

LEGAL CHALLENGES IMPEDING THE DEVELOPMENT OF LOCAL WISDOM-BASED WELLNESS TOURISM POTENTIAL

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Abstract

Wellness tourism carries great potential for further development in Indonesia and revitalizing the collapsed tourism sector following the outbreak of COVID-19. With the natural beauty and cultural diversity, wellness tourism based on local wisdom can serve as the main objective of tourism in Indonesia. Nevertheless, legal certainty remains problematic since it hampers tourism development, considering that there are no regulations regulating wellness tourism. With a normative method and a statutory approach, this research finds impeding normative issues in the existing regulations, requiring remarkable improvement to allow for harmonization with specific regulations to regulate wellness tourism. This issue is covered by several legal purviews, namely tourism, consumer protection, and personal data protection. The recommendation of the normative construction offered in this study encompasses licensing, consumer protection, and personal data protection issues, all of which can be framed under one specific law similar to those of the prevailing law governing medical tourism services.

Wellness tourism dapat mempunyai potensi yang besar untuk dikembangkan di Indonesia, sekaligus menjadi salah satu upaya merevitalisasi sektor pariwisata yang sempat terpuruk karena dampak dari pandemi COVID-19. Hal ini didukung oleh keindahan alam dan keberagaman budaya yang ada, yang dapat menjadikan wellness tourism berbasis kearifan lokal sebagai salah satu tujuan utama dalam sektor pariwisata di Indonesia. Namun, kepastian hukum merupakan isu utama dalam perkembangan wellness tourism, karena hingga saat ini belum ada pengaturan mengenai wellness tourism. Dengan menggunakan metode penelitian normatif dan pendekatan perundang-undangan, penelitian ini menemukan hambatan normatif dari pengaturan yang sudah ada, yang perlu diperbaiki agar dapat memberikan ruang harmonisasi dengan peraturan khusus yang dapat dibuat untuk mengatur wellness tourism. Permasalahan ini terdapat dalam beberapa ranah hukum, yaitu kepariwisataan, perlindungan konsumen, dan perlindungan data pribadi. Usulan model konstruksi normatif yang diajukan dalam penelitian ini mengatasi masalah ini mencakup isu perizinan, perlindungan konsumen, dan perlindungan data pribadi, yang semuanya dapat dimuat ke dalam satu pengaturan khusus, seperti pengaturan yang sudah ada mengenai pelayanan wisata medis.

Keywords: *tourism, wellness tourism, local wisdom, legal development*

Introduction

Indonesia relies on the natural beauty and cultural diversity in the aspect of tourism as one of the paramount sectors of the economy, having made a great contribution to the state's revenue.¹ However, COVID-19 has paralysed the global economy and tourism, resulting from travel restrictions taken as measures to curb the spread of the virus.² Since then, revenue from the tourism sector has been depleting and has not fully recovered; the revenue has not returned to a stable and significant amount.³ As a result, the tourism

¹ Anggita Permata Yakup and Tri Haryanto, "Pengaruh Pariwisata Terhadap Pertumbuhan Ekonomi Di Indonesia," *Bina Ekonomi* 23, no. 2 (2021): 39–47, <https://doi.org/10.26593/be.v23i2.3266.39-47>.

² Gokhan Karabulut et al., "How Pandemics Affect Tourism: International Evidence," *Annals of Tourism Research* 84 (2020): 1–20, <https://doi.org/10.1016/j.annals.2020.102991>.

³ Viva Budy Kusnandar, "Penerimaan Devisa Pariwisata Ditargetkan US\$2,9-5,9 Miliar Pada 2023," databoks, June 2023.

sector in Indonesia requires revitalization by first observing useful tourism trends relevant to the potential of nature and cultural diversity as two vital elements. Wellness tourism has come as a tourism concept with its greater potential for further development at an international level.⁴ Before the outbreak, tourism remarkably grew.⁵ Global Wellness Summit and Global Wellness Institute in 2020 recorded that the demands in wellness tourism took one of the market segments experiencing the most significant growth globally. Global Wellness Institute also reported that in 2017 global revenue from the wellness tourism sector hit US\$639.4 billion. It further revealed that the annual growth of this sector was twice as high as that of the conventional tourism sector (3.2%), and this figure remained stable at 7.8% from 2012 to 2017. This institute also predicted the increasing revenue reaching US\$919.4 billion in the future.⁶

Wellness tourism, however, needs a legal backup to guarantee the protection of tourism interests and the interest of business actors in the tourism sector. Several aspects of wellness tourism need to be protected. First, wellness tourism needs legal recognition as one of the tourism services. Within the tourism framework in Indonesia, there have not been any regulatory provisions recognizing wellness tourism services. Such recognition will raise other legal implications that need to be covered by the legal system in Indonesia. Issues of accreditation or quality standards and the responsibility for wellness tourism services, including personal data protection need to be thoroughly accommodated. Not far different from medical tourism, wellness tourism is an intriguing issue to investigate within the legal purview due to its complexity and relatedness to several legal frameworks. Apart from specific regulations in some other states governing tourism, tourism can also be linked to particular legal purview such as the law concerning consumer protection.

⁴ Éva Csirmaz and Károly Pető, "International Trends in Recreational and Wellness Tourism," *Procedia Economics and Finance* 32 (2015): 755–62, [https://doi.org/https://doi.org/10.1016/S2212-5671\(15\)01458-6](https://doi.org/https://doi.org/10.1016/S2212-5671(15)01458-6).

⁵ Jang Heon Han and Kab Soo An, "Comparison of Perceptions of Wellness Tourism in Korea Before and After COVID-19: Results of Social Big Data Analysis," *Global Business and Finance Review*, 2022, <https://doi.org/10.17549/gbfr.2022.27.2.1>.

⁶ Mauro Dini and Tonino Pencarelli, "Wellness Tourism and the Components of Its Offer System: A Holistic Perspective," *Tourism Review* 77, no. 2 (2022): 394–412, <https://doi.org/10.1108/TR-08-2020-0373>.

Within the context of wellness tourism, the prevailing legal challenges are growing complex due to cultural elements serving as options for reaching physical and mental wellness.⁷ This model also leaves some implications on ethics and laws, unlike in medical tourism, which refers to medical services standardized by a state or international community. Within the scope of personal data protection, problems vary because the utilization of varied wellness tourism services according to cultural values is not always backed up by cutting-edge and secured data storage, thereby leaving tourism vulnerable to infringement.

Literature on wellness tourism development these days has been far-reaching, covering studies on topics ranging from tourism to medicine.⁸ These studies also find that wellness tourism has massively grown conceptually, and this tourism sector should not be deemed similar to medical tourism, with the keyword “holistic” as the main approach used in the provision of wellness tourism services. Departing from the same holistic approach, another study also asserts that wellness tourism has several dimensions with which more specific services can be improved to fulfil the needs of tourism.⁹ This study also explains the essence of the analysis investigating the use of cultural values in the development of wellness tourism. Research explains that the shifting perspective in the tourism sector, particularly after the pandemic, indicates that there is a growing awareness among people of their wellness, which potentially raises the trend in wellness tourism.¹⁰

Research finds that Indonesia has great potential in wellness tourism, particularly in regions with branding attracting international tourists like Bali, with its products and services based on local wisdom as essential factors to

⁷ Morteza Izadi et al., “Medical Travel: The Ethical and Legal Challenges,” *International Journal of Travel Medicine & Global Health* 1, no. 1 (2013): 23–28.

⁸ Sergey Kazakov and Olga Oyner, “Wellness Tourism: A Perspective Article,” *Tourism Review* 76, no. 1 (January 2021): 58–63, <https://doi.org/10.1108/TR-05-2019-0154>.

⁹ Alana K. Dillette, Alecia C. Douglas, and Carey Andrzejewski, “Dimensions of Holistic Wellness as a Result of International Wellness Tourism Experiences,” *Current Issues in Tourism* 24, no. 6 (2021): 794–810, <https://doi.org/10.1080/13683500.2020.1746247>.

¹⁰ Han and An, “Comparison of Perceptions of Wellness Tourism in Korea Before and After COVID-19: Results of Social Big Data Analysis.”

develop wellness tourism prospects.¹¹ This research also explains that the same model can also be developed in other areas with lower popularity in tourist destinations, considering that Indonesia is home to diverse cultures. The challenges faced in the development of wellness tourism are highlighted in research elucidating that the risks in wellness tourism development need to be protected under appropriate legal framework.¹² The analysis of these challenges departs from the resemblance between wellness tourism and medical tourism because health-related matters may distort national health service systems and trigger important questions on economics, ethics, and socio-national matters.

The analysis of the problems and literature review on wellness tourism reveals that there is a research gap, especially in the development of the legal framework required to facilitate the development of wellness tourism in Indonesia. Although triggering factors have come from different directions, encouraging the facilitation of the improvement of the legal framework regarding wellness tourism, there have not been any models of normative construction in the literature that can be suggested for the legal systems in Indonesia. This research seeks to analyse the potential of wellness tourism and its legal implications triggering regulation-making. Departing from regulation mapping, this research also aims to offer a normative construction model to be considered in the development of law in Indonesia and to support wellness tourism and revitalise the tourism sector in Indonesia.

Research Methods

This research employed normative-judicial methods and statutory and comparative approaches. Such a research method studies the norms outlined in the current laws.¹³ The normative method involves library research

¹¹ Made Prasta Yostitia Pradipta, "The Use of Wellness Tourism in Tourism Development: A Case Study in Baluwarti Village, Surakarta City," *JURNAL PENDIDIKAN DAN KELUARGA* 15, no. 01 (2023): 9–23, <https://doi.org/10.24036/jpk/vol15-iss01/1280>.

¹² Lina Zhong et al., "Medical, Health and Wellness Tourism Research—a Review of the Literature (1970–2020) and Research Agenda," *International Journal of Environmental Research and Public Health* 18, no. 20 (2021): 1–16, <https://doi.org/10.3390/ijerph182010875>.

¹³ Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (November 2022): 289–304, <https://doi.org/10.37253/jjr.v24i2.7280>.

that garners information from laws and literature.¹⁴ This research also studies several regulations and policies supporting wellness tourism and how they are enforced in real life in the development of wellness tourism potential based on local wisdom in Indonesia. The secondary data were used, consisting of primary data sourced from Law Number 8 of 1999 concerning Consumer Protection, Law Number 10 of 2009 concerning Tourism, Law Number 27 of 2022 concerning Personal Data Protection, and the Regulation of Health Minister Number 76 of 2015 concerning Medical Tourism Services. These data were further analysed using descriptive-qualitative techniques to help explain the essence of the regulation of wellness tourism in Indonesia.

Discussion

The Potential and Challenges in Wellness Tourism in Indonesia

To face the economic era post-pandemic, President Joko Widodo asserts the essence of adaptation in the tourism sector relevant to the new trends following the pandemic—the new normal.¹⁵ In his speech, President Joko Widodo highlighted the changing preference for services selected by tourists in the tourism sector, and wellness tourism serves as one of the trends currently developing along with this change. The potential natural resources and culture in Indonesia may serve as the main attractions in tourism development. Thus, the analysis regarding the utilization of the existing natural resources needs to be studied further to develop and revitalise the tourism sector that collapsed during the pandemic.

A similar matter was echoed by the Ministry of Tourism and Creative Economy/the Head of Tourism and Creative Economy Body, Sandiaga Salahuddin Uno, asserting that wellness tourism is the key to revitalising the tourism sector and creative economy in a national scope and worldwide.¹⁶ This has been stimulated by people's awareness of improving their health, compared to the conditions following the COVID-19 outbreak that has

¹⁴ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, 17th editi (Jakarta: Rajawali pers, 2015), p. 52.

¹⁵ Chandra Gian Asmara, "Jokowi Bicara Wisata Ala New Normal: Siapkan Standar Baru," CNBC Indonesia, May 2020.

¹⁶ M. Baqir Idrus Alatas, "Sandiaga Uno: Wisata Kesehatan Kini Jadi Pilihan Utama Wisatawan," ANTARA News, August 2022.

claimed the lives of many in Indonesia and worldwide. This potential, therefore, needs to be appropriately utilized, thereby needing the participation of all parties, including the members of the public and governments as stakeholders and tourists.

The famous natural beauty of Indonesia needs to be brought further to a global level since it can set an ideal background to improve health activities and relaxation.¹⁷ This utilisation contributes support to wellness tourism niches, such as yoga, meditation, and self-cleansing, which are expected to leave holistic experiences useful for tourists and foster Indonesian cultural values relevant to those services.¹⁸ Furthermore, the richness of traditional therapies also share unique dimensions to support wellness tourism development.¹⁹ Some traditional therapies, including reflexology, herbal-based therapies, and meditation practices come as distinguished attractions for tourists seeking authentic experiences in their journey to a healthy lifestyle.²⁰ The marriage between traditional practices and modern health treatment and wellness provides balanced and rejuvenating experiences.

Global Wellness Institute reported that Indonesia was in the 7th position globally, with the largest wellness economy in Asia Pacific in 2020.²¹ However, not much of the part of this market is fulfilled by the tourism sector, showing that ample tourism potential has been left undiscovered, especially in the context of wellness tourism, while this sector can utilise cultural elements in Indonesia. Unlike America and Japan, the wellness economic market in

¹⁷ Leonardi Lucky Kurniawan, "Promoting Indonesia as a Wellness Tourism Destination," *KnE Social Sciences* 3, no. 10 (2018): 250–60, <https://doi.org/10.18502/kss.v3i10.3378>.

¹⁸ Ida Bagus Nyoman Mantra, I Nyoman Suparsa, and Nengah Dwi Handayani, "Cultural and Wellness Tourism: The Potential of Yoga, Meditation and Self-Purification Ceremony," *SOSHUM: Jurnal Sosial Dan Humaniora* 13, no. 2 (July 2023): 109–19, <https://doi.org/10.31940/soshum.v13i2.109-119>.

¹⁹ Pradipta, "The Use of Wellness Tourism in Tourism Development: A Case Study in Baluwarti Village, Surakarta City."

²⁰ Sethumadhavan Meera and A Vinodan, "Attitude towards Alternative Medicinal Practices in Wellness Tourism Market," *Journal of Hospitality and Tourism Insights* 2, no. 3 (January 2019): 278–95, <https://doi.org/10.1108/JHTI-06-2018-0037>.

²¹ Global Wellness Institute, "2022 The Global Wellness Economy: Country Rankings," *Global Wellness Institute* (Miami, February 2022), <https://globalwellnessinstitute.org/industry-research/2022-global-wellness-economy-country-rankings/>.

Indonesia was in the 19th position, far lower at an international level. Similar data indicate that there is a correlation between the economic size and the welfare of a state, which is obvious in the top rank shared by the US and Japan and in terms of the expenses on wellness improvement per capita.²² Other rich countries with high income like Singapore and Australia are also home to a more diversified wellness market, in which a wide range of facilities supporting wellness tourism services in competitive and fair quality and quantity.²³ It is important to bear in mind that the potential held by successful countries in implementing wellness tourism in their tourism sector is still within reach for Indonesia to develop this potential. The problem lies in the fact that it has not been further discovered. This problem also represents the greatest challenge that needs to be addressed in Indonesia to boost its position to the top 5 destinations of wellness tourism globally, considering that the advancement of wellness tourism will give wider access to job opportunities.

Despite promising potential worldwide, some challenges have proven difficult, hampering the development of wellness tourism in general. These issues are an inadequate investment that should contribute to the arrangement of infrastructure and facilities and the shortage of skilled and professional workers in charge of special services in wellness tourism.²⁴ In this context, the application of sustainable development goals also needs to be given attention to ensure harmony between the development of this tourism sector and the sustainability agenda.²⁵ Wellness tourism also relies on effective promotion, sustainable destination management, and guaranteed health and wellness service quality offered by service providers in wellness tourism. Therefore, the partnership between governments, the private sector, and the local communities serves as the key to optimising the potential of wellness tourism in Indonesia.

²² Global Wellness Institute.

²³ Global Wellness Institute.

²⁴ M. Goodarzi, N. Haghtalab, and E. Shamshiry, "Wellness Tourism in Sareyn, Iran: Resources, Planning and Development," *Current Issues in Tourism* 19, no. 11 (2016): 1071–76, <https://doi.org/10.1080/13683500.2015.1012192>.

²⁵ Ricardo Jorge da Costa Guerra, Norberto Nuno Pinto dos Santos, and Eduardo Cordeiro Gonçalves, "Health and Wellness Tourism: Contributions to a Local Sustainable Development Strategy," in *Cultural Sustainable Tourism*, ed. Miroslav D Vujicic et al. (Cham: Springer International Publishing, 2022), 219–33.

Like other economic sectors in Indonesia, legal protection is required to maintain cultures and nature as the primary objects in wellness tourism, ensuring that wellness tourism can keep running without hampering the public interest, especially the locals. Appropriate regulations are required to guarantee legal certainty, and this is expected to attract more people or foreigners to invest in the tourism sector in Indonesia through wellness tourism. Considering the great potential and opportunities offered by wellness tourism, governments need to reconfirm the law to avert any negative implications that may stain Indonesian tourism at a global level.

The Legal Implications and Challenges in the Regulations concerning Wellness Tourism Based on Local Wisdom within Tourism Legal Framework

Indonesia refers to Law Number 20 of 2009 concerning Tourism to regulate the tourism sector. The law passed on 16 January 2009 sets forth a vivid definition under Article 1 point 3, implying that tourism involves travelling activities supported by facilities and services. This definition serves as the basis to facilitate economic growth via the wider tourism sector.²⁶ Facilities and services are provided by local communities, businesses, and central and regional governments. Tourism is defined under Article 1 point 1 as activities involving journeys of individuals or groups visiting particular locations for leisure, personal growth, or to understand the uniqueness and tourist attractions in a short time. Although Tourism Law is comprehensively defined, tourism is, on the contrary, superficially defined. While it mentions the objectives of the activities, the activities are left unspecified.²⁷

Table 1. Regulations Concerning Wellness Tourism in Tourism Law

Article	Substance
Article 20 letter d	Every tourist is entitled to the right to health services.

²⁶ Awaludin Nugraha, "Interpretasi Kebijakan Pembangunan Kepariwisata Indonesia," *Tornare* 2, no. 2 (2020): 21–26, <https://doi.org/10.24198/tornare.v2i2.27221>.

²⁷ Ni Nengah Ariastini et al., *MEPANTIGAN: Alternatif Baru Pengembangan Sport Tourism Berbasis Budaya, Jayapangus Press Books*, 2018, <http://book.penerbit.org/index.php/JPB/article/view/124>, p. 57.

Article 33 Par (1)	To improve tourism, the government needs to establish cross-sectoral strategic coordination in the scopes of policies, programs, and tourism.
Article 33 Par (2) letter c	These cross-sectoral strategic coordination, as referred to in paragraph (1) involve: c. public infrastructure such as roads, clean water, electricity, telecommunication, and environmental health.

Source: Primary Law

The regulations regarding cross-sectoral collaborations become the key factors in coping with challenging issues and building a sustainable basis for wellness tourism. Such a synergy is expected to help formulate proportional policies, support investment programs, and manage the endeavour to holistically develop wellness tourism. With proper regulatory support and strong cross-sectoral joint action, Indonesia could establish powerful grounds for developing wellness tourism to ensure that the potential leaves positive economic, social, and environmental influences. Nevertheless, Tourism Law only governs the provision of health services as essential elements of tourism, not as part of the tourism sector per se.

The spa is one of the health-related services in tourism, as governed under Tourism Law, Article 14 paragraph (1) letter m, elaborating that the spa gives treatment with varied methods using water, aroma therapies, massage, herbs, and the provision of healthy food/drink. Spa also involves physical activities intended to build mental and physical balance, while Indonesian tradition and culture are maintained. The definition of spa business in Tourism Law is made accurate and comprehensive, covering the related concepts of wellness and wellness tourism. These two concepts are often linked to the state of being well, encompassing activities aimed at improving health inseparable from the tourism sector.²⁸

However, wellness tourism services being developed cover more than just spas. The rising cultural popularity has affected ever-growing new services in the category of wellness tourism to improve the wellness of tourists; these

²⁸ Jiří Vystoupil, Martin Šauer, and Markéta Bobková, "Spa, Spa Tourism and Wellness Tourism in the Czech Republic," *Czech Journal of Tourism* 6, no. 1 (2017): 5–26, <https://doi.org/10.1515/cjot-2017-0001>.

activities include yoga and self-cleansing rituals.²⁹ By amalgamating excellent wellness services and unforgettable holiday experiences, Indonesia increasingly diversifies wellness tourism services for better and eye-catching products. To embark on this level, the collaboration between governments and industries is vital to ensure the far-reaching and excellent development of health infrastructure that meets international standards. Within a legal purview, the governments can begin with facilitating this development by widening the definition of tourism as activities in the tourism sector and regulating other scopes of businesses in the tourism sector to cover wellness tourism activities more than spas. Such a regulation should also take into account the utilization of natural and cultural richness, and ancient traditions passed throughout generations, representing essential elements of services offered in wellness tourism.

Furthermore, far-reaching regulations must adjust to the principles specified in Articles 19 and 22 of the Tourism Law, where the governments are expected to create supportive environments that suit the sectoral development without spoiling the balance between economy, service quality, and cultural and environmental conservation. By adhering to these principles, governments can align the steps taken to develop wellness tourism with the Sustainable Development Goals (SDGs). Article 26 of the Tourism Law also governs the accountability performed by tourism businesses. They are required to respect religious norms, traditions, cultures, and the values of local wisdom of all regions. They are also held accountable for ensuring a healthy, clean, and natural environment as an attempt to keep the natural and cultural environment pristine. The use of local products will contribute to the growth of the local economy. The application of these principles within the framework of tourism development is expected to fairly give opportunities, particularly for the locals whose cultural values and locations provide attractions for tourists.³⁰

²⁹ Mantra, Suparsa, and Handayani, "Cultural and Wellness Tourism: The Potential of Yoga, Meditation and Self-Purification Ceremony."

³⁰ Anna Carr, Lisa Ruhanen, and Michelle Whitford, "Indigenous Peoples and Tourism: The Challenges and Opportunities for Sustainable Tourism," *Journal of Sustainable Tourism* 24, no. 8–9 (2016): 1067–79, <https://doi.org/10.1080/09669582.2016.1206112>.

Tourism services in the scope of wellness tourism are further specified in the Regulation of Health Minister Number 76 of 2015 concerning Medical Tourism Services, but Article 1 point 1 provides a special definition for medical tourism, describing this term as a journey of an individual to another city or from another country to seek medical treatments, medical procedures, or other kinds of health services in a hospital. Under this regulation, no specified regulation regarding wellness tourism adheres to the local wisdom. Article 4 of the Regulation of Health Minister concerning Medical Tourism Services as above elucidates that medical tourism services constitute prehospital, hospital, and posthospital care. This provision normatively restricts its reach only to health services in a hospital. In addition, all the regulatory elements under the Regulation of Health Minister cannot be likened to specific kinds of services such as therapies although such a service can be given outside a hospital along with other services adhering to local wisdom as part of posthospital health care services. In reality, the normative restriction governed under Article 4 applies to all regulatory provisions. Therefore, the regulation of the Health Minister cannot be used as the basis for governing local wisdom-based wellness tourism, and other regulatory provisions substantively different from medical tourism are required. Regulations concerning medical tourism are principally and normatively restricted, particularly in the context of the utilization of local wisdom as part of the services. This is because the legal framework often likens varied kinds of traditional knowledge to a medical sphere in the form of wellness services.

In the long term, wellness tourism development in Indonesia will not only tend to shrink the foreign exchange in overseas countries as a result of the growing tendency to seek medical treatment overseas, but it will also increase foreign exchange in Indonesia from the tourism sector comprehensively. By convincing Indonesian people who tend to seek wellness tourism care overseas to trust local wellness tourism, Indonesia, with its huge population, may be led further to the possibility that may give a valuable contribution. Therefore, the legal development regarding wellness tourism should be maintained within the tourism legal framework.

The Legal Implications of Consumer Protection and Personal Data Protection

Like other business sectors, wellness tourism is also responsible for consumer protection. Consumer protection serves as the basis for providing quality tourism services, prioritizing comfort for tourists as consumers.³¹ This issue is considered vital in wellness tourism, considering that service quality directly impacts the wellness of tourists mentally and bodily. Within the context of wellness tourism, the protection of consumers encompasses authentic experiences and correct and accurate information on all available services, therapies, transparent prices, and cancellation policies. Consistent standards must be set and maintained by service providers to ensure that every aspect of wellness tourism, ranging from accommodation and therapies to other supplementary activities can encompass or even transcend the expectations and the needs of consumers. Consistent and fair procedures are another key to handling complaints and feedback from tourists, which contribute to the positive and continuous branding of wellness tourism. All these elements will certainly affect the dynamic of the nexus between service providers and tourists as consumers, which will eventually guarantee the concept of consumer protection.³²

Consumer protection refers to Law Number 8 of 1999 concerning Consumer Protection (henceforth referred to as Consumer Protection Law). Tourists are consumers within the context of tourism because they meet the definition of the consumer as referred to in Article 1 point 2 of the Law concerning Consumer Protection. This regulation also defines a consumer as every individual who uses goods and/or services available publicly to meet personal needs, family needs, or the needs of others without the intention to resell those goods and/or services. In a nutshell, consumers are entitled to consumer protection, as referred to in Article 1 point 1 of the Consumer

³¹ Gabriela Cecilia Stanciulescu, Gabriela Nicoleta Diaconescu, and Dan Mihnea Diaconescu, "Health, Spa, Wellness Tourism. What Is the Difference?," *Knowledge Horizons - Economics* 7, no. 3 (2015): 158–61.

³² Mang He, Biqiang Liu, and Yaoqi Li, "Tourist Inspiration: How the Wellness Tourism Experience Inspires Tourist Engagement?," *Journal of Hospitality and Tourism Research* 47, no. 7 (2023): 1115–35, <https://doi.org/10.1177/10963480211026376>.

Protection Law to guarantee legal certainty and provide protection to consumers.

Wellness tourism needs to be promoted to attract domestic and international visitors, which should take into account Article 13 paragraph (2): “*Business actors are forbidden to offer, promote, or advertise medicine, traditional medicine, food supplement, health equipment, and health services by promising customers gifts in the forms of goods and/ or other services.*” This regulation bans marketing products with certain gifts promised. This is intended to appreciate members in the membership program popular in wellness communities such as yoga.

The first normative restriction as outlined in Consumer Protection is performing accountability of business actors as referred to in Article 7 letter d, ensuring the quality of goods and/or services produced, sold, and/or offered according to the quality of the products concerned. because the standards and specific regulations concerning the standards of wellness tourism, unlike in medical tourism governed under the Regulation of Health Minister concerning Medical Tourism Services, the norms in this regulation cannot be fully applied to wellness tourism. The governments need to fix this disproportionate condition by setting a regulation similar to that of the Health Minister concerning Medical Tourism Services or recognising all services of wellness tourism in Tourism Law. The normative restrictions are getting more relevant to the context of wellness tourism based on local wisdom whose outputs and services are not always backed up by scientific evidence. At least, the regulation concerning the standardization of wellness tourism must cover education for consumers through detailed explanations of the side effects of health services given.

Wellness tourism also leaves legal impacts on personal data protection. Tourists enjoying a wide range of wellness tourism services may directly or indirectly provide information on their medical records as part of their data.³³ On the other hand, wellness tourism providers serve as data controllers simply because they can access information on the medical records of the tourists

³³ Abderahman Rejeb, John G Keogh, and Horst Treiblmaier, “The Impact of Blockchain on Medical Tourism,” in *Smart Business: Technology and Data Enabled Innovative Business Models and Practices*, ed. Karl R Lang et al. (Cham: Springer International Publishing, 2020), 29–40.

using their services. Article 1 point 4 of Law Number 27 of 2022 concerning Personal Data Protection explains that the role of data controllers may be held by individuals, public institutions, and international organisations acting independently or jointly in setting goals and controlling personal data processing. Although wellness tourism services do not take into account the objectives of data utilisation within a technical context, service providers need to access consumers' data and decide how the data will be used.

Personal data of tourists accessed by wellness tourism service providers are generally categorised as specific data, bearing health information, as referred to in Article 4 paragraph (2) letter a of Personal Data Protection Law. As a consequence, this regulation also binds wellness tourism service providers under Article 33 letter a, stating that personal data controllers deny the request for alternation of personal data if this action harms the physical and mental health of the personal data owners. However, discovering whether this alteration is harmful should involve parties that should be held accountable, particularly in the scope of medical science. Unlike medical practitioners and other medical professionals, the norms in this regulation cannot be taken as accountability under any code of conduct of wellness tourism. The normative issue releases prerogative rights that know no limit for wellness tourism service providers, while there is no convincing guarantee that this norm holds knowledge comparable to that of medical professionals. Therefore, this norm can be deemed detrimental to the interest of tourists and may leave detrimental impacts on wellness and tourists.

Proposed Model of Normative Construction for Tourism Wellness Development

According to the analysis of normative challenges in the development of a legal framework to support wellness tourism in Indonesia, the regulatory aspects that need to be considered in the normative construction of the regulation concerning wellness tourism based on local wisdom are presented in the following Table.

Table 2. Normative Construction of Wellness Tourism

Regulatory Aspect	Substance
Licensing	<ul style="list-style-type: none"> - Business actors running wellness tourism services must receive approval from the Minister, or another authority that qualifies. - To get the approval, wellness tourism practices must meet administrative and technical requirements. - This approval must be followed by a synergic analysis conducted by the Ministry of Tourism and Creative Economy and the Ministry of Health. - The originality of cultural wisdom utilised in wellness tourism must be verified.
Consumer Protection	<ul style="list-style-type: none"> - The accountability held by those providing the services of wellness tourism to educate tourists as prospective consumers regarding positive effects and indications. - Mandatory health check-ups, encompassing primary wellness check-ups to gain information on the conditions of tourists prior to the activities provided by wellness. Tourism services.
Personal Data Control	<ul style="list-style-type: none"> - Licencing or rights granted by governments must be made mandatory, as they are useful to justify control over personal data protection, especially in decision-making regarding the deletion or alteration of tourists' medical reports as personal data. - Mandatory provision of administrative services and other technology-based services as well as the analysis of personal data storage security. - Mandatory terms and conditions (T&C) in personal data.

Source: Conceptual Analysis

The licensing aspect and consumer protection aspects are normatively inextricable. To avert the likelihood of overregulation, licensing and consumer protection aspects can be amalgamated into a regulatory provision governed by the Regulation of Health Minister concerning Medical Tourism Services. There needs to be synergy encompassing all domains of government, particularly at the ministerial level to duly facilitate and further regulate the bureaucracy processing licensing. This synergetic approach is also mandatory in the process of verification of the originality of cultural wisdom, which should be further regulated, considering ample cultural values that contribute to the development of wellness tourism.³⁴ With such a verification, emerging medical issues in wellness tourism based on local wisdom can be discovered without staining traditional cultures and communities.

The accountability for the likely side effects on wellness tourism services based on local wisdom should also be applied and included under T&C, together with personal data control and security policy. The personal data entered must also cover the information on mandatory health check-up results released by local wisdom-wellness tourism services, bearing the information on body weight, height, and physical and/or mental complaints of tourists. Accommodating technology for personal data control should also be made available and included in the licensing aspect to keep the regulation simple.

Conclusion

Wellness tourism offers a new dimension as a problem-solver to improve the welfare and physical, mental, and spiritual quality of tourists. Cultural diversity to represent the identity of local wisdom and the natural beauty of the Archipelago should contribute to wellness tourism in all regions. However, the normative analysis has found several issues hampering the development of wellness tourism based on local wisdom in the country. Apart from the tourism legal framework, another normative issue of consumer protection and personal data protection is also apparent. The normative

³⁴ Pradipta, "The Use of Wellness Tourism in Tourism Development: A Case Study in Baluwarti Village, Surakarta City."

construction model offered encompasses all regulatory forms aimed at coping with normative issues identified in a way not far different from that of the Regulation of the Minister of Health of Medical Tourism. The normative construction model offered indicates the urgency of the synergy among governments, particularly in the domains of health and tourism. The scope of this research is outlined in the examination of the effectiveness of the existing regulation that requires empirical data. Further research is expected to reinforce the urgency of the development of the legal framework of wellness tourism by identifying legal problems faced by tourists and service providers.

References

- Alatas, M. Baqir Idrus. "Sandiaga Uno: Wisata Kesehatan Kini Jadi Pilihan Utama Wisatawan." *ANTARA News*, August 2022.
- Ariastini, Ni Nengah, Ni Made Ayu Natih Widhiarini, Putu Eni Oktaviani, and I Made Trisna Semara. *MEPANTIGAN: Alternatif Baru Pengembangan Sport Tourism Berbasis Budaya*. Jayapangus Press Books, 2018.
- Asmara, Chandra Gian. "Jokowi Bicara Wisata Ala New Normal: Siapkan Standar Baru." *CNBC Indonesia*, May 2020.
- Carr, Anna, Lisa Ruhanen, and Michelle Whitford. "Indigenous Peoples and Tourism: The Challenges and Opportunities for Sustainable Tourism." *Journal of Sustainable Tourism* 24, no. 8–9 (2016): 1067–79. <https://doi.org/10.1080/09669582.2016.1206112>.
- Costa Guerra, Ricardo Jorge da, Norberto Nuno Pinto dos Santos, and Eduardo Cordeiro Gonçalves. "Health and Wellness Tourism: Contributions to a Local Sustainable Development Strategy." In *Cultural Sustainable Tourism*, edited by Miroslav D Vujicic, Azilah Kasim, Stella Kostopoulou, Jorge Chica Olmo, and Mohamed Aslam, 219–33. Cham: Springer International Publishing, 2022.
- Csirmaz, Éva, and Károly Pető. "International Trends in Recreational and Wellness Tourism." *Procedia Economics and Finance* 32 (2015): 755–62. [https://doi.org/https://doi.org/10.1016/S2212-5671\(15\)01458-6](https://doi.org/https://doi.org/10.1016/S2212-5671(15)01458-6).
- Dillette, Alana K., Alecia C. Douglas, and Carey Andrzejewski. "Dimensions of Holistic Wellness as a Result of International Wellness Tourism Experiences." *Current Issues in Tourism* 24, no. 6 (2021): 794–810.

<https://doi.org/10.1080/13683500.2020.1746247>.

Dini, Mauro, and Tonino Pencarelli. "Wellness Tourism and the Components of Its Offer System: A Holistic Perspective." *Tourism Review* 77, no. 2 (2022): 394–412. <https://doi.org/10.1108/TR-08-2020-0373>.

Disemadi, Hari Sutra. "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies." *Journal of Judicial Review* 24, no. 2 (November 2022): 289–304. <https://doi.org/10.37253/jjr.v24i2.7280>.

Global Wellness Institute. "2022 The Global Wellness Economy: Country Rankings." *Global Wellness Institute*. Miami, February 2022. <https://globalwellnessinstitute.org/industry-research/2022-global-wellness-economy-country-rankings/>.

Goodarzi, M., N. Haghtalab, and E. Shamsiry. "Wellness Tourism in Sareyn, Iran: Resources, Planning and Development." *Current Issues in Tourism* 19, no. 11 (2016): 1071–76. <https://doi.org/10.1080/13683500.2015.1012192>.

Han, Jang Heon, and Kab Soo An. "Comparison of Perceptions of Wellness Tourism in Korea Before and After COVID-19: Results of Social Big Data Analysis." *Global Business and Finance Review*, 2022. <https://doi.org/10.17549/gbfr.2022.27.2.1>.

He, Mang, Biqiang Liu, and Yaoqi Li. "Tourist Inspiration: How the Wellness Tourism Experience Inspires Tourist Engagement." *Journal of Hospitality and Tourism Research* 47, no. 7 (2023): 1115–35. <https://doi.org/10.1177/10963480211026376>.

Izadi, Morteza, Ali Ayoubian, Seyed Hasan Saadat, and Rahim Khodayari Zarnaq. "Medical Travel: The Ethical and Legal Challenges." *International Journal of Travel Medicine & Global Health* 1, no. 1 (2013): 23–28.

Karabulut, Gokhan, Mehmet Huseyin Bilgin, Ender Demir, and Asli Cansin Doker. "How Pandemics Affect Tourism: International Evidence." *Annals of Tourism Research* 84 (2020): 1–20. <https://doi.org/10.1016/j.annals.2020.102991>.

Kazakov, Sergey, and Olga Oyner. "Wellness Tourism: A Perspective Article." *Tourism Review* 76, no. 1 (January 2021): 58–63. <https://doi.org/10.1108/TR-05-2019-0154>.

- Kurniawan, Leonardi Lucky. "Promoting Indonesia as a Wellness Tourism Destination." *KnE Social Sciences* 3, no. 10 (2018): 250–60. <https://doi.org/10.18502/kss.v3i10.3378>.
- Kusnandar, Viva Budy. "Penerimaan Devisa Pariwisata Ditargetkan US\$2,9-5,9 Miliar Pada 2023." databoks, June 2023.
- Mantra, Ida Bagus Nyoman, I Nyoman Suparsa, and Nengah Dwi Handayani. "Cultural and Wellness Tourism: The Potential of Yoga, Meditation and Self-Purification Ceremony." *SOSHUM : Jurnal Sosial Dan Humaniora* 13, no. 2 (July 2023): 109–19. <https://doi.org/10.31940/soshum.v13i2.109-119>.
- Meera, Sethumadhavan, and A Vinodan. "Attitude towards Alternative Medicinal Practices in Wellness Tourism Market." *Journal of Hospitality and Tourism Insights* 2, no. 3 (January 2019): 278–95. <https://doi.org/10.1108/JHTI-06-2018-0037>.
- Nugraha, Awaludin. "Interpretasi Kebijakan Pembangunan Kepariwisata Indonesia." *Tornare* 2, no. 2 (2020): 21–26. <https://doi.org/10.24198/tornare.v2i2.27221>.
- Pradipta, Made Prasta Yostitia. "The Use of Wellness Tourism in Tourism Development: A Case Study in Baluwarti Village, Surakarta City." *JURNAL PENDIDIKAN DAN KELUARGA* 15, no. 01 (2023): 9–23. <https://doi.org/10.24036/jpk/vol15-iss01/1280>.
- Rejeb, Abderahman, John G Keogh, and Horst Treiblmaier. "The Impact of Blockchain on Medical Tourism." In *Smart Business: Technology and Data Enabled Innovative Business Models and Practices*, edited by Karl R Lang, Jennifer Xu, Bin Zhu, Xiao Liu, Michael J Shaw, Han Zhang, and Ming Fan, 29–40. Cham: Springer International Publishing, 2020.
- Soekanto, Soerjono, and Sri Mamudji. *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. 17th editi. Jakarta: Rajawali pers, 2015.
- Stanculescu, Gabriela Cecilia, Gabriela Nicoleta Diaconescu, and Dan Mihnea Diaconescu. "Health, Spa, Wellness Tourism. What Is the Difference?" *Knowledge Horizons - Economics* 7, no. 3 (2015): 158–61.
- Vystoupil, Jiří, Martin Šauer, and Markéta Bobková. "Spa, Spa Tourism and Wellness Tourism in the Czech Republic." *Czech Journal of Tourism* 6, no. 1 (2017): 5–26. <https://doi.org/10.1515/cjot-2017-0001>.

Yakup, Anggita Permata, and Tri Haryanto. "Pengaruh Pariwisata Terhadap Pertumbuhan Ekonomi Di Indonesia." *Bina Ekonomi* 23, no. 2 (2021): 39–47. <https://doi.org/10.26593/be.v23i2.3266.39-47>.

Zhong, Lina, Baolin Deng, Alastair M. Morrison, J. Andres Coca-Stefaniak, and Liyu Yang. "Medical, Health and Wellness Tourism Research—a Review of the Literature (1970–2020) and Research Agenda." *International Journal of Environmental Research and Public Health* 18, no. 20 (2021): 1–16. <https://doi.org/10.3390/ijerph182010875>.