
**THE IMPACT OF TOURISM INDUSTRY DEVELOPMENT IN RELATION TO
VIOLATIONS OF UTILISATION OF CLIFF BORDERS
BY TOURISM ENTREPRENEURS**

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Abstract

It is undeniable that the development of the tourism industry can have both positive and negative impacts on the economic, socio-cultural and environmental sectors. In the context of Bali, development of tourism industry will certainly have impacts towards the development of tourism supporting facilities in the form of hotels, restaurants, entertainment and recreation and so on. The aims of this research are to examine the impacts of the development of the tourism industry in relation to violations of the utilisation of cliff borders by tourism entrepreneurs and the one that involves reconstruction of legal norms in accordance with the concept of sustainable tourism development. The research takes the type of empirical legal research. The results show that the existence of tourism supporting facilities on the cliff borders in turn brings about negative impacts on the environment. As a consequence, legal reconstruction is urgently needed by adding more detailed justifications related to the regulations regarding the cliff border areas. The legal reconstruction in question can be done by adding the provisions of Articles in Provincial and Regencial or Municipal Regulations, or can be executed through preparation or reconstruction of additional provisions of Articles in the Regencial or Municipal Spatial Detail Plan or through zoning regulations based on sustainable tourism development.

Keywords: Cliff Border, Sustainable Tourism, Tourism

I. INTRODUCTION

Tourism is one of the most developed industries, especially in Bali. Bali has been one of the interesting tourist destinations to visit. Even it has a tourist attraction in the form of cultural diversity and natural beauty that attracts tourists, both local and foreign tourists visiting Bali. The emergence of the Covid-19 pandemic has had a massively large impact on the tourism sector, especially in Bali, since Balinese people are very dependent on the tourism sector. However, in 2022 the tourism industry began to gradually recover. Based on data from the Badan Pusat Statistik Provinsi Bali, the visit of foreign tourists who came directly to Bali Province in April 2022 were recorded to be 58,335 visits, an increase of up to hundreds of percent compared to the previous month's period which was recorded to be only 14,620 visits and dominated by tourists from Australia (Badan Pusat Statistik, 2022). When compared to the condition before the emergence of the Covid-19 pandemic, the number of the visits clearly experienced a drastic decline.

Development of the tourism industry in Bali clearly has consequences for the development of tourism supporting facilities. The tourism industry is inseparable from efforts to provide tourism

supporting facilities in the form of accommodation, restaurants, entertainment and recreation. Tourism entrepreneurs are definitely striving to provide attractive tourism support facilities for tourists visiting Bali. What is meant by tourism entrepreneurs are people or groups of people who carry out tourism business activities. It is regulated in the provisions of Article 1 point 8 of Law Number 10 of 2009 concerning Tourism. Based on data from the Badan Pusat Statistik in 2021, restaurants and eating houses in Bali Province totalled 3,868 (three thousand eight hundred sixty eight) which was dominated by Gianyar Regency totalling 1,053 (one thousand and fifty three), while in Badung Regency there were 728 (seven hundred twenty-eight). According to data from the Badan Pusat Statistik in 2021, the number of accommodations in the form of rooms and beds available at star hotels in Bali Province was 63,194 (sixty three thousand one hundred and ninety four) dominated by Badung Regency as many as 52,636, followed by Denpasar City as many as 5,962 and Gianyar Regency as many as 2,145.

The number of tourism supporting facilities listed above is dominated by several regencies, such as Badung and Gianyar Regencies, which are the areas that have a great number of attractions, both cultural tourism and natural beauty. Tourism is believed to have provided positive benefits for the economic development of the community, but it cannot be avoided that there are negative socio-cultural impacts that may have been received by the community as a result of tourism development (Junaidi, 2014). Tourism provides opportunities for local communities to obtain various benefits by offering goods or services referred to as tourism products which consist of the attractiveness of tourist destinations, facilities in tourist destinations which include accommodation, food processing businesses, entertainment, recreation and convenience to reach tourist destinations (I Ketut Suwena and I Gst Ngr Widyatmaja, 2017). Provision of tourism supporting facilities necessarily needs to be made in accordance with the provisions of the legislation. The problem that then arises, however, is there are general activities and developments carried out in areas that should not be used, such as cliff borders. Sometimes tourism entrepreneurs flock to provide tourism support facilities that are varied and innovative to attract tourists to visit. One of them is the utilisation of the cliff border areas. Cliff borders refer to land along the upper flat area with a proportional width according to the shape and physical conditions that are classified as local protected areas. The areas can be used as natural attractions, but what must be underlined is that in such areas buildings should not be erected.

After the trend and high tourist interest in having the benefits of the beauty of nature had an impact on the provision of supporting facilities on the cliff borders - such as hotels, villas and restaurants - problems then arouse. Regarding the existence of cliff borders, especially in the Province of Bali, it has actually been regulated in Regional Regulations Number 3 of 2020 concerning Amendments to Regional Regulations Number 16 of 2009 concerning Spatial Planning of the Province of Bali in 2009-2029, which is categorized as a local protected area. Problematic spatial development needs to be dealt with legal sanctions so a strategy for utilizing spatial planning that is in line with the spirit of regional autonomy is expected to achieve effective results by utilizing resources in an efficient manner (Junef, 2017).

The existence of tourism support facilities on the cliff borders is often found, especially in the province of Bali. Thus, the existence of buildings in the form of accommodation such as hotels, villas and restaurants is not in accordance with existing legal rules. This of course is not in line with the provisions of existing laws and regulations and is not in accordance with the concept of sustainable tourism development. Based on this, the issue of the impact of the development of the tourism industries in relation to violations of the utilisation of cliff borders by tourism entrepreneurs is important to study.

II. RESEARCH METHOD

This research used normative method. This research is an empirical legal research. The data used are primary data and secondary data. Data collection techniques used is interviews and observations and the approach applied is the approach to legislation and case approach. The entire data collected were analysed in a systematic way, classified, and association of one datum to another was made.

III. RESULTS AND DISCUSSION

1. Impacts of Tourism Industry Developments Related to Violations of Utilization of Cliff Borders by Tourism Entrepreneurs

Tourism industry constitutes a collection of interrelated tourism businesses in order to produce goods and/or services to meet the needs of tourists in tourism administration. This is regulated in the provisions of Article 1 point 9 of Law Number 10 of 2009 concerning Tourism. If we look at the provisions of Articles 2 and 6 of Law Number 10 of 2009 concerning Tourism, we can see that tourism development is realised through the implementation of tourism development plans by taking into account the diversity, uniqueness, and cultural and natural peculiarities, as well as the human need for tours that are organized based on the principle of sustainability. Even in considering the Bali Provincial Regulations Number 3 of 2020 concerning Amendments to Regional Regulations Number 16 of 2009 concerning the Regional Spatial Plan of the Province of Bali, it can be seen that space refers to a limited and unrenovable component of the environment which must be used sustainably.

Tourism development includes the tourism industry, tourism destinations, marketing, and tourism institutions. This is regulated in the provisions of Article 7 of Law Number 10 of 2009 concerning Tourism. Tourism industry is one of the most developed industries in Bali Province. Bali is known for its several tourist attractions, both natural and cultural attractions. Additionally, Bali is one of the most popular areas to be visited by both domestic and foreign tourists. Development of the tourism industry in Bali certainly has an impact on the development of tourism supporting facilities in the area. As explained in the background, it can be seen that the development of the tourism industry has led to the emergence of many tourism supporting facilities, both hotels, restaurants, and other tourism-supporting facilities.

Based on data from the Badan Pusat Statistik of Bali Province, it can be understood that tourism supporting facilities in Bali Province in the form of restaurants and eating houses in 2021 amounted to 3,868, while star hotels in 2021 amounted to 403. Gianyar Regency and Badung Regency were the regencies having tourism supporting facilities in the form of restaurants and eating houses in 2021. In Gianyar Regency, there were 1,053 restaurants and eating houses, while in Badung Regency there were 728 restaurants and eating houses. The most star hotels were in Badung Regency with a total of 308 hotels, in Denpasar City a total of 33 hotels, and Gianyar Regency with a total of 31 hotels. This is undeniable considering that Badung and Gianyar regencies are the areas which are of interest to be visited by both foreign and domestic tourists.

Tourism-supporting facilities are one of the factors that play a principal role in the development of the tourism industry in the area. In fact, it is undeniable that these tourism supporting facilities, both hotels and restaurants, boost the economy of the surrounding community and local government. The problem that then arises is when the tourism supporting facilities are located in areas that are not in accordance with their designation. It is unavoidable that the area, both cliff borders and coastal borders, offers beautiful panoramas. Unfortunately, the result of this is the number of tourism supporting facilities in the coastal border and cliff border areas.

Cliff border areas are classified as a local protected area. It is set forth in the provisions of Article 44 paragraph (1) letter e of the Regional Regulations of the Province of Bali Number 3 of 2020 concerning Amendments to Regional Regulations Number 16 of 2009 concerning Regional Spatial Planning of the Province of Bali. Regulations concerning the cliff border areas are also set in the Regional Regulations on Regional Spatial Planning for both Regency/City. Regional Regulations of Badung Regency and Gianyar Regency, especially regarding the Spatial Planning of the two Regencies also govern the cliff border areas. In the provisions of Article 1 Number 23 of the Regional Regulations of Badung Regency, Number 26 of 2013 concerning Regional Spatial Planning of Badung Regency, it is stipulated that cliff borders refer to land along the upper flat area with a proportional width according to the shape and physical condition. Furthermore, it is also regulated in Article 31 of the Regional Regulations of Badung Regency Number 26 of 2013 concerning the Regional Spatial Plan of Badung Regency which stipulates that the cliff border areas are located in areas that meet the criteria of Cliff Borders whose distribution includes: river valleys in all

subdistricts, forest and mountainous areas in the Petang Subdistrict, hill valleys in the Petang Subdistrict and South Kuta Subdistrict; and cliffs throughout the Regency.

Supposedly, development - especially the construction of tourism supporting facilities - should be carried out in compliance with existing rules, viz., Bali Provincial Regulations Number 3 of 2020 concerning Amendments to Regional Regulations Number 16 of 2009 concerning Regional Spatial Planning of the Province of Bali, as well as Regency/Municipal Regional Regulations which regulate Regency/Municipal Spatial Planning. By doing so, the possibility of negative impacts on the surrounding environment can be minimized. It is because cliff border areas are local protected areas. It is indisputable that the development of the tourism industry can certainly have positive and negative impacts. The positive impact of the development of the tourism industry, which in general is very influential on the local community, is the economic impact. In fact, the tourism industry is one of the main economic drivers for the people in Bali. This is because many Balinese people depend on the tourism industry for their livelihood. Viewed from a macroeconomic point of view, the positive impacts of tourism include offering business opportunities, increasing job opportunities, increasing income, increasing regional tax and levy revenues, increasing national income, and encouraging increased investment (Isdarmanto, 2017). However, it is not only a positive impact, the development of the tourism industry can also have a negative impact, especially on the environment. Sustainable tourism development is very important to implement because according to the paradigm, sustainable development is based on the journey of implementing development that is increasingly uncontrolled in a country (Yanuarita, 2018). The concept of sustainable tourism is widely regarded as a means of overcoming the negative impacts of tourism activities by conceptualizing environmental aspects such as conserving resources, conserving ecosystems, and controlling environmental damage in tourism governance (Moh. Fadli, et.al, 2022).

Construction of tourism-supporting facilities should also be carried out with due regard to the environment, in line with the *Tri Hita Karana* concept. The concept of *Tri Hita Karana* is a concept that is based on the principle of conformity or harmony of life which consists of three elements that are interrelated to each other, such as *parayangan*, *pawongan* and *palemahan* (Dibya, 2018). *Tri Hita Karana* is very relevant and appropriate to be applied in tourism development in Bali. The concept of *Tri Hita Karana* is certainly very appropriate to be implemented in this case, especially the concept of *palemahan* which means there is a harmonious relationship between humans and the environment. The concept promulgates that tourism entrepreneurs and tourism actors can develop the tourism industry and their business without compromising or damaging the environment, so the beauty of the environment can be maintained.

The government in this matter has a strategic role, especially in relation to the use of space, both the space related to the no-build zone and the designation zone. Space Utilization Permit is a permit required for space utilization activities in accordance with the provisions of laws and regulations. It is regulated in the provisions of Article 1 number 34 of the Regional Regulations of the Province of Bali Number 3 of 2020. Even related to space utilization permits, the government also has a special significant role related to the granting of space utilization permits to entrepreneurs who seek to establish tourism supporting facilities.

Every development activity can of course have an impact if it is not carried out in compliance with the use of space and its designation. Hence, for this a permit system is needed as a preventive measure that has a regulatory function. The regulatory function is intended so that existing permits can be implemented according to their designation and thus there is no misuse of the permits that have been granted; in other words, this regulatory function can also be referred to as a function owned by the government (Adrian Sutedi, 2010). Controlling the use of space, especially in the form of granting permits, is one of the preventive measures that can be taken to overcome problems related to the use of space that is not in accordance with its designation. With a good permit system, the possibility of violations related to the use of existing space can certainly be minimized. In addition to preventive efforts with the permit system, law enforcement also has an important role in overcoming the problem of the existence of tourism-supporting facilities in the cliff border areas.

2. Reconstruction of Legal Norms in Accordance with the Concept of Sustainable Tourism Development

Tourist attractions and tourism destinations play a very principal role in increasing tourist visits, especially in Bali. A tourism destination area, called a Tourism Destination, refers to a geographical area located in one or more administrative areas in which there are tourist attractions, public facilities, tourism facilities, accessibility, and communities that are interrelated and complete the realization of tourism (Article 1 point 6 of Law Number 10 of 2009 concerning Tourism). Development of tourist attractions in tourism destinations is very urgent to do in order to strive for the development of the tourism industry, especially in Bali, which has an impact in the form of the emergence of various tourism supporting facilities. In fact, what is unfortunate is the existence of tourism supporting facilities in the cliff border area which is a local protected area. In fact, cliff borders are areas on the edge of a cliff that have important benefits for maintaining environmental balance. The problem shows that there is a fallacy with the application of the rules of law that is not in compliance with its practice in society.

When examined in terms of legal substance, it appears that there are indeed legal rules governing the cliff border, both in laws, provincial regulations and regencial/municipal regulations. Thus, juridically it can be seen that there are already legal rules that regulate the area of cliff borders, that is to say, it is specifically also regulated in the Regional Regulations of the Province of Bali Number 3 of 2020 concerning Amendments to Regional Regulation Number 16 of 2009 concerning The Regional Spatial Plan of the Province of Bali as well as the Regencial or Municipal Regional Regulations, each of which also has a regional regulation that regulates the regional spatial plan of their regency/city. Nevertheless, if the Regional Regulations of the Province of Bali which regulates the Regional Spatial Plan of the Province of Bali as well as the Regional Regulations of the Regency or City are analysed, the Regional Regulations Number 16 of 2012 concerning the Regional Spatial Plan of the Regency of Gianyar do not regulate in detail the cliff border areas. Example are the provisions of Article 44 of the Regional Regulations of the Province of Bali Number 3 of 2020 concerning Amendments to Regional Regulations Number 16 of 2009 concerning the Regional Spatial Plan of the Province of Bali and Article 38 of the Regional Regulations Number 16 of 2012 concerning the Regional Spatial Plan of the Regency of Gianyar. In the provisions of Article 38 of Regional Regulation Number 16 of 2012 concerning Regional Spatial Planning of Gianyar Regency, it can be seen that the cliff borders include areas that have slope angles of at least 45 (forty five) degrees, the depth of the ravine is at least 5 (five) meters and an area of flat top of at least 11 (eleven) meters. In addition to having a Regional Regulations that regulate the Regional Spatial Plan of the Regency, that is, Regional Regulations Number 26 of 2013, Badung Regency already has a Detailed Spatial Plan in the form of a Regent Regulation, namely Badung Regent's Regulations Number 8 of 2021 concerning Detailed Spatial Planning for Kuta Subdistrict in 2021-2041. Detailed Spatial Planning is a detailed plan on the spatial layout of the Regency area which is accompanied by zoning regulations. In the Badung Regent's Regulations Number 8 of 2021, specifically Article 28 paragraph (1), it can be seen that the spatial pattern plan includes: protected zones and cultivation zones. Protected zones include coastal border zones (SP), river border zones (SS), spiritual and local wisdom protected zones (LS), urban green open space (RTH) zones, and conservation zones (KS).

Regulations regarding the cliff border that are technical and more detailed in nature area are urgently needed and have important characteristics to be accommodated. There is a solution to this, that is to carry out legal reconstruction by adding a more detailed justification related to the cliff borders, which can be done by adding the provisions of Articles in Provincial and Regencial or Municipal Regulations. Or it can be done through the reconstruction of the preparation of the Regency or City Spatial Detail Plan as well as through Zoning Regulations based on sustainable tourism development. In the provisions of Article 1 point 70 of the Regional Regulations of the Province of Bali Number 3 of 2020, it can be seen that what is meant by a Zoning Regulation is a provision that regulates the requirements for space utilization and the provisions for its control and is drawn up for each block/zone of designation whose zones are set out in the Detailed Spatial Plan. Hence, a more

detailed regulatory reconstruction related to the cliff border area can also be further regulated through the Zoning Regulations, even regarding the provisions for controlling it.

Sustainable tourism development, especially in Bali, is very essential to carry out. This is because most Balinese people are very dependent on the tourism industry. The concept of sustainable tourism development is expected to minimize the negative impacts caused by the tourism industry. Principle of this sustainability is reflected in the laws and regulations, especially Law Number 10 of 2009 concerning Tourism. Sustainability provides a long-term view of the future, one that focuses attention on a set of ethical values and principles, which guides action in a responsible and harmonious way, incorporating the environment and societal consequences of actions, as well as economic goals (Fonts & McCabe, 2017). Sustainable development is an essential strategy endorsed by various local governments and the United Nations World Tourism Organization (UNWTO) (Iftikhar, et. al., 2022).

The World Tourism Organization (WTO-OMT) defines sustainable tourism as follows: Sustainable tourism development meets the needs of present tourists and host regions while protecting and enhancing opportunities for the future (Cernat & Gourdon, 2017). Based on this, it can be claimed that sustainable tourism emphasizes on the concept of tourism development that take in account the long-term impacts.

It is envisaged as leading to management of all resources in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity and life support systems.” (Cernat & Gourdon, 2017). Sustainable development is based on three pillars: economic development, environmental protection and social development. Recently the term “social development” is being replaced as the “socio-cultural development” (Niedziółka, 2012). By having this at hand, the pattern of sustainable tourism development plays a substantial role in determining the future direction of tourism. Sustainable tourism means tourism that is growing very rapidly, including the increase in the flow of accommodation capacity, local population and the environment, in that, tourism developments and new investments in the tourism sector should not have a bad impact and can be integrated with the environment, if we maximize the positive impacts and minimize the negative impacts (Sunarta & Arida, 2017). Problems concerning the impacts of the development of the tourism industry, especially the construction of tourism support facilities on the cliff borders, are problems that often occur and are not in accordance with the concept of sustainable tourism development. If examined from the aspect of legal substance, this problem can be overcome, one of which is through reconstruction of legislation by adding provisions of Articles in Provincial and Regencial or Municipal Regulations or through the preparation of Regency or City Spatial Detailed Plans, as well as through Zoning Regulations. Application of the concept of sustainable tourism is also very prominent in tourism development, especially in Bali.

IV. CONCLUSION

Cliff border areas are a local protected area, so despite being allowed to be used as a tourist attraction, establishing buildings on them is prohibited. Therefore, construction of tourism-supporting facilities such as hotels, restaurants and so on is not allowed under the laws and regulations. Development in the cliff border areas can certainly have a negative impact, especially on the environment. Regulations regarding the cliff border areas that are technical in nature and in more detailed are urgently needed and important to be accommodated. Legal reconstruction is indisputably needed by adding a more detailed justification related to the cliff border areas. Reconstruction in question can be carried out by adding provisions of Articles in Provincial, Regencial and Municipal Regulations, or through addition of provisions of articles and the preparation of Regencial or Municipal Detailed Spatial Plans, as well as through Zoning Regulations based on sustainable tourism development.

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