

## Original Article

# The Rights of Indigenous Peoples in the Development of Tourism Destinations: A Human Rights Perspective

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## Abstract

*Indigenous peoples are the ones most capable of determining whether a culture changes. Whether these communities can maintain their customs and traditions in an increasingly modern era will determine if that culture continues to survive. Despite this, in practice, Indigenous peoples are often treated as objects of tourism rather than as subjects or main actors. To address this challenge, an approach that respects participation and collective rights is needed to help Indigenous communities become successful participants in tourism. This research uses a normative legal method to explore possible solutions. Furthermore, tourism development must be grounded in a strong legal foundation, such as Law No. 39 of 1999 on Human Rights, Article 18B, paragraph (2), of the 1945 Constitution, and international principles such as UNDRIP, to protect the rights of Indigenous peoples. With these legal protections and if implemented properly, tourism can serve as a tool for empowerment and cultural preservation through harmonized regulations, meaningful participation, and the active role of Indigenous communities.*

**Keywords:** Development of Tourism; Human Rights; Indigenous Peoples;

## Introduction

Indonesia is a nation rich in cultural values, as reflected in the diversity of its people. Among these are Indigenous Peoples, who are spread across Indonesia's 34 provinces. Approximately 70 million individuals in Indonesia are identified as members of Indigenous communities, inhabiting customary territories covering an estimated 10.86 million hectares as of 2018.<sup>1</sup> However, the sheer number of Indigenous Peoples and the vast area of their customary territories do not guarantee the protection of their rights or their well-being. Indigenous Peoples have existed long before Indonesia attained its independence.<sup>2</sup> Their existence is recognized and guaranteed by the Constitution. Ironically, despite this constitutional recognition, Indigenous Peoples and their customary territories remain inadequately protected. In practice, Indigenous communities are highly vulnerable to criminalization and acts of violence, particularly in the face of development and investment projects.<sup>3</sup>

Indigenous Peoples are the primary determinants of whether a culture undergoes transformation or remains preserved. When Indigenous communities uphold their customary traditions amid increasing modernization, their cultural identity can be sustained. Conversely, if they are swept along by the tide of modernization without regard for their own continuity, cultural erosion becomes

<sup>1</sup> Bambang Dwi Waluyo, 'Masyarakat Adat Dalam Konsepsi Hak Asasi Manusia Di Indonesia Yang Stagnan', *Interdependence Journal of International Studies*, 4.2 (2025), 68–77 <<https://doi.org/10.54144/ijis.v4i2.63>>.

<sup>2</sup> Laurence L Delina and others, 'Are Capital Assets under Pressure? The State of and Challenges to Indigenous Rice Farming in the Cultural Ricescapes of Indonesia and the Philippines', *Journal of Rural Studies*, 106 (2024), 103235 <<https://doi.org/https://doi.org/10.1016/j.jrurstud.2024.103235>>.

<sup>3</sup> Hannah McKeeman, Susan Houge Mackenzie and Brent Lovelock, 'Fostering Community Wellbeing via Regenerative Destination Planning: An Aotearoa New Zealand Case Study', *Journal of Destination Marketing & Management*, 39 (2026), 101057 <<https://doi.org/https://doi.org/10.1016/j.jdmm.2025.101057>>.



inevitable.<sup>4</sup> At the same time, the government holds primary authority to determine the mechanisms for ensuring cultural preservation for future generations. Traditional culture will gradually disappear if the shift toward modern culture occurs without deliberate protection. Customs and cultural practices are inherited from ancestors and must be safeguarded, particularly in areas such as traditional ceremonies, attire, architectural styles, social structures, livelihoods, and religious traditions. In establishing such customs as traditions, the ancestors or elders carefully considered the positive and negative implications, codifying them into values and norms that evolved into customary law (*bukum adat*), which serves as a guide for communal life. The rich cultural heritage of Indigenous Peoples also constitutes a valuable asset in the field of tourism.<sup>5</sup>

It is an established fact on the ground that the tourism sector constitutes the second-largest source of foreign exchange earnings in Indonesia and is expected to significantly contribute to the State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara*/State Budget). In 2013, the tourism sector contributed USD 602 million, equivalent to 1.45% of total national investment. By the first semester of 2017, this figure had increased to USD 929 million, or 3.67% of total national investment.<sup>6</sup> The Government set a target of attracting 20 million international tourists and 275 million domestic tourists annually by the year 2019. Furthermore, the tourism sector was projected to generate foreign-exchange earnings of IDR 260 trillion. Tourism has increasingly become a strategic sector acknowledged by many countries, both developed and developing, as a critical contributor to economic growth. Indonesia, with its vast territory, abundant natural resources, and rich cultural diversity, holds significant potential to develop and capitalize on these assets. Among these resources, tourism is considered one of the most viable sectors for effective management and optimization for national development.<sup>7</sup>

Tourism is a promising sector for Indonesia. The tourism industry has the potential to positively impact various aspects of society.<sup>8</sup> While the negative impacts of tourism cannot be denied, stakeholders are obligated to play an active role in maximizing its positive effects while minimizing the adverse ones. By optimizing its benefits, tourism can indeed serve the broader public. The positive impacts of tourism are not limited to economic growth; they also include the preservation of cultural values and traditions. The tourism sector can contribute to addressing critical socio-economic issues such as poverty alleviation and unemployment reduction. Indonesian society at large, and particularly communities residing near Tourist Destination Areas (TDAs), stand to benefit significantly from tourism development and expansion. Tourism stimulates the economy and can improve community welfare by creating employment opportunities, expanding entrepreneurial ventures, and increasing revenue streams for both the public and the state, especially for regional governments. Nevertheless, the sector also carries potential negative impacts, including shifts in cultural values, excessive commercialization of cultural heritage, environmental degradation, and social issues such as rising living costs, as has occurred in several regions.<sup>9</sup>

In recent times, there has been a recurring phenomenon in which the development of tourism destinations excludes Indigenous Peoples from meaningful and equitable participation. This often occurs because corporations or government entities focus disproportionately on economic growth and infrastructure development, while neglecting local wisdom and the rights of Indigenous

<sup>4</sup> Xiaoyuan Tan and others, 'Residents' Involvement in Disaster Tourism as a Practice: The Case of an Islam Destination, Aceh', *Annals of Tourism Research*, 96 (2022), 103467 <<https://doi.org/https://doi.org/10.1016/j.annals.2022.103467>>.

<sup>5</sup> Ilisapeci Matatolu, 'A Critical Examination of Indigenous People, Tourism and Quality of Life', *Journal of Heritage Tourism*, 15.3 (2020), 267–78 <<https://doi.org/10.1080/1743873X.2019.1597101>>.

<sup>6</sup> Helmi Helmi and others, 'Chapter 18 - Indigenous People in the Dynamics of Land Use Changes, Forest Fires, and Haze in Riau Province, Indonesia', in *Natural Resource Governance in Asia*, ed. by Raza Ullah and others (Elsevier, 2021), pp. 291–308 <<https://doi.org/https://doi.org/10.1016/B978-0-323-85729-1.00023-2>>.

<sup>7</sup> Agus Sugiarto and others, *Pengantar & Teori: Destinasi Parwisata* (PENERBIT CV. EUREKA MEDIA AKSARA, 2023).

<sup>8</sup> Ery Atmodjo, Machiel Lamers and Arthur Mol, 'Financing Marine Conservation Tourism: Governing Entrance Fees in Raja Ampat, Indonesia', *Marine Policy*, 78 (2017), 181–88 <<https://doi.org/https://doi.org/10.1016/j.marpol.2017.01.023>>.

<sup>9</sup> Faizah Khotimatul Husna, 'Analisis Dampak Sektor Pariwisata Bagi Perekonomian Warga Sekitar Kawasan Wisata Sibarlar Polanharjo Kabupaten Klaten', *Journal of Economics Research and Policy Studies*, 2.2 (2022), 104–117 <<https://doi.org/10.53088/jerps.v2i2.577>>.



communities. Such exclusionary practices may give rise to conflict and produce adverse impacts on local culture and the environment, due to the lack of space for Indigenous Peoples to contribute to and benefit equally from the tourism potential within their ancestral territories. For example, the cultural heritage of the Balinese Indigenous community constitutes a major economic asset for the tourism industry. Unfortunately, the Balinese community has been relatively unable to enjoy the resulting economic benefits. The government and tourism industry operators remain the primary beneficiaries. The lack of involvement of Indigenous communities in tourism planning, decision-making, and management processes has led to their exclusion from fair economic gains. In many cases, this has resulted in cultural exploitation, the loss of customary (*ulayat*) land, and increasing pressure on local values and traditions. This situation underscores the urgent need for a tourism development approach that is more inclusive, equitable, and community-based, ensuring that Indigenous Peoples are not merely treated as objects of tourism but are recognized and empowered as key stakeholders and rights-holders in the pursuit of sustainable tourism development.<sup>10</sup>

In many cases, private investors and the government are the primary beneficiaries of the tourism industry. Both domestic and foreign private investors generate significant profits from ownership of hotels, resorts, and other tourism facilities, while the government benefits from taxes, levies, and foreign-exchange inflows. In contrast, Indigenous Peoples residing near tourist destinations often receive minimal benefits and, in many instances, are subjected to negative consequences such as displacement, environmental degradation, and the commodification of their culture. This condition reflects a structural imbalance in how tourism benefits are distributed and managed. When Indigenous communities are excluded from the processes of planning, decision-making, and destination management, they effectively lose control over their own living spaces and cultural heritage. In such circumstances, tourism tends to function as an economic instrument that serves the interests of oligarchs and political elites, while marginalizing Indigenous Peoples, who are the legitimate custodians of the cultural and natural wealth that forms the foundation of the tourism sector.<sup>11</sup>

Legally, Indigenous Peoples possess rights that are guaranteed under various national and international legal instruments. Article 6 of Law No. 39 of 1999 concerning Human Rights (the Human Rights Law) stipulates that “in the enforcement of human rights, the differences and needs of Indigenous legal communities must be respected and protected by law, society, and the government.” This encompasses rights to land, cultural rights, and the right to obtain economic benefits from the resources within their customary territories, including from tourism activities. Furthermore, the preamble and objectives of Law No. 10 of 2009 concerning Tourism state that tourism development is directed “to encourage equitable business opportunities and benefit-sharing” among various parties, including communities surrounding tourist destinations. Although this law does not explicitly mention “Indigenous Peoples” or “economic benefits from tourism,” the phrase “benefit-sharing” can serve as a legal basis for arguing that local communities (including Indigenous Peoples) have the right to participate in the benefits derived from tourism activities.<sup>12</sup>

Nevertheless, the facts on the ground reveal a stark disparity. Indigenous Peoples receive only a small portion, or in some cases none at all, of the economic benefits derived from tourism, while investors and the government obtain the majority of the profits.<sup>13</sup> Many Indigenous communities reside within their customary territories but remain excluded from the planning and management of tourist destinations. In some instances, the development of tourism facilities has resulted in the displacement of Indigenous Peoples or the restriction of access to their traditional lands. Moreover, Article 18B paragraph (2) of the 1945 Constitution (*Undang-Undang Dasar 1945*), though not an ordinary law but the highest legal basis in the country, provides that: “The State acknowledges and

<sup>10</sup> Indah Permatasari, ‘Peran Model Pengembangan Pariwisata Berbasis Masyarakat (Community Based Tourism) Dalam Mewujudkan Pariwisata Berkelanjutan (Sustainable Tourism) Di Bali’, *KERTHA WITAKSANA*, 16 (2022), 164–71 <<https://doi.org/10.22225/kw.16.2.2022.164-171>>.

<sup>11</sup> Waluyo.

<sup>12</sup> M K A Baleva, *Regaining Paradise Lost: Indigenous Land Rights and Tourism: Using the UNGPs on Business and Human Rights in Mainstreaming Indigenous Land Rights in the Tourism Industry*, International Studies in Human Rights (Brill, 2018) <<https://books.google.co.id/books?id=-dJ7DwAAQBAJ>>.

<sup>13</sup> Xianyang Hu, Jie Chen and Songshan (Sam) Huang, ‘Dynamic Knowledge Practices in Tourism Village Development: An Activity Theory Perspective’, *Tourism Management*, 113 (2026), 105316 <<https://doi.org/https://doi.org/10.1016/j.tourman.2025.105316>>.



respects the unity of Indigenous legal communities and their traditional rights insofar as they remain alive and are in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.” This constitutional recognition strengthens the State’s obligation to respect the traditional rights of Indigenous Peoples. Based on the foregoing background, the research problem formulation is: Has tourism development taken into account human rights principles, particularly with regard to Indigenous Peoples?<sup>14</sup>

## Method

This study employs a normative legal research method, which views law from an internal perspective with its object being legal norms. The purpose of normative legal research is to provide juridical arguments in cases of legal vacuum, ambiguity, or conflict of norms.<sup>15</sup> Normative legal research is a common type of study in the development of legal science, which in the West is often referred to as Legal Dogmatics (*Rechtsdogmatiek*). This research examines norms related to the rights of indigenous peoples in the development of tourism destinations: a human rights perspective.<sup>16</sup>

## Results and Discussions

Indigenous community-based tourism is a type of tourism that incorporates community participation as a key element to achieve the goals of sustainable tourism development. Indigenous peoples play a vital role in the tourism sector, particularly in cultural tourism. The Indigenous communities serve as a major attraction in the development of tourism destinations due to their unique traditions, local values, and environmental awareness.<sup>17</sup> However, their role is often limited to presenting attractions to tourists rather than actively managing or benefiting from tourism activities. Therefore, to create fair, sustainable, and community-based tourism, it is essential to transform the role of indigenous peoples from mere objects to active subjects and actors in tourism. In such a context, indigenous communities can serve as custodians of traditional values while also actively participating in tourism management. This may include activities such as providing homestay services, offering local guide services, producing handicrafts, and collectively managing tourism destinations through a community-based approach. To achieve fair, inclusive, and sustainable tourism, it is crucial to enhance indigenous peoples' role as active participants in the tourism industry.<sup>18</sup>

Tourism is a journey undertaken by an individual or a group from one place to another with the purpose of spending time and seeking enjoyment at the destination.<sup>19</sup> While tourism is considered a form of export, the commodities being exported do not move, making the tourism sector unique in character. Tourism heavily depends on a destination's image, which includes factors such as politics, security, health, cleanliness, and human rights. These elements are among the key attractions for tourists. Tourism has existed since the early days of human civilization, but it did not develop as an economic sector until the early 19th century. One of the advantages of the tourism industry lies in its historical growth trend, which continues to rise even when trade in other commodities stagnates.<sup>20</sup>

One of the core principles of tourism administration is empowering local communities. This is regulated under Article 5 of Law Number 10 of 2009 concerning Tourism. The elucidation of this

<sup>14</sup> Matatolu.

<sup>15</sup> S.H.M.S. Prof. Dr. I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media, 2016) <<https://books.google.co.id/books?id=-MpADwAAQBAJ>>.

<sup>16</sup> S Irianto, *Metode Penelitian Hukum: Konstelasi Dan Refleksi* (Yayasan Pustaka Obor Indonesia, 2011) <<https://books.google.co.id/books?id=ajOnEAAAQBAJ>>.

<sup>17</sup> Irfan Sabarilah Hasim and others, ‘The Birth and Demise of a Village within the Vernacular Community of Baduy in Banten, Indonesia’, *Frontiers of Architectural Research*, 14.1 (2025), 127–44 <<https://doi.org/https://doi.org/10.1016/j.foar.2024.07.011>>.

<sup>18</sup> Andri Estining Sejati and others, ‘The Madurese Tribe’s Indigenous Knowledge in Environmental Preservation on Gili Ketapang Island, Indonesia’, *Asian Journal of Social Science*, 54.1 (2026), 100239 <<https://doi.org/https://doi.org/10.1016/j.ajss.2026.100239>>.

<sup>19</sup> Waluyo.

<sup>20</sup> Dony Martinus Sihotang and others, ‘Village Information Systems as E-Collaboration Media That Support Sustainable Tourism Based on Local Wisdom: An Ecosystem Perspective’, *Journal of Systems and Information Technology*, 28.1 (2025), 145–70 <<https://doi.org/https://doi.org/10.1108/JSIT-03-2025-0104>>.



Law further explains that the term "local community" refers to people residing within the tourism destination area and are to be prioritized in receiving benefits from tourism activities conducted in that area.<sup>21</sup> The tourism industry attracts tourists to visit tourist sites. As the number of visitors to a destination increases, there is an indirect impact on the welfare of the communities surrounding the site. The development of tourism has various impacts, including increased regional income, improvements to the local economy, and both positive and negative social effects. Natural resources can be utilized and managed to benefit Indonesia, particularly by increasing the country's foreign exchange earnings.<sup>22</sup>

Empowerment emerged as an alternative development concept, as stated by Friedmann in Wrihatnolo and Riant.<sup>23</sup> This concept emphasizes the autonomy of decision-making within a community group, which relies on personal resources, participation, democratic processes, and social learning through direct experience. The concept of community empowerment encompasses the notion of *community development* and *community-based development*, and in its subsequent evolution, the term *community-driven development* emerged, referring to development directed or driven by the community itself. Thus, this empowerment approach directly links to the policy, economic, and social aspects explored in earlier paragraphs. Empowerment, as an alternative development approach, fundamentally emphasizes the autonomy of decision-making by a group within society, grounded in the utilization of personal resources, active participation, democratic values, and direct social learning through experience.<sup>24</sup>

Indigenous communities are too often positioned as objects, not actors, in tourism. Supporting their leadership in tourism requires participation and respect for collective rights.<sup>25</sup> Community-Based Tourism (CBT) achieves this by making local communities the primary owners, managers, and beneficiaries. Additionally, Free, Prior, and Informed Consent (FPIC) must guide all policies and initiatives on indigenous territories, ensuring voluntary and uncoerced approval of external interventions. Examples such as *Wae Rebo Village* and *Penglipuran Village* show how indigenous management of tourism protects heritage and boosts economies. Ultimately, recognizing and empowering indigenous peoples as tourism actors is not only beneficial but also essential for a just and sustainable tourism system grounded in social justice.<sup>26</sup>

Law Number 39 of 1999 on Human Rights provides a strong legal foundation for the protection of the rights of indigenous peoples across various aspects of life, including tourism development. Article 6, paragraph (1) states:

*"In the enforcement of human rights, the differences and needs of traditional law communities must be taken into consideration and protected by law, society, and the Government."*

To truly respect the rights of indigenous peoples, governments and stakeholders must guarantee their continuous, active involvement in the creation, execution, and evaluation of tourism initiatives.<sup>27</sup> This means integrating indigenous voices and priorities into every stage of the policy process. According to the Indigenous Peoples Alliance of the Archipelago (AMAN), indigenous communities are defined by deep-rooted connections to traditional lands and distinct cultural systems, making their participation essential for balanced tourism development.<sup>28</sup>

Indigenous peoples must be positioned as subjects or primary actors, rather than merely as objects, in the development of human rights-based tourism. This aligns with the rights-based

<sup>21</sup> Sugiarto and others.

<sup>22</sup> Blanca A Camargo, Anke Winchenbach and Mario Vázquez-Maguirre, 'Restoring the Dignity of Indigenous People: Perspectives on Tourism Employment', *Tourism Management Perspectives*, 41 (2022), 100946 <<https://doi.org/https://doi.org/10.1016/j.tmp.2022.100946>>.

<sup>23</sup> Permatasari.

<sup>24</sup> Hu, Chen and Huang.

<sup>25</sup> Outi Rantala and others, 'A Review of Research into Arctic Tourism', *Annals of Tourism Research*, 115 (2025), 104031 <<https://doi.org/https://doi.org/10.1016/j.annals.2025.104031>>.

<sup>26</sup> McKeeman, Houge Mackenzie and Lovelock.

<sup>27</sup> Mira Maharani, 'Pariwisata Inklusif Dalam Pemajuan HAM', *Warta Parivisata*, 21.1 (2023), 7–10 <<https://doi.org/10.5614/wpar.2023.21.1.02>>.

<sup>28</sup> Ringkar Situmorang, Teddy Trilaksono and Arnold Japutra, 'Friend or Foe? The Complex Relationship between Indigenous People and Policymakers Regarding Rural Tourism in Indonesia', *Journal of Hospitality and Tourism Management*, 39 (2019), 20–29 <<https://doi.org/https://doi.org/10.1016/j.jhtm.2019.02.001>>.



development approach, which mandates that all development activities prioritize non-discrimination, participation, accountability, and respect for human rights laws and norms. The principle of *Free, Prior, and Informed Consent* (FPIC) is essential to protect the rights of indigenous peoples to accept or reject tourism plans that may impact their lives. Fundamentally, the objective of tourism planning is to optimize tourism destinations while minimizing the negative impacts arising from tourism development. Furthermore, tourism development must be carried out consistently to improve the welfare and well-being of local communities, enhance environmental quality, and preserve local cultural heritage.<sup>29</sup>

Human rights (HAM) are inherent rights attached to every human being from birth, valid throughout life, and cannot be taken away by anyone.<sup>30</sup> Human rights are universal. Every individual possesses equal rights that are inherently tied to the essence and existence of being human. At the national level, in Indonesia, Law No. 39 of 1999 on Human Rights defines human rights as "a set of rights inherent in the nature and existence of human beings as creations of the Almighty God, which must be respected, upheld, and protected by the state, law, government, and every person for the sake of dignity and the protection of human worth and dignity. "Human rights are the rights possessed by individuals simply by virtue of being human. Humanity possesses these rights not because they are granted by society or positive law, but solely based on the inherent dignity of being human."<sup>31</sup>

Indigenous communities contribute significantly to tourism, yet local governments and large corporations capture most of the economic benefits through taxes and levies. Meanwhile, indigenous peoples lose access to land, resources, and cultural values as customary lands are turned into tourist destinations with little community involvement. Instead, local communities are marginalized as informal laborers or small-scale service providers with unstable livelihoods.<sup>32</sup>

This phenomenon indicates that the governance of tourism contains structural flaws that disadvantage local communities, who are the rightful owners of cultural and environmental heritage.<sup>33</sup> However, customary law communities (indigenous peoples) have the right to the protection of their culture and customary lands (*tanah ulayat*), as stipulated in Law Number 39 of 1999 concerning Human Rights. Furthermore, the state bears the responsibility to ensure that development, including in the tourism sector, does not violate people's rights to a decent standard of living, participation, and economic justice. Tourism often results in inequality and the violation of local communities' rights, particularly when there is no mechanism to guarantee their participation, recognition, and fair distribution of benefits. Therefore, the tourism paradigm must shift from a purely investment-driven model to a community-based *tourism model*, placing local communities as the primary actors and principal beneficiaries.<sup>34</sup>

Therefore, Law No. 39 of 1999 states that indigenous peoples have special rights that must be protected during the development process, including in the tourism sector. Indigenous communities can rely on this legal basis to demand justice, participation, and protection in advancing tourism in their regions. Accordingly, tourism development that respects the rights of indigenous peoples is the

<sup>29</sup> Regina Scheyvens and others, 'Indigenous Tourism and the Sustainable Development Goals', *Annals of Tourism Research*, 90 (2021), 103260 <<https://doi.org/https://doi.org/10.1016/j.annals.2021.103260>>.

<sup>30</sup> Daminda Sumanapala and Isabelle D Wolf, 'A Wellbeing Perspective of Indigenous Tourism in Sri Lanka', *Annals of Tourism Research Empirical Insights*, 4.2 (2023), 100099 <<https://doi.org/https://doi.org/10.1016/j.annale.2023.100099>>.

<sup>31</sup> Lengengman Rovaniyaw and Yu-Shu Peng, 'Working Holiday Makers and Sustainable Indigenous Tourism: A Motivational Typology Approach', *Journal of Outdoor Recreation and Tourism*, 52 (2025), 100954 <<https://doi.org/https://doi.org/10.1016/j.jort.2025.100954>>.

<sup>32</sup> Natalie L B Knowles and Daniel Scott, 'Advancing Ski Tourism Transformations to Climate Change: A Multi-Stakeholder Participatory Approach in Diverse Canadian Destinations', *Annals of Tourism Research Empirical Insights*, 5.2 (2024), 100139 <<https://doi.org/https://doi.org/10.1016/j.annale.2024.100139>>.

<sup>33</sup> Jessica Mei Pung, Susan Houge Mackenzie and Brent Lovelock, 'Regenerative Tourism: Perceptions and Insights from Tourism Destination Planners in Aotearoa New Zealand', *Journal of Destination Marketing & Management*, 32 (2024), 100874 <<https://doi.org/https://doi.org/10.1016/j.jdmm.2024.100874>>.

<sup>34</sup> Ana Isabel Polo-Peña and others, 'The Moderating Effect of Tourism Type on the Co-Creation of a "Slow Destination" Image and on Tourist Well-Being', *Journal of Hospitality and Tourism Insights*, 8.11 (2025), 294–314 <<https://doi.org/https://doi.org/10.1108/JHTI-02-2025-0271>>.



state's obligation and a demonstration of its commitment to social justice and sustainability. Law No. 10 of 2009 on Tourism regulates the rights of indigenous peoples more specifically than Law No. 39 of 1999 on Human Rights. Article 5, letter (g), of the Tourism Law affirms the principles of justice and local community involvement, stating that the tourism administration must “provide benefits for the welfare of the people.” Furthermore, Article 26 grants communities, including indigenous peoples, the authority to participate in tourism businesses and manage tourist attractions. However, the Tourism Law does not explicitly mention “indigenous peoples” as a group entitled to additional protections under the Human Rights Law, thereby allowing for a narrower interpretation of the collective rights of indigenous communities.<sup>35</sup> Consequently, the Human Rights Law and the 1945 Constitution become essential legal foundations that strengthen the position of indigenous peoples within the tourism sector. Article 18B paragraph (2) of the 1945 Constitution stipulates that: “The state recognizes and respects the unity of customary law communities and their traditional rights as long as they still exist and are in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.” This clause clarifies that the state is not only permitted but obliged to provide legal and political protection to indigenous peoples, including when tourism activities enter their territories.<sup>36</sup>

Tourism activities are intended not only to increase foreign-exchange revenue for the central government but also to develop the local community's economy, thereby improving the welfare of local residents without neglecting their human rights. This foundation is detailed in the provisions concerning rights and obligations.<sup>37</sup> The Tourism Law regulates four types of rights: the rights of all individuals, local residents, tourists, and tourism entrepreneurs. Regarding obligations, the law governs the duties of the state/government, the duties of every individual, the duties of tourists, and the duties of tourism businesses.<sup>38</sup>

## Conclusion

Based on the above background, it can be concluded that a strong legal foundation to ensure that tourism development does not violate the rights of indigenous peoples is provided by Law No. 39 of 1999 on Human Rights, Article 18B paragraph (2) of the 1945 Constitution, and international principles such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In the tourism development process, the state's role is crucial to ensure that rights to cultural identity, customary land (*tanah ulayat*), participation, and economic benefits are not neglected. Tourism development will not only enhance the economy but also serve as a tool for empowerment and cultural preservation by strengthening regulatory harmonization, creating effective participation mechanisms, and positioning indigenous peoples as the primary actors in tourism. A recommendation from this study is that the government needs to strengthen the recognition and legal protection of indigenous peoples' rights. Active involvement of indigenous communities in every stage of tourism destination development must become a fundamental principle.

## References

Atmodjo, Ery, Machiel Lamers and Arthur Mol, ‘Financing Marine Conservation Tourism: Governing Entrance Fees in Raja Ampat, Indonesia’, *Marine Policy*, 78 (2017), 181–88 <<https://doi.org/https://doi.org/10.1016/j.marpol.2017.01.023>>

<sup>35</sup> Mohd Hafiz Hanafiah and others, ‘Reframing Indigenous Tourism Entrepreneurial Personality, Experience, Sense of Community and Challenges in Community-Based Tourism-Related Business’, *Journal of Enterprising Communities: People and Places in the Global Economy*, 18.2 (2023), 327–46 <<https://doi.org/https://doi.org/10.1108/JEC-09-2022-0131>>.

<sup>36</sup> Ganghua Chen and others, ‘Identifying and Measuring Destination Attributes Contributing to Cultural Tourism Experience’, *Tourism Management Perspectives*, 60 (2026), 101444 <<https://doi.org/https://doi.org/10.1016/j.tmp.2025.101444>>.

<sup>37</sup> Juliana Porsani and others, ‘Expressing and Enacting Decoloniality through Indigenous Tourism: Experiences from the Pataxó Jaqueira Reserve in Brazil’, *Social Sciences & Humanities Open*, 9 (2024), 100859 <<https://doi.org/https://doi.org/10.1016/j.ssaho.2024.100859>>.

<sup>38</sup> Tuyen Dai Quang and others, ‘Can Tourism Enhance Inclusivity for Indigenous Peoples? Cham Perspectives on Tourism Benefit Sharing at Living Heritage Sites in Vietnam’, *Equality, Diversity and Inclusion: An International Journal*, 43.6 (2023), 959–84 <<https://doi.org/https://doi.org/10.1108/EDI-08-2022-0243>>.



- Baleva, M K A, *Regaining Paradise Lost: Indigenous Land Rights and Tourism: Using the UNGPs on Business and Human Rights in Mainstreaming Indigenous Land Rights in the Tourism Industry*, *International Studies in Human Rights* (Brill, 2018) <<https://books.google.co.id/books?id=dj7DwAAQBAJ>>
- Camargo, Blanca A, Anke Winchenbach and Mario Vázquez-Maguirre, 'Restoring the Dignity of Indigenous People: Perspectives on Tourism Employment', *Tourism Management Perspectives*, 41 (2022), 100946 <<https://doi.org/https://doi.org/10.1016/j.tmp.2022.100946>>
- Chen, Ganghua, Shengdong Hong, Zongkun Guo and Songshan Huang, 'Identifying and Measuring Destination Attributes Contributing to Cultural Tourism Experience', *Tourism Management Perspectives*, 60 (2026), 101444 <<https://doi.org/https://doi.org/10.1016/j.tmp.2025.101444>>
- Delina, Laurence L, Ivey Fuerzas, Wiwik Dharmiasih, Michele Jaymalin Dulay and Albert Salamanca, 'Are Capital Assets under Pressure? The State of and Challenges to Indigenous Rice Farming in the Cultural Ricescapes of Indonesia and the Philippines', *Journal of Rural Studies*, 106 (2024), 103235 <<https://doi.org/https://doi.org/10.1016/j.jrurstud.2024.103235>>
- Hanafiah, Mohd Hafiz, Norol Hamiza Zamzuri, Tengku Intan Suzila Tengku Sharif and Bung-on Chartrungruang, 'Reframing Indigenous Tourism Entrepreneurial Personality, Experience, Sense of Community and Challenges in Community-Based Tourism-Related Business', *Journal of Enterprising Communities: People and Places in the Global Economy*, 18 (2023), 327–46 <<https://doi.org/https://doi.org/10.1108/JEC-09-2022-0131>>
- Hasim, Irfan Sabarilah, Indah Widiastuti, Budi Faisal and Iwan Sudradjat, 'The Birth and Demise of a Village within the Vernacular Community of Baduy in Banten, Indonesia', *Frontiers of Architectural Research*, 14 (2025), 127–44 <<https://doi.org/https://doi.org/10.1016/j.foar.2024.07.011>>
- Helmi, Helmi, Defriman Djafri, Cut Mutiani, Nurdin Abd Halim, Muhammad Badri and Yefni Yefni, 'Chapter 18 - Indigenous People in the Dynamics of Land Use Changes, Forest Fires, and Haze in Riau Province, Indonesia', in *Natural Resource Governance in Asia*, ed. by Raza Ullah, Shubhechchha Sharma, Makoto Inoue, Sobia Asghar, and Ganesh Shivakoti (Elsevier, 2021), pp. 291–308 <<https://doi.org/https://doi.org/10.1016/B978-0-323-85729-1.00023-2>>
- Hu, Xianyang, Jie Chen and Songshan (Sam) Huang, 'Dynamic Knowledge Practices in Tourism Village Development: An Activity Theory Perspective', *Tourism Management*, 113 (2026), 105316 <<https://doi.org/https://doi.org/10.1016/j.tourman.2025.105316>>
- Husna, Faizah Khotimatul, 'Analisis Dampak Sektor Pariwisata Bagi Perekonomian Warga Sekitar Kawasan Wisata Sibirak Polanharjo Kabupaten Klaten', *Journal of Economics Research and Policy Studies*, 2 (2022), 104–117 <<https://doi.org/10.53088/jerps.v2i2.577>>
- Irianto, S, *Metode Penelitian Hukum: Konstelasi Dan Refleksi* (Yayasan Pustaka Obor Indonesia, 2011) <<https://books.google.co.id/books?id=ajOnEAAAQBAJ>>
- Knowles, Natalie LB and Daniel Scott, 'Advancing Ski Tourism Transformations to Climate Change: A Multi-Stakeholder Participatory Approach in Diverse Canadian Destinations', *Annals of Tourism Research Empirical Insights*, 5 (2024), 100139 <<https://doi.org/https://doi.org/10.1016/j.annale.2024.100139>>
- Maharani, Mira, 'Pariwisata Inklusif Dalam Pemajuan HAM', *Warta Pariwisata*, 21 (2023), 7–10 <<https://doi.org/10.5614/wpar.2023.21.1.02>>
- Matatolu, Ilisapeci, 'A Critical Examination of Indigenous People, Tourism and Quality of Life', *Journal of Heritage Tourism*, 15 (2020), 267–78 <<https://doi.org/10.1080/1743873X.2019.1597101>>
- McKeeman, Hannah, Susan Houge Mackenzie and Brent Lovelock, 'Fostering Community Wellbeing via Regenerative Destination Planning: An Aotearoa New Zealand Case Study', *Journal of Destination Marketing & Management*, 39 (2026), 101057 <<https://doi.org/https://doi.org/10.1016/j.jdmm.2025.101057>>
- Permatasari, Indah, 'Peran Model Pengembangan Pariwisata Berbasis Masyarakat (Community Based Tourism) Dalam Mewujudkan Pariwisata Berkelanjutan (Sustainable Tourism) Di Bali', *KERTHA WICAKSANA*, 16 (2022), 164–71 <<https://doi.org/10.22225/kw.16.2.2022.164-171>>
- Polo-Peña, Ana Isabel, Francisco Peco-Torres, Dolores M Frías-Jamilena and Ángel L Coves-



Martínez, 'The Moderating Effect of Tourism Type on the Co-Creation of a "Slow Destination" Image and on Tourist Well-Being', *Journal of Hospitality and Tourism Insights*, 8 (2025), 294–314 <<https://doi.org/https://doi.org/10.1108/JHTI-02-2025-0271>>

Porsani, Juliana, Rickard Lalander, Kari Lehtilä, Suzane Lima Costa and Jocimar da Conceição Carvalho, 'Expressing and Enacting Decoloniality through Indigenous Tourism: Experiences from the Pataxó Jaqueira Reserve in Brazil', *Social Sciences & Humanities Open*, 9 (2024), 100859 <<https://doi.org/https://doi.org/10.1016/j.ssaho.2024.100859>>

Prof. Dr. I Made Pasek Diantha, S.H.M.S., *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media, 2016) <<https://books.google.co.id/books?id=-MpADwAAQBAJ>>

Pung, Jessica Mei, Susan Houge Mackenzie and Brent Lovelock, 'Regenerative Tourism: Perceptions and Insights from Tourism Destination Planners in Aotearoa New Zealand', *Journal of Destination Marketing & Management*, 32 (2024), 100874 <<https://doi.org/https://doi.org/10.1016/j.jdmm.2024.100874>>

Quang, Tuyen Dai, Vang Quang Dang, Tho Alang and Hoang Van Nguyen, 'Can Tourism Enhance Inclusivity for Indigenous Peoples? Cham Perspectives on Tourism Benefit Sharing at Living Heritage Sites in Vietnam', *Equality, Diversity and Inclusion: An International Journal*, 43 (2023), 959–84 <<https://doi.org/https://doi.org/10.1108/EDI-08-2022-0243>>

Rantala, Outi, Gunnar Thór Jóhannesson, Carina Ren and Kaarina Tervo-Kankare, 'A Review of Research into Arctic Tourism', *Annals of Tourism Research*, 115 (2025), 104031 <<https://doi.org/https://doi.org/10.1016/j.annals.2025.104031>>

Rovaniyaw, Lengengman and Yu-Shu Peng, 'Working Holiday Makers and Sustainable Indigenous Tourism: A Motivational Typology Approach', *Journal of Outdoor Recreation and Tourism*, 52 (2025), 100954 <<https://doi.org/https://doi.org/10.1016/j.jort.2025.100954>>

Scheyvens, Regina, Anna Carr, Apisalome Movono, Emma Hughes, Freya Higgins-Desbiolles and Jason Paul Mika, 'Indigenous Tourism and the Sustainable Development Goals', *Annals of Tourism Research*, 90 (2021), 103260 <<https://doi.org/https://doi.org/10.1016/j.annals.2021.103260>>

Sejati, Andri Estining, Sumarmi, I Komang Astina, Singgih Susilo, Putri Tipa Anasi and Fahrudi Ahwan Ikhsan, 'The Madurese Tribe's Indigenous Knowledge in Environmental Preservation on Gili Ketapang Island, Indonesia', *Asian Journal of Social Science*, 54 (2026), 100239 <<https://doi.org/https://doi.org/10.1016/j.ajss.2026.100239>>

Sihotang, Dony Martinus, Robertus Dole Guntur, Henki Bayu Seta, Etti Diana and Robertus Rio Putra, 'Village Information Systems as E-Collaboration Media That Support Sustainable Tourism Based on Local Wisdom: An Ecosystem Perspective', *Journal of Systems and Information Technology*, 28 (2025), 145–70 <<https://doi.org/https://doi.org/10.1108/JSIT-03-2025-0104>>

Situmorang, Ringkar, Teddy Trilaksono and Arnold Japutra, 'Friend or Foe? The Complex Relationship between Indigenous People and Policymakers Regarding Rural Tourism in Indonesia', *Journal of Hospitality and Tourism Management*, 39 (2019), 20–29 <<https://doi.org/https://doi.org/10.1016/j.jhtm.2019.02.001>>

Sugiarto, Agus and others, *Pengantar & Teori: Destinasi Pariwisata* (PENERBIT CV. EUREKA MEDIA AKSARA, 2023)

Sumanapala, Daminda and Isabelle D Wolf, 'A Wellbeing Perspective of Indigenous Tourism in Sri Lanka', *Annals of Tourism Research Empirical Insights*, 4 (2023), 100099 <<https://doi.org/https://doi.org/10.1016/j.annale.2023.100099>>

Tan, Xiaoyuan, Tianyu Ying, Dini Mariska, Bingjie Liu-Lastres, Shun Ye and Hany Kim, 'Residents' Involvement in Disaster Tourism as a Practice: The Case of an Islam Destination, Aceh', *Annals of Tourism Research*, 96 (2022), 103467 <<https://doi.org/https://doi.org/10.1016/j.annals.2022.103467>>

Waluyo, Bambang Dwi, 'Masyarakat Adat Dalam Konsepsi Hak Asasi Manusia Di Indonesia Yang Stagnan', *Interdependence Journal of International Studies*, 4 (2025), 68–77 <<https://doi.org/10.54144/ijis.v4i2.63>>

