

# Sustainable Tourism Development of Indonesia:

## Policy and Legal Politic Point of View

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**Abstract**—This study aims at examining the development of sustainable tourism in the perspective of policy and legal politic. Conceptual and statute approaches to legislation were used to approach the collection of the data, the analysis, and the presentation of data. However, the data was analyzed and presented with the design of qualitative descriptive by explaining the development of the sustainable tourism in Indonesia. Results show that Tourism in sustainable development requires the informed-participation of all relevant stakeholders, as well as policy and legal instruments and strong political leadership to ensure wide participation and commitment of the stakeholders. In this respect, tourism sustainability principles refer to the integrated of economic, environment, and socio-cultural interests of sustainable development.

**Keywords**—sustainable tourism; development; policy and legal politic

### I. INTRODUCTION

The political conceptualization of sustainable development presented in the Brundtland Commission's Report "Our Common Future" in 1987, and further officially defined in the 1992 Rio de Janeiro Declaration. It is confirmed that in the early 1990s the idea of sustainability was established into tourism planning and development in which a number of new forms and term such like ecotourism and responsible tourism resulted. Recently, sustainability in tourism has been furthermore linked to ethical consumption, including high level policy aims to reduce global poverty. In general, sustainable tourism refers tourism development principles and practices with the purpose of making places better for people live and visit, aims to minimize the negative impacts and maximize the positive social, economic, and natural environment of tourism in destination communities by promoting responsible and ethical consumption and production among all stakeholders [1].

Indonesia has in one hand been recognized as a large and rich country in term of natural resources in all over the world [2]. The region of Indonesia that stretches from Sabang to Merauke reaches of natural resources that overflows as emeralds string in the span of the equator. And on the other hand, Indonesia has been well-known as multicultural country having a various cultural resources include more than hundred ethnics and a number religions, languages and races within. Hence, Indonesian's official motto namely "Unity in Diversity"

reflects the cultural plurality within a unitary State of the Republic of Indonesia.

In accordance with the 1945 Constitution particularly Preamble of the Constitution, the State should protect the entire people and control the territory and natural resources contained therein mainly for the purpose of enhancing prosperity and the people's welfare, educate and produce smart people, and to participate in the establishment of world order based on freedom, perpetual peace, and social justice. The said Preamble naturally reflects the main objective of the establishment of the State of the Republic of Indonesia, as well as a sort of ideology that should be employed as foundation in order to unite the nation and character building of the state. Accordingly, such ideology is reaffirmed particularly in Article 33 Paragraph (3) of the Constitution that states "The land and water and natural resources contained therein should be controlled by the State and shall be utilized for the greatest prosperity of the people".

Tourism industry is one leading and potential element of the national development that can be employed in order to realize the ideology of controlling and utilizing state's natural resources and cultural diversity of Indonesia for the sole purpose of increasing the national income and revenue, expand the business opportunities and job vacancy, encourage the regional development, as well as empowering the tourism destinations and attractiveness, fostering the love of mother lands and strengthening the inter-nation friendship.

The right to tourism has not been attract much attention in the academic world. There is a little attention and regulation that establish such legal issue in the country of Indonesia. It may be since this right to tourism is not considered as fundamental right as other human and ecological rights. However, in the development of sustainable tourism this kind of right has an important meaning. The paper is intended to outline the conceptual dimension of sustainable tourism and overview international policy framework and the national legal instrument for which tourism industry in the country can be employed as to enhance the national income and revenue for the greatest people's welfare and prosperity as mandated by the 1945 Constitution.

### II. METHOD

This research is a normative research type related to policy and legal politic view on sustainable tourism development.

Conceptual and statute approaches to legislation were used to approach the collection of the data, the analysis, and the presentation of data. Documentation from a library study was used to obtain the data, which includes related literature and theories to the politic in sustainable tourism development. In addition, legal regulations governing the tourism and sustainable tourism were also collected through the library study. However, the data was analyzed and presented with the design of qualitative descriptive by explaining the development of the sustainable tourism in Indonesia.

### III. RESULT AND DISCUSSION

#### A. Policy and Legal Framework of Sustainable Tourism Development International Policy Instruments

Tourism practices and activities in the era of globalization bring about the consequence positive and negative impacts for the host countries destination particularly in natural environment namely pollution and resources degradation, as well as social environment such like lack of respect for the values and local culture, massive prostitution, human trafficking and sexual exploitation, large number of child labor and employment, and unequally right to work between men and women. This social and economic phenomena can be categorized as violation of human rights in tourism development [3]. It is therefore important to promote a global policy in tourism development that the so called "sustainable tourism development" that need to be supported by global tourism principles and ethics as well national legal instruments, in order to provide better livelihood for the present and future generations, as well as of reducing negative impact of tourism development namely natural environment degradation and social and cultural destruction.

The World Tourism Organization of the United Nations (the UN-WTO) defines sustainable tourism as "tourism which leads 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". The UN-WTO in 1996 also states that the development of sustainable tourism as a process that meets the need of present tourists and host communities whilst protecting and enhancing needs in the future. In this respect, the sustainable tourism development covers both natural resources and social-cultural resources for the basic needs of human being as a crucial fundamental needs of tourism activities and practices namely economic, natural environment, and social and cultural rights and dignities. It is naturally in line with Article 1 of the 1948 Universal Declaration of Human Rights (the 1948 UDHR) that defines "all human beings are born free and equal in dignity and rights". Accordingly, it may be considered that in relation to human rights point of view for sustainable tourism development refer to promote and respect the fundamental right of human being as to obtain peaceful and harmony in life with nature [4].

In order to understand human rights perspective toward promoting the establishment of sustainable tourism, the 1972 Stockholm Declaration defines that "man has the fundamental right to freedom, equality and adequate condition of life, in an environment of a quality that permits a life dignity and well-

being, and responsibility to protect and improve the environment for present and future generations". Moreover, the 1992 Rio de Janeiro Declaration reaffirms that "man entitled to a healthy and productive life in harmony with nature". In line to the sustainable tourism development, especially the 1999 Global Codes of Ethics [5] for Tourism defines that "all stakeholder in tourism development should safeguard the natural environment with a view to achieving sound, continuous and sustainable economic growth geared to satisfying equitably the needs and aspiration of present and future generations".

In order to create harmony with an attitude of tolerance and to balance the needs and aspirations of present and future generations, promoting tourism sustainable development from human right and ecological right perspectives become a solution option to minimize and avoid rights abuses in tourism development. Therefore, in Article 3 of the 1999 Global Codes of Ethics for Tourism defined:

- All stakeholders in tourism development should safeguard the natural environment with a view to achieving sound, continuous and sustainable economic growth geared to equitably the needs and aspirations of present and future generations;
- All forms of tourism development that are conducive to saving rare and precious resources, in particular water and energy, as well as avoiding so far as possible waste production, should be given priority and encouraged by national, regional, and local public authorities;
- The staggering in time and space of tourism and visitors flows, particularly those resulting from paid leave and school holidays should be sought so as to reduce the pressure of tourism activity on the environment and enhance its beneficial impact on the tourism industry and the local economy;
- Tourism infrastructure should be designed and tourism activities programmed in such a way as to protect the natural heritage composed to the stakeholders in tourism development, and especially professionals, should agree to the imposition of limitations or constraints on their activities when these exercised in particular areas sensitive: desert, polar or high mountain regions, coastal areas, tropical forests or wetlands, propitious to the creation of nature reserve or protected areas.

Tourism practices need a massive resources and could be tend to space and land-intensive. In consequently, there are frequently conflicts emerge between local community and tourism entrepreneurs in regard to the land use and occupation and other access to natural resources of the local community. Therefore, it is important in sustainable tourism that whole stakeholders who are involved within tourism process having aware to promote, respect, and enforce ecological and cultural rights for sustainable development of tourism in the country. In this sense, stakeholders in tourism practices refers to parties in the macro and micro-environment who are concerned with human and nature rights for the implementation and tourism monitoring and evaluating that are government and the

regional government, tourism associations, the local communities, and the non-governmental organizations.

It should be confirmed that important key element of sustainable tourism is fairly trade in tourism. In between the tourism entrepreneurs and the communities in tourism destination have to perform a fair competition in business, access and sustainable use of natural resources, as well as respect to culture and wisdom of the local community. In this sense, tourism companies should empower to adopt environmentally-sound and ecological friendly technologies in tourism industry in order to preserve natural environment and culture of the host communities.

#### B. National Law Framework

Tourism in Indonesia is an important component of the economic establishment of community and a significant source of State's income and revenue. Besides, the tourism development can be an economical instrument in the sustainable national development to create awareness of the national identity in diversity. Hence, the tourism industry is established by the economic-growth development and equality approach for the people's welfare and to the regional development oriented, relying on the community, and empowering the community covering various aspect of capacity building of human resources include destinations, marketing, information access, technology and knowledge, small scale business empowerment, and responsibility in the utilization of natural and cultural resources as well.

For more than six decades in existence, Indonesia began to establish a strategically plan for sustainable tourism development. The concept of sustainability for tourism has directly been defined in national development policy documents, laws and regulations such like:

- Law Number 25 Year 2000 on National Development Programmed;
- Law Number 17 Year 2007 concerning Long-term National Development Plan the Year 2005-2025;
- Law Number 5 Year 1990 concerning Biological Diversity and Its Ecosystem Conservation;
- Law Number 24 Year 1992 concerning Spatial Planning;
- Law Number 5 Law Year 1994 regarding Ratification of the UN-Convention on Biodiversity;
- Law Number 41 Year 1999 concerning Forestry;
- Law Number 32 Year 2009 on Human Environment Protection and Management;
- Law Number 27 Year 2007 regarding Coastal Zone and Small Islands Management;
- Law Number 10 Year 2009 on Tourism;
- Law Number 11 Year 2010 concerning Cultural Heritage Protection.

The mentioned policies and national laws that relate to tourism encouraged to the achievement of sustainable tourism development in the country. In particular, that sustainability issues in tourism development have been defined within the Law Number 10 Year 2009 on Tourism. The said Tourism Law covered high level awareness on concept of sustainability and multidimensional aspects of environmental friendliness, economic viability, and socio-cultural acceptability with community development as the fundamental elements of sustainable tourism development.

In addition, it should be noticed as a considerable development that the change of focus from the only management of tourism industries and business, into a more comprehensive law which include articles related to sustainable development, ethic aspects, the need for different level of tourism plans, as well as scoping tourism establishment, destinations, market and institutions building. Hence, the currently Tourism Law Number 10 Year 2009 can be regarded as a significant progress in supporting implementation of national policy and program of tourism development [6].

It is confirmed that sustainability in tourism development is regulated mainly for the purpose of increasing the national economic growth, improving the people's welfare, preserve the natural environment and resources, promote the culture, foster sense of patriotic, strengthening the national identity and unity, raise the nation's image, eradicate poverty, overcome unemployment, and strengthening inter-nation friendship.

In order to ensure that sustainability in tourism development shall be effectively implemented, particularly in Article 5 of the 2009 Tourism Law defined the following fundamental principles as follows:

- Highly uphold the religious norms and cultural values as the manifestation of the life concept in the balance of the human being and God Almighty relationship, inter human being relationship, and inter-human being and the environment relationship;
- Highly uphold the human rights, cultural diversity, and the local wisdom;
- Provide benefits for the people's welfare, justice, equality, and proportionality;
- Preserve living environment and resources;
- Empowering the local people in tourism destination;
- Secure the integration of inter-sector, inter-region, inter-central and regional government, constituting a systemic unity for autonomy, as well as the inter-stakeholders integrity;
- Comply with the Global Codes of Ethics on Tourism and international agreement in tourism sectors; and
- Strengthening the integrity of the State of Republic of Indonesia.

In relation to the right to tourism, Article 19 clearly regulated that every person shall be entitled to (1) obtain the opportunity to fulfill the need for travel, carry out business in

tourism, being the tourism worker/labour, and/or participate in the tourism development process; and (2) every person and/or the people in host tourism destination shall have the priority right to become worker/labor, consignment, and/or management. On the other hand, it is regulated in Article 20 that “every tourist shall be entitled to obtain accurate information on attractiveness, tourism service according to the given standard, legal protection and security, health service, personal right protection, and insurance coverage for high-risk tourism activity”. In addition, one significant progress of the current national tourism law that reflect the human right-sound for tourist particularly regulated in Article 21 that define “every tourist that having physical limitation, children, and elderly shall be entitled to obtain especially facility according to their needs”.

These Articles mentioned above have really been adopted from soft law of the UN-WTO Global Codes of Ethics for Tourism that defined as follows:

- The increasingly extensive participation in national and international tourism should be regarded as one of the best possible expressions of the sustained growth of free time, and obstacles should not place in its way;
- The universal rights to tourism must be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, that guaranteed by Article 24 of the UN Declaration of Human Rights and Article 7d of the International Covenant on Economic, Social, and Cultural Rights;
- Social tourism, and in particular associative tourism, which facilitates widespread access to leisure, travel and holiday, should be developed with the support of the public authorities;
- Family, youth, student and senior tourism and tourist for people with disabilities, should be encouraged and facilitated.

In respect to legal obligation of the stakeholders in tourism development, it is especially regulated in Article 23 of the 2009 Tourism Law that “Government and the Regional Government in particular shall have obligations to provide information on tourism, legal protection, as well as security and safety to the tourist; create a conducive climate to the tourism business establishment covering the opening of equal opportunity in running business, facilitating and providing legal certainty; maintain, develop, and preserve national assets being the tourist attractiveness and untapped potential assets; and supervise and control the tourism activities to prevent and overcome several negative impacts for the host community”.

Legal obligations for the other stakeholders stipulated in Article 24 that “every person shall have obligation to main and preserve the tourism destination and attractiveness, as well as assist to create the safe, orderly, clean, courteous behavior atmosphere, and to maintain the environmental sustainability of tourism destination”. Besides, it is regulated in Article 25 that “every tourist shall have obligation to “maintain and respect the religion, custom, cultural, and values norms of the local

community; to maintain and conserve nature and the environment; take a part in maintaining the environmental order and security of the destination; and to participate in preventing all forms of behavior that violating legal norms and unlawful activities”. In addition, it is also stipulated that for every business actors in tourism shall have a number of obligations as to mention in Article 26 the 2009 Tourism Law.

In summary, the 2009 Tourism Law as a national progressive law is enacted to build a conducive atmosphere of the tourism development in the country holistically as to answer the era of globalization that bring about the consequence of strategic economic, environmental, and social changes in national and international levels. That is why substances of the current tourism law cover among others fundamental regulations that include basic principles of sustainable tourism development, the rights and obligations of the stakeholders in tourism development, authority of Government and the Regional Government, cross-sector coordination, stipulation of strategic tourism areas, empowerment of micro-medium and small business in tourism destination, tourism association, tourism business standardization, as well as tourism education and training, and tourism human resource competence.

#### IV. CONCLUSION

The idea of sustainability is important for the tourism and especially for the present and future generations. Tourism development of Indonesia is really incorporated within the national sustainable development as stipulated within the national policy document of long-term national development planning. In this sense, the national sustainable development refers to a planned effort of the Government to increase the people's welfare by integrating the three fundamental elements namely ecological, economic, and socio-cultural in the implementation of development the only for the basic interests of present and future generations. It means that sustainability principles refer to the environmental and economic as well as socio-cultural components of tourism development, and therefore a suitable balance should be established between the three dimensions to guarantee its long-term sustainability.

Tourism in sustainable development requires the informed-participation of all relevant stakeholders, as well as policy and legal instruments and strong political leadership to ensure wide participation and commitment of the stakeholders. In this respect, tourism sustainability principles refer to the integrated of economic, environment, and socio-cultural interests of sustainable development. Hence, a suitable balance should be established between the said three dimensions of tourism development in order to guarantee its long-term tourism sustainability namely:

- In one hand, make optimal use and utilization of natural environment and cultural resources of the community in tourism destination, and on the other hand, constitute a key element of maintaining ecological changes and helping to conserve natural environment and resources;
- Respect to the social and cultural authenticity of the local communities, conserve their cultural heritage,

living traditions and local wisdom, and contribute inter-cultural understanding and tolerance;

- Ensure viable in long-term tourism practices providing socio-economic benefits to all stakeholders including fairly business opportunity, stable employment and income, social services to the host communities, and contributing to poverty alleviation [7].

Hence, in line to the sustainability in tourism development in the country, it is important one to promoting right to life, right to work, and right to tourism as determined in the UN-WTO Global Codes of Ethics for Tourism, and the 2009 Tourism Law have adopted the mentioned soft law into binding national law, and regulated these fundamental aspects of sustainable development in tourism of Indonesia.

#### ACKNOWLEDGEMENT

The author would like to thank all the parties who have helped and contributed in the writing of this article, both those who contribute in the form of funding and critical ideas. Hopefully this paper can be useful theoretically and practically for the addition and development of knowledge, especially in the field of legal science.

#### REFERENCES

- [1] S. Jarkko, "Critical Sustainability: Setting the Limmits to Growth and Responsibility in Tourism, <http://www.mdpi.com/2017-1050/6/1/htm>, Accessed on 09/02/2018.
- [2] N. Sapta, Ecotourism in Indonesia, Ministry of Tourism and Creative Economic Republic of Indonesia, Jakarta, 2015.
- [3] N. K. S. Dharmawan, "Tourism and Environment: Toward Promoting Sustainable Development of Tourism: A Human Rights Perspective", in Indonesia Law Review Year 2 Vol 1, January-April 2012, Faculty of Law Indonesia University, Jakarta, p. 33.
- [4] P. Birnie, A. Boyle, and C. Redgwell, International Law and the Environment, Oxford University Press, New York, 2009, p. 271.
- [5] The Global Codes of Ethics for Tourism adopted by resolution A/RES/406 (XIII) at the 13th. The United Nation World Tourism Organisation (The UN-WTO) General Assembly in Santiago, Chile, 27 September to 1 October 1999
- [6] Ministry of Tourism and Creative Economy of the Republic of Indonesia, Strategic Plan Sustainable Tourism and Green Jobs for Indonesia, in cooperatin with the International Labour Organization, Jakarta, 2015.
- [7] Ministry of Tourism and Creative Economy of the Republic of Indonesia, Strategic Plan Sustainable Tourism and Green Jobs for Indonesia, in cooperation with the International Labour Organization (ILO) Country Office Jakarta, 2012, p. 26