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## RESEARCH ARTICLE

# THE UTILIZATION OF LOCAL RESIDENTS AS WORKERS IN THE TOURISM SERVICE FIELD IN INDONESIA

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### ABSTRACT

Tourism, including in Indonesia, is one of the sectors that can greatly contribute to the country's foreign exchange earnings and employment. However, there is no technical norms available in the legislations on the absorption of local workers originating from indigenous people of the area which resulted in very little absorption of these type of local workers compared to workers originating from other regions. Thus, this article aims to analyze the legal basis on the utilization of local residents as workers in the tourism service field in Indonesia and to analyze standard benchmark of such utilization. This study uses normative legal research with statute, conceptual and historical approaches. The results show that the current legal basis on the utilization of local local residents as workers in the field of tourism service in Indonesia lay in the 1945 Indonesian Constitution, Indonesian Human Rights Law, Indonesian Investment Law, Indonesian Manpower Law and Indonesian Tourism Law. As for standard benchmarks of such utilization in Indonesia are the existence of competence in accordance with Government Regulation Number 52 of 2012 on Competency Certification and Business Certification in the Field of Tourism and human resources development related to the development of attitudes, behavior, manners and so on. Meanwhile the percentage of the utilization of local local residents as workers needs to be further examined in terms of its fairness and appropriateness.

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## INTRODUCTION

The discussion on tourism is not only about beautiful recreation objects or gorgeous attractions but it is also about business in it. Business in tourism field is business that deals with the supply of goods or services for tourists which relates to every tourists' expenditures on their travels. In brief, tourism is an activity related to travel for recreation or vacation (Hery Sucipto & Fitria Andayani, 2014, p. 33). In Indonesia, tourism is one of the sectors that greatly contributes to foreign exchange earnings and employment; thus, plays role in the development of the country. Not only in Indonesia, undoubtedly, tourism also plays important role in the economic development of various countries. Many countries have been working seriously on their tourism sectors for the past few years. They try to make it as a leading sector to earn foreign exchange and to create as many jobs as possible which hopefully will reduce poverty (I Gde Pitana and I Ketut Surya Diarta, 2009, p. 2). Tourism, with its various positive aspects, is seen as a passport to development, new kind of sugar, a tool of regional development, invisible export, non-polluting industry and so on (*Ibid*, p. 2). Tourism is a very strategic sector in regional development where one of the objectives is

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to prosper the local community as indigenous people by managing their potential natural and cultural resources. One of the tourism principles contained in Indonesian Law No.10 of 2009 on Tourism ("Indonesian Tourism Law) is to empower local community because they have the right to play a role in developing the tourism. Investors or entrepreneurs who manage tourism businesses have obligation to prioritize the utilization of local community's production. Furthermore, local workers are given the opportunity in such development in addition to also actively play role in the infrastructure and community development programs (Purnamasari, A. M., 2011, p. 52). Tourism is a sector that has a broad impact on other sectors, including the absorption of workers both direct and indirect workers as well as induce workers in the tourism sector. The number of direct, indirect and induce workers in the tourism sector is calculated from the total workers absorbed in the economic sectors due to tourism activities, either directly, indirectly, or induced. The job creation in tourism sector itself has begun since tourist's departure (for example travel service worker), his/her arrival at the airport (for example taxi driver) and his/her tourism activities at the place of destination (for example tour guide, hotel worker) (Bureau of Planning and Finance of the Tourism Ministry Secretariat, 2015, 48). The local community empowerment must be one of aspects that is agreed and realized to support the sustainable tourism development which emphasizes the

realization of qualities of resources, visitor satisfaction and local community's life (Purnamasari, *Op.Cit*, p. 51). However in fact, the development of Tourism Village (*Desa Wisata*) has not been standing with the community. For example, rice fields and farmers are tourism assets that are sold for tourist satisfaction. In this case, the development of Tourist Villages does not favor the lives of farmers or local communities. They remain poor while investors reap huge profits from tourism activities (Dewi, M. H. U, 2013, p. 133). Sustainable tourism development activities can actually create jobs, both directly and indirectly. Tourism development often absorbs quite a lot of workers due to the nature of the tourism industry itself that uses more workers than machines. In addition, the tourism industry also absorbs workers from various qualifications, namely those with low to high education. From quality perspective, there are three types of worker, namely:

- Educated worker who has skill or expertise in a particular field by means of school or formal and non-formal education;
- Trained worker who has skill or expertise in certain fields through work experience. This skill built through repeatedly practices so enable the worker to master the work;
- Uneducated and untrained workers who only rely on their physical energy. The examples are porter, driver, domestic helper and so on.

Indonesia's development certainly aims to advance the general welfare of all Indonesian citizens as mandated in Article 27 D paragraph (2) of the 1945 Indonesia Constitution, namely that each citizen has the right to work and livelihood that is appropriate for humanity. Indonesian Law No. 13 of 2003 on Manpower ("Indonesian Manpower Law") was established as an effort to implement the 1945 Indonesian Constitution. Letter (a) consideration of the Indonesian Manpower Law stipulates that Indonesia's national development shall be implemented within the framework of building Indonesians as fully-integrated human beings and of building the whole Indonesian society in order to realize a society in which there shall be welfare, justice and prosperity based on equity both materially and spiritually with the Pancasila and the 1945 Constitution at its foundation. If the notion of creating a welfare, prosperous and just society that is evenly distributed under the Indonesian Law on Manpower is interpreted, actually it offers opportunity for local residents to be employed by a company located in the same domicile. In addition, it is also important to note that actually Article 10 (1) of Indonesian Law No. 25 of 2007 on Investment (Indonesian Law on Investment) already stipulated that investment companies must prioritize Indonesian citizens in fulfilling labor needs. However, there is no technical norms available in the legislations on the absorption of local workers originating from indigenous people of the area which resulted in very little absorption of these type local workers compared to workers originating from other regions. Based on the aforementioned problem, it is important to conduct an assessment of the utilization of local residents as workers in the field of tourism services". Thus, this article aims to analyze the legal basis on the utilization of local residents as workers in the tourism service field in Indonesia and to analyze standard benchmark of such utilization. This study uses normative legal research which departs from the absence of norm on the absorption of local workers originating from indigenous people in the field of tourism service. This study uses statute, conceptual and

historical approaches. In terms of analyzing the collected legal materials, the researcher uses several analytical techniques, descriptions, by describing a condition or position of legal or non-legal propositions and interpretations, in the form of the use of types of interpretations in law.

## RESULT AND ANALYSIS

**The Legal Basis on the Utilization of Local Residents As Workers in the Tourism Service Field In Indonesia:** A welfare state is realized not only in the form of social policies and programs such as social safety net, social security, social insurance or social subsidy, but also through the implementation of social development directed at job creation, capital development, social capital mobilization and productive assets accumulation. In order to create welfare, tourism must not only provide answers to the sustainability of relevant attractions but also provide opportunities for local communities to be independent and free from poverty through access and opportunities to take part in the utilization of tourism industry (support for the poor, employment opportunities/entrepreneurship and local economic growth) (Nurdiyansah, 2014). According to Timothy (Timothy, D. J. 1999) there are two perspectives in looking at community participation in tourism. These two perspectives are (1) the participation of the local community in the decision-making process, and (2) participation relating to the benefits received by the community from tourism development. In regards to tourism development, it is important the community is provided with access to be involved in making decisions that are in accordance with the needs of the local community, including the ability of the community to absorb the benefits of tourism itself (Dewi, *Op.Cit*, p. 132). One of the real opportunities in the use of the tourism industry is through tourism service business. Therefore, the local community is empowered in terms of employment. The tourism industry requires natural and cultural destinations supported by the existence of facilities and infrastructures, such as hotels, resorts and transportation. Problem occurs when the local community does not participate in such tourism industry where they only see these natural and cultural destinations invested as tourism industries without playing any role in them. Undoubtedly, this triggers overlapping economic problems. As consequence, the crime rate is increasing due to economic jealousy. To maintain harmony and conduciveness of the tourism industry, the local community should be given with specific opportunities such as employment in the tourism service business.

This far, the utilization of local residents as workers in the tourism service field in Indonesia has been supported by the following legal basis, namely:

1. Livelihood (Article 27 paragraph (2) of the 1945 Indonesian Constitution);
2. Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness (Article 28 H paragraph (2) of the 1945 Indonesian Constitution);
3. Every person shall have the right, according to their talents, skills and abilities, to decent work (Article 38 paragraph (1) Law No. 39 of 1999);

4. Investment companies shall prioritize Indonesian citizen workers in meeting labor needs (Article 10 paragraph (1) Indonesian Law on Investment);
5. Indonesia's national development shall be implemented within the framework of building Indonesians as fully-integrated human beings and of building the whole Indonesian society in order to realize a society in which there shall be welfare, justice and prosperity based on equity both materially and spiritually with the Pancasila and the 1945 Constitution at its foundation (Letter (a) consideration of the Indonesian Manpower Law)
6. The conditions of nature, flora and fauna as the gift of God Almighty as well as ancient relics, historical, artistic and cultural relics possessed by the Indonesian people are part of tourism development resources and capitals for increasing prosperity of the people as contained in Pancasila and the Preamble of the 1945 Indonesian Constitution (Letter (a) consideration of Indonesian Tourism Law);
7. Every person and/or community in and around tourism destinations shall have priority right to become worker/labor (Article 19 paragraph (2) letter (a) Indonesian Tourism Law.

However, regardless of the above mentioned legal basis, it is necessary to further regulate technical norm on government responsibility on the strengthening of the use of local worker from local community in the region to be able to compete openly with foreign workers and local workers outside the region. To work within his/her own home area is one form of human rights, specifically on the social freedom rights or rights as social beings, namely right to fulfill basic needs such as clothing, food, care, health and education related to the rights to obtain decent work for local workers.

**Standard Benchmark of the Utilization of Local Residents As Workers in the Tourism Service Field In Indonesia:** The community has a role in determining the direction of tourism development goals in the region as well as the management of tourism service business. So that the community needs to be involved in determining the direction of tourism development goals. Tourism, as one form of community activity, has developed rapidly in the history of human life since the middle of the last century. In line with that, attention to tourism also continue to increase which, among others, marked by widespread discourse and scientific analyses that are more focused on the issue. Experts explore tourism using established disciplinary approaches or combinations of it such as sociology, anthropology, geography, psychology, economy and so on. The use of various disciplines to analyze tourism shows how tourism can only be understood more easily if a multidisciplinary or even transdisciplinary approach is used (I Gde Pitana and I Ketut Surya Diarta, *OpCit.*, p. 10-11). Philosophical considerations on the formation of tourism science need to be done by emphasizing three main aspects, namely the ontology, epistemology and axiology aspects which can be described as follows (I Gde Pitana and I Ketut Surya Diarta, *OpCit.*, p.14-15):

**Ontology:** Every science has material and formal objects. Material objects are the whole scope (macro) that is studied by science. Formal objects are certain parts of material objects that are of particular concern in the study of science. Thus the phenomenon of tourism can be focused on three elements, namely:

- a. Tourist movement;
- b. Community activities that facilitate tourist movements;
- c. Implications or consequences of tourist movements and community activities that facilitate it to the life of society at large.

These three elements have nature inherent in every object of science. The movement of tourists continues on an almost unlimited time scale. Community activities also tend to be diverse and dynamic in facilitating these movements. Some provide accommodation and transportation. Some others provide tourist attractions while some market tourism products. The implications also vary according to the level of tourism development itself. This is further strengthened by the existence of a link between one element (tourists) and other elements which in this case are the people in the tourist destination and the impact it has on them.

**Epistemology:** The epistemology aspect of tourism refers to ways to obtain truth over the object of science. Discussion of automatic epistemology concerns the method of a science to seek truth. So it is necessary to define a tourism study approach more specifically which consisting of:

**System approach:** This approach emphasizes that both tourist movements, community activities that facilitate it and the implications of both of them on the life of society at large are unity that is interconnected or influences each other. Every tourist movement is always followed by the provision of tourist facilities and the interaction of both will lead to logical consequences in the economic, social, cultural, ecological and even political fields.

**Institutional approach:** This approach sees tourism as a result of institutional collaboration between various actors. Each tour will, for example, involve tourists, service providers, transportation, accommodation and attraction services. Between one and the other has functional relationship. Thus, travel activities can run due to the existence of such relationship.

**Product approach:** This means that tourism is a commodity that is intentionally created to respond to people's needs. The concept of Triple A (attractions, amenities and accessibility) which is used to explain the elements of tourism products actually refers to the results of production and/or commodity production consumed by tourists.

**Multidisciplinary approach:** This approach sees tourism as a reality of human life that is very complex, multidimensional and multifaceted so that it can only be understood better by using a variety of different point of views.

**Axiology:** Axiology is a very important aspect of science. The question that needs to be answered in tourism science is what values or benefits can be contributed by science. Related to that there is research that needs to be done to describe the tourism paradigm that is still developed. To understand what is the view of the general public, tourism actors, tourists and tourism supporting sectors. Tourism as a science will continue to find more appropriate ways to have a positive impact on meeting human welfare. Similarly, the offer of a community-based tourism development approach or oriented to the empowerment of the poor (pro-poor tourism). All of that aims to increase the contribution of tourism to all levels of society and at the same time optimize the value of services provided (I

Gde Pitana and I Ketut Surya Diarta, *OpCit.*, p. 20-22). The absorption of local worker, especially those from the local community, by looking at the empowerment for local residents as stated by Helling L., Serrano & Warren, D., is an effort to motivate people who are powerless and marginalized by giving more opportunities to actively participate through social and cultural activities, political aspirations and their involvement in economic activities. The employment opportunities for local workers and other opportunities will provide the following benefits (Helling L., Serrano & Warren, D., 2005, p. 125):

**Opportunities for people to participate:** The availability of various opportunities for the community, especially employment opportunities for local workers from the local community, to eliminate limitations and accelerate the empowerment process through encouraging everyone to involve themselves starting from the planning process and involved in the development and goals to be achieved.

**People's capabilities to participate effectively:** The ability of people to participate effectively opens opportunities for local workers who come from the local community. This also support them to be more confident. Effective community participation results in better performance in a variety of views to bring more optimal results, especially in relation to empowerment for local communities to obtain jobs in the management sector of tourism service business. In order to understand what is happening in the labor market related to tourism and in order to develop adequate employment policies and strategies, then the governments, policy makers and tourism development specialists need to have comprehensive information about employment opportunities and working conditions in this sector. However, even though tourism has been known for so long as field that is able to create jobs, employment opportunity in the tourism industry is still one of the least studied. The management of tourism services is certainly related to empowerment for local residents. The government's presence in tourism development through the existence of investor regulation will increase the development investments in the field of tourism and benefit the community through economic activities and increase people's ability to purchase. There is urge for the establishment of government regulation on environmental preservation to protect the environment and limited natural resources. The pro-poor tourism strategy emphasizes the development of sustainable tourism to provide benefits to the poor (Ashley, Caroline and Harold Goodwin, 2001, p. 2) including the increment of employment for the community welfare. The standard benchmark of the utilization of local residents as workers in the tourism service field in Indonesia are:

1. The existence of competence in accordance with Government Regulation Number 52 of 2012 on Competency Certification and Business Certification in the Field of Tourism; and
2. Human resources development related to the development of attitudes, behavior, manners and so on.

Regarding the benchmarks, the researcher has tried to examine through analysis of ideas that need to be redeveloped, namely the number of realistic absorption of local residents as worker is the number of local residents with the division of competency classification seen from educated values, trained values, trained and educated values, untrained and uneducated values which are divided into presentation on the needs of

tourism service business. Hence, this percentage needs to be further studied in terms of fairness and appropriateness.

## Conclusion

The current legal basis on the utilization of local local residents as workers in the field of tourism service in Indonesia lay in the 1945 Indonesian Constitution, Indonesian Human Rights Law, Indonesian Investment Law, Indonesian Manpower Law and Indonesian Tourism Law. However, in the future, it is necessary to further regulate technical norm on government responsibility on the strengthening of the use of local worker from local community in the region to be able to compete openly with foreign workers and local workers outside the region. Also, there should be subordinate legislation from the Indonesian Law on Tourism and Indonesian Law on Manpower that contain ideal utilization of local workers in the context of tourism development in order to realize social justice for all Indonesian people, especially on the opportunity of local workers to work as part of tourism development in their home areas. As for standard benchmarks of such utilization in Indonesia are the existence of competence in accordance with Government Regulation Number 52 of 2012 on Competency Certification and Business Certification in the Field of Tourism and human resources development related to the development of attitudes, behavior, manners and so on. Meanwhile the percentage of the utilization of local local residents as workers needs to be further examined in terms of its fairness and appropriateness. The percentage of the utilization of local local residents as workers needs to be further examined in terms of its fairness and appropriateness

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