

Legal Protection for Tourists as Accident Victims: Reconstructing the Liability of Tourism Operators in Indonesia

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Abstrak

Berbagai kecelakaan yang terdokumentasi di destinasi wisata menunjukkan pentingnya kerangka hukum yang mampu menghubungkan hak wisatawan, kewajiban pelaku usaha, standar keselamatan, dan mekanisme pemulihan. Penelitian ini menganalisis perlindungan hukum terhadap wisatawan korban kecelakaan serta merumuskan rekonstruksi pertanggungjawaban pengelola objek wisata. Penelitian menggunakan metode hukum normatif dengan pendekatan peraturan perundang-undangan, konseptual, dan kebijakan; pendekatan kasus tidak digunakan karena naskah tidak membangun korpus putusan atau peristiwa kecelakaan yang terdefinisi. Analisis atas UU Nomor 10 Tahun 2009 sebagaimana terakhir diubah dengan UU Nomor 18 Tahun 2025 menunjukkan bahwa Pasal 20 memperluas rumusan hak wisatawan, Pasal 23 dihapus, sedangkan kewajiban pelaku usaha dalam Pasal 26 tetap menjadi titik penting bagi keamanan dan keselamatan. Pada saat yang sama, perubahan struktur sanksi dan belum terintegrasinya standar keselamatan, mekanisme kompensasi, dan atribusi kegagalan manajemen menimbulkan kebutuhan rekonstruksi. Artikel membedakan pertanggungjawaban administratif, perdata, dan pidana sebagai rezim akibat hukum, sementara tanggung jawab korporasi ditempatkan sebagai dimensi subjek dan atribusi. Rekonstruksi diarahkan pada penguatan duty of care yang berakar pada kewajiban positif Indonesia, indikator management failure, risk governance, dan mekanisme pemulihan korban yang lebih operasional.

Kata kunci: perlindungan hukum; wisatawan; kecelakaan wisata; pertanggungjawaban pengelola.

Abstract

Documented accidents at tourism destinations illustrate the need for a legal framework that connects tourists' rights, operators' duties, safety standards, and effective remedies. This article examines legal protection for tourists who become accident victims and reconstructs the liability model for tourism destination operators. It employs normative legal research using statutory, conceptual, and policy approaches; a case approach is not claimed because the manuscript does not establish a defined corpus of accident cases or judicial decisions. The analysis of Law No. 10 of 2009 as most recently amended by Law No. 18 of 2025 finds that Article 20 reformulates and expands tourist rights, Article 23 is deleted, while the operator duties in Article 26 remain central to safety and security. At the same time, changes to the sanction architecture and the absence of an integrated statutory mechanism for safety standards, victim compensation, and attribution of management failure justify further

reconstruction. Administrative, civil, and criminal liability are treated as legal-consequence regimes, whereas corporate responsibility is treated as a subject-and-attribution dimension operating across those regimes. The proposed model integrates an Indonesian-law-based duty of care, operational indicators of management failure, risk governance, and clearer remedial pathways.

Keywords: *legal protection; tourists; tourism accidents; tourism operator liability.*

INTRODUCTION

Tourism is a strategic sector that makes a substantial contribution to national economic development¹ by creating employment opportunities, increasing community income, strengthening investment, and promoting regional development,² while also serving as an important means of cultural preservation.³ Despite the rapid growth of the tourism industry, various accidents occurring at tourist destinations demonstrate that tourist safety remains a serious concern. Incidents such as the collapse of recreational facilities, the sinking of tourist vessels, transportation accidents, and natural disasters resulting in fatalities and material losses indicate that ensuring tourist safety remains a significant challenge. These incidents are closely associated with the inadequate implementation of safety standards, risk management, and effective supervisory mechanisms.⁴

The accidents mentioned in this introduction are illustrative rather than a statistical claim that accidents are increasing nationwide. Because this normative study does not construct an official accident dataset, the argument rests on the legal consequences of foreseeable tourism risks and on the adequacy of the legal framework, not on a quantified trend in accident frequency.

Normatively, legal protection for tourists is regulated under Law Number 18 of 2025, which constitutes the third amendment to Law Number 10 of 2009 on Tourism. Articles 20 and 23 establish the government's obligation to guarantee tourists' rights to security, safety, comfort, services, and legal protection, while Article 26 requires tourism businesses to ensure the safety of visitors. However, the high incidence of accidents at tourist destinations indicates a significant gap between legal norms and their implementation in practice. Law enforcement remains predominantly focused on individual fault, while the liability of tourism operators and corporations has not been optimally enforced. Consequently, the liability framework within Indonesian tourism law continues to be dominated by an "individual fault liability approach" and has yet to adequately accommodate the principles of "corporate liability" and "management failure".

¹ Oğuz DemiR, "Does High Tech Exports Really Matter for Economic Growth A Panel Approach for Upper Middle-Income Economies," *AJIT-e: Online Academic Journal of Information Technology* 9, no. 31 (2018): 43–54, <https://doi.org/10.5824/1309-1581.2018.1.003.x>.

² Abdillah Rafi Athallah et al., "Peran Sektor Pariwisata Terhadap Pertumbuhan Ekonomi Di Asean 4 (Thailand, Singapore, Malaysia, Dan Indonesia)," *Jurnal Industri Pariwisata* 7, no. 1 (2024): 1–13, <https://doi.org/10.36441/pariwisata.v7i1.2059>.

³ Imelda Sepviana Br Sinulingga and Siti Sufina, "Analisis Peran Masyarakat Terhadap Pengembangan Pariwisata Berkelanjutan Pada Desa Wisata Budaya Lingga," *Jurnal Penelitian Ilmiah Multidisipliner* 3, no. 01 (2026).

⁴ Muh. Renaldi, "Identifikasi Potensi Bahaya Bagi Keselamatan Pengunjung Kawasan Wisata Tanjung Bayang, Makassar" (Theis, Universitas Hasanudin, 2022).

Another issue lies in the normative framework of the aforementioned law, which does not explicitly regulate the mechanism for holding tourism operators liable when tourism-related accidents occur. The regulation of the “duty of care”, compensation mechanisms, the burden of proving negligence, and the relationship between administrative, civil, and criminal liability remains inadequate. As a result, victims often face legal uncertainty in seeking effective remedies and the restoration of their rights. This situation demonstrates the need for a reconstruction of tourism law that strengthens the legal protection of tourists and establishes a more comprehensive framework for the accountability and liability of tourism operators.

From the perspective of modern law, the liability of public service providers has evolved from a model based solely on fault toward a broader framework grounded in the duty of care, risk management, and corporate accountability. The principles of duty of care, corporate liability, and risk governance establish tourism operators as parties bearing an active obligation to identify, prevent, and minimize risks that may threaten the safety of service users. In this context, tourism-related accidents should not be viewed merely as the consequence of individual negligence, but may also reflect systemic failures in management for which the tourism operator bears responsibility.

Previous studies have generally examined tourist legal protection from the perspectives of risk management⁵, consumer rights through protection models, government obligations, and dispute resolution arising from tourism-related losses. Fania Redinta Prameswary et al. proposed a community-based consumer protection model for the tourism sector managed by village-owned enterprises (Badan Usaha Milik Desa or BUMDes), emphasizing standardization, legality, and public awareness as its principal components.⁶ Ananda Afit Oktavian and Dodi Jaya Wardana examined the liability of tourism business owners for losses suffered by consumers, particularly in relation to the legal responsibility of tourism operators.⁷ Ferdi Wardana found that the existing regulatory framework and safety standard operating procedures (SOPs) remain suboptimal, accompanied by limited dissemination of safety information to tourists and weak inter-institutional coordination. Meanwhile, Maureen Asikin et al. found that, under Indonesian civil law (Burgerlijk Wetboek or BW), tourism operators have an obligation to guarantee the safety and security of visitors as part of the legal relationship arising between tourism operators and visitors.⁸

Taken together, these studies demonstrate that tourist protection has been examined through various dimensions, including risk management, consumer protection, regulatory obligations, and civil liability. However, existing research has

⁵ Oktomi Wijaya et al., “Manajemen Risiko Keselamatan, Kesehatan, Dan Keamanan Di Kawasan Wisata Pantai Parangtritis,” *Journal of Industrial Hygiene and Occupational Health* 9, no. 1 (2024): 43–56, <https://doi.org/10.21111/jihoh.v9i1.11952>.

⁶ Fania Redinta Prameswary et al., “Model Perlindungan Konsumen Sektor Pariwisata Berbasis Masyarakat Yang Dikelola Bumdes,” *UNES Law Review* 7, no. 4 (2025): 2025–35, <https://doi.org/10.31933/unesrev.v7i4.2448>.

⁷ Ananda Afit Oktavian and Dodi Jaya Wardana, “Pertanggungjawaban Pemilik Usaha Pariwisata Atas Kerugian Yang Diderita Konsumen,” *Jurnal Tana Mana* 6, no. 2 (2025): 261–72, <https://doi.org/10.33648/jtm.v6i2.1302>.

⁸ Maureen Asikin et al., “Tanggung Jawab Hukum Perdata Pengelola Objek Wisata Atas Kecelakaan Pengunjung,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026): 1926–34.

not yet sufficiently integrated these dimensions into a comprehensive framework of operator liability based on duty of care, corporate accountability, and management failure. This gap provides an important basis for reconstructing the legal framework governing liability for tourism-related accidents.

Nevertheless, studies specifically addressing the reconstruction of the liability framework of tourism operators through the integration of tourism law, consumer protection law, theories of corporate liability, and risk management approaches remain relatively limited. This limitation indicates an opportunity to develop a more comprehensive legal framework for tourism operator liability that can provide legal certainty while simultaneously improving the quality of tourism destination governance.

Based on the foregoing discussion, this article aims to analyze the forms of legal protection available to tourists who become victims of accidents under Indonesian positive law; examine the legal liability framework of tourism operators for losses suffered by tourists; and propose a reconstructed model of operator liability based on the principles of “preventive legal protection”, “duty of care”, “corporate liability”, and “risk governance”. This reconstruction is expected to strengthen Indonesia’s tourism legal framework by not only ensuring legal certainty and effective remedies for victims, but also promoting safer, more accountable, and sustainable governance of tourism destinations.

RESEARCH METHOD

This study employs normative legal research to examine the legal protection of tourists who suffer accidents and the legal responsibility of tourism destination operators. The statutory corpus centers on Law No. 10 of 2009 on Tourism as amended, most recently, by Law No. 18 of 2025, together with Law No. 8 of 1999 on Consumer Protection, relevant provisions of the Indonesian Civil Code, the Criminal Code, and implementing rules relevant to business standards and safety. The regulatory cut-off for the revised analysis is August 2026. The study does not measure accident prevalence or enforcement frequency; empirical reports are used only as context for identifying the types of risks a liability framework must address.⁹

The conceptual approach examines legal protection, duty of care, corporate attribution, and risk governance. The earlier reference to a case approach is removed because the manuscript does not identify a reproducible corpus of accident cases, court decisions, administrative sanctions, or factual records. Normative adequacy is assessed against five criteria: the clarity of safety duties, the existence of measurable preventive standards, the allocation of responsibility among actors, the availability of compensation and dispute-resolution mechanisms, and the legal consequences of non-compliance. Systematic and teleological interpretation is used to distinguish positive law (*de lege lata*) from the proposed reconstruction (*de lege ferenda*).¹⁰

RESULTS AND DISCUSSION

The Construction of Legal Protection in Indonesian Tourism Law

The concept of legal protection originates from the Dutch expression *theorie van de wettelijke bescherming*, which refers to the protection of something,

⁹ Moh. Asikin and Marsidin, *Penelitian Hukum Normatif*, (Kencana, 2023).

¹⁰ Lexy J. Moleong, *Metodologi Penelitian Kualitatif*. Rosda., Revisi. Cet. XXXI. (Rosda, 2013).

particularly human interests.¹¹ According to Oksidelfa Yanto, legal protection constitutes one of the fundamental principles of a state governed by the rule of law (*rechtstaat*), aimed at ensuring the fulfillment of every citizen's rights through legal instruments that provide legal certainty, justice, and utility.¹² From the perspective of Philipus M. Hadjon, legal protection is manifested in two forms: preventive legal protection, which seeks to prevent violations of rights, and repressive legal protection, which provides mechanisms for resolving disputes or violations after they have occurred.¹³

This concept constitutes an important foundation for the governance of tourism, particularly because tourists, as users of tourism services, have the right to receive guarantees of security and safety while engaging in tourism activities. Accordingly, legal protection in the tourism sector should not be understood merely as a mechanism for resolving disputes after an accident has occurred, but also as a preventive framework requiring tourism operators to anticipate potential risks, comply with safety standards, provide adequate information, and establish effective risk-management mechanisms. In this context, the protection of tourists requires an integrated legal framework that combines preventive measures, supervisory mechanisms, and effective remedies when accidents or violations occur.

Preventive legal protection aims to prevent violations of rights through the establishment of regulations, implementation of safety standards, development of standard operating procedures (SOPs), provision of accurate information, supervision, and risk management by the government and tourism destination operators. Conversely, repressive legal protection is provided after a violation or loss has occurred through dispute resolution mechanisms, compensation, administrative sanctions, and civil or criminal liability.

The framework can be schematically illustrated as follows:

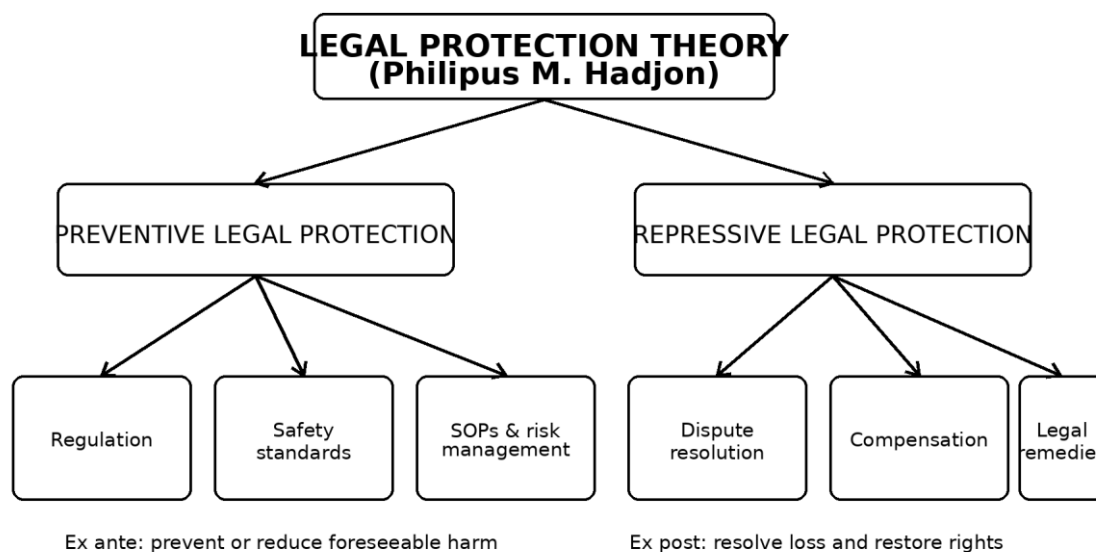
Methodological note: the figures in this article are analytical maps derived from the statutory and conceptual analysis. Elements labelled as existing rights, duties, or remedies refer to positive law; arrows or components describing integrated duty of care, management-failure attribution, or risk-governance architecture represent the author's proposed reconstruction and should not be read as already enacted legal rules.

¹¹ Panjaitan Hulman, *Hukum Perlindungan Konsumen: Reposisi Dan Penguatan Kelembagaan Badan Penyelesaian Sengketa Konsumen Dalam Memberikan Perlindungan Dan Menjamin Keseimbangan Dengan Pelaku Usaha* (Jala Permata Aksara, 2021). 48.

¹² Oksidelfa Yanto, *Negara Hukum: Kepastian, Keadilan Dan Kemanfaatan Hukum (Dalam Sistem Peradilan Pidana Indonesia)* (Pustaka Reka Cipta, 2020). 1-3.

¹³ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia*, Edisi Khusus (Penerbit Peradaban, 2007). 2-5

Figure 1.
Legal Protection Theory



Source: Author's elaboration based on the extracted explanation above.

The theory also provides a basis for evaluating the conformity between legal norms and their implementation, as well as for identifying weaknesses in the regulatory framework governing the liability of tourism destination operators.

Normatively, tourist protection is governed by Law No. 10 of 2009 on Tourism as amended, most recently, by Law No. 18 of 2025. Law No. 18 of 2025 is an amending statute rather than a stand-alone replacement Tourism Law. Article 20 is expressly amended and now includes, among other matters, information on disaster mitigation and emergencies, tourism services according to standards, health services, legal protection and security, protection of personal rights and comfort, and facilities for specified vulnerable groups. Article 23 is expressly deleted. By contrast, Article 26, which contains obligations of tourism business operators including duties concerning accurate information, non-discriminatory service, tourist security and safety, insurance for high-risk tourism activities, and compliance with business and competency standards was not repealed by the 2025 amendment and therefore remains part of the operative statutory framework, subject to the previous amendments already made to the Tourism Law.¹⁴

The 2025 amendment changes the formulation of tourist rights in Article 20. The earlier express right to insurance protection for high-risk tourism activities is no longer stated in Article 20, but this textual change should not be equated with the disappearance of all insurance-related protection. Article 26 continues to contain an operator obligation to provide insurance protection for high-risk tourism activities, and other consumer, contractual, licensing, or sector-specific rules may also affect

¹⁴ Presiden RI, "Undang-Undang (UU) Nomor 18 Tahun 2025 Tentang Perubahan Ketiga Atas Undang-Undang Nomor 10 Tahun 2009 Tentang Kepariwisata," Jakarta, 2025, <https://peraturan.bpk.go.id/Details/334481/uu-?utm>.

insurance arrangements. The doctrinal issue is therefore one of fragmentation and remedial clarity rather than a complete absence of protection.

The amendment strengthens the rights-based emphasis on mitigation information, service standards, accessibility, security, and health. At the same time, the relocation of protection across different provisions makes it necessary to trace each right to its corresponding duty-bearer and remedy. The relevant question is not whether the 2025 law eliminated protection in general, but whether the consolidated framework gives accident victims a sufficiently clear route from a breached safety duty to attribution, proof, compensation, and enforcement.

The amendment map must distinguish deleted and retained provisions. Article 23 is deleted by Law No. 18 of 2025, while Article 26 remains relevant to operator duties because the 2025 amendment does not repeal it. Government responsibility is reorganized through the amended provisions on governmental authority and responsibility, including Article 28 and the inserted Articles 30A-30C. The resulting normative issue is therefore not a simple removal of all safety duties, but the distribution of rights, operator obligations, governmental powers, implementing standards, and remedies across different parts of the legal system.¹⁵

From the perspective of Philipus M. Hadjon's Legal Protection Theory, legal protection requires not only recognition of citizens' rights but also clarity regarding the responsible parties, mechanisms for implementing those rights, and remedial instruments when such rights are violated.¹⁶ Therefore, the regulatory changes introduced by Law No. 18 of 2025 warrant critical examination because, although they expand the substantive categories of tourists' rights, they do not necessarily provide an equally explicit strengthening of the mechanisms for establishing the legal liability of the Government or tourism businesses. Consequently, while tourists' rights may be substantively broader, legal certainty concerning who bears responsibility and how remedies are provided when an accident occurs may potentially become weaker.

In addition to being regulated under the Tourism Law, tourists may also be regarded as consumers within the meaning of Law No. 8 of 1999 on Consumer Protection. Under Article 4, consumers have the right to comfort, security, and safety in consuming goods and/or services, as well as the right to compensation, damages, and/or replacement when the goods or services received are inconsistent with the agreement or are not provided as they should be.¹⁷ Similarly, under the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*), the legal relationship between tourists and tourism operators may be understood as involving the provision and use of services. Tourists therefore have a legitimate expectation of security, comfort, and safety when using tourism services. Accordingly, losses arising from the negligence of a tourism operator may, in principle, give rise to a legal obligation to provide accountability and appropriate remedies to the victims.

¹⁵ RI, "Undang-Undang (UU) Nomor 18 Tahun 2025 Tentang Perubahan Ketiga Atas Undang-Undang Nomor 10 Tahun 2009 Tentang Kepariwisataaan."

¹⁶ Dewi Nadya Maharani et al., "Legal Protection of Vulnerable Consumers in Digital Transactions in Indonesia," *Rechtsidee* 14, no. 1 (2026): 10–21070, <https://doi.org/https://rechtsidee.umsida.ac.id/index.php/rechtsidee/article/view/1143>.

¹⁷ RI, "Undang-Undang (UU) Nomor 18 Tahun 2025 Tentang Perubahan Ketiga Atas Undang-Undang Nomor 10 Tahun 2009 Tentang Kepariwisataaan."

Figure 2. Construction of Legal Protection for Tourists



The adequacy of operational protection is assessed in this article through five criteria: explicit safety duties, measurable minimum standards and inspection requirements, a defined burden or standard for attributing negligence and management failure, an accessible compensation or dispute-resolution procedure, and a clear sanction or enforcement route. The consolidated Tourism Law establishes important rights and operator duties, but it does not itself contain a single integrated accident-liability code satisfying all five criteria. General civil law, consumer protection, criminal law, licensing rules, and implementing standards therefore remain important to the legal response. This is a normative finding about regulatory architecture, not an empirical claim that remedies fail in every accident case.¹⁸¹⁹

This condition demonstrates that Indonesia's tourism legal system remains largely oriented toward normative protection and has not yet fully evolved into a system of effective legal protection. The increasing risk of accidents at tourism destinations, however, requires stronger legal norms that not only establish tourists' rights but also expressly define the responsibilities of tourism operators in preventing, responding to, and remedying losses arising from tourism-related

¹⁸ Mhd Hilman Hawli Simbolon et al., "Legal Protection for Roller Coaster Users Who Suffer from Safety Device Failure in Amusement Parks," *Jurnal Justiciabelen* 7, no. 2 (2024): 43, <https://doi.org/10.30587/justiciabelen.v7i2.8860>.

¹⁹ Nabilah Luthfiyah Chusnida, "Legal Protection of Tourists in High-Risk Tourism Activities According to Consumer Protection Law," *Jurnal Penelitian Hukum De Jure* 23, no. 1 (2023): 1-14, <https://doi.org/https://lawpolicyjournal.id/index.php/dejure/article/view/3362/pdf>.

accidents.²⁰ Therefore, legal protection for tourists should be understood as an integrated system encompassing tourists' rights, operators' obligations, governmental supervision, and clear legal liability mechanisms to ensure the realization of tourism that is safe, equitable, and sustainable.

Configuration of the Legal Liability of Tourism Destination Operators toward Accident Victims

Legal liability constitutes a juridical consequence arising from a violation of a legal obligation that causes loss or harm to another party. In the context of tourism activities, tourism destination operators have a responsibility to ensure the security, safety, and comfort of tourists as users of tourism services. Such responsibility is not merely moral in nature but also constitutes a legal obligation inherent in every tourism business operator.

Article 26 of Law No. 10 of 2009, as part of the Tourism Law's consolidated framework, places tourism business operators under duties that include accurate information, non-discriminatory service, tourist security and safety, insurance protection for high-risk activities, and compliance with business and competency standards. However, the sanction architecture must be read historically and in its amended form. The original 2009 framework contained an administrative-sanction chapter linked to operator duties, but Law No. 18 of 2025 deletes Chapter XIV. Accordingly, the revised analysis does not treat the original Article 63 sanction sequence as automatically unchanged current law; current administrative enforcement must be traced through the amended Tourism Law, business-licensing regime, implementing regulations, and other applicable sectoral rules.

For analytical clarity, the legal consequences of an accident are classified into three principal regimes: administrative, civil, and criminal liability. Administrative liability concerns non-compliance with licensing, standards, supervisory requirements, or other public-law duties under the rules in force. Civil liability concerns compensation and restoration, including claims based on unlawful acts under Article 1365 of the Indonesian Civil Code and consumer-protection remedies. Criminal liability arises only when the statutory elements of an offence, including the relevant fault and causation requirements, are satisfied. Corporate responsibility is not a separate fourth branch parallel to those regimes; it is a question of who may be held responsible and how conduct, omission, policy, or management failure can be attributed to a business entity within administrative, civil, or criminal law.

Corporate attribution requires more than the statement that an accident occurred within a tourism business. Relevant indicators of management failure may include the absence of scheduled inspections, failure to repair known hazards, inadequate staff training, unsafe or unenforced SOPs, ignored incident or hazard reports, insufficient emergency planning, defective supervision, or budgeting decisions that knowingly leave safety-critical facilities below required standards. These indicators do not automatically establish criminal liability; they identify organizational facts that may support attribution under the applicable

²⁰ Nengah Sujana et al., "Political Transformation of Indonesian Tourism Law: A Critical Study of Sustainable Tourism Policy," *Sociological Jurisprudence Journal* 8, no. 1 (2025): 67-72, <https://doi.org/10.22225/scj.8.1.2025.67-72>.

administrative, civil, or criminal standard. Criminal responsibility must still be grounded in a specific offence and the legally required relationship between the corporation, its decision-makers, the prohibited conduct, and the resulting harm.

Table 1. Forms of Legal Liability of Tourism Operators

Form of Liability	Legal Basis	Form of Sanction/Liability
Administrative	Tourism/business-licensing and implementing rules currently in force	Warnings, restrictions, suspension, license-related or other administrative measures as authorized by current rules
Civil	Article 1365 Indonesian Civil Code; Law No. 8 of 1999 on Consumer Protection; contractual obligations	Compensation, damages, restoration, or other civil remedies
Criminal	Indonesian Criminal Code and other applicable criminal legislation	Criminal sanctions only where statutory elements, fault, causation, and attribution are established
Corporate attribution	Operates across administrative, civil, and—where legally available—criminal regimes	Attribution to the business entity based on applicable law and evidence of policy, organizational omission, or management failure

The diagram above illustrates the rights and legal protection afforded to tourists. Nevertheless, the existing regulatory framework does not explicitly establish a comprehensive mechanism for determining liability when tourists suffer accidents resulting in serious injury, permanent disability, or death. The Tourism Law does not provide sufficiently clear provisions concerning the forms of compensation, the standard of proof for negligence, or the relationship between administrative, civil, and criminal liability.²¹ This normative gap means that the resolution of tourism accident cases often relies on the general provisions of the Indonesian Civil Code concerning unlawful acts (*perbuatan melawan hukum*) and the Indonesian Criminal Code concerning criminal negligence.²² As a result, legal certainty for both victims and tourism operators remains suboptimal.

From the perspective of consumer protection law, the legal relationship between tourism destination operators and tourists constitutes a relationship between business operators and consumers. Accordingly, tourists are entitled to receive services that are safe, comfortable, and compliant with applicable standards, while tourism operators are obligated to provide compensation or other forms of redress when the services provided cause losses as a result of negligence. Therefore, the liability of tourism operators does not arise solely from the Tourism Law but is also reinforced by the legal regimes of consumer protection and civil law.²³

²¹ Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia*. 5.

²² Munir Fuady, *Perbuatan Melawan Hukum : Pendekatan Kontemporer*, 5th ed. (PT Citra Aditya Bakti, 2017). 15-16.

²³ Dinda Tazkia Aulia and Cahaya Permata, "Consumer Protection for Speedboat Service Users at Sri Mersing Beach Tourist Attraction, Serdang Bedagai Regency, Sharia Economic Law Perspective," *Al-Kharaj: Journal of Islamic Economic and Business* 7, no. 2 (2025).

A fault-centered legal design creates a risk that analysis stops at the conduct of the person physically closest to the accident even when organizational decisions contributed to the harm. This article does not claim, without a case corpus, that Indonesian enforcement generally follows that pattern. Rather, it identifies a normative attribution problem: where inspection systems, training, budgeting, supervision, or emergency procedures are deficient, the legal framework must be capable of asking whether the failure belongs to the management system and, if the applicable law permits, to the corporation itself.

Developments in modern law indicate a paradigm shift from liability based exclusively on individual fault toward corporate liability. Under this paradigm, a corporation is regarded as a legal subject that may be held accountable when failures in management systems, supervision, or internal policies cause harm to the public. This approach is particularly relevant to the tourism sector because the operation of tourism destinations involves inherent risks and requires stringent safety standards.

Based on the foregoing analysis, it can be concluded that the configuration of legal liability for tourism destination operators within the Indonesian legal system remains fragmented and has not yet provided optimal protection for tourists who become victims of accidents. Therefore, a reconstruction of the liability model is required by integrating administrative, civil, and criminal liability with the principles of duty of care, corporate liability, and risk management. Such an integrated framework would ensure that legal protection for tourists does not stop at the formal recognition of rights but is translated into effective, accountable, and equitable mechanisms of legal liability and redress.

Reconstructing the Legal Liability of Tourism Destination Operators from the Perspective of Tourism Law

The increasingly complex dynamics of tourism activities require a paradigm shift in the legal liability framework governing tourism destination operators. The current liability model remains largely oriented toward the fault liability approach, whereby liability arises only after fault or negligence has been established.²⁴ This approach is inadequate to fully address the characteristics of tourism businesses, which may involve significant risks to tourist safety. Therefore, a reconstruction of the liability framework is necessary, one that is not merely repressive but also recognizes risk prevention as an integral component of the legal obligations of tourism destination operators.

²⁴ William H. Widen and Philip Koopman, "Winning the Imitation Game: Setting Safety Expectations for Automated Vehicles," *Minnesota Journal of Law, Science & Technology* 25, no. 1 (2023): 113, <https://doi.org/10.24926/15529541.3884>.

Figure 3. Reconstruction of Legal Protection for Tourists



Legal Protection Theory explains that the state has an obligation to guarantee and protect citizens' rights through legal instruments that provide certainty, justice, and utility.²⁵ In the context of tourism, this theory positions tourists as legal subjects entitled to security, safety, comfort, access to dispute resolution, and effective remedies when they suffer losses. Such protection is realized through both preventive and repressive measures that constitute the responsibilities of the state and tourism operators.

The first reconstruction strengthens duty of care by translating existing Indonesian obligations into an operational negligence standard. Its domestic anchors include Article 26 duties concerning security and safety, service standards, accurate information and high-risk insurance, together with consumer-protection duties and the general civil-law prohibition against unlawful acts causing loss. 'Reasonable and appropriate measures' should therefore be assessed by reference to the nature of the attraction, foreseeable hazards, applicable standards, inspection and maintenance records, staff competence, warnings, emergency readiness, and the proportionality of precautions to the risk. Duty of care is used here as an organizing concept for existing and proposed duties, not as a free-standing imported cause of action.

The second reconstruction concerns corporate attribution. A corporation may be responsible within administrative or civil law, and in criminal law only where the applicable offence and attribution rules permit it. The key question is whether the accident can be connected to organizational policy or omission rather than only to an individual field error. Indicators include repeated ignored hazards, deficient inspection programs, inadequate training, unsafe SOP design or enforcement, under-resourced safety functions, and supervisory failures. This approach prevents the phrase 'management failure' from becoming a rhetorical label and turns it into an evidentiary inquiry.

The third reconstruction concerns the application of risk governance in the operation of tourism businesses. Every tourism destination operator should be required to conduct risk identification, hazard assessment, periodic safety audits, adequate insurance protection, and systematic evaluation of all facilities used by

²⁵ Liliek Prisbawono Adi, "The Tension Between Legal Certainty and Justice in the Perspective of Legal Philosophy," *Yuridika* 41, no. 2 (2026): 221–46, <https://doi.org/10.20473/ydk.v41i2.7387>.

tourists. This approach shifts the orientation of tourism law from merely resolving disputes after accidents occur toward establishing a preventive system capable of minimizing potential losses. Thus, legal protection is not realized solely through sanctions but also through measurable and sustainable risk governance.

Furthermore, harmonization between Law No. 10 of 2009 on Tourism, as amended by Law No. 18 of 2025, and Law No. 8 of 1999 on Consumer Protection needs to be strengthened. Tourists, as users of tourism services, are entitled to safe services and compensation when they suffer losses as a result of business operators' negligence. Integrating these two legal regimes would clarify the legal basis for operators' liability while strengthening tourists' legal position in obtaining effective compensation.

The reconstructed framework should distinguish duties, legal consequences, and remedies. Preventive duties arise before an accident and include risk assessment, maintenance, safety standards, training, warning systems, and emergency planning. If a duty is breached and the legal requirements are met, administrative, civil, or criminal liability may follow under the relevant regime. Compensation is a remedy, not a separate form of liability, while corporate attribution determines whether responsibility can extend beyond an individual to the business entity. Risk governance connects these elements by requiring operators to identify hazards, document controls, review incidents, and correct systemic weaknesses. This taxonomy avoids the overlap created by the labels 'preventive liability,' 'repressive liability,' and 'regulatory liability.'

CONCLUSION

De lege lata, Indonesian law provides a substantial normative foundation for tourist protection through Article 20 tourist rights, Article 26 operator duties, consumer-protection law, civil-law remedies, criminal law where its elements are satisfied, and the governmental authority provisions of the amended Tourism Law. Law No. 18 of 2025 deletes Article 23 and changes the structure of the Tourism Law, but it does not justify treating Article 26 operator duties as removed. The principal gap identified by this normative study is architectural: accident protection remains distributed across multiple regimes and does not yet operate as a single, explicit statutory pathway linking minimum safety standards, proof of breach, management-failure attribution, compensation, and enforcement. Because no defined case corpus is analyzed, claims about actual enforcement frequency are framed as risks or questions for empirical research rather than established facts.

De lege ferenda, reform should prioritize three measures: first, clearer minimum safety and audit obligations calibrated to tourism risk; second, an attribution framework that allows documented management failure to be assessed across administrative, civil, and, where authorized, criminal regimes; and third, a victim-remedy pathway that clarifies information access, claims, compensation, and coordination among enforcement bodies. These changes may be pursued through implementing regulations where statutory delegation is sufficient and through legislative amendment where new substantive duties, remedies, or corporate-attribution rules exceed existing authority.

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