

CRIMINAL, JUSTICE, AND SOCIAL WELFARE POLICIES AND TOURISM AREA DEVELOPMENT : A PARADIGM STUDY OF LAW, ENVIRONMENT, AND SUSTAINABLE DEVELOPMENT

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ABSTRACT

This study aims to explore and elucidate the interplay between criminal justice, social welfare, and tourism policies, and the role of law in promoting environmental preservation. The study is conducted by analyzing a number of policies and development implementation as well as response and output to the current community to create appropriate mitigation efforts in the form of criminal policies, not just in the field of jurisprudence (mere law), and three main pillars of Sustainable Development Goals (SDGs). The research is expected to provide a comprehensive understanding of the interconnectedness of these domains, particularly focusing on how legal frameworks can support and enhance environmental preservation efforts.

INTRODUCTION

Development and public interests related to tourism are the superior foreign exchange income to replace the petroleum sector. Many parties build and develop tourism destination in villages to be used as tourist attractions to attract travelers (Andrianto & Sugiyama, 2016; Dewi et al., 2018; Komariah et al., 2018; Qoriah et al., 2019; Sara et al., 2021). Likewise, tourism industry in the areas grows and develops. This development has experienced a rapid increase in the last 10 years by embracing the idea of sustainable development as a goal development as stated in Article 33 of the 1945 Constitution, and implemented by the state as mandated by Article 34 of the 1945 Constitution. The implementation of the development is still colored by human and environmental conflict of interests as the main obstacles to achieving social equitable happiness, like the rejection of Benoa Bali Bay reclamation that bother Balinese people tradition such as *Ngaben* and the eviction of the coastal indigenous law community of Kupang City.

Sustainability in economic development means ensuring no wasteful use of natural resources, no pollution, and activities that improve usable resources, as well as avoiding environmental impacts and pollution (Mohajan, 2020; Ostad-Ali-Askari, 2022; Roy et al., 2023; Sangwan & Bhatia, 2020; Tehupeiry, 2023). Examining tourism in the coastal and islands regions has a close relationship with the environment and cleanliness of sea water, with the condition of the number of hotels and resorts although claiming the location with a natural environment.

The coastal developments in NTT and Bali are in the forms of resorts, hotels, restaurants, jogging track, housing, Fishing Catching Center (PPI) and ports, reclamation development, castles, and tourist attractions. This illustrates that the developments in strategic regions are not in accordance with the supporting and carrying capacities of coastal environments. This indicates that the development of hotel tourism facilities in the coasts of NTT and Bali are carried out repressively by the City Governments by violating environmental and human justice rights.

The growth of crime and social inequality as the impact of clashing values in society with government policies cannot be overcome with penal efforts. The development of criminal law out of the Criminal Code has become uncontrollable and has created an unhealthy condition of criminal law because of its overcriminalization (Kemenkumham, 2010). At this stage, criminal policy is required. Shidarta (2013) also supports criminal policy-based crime prevention efforts in which, according to Mochtar Kusumaatmadja, the law cannot be the supreme which controls but rather becomes a part that must cooperate with social rules. For analyzing these elements respectively and thoroughly, the researcher chose to make the restrictions based on the paradigm perspective of post-positivism. Humans in general simultaneously always try to create their social reality in order to interact with others (Amal, 2013).

(Rahardjo, 2003) stated to get away an opinion that oversimplifies something until we can avoid from mistakes. This is where the researcher was interested in conducting the research to discover the concept of social justice of the community in the research area because the formulation of legal concepts require a foundation of knowledge on the social justice values of the society. This was conducted by analyzing a number of policies and development implementation as well as response and output to the current community to then create appropriate mitigation efforts in the form of criminal policies not just in the field of jurisprudence (mere law), and three main pillars of SDGs.

For the aforementioned explanation, this study aims to understand the interplay between criminal justice, social welfare, and tourism policies, and the role of law in promoting environmental preservation. The research is expected to explore and elucidate the complex interactions between criminal justice, social welfare, and tourism policies, particularly focusing on how legal frameworks can support and enhance environmental preservation efforts. This study aims to provide a comprehensive understanding of the interconnectedness of these domains and offer insights into the role of law in facilitating sustainable development and conservation practices.

METHODS

The research used qualitative method. The research data consists of primary and secondary data. Primary data is the data obtained directly from respondents or sources who are object of research by collecting documents, interviews, or direct observations (Amirudin & Asikin, 2004). Secondary data is the data obtained from library research in order to obtain a theoretical basis in the form of written opinions of experts or other authorized parties to obtain information both in the form of formal provisions and the data through existing official texts. The analysis was conducted in interpretation (Amirudin & Asikin, 2004).

RESULTS

The government plays a crucial role in promoting sustainable tourism in Kupang City, focusing on ecosystem sustainability, local uniqueness, and community involvement, as outlined in the Core Plan of Regional Tourism Development (RIPPARDA) for 2014-2019. This plan emphasizes the development of coastal areas through the construction of hotels, restaurants, and other facilities, transforming these areas into economic hubs. Structural changes and environmental improvements are expected to enhance community life and attract more tourists, leading to increased economic activities and changing lifestyle patterns. The development also includes the creation of city parks and optimization of corporate social responsibility (CSR) contributions from local businesses for area planning and sustainability.

Bali, an internationally renowned tourist destination, exemplifies a unique approach to tourism based on its natural beauty, rich cultural heritage, and local wisdom. The region's economy is built on local resources, including agriculture, marine fisheries, and crafts, all supported by a strong tourism sector. Bali's distinctive environment and cultural practices, such as those in the Benoa Bay area, play a vital role in conservation efforts. The coastal ecosystem of Benoa Bay, with its mangroves, reefs, and seagrass beds, supports biodiversity and provides natural disaster mitigation. However, inappropriate land use and conflicts over reclamation projects threaten these ecosystems, highlighting the need for balanced and sustainable development practices.

Conflicts in the Benoa Bay area arise from reclamation projects that prioritize short-term development over environmental conservation, leading to ecological damage and social unrest. The local government's failure to enforce spatial planning regulations exacerbates these issues. The reclamation projects, driven by the desire to create a central business district, often marginalize local communities, particularly fishermen, who face eviction and loss of livelihood. Resistance from local communities, supported by NGOs and social institutions, underscores the importance of incorporating traditional values and local wisdom into development plans. Legal protections and social justice are essential to ensure equitable access to resources and sustainable development, aligning with Indonesia's constitutional goals of social welfare and environmental stewardship.

Environmental justice is essential for the state to ensure social welfare as it addresses the disproportionate environmental burdens resulting from community actions. The development of coastal tourism areas can drive socio-economic progress, enhancing the welfare of communities in these regions. However, coastal tourism is susceptible to ecological disasters like pollution, coral damage, and tsunamis, as well as social impacts such as cultural shifts, income changes, and job creation. The state's mission to serve the people is compromised if coastal development is driven by profit motives that harm the environment and human morals.

National development in Indonesia, including in NTT and Bali, is guided by comprehensive plans that emphasize sustainable tourism while preserving culture and the environment. The Regional Regulation No. 2 of 2015 for NTT and the Bali Provincial Regulation No. 16 of 2009 are foundational in these efforts, aiming to protect natural resources and cultural heritage. Policies prioritize community-based tourism, agro-tourism, eco-tourism, and marine tourism, supported by necessary infrastructure. Investments focus on empowering local communities and preserving the environment, following principles like Tri Hita Karana in Bali, which integrates land, sea, and air space with local wisdom.

Despite well-structured policies, challenges persist in coastal development, particularly the increase in poverty among fishing communities due to poorly organized development activities that conflict with socio-religious and cultural values. Legal frameworks like Law No. 10 of 2009 on Tourism and Law No. 32 of 2009 on Environmental Protection emphasize sustainable tourism, community participation, and environmental preservation. Effective implementation requires adherence to zoning regulations and environmental planning, involving local communities and experts. Ensuring social welfare and environmental justice demands a balanced approach that integrates economic development with the protection of natural and cultural resources.

Environmental control aims to prevent, overcome, and restore environmental degradation through various regulatory and strategic measures. Prevention includes spatial planning, quality standards, damage criteria, environmental impact assessments (AMDAL), and permits. It incorporates economic instruments, risk analysis, and audits. Strategic Environmental Assessments (KLHS) evaluate carrying capacity, ecosystem service performance, natural resource efficiency, and climate change adaptation capacity. The AMDAL document assesses business plans' impacts, feasibility, and community responses, while UKL-UPL permits are issued by relevant authorities for environmental maintenance functions, including conservation and atmospheric preservation.

Marine management, as per Law No. 32 of 2014, emphasizes sustainability, community participation, and justice, with strict sanctions for permit violations. Marine disaster prevention is integrated into the national disaster management system. Spatial planning, under Law No. 26 of 2017, ensures recommendations for coastal area use are compliant with regional regulations. Presidential Decrees No. 121 and 122 of 2012 focus on rehabilitation and reclamation of coastal areas and small islands, considering water quality, vegetation density, and social-economic activities. Amendments to spatial planning for urban areas incorporate tourism with conservation, historical preservation, and cultural heritage protection.

Government regulations emphasize sustainable development and community roles in spatial planning, including coastal and marine areas. Regulations on building constructions, environmental permits, strategic environmental studies, and national tourism development outline guidelines for sustainable practices, community participation, and environmental protection. Specific regulations ensure coordination among government, regional authorities, and communities in managing spatial planning, marine tourism, and environmental conservation. These measures collectively aim to safeguard natural resources, promote sustainable development, and enhance the welfare of coastal communities.

The NTT Regional Regulation No. 1 of 2018 emphasizes that investment incentives should support local labor absorption and sustainable resource utilization, particularly for tourism businesses. Investors must submit proposals to local governments to qualify for these incentives. The RPJMD of NTT Province (2018-2023) outlines regional development plans, including tourism, and emphasizes the integration of religious and cultural values into tourism to enhance community welfare. Community-based tourism principles focus on environmental sustainability, local culture, and inclusive development targets in industry, destination, marketing, and tourism institutions.

The Bali Regional Regulation draft for 2020-2040 and other relevant regulations emphasize sustainable development through the Tri Hita Karana philosophy, integrating environmental, social, and economic aspects. This includes protected areas, green economy initiatives, and community participation in marine space utilization. Sanctions are imposed for non-compliance, ensuring coastal development aligns with local wisdom and environmental protection. The regulations aim to balance tourism growth with cultural preservation and environmental sustainability, emphasizing local community empowerment and sustainable resource management.

Sustainable tourism development in Indonesia is supported by various laws and regulations, including the Ministerial Regulation No. 9 of 2021, which sets guidelines for sustainable tourism destinations. The emphasis is on minimizing environmental impact, managing natural resources wisely, and integrating local cultural values. However, tourism's contribution to pollution, resource competition, and cultural disruption highlights the need for robust policies and enforcement. The government is encouraged to balance economic benefits with environmental and social justice, ensuring tourism development contributes positively to the environment, local communities, and overall sustainable development goals.

Central and regional governments in Indonesia are working to grant permissions and manage coastal areas in cooperation with local and traditional communities. However, this cooperation often leads to the loss of the coastal region's unique features, such as white sand, shells, and native plants. The process of granting permits for foreign investment requires agreement from local and regional communities, especially concerning land shares and control. These agreements are supposed to consider ecological, social, and economic aspects, but the reality shows many weaknesses, such as international communities gradually taking control over coastal lands, marginalizing local ownership, and eroding the nation's historical ties to these areas.

The development in Indonesian coastal regions, particularly in Bali and East Nusa Tenggara, under the pretext of achieving prosperity, is viewed as a criminal strategy. The focus on tourism development has become a significant economic contributor, but it often results in environmental

degradation and the displacement of traditional communities. Coastal developments, such as hotel constructions right on the beach, destroy the natural environment and traditional rights, including fishing activities and cultural rituals like the Ngamben purification ceremony. These traditional rights and environmental features, once lost, cannot be restored. The legal framework does not effectively address these issues, as environmental crimes are often categorized as money laundering rather than direct violations impacting local communities and the coastal environment.

The existing legal mechanisms and criminal law enforcement are inadequate in protecting the coastal areas and their communities. Coastal development regulations are not explicitly included in the national Criminal Code, and environmental crimes are often not treated as criminal offenses. Regional regulations in areas like Bali show some concern for environmental sustainability, but enforcement is generally weak, and the scope is limited. The National Medium Term Development Plan (RPJMN) for 2020-2024 highlights tourism as a key sector for economic growth, but the approach leads to conflicts and infrastructure challenges. The regulatory framework lacks clarity and comprehensive enforcement, resulting in insufficient protection for the diverse natural and cultural heritage of Indonesia's coastal regions.

Criminal law enforcement in coastal tourism areas aligns with the norms of Article 33 Paragraph 4 and Article 28 h Paragraph 1 of the 1945 Constitution, reflecting the "green constitution" concept advocated by Jimly Asshiddiqie, which emphasizes environmental sovereignty and sustainable development. This principle recognizes the intrinsic value of nature and aligns with John Rawls' concept of justice as a fundamental virtue in social institutions. Green criminology highlights environmental destruction, including both legal and illegal actions, such as the construction of hotels and resorts on the coasts of Bali and NTT, which harm coastal ecosystems like seagrass meadows and coral reefs. The development policies in these regions often overlook local wisdom and result in chaotic administrative implementation. To achieve social justice in tourism development, national development must incorporate sustainable practices and respect environmental concerns, ensuring that humans maintain a balanced relationship with natural resources.

CONCLUSION

Indonesia's national sustainable development goals include criminal policy, social justice, social welfare, and tourism development. Criminal policy aims to achieve social justice through law enforcement, while law serves as a *rechtsidee*, guiding the state in regulating tourism. However, research shows that existing statutory regulations and administrative welfare principles do not align with new moral and environmental justice values. Further research is needed to explore legal development ideas that incorporate social justice values to enhance tourism-related regulations. Studies should focus on the role of law in promoting social justice within tourism development and address the lack of human and environmental moral values in Indonesian regulations. Public awareness of the law's role in ensuring social justice and welfare in tourism should also be examined.

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