The Urgency of Village Owned Enterprise Contracts with Tourism Entrepreneurs

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Abstract

In are two main approaches to tourism planning: the formal economic approach and the participatory approach, which emphasizes development and environmental conservation. In recent years, tourism management has increasingly shifted toward community- based models that highlight local participation and empowerment. Many Village-Owned Enterprises (BUMDes) are involved in tourism activities, forming business collaborations with entrepreneurs in areas such as homestays and souvenirs. However, problems often arise due to the absence of formal written agreements in these partnerships. Using a normative legal method, this research finds that agreements between BUMDes and tourism entrepreneurs should be in written form to uphold professionalism, accountability, and legal certainty. Written contracts also serve as valid evidence when disputes occur. Currently, regulations governing BUMDes do not specifically mandate written contracts for all business activities, leaving room for legal uncertainty. Since village communities often rely on oral agreements, revisions to government regulations are necessary to explicitly require written contracts in BUMDes' civil relations with partners.

I. Introduction

Tourism is a significant economic engine offering numerous business opportunities in Indonesia (Gede Agus Kurniawan et al., 2024). In practice, there are two approaches to tourism planning: First, it tends to be formal and emphasizes economic benefits. This approach is generally top-down, where decisions are made by the government, investors, or large tourism companies with little or no participation from local communities. The focus is more on developing infrastructure and tourist attractions to attract large numbers of tourists, with the primary objective being economic profit. An example is the Nusa Dua tourism development project undertaken by the government and large private investors through the Bali Tourism Development Corporation (BTDC). This planning focuses on the construction of luxury resorts, star hotels, and international-class tourism facilities to attract foreign tourists."(Purnaya 2018) Secondly, more participatory and balanced between development and environmental preservation. This approach is evident in the trend of community-based tourism management, which is a bottom-up approach that involves local communities in every stage of the planning and decision-making process. The goal is to empower local communities, ensuring that they play an active role in managing and benefiting from tourism (Dharmawan et al., 2023).

Tourism trends, particularly those with the concept of Community-Based Tourism (CBT), require cooperation between stakeholders to meet the needs of tourists. The implementation of tourism cannot run smoothly if there is no connection between the fulfillment of facilities, tourism accessibility, and community realization of tourist attractions. Therefore, community participation is necessary in tourism development. (Yulianah 2021) As stipulated in Law No. 10 of 2009 concerning Tourism, individuals involved in the tourism business are referred to as Tourism Entrepreneurs (Dharmawan et al., 2020). Tourism business actors are local people who provide services in the field of tourism, such as souvenir shops or lodging facilities, including homestays, which in this case requires the role of tourism business actors at the village level. Village tourism is one of the strategic sectors in local potential-based economic development. Its management is generally carried out by Tourism Awareness Groups (Pokdarwis) or Village-Owned Enterprises (BUMDes). In practice, these two entities can act separately or in synergy; however, BUMDes has special characteristics as a legal entity that is granted formal authority to run village businesses and manage assets professionally. BUMDes, as stipulated in Article 1 paragraph of Government Regulation No. 11/2021 on Village-Owned Enterprises, is a legal entity established by the village to manage businesses, utilize assets, develop investment and productivity, provide services, and/or provide other types of businesses for the greatest welfare of the village community.

In village tourism development, BUMDes holds statutory authority to initiate and manage commercial partnerships under Article 54 of Government Regulation No. 11/2021. This enables BUMDes to enter into lawful contracts such as partnerships, leases, and profit-sharing arrangements with tourism operators where such cooperation benefits the village and complies with regulatory norms. Common cooperation models include homestay management, local labor placement, provision of cultural guides, and

facilitation of MSME product marketing. These arrangements generate revenue for BUMDes while strengthening community income and local business capacity. As a legally recognized entity, BUMDes also exercises functions of quality control and sustainability by setting service standards, limiting visitation in sensitive areas, and establishing ethical guidelines. Its legal status allows it to conclude binding agreements with investors, ensuring legal certainty and fair benefit distribution.Tourism is a profit-oriented business sector; therefore, BUMDes may undertake various business activities such as financial services, leasing, brokerage, trade, joint ventures, and contracting (Kurniawan et al., 2025a). Cooperation with tourism entrepreneurs constitutes civil-law relations and must comply with the validity requirements of contracts under the Indonesian Civil Code: (1) mutual consent; (2) legal capacity; (3) a clear object; and (4) a lawful cause. These requirements safeguard the village from unlawful or unethical tourism practices.

In the Secondary Data analysis, it was found that many BUMDes apply cooperation patterns in the form of unwritten (oral) agreements. This is based on the relationship between BUMDes and the community, which is based on participatory principles and mutual trust. Although legally valid, oral model agreements are more prone to conflict between the parties, both from the BUMDes side and from the BUMDes Participants side. As in the research in Rongi Village, Bumdes in developing their tourism, they collaborate with the community in the field of homestay but not based on a written agreement, but only based on the permission of the availability of their residents' houses that have wider characteristics and are qualified to be used as a place to stay by tourists. (Panjaitan 2019) Research conducted by Humairoh shows that BUMDes in Bicabbi Village, Dungkek District, Sumenep Regency, are still in the early stages, and their business activities are ongoing. Currently, there is only one Business, namely food stalls. The stall managed by BUMDes Bicabbi is situated on land owned by one of the villagers, and the relationship between the two is based on a profit-sharing cooperative arrangement. The two studies above demonstrate that the BUMDes method of management remains informal. The formulation of the problem in this study is as follows: What is the urgency of a written contract in cooperation between BUMDes and Tourism Entrepreneurs? Based on this background, the author takes the title "URGENCY OF VILLAGE-OWNED BUSINESS CONTRACTS WITH TOURISM ENTERPRISERS.

II. Research Method

This study employs a Normative Research approach. Normative research is a method used to examine and analyze legal norms, rules, or principles that govern a legal system or society. It focuses on how these laws or norms should be applied based on existing principles, rules, or standards. (Marzuki 2017) Salim HS (2008), in his book "Legal Research Methods," explains that the normative research method examines the law based on existing norms and regulations, as well as analyzing legal documents. This study emphasizes both the theoretical and practical aspects of how the law should be applied.

III. Results and Discussion

Trends in Community-Based Tourism

Over the past few decades, the tourism industry has undergone many changes. Mass tourism has become the leading choice for many local and international travelers. However, despite its success, this approach has caused various problems for local communities and the environment, as it exploits natural resources without regard to long-term impacts. Recognizing these negative impacts, in 1995, the World Tourism Organization introduced an alternative tourism concept that focuses more on environmental awareness and respect for local culture. This concept is known as Community-Based Tourism (CBT). CBT emphasizes the empowerment of local communities, where local people play an active role in planning, managing, and benefiting from tourism. (Nurhidayati 2021) Mass tourism has expanded significantly over recent decades due to infrastructure improvements, technological advancement, and increased human mobility. This model, which prioritizes large visitor volumes and short-term economic gains, often disregards environmental carrying capacity and community interests. Although it generates income and employment, mass tourism frequently causes environmental degradation, cultural pressures, and socio-economic disparities. Local communities are commonly relegated to low-value roles and receive disproportionate benefits despite being the holders of local resources. This condition reflects an unequal power relationship between the tourism industry and the communities whose regions are being utilized.

Responding to these challenges, in 1995, the World Tourism Organization introduced an alternative approach that was more oriented towards sustainability. This approach is known as Community-Based Tourism (CBT). (Dewi 2011) This concept emphasizes that local communities should be the leading actors in tourism development. They not only act as economic actors, but also as custodians of cultural values, decision-makers, and the primary beneficiaries of tourism activities. CBT is designed to return control over resource management to the community. Through this model, residents are involved in every stage of tourism development, from planning and implementation to supervision and evaluation. Tourism activities are no longer solely directed at pursuing economic benefits. However, they are also used as a means to strengthen local identity, preserve the environment, and build the social capacity of the community. In this context, tourism becomes an instrument of empowerment, not exploitation. Additionally, CBT promotes a more equitable relationship between tourists and local communities. The tourism experience becomes more meaningful because it is based on direct interaction, recognition of local values, and mutual respect. Travelers not only enjoy the physical beauty of a place but also learn to understand the life and culture of the local community.

In Indonesia, the CBT approach has begun to be widely applied in rural areas, especially in tourist villages. This cannot be separated from the alignment and relevance of CBT with the spirit of Law No. 6/2014 on Villages, which emphasizes the importance of participatory development, utilization of local potential, and village economic independence. In practice, many villages have established Village- Owned Enterprises (BUMDes) to manage community-based tourism activities in a more organized manner. By involving village institutions, tourism activities can be integrated into the local

institutional system, resulting in more targeted and equitable accountability and benefit distribution. The CBT approach also supports efforts to preserve the environment and local culture, as tourism development is grounded in local wisdom, values, and sustainability principles. Not only does CBT encourage economic growth, but it also contributes to strengthening social cohesion, recognizing the rights of indigenous peoples, and enhancing the capacity of citizens to face the challenges of globalization. (Nugroho 2002) Thus, Community-Based Tourism is not only an alternative to conventional tourism, but also a corrective measure to practices that have prioritized exploitation over sustainability. Through this approach, tourism can be a means to achieve village development that is inclusive, equitable, and grounded in local strengths.

BUMDes Authority in Tourism

The Village-Owned Enterprise (BUMDes) is mandated to strengthen the village economy and to maximize benefits for the community. As community-based tourism increasingly develops in rural areas, BUMDes is vested with authority to initiate, develop, and manage village tourism enterprises. Its core powers include: (i) developing tourism businesses aligned with local characteristics; (ii) identifying and managing local resources that possess competitive and economic value; (iii) empowering residents through training and business support; and (iv) ensuring sound and sustainable financial governance. Through these functions, BUMDes is expected to enhance community welfare, increase village revenues, and secure the long-term sustainability of tourism-based enterprises. Obstacles in the process of community-based tourism development can arise from various sources, one of which is a structural factor that has been ongoing for a long time. According to Tosun, community participation in tourism development is often only part of political rhetoric without being realized in the form of policies or real actions in the field. Participation tends to be limited to a symbolic level, so that the community is not truly involved in the decision-making process, planning, or management of tourism programs. (Lazuardina 2022) Additionally, the issue of human resource capacity (HR) is also a significant concern that cannot be overlooked, particularly in the context of community-based tourism (CBT) management.

Many villages lack sufficient human resources to manage the tourism sector independently and professionally. Limitations in terms of knowledge, skills, and experience in managing tourist destinations are significant obstacles in the development of village tourism. In practice, Village-Owned Enterprises (BUMDes), which are intended to be the driving force of the village economy, including in the tourism sector, often face fundamental obstacles such as unclear business legality, a weak organizational structure, and a lack of managerial capacity among their management. (Listyorini 2022) This condition hinders the role of BUMDes in effectively managing the village's tourism potential. Dolezal and Novelli (2020) emphasize the importance of community empowerment in tourism development. They explained that partnerships built between village communities and tourism industry players will not work well if the community does not have a strong enough position in the process. Unfortunately, community

empowerment is often only a concept discussed in discourse, but has not been fully implemented in practice. (Novelli 2022) To develop the tourism potential of the village, the existence of skilled human resources with a deep understanding of the tourism world is crucial. Communities involved in tourism management must be aware of emerging tourism trends, possess the ability to create attractive tourism products, and provide services that meet tourists' expectations. (Hanafi 2020) Without these skills, BUMDes and Tourism Awareness Groups (Pokdarwis) will struggle to compete and adapt to the evolving needs of the tourism market [20].

Not only that, but capable human resources are also needed to strengthen the internal management of BUMDes. BUMDes managers need to be able to prepare transparent financial reports, make careful plans based on available data, and run operational activities efficiently and responsibly. (Rosalina 2023) Additionally, the ability to establish communication and cooperation with various parties, such as the village government, community, and external business partners, is necessary to form and develop effective networks (Kurniawan et al., 2025b). Therefore, to realize sustainable village tourism management based on community empowerment, a comprehensive effort is needed. Structural barriers need to be unraveled through policies that are more open and favorable to rural communities. At the same time, increasing the capacity of human resources must be a top priority, both through training, mentoring, and institutional strengthening. Only in this way can villages be truly empowered and become the leading actors in tourism development that is not only economically beneficial, but also strengthens local identity and independence.

The Crucial Role of Cooperation Contracts between BUMDes and Tourism Entrepreneurs

BUMDes frequently enter multiple civil relationships in tourism operations, ranging from homestay services, local guide engagement, employee recruitment, to partnerships with SMEs. Under Article 54 of Government Regulation No. 11/2021, BUMDes may contract with individuals and legal entities. While some partnerships are formalized through written contracts, many villages still rely on informal, oral agreements based on kinship, as seen in Rongi and Bicabbi Villages. Although Article 1338 of the Civil Code allows freedom of form, BUMDes' professionalism mandate under PP 11/2021 requires accountable governance. Written contracts thus provide critical legal certainty, risk mitigation, and protection of village assets. Cases from Jambearum Village and studies on BUMDes facility management illustrate that oral agreements hinder legal enforcement and increase dispute risks. Therefore, written contracts should be viewed not merely as administrative compliance but as strategic instruments that integrate legal, economic, and social safeguards to ensure professional, sustainable, and secure village tourism management. Written agreements between BUMDes and tourism entrepreneurs serve as a fundamental mechanism to establish legal certainty and ensure transparent, accountable cooperation. Civil law requires equality before the law, meaning neither BUMDes (acting for the Village Government) nor private entrepreneurs may dominate

the agreement.

This aligns with Articles 1320 and 1321 of the Civil Code, which demand free consent without coercion, fraud, or mistake. A written contract formalizes the parties' will and becomes binding law under Article 1338(1) of the Civil Code. For validity, each party must possess legal capacity. BUMDes obtains such capacity only after being registered and recognized as a legal entity under Government Regulation No. 11/2021 and Minister of Law and Human Rights Regulation No. 40/2021. Tourism entrepreneurs, whether in the form of PTs, cooperatives, or individuals, must likewise meet legal capacity requirements. The purposes of written contracts in BUMDes–tourism cooperation include: (a) Oversight and Control, Contracts define reporting duties, performance indicators, and sanctions, enabling structured supervision (b) Prevention of Future Disputes, Clear rights and obligations reduce risks related to fluctuating tourism demand, regulatory changes, or unexpected events; (c) Dispute Resolution Mechanism**,** Contracts may incorporate deliberation, mediation, arbitration, or court litigation, referring to Law No. 30/1999; (d) Legal Evidence, Written contracts serve as strong documentary evidence under Article 1866 of the Civil Code. Contracts also strengthen the legal status of BUMDes as a lawful contracting party, support access to financing or investment, and function normatively (creating certainty), economically (managing risk and profit allocation), and socially (promoting empowerment and cultural/environmental safeguards). Numerous field studies and publications demonstrate that the implementation of written contracts in BUMDes plays a crucial role in ensuring business sustainability and minimizing potential disputes, particularly in the tourism sector. For example, research in Bongan Village, Tabanan, Bali, revealed that the absence of a Memorandum of Understanding (MoU) or formal contract between BUMDes, Pokdarwis, and vendors creates a high risk of disputes. Legal assistance then becomes a strategic instrument for drafting a clear MoU, ensuring that partnership relationships can run with substantial legal certainty. (Bali 2023) The same phenomenon was observed during the training on preparing business documents in Paremono Village, Magelang District. Many home industry players there engage in cooperation without written agreements with suppliers, making them vulnerable to fraudulent practices or defaults.

Through the training, the community gained a practical understanding of preparing safe and accountable business agreements. A similar approach was also applied to counseling in Candran Hamlet, Danurejo Village, where business contracts related to land leases, pawning, and buying and selling were previously done orally. After receiving assistance, the community began drafting formal agreement documents that outlined the rights and obligations of the parties, resulting in a significant increase in the level of legal protection. The importance of a written contract is also emphasized in the guidelines published by the Cipta Desa portal (2025) regarding the management of BUMDes shops. The guidelines suggest that the contract regulates in detail the rights and obligations clauses, profit-sharing mechanisms, duration of cooperation, and dispute resolution procedures. This contract structure aligns with the generic MoU format for BUMDes, which includes a three-year duration, periodic evaluation, and mediation or arbitration mechanisms. The application of this format in the tourism sector will provide a solid

framework for cooperation, encompassing the management of tourist attractions, facility rentals, and joint support services. (BUMDes, "Perjanjian Kerja Sama BUM Desa [Pertokoan] | Page 2 Of 2 | Cipta Desa," accessed August 24, 2025, https://www.ciptadesa.com/perjanjian-kerja-sama-bumdes-pertokoan/2/. 2021) The practice of written contracts in the tourism sector was also documented in Singapadu Kaler Village, Gianyar. The local BUMDes provides capital to tourism business units with a two-year contract that contains sanction provisions ranging from warnings to settlement deliberations in the event of default. This model demonstrates that clear clauses, definite duration of cooperation, and measurable sanction mechanisms can serve as controlling and protective instruments for the sustainability of village tourism businesses. (Sanjiwani 2020)

Studies consistently show that written contracts are a strategic necessity for BUMDes in the tourism sector. A clear contract defines the respective roles and authority of BUMDes and tourism entrepreneurs, establishes transparent profit-sharing mechanisms, and provides firm legal protection when defaults or unilateral changes occur. Well-structured agreements also support business continuity through renewal and evaluation clauses, and help anticipate market shifts. Moreover, written contracts reduce reputational risks by preventing conflicts from escalating into public disputes that could damage the destination's image. Overall, adopting best-practice written agreements strengthens BUMDes' position as an equal and professional partner, ensuring that village tourism grows sustainably, generates fair economic benefits, and maintains social harmony. A key governance problem in Village-Owned Enterprises (BUMDes) is the absence of explicit legal provisions requiring written contracts for business activities or partnerships. Current regulations do not mandate written agreements, creating a normative gap that results in legal uncertainty and the frequent use of informal or oral arrangements. This weakens clarity of rights and obligations, complicates enforcement in cases of breach, and reduces evidentiary certainty in disputes. (E. M. Nugroho 2016)

The lack of written contracts also undermines external trust and exposes community stakeholders to risks of non-transparency and internal conflict. To address these vulnerabilities, regulatory revisions especially to Government Regulation No. 11/2021 are urgently needed to establish a proportional obligation for written contracts in all third-party cooperation. Such a requirement aligns with principles of good governance and strengthens reporting, accountability, and sustainable business management. Integrating a written contract system is essential for enhancing professionalism, legal certainty, and the long-term viability of BUMDes enterprises.

IV. Conclusion

BUMDes, as tourism business operators, frequently conduct activities informally and without proper documentation. As a result, BUMDes often rely on oral agreements, which expose them to misunderstandings, weak enforceability, and difficulties in dispute resolution. Such informal arrangements also undermine partner confidence and reduce legal protection for community members. Given that BUMDes are required to operate professionally, accountably, and responsibly, administrative accountability including

clear written evidence is essential. Written contracts serve as proof of proper management and provide legal certainty for all parties. Therefore, regulatory reforms are necessary to mandate written contracts for all business activities, enabling BUMDes to operate with greater transparency, professionalism, and legal certainty.

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