqueness of the tourist attractions visited in a temporary period." While tourism itself is "a variety of tourist activities and is supported by various facilities and services provided by the community, businessmen, government and local government. And tourists are people who travel."

The community as tourism business actors flock to promote their area to become a tourism destination so that it becomes an attraction for tourists to come visit. As widely acknowledged, tourism serves as a significant source of foreign exchange earnings, contributing to the advancement of both national and regional development. Therefore, it is imperative for the tourist development in Indonesia to generate novel technologies in order to sustainably uphold and enhance competitiveness. [Made Metu Dhana, 2012.1]

The successful implementation of tourist development necessitates meticulous planning and encompasses three key dimensions: the tourism industry, the environmental carrying capacity, and the local community. The primary objective is to enhance the overall quality of life. Tourists are consumers in the tourism service business who should receive protection. Legal protection and security for tourists have a very important influence considering that tourism activities are focused on security, safety, sustainability and environmental quality as a form of public order and peace in the tourist destination area.

Many tourism business actors are competing to open tourist destinations. Moreover, if the area that is a tourist destination has the potential for natural beauty. In carrying out their tourism business activities, tourism business actors are only concerned with the profit or profit they get and do not pay attention to the security and safety of their tourists. Many business actors establish tourism destinations that provide various facilities and rides that are classified as having a fairly high risk in terms of security and safety for tourists, such as in Tegalalang, Gianyar, providing rides commonly known as "swings" (unique swings that trigger adrenaline), ATV motorbike tourism rides in the Ubud area, where tourists can ride on tracks that are quite dangerous if we can't maintain balance while driving on the ATV.

Accidents in tourism with high-risk activities are very likely to occur. Several factors that cause accidents at tourist attractions include natural conditions, negligence of managers, the absence of accident prevention facilities and infrastructure, visitor behavior and the lack of information provided by tourist attraction managers for visitors. Apart from that, not a few of the managers of tourist attractions only think about the benefits without looking at the risks that might occur. And in fact the safety aspect in tourism with high-risk activities has not received serious enough attention from various parties, especially from the management of these tourist attractions.

Law Number 10 of 2009 concerning Tourism and Law Number 8 of 1999 concerning Consumer Protection in outline have stated “the rights and obligations for tourists and tourism business actors, but in reality, there are still many business actors who do not heed these norms.” So this certainly does not provide legal certainty for tourists who want to visit tourist attractions, especially tourist areas that are classified as high risk. Based on the background of the problem, the problem can be formulated as follows:

1. What is the responsibility of the manager of tourist attractions to tourists in the event of an accident that causes a loss?
2. How is legal protection for the safety of tourists visiting tourist attractions?

## **2 Research Method**

This research is normative legal research. The problem approach used in this study is a statutory and conceptual approach, namely examining the problems studied based on statutory regulations and legal theories.

## **3 Results and Discussion**

### **3.1 Responsibilities of Tourist Attraction Managers to Tourists in the Event of an Accident Causing Loss**

Tourism is generally seen as an economic activity, bearing in mind that the main goal of tourism development is to gain economic benefits, both for the community, the region and the country. This activity certainly cannot be separated from the important role of tourism entrepreneurs and visitors who are interconnected. Tourism entrepreneurs act as managers of tourist attractions or as tourism business actors.

Managers of tourist attractions, which in this case are domiciled as business actors or tourism entrepreneurs, have a legal responsibility in guaranteeing tourism activities, especially if these activities are at high risk. Like the tourist attraction, Tanah Lot Temple, which is located in Tabanan Regency, is a holy place which is also used as a tourist attraction next to cliffs and ravines that are quite deep and dangerous. Many tourists visit the Tanah Lot tourist spot because they want to take pictures with a beautiful view of the cliffs, even though the place is classified as a high-risk tourist spot. Tourists who want to visit there, only need to pay an entrance ticket without any insurance protection in the event of an accident to tourists. In 2018 there was an accident experienced by a foreign tourist from France at the Nyemah Ceking Swing tourist attraction located in Tegalalang Village, Gianyar Regency. The tourist was dragged by a swing until he died. The tourist helped his child to get on the swing, then pushed him, but his hand did not let go of the swing so that the tourist was also attracted and fell into a 15-meter deep ravine. There was also a fatal incident that occurred at Kelingking Beach, Nusa Penida, Klungkung Regency in November 2019. A local tourist from Mojokerto, East Java, died because he slipped from a coastal cliff.

When the tourist was walking up the stairs and was at a height of 150 meters, suddenly he slipped and fell.

Based on Article 1 number (28) of Bali Provincial Regulation Number 5 of 2020 concerning Standards for Implementation of Balinese Cultural Tourism, that “Tourist Attraction, hereinafter abbreviated as DTW, is everything that has uniqueness, beauty, and value in the form of diversity of natural, cultural, spiritual wealth, and man-made results that are the target or purpose of tourist visits.” In the Bali Provincial Regulation No. 5 of 2020 also regulates the obligations of Tourism Destination Managers as described in Article 6 point (3) which stipulates that: “In addition to meeting the standards referred to in paragraph (2), DTW Managers must meet additional standards, including:

- a. Implement security, safety and health standards for tourists;
- b. Provide signs regarding the safety and security of travel;
- c. Protect and preserve the natural environment DTW.”

Regional Regulation of the Province of Bali Number 5 of 2020 concerning Standards for Implementing Balinese Cultural Tourism, should be used as a guide in conducting tourism business activities by tourism entrepreneurs as managers of high-risk tourist attractions. All tourist attractions that have high-risk activities will certainly contain a very large risk of accidents. Tourists are very likely to experience minor or serious accidents that cause injuries or can lead to death. This should be a concern for managers of tourist attractions or business actors who carry out these high-risk activities. Safety protection for tourists visiting high-risk tourist attractions is inseparable from the responsibilities of the manager of tourist attractions as tourism entrepreneurs. The provision of such protection is an obligation as well as the responsibility of tourism business actors in ensuring the security and safety of tourists in their tourism business. As for the obligations that must be carried out by tourism entrepreneurs listed in Article 26 of Law Number 10 of 2009 concerning Tourism, namely:

- “a. Maintain and respect religious norms, customs, culture and values that live in the local community;
- b. Provide accurate and responsible information;
- c. Providing non-discriminatory services;
- d. Providing tourists comfort and safety;
- e. Provide insurance protection for tourism businesses with high-risk activities;
- f. Developing partnerships with micro, small and local cooperatives that need, strengthen and benefit each other;
- g. Prioritizing the use of local community products, domestic products, and providing opportunities for local workers;
- h. Improving workforce competency through training and education;
- i. Playing an active role in efforts to develop infrastructure and community empowerment programs;
- j. Participate in preventing all forms of acts that violate decency and activities that violate the law in the environment where the business is located;
- k. Maintaining a healthy, clean and beautiful environment;
- l. Maintaining the preservation of the natural and cultural environment;

- m. Maintain the image of the State and nation of Indonesia through responsible tourism business activities; And
- n. Implement business standards and competency standards in accordance with statutory provisions.”

According to Hans Kelsen, responsibility can be divided into 2 (two) types, namely:

a. Responsibility based on fault.

This responsibility is borne by legal subjects or business actors who commit an unlawful act, which is caused by an error or negligence. Negligence occurs when the omission or non-prevention of an event that is undesirable from a legal point of view is prohibited, even though the event was not foreseeable or unintentional by the individual, but usually predictable and cannot be intentional or prevented.

b. Absolute or absolute liability

This responsibility is imposed on a person if his actions cause consequences that are considered detrimental by legislators, and there is a relationship between the actions and the resulting consequences. [ Hans Kelsen, 2009, 95]

In Law Number 10 of 2009 concerning Tourism, Article 26 letter (e) stipulates that “tourism entrepreneurs are required to provide insurance protection for tourism businesses with high risk activities. Entrepreneurs are required to provide protection in the form of insurance to tourists in anticipation of an accident that will cause losses to tourists.”

When tourists visit and carry out activities in tourist attractions that have a high risk of having an accident causing losses, the manager of the tourist spot as a tourism entrepreneur is responsible for the loss by claiming it to the insurance company that has worked with the business actor.

If an accident occurs due to a lack of supervision or negligence and the lack of facilities provided by the manager of the tourist spot, then the responsibility lies with the manager of the tourist spot as a tourism entrepreneur. If the accident that occurs is caused by the negligence of the tourist himself because he does not comply with the rules set by the manager of the tourist attraction, the manager of the tourist attraction is not responsible for this.

### **3.2 Legal Protection for the Safety of Tourists Visiting Tourist Attractions**

The tourism sector has consistently been a focal point of government attention and will continue to be nurtured, as it serves as a crucial component within the economic framework. The growth and sustainability of the tourism industry heavily rely on the volume of visitor arrivals. In addition to implementing effective tourism promotional strategies, it is imperative for a country to prioritise the safeguarding of tourists who visit popular destinations.

As per Satjipto Rahardjo's perspective, legal protection encompasses the endeavour to safeguard an individual's interests by granting them authority to operate within the framework of their own interests. [Satjipto Rahardjo, 2003, 121]

It is imperative to uphold the preservation of current tourism assets, as these attractions serve as distinctive representations of a nation. Continuous improvement and consideration of supporting aspects for tourism objects are vital as they facilitate visi-

tor accessibility to current tourist attractions. In order to uphold these conditions, it is imperative for the Government, the community, and relevant players in the tourism industry to collaborate in ensuring the preservation of security and safety measures for visiting visitors. It is incumbent upon tourism destination operators to ensure the provision of a secure, comfortable, and safe environment for tourists. Nevertheless, the issue of safety for visitors visiting high-risk tourist locations has not been adequately addressed by multiple stakeholders. It is not uncommon for accidents to occur, resulting in financial damages for tourists who are visiting these areas. Tourists frequently neglect to consider the rights afforded to them within the agreements formed with tourism entrepreneurs or managers of tourist attractions, as exemplified by admittance tickets. Frequently, the tools employed to facilitate operations within these tourist sites are insufficient. The development of tourism destinations is closely tied to the presence of necessary facilities and infrastructure within these tourist sites. Facilities and infrastructure in tourist areas must meet operational standards, because this has a direct impact on the security and safety of visitors. For this incident, every tourist has the right to ask for and get protection from a place or destination they visit. In this case the manager of tourist attractions as a tourism entrepreneur should provide legal protection for security and safety for tourists. Satjipto Rahardjo asserts that legal protection serves the purpose of safeguarding human rights that have been infringed upon by individuals, with the aim of ensuring that the community is able to fully exercise all the rights bestowed upon them by the legal system. [Satjipto Rahardjo, 2000, 54]

Legal protection for tourists is regulated in Article 20 of the Tourism Law which stipulates that: "Every tourist has the right to obtain:

- a. Accurate information regarding tourist attractions;
- b. Tourism services according to standards;
- c. Legal protection and security;
- d. Health services;
- e. Protection of personal rights; And
- f. Insurance protection for high-risk tourism activities."

If you pay close attention to Article 20 letters (c) and (f), "tourists have the right to obtain legal and security protection as well as insurance protection for high-risk tourism activities. Insurance protection for high-risk tourism activities is intended to pay tourist claims if unwanted things occur during tourism activities in these high-risk tourism activities." The rights of tourists are also regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection which determines Consumer rights are:

1. The right to comfort, security and safety in consuming goods and/or services;
2. The right to choose goods and/or services and to obtain said goods and/or services in accordance with the exchange rate and the conditions and guarantees promised;
3. Right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services;
4. The right to have their opinions and complaints heard about the goods and/or services used;

5. The right to obtain proper advocacy, protection and efforts to resolve consumer protection disputes;
6. The right to receive guidance and consumer education;
7. The right to be treated or served correctly and honestly and not discriminatory;
8. The right to receive compensation, compensation and/or reimbursement, if the goods and/or services received are not in accordance with the agreement or not as they should be;
9. The rights regulated in the provisions of other laws and regulations.”

The lack of preparedness exhibited by tourism entrepreneurs in adequately developing and maintaining these amenities and infrastructure is likely to have detrimental effects on customers. The plight of consumers who experience significant losses necessitates heightened endeavours to safeguard their interests, thereby ensuring the preservation of consumer rights. [Ahmadi Miru, 2013,4]. For this reason, in running a tourism service business with high-risk activities it must be equipped with facilities and infrastructure that can guarantee the security and safety of tourists.

## 4 CONCLUSION

1. Managers of tourist attractions must be responsible if an accident occurs as long as the losses incurred are caused by their negligence which is regulated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection, Article 26 of Law Number 10 of 2009 concerning Tourism and Article 6 number (3) ) Regional Regulation of the Province of Bali Number 5 of 2020 concerning Standards for Implementing Balinese Cultural Tourism.
2. Legal protection for the safety of tourists visiting tourist attractions is regulated in Article 20 letters (c) and (f) of Law Number 10 of 2009 concerning Tourism and Article 4 numbers (1) and numbers (5) of Law Number 8 of 2009 1999 concerning Consumer Protection.

## SUGGESTION.

It is imperative for managers overseeing tourist attractions to prioritise the implementation of robust security and safety measures, particularly in instances where the tourist destination has a heightened risk of accidents.

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