

## LOCAL REGULATION PATTERNS TOWARDS COMPETITIVE COASTAL TOURISM IN PESISIR BARAT REGENCY

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### Abstract

This study aims to create an ideal pattern of local regulation to create competitive coastal tourism in Pesisir Barat Regency. By using doctrinal/normative research methods which mainly analyze secondary data consisting of: primary legal materials, secondary legal materials and tertiary legal materials, the regional regulation patterns will be constructed which are ideal for realizing competitive coastal tourism in Pesisir Barat Regency. The stages of the research to be carried out are divided into three parts as follows: first, identifying and inventorying the laws and regulations relating to the implementation of tourism; secondly, evaluating and drafting an academic manuscript regarding the implementation of tourism; thirdly compose the ideal regional regulation pattern to realize competitive coastal tourism in the West Coast Regency. The results showed that the ideal local regulation pattern for realizing competitive coastal tourism in Pesisir Barat Regency contained the following minimum content material: namely: general provisions; principles and objectives; policies and strategies; establishment of a competitive beach tourism area; development of competitive coastal tourism areas; implementation and control; closing.

### Keywords

Local Regulation, Competitive Coastal Tourism, Pesisir Barat Regency

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## Introduction

Tourism is a variety of tourism activities and is supported by various facilities and services provided by the community, business people, the Government, and Local Government. The concept of tourism was born from the existence of human mobility from one place to another which became an interaction, became an economic driver, absorbed a lot of labor, encouraged the preservation of unique and scarce resources, promoted media, and improved the image of a country (Trisakti). The link between tourism and the economy is due to the potential of tourism that can generate income for the country, so tourism must be developed as a process of change for the better in which includes planning, implementation and control efforts, in the context of creating the desired added value. Thus, tourism activities must be utilized for development (Bagus, 1992/1993).

The tourism sector plays an important role in increasing economic growth, creating jobs, and reducing poverty. Tourism is also one of the fastest growing sectors. Based on a report published by the World Travel and Tourism Council (WTTC), in 2010 the tourism sector employed approximately 235 million people worldwide and contributed as much as 9.3 percent of global gross domestic product (GDP). In Indonesia, the tourism sector contributes 9.1 percent of GDP and directly and indirectly employs approximately 8.9 million people (multiplier effect)

When viewed from the amount of tourism revenue, or better known as foreign exchange, the total tourism revenue in 2017 amounted to 1.332 billion USD, an increase of around 9.2% from the previous year, which was 1.220 billion USD. The first rank of tourism revenue was the highest in the European region with a level of tourism revenue of 512 billion USD (38.4% of total revenue), followed by Asia Pacific with 390 billion USD (29.3% of total revenue), America with 326 billion USD (24.5% of total revenues), followed by the Middle East with 68 billion USD (5.1%) and finally Africa with 38 billion USD (2.9%).

The number of international tourists from year to year shows a positive trend. This is reinforced from the results of UNWTO projections, which state that an increase in the number of international tourists will continue to occur at least until 2030, as shown in Figure 8 to the side. International tourists will continue to grow and reach 1.8 billion in 2030.

Tourism development as part of national development has the aim of, among others, expanding business opportunities and employment. In line with the stages of national development, the implementation of national tourism development is carried out in a comprehensive, balanced, gradual, and sustainable manner. It seems clear that development in the field of tourism has the ultimate goal of increasing people's income, which in turn can improve people's welfare (Waluyo, 1993). Therefore, the development of national tourism needs to be increased, including local tourism. With the vigorous development of tourism, the government is trying to increase state revenues from the non-oil and gas sector.

As mandated in Law Number 10 of 2009 concerning Tourism, Article 18 confirms that "the Government and/or local Governments regulate and manage tourism affairs in accordance with statutory provisions. In addition, Article 12 paragraph (3) of Law Number 23 Year 2014 concerning Local Government has also regulated that one of the matters of concurrent government affairs includes tourism.

Pesisir Barat Regency as one of the local government entities also needs to make efforts in tourism especially the leading beach tourism. Pesisir Barat Regency is very rich in tourism potential that is spread in various regions or districts which are divided into several sectors including marine, religious or cultural tourism, ecotourism and event tourism. Of all these attractions, coastal tourism has its own attraction so that it is visited by both domestic and foreign tourists and tourist visits both domestic and foreign are relatively increasing every year.

One of the famous tourist destinations, Tanjung Setia Beach in Pesisir Barat Regency, is well known in foreign countries with its high waves and challenging surfing. Krui as the capital of the Pesisir Barat Regency has been known abroad as a surfing spot with the second best waves in the world after Hawaii. Currently foreign tourist arrivals reach more than 150,000 people per year. There are a number of surfing areas in Krui that are scattered in Tanjung Setia Beach, Mandiri, Labuhan Jukung, and Pugung Penengahan.

The development of the tourism sector in the Regency of Pesisir Barat should not only rely on destinations alone, but must be developed to realize competitive coastal tourism and present the ease and comfort of someone traveling. For this reason, a legal foundation is needed in creating competitive coastal tourism. This is inseparable that coastal tourism in Pesisir Barat Regency is essentially to improve the welfare of the Pesisir Barat community, so that the efforts and policies of the local government by issuing regulations in the form of local regulations to realize competitive coastal tourism are absolutely necessary.

Based on the background description that has been described above, the issues that will be further analyzed in this paper are: What is the ideal pattern of regional regulation to realize competitive coastal tourism in the West Coast Regency? And the purpose of this article is to produce an ideal local regulatory design to realize competitive coastal tourism in Pesisir Barat Regency.

### Research Method

This paper is based on doctrinal/normative legal research that primarily examines national, sectoral and regional legislation governing the protection of sustainable food agriculture lands. The approach model used is statute and conceptual approach. Legal materials/data used are primary legal materials in the form of national, sectoral, and regional laws and secondary legal materials in the form of legal literature, scientific work, documents and previous research results related to the protection of sustainable agricultural land.

Legal materials are collected through an inventory procedure and identification of laws and regulations, as well as classification and systematization of legal materials in accordance with the research problem. The legal materials and data collected are re-examined for completeness (editing), then classified and systematized thematically (according to the subject matter), for further analysis with deductive reasoning patterns.

## Result and Discussion

The concept of competitive coastal tourism is the concept of tourism which is a combination of the concept of sustainability, the concept of tourism development, and the concept of sustainable development. The three concepts are the main basis in constructing a new concept, namely competitive coastal tourism.

The development of competitive coastal tourism is very suitable to be applied in Pesisir Barat Regency. The most prominent types of tourism in the Pesisir Barat Regency are marine tourism and ecotourism. This is reasonable because almost half of the length of the Regency area is coastal. And the beach is in direct contact with the Indian Ocean. So it's no wonder the waves on the beach are so high and become a very strong attraction for foreign and domestic tourists.

Once the tourism potential is huge, the Pesisir Barat regency government must intervene in the development of this tourism. Especially must immediately make local regulations governing tourism. This is intended to maintain order, security and convenience for the community in managing the existing tourism potential. With clear regulations, it is easy for the community to obtain a tourism business permit.

Before elaborating further on the Material of Local Regulation Content which is ideal for realizing competitive coastal tourism, it is necessary to first describe the principle of drafting the Local Regulations on Tourism based on competitive coastal tourism that will be formed. It is expected to guarantee justice, expediency, order and prosperity. Legal ideals or *rechtsidee* grow in the community's value system of good and bad, their views on individual relationships and society and so on, including views on the unseen world. All of this is philosophical, meaning that it involves a view of the essence or nature of something. The law is expected to reflect the value system both as a means of protecting values and as a means of realizing it in people's behavior (Manan, 1992).

According to Rudolf Stammler, the ideal of law is the construction of the mind which is a necessity to direct the law to the ideals desired by society. Furthermore Gustav Radbruch, a legal philosopher like Stammler from the Neo-Kantian school, stated that the ideal of law serves as a regulatory and constructive measure. Without the ideals of law, the law will lose its meaning (Warasih, 2011).

In the formation of statutory regulations the process of the realization of the values contained in the ideals of the law into legal norms depends on the level of awareness and appreciation of these values by the legislators. The lack of awareness of these

values can occur a gap between the ideals of law and legal norms made. One form of embodiment of the ideals of law is through legal principles which will further serve as a touchstone for laws and regulations including local regulations.

Referring to Tisnanta (Tisnanta, 2009), in formulating a Perda it must be based on two legal regimes in the framework of consolidation and harmonization in the implementation of various laws and regulations in the regions. Local governments must be able to create an optimal and dynamic balance by mapping their authority in the delivery of services based on norms issued by the central government.

With regard to the description of the philosophical, sociological and juridical basis of the Local Regulation on Competitive Coastal Tourism which will be formed. According to Jimly Asshiddiqie (Asshiddiqie, 2006), the formation and application of a good rule must be based on philosophical, sociological, juridical, political and administrative aspects.

With regard to philosophical grounds, Bagir Manan states that in the formation of laws can produce a law that is tough and quality, the law must be based on the first legal basis (*juridische gelding*); second, the sociological foundation (*sociologische gelding*); the third philosophical foundation (*philosophical gelding*) (Manan, Dasar-dasar Konstitusional Peraturan Perundang-undangan Nasional, 1994).

In presenting the quality of the law, it is necessary to understand that national legal politics affect the national legal system as implied by Philippe Nonet and Philip Selznick in his book 'Law and Society in Transition: Toward Responsive Law', national legal politics aims at creating a rational national legal system, transparent, democratic, autonomous, and responsive to the development of people's aspirations and expectations, not a legal system that is oppressive, orthodox, and reductionistic (Dirdjosisworo, 1984).

The formation of laws and regulations, must refer to the basis for the formation of legislation or (*gesetzgebungslehre*)\*, which includes juridical foundation. Every legal product must have a legal basis (*juridische gelding*). This juridical basis is very important in making legislation, especially Local Regulations (Halim & Putera, 2010). Local regulations are an element of legal products, so the principles of formation, and enforcement must contain legal values in general. In contrast to other social values, the nature of its legal value is generally binding and there is concrete accountability in the form of worldly sanctions when the value of the law is violated.

Local Regulations are one of the legal products, they must be generally binding and have effectiveness in terms of the imposition of sanctions. In the formation of Regional Regulations in accordance with the opinion of Bagir Manan must pay attention to several juridical requirements. Such requirements can be used as a legal basis, which is meant here are:

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\* Krems, said *gesetzgebungslehre* has three subdivisions of discipline, namely the legislative process *gesetzgebungsverfahren (slehre)*; the legislative method or *gesetzgebungsmethode (nlehre)*; and legislation techniques or *gesetzgebungstechnik (lehre)*.

- a. Created or formed by an authorized organ, means that a statutory regulation must be made by an official or agency that has the authority to do so. With the consequences if these conditions are not heeded, the consequences of the law will be null and void (*van rechtswegenietig*).
- b. The conformity of the form/type of legislation with the material content that will be set, means that the form/type mismatch can be a reason to cancel the intended legislation.
- c. The existence of procedures and procedures that have been determined is the formation of a statutory regulation must go through procedures and procedures that have been determined.
- d. It should not be contradictory to the higher level legislation which is in accordance with the view of *Stufenbau* theory, legislation contains legal norms that are hierarchical in nature. This means a higher level statutory regulation is a *grundnorm* (basic norm) for lower level statutory regulations (Manan, Dasar-dasar Konstitusional Peraturan Perundang-undangan Nasional, 1994).

The sociological foundation emphasizes that every legal norm as outlined in the law must reflect the demands of the community's needs in accordance with the legal norms of society. Therefore, in the preamble, empirical considerations must be formulated properly so that a normative idea set forth in the law is truly based on the reality that lives in the community's legal awareness. Thus, the legal norms contained in the law can later be implemented as well as possible in the midst of the legal community it regulates.

Philippe Nonet and Philip Selznick suggested a responsive legal model that good law should offer something more than procedural justice. Good law must be competent and also fair; such a law should be able to recognize the public's desires and be committed to achieving substantive justice (Nonet & Selznick, 2008).

According to Syaokani and Thohari, (Syaokani & Thohari, 2008) if the law is built on a foundation that is not in accordance with the spiritual structure of the community, we can be sure that the community's resistance to the law will be very strong. Hart said (Hart, 2009) the existence of a legal system is a social phenomenon that always presents two aspects, which we must pay attention to so that our review of it becomes realistic. These aspects include attitudes and behavior in the form of recognition of regulations and also simpler attitudes and behaviors in the form of mere compliance or acceptance in silence. Because with the recognition that manifests in attitudes and behavior means a legal rule can be accepted by the community and has reached its complete form in the sociological aspect, because basically according to Gilissen and Gorle (Gilissen & Gorle, 2007) primary legal sources are the legal habits of the community.

The sociological foundation of the establishment of Local Regulations on Tourism based on Competitive Coastal Tourism is basically that tourism is a social and

multidimensional problem with a variety of characteristics that must receive legal attention to maintain and develop the life of a dignified local community.

Legally, the establishment of the Draft Local Regulation on Tourism Based on Competitive Coastal Tourism aims to overcome legal problems in the implementation of tourism. Legally the establishment of this draft regulation is based on the idea that in order to provide direction and legal certainty in tourism, there is a need for regulation on Competitive Coastal Based Tourism in the Pesisir Barat Regency.

In connection with this juridical foundation, there are 7 laws and regulations that are related to the establishment of this Competitive Coastal Based Tourism draft, namely:

1. 1945 National Constitution of the Republic of Indonesia;
2. Act Number 23, 2014 concerning Local Governance as amended with Act Number 9, 2015 concerning the Second Amendment on Act Number 23, 2014 concerning Local Governance;
3. Act Number 27, 2007 concerning Management of Coastal Areas and Small Islands;
4. Act Number 12, 2011 concerning Enactment of the Legislation;
5. Act Number 26, 2007 concerning Spatial Planning
6. Act Number 10, 2009 concerning Tourism
7. Government Regulation Number 50 Year 2011 concerning the National Tourism Development Master Plan for 2010-2025

Having previously outlined the principles and basis for the formation of the Draft Local Regulation on Tourism Based on Competitive Coastal Tourism, the next step is to formulate the content material consisting of components: the reach, direction of regulation, and the scope of the charge material. The description of the ideal content material is as follows:

The detailed chapters in this draft regulation will regulate the following matters: Chapter I general provisions; Chapter II principles and objectives; Chapter III policies and strategies; Chapter IV establishment of a competitive beach tourism area; Chapter V development of a competitive coastal tourism area; Chapter VI implementation and control; Chapter VII Concluding Provisions.

With regard to the reach of the Local Regulation on Tourism reaching regulatory matters relating to Tourism Based on Competitive Coastal Tourism in Pesisir Barat Regency.

The direction of regulation in this draft regulation is adjusted to the Direction of Local Tourism Development which includes: the principle of sustainable tourism development; orientation to growth efforts, increasing employment opportunities, reducing poverty, and preserving the environment; implemented with good

governance; implemented in an integrated manner across sectors, across regions, and across actors; and implemented by encouraging public and private sector partnerships.

The Local Regulation Draft of Tourism Based on Competitive Coastal Tourism above, philosophically must be based on *Hukum Pengayoman*\* so that the spirit of the legal regulation is relevant for the welfare of the community. According to Arief Sidharta, Pancasila as a legal ideal for realizing humanity, that is protect humans passively by preventing arbitrary actions, and actively by creating humane social conditions that enable the social process to take place naturally so that every human being has the broadest and equal opportunity to develop his full human potential. *Pengayoman* is carried out by efforts to realize (Sidharta, 2013):

1. Order that gives rise to predictability;
2. Peace;
3. Justice (distributive, commutative, vindicative, protective);
4. Social welfare and social justice; and fostering virtue based on divinity.

*Hukum Pengayoman* exists as a guarantee against the prevention of arbitrary actions by the government and the creation of humane social conditions both in a broader context and in tourism. With the construction of the Local Regulation on Competitive Coastal Tourism Based on elaboration in the regulatory chapters as in table three, what needs to be given special attention is on the synergy aspects of the implementation of its policies. The aspect of synergy between the local government, the community and the private sector plays an important role in contributing to the realization of ideal and competitive beach tourism.

The synergistic role of the various elements in an effort to realize competitive coastal tourism is as follows:

1. The regional government has a role in determining policies and rolling out programs that are pro-tourism based on competitive coastal tourism through a legal framework that is in line with the real needs of the villages concerned.
2. The private sector plays a role as a stakeholder in designing tourism development related to providing input and support for the realization of competitive coastal tourism in the region.
3. The community actively participates and provides input and suggestions in realizing competitive coastal tourism in accordance with their respective roles and positions.

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\* term '*pengayoman*' was first introduced in jurisprudence by Satjipto Rahardjo. According Daniel S. Lev, in 1960 Sahardjo was replaced the blindfolded lady with scales by a stylized Banyan tree as Indonesia's symbol of justice, that inscribed with the Javanese word *Pengajoman*-protection and succor. It also represented a quickening of the process of transformation of the heritage of Dutch colonial law into Indonesian law (Lev, 1965).



With the design of local regulations that configure some of these elements, it is expected to be able to create competitive coastal tourism.

## Conclusion

Based on the results and discussion that has been done, it can be concluded the following are:

First, the local authority in constructing an ideal Local Regulation to realize competitive coastal tourism is obtained from two legal regimes at once, namely the local government legal regime outlined in Law No. 23 of 2014 concerning Local Government, and sectoral legal regimes in the field of tourism outlined in Law Number 10 of 2009 concerning Tourism. From the laws and regulations, the Local Government has the authority to make policies related to Tourism based on Competitive Coastal Tourism, one of which is in the form of local regulations as the basis of its legitimacy. The conceptual authority is an authority which is attributable because it is outlined directly by the Law.

Second, the legal construction of a Competitive Coastal Tourism Based on Local Regulation as an effort to fulfill the rights of the community must be based on philosophical, sociological and juridical considerations in its formation. Concerning the contents of the Local Regulation at least 7 (seven) things, namely: general provisions; principles and objectives, policies and strategies; establishment of a competitive coastal tourism area; development of competitive coastal tourism areas; implementation and control; closing. The synergistic role of these various elements in Competitive Coastal Based Tourism is as follows: Local governments have a role in determining policies and rolling out programs that are pro to Competitive Coastal Based Tourism through a legal framework that is in line with the real needs of the villages concerned; the private sector plays a stakeholder role in providing input and support for the sustainability of Competitive Coastal Tourism in the region; and the community actively participates and provides input and suggestions in Competitive Coastal Tourism in accordance with their respective roles and positions.

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