



Consumer protection in community-based ecotourism: Harmonization between legal certainty and local wisdom

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Abstract

Community-based ecotourism is a sustainable development alternative that integrates environmental conservation, local community empowerment, and tourism activities. However, legal challenges arise in protecting tourism consumers, particularly regarding service standards, legal liabilities, and guarantees of tourists' rights as consumers. This article examines consumer protection in community-based ecotourism using a normative approach by reviewing Law Number 8 of 1999 on Consumer Protection and regulations in the tourism and environmental sectors. It also analyzes the importance of recognizing local wisdom as part of contextual legal regulation. This research finds that harmonizing legal certainty with local wisdom can be achieved through strengthening community-based regulations and developing service standards based on state-recognized customary law.

Keywords: Consumer protection, ecotourism, local wisdom, legal certainty, tourism law

Introduction

Community-based ecotourism is an alternative form of tourism that emphasizes environmental conservation, socio-economic empowerment of local communities, and active community involvement in tourism management. Amidst the development of the sustainable tourism industry, consumer protection in ecotourism has become a focus, given that tourists remain legal subjects with consumer rights as stipulated in laws and regulations.

In the context of local and indigenous communities, two poles often clash: on the one hand, traditional values that are flexible, participatory, and based on deliberation; on the other, national legal principles that uphold legal certainty, protection of individual rights, and written regulations. Potential vulnerabilities arise when consumers from outside the community interact with unfamiliar or formally unrecognized systems.

The growing phenomenon of ecotourism destinations in various regions, such as Bali, East Nusa Tenggara, Kalimantan, and Papua, also highlights the importance of integrated regulations that guarantee legal protection for tourists without denying indigenous communities' autonomy and local wisdom. A legal pluralism approach is crucial to bridge differences between values and prevailing legal systems.

Research Objectives

1. To analyze the forms and implementation of consumer legal protection in community-based ecotourism per Indonesian laws and regulations.
2. To examine the mechanisms for harmonizing the principles of legal certainty and local wisdom values in ecotourism consumer protection efforts for effective implementation.
3. To evaluate best practices in implementing community-based regulations aimed at ensuring the fulfillment of consumer rights in ecotourism. III. Metodologi Penelitian

Research Methods

This research employs a normative juridical method based on legal literature studies with statutory, conceptual, and comparative approaches. Data were collected through a review of primary and secondary legal documents. Primary legal sources include national laws and regulations (Law No. 8 of 1999, Law No. 10 of 2009, and the 1945 Constitution), regional regulations, and customary law recognition. Secondary legal sources include legal textbooks, scientific journals, UNWTO documents, and fieldwork findings documented in previous research.

The analysis was conducted qualitatively through legal interpretation, systematic argumentation, and normative evaluation of the suitability of positive norms to the local social context. To support the depth of the argument, this research also employed a comparative approach, with studies of countries implementing community-based tourism protection systems, such as Costa Rica, New Zealand, and the Philippines.

Discussion

a. Consumer Protection in Ecotourism: National Legal Framework

As stated by Nurhadi, consumer protection regulations in the tourism sector must be contextualized with the characteristics of ecotourism based on community participation and local values (Nurhadi, 2021) ^[3]. Article 4 letter a state that consumers have the right to comfort, security, and safety in consuming goods and/or services. In the context of ecotourism, services provided by local communities must meet the eligibility standards as stipulated in Article 7, letter a of the Consumer Protection Law, which requires business actors to be responsible for providing correct, transparent, and honest information regarding the condition and guarantee of goods/services. Article 19 paragraph (1) of the Consumer Protection Law stipulates that business actors are responsible for losses experienced by consumers due to the use of traded goods and/or services. In this case, the legal responsibility of local tourism business actors, such as village cooperatives,

BUMDes, or tourism awareness groups (pokdarwis), can be requested for compensation in the event of negligence or violations. In Wahyuni's analysis, the rights of tourism consumers in community-based tourism must be guaranteed through structured and inclusive local mechanisms (Wahyuni, 2019) [7]. This strengthens the legal basis for consumer protection in the tourism context. However, despite a national legal basis, detailed regulations on consumer protection in community-based tourism remain very limited.

Business actors in community-based ecotourism lack the legal capacity to draft contracts or understand their rights and obligations as service providers. This weakens consumers' ability to claim responsibility for negligence or service failure. The principle of consumer justice demands practical and accessible redress mechanisms, including compensation, access to dispute resolution institutions, and protection against discrimination in services.

The lack of specific minimum service standards (SPM) for community-based tourism leads to disparities in service delivery between destinations. This situation undermines consumer confidence in the quality and safety of locally managed ecotourism services. A policy framework is needed to regulate community-based SPM, considering local cultural characteristics, while still providing legal certainty that guarantees the protection of tourism consumers.

b. Harmonization of Positive Law and Local Wisdom in Ecotourism Consumer Protection

Research has shown that harmonization between customary law and the national legal system in Bali can be effective when customary law is institutionalized into regional policies (Dewi, 2020) [1]. Concepts such as Tri Hita Karana, applied to Balinese ecotourism, represent a concrete example of integrating cultural values with a formal regulatory system that protects tourism consumers.

Legal pluralism in indigenous tourism must include protection for tourists as actors who interact directly with local communities (Sutaryo, 2023) [5]. Without recognizing consumer interests, customary law can become an exclusive instrument that does not guarantee justice for outsiders.

Indigenous communities in Indonesia possess value systems that can serve as legal instruments in regulating social and economic relations, including in providing tourism services. However, recognition of the customary legal system must be harmonized with national legal principles. Dewi also discussed the emphasis on recognizing customary law, stating that strengthening the role of indigenous communities in ecotourism requires formal institutional support so that local principles can provide legal certainty for tourists (Dewi, 2020) [1].

Regional or Village Regulations that incorporate elements of local wisdom into tourism management can formalize customary law recognition. Thus, local wisdom becomes a cultural value and a binding legal norm. This approach is legal pluralism, which allows for the coexistence of multiple legal systems within a single jurisdiction.

In the context of consumer protection, legal recognition of local wisdom can provide additional guarantees for tourist rights, particularly regarding comfort, safety, and clarity of information. For example, involving customary institutions in dispute resolution or designing community-based tourism service contracts can provide a more familiar and acceptable

protection mechanism for local communities. Furthermore, institutionalizing local wisdom into formal regulations can strengthen the accountability of tourism operators, providing consumers with legal certainty without neglecting the local values that are the main attraction of community-based ecotourism destinations.

c. Comparative Study: International Practices of Consumer Protection in Community-Based Ecotourism

Wahyuni stated that international practices in community-based tourism consumer protection emphasize the importance of accountability, transparency, and local involvement (Wahyuni, 2019) [7]. In this regard, the approaches taken in Costa Rica, New Zealand, and the Philippines demonstrate the integration of regulatory mechanisms and customary institutions in ensuring the safety and rights of tourists. Fitzpatrick highlighted the limitations of legal pluralism if it is not accompanied by precise oversight mechanisms from the state (Fitzpatrick, 2008) [2]. He emphasized that local or community laws must be recognized by control measures to prevent discrimination or inequality in the relationship between consumers and community-based service providers.

Countries like Costa Rica have an ecotourism certification (CST) policy that requires local community involvement and protects tourists' rights as consumers. This program includes a system of regular audits of service standards, environmental sustainability, and the community's social responsibility towards tourists. With a participatory and regulatory approach, Costa Rica ensures that tourists receive safe, integrated, and environmentally friendly services.

New Zealand integrates Māori customary law into its national legal framework through the principle of manaakitanga, which implies a moral obligation to respect and protect guests. In practice, many Māori tourism providers use culturally based contracts and provide legal training to local tourism operators. In the Philippines, the government has established national ecotourism guidelines that define the role of barangay tourism councils in ensuring transparency of information, accessibility of services, and complaint mechanisms for tourists. These three countries demonstrate that consumer protection in community-based ecotourism can be achieved through integrating formal regulations and institutionalized local wisdom.

d. Local Case Study: Community Ecotourism in Bali

Tenganan Pegringsingan Village in Karangasem Regency, Bali, is a clear example of community-based ecotourism management that upholds local wisdom. The Bali Aga community in this village implements customary rules to regulate tourist interactions with the local social and cultural environment, including rituals, dress codes, and access to sacred areas. Visitors must adhere to local values such as nyegara gunung (mountain-keeping), awig-awig (traditional customs), and specific prohibitions during traditional celebrations. Tourism activities are regulated by customary institutions and tourism awareness groups (Pokdarwis), which are responsible for visitor comfort and safety. However, the formal legal aspects of tourism service contracts remain poorly communicated, necessitating the strengthening of consumer protection under positive law.

Sutaryo highlighted that regional regulations integrating local cultural principles, such as those in Tri Hita Karana in

Bali, can bridge legal and cultural interests in protecting ecotourism consumers (Sutaryo, 2023) ^[5]. This provides legal legitimacy for cultural practices in tourism services and bridges customary law and national law in consumer protection.

The Bali Provincial Government also published research by Anonymous in the Bali Legal Review, emphasizing the importance of foreign tourist levies as a form of responsibility for the sustainability of community-based ecotourism, integrated with a consumer protection system (Anonymous, 2023). This policy reflects the local government's responsibility to provide safe, comfortable, and sustainable destinations for consumer protection. In addition to regional regulations, the UNWTO (2022) ^[6] recommends that codes of conduct for tourists and local tourism businesses are essential components in ensuring ethical service and consumer protection in community-based tourism (UNWTO, 2022) ^[6].

This case study in Bali demonstrates that the success of consumer protection in community-based ecotourism is inextricably linked to the synergy between formal regulations, customary values, and the legal awareness of local communities. Bali is an ideal model for integrating the principle of legal pluralism to guarantee consumer rights without neglecting regional cultural identity.

e. Model Law Recommendations: Towards Responsive Ecotourism Regulation

To achieve inclusive, community-based consumer protection in ecotourism, the authors recommend a comprehensive and adaptive legal approach that combines national legal principles with local practices proven effective in managing sustainable tourism:

1. Establishment of a Special Regional Regulation on Ecotourism that establishes minimum service standards, legal responsibilities of management communities, and a complaint system for tourists.
2. Formal recognition of customary law in tourism regulations through gubernatorial or regional regulations, incorporating local principles (such as Bali's Tri Hita Karana) as a complementary legal source.
3. Certification of local ecotourism businesses with consumer protection-based indicators (rights to information, safety, comfort, compensation for losses).
4. Through training of tourism paralegals, legal education for local communities ensures they understand the legal consequences of serving as public service providers.
5. Written tourism contracts (community tourism contracts) that outline the rights and obligations of providers and consumers, with provisions for local arbitration in the event of disputes.

Conclusion

Legal protection for consumers in community-based ecotourism in Indonesia has a normative basis through Law Number 8 of 1999 and Law Number 10 of 2009. However, implementing these laws has not been fully effective at the community level due to limited institutional capacity, low legal literacy, and the absence of integrated service standards that reflect local characteristics.

Harmonizing national law with local wisdom is a strategic step that can fill the regulatory gap and bridge the gap between the formal legal and community value systems.

Good practices from regions such as Bali demonstrate that recognizing customary law through regional regulations can strengthen consumer protection in ecotourism. Therefore, strengthening community-based regulations, increasing local institutional capacity, and synergy among stakeholders are needed to ensure sustainable and equitable consumer protection in ecotourism.

Suggestion

Consumer protection in community-based ecotourism requires the active involvement of various stakeholders, both at the national and regional levels. Therefore, it is crucial to promote national policies that explicitly regulate ecotourism consumer protection as an integral part of the tourism legal system. Local governments are also expected to develop customary-based regulations that guarantee the rights of tourist consumers, while adhering to the principle of legal pluralism. Furthermore, in collaboration with the Central Bureau of Statistics, the Ministry of Tourism needs to establish consumer protection indicators in the management of community-based tourism destinations that can be measured and evaluated periodically. These efforts must be strengthened by the active participation of educational institutions, legal institutions, and civil society organizations (NGOs) in organizing legal education and outreach programs for local communities, so that awareness of their legal rights and obligations as business actors and tourism service providers can grow sustainably.

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