

Utilization of Conservation Forest Areas in Taman Wisata Alam Gunung Batur Bukit Payang in The Perspective of Natural Tourism Entrepreneurship Permits

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Abstract

BKSDA Bali faces problems in the development of natural tourism in Taman Wisata Alam Gunung Batur Bukit Payang (TWA GBBP), namely the business of providing natural tourism facilities (hot springs) without permission by Batur Customary Village. The hot spring has been managed since 1986 and developed into Batur Natural Hot Spring in 2007. The issues discussed in this study are: (1) How is the licensing process for the use of conservation forest areas in the development of natural tourism in Taman Wisata Alam Gunung Batur Bukit Payang? (2) What is the model of community-based natural tourism development in Taman Wisata Alam Gunung Batur Bukit Payang? The methods used in this study are a type of empirical legal research, using the approach of legislation, the historical juridical approach and the legal sociology approach. Based on the results of the analysis, it can be concluded that the process of licensing the utilization of the area in TWA GBBP is based on: (1) Inventory of regional potential, (2) Arrangement of the area into the management block, set on February 11, 2016, (3) The design of natural tourism sites on the utilization block, set on June 4, 2018, (4) The preparation of the management plan (RPJP) of KPHK Kintamani was set for April 15, 2019. Taman Wisata Alam Gunung Batur Bukit Payang is eligible for natural tourism business licensing in the form of IUPJWA / PB-PJWA and IUPSWA / PB-PSWA. There are three models of community-based natural tourism development in Taman Wisata Alam Gunung Batur Bukit Payang, namely: (1) Hot Spring Tourism (Batur Natural Hot Spring) developed by Batur Customary Village and accommodated through cooperation with PT. Tanaya Pesona Batur through IUPSWA commitment, (2) Camping Tourism developed by Pokdarwis Ampupu Kembar, (3) Mount Batur Climbing Tour developed by FP3GB through the provision of IUPJWA.

Keywords: Business license; conservation forest area; natural tourism

Article History

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Introduction

Taman Wisata Alam Gunung Batur Bukit Payang (TWA GBBP) was established based on the Decree of the Minister of Forestry Number: SK.204/Menhut-II/2014, dated March 3, 2014 concerning the Determination of the Gunung Batur Bukit Payang Forest Group (RTK.7) Covering an area of 2,528 (two thousand five hundred and twenty-eight) hectares with the function of the Natural Tourism Park area of 2,075 (two thousand seventy-five) hectares and a Limited Production Forest area of 453 (four hundred and fifty-three) hectares, located in Bangli Regency, Bali Province. The history of the TWA GBBP conservation forest area dated May 29, 1927, was designated mount Batur Bukit Payang Forest Complex as a Conservation Area based on the Decree of the Governor General of the Dutch East Indies in accordance with *Staatsblad* Number 28 Sub A.a.4. Gunung Batur Bukit Payang Forest Group (RTK.7) set the limit in 1985 and ratified on October 7, 1987, in accordance with decree number: 335/

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Kpts-II/1987 dated November 7, 1987 (BKSDA Bali, 2018). Administration of forest management in the Area of Forest Police Resort (RPH) Penelokan, UPT KPH East Bali.

TWA GBBP began to be managed by BKSDA Bali since March 3, 2014, to carry out maintenance and security of the boundaries of the Gunung Batur Bukit Payang Forest Group (RTK.7). The problem faced, namely the effort to provide natural tourism facilities (hot springs) without permission by Batur Customary Village. The hot spring has been managed since 1986 and developed into Batur *Natural Hot Spring* in 2007. Therefore, it is important to conduct this research. Legal problems are analyzed using relevant legal theories, namely: authority theory, legal purpose theory, social interest theory, progressive legal theory and legal system theory. The thesis title is "Utilization of Conservation Forest Areas in Taman Wisata Alam Gunung Batur Bukit Payang in perspective of Natural Tourism Entrepreneurship Permits".

Based on the background above, this research is limit in the licensing process for the use of conservation forest areas in the development of natural tourism and the model of community-based natural tourism development in Taman Wisata Alam Gunung Batur Bukit Payang.

Method

The type of research used is empirical legal research. Empirical legal research is one type of research that analyzes and examines the work of law in society (Muhaimin, 2020). Researchers conducted direct observations as well as interviews with informants and respondents. The facts found, there is the use of the area for the business of providing natural tourism facilities without permission. According to Government Regulation No. 28 of 2011 concerning The Management of Natural Sanctuary Areas and Natural Conservation Areas, Article 38 paragraph (1) states Utilization of KSA and KPA can only be done after obtaining permission from the Minister or appointed officials.

The research approach uses a statutory approach, a juridical historical approach and a legal sociology approach, to obtain data on legal facts on concrete cases that occur through interviews with informants and respondents. The types of data used to study empirical legal research, namely: primary data and secondary data. Primary data is obtained from sources. The data source in empirical law research comes from field data (Muhaimin, 2020). Field data in the study from direct observation as well as interviews with informants and respondents. Secondary data is data obtained from written materials (Soekanto, 1986). Secondary data consists of primary, secondary and tertiary legal materials.

Data in empirical law research consists of primary data collection and secondary data collection. The primary data collection in this study is through direct observation in the field, conducting with the Head of KPHK (Conservation Forest Management Unit) Kintamani, Head of Conservation Section II, Coordinator of Natural Tourism Affairs of KSDA Bali Hall, *Petajuh* Desa Adat Batur, Director of PT. Tanaya Pesona Batur, Vice Chairman I of FP3GB and Chairman of *Pokdarwis* Ampupu Kembar. Collection of secondary data through literature research: book inventory, reading literature, laws and regulations, decrees, dissertations, theses, expert research results, journals and websites. Research location at Taman Wisata Alam Gunung Batur Bukit Payang, KPHK Kintamani, Bangli Regency, Conservation Section Region II, BKSDA Bali. This research is using qualitative analysis, data analysis that does not use numbers but rather provides a description with words of the findings and prioritizes the quality of the data, and not quantity.

Discussion

Licensing Process for the Utilization of Conservation Forest Areas in the Development of Natural Tourism in Taman Wisata Alam Gunung Batur Bukit Payang

NKRI Constitution 1945, Article 33 paragraph (3) became the basis of the policy towards the use of TWA GBBP Forest. The policy reflected in Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems, Article 34 paragraph (3) states "For tourism and recreation activities, the Government can provide business rights over the utilization zones of national parks, forest parks, and natural tourist parks by including the people." Derivatives of Law 5/1990, namely PP No. 36 of

2010 concerning Natural Tourism Entrepreneurship in Wildlife Sanctuaries, National Parks, Forest Parks, and Natural Tourism Parks, Article 4 letter d states that "Natural tourism entrepreneurship can be carried out within natural tourism parks." The implementation regulation, Permenlhk Number P.8/MENLHK/SETJEN/KUM.1/3/2019 concerning Natural Tourism Business in Wildlife Sanctuaries, National Parks, Forest Parks and Natural Tourism Parks, Article 4 paragraph (1). Ada 2 types of Natural Tourism Entrepreneurship Permits, namely: (1) Business License for The Provision of Natural Tourism Services (IUPJWA), (2) Business License for The Provision of Natural Tourism Facilities (IUPSWA). Furthermore, derivatives of Law Number 11 of 2020 concerning Job Creation, namely PP No. 5 of 2021 concerning implementation of Risk-Based Business Licenses and Permenlhk Number P.3 of 2021 concerning Business Activity Standards in the Implementation of Risk-Based Business Licensing in the Environmental and Forestry Sectors.

The policy direction of the above regulations is for the licensing process in the form of IUPJWA and IUPSWA, to solve the problem of utilization of non-procedural areas in TWA GBBP, especially utilization in accordance with regional functions. By Permenhut Number: P. 02/Menhut-II/2007 concerning Organization and Work Procedure of the Technical Implementation Unit for Natural Resource Conservation, Article 2: mentions "The Technical Implementation Unit for Natural Resource Conservation has the task of organizing the conservation of biological natural resources and their ecosystems and the management of nature reserve areas, wildlife reserves, natural tourist parks, and hunting parks, technical coordination of the management of forest and protected forests and conservation. plants and wildlife outside conservation areas based on applicable laws and regulations." Judging from the Theory of Authority, BKSDA Bali implements the source of attribution authority. H.D. Van Willem Konijnenbelt and J.B.J.M. ten Berger posited that attribution is the granting of government authority by lawmakers to government organs (Ridwan, 2014). Ridwan H.R. explained that the authority obtained by attribution is originally derived from laws and regulations. In other words, government organs obtain authority directly from the redaction of certain articles in laws and regulations. In the case of attribution, the recipient of authority may create new authority or expand existing authority (Hasanah, 2016).

KPHK Kintamani as an organizational unit of BKSDA Bali is tasked with carrying out conservation area management activities at the site level, must meet the management requirements for IUPJWA and IUPSWA at TWA GBBP. IUPJWA must be in accordance with the regional management plan. IUPSWA must be in accordance with the regional management plan and the design of natural tourism sites. The regional management plan includes regional potential inventory activities, regional arrangement and preparation of management plans (PP 28/2011, Article 13). The distribution of areas into management blocks results in (BKSDA Bali, 2015): (1) Protection Blocks, (2) Utilization Blocks, (3) Religious, Cultural and Historical Blocks, (4) Special Blocks. The management block was set for February 11, 2016. The design of natural tourism sites on the TWA GBBP utilization block was set on June 4, 2018. The design of the site is a division of natural tourism management space in the utilization block into public spaces and business spaces for the provision of natural tourism services and facilities. Furthermore, the inventory of regional potential, regional arrangement and natural tourism site design became the basis for the preparation of the management plan (RPJP) of KPHK Kintamani which was set on April 15, 2019 by Dirjen KSDAE.

Based on the Natural Tourism Management Site Design Map in the TWA GBBP Utilization Block, forest utilization areas for the business of providing natural tourism facilities without permission by Batur Customary Village are designated as business spaces. BKSDA Bali's policy towards the use of natural tourist parks is based on laws and regulations relevant to the theory of legal purpose from Gustav Radbruch. BKSDA Bali's policy aims to implement the law appropriately and fairly by prioritizing justice as a legal goal. Gustav Radbruch suggested that in order to fulfill the purpose of the law, the priority is justice, then expediency after that legal certainty (Rahardjo, 2014). The determination of the design of natural tourism sites and RPJP KPHK Kintamani has opened investment opportunities in the region through IUPJWA/PB-PJWA and IUPJWA/PB-PSWA. The flow of the licensing process is guided by: (1) PP Number 5/2021 concerning the Implementation of Risk-Based Business Permits, (2) Permenlhk Number P.8/MENLHK/SETJEN/KUM.1/3/2019 concerning Natural Tourism Business in Wildlife Reserves, National Parks, Forest Parks, and Natural Tourism Parks, (3) Permenlhk Number 3 of 2021 concerning Business Activity Standards in the Implementation of Business Permits Based on

Environmental and Forestry Sector Risk.

Community-Based Natural Tourism Development Model in Taman Wisata Alam Gunung Batur Bukit Payang

Previous research from Aminah, the title of research on Community-Based Forest Management as an Effort to Recognize the Rights of Indigenous Peoples. The results showed that the implementation of community-based forest management can be felt to produce dual benefits, including accommodating all interests of PT. Perhutani, a forest community, is able to reduce conflicts of interest. Community-based forest management can be considered as a form of recognition of customary rights efforts, although it is limited to the recognition of forest resource management rights. However, it can improve the welfare of forest communities (Rideng, Astara & Nahak, 2018).

Furthermore, research from I Wayan Rideng, with the title "Model of Customary Village-Based Village Forest Management in Selat Village, Buleleng Regency." Research results: (1) The concept of perfecting Awig-awig Pakraman Pandan Banten Strait Village becomes very important to be adjusted to the development of the existence of community residents / village cramps around the village forest area. (2) The concept of empowerment is carried out on the existence of rangers in maintaining the security and extraction of village forests, (3) The Concept of Rehabilitation is carried out for the preservation of forests (Rideng, Astara & Nahak, 2018).

The development of natural tourism at TWA GBBP includes cooperation outside the Natural Tourism Company Permit (IPPA) and cooperation in the IPPA. Cooperation outside the IPPA through strengthening the function of natural tourist parks based on Permenlhk Number P.44/Menlhk/Setjen/Kum.1/6/2017, Article 6 paragraph (1) e and letter f: cooperation to strengthen the functions of KSA and KPA and biodiversity conservation including cooperation in the development of natural tourism and community empowerment cooperation. Cooperation in the development of natural tourism is carried out outside the IPPA area can be in the form of promotional cooperation, construction of natural tourism facilities and infrastructure, construction of information centers and community development, such as a cooperation agreement between the Head of BKSDA Bali and the Regent of Bangli in the framework of natural tourism development and strengthening the function of TWA Penelokan and TWA GBBP in 2017.

Community empowerment cooperation is carried out in the form of a Business Permit for the Provision of Natural Tourism Services (IUPJWA) referring to Government Regulation No. 108 of 2015 concerning Amendments to Government Regulation No. 28 of 2011 concerning Management of Natural Sanctuary Areas and Natural Conservation Areas (PP 108/2015), Article 49 paragraph (3) d: Community empowerment is carried out through the granting of permits for natural tourism services. In TWA GBBP there are activities of Climbing Mount Batur which has developed into a tourist destination. Mount Batur Climbing Tour was developed by Organisasi Association of Mount Batur Climbing Guides (P3GB). To be able to implement PP 12/2014 related to PNBP, BKSDA Bali is obliged to empower the community in the form of granting natural tourism service permits to the surrounding community. To accommodate the activities of the surrounding community towards The Climbing Tour of Mount Batur. The Head of BKSDA Bali appointed the P3GB Forum as the basis for the provision of IUPJWA, so that guides can carry out Climbing Activities of Mount Batur at TWA GBBP by paying attention to the provisions agreed upon in the climbing guide forum. Income from IUPJWA is from tourist services for tourists, guide fees, transportation costs, jacket and shoe rentals, raincoats, food and beverage services and others.

The development of natural tourism in TWA GBBP through IUPJWA and IUPSWA is carried out in the form of tourism business cooperation (Permen LHK P.8/2019, Article 54). Investor (PT. Tanaya Pesona Batur) submitted an IUPSWA application to the Minister of Lhk on November 4, 2020. IUPSWA cooperation is an alternative to accommodate the problem of using areas without permission by Batur Customary Village (Batur Natural Hot Spring) and camping tourism activities by Pokdarwis Ampupu Kembar.

Based on Permenlhk P.8/2019, Article 54 letter c: "Natural tourism business cooperation can be carried out between regional managers, IUPJWA or IUPSWA holders and other parties. Director of PT.

Tanaya Pesona Batur in an interview on February 17, 2022, mentioned that the agreed agreement is internal, as the holder of IUPSWA is committed to supporting the preservation of nature and the welfare of the community through cooperation agreements. Batur Customary Village can conduct business activities in The Toya Bungkah Business Room through cooperation with PT. Tanaya Pesona Batur. While Pokdarwis Ampupu Kembar who make camping tours in the Anjungan Business Room have not had a meeting with PT. Tanaya Pesona Batur. Here the role of BKSDA Bali as a guard of order must be present to prevent conflict. Problems are solved by balancing interests on the principle of mutual respect, mutual respect, mutual trust and mutual benefit.

Utilization according to regional functions is directed towards licensing by BKSDA Bali. This fact gives an idea that BKSDA Bali makes pro-community legal policies relevant to the progressive legal theory put forward by Satjipto Rahardjo, that the basic philosophy of legal thought is law for humans, so that humans as the determinant and point of legal orientation. The law serves man, not the other way around. Therefore, the law is not an institution that is independent of human interests. The quality of the law is determined by its ability to serve the welfare of man (Atmadja & Budiarta, 2018). The law is always moving in the process of change (law as a process, law in the making) (Nuryadi, 2016). The perpetrators of the law must have empathy and concern for the suffering experienced by the people and the nation. They are required to prioritize honesty and sincerity in law enforcement. The welfare and happiness of the people should be the center of attention and the ultimate goal of the organizers of the law (Atmadja & Budiarta, 2018).

In an interview with the Director of PT Tanaya Pesona Batur on February 17, 2022, that ecotourism with supporting factors from the surrounding community, such as agroculture and organic agriculture is relevant to research by Anak Agung Dalem Ariyudha, et al related to efforts that can be made by the government to integrate tourism development with agriculture in Bali. That Bali tourism development must be integrated with agricultural development in Bali, meaning that the two must be integrated and mutually beneficial to each other. The fact that the two sectors have clashed, Bali's tourism development is much more dominant than agricultural development, uncontrolled tourism development in Bali has a big impact on the transfer of agricultural land functions and makes the younger generation do not want to plunge in agriculture. The loss of agriculture resulted in Bali tourism losing its taksunya as a cultural-based tourism destination (Ariyudha, Nahak & Senastri, 2021).

Disharmony of tourism and agricultural development in Bali that still occurs today as an indicator that existing regulations have not been able to integrate tourism and agricultural development in Bali. Tourism development is not accompanied by laws and regulations that protect agricultural land as a supporting object for tourism development. Therefore, a comprehensive regional regulation in Bali is needed to accommodate the interests of tourism and agricultural development (Ariyudha, Nahak & Senastri, 2021). But agriculture that is integrated with natural tourism in TWA GBBP is a different thing, there is no regulation that regulates it. PT. Tanaya Pesona Batur with IUPSWA is an alternative to turning horticultural agriculture into organic farming at TWA GBBP which is integrated with natural tourism.

BKSDA Bali's policy in accommodating the interests of PT. Tanaya Pesona Batur, Batur Indigenous Village and the surrounding community through the cooperation of IUPSWA / PB-PSWA relevant with the Theory of Social Interests from Roscoe Pound. Roscoe Pound views the law as a balance of interests, the main problem with the concept of social engineering is interest balancing. Oleh therefore the most important thing is the ultimate goal of the law being implemented and directing society in a more advanced direction. Between law and society there is a functional relationship because the life of law lies in the work of the social world. The law does not create satisfaction, but only gives legitimacy to human interests in order to achieve such satisfaction in balance (Atmadja & Budiarta, 2018). Roscoe Pound distinguishes interests into 3 groups, namely: (1) individual interests, (2) public interests, and (3) social interests. The first interest group is within the scope of the second interest, and in the end the two groups are in the corridor of social interests. According to Roscoe Pound, the law must play a role in balancing the interests that compete with each other in society in order to achieve the greatest profit (balancing of competing interest within the society for the greatest benefit). Another role of the state, namely as the "guardian of social interest." The state must maintain broader interests, namely as guardians of public order, security of social institutions, general morality, conservation of

resources, mutual progress, and the lives of other individuals outside the individual person of the investor who are all sheltered and become the support of social life (Shidarta, 2016).

Furthermore, in an interview with Petajuh Desa Adat Batur on February 17, 2022, it was mentioned that the interests of Batur Customary Village for hot spring tourism integrated with tourism, religious activities and hot springs as a place for treatment were accommodated by BKSDA Bali. In the arrangement of blocks and the design of natural tourism sites, Pura Tirta Toya Mas Bungkah is designated as a Religious, Cultural and Historical Block. While hot springs designated as Utilization Blocks (Business Spaces) are relevant to the Legal System Theory of Lawrence M. Friedman. According to Lawrence M. Friedman, the legal system consists of three elements, namely: the substance of the law, the structure of the law and the culture of law (Sudini, *et al*, 2022). The substance of the law is likened to what is done and what is produced by the machine, the legal structure is likened to the machine and the culture of the law as anything that decides or turns the machine on and off and decides how the machine is used (Sudini, *et al*, 2022).

The legal culture of the Batur people who maintain (maintain) Pura Tirta Toya Mas Bungkah has a tradition of breeding the lake, such as danu kertih (pakelem), mendak toya, until the pujawali cycle (traditional ceremony of Hindu people in Bali), traditionally the Batur people believe there are eleven tirtha (holy water) in the Batur Caldera area (Balipost, 2022). One of the eleven temples in question is Pura Tirta Toya Mas Bungkah which is located in the Batur Natural Hot Spring area. Pura as a sacred area is positioned upstream and hot springs are positioned downstream containing the value of local Balinese wisdom with the concept of upstream teben as the application of the Tri Mandala concept.

The community has a very large cultural concentration, should get protection in the area. The development and utilization of culture has not been structured and coordinated with processes and mechanisms that pay attention to society as the owner of the culture itself (Parwata & Wijaya, 2018). Traditional villages that maintain security and order, maintain harmony as a bastion of Balinese culture must be clearly positioned in the management of Balinese cultural tourism as a form of community empowerment to support Bali Cultural Tourism, both in management, tourism business, tourism attraction development, coaching and supervision (Parwata & Wijaya, 2018).

In the context of natural tourism integrated with the culture of the Batur people in TWA GBBP, BKSDA Bali with its officers as a legal structure has made policies that are in harmony with the legal culture of the Batur community. BKSDA Bali's policy aims to prevent conflicts within the legal system. Pura Tirta Toya Mas Bungkah is legally designated as a Religious, Cultural and Historical Block, utilized for religious, customary and cultural activities, protection of cultural values, or the history of the Batur people. While the hot spring located in the under (teben) is designated as a Utilization Block. In the design of natural tourism sites are designated as Business Spaces. BKSDA Bali has made a policy to adjust the function of the region so that there is no clash between the three legal systems.

Conclusion

The process of licensing the use of conservation forest areas in the development of natural tourism in Taman Wisata Alam Gunung Batur Bukit Payang is based on: (1) Inventory of regional potential, (2) Structuring the area into a management block, set on February 11, 2016, (3) Design of natural tourism sites on the utilization block, set on June 4, 2018, (4) Preparation of management plans incorporated in KPHK Kintamani and arranged into RPJP KPHK Kintamani set on April 15, 2019. Taman Wisata Alam Gunung Batur Bukit Payang is eligible for natural tourism business licensing in the form of IUPJWA/PB-PJWA and IUPSWA/PB-PSWA.

Model community-based natural tourism development in Taman Wisata Alam Gunung Batur Bukit Payang, namely: (1) Hot Spring Tourism (Batur Natural Hot Spring) developed by Batur Customary Village and accommodated through cooperation with PT. Tanaya Pesona Batur through IUPSWA commitment, (2) Camping Tourism developed by Pokdarwis Ampupu Kembar, (3) Mount Batur Climbing Tour developed by FP3GB through the provision of IUPJWA.

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