



## Legal Protection on Village-Based Halal Tourism Management through Village Regulations

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### **Abstract**

The existence of Madura, with its religious community character and supported by exotic nature and a variety of local religious traditions, is considered worthy of being a center of sharia tourism in East Java. Interestingly, each village in Madura has its uniqueness, the uniqueness of its people, its landscape, and its local products. Therefore, the development of halal tourism based on the village's uniqueness must be the target of policies that need to be developed. However, this development process requires regulation as a form of protection and guarantee of tourism activities, one of them is the formation of village regulations. This study uses empirical legal research methods with legal sociological and legal anthropological approaches. This research investigated the character and uniqueness of the village, which would later be used as the source of village regulation formulation. This effort was made to create appropriate and effective development of village-based halal tourism and minimize rejection from the community. Thus, the realization of establishing Madura as the center of Halal Tourism can be realized immediately.

**Keywords:** *Halal; Tourism; Village Regulations*

### **Introduction**

Today, the halal concept has become a trend in the development of the Islamic economy in Indonesia, starting from the emergence of halal products such as food and beverages, halal cosmetics, halal fashion, halal tourism to a halal lifestyle. The concept of halal in various economic fields has not only become a trend in Indonesia, but has also penetrated to non-Muslim-majority countries including Japan, Australia, Thailand, and New Zealand (Adinugraha, H. H., Sartika, M., & Kadarningsih, A. (2018). In Indonesia, the halal idea has begun to be adopted, particularly in the sharia-based tourism sector. Such a tourism concept allows it to be accepted by the community because it sees Indonesia's history as a country with a predominantly Muslim population and strong Islamic beliefs, particularly on Madura Island.

One of the economic development supports in Indonesia is tourism. Foreign and domestic tourists generate revenue for the region and the country through foreign exchange, tax revenues, and other levies. Furthermore, the tourism sector has the potential to enhance job possibilities for local citizens, as well as

the development of facilities and infrastructure, the growth of new tourism-related enterprises, and the introduction of locally produced goods to a wider audience (Kurniawan, F., Soeprijanto, A., Guntur, H. L., Wardhana, M., Abadi, I., & Sayyida, S. (2018). Local governments and village governments must take the necessity of implementing village-based halal tourism seriously, emphasizing local wisdom as the most important aspect in providing legal protection through a special regulation in numerous regions and villages. Furthermore, it is believed that the establishment of legislation in numerous regions and villages will accommodate the characteristics of the Madurese people, who place a high priority on Islamic principles.

As a new concept in the tourism industry, sharia tourism certainly requires further and more comprehensive development and understanding related to Islamic values applied in tourism activities (Rachmad, T. H. (2017). The main problem in developing the concept of halal tourism lies in the absence of regulations that comprehensively and specifically regulate halal tourism. This situation is caused by remote villages that do not get full access from the local government.

As a result, some tourist attractions are unable to be managed properly and are unfamiliar to international visitors. As a result, a strategy for conceptualizing halal tourism in Madura must be devised, with the village as the primary focus of development and rejuvenation. This growth will be governed by village regulations that have the substance of halal village tourism management based on a community's uniqueness and customs.

Based on the above description of the problem's background, the problem that this study focused on is the legal protection of the concept of village-based halal tourism through village regulations in order to ensure legal certainty and harmonize the Madurese community's diversity of Islamic values with legal products based on Pancasila and the Republic of Indonesia's 1945 Constitution. This segment certainly needs to be prepared and appropriately adjusted through the development stage that considers global standards and information and communication technology to maximize the potential in each village.

## **Research Method**

This article is the result of juridical normative research, using statute, conceptual, and case approaches. As a normative law research, the author conducted law material inventorying including primary and secondary law materials adjusted with the theme of research. Then, the analysis was conducted using deductive method.

## **Result and Discussion**

### **1. Islamic Views on Halal Tourism**

The term "halal" comes from the Arabic word "halal," which means "permitted" or "lawful." Furthermore, the word "haram," which is also derived from Arabic lexicon, meaning "opposite of halal," or "not in compliance with the law" (Yusuf Qardhawi: 2003). In terms of terminology, the terms "halal" and "haram" are frequently used interchangeably (Adinugraha, H. H., Sartika, M., & Kadarningsih, A. (2018).

Halal is a term used in Islam to describe something that is permissible if it is done or consumed in accordance with Islamic law. Consuming or using something that is lawful, holy, and good (thayyib) is a religious obligation in Islam, and following the law is required (Ma'ruf Amin: 2011, 43). The Islamic religion's foundation for tourism may be found in numerous passages of the Qur'an, which say: "*It is He Who made the earth easy for you, so walk in all directions and eat part of His sustenance. And to Him only you (return after) resurrected.*" (Q.S al-Mulk: 15).

Meanwhile, the second paragraph of the Fatwa Number 108/DSN-MUI/X/2016 of the Indonesian

Council of Religious Scholars (MUI) defines that "halal tourism as tourism that is in conformity with Sharia principles (Islamic law)." Not least in tourism activities, Islamic law provides good guidance, such as clean, healthy, and good food and drink and other facilities, tourist attractions that do not mix women and men who are not married to maintain immoral acts, visit times until late at night, etc.

The definition of sharia tourism destinations according to the MUI Fatwa Number 108/DSN-MUI/X/2016 at the second paragraph is "sharia tourism destinations are geographical areas located in one or more administrative areas in which there are tourist attractions, religious and public facilities, tourism facilities, accessibility, and communities that are often related and complement the realization of tourism in accordance with sharia principles (MUI, D. S. N. (2016).

The general criteria for halal tourism are oriented to the general benefit, have an orientation of enlightenment, refreshment, and tranquility, avoid polytheism and superstition, are free from immorality, maintain security and comfort, preserve the environment, respect socio-cultural values and local wisdom. The application of the village-based halal tourism model is a manifestation of the beliefs of Muslims in the Qur'an by providing an indicator and restrictions on the halal tourism model itself.

## **2. Halal Tourism According to Legislation in Indonesia**

Since the enactment of Law Number 10 of 2009 concerning tourism, the entire policy of implementing tourism in Indonesia must be based on the principles and rules contained in the tourism law and all implementing laws and regulations. An important principle regarding the implementation of tourism in Indonesia which has been mandated in the Law Number 10 of 2009 is that the implementation of tourism development in Indonesia must be carried out based on the principles of benefit, kinship, fair and equitable, balance, independence, sustainability, participatory, sustainable, democratic, equality and unity. All of this is accomplished by implementing a tourism development strategy that considers the diversity, uniqueness of culture and nature, as well as human needs for tourism (Sunaryo, B. (2013).

Tourism development is defined by Law Number 10 of 2009, which includes the tourism industry, tourism destinations, tourism marketing, tourism institutions, human resources, and regulations (Nurlatifah, I. (2020). Sharia tourism destinations, in this case, are geographical areas in one or more administrative areas with tourist attractions, worship and public facilities, tourism facilities, accessibility, and communities that are interconnected and complement the realization of tourism based on sharia principles (MUI, D. S. N. (2016).

Regulation is a tool for the government in ensuring that tourism stakeholders continue to behave in accordance with the established tourism policy corridors (Nurlatifah, I. (2020). The government has established laws in the form of Law No. 10 of 2009 on Tourism and Fatwa No. 108 of DSN MUI (the Indonesian Council of Religious Scholars) on the implementation of tourism based on sharia principles.

The general criteria for halal tourism are that it is oriented toward the public benefit, that it is oriented toward enlightenment, refreshment, and tranquility, that it avoids polytheism and superstition, that it is free of immorality, that it maintains security and comfort, that it respects socio-cultural values, and that it respects local wisdom (Sofyan, R. (2012). The legal sources that form the basis for halal tourism are the Qur'an and Hadith connected to tourism, Law Number 10 of 2009 concerning Tourism, and Law Number 33 of 2014 concerning Guaranteed Halal Products. Regarding what products can be given a halal label, the conditions, and also how the mechanism is regulated in Government Regulation Number 31 of 2019 concerning Implementing Regulations of Law Number 33 of 2014 concerning Guarantee of Halal products. This regulation is a *Lex Specialis* (special rule) enacted by the government in order to become a concrete step in regulating the system for halal tourism implementation. While the last one is the MUI (the Indonesian Council of Religious Scholars) Fatwa Number 108/DSN-MUI/X/2016 concerning Guidelines for Tourism Implementation based on Sharia Principles.

### 3. The Implementation of Village-Based Halal Tourism through Village Regulations

The village is a group of people and a government administration that is regarded vital in the administration of the government of the Republic of Indonesia. As stated in Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014 in conjunction with Government Regulation Number 76 of 2015 concerning Implementing Regulations in Law Number 6 of 2014 concerning Villages, villages have a more sovereign, large, and broad position and role in regulating and managing villages. In Article 1 number 2 of Law Number 6 of 2014 concerning Villages it is stated that village government is the administration of government affairs and the interests of local communities in the system of Government of the Unitary State of the Republic of Indonesia. Hence, it can be interpreted that the village carries out affairs based on the interests of the local community while also carrying out activities ordered by the Central and Regional governments within the framework of the Republic of Indonesia.

Article 18B paragraph 2 of the Constitution of the Republic of Indonesia states that "the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia as regulated in law". The aforementioned statement means that villages and traditional villages in their governance have government functions, village finances, village development, and receive facilities and guidance from the Central Government and assistance from the Regency/City Government.

Villages are given the authority to administer village government accompanied by the Village Revenue and Expenditure Budget, as well as the authority to form village regulations and other authorities as ordered by Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014 in conjunction with Government Regulation Number 47 of 2015 concerning Implementing Regulation of Law Number 6 of 2014 concerning Villages, Regulation of the Minister of Villages, Development of Disadvantaged Regions and Transmigration Number 1 of 2015 concerning Guidelines for Authority Based on Origin Rights and Village-scale Local Authorities. With this arrangement, it implicitly states that Village Regulations are also included in Legal Products, and the Village Government has both attributive and delegative authority.

The village government is granted the authority to carry out the legislative process in the administration of government affairs in the village through the Village Head and the Village Consultative Body (BPD). The final result of the village legislation process is the formation of village regulations. Village regulations are statutory regulations established by the Village Head after discussions and agreements with the Village Consultative Body in order to control the operations of the local community and to realize the village community's objectives and wishes. Village regulations serve as a foundation for village governments in the implementation of village government affairs, which are additional elaborations of higher laws and regulations that take into account the socio-cultural conditions of the local village community (Rosidin, U. (2019)). The aforementioned statement is consistent with Article 1 point 7 of Law Number 6 of 2014 which states that "Village Regulations are statutory regulations established by the Village Head after being discussed and agreed with the Village Consultative Body".

The Ministry of tourism and creative economy, as well as Islamic institutions such as the Indonesian Council of Religious Scholars (MUI) and Nahdlatul Ulama (NU) are starting to promote halal tourism at this time (Achmad Badarus Syamsi. 2019). As a result, the government sees the need for a regulation that governs halal tourism as essential. Due to the variety of tourist locations in many villages, the formation of laws in the form of village regulations is truly extremely important to be implemented. Furthermore, visitors' enormous displays of hedonism and immorality are incompatible with Madurese culture, which is pious and adheres to Islamic beliefs and values. Therefore, the formation of village

regulations regarding halal tourism must be expedited to accommodate common interests by making tourism objects the identity of each village.

Village regulations governing halal tourism management are supposed to allow these tourist destinations to operate in conformity with the lives of the people in each region. Pongkok village in Klaten Regency, Kutuh village in Badung Regency, and Bleberan village in Gunung Kidul Regency are among the villages in Indonesia that have formed and made regulations regarding sharia tourism (Syamsi, A. B., & Adiyono, A. (2020)). Madura is an excellent location for developing and implementing the concept of village-based halal tourism. Apart from the fact that most of the population is Muslim, it also allows the community to learn and enjoy tourism in accordance with their religious teachings and beliefs.

The establishment of regulations in the form of village regulations undoubtedly makes the village the most important indicator in determining whether the concept of village-based halal tourism is ready to develop and socialize. The tourism legislation itself will have to strike a compromise between Pancasila's principles, the Republic of Indonesia's 1945 Constitution, and the values that emerge in rural communities. Furthermore, village regulations must be coordinated with related laws and regulations so that the hierarchy of laws and regulations is not disrupted.

### **Conclusion**

Madura, as one of the islands with a majority Muslim population, is the focal point for long-term tourist development by emphasizing the island's uniqueness and culture. Renewal of legislation to provide legal protection for village-based halal tourism through village regulations is critical, and the government must take it seriously. The adoption of village-based halal tourism is an attempt to adapt the Madurese community's diversity, uniqueness, and beliefs so that they can be acknowledged in a legislative regulation with the goal of generating legal certainty. Furthermore, this legal protection intends to prohibit any transgressions that are incompatible with a village's characteristics, as well as to offer recognition and assurance for tourism development. To accomplish this vision, the village authority must educate residents about the concept of village-based halal tourism through village regulations, allowing it to be implemented effectively while minimizing community opposition.

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