

Legal Protection of CBT Workers in Terms of Wages: A Case Study in Bedah Menoreh Pathway

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Abstract

One of the most vital industries with significant potential for development in Indonesia is the tourism industry. The current trend of the tourism industry development tends to lean towards Community-Based Tourism or CBT. Thus, the focus of this research is the legal protection of CBT workers, especially in terms of wages at *Bedah Menoreh* Pathway. This research aimed to collated and analyzed existing models of wages legal protection for CBT workers and compare them with Indonesian laws and regulations pertaining to *Bedah Menoreh* Tourism Supporting Path development. This research is empirical normative research. Analysis was conducted through systematizing and defining acquired data chronologically and on the basis of forms of legal protection as stated in laws and regulations. Based on the findings and analysis, several factors caused the absence of legal protection of CBT workers especially in term of wages. The researcher concludes that there must be a new pattern on wages regulation mechanism that will protect tourism workers relative to the condition of this unique CBT Attraction.

Keywords: Bedah Menoreh pathway, CBT worker, legal protection, wages.

INTRODUCTION

One of the most vital industries with significant potential for development in Indonesia is the tourism industry. The current trend of the tourism industry development tends to lean towards Community-Based Tourism or CBT. The development of tourism from the periphery, which is conducted by strengthening regions and villages, is the vision of the current government. One of the government's commitments was demonstrated by issuing Law number 6 of 2014 concerning villages which became a momentum for the revival of accelerated village development [1].

So far, development has been focused on cities. It causes rapid changes in rural areas such as migration flows to cities, the development of non-agricultural activities, labor scarcity and increases in agricultural wages, land conversion, land accumulation, and so on, which have positive and negative impacts on land tenure and relations. Employment in the agricultural sector has implications for increasing income, employment, and income distribution. The more limited agricultural land, while the workforce in rural areas continues to increase, then job opportunities outside the agricultural sector such as services, trade, and industry are becoming increasingly important as a source of income for rural households. For this reason, seeing this

phenomenon, the opportunity to develop the village is wide open.

In achieving the objectives of community-based tourism development, also to think about how to make the tourist attraction become a sustainable tourism area, we must consider the protection pattern of the local community. It starts with protection on wages in the tourist attractions area. Do not let the local community not benefit from the development of rural areas. The legal protection, especially regarding their right to work, is regulated per Article 19 paragraph (2) of Law number 10 of 2009 on Tourism [2]. In that article, it is stated that every person and/or community in and around tourist destinations has priority rights to become laborers or workers; participate in the management of tourist attractions.

The implementation of this legal protection, of course, when it is related to welfare, cannot be separated from the problem of wages. A good wage system will certainly create harmonious industrial relations in which each party performs its respective functions well. However, the problem occurs that wage protection in this location has not been implemented. One of the biggest reasons is the absence of underlying rules regarding wages in community-based tourism. The wage pattern that exists in community-based tourist attractions has not yet been regulated by law. When linked with Law No. 13 of 2003 Concerning Manpower [3] and Government Regulation No. 78 Concerning Manpower Wages [4], it turns out that these rules have not fully protected community-based workers, especially

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in the aspect of wages. If management is included in the protection of local workers and it is not based on strong basic rules, the community will be not interested, and in the future, they will be used by people who come from outside the community.

In connection with this problem, the researchers took the research location in Kulon Progo Regency in the Special Region of Yogyakarta. One of the programs that were carried out is the Bedah Menoreh area development program. In the area, there are several tourist attractions that are already running, such as the Sermo Reservoir Tourist Attraction, Kalibiru, Kiskendo Cave, Nglinggo Tea Plantation, and Puncak Suroloyo tourist attractions. All existing tourism attractions are implemented with a community-based tourism pattern. The development of the area is intended so that the existing tourism attraction is more advanced and developed.

However, before further development which can add more benefits, the planting of a strong foundation for the existing tourist attraction local workers, especially in the field of wages for their workers, is mandatory. When drawn more broadly, it means that the problem of wages for community-based tourism workers does not occur only in Kulon Progo but can occur throughout Indonesia. It is because the big plan from the central government will make this community-based tourism in at least 8000 villages in Indonesia.

This research will look at the extent of legal protection in the wage sector for community-based tourism workers. It should be following the theory above that this wage will follow marginal productivity. So that the fulfillment of wage protection in the concept of community-based tourism can be guaranteed because it can adjust to the situation and conditions of the location/place of business. But on the other hand, in the law, wages should be the right of workers who are paid according to a work agreement. So it is necessary to find the right pattern to protect these community-based workers. This research is expected to provide new scientific insights regarding the wage patterns mechanism for community-based tourism workers.

MATERIAL AND METHOD

The Neo-Classical theory states that workers earn wages equal to the increase in their marginal output. The wage here functions as a

reward for the work effort that a person gives to the entrepreneur. Wages are paid by employers following the work effort (productivity) provided by labor, meaning that in this theory, it can be seen that the Neo-Classical theory is based on the value-added principle of production factors, where the wage is a reward for the added value of production received by entrepreneurs from their employees.

Neo-Classical Theory considers that wages are flexible enough in the labor market so that the demand for labor is always balanced with the supply of labor, and there is no possibility of unemployment. It means everyone that is willing to work at that wage level will get the job. Basically, those who are unemployed are only those who are not willing to work at the prevailing wage rate. So they are voluntarily unemployed. However, in the definition of wages according to Article 1 of Law Number 13 of 2003 concerning Manpower, wages are workers' rights received and expressed in the form of money as compensation from employers or employers to workers who are determined and paid according to an employment agreement, agreement, or laws and regulations, including allowances for workers and their families for a job and/or service that has been or will be performed. These two legal theories will be used as the basis for researchers to analyze.

In accordance with the problems studied, this study is an empirical normative legal research. Normative legal research includes research on legal principles, legal systematics, and legal synchronization [5]. Secondary data is obtained through literature research in the form of laws and regulations on wages as stipulated in Law No. 13 of 2003 concerning Manpower and Government Regulation No. 78 of 2015 concerning Wages as well as books and articles on wages. Meanwhile, primary data is obtained through field research by visiting the tourist attraction. Methods of data collection using an In-Depth Interview and documentation study. Selection of respondents using a purposive sampling technique.

Data collection

The writer chooses a purposive sampling technique that determines considerations or criteria that must be met by the samples used in this study. The respondents in this research are firstly business actors (include owners of restaurants, restaurants, food stalls, guides, car rentals, motorcycle taxi drivers) and others

deemed necessary, as well as managers of tourism-conscious groups. The data were taken by observation and direct interview. Secondly, tourism workers affected by the Bedah Menoreh Pathway program. These workers are workers that work in tourist attractions, especially in community-based tourist attractions. The researchers also seek information by conducting interviews with sources. Resource persons are parties who are not directly involved in the problems raised and studied in the research but are considered competent and have knowledge or expertise related to the problems under study. The selected sources included elements of local government, community leaders, and observers of village tourism. Then the data obtained are analyzed using descriptive qualitative analysis.

By outlining the laws and regulations on wages that have been collected and linking them to the field data that has been obtained, then the systematization of the data is carried out. The data systemization is carried out according to a time sequence in the form of a certain periodization, namely when the concept of community-based tourist attraction is applied and what the ideal pattern should look like in the future.

RESULT AND DISCUSSION

CBT in Bedah Menoreh Pathways Program

Bedah Menoreh Pathways Program is one of the main programs for 2020, which is part of the Regional Medium-Term Development Plan (RPJMD) 2017-2022 in Kulon Progo. Bedah Menoreh Pathways connects Yogyakarta International Airport (YIA) with Borobudur. Bedah Menoreh existed before YIA, was intended to revive the economy in the Menoreh Hills area, which so far tends to be underdeveloped. Four sub-districts have undergone the Bedah Menoreh program. Starting from Kokap, Kalibawang, Girimulyo, and Samigaluh Districts, geographically, access is still lacking. Whereas in that location there is a lot of potentials, one of which is tourism potential. The district government does not want the area to be stagnant and undeveloped. Then they triggered to develop community-based tourism as a program that was deemed appropriate.

The current concept of community-based tourism is one of the alternatives to develop the tourism sector. In theory, community-based tourism development is an important and meaningful program, but what happens in the field, the situation and conditions are different.

Some conditions that occurred in the community are driving factors for the development of community-based tourism and some situations can even cause the loss of this tourist attraction. Concerning the problem that the author studied, the author tries to explore the factors that cause the absence of legal protection from this CBT worker. In this study, a worker is any person who works by receiving wages or other forms of remuneration. Workers are people who do not have business capital, what they have are energy and skills. Therefore, workers are often in a weak position when dealing with employers [6]. However, because of the limitations of the research, the conditions to be studied only cover the problem of wages.

Wages Problems

The wage problem also occurs in community-based tourist destinations (*Daerah Tujuan Wisata* - DTWs) that the author met in the field. There are still wages that are far from the applicable minimum wage. The minimum wage for Kulon Progo Regency in 2019 is IDR 1,613,200. However, the wages received by many workers are below the existing minimum wages.

Wages are one element of a very important employment relationship, the macro function of wages can be studied from a constitutional, social and economic perspective, while on micro level wages can function to improve worker welfare, attract and retain quality workers, prepare company budgets and increase productivity [7]. Based on an interview with the Sermo Reservoir Tourism Awareness Group in 2020, Mr. RS as the manager of the tourist attraction, explained a problem with wages that have been discussed with workers. The amount of wages is still below the Regency Minimum Wage (RMW) because the existing income increases only on weekends, so the daily income is uncertain. It was getting worse with the Pandemic Covid19 situation. The same thing also happened in Kiskendo Cave. The workers had not been paid according to the stipulations due to uncertain income and limited funds. However, in another case, it turned out that something was different in the Suroloyo area. Tourism revenue from tickets in Suroloyo is managed by the local government. Thus, the doorman is getting paid by the local government. Meanwhile, the Tourism Awareness Group is currently developing places to eat and parking areas, so the income is still modest.

The second problem is wages in some tourist attractions were considered too high from the RMW, without paying attention to the continuity of the work being done. According to the researchers' point of view, it is not a good thing because without clear standards, later when visitors start to decrease or there is no development of tourist attractions anymore, workers who were used to get high wages will experience social problems. For example, some workers in Kalibiru earn IDR 2 million per month, some IDR 3 million per month depending on their job. Besides, the Tourism Awareness Group also provides IDR 300 thousand per month per head of family around Kalibiru. Apart from that, the Nglingga Tea Garden is similar. Workers are paid by managers. Both parking fees and guides have exceeded the Regency Minimum Wage in Kulon Progo Regency. At this moment, the presence of donation or retribution from the tourist previously is mainly used for wages. However, if the wages regulation and system is already working then the previous donation or retribution by the tourist could be used as source of funding for conservation [8]. As a result of the Pandemic Covid19 in 2020, Kalibiru tourist attractions must cut off some of their workers' wages. Some of the workers are even being layoffs.

The last problem that the researcher found is the problem of not recognizing workers' benefits. According to Mr. TK from the Tourism Office, the average tourist attraction along Menoreh Hills was that the wages paid only once, possibly monthly, and could be according to a certain time. Usually, the wages received are in full, and there is no such thing as allowances.

The Legal Protection and Obstacles

The high level of the workforce and the lack of employment in Indonesia, and frequent layoffs in various companies have made people choose to work in the informal sector either as entrepreneurs or workers. It is getting worse because of the Pandemic, and until this research being done, the tourism situation is still uncertain. However, by starting to develop community-based tourism, it provides a glimmer of hope for prospective workers where they don't have to leave their area to work. It is enough for them to rely on what is owned by the local community to become an attraction that can increase capacity so that it will bring money for them.

However, it turned out that the existing wages were still not what was expected. In theory, statutory regulations are based on Government Regulation No. 78/2015 concerning wages, and with these regulations, it is hoped that it can overcome wage problems in Indonesia. However, it turns out that the reality in the field is the issuance of this statutory regulation itself raises many pros and cons among employers and workers. Of course, this becomes an obstacle in the development of this community-based tourist attraction. It is still contrary to the aims and objectives of legal protection. Legal protection purposes are protecting human rights that have been harmed by other people, and this protection is given to the community so that they can enjoy all the rights provided by law. In other words, legal protection is a variety of legal measures that must be provided by law enforcement officials to provide a sense of security, both physically and mentally, from disturbances and various threats from any party [9].

The obstacle from human resources is generally due to the low level of education of the workforce, especially since Kulon Progo Regency is included in the category of the population less educated. The second obstacle is the lack of willingness from its human resources. To make ends meet, workers will usually put aside the rights that should be obtained to get a full wage. The lack of knowledge of workers about laws and regulations that protect workers themselves also affect how they take a stand. On the other hand, they are required to meet the needs of their families, which often rely solely on them to support themselves.

The second obstacle comes from the party managing the tourist attraction itself. Until now, the manager has not paid much attention to matters that have an unfavorable effect on the manager and the sustainability of the tourist attraction itself. Managers must also be given the same understanding because they may also not know. It can be seen that managers usually tend not to discuss matters that are the rights of workers but are more inclined to demand the fulfillment of their obligations. For example, the workers right for health insurance and regular working hours.

The third inhibiting factor in the implementation of legal protection for community-based tourism attraction workers in Menoreh is institutional factors. In implementing legal protection for workers, a manager of a

tourist attraction indeed often does not escape the obstacles they experience. The institutional factor will inevitably become an obstacle if it is not seen and examined seriously because this requires thoroughness and overall agreement between communities. The findings from the research locations are that in 2018 alone, there has not been a strong legal entity that runs in each community-based tourist attraction.

Government Wage Policies

Funds are often becoming a problem in managing CBT attractions. This funding problem is a classic problem that all regions have experienced. First, it can be seen from the side that the income is still insufficient so that they were not able to meet the funding needs of the tourist attraction. Second, the existing funding system has not been implemented according to sound funding principles, so the results will remain minus.

On the other hand, the role of the government in developing community-based tourist attractions is very important. Strategies that can be done include strengthening the community around the destination. The role of communities in tourism development depends on the extent to which they have the opportunity and strength [10]. The government plays a role in ensuring that communities have access, control, opportunity, and strength in tourism development through regulation. Regulation is an attempt by the government that has the authority to regulate certain activities within its juridical area, which have an impact on increasing access, control, opportunity, and community strength. The government can impose certain rules that dictate other parties to support or implement government policies in community empowerment. Concerning the development of CBT, regulation is a tool for the government to ensure that tourism stakeholders continue to behave in the corridors of established tourism policies or comply with the provisions set by the government [11]. With the high role of the government, the sustainability and success of community-based tourism attractions should be more guaranteed, including the implementation of the wage concept.

One of the government wage policies that often creates conflicts in its determination is related to the determination of the Minimum Wage in the Provincial Minimum Wage; District/City Minimum Wages and Provincial Sectoral Minimum Wages and District Sectoral Minimum

Wages. The Minimum Wage Policy is a government instrument to improve worker welfare, which is not always in line with the primary objective of creating national welfares. Considering that the minimum wage in practical reality is often an obstacle for companies absorbing all the available labor force in the labor market [12].

Concerning wages for community-based tourism workers following the previous discussion, there are already legal regulations regarding the minimum wage. If there is a working relationship between community-based tourism attraction managers and workers, this Manpower Act applies. An employment relationship is a relationship between an entrepreneur and a worker/laborer based on a work agreement, which has elements of work, wages, and orders (Article 1 point 15 of the Manpower Law). If the relationship between a tourist destination entrepreneur and a worker is based on an agreement that promises a job description of the worker, the wages to be received, and an order from the employer, then there is indeed an employment relationship and is subject to the Manpower Act. In this law, entrepreneurs are prohibited from paying wages lower than the minimum wage, either the minimum wage based on the province or city district (Provincial Minimum Wage) or the minimum wage based on the sector in the province or district/city (Sectoral Minimum Wage). Such is what is regulated in Article 90 paragraph (1) jo. Article 89 paragraph (1) of the Labor Law [3].

However, based on the reality that occurs in the field, there are still some tourist attraction managers who have not been able to pay their workers' wages according to the applicable minimum wage regulations. Even though the lack of visitors or the absence of income at the DTW, which reduces the management's income, actually does not automatically become an excuse to deviate from the provision of the minimum wage. As long as the wages have been agreed in the work agreement, the manager is obliged to pay the workers' wages according to the minimum wage.

A New Wage Mechanism

So, according to the researcher, if you want to apply the principles of justice and benefit both for managers and for workers, of course, a new wage mechanism must be made for this community-based tourism worker. If this is

carried out according to the rules above, a lot of community-based tourism attraction managers will violate it. For this reason, things that can be done, for example, make a special sectoral minimum wage that is a *lex specialist*. Management of tourist attractions in a corporate manner is not a business that starts with large capital. Of course, this will be a problem for tourist attractions that still cannot be independent. So, if it can be reviewed, the determination of Decent Living Needs for community-based tourism workers is different from workers in general. So that, for example, the transport component does not exist, then they work in their home area so that the rental transport component was not needed. Thus, a more in-depth study was needed for these community-based workers for a decent life. As an application of the challenges ahead, the current era of technology, the legal protection for community-based tourism workers can also adopt the technology by creating a system of working relations between employers and workers. The system is supervised and monitored by the government so that the implementation witnesses for those who violate can be more assertive and effective.

This system is an online system where companies, workers, and the government can access it. If the worker gets a job, the company is obliged to register in the system. Workers and the government can also monitor this worker's registration. The advantage of this system is that what happens on the ground when there is a violation, the government can immediately take action. On the worker's side, they can monitor what is right so that they can carry out their work optimally. From the entrepreneur's side, it is easier because legally, if they have filled in and done what should have been stated in the system, they have also done what is ordered by laws and regulations.

CONCLUSION

The legal protection for tourism-based communication workers at the research location, especially in the wage sector at the research location, is still very minimal and has not been implemented following statutory regulations. It is evidenced by the discovery of data on factors that hinder the implementation of wage protection for community-based tourism workers both at the research location.

Analysis of external factors found that laws and regulations do not explicitly regulate wages

for CBT workers. Furthermore, in terms of internal factors, the current wage system is not in accordance with Government Regulation 78/2015. Some wages are indeed above the district minimum wage, and some are not following the applicable minimum wage due to knowledge and management factors that have not gone well.

It is strongly suggested that wage protection for community-based tourism workers needs a regulation pattern that answer all existing problems. The pattern that is expected to be a solution to the problem is first; the pattern must be made in a separate indicator that can later determine the number of wages for community-based tourism workers. Second, if the amount has been determined, a control system must be made that can be accessed by workers, employers, and the government, so that violations can be minimized and easier to monitor. The pattern compiled by the author must be based on a form of a legal rule so that it can become a strong basis for community-based tourism entrepreneurs.

Wage regulations that will be made must be sectoral separately for these community-based tourism workers. The new framework must be drawn up taking into account the customs, community proposals, the results of village deliberations and situations and conditions. The indicators in the village/community are different from the indicators for formal employment in general. It is also to assure that juridically, in the employment law, the position of employers and workers is equal.

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