THE INVESTMENT REGULATORY MODELIN THE LOCAL WISDOM-BASED TOURISM INDUSTRY (A COMPARATIVE STUDY: SINGAPORE, MALAYSIA, AND THAILAND)

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Abstract - *this study aimed at formulating aninvestment regulatory modelin investment to conduct a local wisdom-based tourism industry in Indonesia. It was initiated by the effect of globalization which affected the tourism investment implementation and could threaten the local values in Indonesia. It is a normative legal study which used a legal approach, conceptual approach and legal comparative approach. The legal material collection used documentation study by using snow ball technique. The findings showed that the legal regulation model of investment in the local wisdom-based tourism industry was in form of a sustainable tourism investment with the 3 R method (reduce, reuse, and recycle) to cope with the effect of the tourism investment in various sectors including laws, economy, social and culture as well as protecting tourism commodity originated from local wisdom values.*

Keywords: *The Law of Investment,Tourism Industry, Local Wisdom.*

INTRODUCTION

Tourism is inseparable from the global community which becomes a basic need of the human and a part of the respected and protected human rights based on Article 28B of the Indonesian Constitution of 1945. Tourism as a basic need and considered a human right could improve national economic growth. Tourism has emerged as a pivotal industry to improve people's prosperity and created jobs, so it must be supported by appropriate, effective and well-applicable regulations and laws.

SumertiAsih, et.al.,described that tourism has been at a saturation point and over-exploited so it has been a concern that Indonesian tourism is being abandoned(Asih et al., 2021).Tourism relies on the uniqueness of culture and nature, as well as human relationships. The development of Indonesian tourism should maintain the nation's culture and principles, protect local assets, prevent negative effects as well as preserve the environment.(Muljadi& Warman, 2014)

The development of investment in tourism has brought many issues such as environmental issues in tourism development, the change of land use, and disrespectful action in the sacred area by tourists even the need for tourism investment has caused the use of customary village land as found in Bali. These phenomena could eradicate the local wisdom values which have been living and existed in Indonesia.

The norms conflict with the Law of Investment which is more centralistic in that the investment management is under Central Government authority since the promulgation of Law No 11 of 2020 concerning Job Creation caused a conflict with the norm of regional autonomy which is regulated in the Law No 23 of 2014 Jo Law No 9 of 2015 concerning Regional Government in which the investment is the authority of regional government as mandated in the division of government affairs and it confused the investors.

The juridical issue related to the overlapping regulation in regulating tourism investment and the existence of local wisdom has caused a sociological problem in which there is a limitation of the territorial space of customary peoples in carrying out their customary and cultural activities due to expansion and exploitation in the implementation of tourism investment activities.This issue occurred almost in all territories of Indonesia, such as the food estate and integrated energy project in Merauke, Papua(Marr, 2011), in tourism business investment based on the research in Nusa Ceningan related to the customary people and natural resources as the tourism potency(Konsukartha et al., 2003), sea division of TanjungPaperu, known asTanjungSouino which caused the loss of main job of the local people(Aliansi Masyarakat Adat Nusantara, 2013), the exclusion of the living area of the Balinese customary law community such as in Ungasan village, Badung-Bali(Hazliansyah, 2014) and the case of construction of boat docks (jetty) which is accompanied by dredging and backfilling of material in the coastal area of Semaya, Suana Village, Nusa Penida District(NV, 2018). Other cases are the case of Loloan Yeh PohinTegalGundulVillage, Canggu Customary Village, which caused a conflict of interest between the customary people the as the holder of customary rights according to customary law and the investor as the building use rights certificate holder based on the Indonesian law(Ramadhanadi, 2013).

Another impactis felt in the economic sector in which the investment activities in the tourism sector have brought inequality in the acquisition of Regional Original Income (*PAD*) in every Regency/City in the Province of Baliand it is an unavoidable problem. In the sociocultural aspect, foreign cultural infiltration occurs which is a threat to the existence of local culture, so it can result in a shift in culture and the cultural character will be eroded gradually to be replaced by foreign cultures.

As for some of the challenges and impacts arising from investment in the tourism industry as described above, it requires legal arrangements that accommodate local cultural values that are adhered to by the community in the context of developing the tourism industry for the future. An effort that can be done is to renew investment law within the framework of developing a sustainable tourism industry that is oriented towards cultural values that live and develop in society.

1. THE COMPARISON OF THE INVESTMENT ACTIVITY IN SOME COUNTRIES

Comparative Law itself is understood as a definition of the study of other legal systems (foreign law) which will help to understand our laws and to provide solutions to legal problems that have become global problems, therefore Comparative Law is not substantive law(Hutabarat, 2019). Almost the same opinion was conveyed by Alan Watson who formulated comparative law as a study of the relationship between legal systems or between the rules of more than one system concerningthe history and the study of the nature and development of the law itself(Watson, 1993).

The following is the comparison of the regulation of investment and tourism which were used to analyze the problem of this research. The comparisons are as follows:

1.1. INVESTMENT REGULATION IN SINGAPORE

Singapore opened massive foreign investment. Policies regarding investment in Singapore have developed over time since its independence from Britain in 1965. A few years later, legal reinforcement was made to attract investors with the enactment of the Economic Expansion Act 1967(B, 2016). Singapore is one of the developed countries which is an ASEAN member country, which is ranked first in the World Bank Doing Business(The Brooker Group Inc, 2016). Singapore has been successful in attracting investors to invest their capital since there was a policy of investment openness in the country. Based on data reported by the UNCTAD 2016 World Investment Report, Singapore has managed to rank 7th as the host country with the most investment in the world(Hsu, 2012).

Foreign investment belonging to this business element must first be registered in the Business Registration Act (BRA) by continuing to implement a negative list of types of businesses that foreign investors can invest in. Singapore then required investors to re-register the type of business they would be investing in through the Accounting and Corporate Regulatory Authority (ACRA)(Hsu, 2012). All foreign investors in Singapore are given the freedom to control 100% ownership of their business for repatriation, except for several business fields related to Singapore's national security, such as telecommunications, radio, media, financial services, law, and other businesses(Formal & W, 2013).

In addition, Singapore also offers a low base corporate tax rate of 17%, accompanied by a sizable tax exemption for SMEs and tax incentives for certain industries(Putri et al., 2018). Singapore is a country that applies the principles of fair and equitable treatment in making policies in its country to provide protection and legal certainty for investors while protecting national interests.

1.2. INVESTMENT REGULATION IN NEGARA MALAYSIA

Malaysia issued the Malaysian Act 397 concerning the Malaysia Investment Development Authority 1965 which regulates the administrative stages that must be passed by investors who will invest in Malaysia(Karim et al., 2012). In 2011 the Malaysian government intensified its liberalization of foreign investment by allowing investors to own 100% ownership in several fields, such as health, education, environment and services. Some fields are still restricted in the interests of Malaysia's national interests, such as telecommunications, financial services, and transportation(Karim et al., 2012).

Malaysia to implement a good government in the economic sector Malaysia made a policy that was applied in the 2013 National Policy on the Development and Implementation of Regulations. Other regulations that were also made by the Government of Malaysia and provide guarantees of legal certainty and protection for investors include the Securities Industry Act 2003, the Securities Commission Act 2003, the Futures Industry Act 2003, and the Securities Industry Act 2003. Concerning corruption, Malaysia has included in the Security Commission Act whereby local and foreign companies can work together to track down any scents of corruption and can immediately report them by prioritizing the principle of good faith.

1.3. INVESTMENT REGULATION IN NEGARA THAILAND

Thailand established the Foreign Business Act (FBA) to regulate investment activities carried out by foreign nationals. FBA opened up several additional business sectors for foreign investment but also limited some of the service sector ownership to 49%. Other legal regulations governing foreign investment are the Alien Employment Act of 1978 and the Investment Promotion Act of 1997(Department of State United State of America, 2015).

Foreign investment in the business must be less than 50% of the share capital unless specifically permitted or excluded. 3 (three) business categories are handled for foreign investment, namely (i) Activities that are prohibited for non-Thai citizens, (ii) Activities related to national security, and (iii) Activities that provide economic protection for Thai citizens. Restrictions on foreign ownership in certain sectors, such as the telecommunications, banking or insurance sectors, are regulated in specific laws regarding these sectors, such as the Telecommunication Business Act (2006) and the Non-Life Insurance Act (1992).

The Thai government made many policy changes regarding investment to make it more conducive to investment activities and to attract foreign investors. One of the reforms carried out is the ease of completing new business permits. The rights of Lenders or Credit have been strengthened by strengthening the land administration system. Thailand is also taking steps to implement corporate government, ownership and control structures by issuing regulations requiring companies to appoint independent directors and form audit committees.

Based on the previous elaboration, we can make a comparison of the investment regulatory policies of various countries, including the following

Table 1. 1. The Comparison of the Investment Activity in Some Countries

NO	COUNTRY	DESCRIPTION
1	Singapore	Investment policy in Singapore adheres to an open system, there is no difference between foreign and local investors. All foreign investors in Singapore are given the freedom to control 100% ownership of their business for repatriation, except for several business fields related to Singapore's national security, such as telecommunications, radio, media, financial services, law, and other businesses. The Government of Singapore encourages foreign investment activities, especially those involving high technology and export orientation.
2	Malaysia	The investment regulatory policy in Malaysia provides investors

		with the right to own 100% ownership in the health, services, education and environment sectors, but restrictions on telecommunications, services, finance and transportation are in the national interest. Malaysia also makes policies that provide guarantees and protection for investors investing.
3	Thailand	The investment policy in Thailand adheres to an open system, except for three categories of businesses which are restricted to foreigners, namely (a) activities that are prohibited for non-Thai citizens; (b) activities related to national security, or matters affecting arts and culture, traditions, folk crafts, or natural resources and the environment; (c) Activities for which there is economic protection for Thai nationals. Restrictions on foreign ownership in certain sectors, such as the telecommunications, banking or insurance sectors, are regulated in specific laws regarding these sectors, such as the Telecommunication Business Act (2006) and the Non-Life Insurance Act (1992).

Based on the comparison table above, it can be concluded that almost all countries adhere to an open system in their investment regulation policies, and there are restrictive policies in various sectors that are regulated for investors. These restrictions are made to protect the national interests of the host country and provide economic protection for the host country. Investment policies in these countries are carried out to encourage accelerated economic growth to improve the welfare of the people. In all the policies in the countries described above, the policies in Thailand have similarities with policies in Indonesia, where investment policies pay attention to artistic values, culture, folk traditions, natural resources and also the environment. This illustrates that Thailand gives special appreciation and respect to local wisdom values that live and develop in its society and maintains aspects of sustainability in the implementation of investment activities. In addition, Thailand also regulates investment restrictions on the economy of its citizens, so that the Government does not grant investment that threatens the national interests and safety of the country. These policies need to be imitated and made by the Government of Indonesia to protect the local community's interests, where the investment is developing. Protection and guarantees of legal certainty are not only given to investors but also to local communities affected by investment or investment activities, to create economic equity for the people of Indonesia.

Based on the investment theory, namely The Middle Path Theory, it is felt that investments made in the host country do not always benefit the host country as the recipient country of investment. According to the new theory, foreign investment is only entitled to selective protection. The protection that can be given to foreign investment depends on the extent to which the host country benefits and the extent to which it has behaved as a good citizen in promoting the economic objectives of the host country(Abate, 2021).

The successes of Hong Kong, Singapore, Taiwan and South Korea prove that regulation and state intervention are necessary. However, this should not ignore the role of the free market economy in development. Therefore, the middle lane theory states that a mix of regulation and openness to foreign investment should be the rule. This appears to be the basis for most developing countries moving from hostility to transition.

In addition to the regulation of investment activities presented in regulations in various countries, a comparison of tourism policy arrangements in several countries is explained which can be used as a reference in making policy formulations in tourism investment law that is sustainable and carries local wisdom values. The comparison table is as follows:

Table 2. The Comparison of the Tourism Regulations in Some Countries

NO	COUNTRY	DESCRIPTION
1	Singapore	The Singapore Tourism Board (STB) implements several policies

		in advancing its tourism industry. The policy is divided into two parts, namely those that focus on domestic conditions and those that are aimed at attracting tourists from abroad. Singapore has regulations and policies that support the tourism sector, especially MICE tourism. MICE activities as a key strategy to increase tourism and Singapore has a special place as a meeting city in the MICE sector.
2	Malaysia	Malaysia has a Ministry of Arts, Culture and Tourism (MOCAT) in collaboration with private parties to improve and maintain the quality of tourism within the country. One of the policies made to maintain the quality of the tourism industry is through synergy with the Institute of Malaysian Tourism Promotion Board (MTPB).
3	Thailand	Thailand implemented the Single Visa policy to boost its tourism industry. Thailand in improving the tourism industry utilizes local wisdom to attract tourists. Another policy is to provide training, especially to improve foreign language skills to local Thai workers.
4	Indonesia	Tourism policy in Indonesia has been regulated byThe Law of Tourism. The implementation of tourism is carried out with the principles of respect for religious and cultural values, and respect for human rights, which have received protection, recognition and respect in the Indonesian state constitution to provide benefits for people's welfare and ensure sector integration of the regions, central government as well as among other sectors.

Based on the table, tourism policy in Indonesia is almost in line with its policy direction, namely to support sustainable tourism development, as is the case in Japan and Thailand. Indonesian tourism which is supported by natural beauty, cultural beauty and the friendliness of the people is an important point in increasing the number of tourists who will visit Indonesia, in addition to efforts to maintain the values of local wisdom. Cultural tourism is one of the advantages and attractions of tourism in Indonesia that differentiates it from other countries by using local wisdom as its main commodity.

The tourism industry as part of a lifestyle becomes an arena to show a certain social identity that functions to legitimize social status, that one of the goals of people to travel is status or prestige motives(Murni et al., 2018). Structuring tourism policies from the economic aspect is a locomotive of economic growth that has been able to create jobs, strengthen people's purchasing power and alleviate poverty. To realize this, the policy strategy must maximize the contribution of tourism resources that have been proven to be able to provide added value economically, and then try to develop new economic potentials(Widiatedja, 2011).

2. THE INVESTMENT REGULATORY MODEL IN DEVELOPING LOCAL WISDOM-BASED TOURISM INDUSTRY

Many countries have been working on tourism seriously for the past decade and have made tourism a leading sector in earning foreign exchange, creating a workforce and being able to alleviate poverty(Yakup, 2019). The existence of investment in tourism has a very strategic role in the growth of the national economy. The government is expected to be able to become a regulator that involves the private sector and the public in tourism development so that it can contribute to the regional economy which can satisfy tourists and is globally competitive. The support that can be provided by the government in the context of developing tourism potential is by making policies and institutions that support tourism investment activities by encouraging investment inflows such as Foreign Direct

Investment (FDI), developing micro, small and medium enterprises that support tourism and facilitating access to permit arrangements.

One of the biggest challenges in realizing a conducive tourism investment climate is preventing threats of environmental damage and climate change risks that could threaten the tourism industry. Things that must be considered in responding to these challenges are increasing efficiency by utilizing environmentally friendly energy resources; using the 3R method (Reduce, Reuse, Recycle) in waste management; environmental maintenance; mitigation of climate change; as well as increasing knowledge of the public and tourists about the risks of climate change and how to deal with them.

To overcome these challenges, the expected tourism investment regulatory model in the future is a sustainable tourism investment implementation model based on local wisdom, where the concept of tourism investment based on local wisdom refers to patterns of policy-making that can maintain harmony between humans with a spiritual environment, humans with their social environment and humans with nature. For this reason, the author tries to formulate policy-making by adopting the 3R method (Reduce, Reuse, Recycle) which is in the environmental management method. The description is as follows:

1. Reduce: what is meant by reduce in the perspective of setting tourism investment policies, namely making policies that minimize the impacts resulting from tourism investment activities. The expected policy formulation is a formulation that not only identifies the negative impacts of tourism investment but also integrates a balanced regulatory pattern for these two industrial sectors.
2. Reuse: what is meant by reuse here is that the provisions of laws and regulations that are still valid in the field of investment and tourism can be reused to serve as a reference or guideline in making changes to an integrated policy formulation through comparison with previous policies to measure the strengths and weaknesses of these policies to create a policy that is more holistic, harmonious and humane.
3. Recycle (Revitalization): tourism investment management has implications for the revitalization of local wisdom values. Revitalization is being carried out not only for local religious values but also for the social structure of society, which is currently affected by globalization. Policies in the management of tourism investments should uphold the values of local wisdom, ecological wisdom and business ecosystem wisdom. This policy then becomes a control mechanism for overcoming negative impacts in the development of sustainable tourism investment.

When viewed from the perspective of values, diversity, and cultural heritage, cultural sites are one of the attractions to bring in tourists there about 40% of tourist activities can be categorized as cultural tourism. This can help foster awareness to respect cultural diversity, encourage the creation of intercultural dialogue, and help spread knowledge about world culture(Sapto et al., 2020).

Tourism development in Indonesia must be adapted to the principles, and ideology based on the ideology of global tourism, the ideology of green tourism and the ideology of cultural tourism based on local wisdom. Indonesia has extraordinary natural potential in the tourism development sector, thereby providing income for Indonesia which has the potential to replace oil and gas(Sapto et al., 2020). According to Anthony Gidden(Gidden, 2001), globalization is the reason for the revival of local cultural identities in various parts of the world. The more homogeneous people's lifestyles due to globalization, the more solid the society's dependence on deeper values such as religion, art and literature. To be able to formulate an ideal model in the regulation of investment law in the tourism industry based on local wisdom, in this case, Integrative Legal Theory is used to formulate the policy model. Integrative Law Theory provides enlightenment regarding the relevance and importance of law in the life of Indonesian people and reflects that law as a system that regulates human life cannot be separated by the culture and character of the community and the geographical location of the environment and the outlook on life of the people. The existence of integrative legal theory is a means to unite and strengthen community and bureaucratic solidarity in dealing with the developments and dynamics of life, both in the national and international scope. From the point of view of legal development, Indonesia is currently faced with global challenges, be it in the economic, financial, and trade as well as challenges and threats from the development of global crime as a result of developments in the world economy. In this context, integrative legal theory is used to analyze, anticipate and recommend legal solutions that not only consider normative aspects but also social, political and national and international security aspects.

CONCLUSION

The investment regulatory model in the local wisdom-based tourism industry is a sustainable tourism investment model using the 3R (Reduce, Reuse, Recycle) method in tourism investment management. The policy setting is carried out by making regulations at the regional level to explore and protect tourism commodities originating from local wisdom values.

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