



Legal Protection for Roller Coaster Users Who Suffer from Safety Device Failure in Amusement Parks

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Keywords:

***Consumer Protection,
Forms of Responsibility,
Tourism Law***

ABSTRACT

Tourism has been a major focus in Indonesia's development policy since its inception, due to its natural, cultural, and historical wealth. The development of the times shows people's interest in tourism at affordable prices, one of which is a roller coaster. Roller coasters are exciting game rides with high speeds and challenging spins. In Indonesia, some places like Jatim Park and Dunia Fantasi offer roller coasters. Jember Regency, in particular, has great potential due to its diverse tourist destinations and significant visitor population, including immigrants from outside the city. However, the installation of roller coasters must pay attention to the readiness factor of the ride and weather factors for user safety. The Tourism Act and the Consumer Protection Act provide the right to comfort, security, and safety. However, often amusement parks lack clear readiness and regulations regarding the safety of visitors and often malfunction or failure of safety equipment on high-risk rides in amusement parks. Based on the analysis and discussion of the problems carried out in this thesis, it can be concluded that, First, tourists have the right to get legal protection and compensation based on existing legal rules. Both parties managing the amusement park must be responsible for matters that harm visitors, both material and non-material. Third, accidents in tourist attractions with high-risk activities are real risks. The causes include carelessness of the manager, lack of safety facilities, and visitor behavior. Many tourist attraction managers focus more on profits than on the safety of visitors, ignoring the obligations regulated in the Tourism Law and UUPK.

1. Introduction

Tourism is not new to the State of Indonesia, this activity has been placed as an object of national policy since the first time Indonesia determined development policies. The state of nature, the diversity of flora and fauna, ancient relics, historical relics, art, modern tourism and the abundance of culture are the capital for tourism development to increase the prosperity and welfare of the people as contained in Pancasila and the Preamble to the Constitution of the Republic of Indonesia in 1945 (hereinafter referred to as UUD1945).

With the development of the times, there is more and more public interest in tourism needs, especially tourism at affordable and fun prices. One of the tourism businesses that is often in demand is Roller Coaster tours. Roller Coaster is a game ride where people sit on a high-speed train on a special rail track, mostly located on land of varying heights. These rails are supported by a steel frame arranged in such a way. The machine is used to run the Roller Coaster up to a certain height and speed, but after that the machine is turned off and the Roller Coaster runs without using energy from the machine. The Roller Coaster moves in the direction of up, down, and turn.¹

Jember Regency is a district in the province of East Java that has a variety of tourist destinations and has quite promising opportunities for consumer enthusiasts, from local people and even immigrants from other cities who work as workers or even university students in Jember. For now *Roller Coaster* in Jember

only at Transmart Jember. Not only at Transmart Jember for Placement *Roller Coaster* throughout Indonesia, of course, has estimated Weather potential in every city aforementioned because factor weather like rain and strong winds as well become material

Consideration deep Ride making *Roller Coaster*. Bad and unsuitable weather can interfere with the movement of the car and Harm to consumers user *Roller Coaster*, The increasing number of Consumer Interest and Curiosity to this modern tourism or ride *Roller Coaster* so all of that is not may be separated from consumer rights to earn tastesafe and comfortable while enjoying the ride *Roller Coaster* aforementioned. Speed

deep Run *Roller Coaster* should also considered, if it is too small can interfere with travel *Roller Coaster* and if it is too big too could harm consumer users wahana *Roller Coaster*.

According to Article 4 letter a of the UUPK, Consumers have the right to comfort, security, and safety in consuming goods or services. The Roller Coaster accident that occurred at Alton Towers England in 2015 due to the negligence of the Roller Coaster operator who continued to run it even though the computer had warned about the problem, finally the Roller Coaster ridden by 16 (sixteen) people crashed into an empty train in front of it and resulted in 5 (five) people being seriously injured, including 2 (two) teenage girls who lost one leg.² Roller Coaster Accidents in Indonesia occurred in 2017 one of the Roller Coaster Rides in Jakarta According to Article 4 letter a of the UUPK, Consumers have the right to comfort, security, and safety in consuming goods or services. Roller Coaster Accident

¹ <https://www.sciencebuddies.org/teacher-resources/lesson-plans/roller-coaster-kinetic-potential-energy>, diakses 12 Februari 2024, pukul 05.21 PM

² <https://dunia.tempo.co/read/671775/kecelakaan-roller-coaster-one-teen-lost-legged>, accessed 12 February 2024, at 17.41 WIB

which occurred at *Alton Towers* England in 2015 due to the negligence of the Roller Coaster operator who continued to run it even though the computer had warned about the problem, finally *the Roller Coaster* which was ridden by 16 (sixteen) people crashed into an empty train in front of it and resulted in 5 (five) people seriously injured, including 2 (two) teenage girls lost one leg.³ Roller Coaster Accidents in Indonesia occurred in 2017, one of the *Roller Coaster Rides* in Jakarta experienced a sudden power outage and made the users who were in the Roller Coaster train afraid and worried.

An incident that just occurred in March 2023 about a malfunction of the safety sensory system which resulted in the *roller coaster* at the Dufan amusement park having to stop in the middle of the ride which resulted in having to stop on the track when going uphill, which made visitors who climbed feel panic and worried will their safety because

They have to get off the ride and have to walk on the rails to a safe location, this of course makes other visitors who want to try this ride feel worried about their safety to try one of the most popular games in the amusement park, the management should be more careful and often pay attention to the conditions of the game rides that they provide and offer for visitors to enjoy and this of course makes Other visitors who want to try other adrenaline-pumping rides are worried about the condition of the rides at the amusement park

³ <https://dunia.tempo.co/read/671775/kecelakaan-roller-coaster-one-teen-lost-leg> , accessed February 12, 2024, at 17.41 WIB

because of the events that occurred that day.⁴

Based on this case, the author then wants to raise a topic that has really happened and experienced directly by the author where the author has visited an amusement park in East Java, namely at *Jatim Park 2*, where in 2019 the author visited the amusement park and tried to ride the *roller coaster* at the amusement park and then there was an incident where when the ride was driving and going through a 360-degree rotating track, then the safety device that was installed opened automatically and almost caused an accident that could be fatal if not immediately handled with a good response, and after the ride finished operating, then the author wanted to ask explanation along with the accountability of the management but it was not heeded and only given a response that was not cooperative at all by the management of the amusement park.

2. Research Methods

The preparation of this research uses normative juridical research. This research is focused on studying the determination of rules or norms in positive law. The type of research carried out is normative juridical. By also examining laws, regulations, and literature that contain theoretical concepts related to the mistakes that occur in the subject matter of discussion in this study including the Civil Code, Law No. 8 of 1999 concerning Consumer Protection, and Law No. 10 of 2009 concerning Tourism.

⁴<https://www.cnnindonesia.com/nasional/2023030816>

[3859-20-922536/ancol-buka-suara-soal-roller-coaster-dufan-jam-saat-uphill](https://www.cnnindonesia.com/nasional/20230308163859-20-922536/ancol-buka-suara-soal-roller-coaster-dufan-jam-saat-uphill) , accessed February 12, 2024, at 18.00 WIB

3. Discussion

3.1 Protection for Consumers Who Experience Safety Equipment Malfunctions That Can Result in Life Safety Threats.

Tourism has an important role in a country's economy, and in order to create a conducive environment for the development of the tourism industry, the Tourism Law (Tourism Law) was adopted.⁵ The Tourism Law emphasizes legal protection for both parties, namely tourism business actors and tourists, in a situation where losses occur. For example, in the event of losses caused by negligence or non-compliance of tourism business actors with the set safety or service standards, the Tourism Law provides a legal basis for tourists to file a claim for compensation.

Tourists have the right to get compensation for the losses they suffer due to the mistakes or negligence of tourism business actors. Therefore, this law provides legal protection for tourists who are victims of adverse situations. On the other hand, the Tourism Law also takes into account aspects of legal protection for tourism business actors.⁶

For example, in the event that tourists commit actions that are detrimental to tourism business actors or violate regulations that have been set by certain tourist attractions, this law provides a legal basis for tourism business actors to protect their interests. They have the right to impose appropriate measures,

including tourist spending from the area

⁵ Yakup, A. P., & Haryanto, T. (2021). The Influence of Tourism on Economic Growth in Indonesia. *Economic Development*, 23(2), 39–47.

⁶ Dhana, M. M. (2012). *Legal and Security Protection for Tourists*. Surabaya: Paramita.

tourist attractions, if necessary to maintain order and security. Laws and regulations based on the Tourism Law guarantee the protection of tourism rights.⁷

In the law, it is regulated regarding rights, obligations and prohibitions in tourism activities. The rule is also divided into three categories, namely everyone/the public, tourists, and entrepreneurs or tourism business actors. In Article 19 of the Tourism Law, it is regulated regarding the rights of everyone to tourism activities, which consists of the following rights:

1. Everyone has the right to:
 - 1) Persons have the right to:
 - 2) opportunity to Meet their needs
 - 3) travel;
 - 4) Involved deep business tourist-related;
 - 5) work or power work in industry; and/or
 - 6) participate deep tourism development process.
2. Every person and/or group in and around the attraction has the right;
 - 1) being an employee or laborer
 - 2) Assign; And
 - 3) Management.

Considering that our country is a country based on law, where the state of law has a purpose in government actions that have 2 (two) foundations of the principle of the state of law that provides protection for the community.

Preventive Legal Protection is a legitimate legal security protection for people who are offered the opportunity to file complaints (*inspraak*) about perspectives before a government decision gets a definitive form.⁸ Purpose of protection

⁷ Widiastari, N. M. N. R., & Indrawati, A. A. S. (2013). Arrangements for Legal Protection of Tourists. *Kertha Semaya : Journal of Law*, 1(5).

⁸ Kelsen, H. (2006). *Introduction to Legal Theory*. Bandung: Nusa Media, p. 33.

serves as a reduction in the event of a major dispute for government actions based on freedom of action. The government hereby encourages caution when making decisions related to the principles of *Freies Ermessen*, and the people can have opinions and plans for the decisions made.

The purpose of Repressive Legal Protection is to resolve disputes when they occur. Partially there are 2 (two) group bodies, namely: Courts within the scope of the General Court; and Government Agencies which are administrative appeal bodies, which handle legal protection given to the people.⁹ The intensification of tourism promotions is aimed at areas or islands that are known to have natural beauty as well as their traditions, customs and culture. One of them is the island which is a popular foreign and local tourist area, namely the island of Bali. Because in addition to being famous for its natural beauty, Bali is known for its many traditions, customs, arts and culture. To maintain this condition, the Government and the community as well as related parties including stakeholders in the tourism sector must work together to maintain the safety and security of tourists who will visit Bali.

The management of tourist attractions has an obligation to provide a sense of security, comfort, and safety for tourists. And tourists also have their rights in traveling. The state has an obligation to respect and fulfill and protect the right to travel, because the right to travel is a right that a person has in traveling. For tourists who have a tourist visit to Bali, this can be provided so that tourists have a sense of security and comfort as well as legal protection when visiting high-risk tourist attractions.¹⁰

⁹ Ibid, p. 35.

¹⁰ Simatupang, Violetta. (2009). Legal Regulation

But in reality, the safety aspect of high-risk tourist attractions visited by tourists has not received attention from various parties. And it is not uncommon for accidents to occur that cause losses for tourists who visit these destinations. And the rights in the agreement with the tourism industry or the manager of tourist attractions in the form of entrance tickets are sometimes not considered. For example, such as the entrance ticket given when visiting a high-risk tourist attraction. In the ticket, the tourist attraction manager should provide a warning or compensation if an accident or unwanted things happen.¹¹

It is not uncommon for there to be inadequate tools used to support tourist attractions in their activities. Although the progress of the tourism industry area cannot be separated from the accessibility of offices and frameworks in the tourism industry object. Offices and foundations in tourist areas must meet functional guidelines, as this directly affects the safety and well-being of guests. If the office and foundation do not meet the guidelines that have been set, it is hoped that unwanted things will occur in its implementation and can cause losses to visitors to tourist attractions both physically and materially.¹²

If examined juridically, the regulation regarding legal protection for tourists can be observed in Article 20 of Law Number 10 of 2009 concerning Tourism which states that "Every tourist has the right to obtain; a) Accurate information

Indonesian Tourism.Bandung: PT Alumni.¹¹
Handono, Mardi, Ikarini Dani Widiyanti, and Pratiwi Puspitho Andini. "Consumer Protection On the production of cosmetics and traditional medicines through improving the function and authority of the Surabaya Food and Drug Supervisory Center (Balai Besar POM)." *Journal of Rechtsens* 7.2 (2018): 117-138.

¹² I Putu Andika Sanjaya, et al, 2022, Legal Protection of Tourists Visiting High-Risk Tourist Attractions in Bali.Bali, pp371-372.

regarding tourist attractions; b) Tourism services according to standards; c) Legal and security protection; d) Health services; e) Protection of personal rights; and f) Insurance coverage for high-risk tourism activities. If we look at article 20 letter (c) and

(f) In the Tourism Law, it has been stated that tourists are entitled to obtain legitimate safety insurance and protection for high-risk travel industry activities planned to pay for the case of tourists if something untoward happens during their travel industry exercise with a high risk of travel industry activities.

Furthermore, Article 23 paragraph (1) letter (a) of the Tourism Law also emphasizes that the Government and Regional Governments are obliged to provide tourism information, legal protection, and security and safety to tourists. The content of the Law can of course be a legal umbrella for tourists who will visit a tourist attraction, moreover the tourist attraction is classified as high risk or the tourist attraction provides facilities for high-risk activities. Although it is not clearly regulated, which tourist attractions are classified as high-risk places or what tourist activities are included in high-risk tourism activities.^{13 reviews}

In addition to the Tourism Law, legal protection of the rights of tourists is also regulated in the Law. This is considering that tourists are consumers of tourism business service users. To be more explicit, it is regulated in the UUPK, namely; Article 4 number (1) determines that consumer rights are the right to comfort, security, and safety in consuming goods and/or services; And then in article 4 number (5) determines that the rights of consumers

¹³ Widiastari, Ni Made Novi Rahayu, and A. A. Sri Indrawati. (2019). Arrangements for Legal Protection for Tourists, p. 23.

is the right to appropriate advocacy, protection, and consumer protection dispute resolution efforts.

From these rules, it can be seen that there are rules regarding the rights of everyone in the context of tourism. As for the second paragraph, it is regulated more specifically regarding the rights of every person and/or community living around tourism destinations. As for more specifically, it is regulated regarding tourism rights for every tourist. In Article 20 of the Tourism Law, it is stipulated that every tourist has the right to obtain:

1. Accurate information about tourist locations;
2. standard service tourism, legal protection and security;
3. health services;
4. protection of individual rights, and;
5. Insurance coverage for high-risk tourism activities are just a few of the requirements.

A more detailed description of how physically disabled visitors, children, and person Elderly Reserves upon proper facilities according to their needs are regulated in Article 21. Article 21 paragraph (1) of the Tourism Law states that Visitors included which has limitations physical children, and elderly people, entitled to services equal to the rights and do not discriminate. Ini mean that the service provider tourism such as accommodation, restaurants, and object tourism, is required to provide facilities and services that take into account the special needs of the group of visitors. Visitors with physical disabilities have the right to adequate accessibility.¹⁴ This can include providing wheelchair-friendly access, easy-to-walk stairs and walkways, easily accessible toilet facilities, and strategic placement

¹⁴ Yakup, A. P., & Haryanto, T. (2021). The Influence of Tourism on Economic Growth in Indonesia. *Economic Development*, 23(2), 39–47.

from these facilities so that visitors with physical disabilities can enjoy a meaningful unhindered tourism experience.

Obligation Charged to the businessman tourism. Article 26 The Tourism Law outlines these obligations as follows: Maintain and

Respect religious norms, customs, culture, and local values;

1. Provide accurate and responsible information;
2. Offer non-discriminatory services;
3. Ensuring the comfort, friendliness, security, and safety of tourists;
4. Ensure insurance protection for tourism businesses with high-risk activities;
5. Developing partnerships with micro, small, and local cooperatives that needing, reinforcing and benefiting each other;
6. emphasizing the use of domestic and local products and providing opportunities for local employees;
7. improving workforce competencies through education and training;
8. Actively participate in the creation effort infrastructure and community empowerment initiatives;
9. Maintaining a healthy, beautiful, and clean environment;
10. preserving the natural and cultural environment;
11. maintaining the image of the state and nation of Indonesia through responsible tourism business activities; and
12. Implement business standards and competency standards in accordance with the law.

A series of obligations For tourism entrepreneurs, it is probably related to the issue of service, maintenance and protection. The Tourism Law requires business owners to

tourism to providing comfort, hospitality, security protection, and safety for tourists.¹⁵

It also requires them to provide insurance coverage for tourism businesses with high-risk activities and to take part in the prevention of any kind of offensive actions and unlawful activities in the communities in which their businesses are located. The UUPK, in addition to the Tourism Law, regulates the protection of tourists. A visitor can be considered a consumer in the tourism sector based on his rights and obligations based on the regulations of the UUPK. Therefore, as consumers, travelers are entitled to the rights regulated in Article 4 of the UUPK. In detail, Article 4 of the UUPK regulates consumer rights as follows:

1. the right to convenience, safety, and security in utilizing goods and/or services;
2. the right to accurate, clear, and truthful information regarding the condition and guarantee of goods and/or services;
3. the right to take the goods and/or services he wants and to acquire those goods and/or services in accordance with the exchange rate, conditions, and guarantees offered;
4. the right to appropriate advocacy, protection, and efforts to resolve consumer protection issues;
5. the right to have their comments and complaints about the products and/or services used heard;
6. the right to convenience, safety, and security in utilizing goods and/or services;

¹⁵ Putu Eva Laheri. 2015. State Liability for Tourist Losses Related to Violations of Tourism Rights as Part of Human Rights. *Journal of Master of Law Udayana*. Vol. 1, No. 1, 127–136.

7. the right to accurate, clear, and truthful information regarding the condition and guarantee of goods and/or services;
8. the right to take the goods and/or services he wants and to acquire those goods and/or services in accordance with the exchange rate, conditions, and guarantees offered;
9. the right to appropriate advocacy, protection, and efforts to resolve consumer protection issues;
10. the right to have their comments and complaints about the products and/or services used heard.

As for the right to protection, Article 4 of the UUPK regulates it with the right to proper representation, defense, and efforts to resolve consumer conflicts. Regarding the nine consumer rights, Article 5 of the UUPK regulates obligations from consumers,

In the Tourism Law, articles 62 and 63 stipulate that the tourism crime in question is in the form of physical destruction of tourist attractions. The difference between the two verses is that in the first paragraph, it is regulated regarding destruction that is carried out intentionally. Meanwhile, in the second paragraph, provisions are stipulated for destruction that is carried out accidentally/negligently.

Deliberate physical destruction of tourist attractions can be threatened with imprisonment for a maximum of 7 (seven) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiah). Meanwhile, physical destruction of tourist attractions due to negligence can be threatened with imprisonment for a maximum of 1 (one) year and/or a maximum fine of Rp5,000,000,000.00 (five billion rupiah).

3.2 Responsibility of Business Actors for Failure of Safety Equipment on Roller Coaster Game Rides.

The management has a very important responsibility in maintaining the safety and security of tourists in the Theme Park. The occurrence of safety function device failure incidents on Roller Coaster rides is a serious problem that threatens the lives and welfare of visitors. Therefore, the management must take firm and effective measures to prevent such incidents and provide the best protection to tourists. As described in the previous sub-discussion, the Tourism Law has regulated the rights and obligations of tourism business actors and tourists. The rules regarding these rights and obligations are also complemented by sanctions, both administrative sanctions and criminal sanctions.^{16 reviews}

In addition to being regulated in the UUPK, and the Tourism Law, there are also regulations made by the local government related to regulations for amusement parks, namely in the Bali provincial regulation. In the Bali Provincial Regulation No. 5 of 2020, it also regulates the obligations of the Tourist Destination Area Manager which is described in Article 6 number (3) which reads "In addition to meeting the standards as referred to in paragraph (2), DTW Managers are required to meet additional standards, including:

1. Implementing security, safety and health standards for tourists;
2. Providing signs about tourism safety and security; and
3. Protect and preserve the natural DTW environment.

¹⁶ Nabilah, R., & Irham, R. R. (2021). LEGAL PROTECTION FOR CONSUMERS FOR LOSSES IN ENTERTAINMENT FACILITIES. JOURNAL OF EDUCATION AND DEVELOPMENT, Vol.9 No.1, 172-173.

"And with the existence of the Regional Regulation, it should be a guideline for tourism entrepreneurs as managers of high-risk tourist attractions. Then the Regulation of the Minister of Tourism Number 18 of 2016 concerning Tourism Business Registration uses the terminology "extreme tourism business" to refer to tourism businesses with high-risk activities. In article 1 number (50) of PERMENPAR No. 18 of 2016 states that "Extreme tourism business is a business that provides places and/or facilities to carry out high-risk tourism activities." Another term that can be alluded to in vacation spots with high-risk activities is the travel industry experience. In general, the travel industry experience is a pleasant act in the open area that is generally carried out in unfamiliar, unfamiliar, remote or wild places that sometimes include the use of non-ordinary transport and will generally be associated with the high and low levels of actual work.^{17 reviews}

All tourist attractions that have high-risk activities will certainly have a great risk of accidents. Tourists can experience minor or severe accidents that cause injuries or can lead to death. This will of course cause losses for tourists who have an accident at the tourist attraction.

H. Nieuwenhuis as quoted by Merry Tjoanda, loss is defined as the reduction of a person's assets caused by the actions of others who violate norms either in the form of default or by committing unlawful acts. Losses are differentiated into material and immaterial losses. This should be a concern for tourist attraction managers and business actors who carry out high-risk activities. Protection for tourists who

¹⁷ Pramezwary, A., & Rudyanto. (2012). A Study of Adventure Tourism Literature. *Hospitour*, p. 18.

Visiting high-risk tourist attractions is inseparable from the responsibility of tourist attraction managers as tourism industry entrepreneurs in ensuring the safety and security of tourists in their tourism businesses.^{18 reviews}

There are obligations that must be carried out by tourism entrepreneurs related to legal protection for consumers listed in Article 26 letter

(d) and (e) Law Number 10 of 2009 concerning Tourism which states that: "Business actors are obliged to provide the comfort and safety of tourists; and provide insurance protection for tourism businesses with high-risk activities." In general, Obligation is the awareness that people are driven separately from their behavior or activities, whether intentional or unintentional. Obligations also include activities carried out by individuals as a type of familiarity with their commitment to bear the results of the activities they have carried out.

Everyone must be responsible for the mistakes or omissions they commit. Likewise, responsibility for losses experienced by others. According to Hans Kelsen, responsibilities can be divided into 2 (two) types, namely:

1. The responsibility underlying the mistake will be imposed on the subject of the law and the entrepreneur who resists the law as a result of the mistake and forgetfulness. Negligence can occur due to the non-prevention of prohibited events that from a legal point of view are undesirable, it is usually unintentional by the individual but can be prevented.
2. This absolute or absolute responsibility is imposed on a person if his actions cause consequences

¹⁸ Putu Gelgel, 2009, Indonesia's Tourism Industry in the Globalization of Trade in Services (GATS-WTO) Legal Implications and Its Legal Implementation, Refika Aditama, Bandung, p. 27.

which is considered detrimental by lawmakers, and there is a relationship between the act and the consequences caused (Kelsen, 2009).^{19 reviews}

Article 1366 of the Civil Code also regulates liability with an element of error, especially negligence, namely "Everyone is responsible not only for losses caused by their actions, but also for losses caused by negligence or lack of care". On the other hand, absolute responsibility (without fault) in a very limited sense is found in Article 1367 paragraph

(1) The Civil Code which states that: "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his dependents or caused by goods under his supervision".

Then, in Article 7 letter (f) and (g) The UUPK also emphasizes the obligations of Business Actors regarding compensation to consumers that "The obligation of business actors is to compensate, compensate and/or reimburse for losses due to the use, use and utilization of goods and/or services traded; and Providing compensation, compensation and/or reimbursement if the goods and/or services received or utilized are not in accordance with the agreement".

Tourism venue managers have responsibilities regulated in the regulations on obligations carried out by business actors as well as acts that are prohibited from being carried out by business actors. The responsibilities of business actors are regulated in Articles 19 to 28 of the UUPK. The reading of Article 19 of the law is "Business actors are responsible for providing compensation for damages, pollution, and/or consumer losses

¹⁹ Kelsen, H. (2009). *General Theories About Law and the State*. Bandung: Nusa Media, p. 17.

as a result of consuming goods and/or services produced or traded".

In relation to this, the manager of high-risk tourist attractions in Bali as a business actor or tourism entrepreneur has his obligations in carrying out his tourism business activities. In the Tourism Law, precisely in Article 26 letter (e) which states that tourism entrepreneurs are obliged to provide insurance protection for tourism businesses with high-risk activities, this should be done by tourism business actors if their tourist attractions are classified as high-risk or their business activities are high-risk. Entrepreneurs are obliged to provide protection in the form of insurance to tourists to anticipate if an accident occurs that causes losses for tourists.

So, when tourists visit and carry out activities in tourist attractions that are at high risk of accidents and causing losses, the tourist attraction manager as a tourism entrepreneur is responsible for the loss by claiming to the insurance company that has collaborated with business actors. Therefore, tourism that has paid the entrance ticket for the protection that has been set at the tourist site, has an obligation if accidents and misfortunes occur in the area of the tourist location that has high stakes has come into effect, the obligation of the insurance agent of choice. If there is an outside party, the safety of tourists will be satisfied effectively if the things that tourists want do not happen, for example there is a disaster or or losses experienced.^{20 reviews}

But here it needs to be underlined, if the accident that occurs is caused by lack of supervision or negligence and the lack of facilities provided by the tourist attraction manager, then the responsibility is in the hands of the manager

²⁰ Gamal Suantoro, 2004, *Basics of Tourism*, Andi, Yogyakarta, p. 3.

tourist attractions as tourism entrepreneurs. Another thing is that when an accident that occurs due to the negligence of the tourist does not comply with the regulations set by the tourist attraction manager, the tourist attraction manager is not responsible for it. In other words, the tourist bears the losses he suffers because the cause is his own negligence.^{21 reviews}

Furthermore, this is used as an improvement and reflection self.

The form of accountability carried out by the Amusement Park Manager is not clearly conveyed in the news, but certainly as a business actor has an operational policy in terms of providing compensation to its visitors in the event of an incident. The operational policy is called the Visitor Handling Operational System, which is confidential/cannot be published on the grounds that not all visitors to the Recreational Park are in good faith.

The responsibility analysis can be interpreted as a situation that makes a person obliged to bear everything (if something happens, the person can be sued or blamed, sued and so on). This responsibility is actually a morally arising burden, a commitment.

But according to the author, on the other hand, there must also be visitors who suffer losses because the service provider does not guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services and the service provider should compensate, compensate, and/or reimburse for the losses experienced by visitors psychologically/mentally due to *accident/event* which is surprising. So that the author also found a problem-solving process

²¹ Wahab S, 2003, Tourism Management, Pradnya Paramitha, Jakarta, p. 7.

As evidenced by other statements contained in the news, the process of resolving this issue may not be published explicitly and is only the author's analysis. The reason the author stated this is because the service provider does not want its image to be bad which can result in a decrease in the number of visitors in the future.

The problem-solving process that I have analyzed is to use the principle of restorative justice which is the restoration of a good relationship between the defendant (the service provider, in this case the Manager) and the victim (visitor), so that the relationship between the service provider and the visitor is no longer vengeful. This is regardless of the service provider who has provided restitution or compensation to visitors who are victims, so that the suffering experienced by the victims can be helped.^{22 reviews}

This is because the victim may have suffered psychologically due to the accident. Restorative justice is an approach to resolving legal conflicts by holding mediation between the victim and the defendant, and sometimes also involving community representatives in general to jointly create an agreement on a fair and balanced solution of the problem for the victim and the defendant who carry the values of humanism, which means that there is no criminal law or legal consequences because there are no legal actors or individuals because they have been described in the The news that the events that have occurred are purely accidents, accidents in the form of disasters.^{23 reviews}

²² Simatupang, Violetta. (2009). Regulation of Indonesian Tourism Law. Bandung: PT Alumni, p. 17.

²³ Suryadewa, I. G. N. A., Widiati, I. A. P., & Arthanaya, I. W. (2019). Legal Protection Against Tourists by the Tourism Travel Agency in Badung Regency. Journal of Legal Analogy2, p. 44.

3.3 Roller Coster Users' Efforts Due to Negligence of Ride Supervisors in Carrying Out Their Duties.

Accidents in tourism with high-risk activities are really imaginable. Some of the factors that cause accidents in tourist attractions include ordinary circumstances, carelessness of the leadership, lack of facilities and accident anticipation frameworks, guest behavior and the absence of data provided by the manager of the vacation spot to visiting guests. In addition, not a few of the managers of tourist attractions only think in terms of profits without looking at the risks that will be possible. In addition, indeed, the safety aspect in the travel industry with high-risk activities from the management of tourist attractions has not received serious good attention.^{24 reviews}

Because in practice, many tourist attraction managers do not think about this considering that tourist payments are only limited to tickets to enter tourist areas. Also, travelers regularly do not focus on the privileges they have in the arrangements made with business entertainers or managers of the vacation spots visited as an admission ticket. Indeed, even travel industry park entrance tickets as an archive of arrangements are often not kept as expected by tourists because they are considered irrelevant.

Although the Tourism Law and the Tourism Law have generally mentioned the obligations and rights intended for tourists and travel businessmen, the reality is that there are still many businessmen who do not pay attention to these standards. So this certainly does not provide legal certainty for tourists who will travel to tourist attractions, especially tourist areas

²⁴ Laheri, P. E. (2015). State responsibility for tourist losses is related to the violation of the right to travel as part of human rights. *Journal of Udayana Master of Law*, p.

high risk. It is appropriate that a tourist as a tourist consumer has the right to security and safety. Likewise, tourism business actors have responsibility for the tourism activities they manage.^{25 reviews}

As a tourist attraction manager, you must pay attention to the comfort, security, and safety of tourists as well as protection and responsibility arrangements in the event of an accident to tourists. This is the background of this research. This research discusses how to protect tourists legally and how to manage tourist attractions in the event of an accident to tourists.

Research Ini concluded that legal protection for tourists visiting high-risk tourist attractions in Bali refers to Article 20 of Law Number 10 of 2009 concerning Tourism and Article 4 of Law Number 8 of 1999 concerning Consumer Protection. Tourist attraction managers are obliged to be responsible in the event of an accident referring to Article 1366 of the Civil Code, Article 7

Law Number 8 of 1999 concerning Consumer Protection, Article 26 of Law Number 10 of 2009 concerning Tourism and Article 6 number (3) of Bali Provincial Regulation Number 5 of 2020 concerning Standard Implementation of Balinese Cultural Tourism.

Based on the regulations contained in the Civil Code contained in article 1366, it is said that "Everyone is responsible, not only for losses that caused by his deeds, but also for losses caused by his negligence or recklessness." and in article 1367 it is said that "A person is not only responsible for the losses caused by his own actions, but also for the losses caused by his own actions.

²⁵ Puspitadelia, A. (2021). Legal Protection for Tourists during the Covid-19 Pandemic Reviewed from Law Number 8 of 1999 concerning Consumer Protection. *Jurist-Diction Law Journal*, 4(3), pp. 863–886.

the deeds of the people who are his dependents or due to the goods under his supervision." So in accordance with the article mentioned that the ride manager must be responsible for the rides under his supervision in the event of negligence, and this also applies to higher officials must also be responsible to their subordinates and the rides under their supervision.

Based on Article 26 of Law Number 10 of 2009, it is said that every tourism entrepreneur has the following obligations:

1. provide accurate and responsible information;
2. providing non-discriminatory services;
3. providing comfort, friendliness, security protection, and safety of tourists;
4. providing insurance protection for tourism businesses with high-risk activities;
5. developing partnerships with local micro, small and cooperative enterprises that need, strengthen, and benefit each other;
6. prioritize the use of local community products, domestic products, and provide opportunities for local workers;
7. improving workforce competencies through training and education;
8. play an active role in efforts to develop infrastructure and community empowerment programs;
9. participate in preventing all forms of acts that violate morality and illegal activities in the environment where they do business;
10. maintaining a healthy, clean, and beautiful environment;
11. maintaining the preservation of the natural and cultural environment;
12. maintain and respect religious norms, customs, culture, and values that live in

local communities;

13. maintaining the image of the state and nation of Indonesia through responsible tourism business activities; and
14. implementing business standards and competency standards in accordance with the provisions of laws and regulations.

So with these provisions if the management party must be responsible if it violates any of these provisions and moreover in the case under discussion is that the management party does not carry out the obligations listed in letter d in the article where the manager must provide a sense of security, comfort and safety to every tourist who visits the playground that has high-risk rides, where every tourist also has rights which are also stated in Law Number 10 of 2009 in Article 20 where tourists have the following rights:

1. accurate information about tourist attractions;
2. Service Tourism in accordance with standards;
3. legal and security protection;
4. Service;
5. protection of personal rights; and
6. insurance protection for high-risk tourism activities.

In the above regulations, it is very clear that tourists have the right to legal and security protection and are entitled to safety insurance for tourism activities.

But according to the author, on the other hand, there must also be visitors who suffer losses because the service provider does not guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services and the service provider should compensate, compensate, and/or reimburse visitors for losses experienced psychologically/mentally due to accidents/shocking events. So that the writer

find the process of solving the problem that can be proven by other statements contained in the news, the process of solving this problem may not be published clearly and is only the author's analysis.

The reason the author stated this is because, the service provider does not want its image to be bad which can result in decline the number of visitors in the future. The problem-solving process that I have analyzed is to use the principle of restorative justice which is the restoration of a good relationship between the defendant (the service provider, in this case the Manager) and the victim (visitor), so that the relationship between the service provider and the visitor is no longer vengeful. This is regardless of the service provider who has provided restitution or compensation to visitors who are victims, so that the suffering experienced by the victims can be helped. This is because the victim may have suffered psychologically due to *accident* / the incident.

Restorative justice is an approach to resolving legal conflicts by holding mediation between the victim and the defendant, and sometimes also involving community representatives in general to jointly create an agreement on a fair and balanced solution of the problem for the victim and the defendant who carry the values of humanism, which means that there is no legal crime or legal consequences because there are no legal actors or individuals because it has been explained In the news that the events that have occurred are purely accidents, accidents in the form of disasters.

The form of the agreement is an agreement between the parties of the amusement park business actor and visitors in the form of tickets In accordance with the provisions of Article 5 letters b and c of the UU-PK it is stated, "the obligation of consumers is good faith in making transactions to purchase goods and/or services; and pay in accordance with

the agreed exchange rate". As for visitors who want to experience the facilities provided by Jatim Park 2 business actors, they are required to pay for tickets at the price that has previously been provided by the management of Jatim Park 2. Then, after making payment for the ticket, the consumer as a visitor gets the right based on the Law-PK is the right for the consumer/visitor to obtain a sense of comfort, security, and safety to "consume" the services and/or goods in addition to the right to receive compensation / compensation / replacement when the services and/or goods "received" are not in harmony or not as agreed.

As a business actor/producer in the field of tourism who sells services, there is a responsibility that must be fulfilled by the amusement park manager, namely when visitors come to experience the services that have been provided by the management and also consumers have paid according to the price that has been determined, but in this case then the visitor suffers a loss in the form of a traffic jam incident for star tour rides in Jatim Park 2.

The accident due to the traffic jam of the Star Tour ride occurred on January 27, 2017. One of the Star Tour rides, namely bicycles that go around on the tracks, experienced traffic jams so that one of the trains used by visitors died and resulted in consecutive collisions occurring on the tracks that were quite high.

The visitors panicked because of the collision on the star tour ride in a position that was very dangerous for the ride's users. Fortunately, all visitors who boarded the Star Tour ride were evacuated with no casualties. As a result of the absence of reports or lawsuits against the authorities, there were no legal sanctions against Krisna Funtastic Land.

Claims for compensation based on acts of violation of the law are not required to begin with an agreement between

Business actors and consumers, therefore, even though there is no agreement between business actors and consumers, compensation claims can be filed by parties who feel losses. In filing a claim for compensation for unlawful acts, there are several elements that must be met:

1. There is an unlawful act;
2. There are disadvantages;
3. There is an element of Offense;
4. There is a causal relationship between unlawful acts and losses.

In accordance with what is stated in the Law-PK, *Jatim Park 2* as a tourist park business actor can actually be given sanctions, in the form of criminal sanctions. Because the *East Java Park 2* has committed a violation of the law in accordance with what is contained in Article 8 paragraph (1) letters a, d, and e of the Law-PK regarding prohibited acts for business actors. As a business actor, *East Java Park 2* has violated Article 8 paragraph 1 of the PK Law, namely the standard has not been met as regulated. Meanwhile, in letter d, the *Jatim Park 2* business actor has violated the provisions due to the lack of suitability of the condition of the facilities and guarantees for what is managed.

Therefore, the facilities provided must ensure safety to consumers who use them. Meanwhile, *Jatim Park 2* has violated the provisions on the management process, namely when the ride is in operation as stipulated in the provisions in Article 8 paragraph

(1) letter e of the Law-PK. In accordance with the provisions contained in Article 19 paragraphs (1) and (2) UU-PK, "every business actor has the responsibility to compensate consumers for damage, pollution and/or losses to goods and/or services produced or traded". For this reason, *Jatim Park 2* has provided compensation to visitors who experienced accidents on the star tour, namely by checking with a doctor to ensure

Whether or not there are minor injuries or serious injuries that can endanger the lives of visitors. As well as being given food, drinks, and medicines needed by visitors who are still in shock, they are also given compensation in the form of free tickets that can be used at any time.

Based on the provisions listed in Article 19 paragraph 4 of the Law-PK, namely providing compensation as contained in paragraphs (1) and (2), it will not necessarily remove the existence of criminal charges in accordance with further proof of the existence of the fault factor. However, from the results of the questionnaire distributed, it shows that there are 30% (thirty percent) of respondents who know that when an accident occurs that harms them, they can file a lawsuit or lawsuit and then make the case can be processed legally.

While the remaining 70% (seventy percent) of respondents do not know about it and they prefer to ask for direct accountability from business actors. In this case, it is very important to apply criminal sanctions to various cases of violations that occur against consumer rights, because the services they offer will be used by the wider community, both domestic and foreign tourists, then by urging the appearance of criminal law will support the compliance with standards for a sense of security in "consuming" services and/or goods to provide protection for consumers if there is a violation of the standard so that it can have an impact in the form of material or non-material losses.

4. Conclusion

Amusement park managers must provide clear legal protection, in this case there must be clear legal protection which is divided into internal and external legal protection in order to achieve a sense of security. The form of internal legal protection is that the management party provides accurate information about

Ensuring the safety of visitors that can be informed through entrance tickets and information boards to create a sense of safety and comfort for visitors and provide information about the existence of safety insurance provided to visitors and provide training and direction to officers if there are visitors who feel that they have suffered losses and want to make a complaint.

Then the form of external protection is that the government makes clear and firm regulations for amusement parks that have high-risk rides in order to create a sense of safety and comfort for visitors to the amusement park, this is because amusement parks are destinations that are often visited by tourists. If necessary, the local government can make a regional regulation related to regulations in amusement parks in order to create a safe and comfortable environment in amusement parks.

According to the Tourism Law, managers are required to provide comfort and safety for tourists, including insurance for high-risk activities. In addition, Articles 1366 and 1367 of the Civil Code regulate liability for negligence and losses caused by goods under the supervision of the manager. The UUPK also emphasizes the obligation of managers to compensate for losses due to the use of traded goods or services. The obligation of the manager to be responsible not only when an accident occurs, but if there is a malfunction in the safety device, it is also a loss for tourists, so based on this, there can be losses such as trauma to game rides that are at high risk, furthermore, there can be a traumatic impact on other things, therefore it is an obligation for the amusement park manager to be responsible, One of the options is with restorative justice where the problems that occur do not last long

Because this can disturb the psychological mentality experienced by visitors, the management must be able to be responsible for overcoming the problem so that the suffering experienced by the victim can be helped.

For the government, it is necessary to increase the socialization of the Tourism Law so that all parties involved in the tourism industry understand their rights and obligations, strict supervision and law enforcement are needed against violations that occur in the tourism industry to ensure that business actors comply with safety and service standards, the government and stakeholders need to work together to improve the quality of tourism infrastructure, especially in high-risk locations, to ensure the safety and comfort of tourists. Suggestions for amusement park managers and tourism business actors need to be given training and certification regarding service and safety standards to improve the quality of services provided to tourists. In accordance with Law No. 10 of 2009 Article 26 letter (e), managers are required to provide insurance protection for tourists who use high-risk facilities. Managers need to increase routine supervision and maintenance of game rides to prevent the failure of safety function devices. Installing safety signs that are clear and easy to understand by visitors as stipulated in Bali Provincial Regulation No. 5 of 2020 Article 6 paragraph (3). And for visitors to pay more attention and seek more information related to the safety of rides in amusement parks, tourists as consumers in tourism business service users pay more attention to the rights that should be obtained when visiting tourist attractions, especially tourist attractions that have high risks. Because even though legal protection for tourists has been contained in the legislation, there are still many tourist attraction managers as business actors who do not respond seriously to this.

5. Book

Bibliography:

- Bungaran, A, S, Flores T, Rosramadhana N, 2017, *Tourism History: Towards Development* *Tourism in Indonesia*, Jakarta: Yayasan Pustaka Obor Indonesia.
- Celina Tri Siwi Kristiyanti, *Consumer Protection Law*, Cet. 3, Sinar Grafika, Jakarta, 2011
- Ch. Isnaeni. *Introduction to the Law of Material Guarantees*. Surabaya: Revka Petra Media, 2016.
- Dhana, M. M. (2012). *Legal Protection and Security Towards Tourists*. Surabaya: Paramita.
- Elsi Kartika Sari, *Law in Economics*, Cikal Sakti, Jakarta, 2007.
- Gamal Suantoro, 2004, *Basics of Tourism*, Andi, Yogyakarta.
- Gamal Suantoro, *Basics of Tourism*, Andi, Yogyakarta, 2004.
- Jusuf, D. I. *Consumer Behavior in the Online Business Age*. Jakarta: Andi Offset. 2018.
- Kelsen, H. (2008). *Introduction to Legal Theory*. Bandung: Nusa Media.
- Kelsen, H. (2009). *General Theories About Law and the State*. Bandung: Nusa Media
- Kristiyanti, C. T. S. (2008). *Consumer Protection Law*, PT. Sinar Grafika, Jakarta.
- Mark Twain, 1884, *The Adventures of Huckleberry Finn*, London: Good Reads.
- Miru, Ahmadi. 2011. *Principles of Legal Protection for Consumers in Indonesia*. Jakarta: Rajawali Press.
- Nasution, Az. 2006. *Consumer Protection Law of a Farmer*. Jakarta: Adit Media.
- Peter Mahmud Marzuki, *Legal Research*, Jakarta: Kencana Prenada Media Group, 2016.
- Putu Gelgel, 2009, *Indonesia's Tourism Industry in the Globalization of Trade in Services (GATS-WTO)* *Legal Implications and Legal Implementation*, Refika Aditama, Bandung Simatupang, Violetta. (2009). *Legal Arrangements Tourism Indonesia* . Bandung: PT Alumni.
- Brave, Violetta. *Legal Arrangements Indonesian Tourism*. Bandung: PT Alumni, 2009.
- Susanti Adi Nugroho, *The Process of Resolving Consumer Disputes Reviewed from Procedural Law and Its Implementation Constraints*, Jakarta: Kencana, 2011.
- Susanti, Dyah Ochtorina and A'an Efendi. 2014. *Legal Research (Legal Research)*. Jakarta: Sinar Grafika.
- Suwandono. A. 2015. *Scope of Consumer Protection Law*. Jakarta: Open University.

Journal:

- Armeilia, D. (2021). Legal protection and the right to occupational safety for health workers due to the Covid-19 pandemic. *Al-Adl: Law Journal*, 13(2), 303-319.
- Chandra Adi Gunawan Putra*, I Nyoman Putu Budiarta², Ni Made Puspasutari Ujjanti. Legal Protection for Consumers in the Perspective of Public Legal Awareness. *Journal of Legal Analogy*, Volume 5, Number 1, 2023, 86-87.
- Handono, Mardi, Irini its Vidianti, and everything else Puspitho Andini. "Consumer Protection of Cosmetics and Traditional Medicine Production through Improving the Function and Authority of the Surabaya Food and Drug Supervisory Center (Balai Balai POM)." *Journal of Rechtsens* 7.2 (2018): 117-138.
- I Putu Andika Sanjaya, et al, 2022, Legal Protection of Tourists Visiting High-Risk Tourist Attractions in Bali. Bali, 371-372.
- Laheri, P. E. (2015). State Liability for Tourist Losses Related to Violations of Rights

- Travel as part of human rights. *Journal of Master of Law Udayana*, 51-52.
- Mulyadi, M. (2012). Design research in research methodology. *Journal of Communication and Media Studies*, 16(1), 71-80.
- Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Normative and Empirical Methodology in the Perspective of Legal Science. *Indonesian Journal of Law Enforcement*, 2(1), 1-20.
- Pramezwary, A., & Rudyanto. (2012). A Study of Adventure Tourism Literature. *Hospitour*, 17-18.
- Putra, C. A. G., Budiarta, I. N. P., & Ujjanti, N. M. P. (2023). Legal Protection for Consumers in the Perspective of Public Legal Awareness. *Journal of Legal Construction*, 4(1), 13-19.
- Putu Eva Laheri. 2015. State Liability for Tourist Losses Related to Violations of Tourism Rights as Part of Human Rights. *Journal of Master of Law Udayana*. Vol. 1 No. 1 pp. 127-136.
- Sarsiti and Muhammad Taufiq, The Application of Legal Protection for Tourists Who Suffer Losses in Tourism Objects (Study in Purbalingga Regency), *Journal of Legal Dynamics* Vol.12 No.1 (January 2012), 28-29.
- Suryadewa, I. G. N. A., Widiati, I. A. P., & Arthanaya, I. W. (2019). Legal Protection of Tourists by Tourism Travel Agencies in Badung Regency. *Journal of Legal Analogy* 2, 44-45.
- Widiastari, N. M. N. R., & Indrawati, A. A. S. (2013). Legal Protection Arrangements for Tourists. *Kertha Semaya : Journal of Law*, 1(5), 42-43.
- Yakup, A. P., & Haryanto, T. (2021). The Influence of Tourism on Economic Growth in Indonesia. *Economic Development*, 23(2), 39-47.

Article:

- <https://www.sciencebuddies.org/teacher-resources/lesson-plans/roller-coaster-kinetic-potential-energy>, diakses 12 February 2024, at 17.21 WIB
- <https://www.cnnindonesia.com/nasional/20230308163859-20-922536/ancol-open-sound-question-roller-coaster-dufan-jam-moment-uphill>, Accessed 12 February 2024, at 18.00 WIB
- <https://dunia.tempo.co/read/671775/kecelakaan-roller-coaster-one-baby-Lose-his-legs>, Accessed 12 February 2024, at 17.41 WIB
- <https://dunia.tempo.co/read/671775/kecelakaan-roller-coaster-one-baby-Lose-his-legs>, Accessed 12 February 2024, at 17.41 WIB

Legislation:

- Law Number 8 of 1999 concerning Consumer Protection.
- Law Number 10 of 2009 concerning Tourism.
- Regulation of the Minister of Tourism and Creative Economy / Head of the Tourism and Creative Economy Agency of the Republic of Indonesia Number 4 of 2021 concerning Standards for Business Activities in the Implementation of Risk-Based Business Licensing in the Tourism Sector.
- Bali Provincial Regulation Number 5 of 2020 concerning Standards for the Implementation of Bali Cultural Tourism.