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### Legal Protection for Tourism Workforce *Krama* Bali

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#### Abstract

The dynamics of Bali tourism required workforce, both Balinese themselves (Balinese *krama*) and Balinese non-*krama*. This paper discussed: (1) How is the competence and productivity of Bali *Krama* tourism workforce? (2) What is the legal protection of the Bali *Krama* tourism workforce? This publication is the result of qualitative research carried out in Denpasar City, Baling Regency and Gianyar Regency. The data collection process was carried out through a survey involving 450 respondents determined through the stratified proportionate random sampling technique. In addition, research data was also obtained through document studies, observations, in-depth interviews with 12 informants, and focused discussions (FGD) to find out the competencies and productivity of Balinese *Krama* and legal protection for them. The data collected was analyzed descriptively by applying the theory of hegemony and the communicative theory of J. Habermas. The results showed: First, the Balinese *Krama* tourism workforce had competence and a higher level of productivity than the Balinese non-*Krama* tourism workforce. Second, Balinese *Krama* of tourism workforce have not yet received adequate legal protection. Although Balinese *Krama* are prioritized to be recruited as tourist workers in their environment, their status is still outsourcing, not yet made permanent staff / employees. Some of them also do not get guaranteed BPJS / Jamsostek and wages according to the minimum wage. In addition, the presence of tourism trade unions has not fully been able to fight for the rights of Bali's tourism workers. In accordance with its authority, the Provincial Government of Bali needs to enforce regulations so that Balinese *Krama* tourism workers get their welfare rights.

**Keywords:** legal protection, tourism workforce, Balinese *Krama*

#### 1. INTRODUCTION

Indonesia Tourism Development originated from Constitution Law No 10 of 2009, which formulated tourism objectives such as to increase economic growth, eradicate poverty, overcome unemployment, and improve people welfare. Tourism development is directed at encouraging equal opportunity for businesses and benefits and being able to face the challenges of local, national and global change. Bali tourism development should be able to improve the welfare of the local community.

As a leading sector, the determination of Bali cultural tourism in Bali tourism development is based on Bali Provincial Regulation No 2 of 2012 concerning Bali Cultural Tourism. Cultural Tourism was one type of tourism which in its development is supported by cultural factors, namely Balinese Culture imbued with Hinduism.

Conceptually, cultural tourism is expected to create harmony, conformity, and balance between the implementation of tourism and Balinese culture. In addition, the quality of objects and tourist attractions is expected to increase and remain sustainable, and be able to maintain norms, cultural values, religion and avoid the negative influence of tourism. This concept was in line with the new paradigm, that was the sustainable tourism based on society

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# Legal Protection for Tourism Workforce KramaBali

*by* I Wayan Wesna Astara

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### I. INTRODUCTION

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and always maintained the quality and natural resources sustainability, improved the welfare of local societies and created a balance between natural and cultural resources, the welfare of local societies and tourist satisfaction (Ardika, 2003; Karmini, 2020).

In addition to promoting Balinese culture, the aim of Bali cultural tourism development was to prosper the *krama* society of Bali. In other hand, tourism was a sector that had a broad impact on other sectors, including on employment either direct employment, indirect employment, or induced workforce in tourism sector.

The tourism sector was able to create jobs. Job creation has begun since tourists will leave (travel service workers), when tourists arrive at the airport (transport workers), when carrying out tourist travel activities (tour guides and lodging), food and beverage needs (restaurants) and various tourist attractions both at sea and on land. Thus the tourism workforce required competence which is a set of knowledge, skills and behaviors that must be possessed, internalized, and controlled by tourism workers to develop work professionalism (Yoeti, 1997).

The development of tourism was able to absorb a relatively high workforce, this is due to the nature of the tourism industry itself which used more workforce than machines. In addition, the tourism industry absorbed workers from a variety of qualifications, from those with low-level educational backgrounds to those with high education. Based on the quality, the workforce can be divided into the following three types: (1) educated workforce, namely workers who had an expertise or expertise in a particular field by means of school or formal and non-formal education; (2) trained or skilled workforce, that is, workers who had expertise in certain fields through work experience. These skilled workers need repeated training so they were able to master the work, and (3) uneducated and untrained workforces are unskilled workforcers who only relied on workforces such as coolies, transport workers, domestic helpers, and so on.

In order to have high productivity, the workers recruited in the tourism business are those who have sufficient competence and skills. This is in accordance with Constitutional Law No 10 of 2009 concerning Tourism, Article 53 which stated that (1) workforce in the tourism sector had competency standards; (2) Competency standards as referred to in paragraph (1) shall be carried out through competency certification; (3) Competency certification is carried out by professional certification bodies that have been licensed in accordance with statutory provisions.

The growth of tourism in Bali continued to increase, but has not been matched by maximally embracing the local workforce. From the results of the field study it is known that some of the hotels in Bali including Prime Plaza Hotel operating in the traditional village of Sanur as well as hotel hotels in the Tuban-Kuta area employ around 85% of Balinese *krama*. However, the position of the General Minister is still dominated by foreign workers or workers outside Bali. Professional workers such as staff at the general manager level in Bali are mostly still controlled by outsiders.

Bali workforce in the tourism sector had a low bargaining position in terms of placement or position. One of the main causes was the dominant capital owner was not Bali *krama*, but investors outside Bali or foreign nationals. The owners of the capital of the non-*krama* tourism business in Bali, in employing workforce, generally prioritize the workforce

that they have prepared beforehand, which is dominated by non-local or non-*krama* Bali workers. Low Bargaining of Balinese *Krama* workers is seen from the position of Balinese *Krama* workers who generally did not occupy top management positions, but they were mostly workers at the lower class. Actually, many of Bali *krama* had the ability to occupy top management positions, but business owners prioritized the workforce that they have prepared for upper-class management (Bisnis.com, Sunday, 07/14/2019).

To further empower local Balinese *krama* workers, the Provincial Government of Bali needs to be present such as creating regulations that allow Bali *krama* workers to have a bargaining position equal to Balinese non-*krama* workers especially in the tourism sector. In addition to through regulation, the government need to formulate strategic steps through various integrated policies to increase the productivity of Balinese *krama*. These strategic efforts include improving education and skills to improve the competency of Balinese *krama*, and the protection of Balinese traditional *krama*. Local policies that defend Balinese *krama* tourism workforce are important in confronting the Southeast Asian free market in Indonesia. As a tourism workforce, *krama* are expected to have sufficient capacity so that they are able to compete with foreign workers present in the Southeast Asian free market since 2015. In order to be able to compete with foreign workers, improving the quality of Indonesia's human resources (HR) needs to be done, especially human resources in the fields of health, education, communication and technology (Amalia, 2018).

Efforts to protect the people or local residents as tourism workers are part of the mandate of the 1945 Constitution Law. Every person had the right to receive education and decent work which is the basic right of every citizen as stated in Article 27 paragraph (2) of the 1945 Constitution which states that "every Indonesian citizens are entitled to decent work and protection for humanity. " Furthermore, the provisions of Article 28D paragraph (2) of the 1945 Constitution Law stated that: "everyone has the right to work and to receive fair and appropriate compensation and treatment in an employment relationship."

The Provincial Government of Bali also had the authority to regulate the organization of tourism in the region. Bali Provincial Regulation Number 2 of 2012 concerning Bali Cultural Tourism Article 24 stipulated that the public is entitled to the broadest opportunity to participate in the administration of tourism. These rights include the right as a worker in a tourism business, as a manager of a Tourist Attraction, carried out promotions; and sat in the tourism institution.

The vision of the Governor of Bali with the basic principle of "*Nangun Sat Kerthi Loka Bali*" through the pattern of Universal Development Planning towards a New Era of Bali, clearly implied that development in Bali must provide as much benefit as possible for Balinese *krama*. For this reason, Balinese culture was one of the important variables that must be maintained and preserved as local wisdom that distinguished it from other regions or countries, so that Bali is known as the best tourism destination in the world. To preserve Balinese culture, only Balinese or Balinese *krama* are able to carry out, efforts to protect Bali must be carried out by Balinese *krama* as the owner who was most familiar with Balinese culture. Under these conditions, the Government of the Province of Bali must be present to regulate through regulations that allowed Balinese *krama* to receive justice and maximum benefit from the development of tourism in Bali, besides this regulation will allow Balinese

*krama* to obtain a strategic bargaining position in carrying out regional development, this is what became the state of the art of this study.

This scientific work discussed the phenomenon of the lack of Balinese *krama* workers ability in competing to occupy top management positions in the tourism sector in Bali by raising two main issues, there were: (1) How is the competence and productivity of Balinese *Krama* tourism workforce? (2) What is legal protection owned by Balinese *Krama* tourism workforce? This scientific work is expected to be able to provide information about the competencies and productivity of Balinese *Krama* workers in the tourism sector in Bali, as well as a description of the efforts to protect the legal *krama* Balinese workers in the tourism sector in Bali.

## II. LITERATURE REVIEW

In accordance with the research topic studied, there were a number of publications related to employment, as well as the struggle of workers (laborers) in obtaining their rights. Among them is Sastrohadiwiryo (2005) discussing the Management of Indonesian Workers. It was stated that in employment development, the government had compiled and determined workforce planning. Workforce planning is intended to be used as a basis and reference in the formulation of policies, strategies and implementation of sustainable employment development programs. Workforce planning is compiled based on employment information. The minimum employment information that must be compiled includes: population and labor, employment opportunities, job training, labor productivity, industrial relations, working environment conditions, wages and labor welfare, and labor social security.

All companies want the workforce to have high productivity. In this connection, Bahri (2016) discussed the Career Development Effect and Competence on Work Productivity and its Implications on the Employees Performances of the Public Works Department of Public Works in the South Sumatra. The results of his research indicated that career development had a positive and significant effect on productivity. Work competence had a positive and significant effect on productivity. Career development and work competence together had a positive and significant effect on productivity. Partially, it turned out career development was more dominantly affecting productivity. Career development had a positive and significant effect on employee performance. Work competence had a positive and significant effect on employee performance. Productivity had a positive and significant effect on employee performance. Career development, work competency, and productivity together influence and significantly affect employee performance. Partially, it turned out that productivity is more dominantly affecting employee performance.

All workers want that they obtained their rights as workers. They do social movements when the rights as workers are neglected. In this connection, Murni (2011) examined the Hotel Workers Social Movement in Badung Regency Post-2005. It was concluded that the post-2005 tourism worker social movements in Badung Regency were manifested in the form of (1) mass actions - demonstrations, demonstrations in a limited manner and involving mass periods. orderly and peaceful; (2) social actions to support environmental preservation, humanity and strengthening the religious life of tourism trade

union members in accordance with the Tri Hita Karana (THK) socio-ecological and spiritual principles; (3) advocating legislation, namely demands for policy makers to implement policies that do not harm workers; and (4) press releases, namely giving statements in the mass media (printed, electronic) related to the struggle of trade unions in improving the welfare of workers. In accordance with Derrida's deconstruction theory, management's dominance of workers is reduced and the principle of partnership between workers and management can be built to optimize the role of bipartite institutions. The role of bipartite institutions, workers' aspirations will be able to be communicated and negotiated by the union unit together with the local management (company). Third, the social movement of post-2005 Badung Regency hotel workers has affected several aspects of the lives of tourism trade union members, namely (a) social impacts, (b) economic impacts, (c) political impacts and (d) cultural impacts. In addition, the social movement of Badung Regency hotel workers has been meaningful in efforts to strengthen social solidarity, increase welfare and socio-economic justice and enhance the positive image of Balinese culture tourism. Logocentrism which places the patron relationship model of the client (the ruler - which is controlled) is no longer valid because it is deconstructed by the principle of partnership mandated in industrial relations (Constitutional Law No. 3/2000). The role of trade unions needs to be further enhanced to further empower workers.

The repositioning of the workers social movement above was part of the phenomenon of workers' struggles in the reform era that workers, including those engaged in the field of tourism services (hospitality) in Bali were increasingly aware of their role for the advancement of tourism in Bali. Their awareness is expressed through social movements, which are protests and demonstrations to demand more appropriate wages and welfare as well as freedom of association or to determine the labor organizations they follow. In this regard, Eggi Sudjana (2005) comprehensively reviews laborers in Indonesia in the Fate and Workers' Struggle in Indonesia. This study was a valuable reference in the discussion of the movements of trade unions and workers, political format, and future labor movements in Indonesia. Workers (laborers) need to be defended, so as not to become victims of political interests or ridden by political interests for a moment.

Every worker or employee had motivation in carrying out his work. In this connection, Siswandy and Saragih (2017) discussed the Effect of Competence on Employee Work Productivity with Motivation as a Moderator Variables in PT PLN (Persero) Electricity Maintenance Center Workshop and Maintenance Unit IV (Pusharlis UWP IV). The results of his research indicated that overall work competence, motivation and work productivity are included in the high category. Competence had a significant effect on work productivity. The results also showed that motivation is a moderating variable that positively affects the relationship of work competency and work productivity. This can be interpreted that by increasing motivation will also increase employee productivity.

Some of the above scientific publications discussed labor issues and workers social movements in fighting for their rights. None of these scientific publications have yet discussed the competencies and productivity of the Bali Krama tourism workforce. However, as scientific references, some of these publications have provided valuable insights related to the existence of the workforce to be used as important references in this scientific work.

### III. RESEARCH METHOD

This publication was the qualitative research result that discussed the competence, productivity and legal protection efforts of Balinese *Krama* Workers in the tourism sector in the Province of Bali. This research was conducted in three regions, namely Denpasar City, Badung Regency and Gianyar Regency. These three regencies / cities were chosen as research locations because they adequately represented the description of Balinese *krama* in the field of tourism in Bali. The data collection process was carried out through a survey involving 450 respondents determined through the stratified proportionate random sampling technique. In addition, research data was also obtained through document studies, observations, focused discussions (FGD) and in-depth interviews with 12 selected informants, from representatives of tourism workers, tourism business managers, and observers of Bali tourism to find out the competencies and productivity of the Balinese manpower workforce and legal protection for them. The data collected was analyzed descriptively by applying the theory of hegemony and the communicative theory of J. Habermas.

### IV. RESULT AND DISCUSSION

#### 4.1. Respondent Characteristics

The research subjects were the tourism sector workforce in Bali Province. In terms of gender, 57.80% of respondents were male and 42.20% were female. This data shown, the workforce of the tourism sector in Bali Province was more than the male group. This type of work in the tourism sector did require employment using greater physical force by men. Generally, male in Bali work more than female, because males were the heads of families who in the view of the Balinese people have the primary responsibility for the survival of their families, including in earning a living.

In terms of age, the majority of respondents were in productive age (20-30 years). This shown that the workforce of the tourism sector in Bali Province generally came from the productive age, meaning that the opportunity increase work productivity is still high. Characteristics of respondents can be explained in Table 4.1.

Table 4.1  
Respondent Characteristics

	Characteristics	Frequency	Percentage
Gender	Male	260	57,80%
	Female	190	42,20%
	Total	450	100%
Age (Year)	< 20	49	10,89%
	20 – 30	181	40,22%
	31 – 40	139	30,89%
	41 – 50	62	13,78%
	> 51	19	4,22%
	Total	450	100%



Position compatibility with expertise	Appropriate	348	77,30%
	Inappropriate	102	22,70%
	Total	450	100%
Education Level	Elementary School and Junior High School	14	3,11%
	Senior High School / Vocational School	185	41,11%
	D1, D2 and D3 (Diploma Degree)	179	39,78%
	S1 (Bachelor Degree)	72	16,00%
	S2 (Master Degree)	0	0,00%
	Total	450	100%
Length of Working	0 - 1 Year	72	16,00%
	1 -5 Year	202	44,90%
	Up to 5 Years	176	39,10%
	Total	450	100%
Training Experience	Have	393	87,30%
	Don't Have	57	12,70%
Origin	Bali	386	85,78%
	Non Bali	64	14,22%
	Total	450	100%

The position given to the tourist workforce should be adjusted to the expertise he had. The majority of respondents (77.30%) said that the position given by the company was in accordance with their expertise. While seen from an educational background, it turns out that the majority of workers who worked in the tourism sector had a senior high school / vocational education, which is 41.11%, followed by workers who graduated Diploma 1, 2 and 3 as much as 39.78%, as many as 16 S1 graduates, 00%, elementary and junior high schools as much as 3.11%. There are no workers who have a Master education background because jobs in the tourism sector are more related to skills, so there is no need for workers with high qualifications who were knowledgeable.

Respondents studied were dominantly having work experience of between 1-5 years as many as 44.90%, work experience > 5 years as much as 39.10% and the rest were new workers with work experience < 1 year, which was as much as 16%. Regarding the question of whether respondents had attended training, as many as 87.30% said they had, whereas 12.70% said they had never, meaning training for employees in the tourism sector was important so dominant were sent to attend training. Furthermore, in terms of its original status, respondents, the majority of local Balinese people, amounted to 85.78%, only 14.22% of Bali's non-hostel workers.

#### 4.2 Competence and Productivity of *Krama* Bali Workers

In order for workers in tourism to have high productivity, they are expected to have the skills in accordance with the required competency standards (Article 53, Constitutional Law No. 10/2009). Workforce competency in Bali tourism is assessed through three

measurement indicators, namely knowledge, skills and behavior (Tanto, et al .. 2010). Knowledge indicators are measured using three question items, namely: knowledge of service procedures, knowledge of service technicalities and leadership knowledge. For indicators of skills that are predicted with three items, namely administrative skills, technical skills and social skills. As for behavioral indicators measured using three items, namely: appearance at work, polite words at work and good behavior.

Table 4.2  
The Comparison of Balinese and Non *Krama* Balinese Workforce Competencies

Workforce Category	Indicator			Total Average Score
	Knowledge	Skill	Attitude	
<b>Local</b>	4,44	4,16	4,53	4,38
<b>Non Local</b>	4,02	4,00	3,95	3,99

Source: Processed From 2019 Field Research Results

Table 4.2 shown the competency comparison between Balinese and non-*Krama* Balinese workers. This fact shown that in terms of competence, it turned out that the workers of Balinese *krama* shown higher performance compared to non-*krama* of Bali. This was closely related to the background level of education of Balinese workforce who generally are Diploma or vocational graduates which were accordance with the needs in the field of tourism.

The competency of Balinese *krama* workforce is expected to sustain the productivity level. The productivity of the tourism workforce studied is measured based on five measurement variables, such as: ability, results achievement, work spirit, personal development, quality and efficiency. The productivity of local and non-local workers is shown in Table 4.3.

Table 4.3  
The Comparison of Balinese *Krama* and Non *Krama* Bali Workforce Productivity Scores

Workforce Category	Indicator						Total Average Score
	Ability	Result Achievement	Work Spirit	Personal Development	Quality	Efficiency	
Local	4,07	4,32	4,02	4,33	4,35	4,10	4,19
Non Local	4,02	4,35	3,95	4,34	4,31	4,06	4,17

Source : Results of survey data processing in 2019

Table 4.3 shows that local workforce had a slightly higher productivity compared to non-local workforce, namely local workforce of 4.19 and non-local workforce of 4.17. This

meant that the workforce productivity of Balinese *krama* was slightly higher compared to Balinese non-*krama*.

Every tourism worker in Bali must complete the work (achievement<sup>24</sup>) in accordance with the targets set by the company. Therefore, each employee must carry out tasks in accordance with their respective targets so that productivity was not much different between local and non-local workforce. In addition, in the world of tourism, facing a workforce market that was more cheerful of a perfectly competitive market, where there was a large number of parties that need workforce and available workforce, then workers who were unable to meet work targets can at any time be issued by the company, and parties workforce was also easy to find a replacement job.

Even though Balinese *krama* had a high level of competence, they have not yet gotten a top position in the tourism business field. Most of the positions of general manager are held by non-*krama* of Bali as explained by the General Manager of Sovereign Bali Hotel I Made Ramia Adnyana (53 years) below.

"The position of tourism leadership in Bali is dominated by foreign workers. About 45% of star-rated hotels are held by foreign managers. Compared to neighboring countries such as Singapore and Thailand for the General Manager position 85% is controlled by local people, only 15% is filled by foreigners. Whereas the General Manager for Balinese is only filled by 35% local people and 65% filled by foreigners. This is related to the ownership and management applied (<https://Bali.bisnis.com/read/2019>). "

Balinese *krama* tourism workers tend to compete with non-*krama* Bali. For this reason, a recall of their skills and capacities is needed. In fighting for Balinese *krama*, it needs to be supported by strong regulations, so that the rights of Balinese *krama* can be protected as tourism workers in their own homes.

#### 4.3 Legal Protection of Balinese *Krama* Workers

Legal protection efforts for tourism workers can be based on the concept of Philipus M. Hadjon which stated that legal protection was a collection of rules or law that can protect one thing from another (Astara, 2017: 106). In this regard, in the 1945 Constitution, Article 28 D, paragraph (1) stated that "every person has the right to recognition, guarantee and protection, and legal certainty that was fair and equal treatment before the law, not to Article 27 paragraph (2) which stated that "Every Indonesian citizen had the right to work and adequate protection for humanity. Balinese *Krama* tourism workers required legal protection. Regulations are needed to protect the interests of traditional Balinese *krama* as part of legal protection from the socio-cultural aspects prepared by the Provincial Government of Bali as an effort to save people and the culture of Bali.

Besides being protected by law, workers in tourism also need to be treated as company partners and guaranteed to obtain their rights, including the right to economic welfare, the right to associate (political) and legal protection for their status as workers or laborers (Constitutional Law No. 23/2000, Constitutional Law 13/2003). Legal Protection for Balinese *Krama* tourism workers can be seen in Table 4.3.

Table 4.3  
Policies related to Tourism Workforce

No	Legal Policy	Legal Protection Aspects
1	Constitutional Law Republic Indonesia No. 10 of 2009 about Tourism	<ul style="list-style-type: none"> <li>✓ The objectives of tourism were to increase economic growth, improve people's welfare, eradicate poverty, and overcome unemployment</li> <li>✓ The workforce in the tourism sector has competency standards (Article 53).</li> </ul>
2	Regional Regulation Bali Province No.1 of 2016 about Providing incentives and / or facilities to the community and / or investors	Investment in Bali absorbs at least 75% of the local workforce (Article 5 Paragraph 1 C).
3	Regional Regulation Bali Province No 2 of 2012 about Bali Culture Tourism	The community has the right to get the widest opportunity to participate in the organization of tourism.
4	Constitutional Law Republic Indonesia No. 21 of 2000 about Workforce Union	<ul style="list-style-type: none"> <li>✓ Giving more conducive space for freedom to form workforce unions.</li> <li>✓ Workforce Union is a coordinating forum between workers and companies</li> <li>✓ Worker problems and demands can be resolved through this Workforce Union bipartite institution</li> </ul>
5	Constitutional Law Republic Indonesia No 13 of 2003 about Employment	✓ The company is obliged to provide a decent wage ( <i>UMR</i> ) for its workers.
	Constitutional Law Republic Indonesia No 40 of 2004 about National Social Security	✓ The employer is obliged to register and provide BPJS / Jamsostek (Article 13).

Source: processed from various sources (Astara, 2020)

Table 4.3 was a number of policies related to legal protection efforts for tourism workers. In connection with efforts to protect the law for Balinese *Krama* tourism workers, some things that need to be emphasized are as follows. **First**, the development of Balinese cultural tourism is expected to be able to prosper the socio-economic life of the citizens (*krama*) of Bali itself. This study shown that the majority of respondents surveyed were Bali *Krama* tourism workers, namely as much as 85.78%, and only 14.22% of Bali non-hostel workers. This is in accordance with Bali Provincial Regulation No. 1 of 2016 concerning the provision of incentives and / or facilities to the community and / or investors, Part Three Article 5 Paragraph 1 C which stated that investment in Bali absorbs at least 75% local workforce.

Recruitment of local workforce has been carried out by Bali tourism business, including tourism service providers (hotels, villas, homestays) in Bali. As the results of this study, the reason for recruiting Balinese *krama* as tourism workers was because they had skills and a high level of competence compared to non-*krama* Balinese workers. In addition,

Balinese *krama* were highly favored in various tourism activities, including cruises in various cruise companies in the World.

Another factor that was very influential on the superior competence of Balinese *krama*, was that Balinese workers did not have too many demands on management, Balinese workers are also known to be very obedient in following instructions, besides that Balinese workers were also able to work hard in completing their work and have very good discipline, because it was closely related to the philosophy of *Karma Pala* which was very important as a guide for the life of the Balinese society, if we want to be treated well by others, then given that kindness to others as well. Balinese *karma* are also known did not say much in completing their work. They done all the tasks with full responsibility and sincere devotion to the company where they work. So Balinese *krama* were rarely involved in rioting, demonstrating and prosecuting (Astara et al, 2020).

**Second**, the Balinese *Krama* tourism workforce is expected to be a full staff or employee, not a day workforce or contract workforce (outsourcing). From this study it was found that there are still tourism businesses that implement the outsourcing work system which is considered to be very detrimental to the employees for the continuity of their work. In this condition Balinese workforce had a very weak bargaining position. The application of the rule of law still tend to favor business owners. Constitutional Law 13/2003 on Employment has not been consistently implemented by the government. The government has not yet given strict sanctions for companies that violate Constitutional Law 13/2003 on Employment.

**Third**, the socio-economic welfare rights of Bali *Krama* tourism workers have not yet been fully fulfilled. This is evidenced by the fact that not all business activities engaged in the tourism sector have consistently applied workforce related regulations, specifically related to the company's obligation to provide workers' wages according to the minimum wage and provide job safety guarantees in the form of BPJS and Jamsostek. To respond to this, the Provincial Government of Bali is expected to carry out monitoring and evaluation as well as coaching business operators who have not consistently applied workforce related regulations.

Various complaints from Balinese workers, namely: inadequate welfare or wage levels below the standard minimum wage, lack of protection for work safety, including health insurance for both employees themselves and family members, needs to be resolved. In addition, the Regional Government needs to create a health insurance program for Balinese workers who have not yet received health insurance from the company where they work, because the company does not have the ability to pay for health insurance such as BPJS and work safety insurance or death insurance (Astara et al, 2020).

**Fourth**, Balinese *Krama* tourism workers already had the right to associate, namely as members of the tourism workforce union (*SP Par*). Tourism workforce unions are a bipartite organization that bridges between workers and companies. All matters relating to the interests of the company and workers are expected to be resolved through this institution overseen by the Manpower Office. Through tourism union unions, solidarity between workers can be established, and the status of workers from objects to subjects can be strengthened (Murni, 2011).

The existence of a tourism workforce union in general has provided an equal place for workers as corporate partners. However, the role of tourism workforce unions was not yet optimal. Its existence has not been able to fully fight for the status and rights of its members. The company tend to have a stronger position than its employees. This can be seen among others the violations committed by the company, among others in the form of: (a) the existence of outshorshing practices, (b) the imposition of minimum wages that did not take into account employee work time, (c) there is no guarantee of work safety in the form of BPJS / Jamsostek.

In accordance with Article 10 of Constitutional Law No. 2/2004, problems between workers and employers (management) are expected to be resolved through deliberation through bipartite workforce institutions, namely negotiations between workforce unions as workers' representatives with management or tripartites, namely the resolution of problems involving workforce unions, parties management and government (local Regency Employment Office). *SP Par* as a bipartite institution was a kind of public sphere as intended in the J Hubermas communication theory of action (in Asean, 1999: 115-129), a bipartite institution can play a role as a public sphere, so problems related to labor relations with management (the employer) can be solved openly, fairly and beneficial to both parties.

In accordance with Constitutional Law No. 13 of 2003 concerning Employment, Balinese *krama* as tourism workers should have socio-economic rights that the company needs to fulfill. However, not all tourism service companies in Bali adhere to this policy. Efforts to improve socio-economic well-being and justice of Balinese *Krama* tourism workers still need to be fought for, because the company still hegemony the workers.

The position of workers in the presence of employers (tourism entrepreneurs) such as indigenous people before the invaders who are always silenced by their voices and rights. This condition - as intended by Spivak (in Loomba, 2003: 297-298) is a form of colonialism practice that created people who are colonized and silenced (subaltern) losing their rights. They were in a position of silence and marginalization due to hegemony by the dominating capitalism of employers, namely tourism entrepreneurs. As Sutrisno (2005) explained, the patron relationship model of the client (the ruler - controlled) should no longer apply because it was deconstructed by the partnership principle mandated in the Pancasila Industrial Relations (Constitutional Law No. 3/2000).

The existence of the Tourism Workforce Union (*SP Par*) should be able to play a role in defending and fighting for the rights of the workers. Through *SP Par*, workers who were initially silenced (subaltern) their rights became more empowered and can voice their aspirations to obtain their rights, including the right to organize, the right to obtain health insurance and other social security.

In accordance with the theory of communicative action (Communicative Action Theory), J. Hamermas, the realization of workers' socio-economic rights can occur because the partnership of both parties (tourism workers and entrepreneurs) has ruled out instrumental rationality and prioritized communicative rationality (Turner, 2000: 157 ). Instrumental rationality was a form of rationality that justified a system of oppression by the logic of capitalist administrative systems and economics to achieve maximum efficiency and effectiveness for strategic benefits, while communicative rationality, was a critical public

space and has the potential to achieve emancipation through communication that was free of domination and equal. This public space was also a bridge of interaction between the authorities (tourism entrepreneurs) and those controlled (workers). Bipartite institutions (*SP Par*) were a form of public space that can be utilized by workers union members with company management.

## V. CLOSING

### 5.1 Conclusion

The dynamics of the Bali tourism business has employed native Balinese workers (*krama* Bali) and outside Bali. Balinese *Krama* tourism workforce had competency and productivity levels that were higher than the non-*Krama* Bali tourism workforce. Balinese *krama* tourism workers have not fully received adequate legal protection. Even though their existence is prioritized to be recruited as tourist workers in their environment, some of them are still outsourced, not yet made permanent staff (employees). Some of them also did not receive guaranteed BPJS / Jamsostek and wages according to the minimum wage. In addition, the presence of tourism trade unions has not fully been able to fight for the rights of Bali's tourism workers.

### 5.2 Suggestion

The Provincial Government of Bali needs to mediate and provide guidance to tourism service business owners to provide legal protection and proper welfare for the Bali *Krama* tourism workers. In accordance with its authority, the Provincial Government of Bali also needs to enforce regulations so that Balinese *Krama* tourism workers obtain permanent employee status (not outsourcing), obtain BPJS / Jamsostek guarantees and other welfare rights.

### 5.3 Novelty

The results shown that not all workers who work in the tourism sector in Bali Province had the skills that are needed. For this reason, training to increase the capacity of the Balinese *Krama* tourism workforce in accordance with the needs of the tourism workforce market needs to be developed.

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