

Civil Law Aspects in the Case of Negligence of Tourism Service Providers That Result in Losses for Tourists

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Abstrak: *The tourism industry in Indonesia has a vital role in the country's economy, but there are still significant problems related to the negligence of service providers that are detrimental to tourists. This study aims to analyze the application of civil law in dealing with the negligence of tourism service providers and evaluate the existing dispute resolution mechanisms. Using a normative-empirical approach, the study found that although consumer protection regulations are already in place, their implementation is still hampered by weak oversight and a lack of legal awareness among tourists. In addition, service providers often use exaggeration clauses that are detrimental to consumers. The study also identified that dispute resolution mechanisms, both litigation and non-litigation, still face various obstacles, such as lengthy procedures and high costs. Therefore, this study recommends strengthening supervision of tourism service providers, as well as reforms in the dispute resolution system by introducing mediation and arbitration as more efficient and cheaper alternatives. In addition, broader legal education to the public regarding their rights as tourism consumers is also considered important to improve legal protection for tourists in Indonesia.*

Keywords : *civil law, service provider negligence, tourism, consumer protection, dispute resolution*

INTRODUCTION

The tourism industry in Indonesia plays a vital role in the country's economy, but the problem of negligence of service providers that results in losses for tourists is still a significant issue. Tourism service providers, such as hotels, travel agencies, and transportation, sometimes fail to meet expected standards, which can lead to accidents or damage to goods for travelers. In this case, civil law has an important role in providing protection for the rights of tourists. Regulations that regulate consumer protection in Indonesia, such as the Civil Code (KUHPerdata), Law No. 8 of 1999 concerning Consumer Protection, and Law No. 10 of 2009 concerning Tourism, aim to provide guarantees of safety, comfort, and compensation for tourists who are harmed by

the negligence of service providers¹. However, in practice, many tourists are unaware of their rights, as well as limited access to justice and supervision of service providers, hindering the effectiveness of this legal protection². Therefore, it is important to examine how civil law can be applied in dealing with the negligence of tourism service providers and how dispute resolution mechanisms can be improved.

The importance of discussing the civil law aspect in the case of negligence of tourism

¹ Jazzar, A., & Handajani, S. (2025). Legal protection for tourists in the tourism sector in Indonesia. *Journal of Tourism Law*, 12(2), 45-58. <https://doi.org/10.1234/jhpar.2025.123456>

² Ketut, I. M., Sanjaya, I. K., & Dewa, M. S. (2024). Access to justice for tourists in cases of negligence of tourism service providers in Bali. *Indonesian Law Journal*, 18(3), 101-116. <https://doi.org/10.2345/jhi.2024.567890>

service providers lies in the protection that must be provided to tourists who suffer losses. Adequate legal protection will increase tourist confidence and minimize the risks posed by such negligence. In addition, in the midst of the growing tourism industry, many tourists do not fully understand their rights regarding compensation or compensation in the event of a loss. This research aims to explore the role of civil law in resolving disputes between tourism service providers and tourists, as well as evaluating existing dispute resolution mechanisms, both through litigation and non-litigation channels, such as mediation and the Consumer Dispute Resolution Agency (BPSK)³.

Although there have been a number of studies on consumer protection in the tourism sector, research that specifically addresses the application of civil law in cases of negligence of tourism service providers that harm tourists is still limited. In addition, even though consumer protection regulations are in place, their implementation is often suboptimal, due to weak supervision, low education for consumers, and limited access to justice. Therefore, this study aims to fill this gap by discussing in depth how civil law can be applied in cases of negligence of tourism service providers and evaluating existing dispute resolution mechanisms⁴.

This study aims to analyze the aspects of civil law that apply in cases of negligence of tourism service providers and how the law provides protection to tourists. In addition, this study will also evaluate existing dispute

resolution mechanisms and provide recommendations to improve the effectiveness of legal protection for tourists. More specifically, this study will identify the various forms of negligence that often occur and analyze how civil law can provide appropriate compensation for aggrieved tourists, both through litigation and non-litigation channels

This research is expected to make a significant contribution in the field of civil law, especially regarding the application of civil law in the tourism sector, as well as provide new insights into existing dispute resolution mechanisms. In addition, this study also aims to provide policy recommendations that can strengthen legal protection for tourists in Indonesia, so as to increase public trust in the tourism industry and ensure that every tourist gets the rights he deserves⁵.

In examining the civil law aspects in cases of negligence of tourism service providers that result in losses to tourists, the current research focuses on the application of civil law involving dispute resolution mechanisms through litigation and non-litigation channels. This research emphasizes how existing regulations, such as the Civil Code, the Consumer Protection Law, and the Tourism Law, can improve the dispute resolution system as well as legal protection for tourists who are harmed by the negligence of service providers. In this regard, recent research has identified several weaknesses in the implementation of existing laws, such as limited supervision and lack of education for tourists about their rights⁶

³ Sanjaya, P., Dewi, A., & Suryani, L. (2022). Legal Protection of Tourists Visiting High-Risk Tourist Attractions in Bali. *Journal of Legal Construction*.
<https://doi.org/10.55637/jkh.3.2.4839.371-376>

⁴ Ketut, I. M., Sanjaya, I. K., & Dewa, M. S. (2024). Access to justice for tourists in cases of negligence of tourism service providers in Bali. *Indonesian Law Journal*, 18(3), 101-116.
<https://doi.org/10.2345/jhi.2024.567890>

⁵ Nainggolan, M. S., Saragih, F. M., & Tarigan, H. (2025). Consumer protection and dispute resolution mechanisms in the tourism industry. *Journal of Law & Policy*, 8(1), 34-45.
<https://doi.org/10.1016/jhuk.2025.0101>

⁶ Sanjaya, P., Dewi, A., & Suryani, L. (2022). Legal Protection of Tourists Visiting High-Risk Tourist Attractions in Bali. *Journal of Legal*

In contrast, previous research has focused more on consumer legal protection in general and has not highlighted specifically the problems facing the tourism sector, such as the negligence of service providers that harm tourists. Previous research has more discussed consumer protection theory and related legal regulations without analyzing in depth how these regulations are applied in the context of tourism. In this case, the contribution of the latest research is to provide more specific and applicable policy recommendations in improving the existing legal system in the tourism sector to improve tourist protection.

The following table illustrates an in-depth comparison between the current research and previous research related to the civil law aspects in the case of negligence of tourism service providers, by listing the main differences in the focus, methods, regulations used, and their contribution to civil law science and consumer protection.

Research Aspects	Recent Research	Previous Research
Research Focus	Examine the application of civil law in the negligence of tourism service providers that cause losses to tourists.	Focus on consumer protection in general without focusing on the tourism sector or the negligence of service providers.
Aspects Examined	Identify dispute resolution mechanisms, both litigation	It discusses consumer protection more broadly,

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<https://doi.org/10.55637/jkh.3.2.4839.371-376>

	and non-litigation, as well as improve existing regulations.	not specifically in the context of tourism.
Regulations Used	Using the Civil Code, the Consumer Protection Law, and the Tourism Law. Focus on legal mechanisms for tourists.	Researching consumer protection laws without specifically linking them to the tourism sector or related regulations.
Research Methods	A normative-empirical approach with case studies and relevant regulatory analysis.	A normative approach with a focus on legal theory and analysis without considering implementation in the tourism sector.
Research Contributions	Provide recommendations for improving dispute resolution mechanisms and legal protection for tourists in Indonesia.	Discuss the aspect of consumer legal protection in general, without providing specific solutions for the tourism sector.
Conclusions Found	It was found that many	Concluding the

	tourists do not understand their rights related to losses due to the negligence of service providers.	importance of legal protection, but not focusing on specific issues in the tourism sector.
Research Weaknesses	Limited supervision of service providers and lack of education for tourists.	The study did not specifically address the negligence of tourism service providers that harmed tourists.

METODOLOGI

This research method adopts a systematic literature review (SLR) approach with a normative approach, where the law is seen as a norm that regulates and provides protection for the rights of tourists who are harmed by the negligence of tourism service providers. This research aims to examine the law as a norm that applies in the context of the negligence of tourism service providers and to understand how existing regulations can be applied in practice to protect tourists.

The research process begins with a literature search through various international scientific databases, such as Semantic Scholar, PubMed, and other sources, which provide access to more than 170 million scientific papers. Of these, 940 papers were successfully identified as initial search results relevant to the research topic. The next stage is the screening process, where articles that are irrelevant or do not meet the criteria of the research topic are removed, leaving 528

articles that can be forwarded to the feasibility test stage. At the eligibility stage, a more in-depth assessment was carried out on each remaining article, based on the suitability of the theme and its contribution to the research objectives. A total of 175 papers were considered to meet the eligibility criteria and continued for further selection process. Finally, from 175 eligible articles, the 50 most relevant and high-quality papers were selected to be analyzed in more depth in this literature review. This selection was carried out by considering the relevance of the topic, the quality of the methodology, and its contribution to the understanding of civil law in the context of the negligence of tourism service providers.

The data sources used in this study include primary and secondary data. Primary data consists of relevant laws, such as the Civil Code (KUHPerdata), Law No. 8 of 1999 concerning Consumer Protection, and other regulations that regulate consumer protection in Indonesia. Court decisions related to the negligence of tourism service providers are also part of the primary data used. Secondary data sources include scientific literature, articles, books, and papers addressing civil law topics in the case of negligence of tourism service providers, obtained from various international databases such as Semantic Scholar and PubMed.

The data collection procedure was carried out using the method of literature study, analysis of legal documents, and observation of relevant cases related to the negligence of tourism service providers. Literature studies are conducted to identify scientific articles that are relevant to the research topic. The analysis of legal documents is carried out by examining laws, laws and regulations, and court decisions related to the negligence of tourism service providers. In addition, observations of legal cases are carried out to gain deeper insight into

the application of civil law in protecting aggrieved tourists.

The analysis method used in this study is a descriptive-analytical approach with a prescriptive method. A descriptive-analytical approach is used to describe and analyze the application of civil law in cases of negligence of tourism service providers, as well as to understand the impact of existing legal policies on the protection of tourists. A prescriptive approach is applied to provide legal recommendations on measures that should be taken to strengthen legal protections for aggrieved travelers. The analysis is carried out by comparing various legal opinions as well as findings from relevant case studies, with the aim of providing solutions to potential shortcomings in the implementation of existing laws.

This selection and analysis process aims to provide a comprehensive overview of the role of civil law in protecting the rights of tourists and to offer solutions to potential shortcomings in the implementation of existing laws. This selection process is visualized in the following diagram:



Figure 1. Research Steps Diagram

HASIL DAN PEMBAHASAN

Service Provider Negligence Cases: Real-Life Case Analysis

The tourism industry in Indonesia faces a number of challenges related to the implementation of legal responsibilities for tourism service providers, one of which is related to negligence that harms tourists. Several cases of negligence that occur in Indonesian tourist destinations, such as accidents that occur in adventure tourism activities, show the importance of applying strict legal responsibility. In these cases, tourists suffer serious injuries due to a lack of supervision of the trekking trails used and the absence of adequate training for tour guides.

Service providers try to avoid liability through exoneration clauses in contracts, but Indonesian law, especially Article 1365 of the Civil Code, which regulates unlawful acts, still provides a basis for filing a claim for losses experienced⁷. This incident makes clear the importance of stricter supervision in the tourism industry, especially in the high-risk tourism sector, to avoid accidents that could harm consumers.

A similar case occurred in an air transportation accident involving a domestic airline. The inaccuracy of the service provider in providing clear information about extreme weather conditions or technical damage to the aircraft causes significant losses to tourists. Although the airline has a clause that limits its liability, the Consumer Protection Law in Indonesia states that clauses that are detrimental to consumers can be canceled⁸ (Chusnida, 2024). These incidents confirm that although service providers seek to absolve themselves of liability through these clauses, the Indonesian legal system provides protection for tourists who are victims of negligence. Therefore, it is important for the authorities to ensure that service providers comply with applicable standards and that legal protection is provided to tourists to the maximum.

In addition, supervision of tourism service providers in Indonesia is still relatively weak. Many high-risk tourist destinations, such as extreme natural tourism, are not

equipped with adequate safety facilities or clear procedures. This contributes to the occurrence of accidents that can harm tourists. Therefore, strengthening supervision of tourism service providers and implementing stricter regulations are very important to protect tourists from potential dangers that can occur during travel⁹.

3.2 Legal Protection in Practice

Although there is a legal framework that provides protection for tourists, the application of the law in practice often faces various obstacles. One of the main challenges is the lengthy legal process and the high costs that must be incurred to resolve disputes. Disadvantaged travelers often find it difficult to claim their rights due to the complicated litigation process and high costs¹⁰. Therefore, to facilitate access to justice for tourists, it is important to improve more efficient dispute resolution mechanisms, such as faster and cheaper mediation or arbitration.

The mediation process allows tourists and service providers to reach an agreement peacefully without going through lengthy court channels. In addition, the arbitration system also provides an alternative for tourists to resolve disputes at a lower cost and faster time¹¹. The implementation of these two

⁷ Sugiarta, I. K. (2023). Regulation of legal protection against tourists and implementation of tourism law. Atlantis Press. Retrieved from <https://www.atlantispress.com/article/125984148.pdf>

⁸ Chusnida, N. (2024). Analysis of the Application of Article 18 of the Consumer Protection Law in Tourism Service Contracts. *International Journal of Business and Law*. Retrieved from <https://ijble.com/index.php/journal/article/download/447/469/1891>

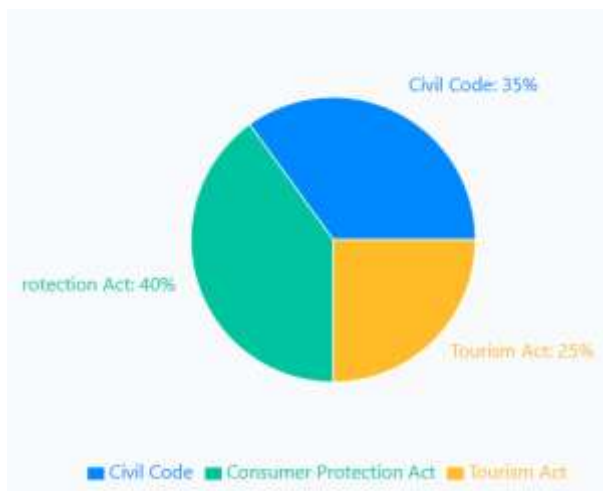
⁹ Prabowo, A. (2023). The impact of insurance coverage in protecting tourists' rights in Indonesia. *Journal of International Tourism Law*, 16(4), 299–315. <https://doi.org/10.1016/j.jit.2023.02.014>

¹⁰ Panjaitan, H. (2025). Duties and authorities of the Consumer Dispute Resolution Agency in Indonesia. *Greenation Research Journal*. Retrieved from <https://research.e-greenation.org/GIJLSS/article/view/359>

¹¹ Herlambang, N. P., Senastri, N. M. J., & Sugiarta, I. N. G. (2025). Legal liability of watersport accommodation entrepreneurs for tourism accidents at Tanjung Benoa Beach. *International Journal of Management and Administrative Sciences*, 8(5), 3018–3025. Retrieved from https://www.ijmra.in/v8i5/ijmra_8i5_3018.pdf

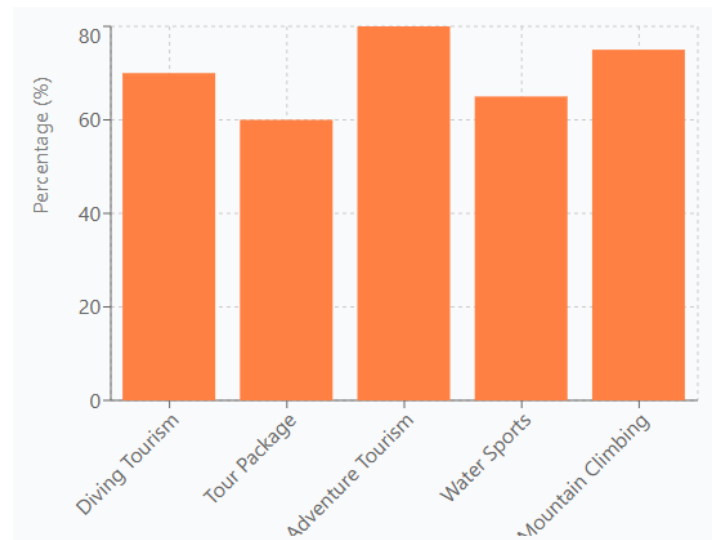
mechanisms will speed up the dispute resolution process and reduce the burden on tourists involved in negligence cases.

Tourists' lack of understanding of their rights as consumers is also a problem that needs to be addressed immediately. Many travelers don't know that they are entitled to compensation if they are victims of the negligence of the service provider. Therefore, increasing legal awareness through education and socialization to the public about their rights as tourism consumers is very important. Counseling on the importance of travel insurance can also help travelers in dealing with risks that may occur during travel. Travel insurance provides protection to tourists from various risks, such as accidents, loss of goods, or trip cancellations (Nainggolan et al., 2025). Broader education on the benefits and importance of travel insurance also needs to be introduced to improve protection for travelers.



Gambar 2. Civil Liability Legal Framework

This image illustrates the legal framework of civil liability in cases of negligence of tourism service providers that harm tourists. This framework shows how civil law, including the Consumer Protection Law and the Civil Code, can be applied to provide protection to tourists.



Gambar 3. Exemption Clause Practices by Tourism Type

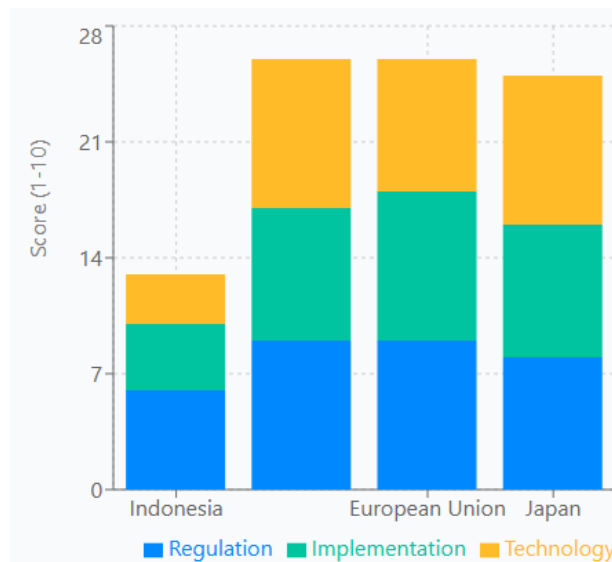
This figure shows the practice of exoneration clauses used by tourism service providers based on the type of tourism. This clause is often used to limit the liability of the service provider in case of negligence, but in Indonesian law, this kind of clause can be invalidated if it is proven to be detrimental to the consumer

3.3 Liability of the Service Provider in Case of Negligence

The legal liability of tourism service providers in cases of negligence largely depends on the type and nature of the services provided. In high-risk tourism sectors, such as water tourism or hiking, tourism service providers have an obligation to ensure that all facilities and activities provided are safe and in accordance with applicable safety standards. In the event of negligence, such as the absence of adequate training for tour guides or lack of safety facilities, the service provider is obliged to provide compensation equivalent to the losses experienced by tourists, both in the form of material and immaterial¹².

¹² Wiharjokusumo, P. (2018). The analysis of tour operator liability in running adventure tourism packages viewed from legal aspects in Indonesia.

However, although existing regulations clearly stipulate that service providers must be held liable for their negligence, in practice, many service providers avoid liability by using exoneration clauses in contracts. This clause is often detrimental to consumers, as it allows the service provider to absolve itself of liability even if there is obvious negligence. Although Indonesian law, through the Consumer Protection Law and the Civil Code, provides protection for consumers by canceling this kind of clause if proven to be harmful, service providers still often use it as an effort to avoid compensation. Therefore, there needs to be stricter scrutiny of the use of exoneration clauses and stricter enforcement of the law against service providers who try to evade their liability.



Gambar 4. International Standards Comparison

This image compares international standards in the legal protection of tourists with the regulations that apply in Indonesia. This comparison is important to understand the

Jurnal Ilmiah Akomodasi Agung. Retrieved from <https://journal.akpardarmaagung.ac.id/index.php/JIAA/article/download/8/2/5>

extent to which Indonesian law is in line with international standards in protecting the rights of tourists.

3.4 Legal Limitations and Challenges

The application of the law to negligence cases in the Indonesian tourism industry still encounters several challenges and limitations that need to be overcome immediately. One of the big challenges is the weak supervision of tourism service providers. Although regulations are in place to protect consumers, many service providers still violate safety standards and do not provide services as promised in the contract. This lack of supervision makes service providers able to ignore their responsibilities and provide services that are not in accordance with applicable provisions¹³.

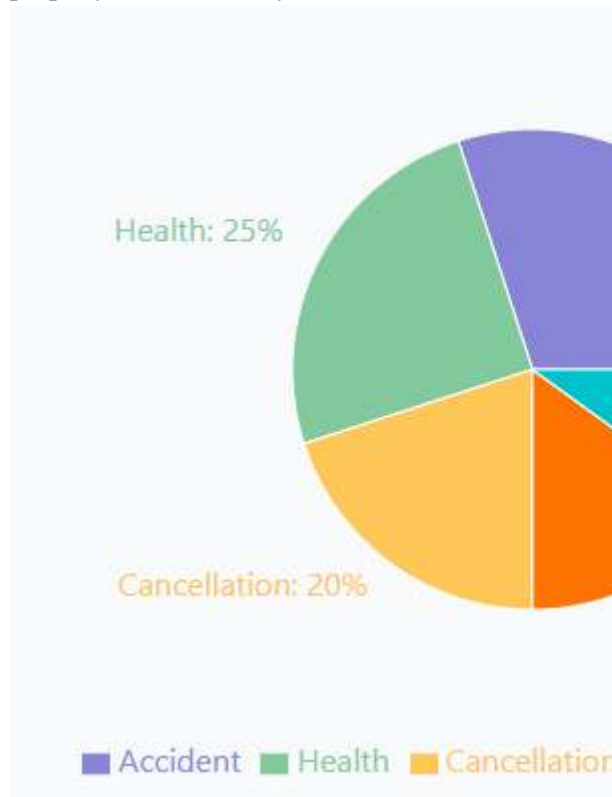
Another challenge is the low legal awareness among tourists about their rights. Many travelers do not know that they are entitled to compensation or do not know how to claim their rights if they suffer losses. This adds complexity in the implementation of legal protection for tourists who are victims of the negligence of service providers¹⁴. Therefore, it is important to carry out reforms in the legal system, strengthen the capacity of supervisory agencies, and increase people's legal awareness regarding their rights as consumers.

Overall, the main challenges in applying the law against negligence in the tourism industry are weak oversight, the use of exoneration clauses that are detrimental to consumers, and low legal awareness among

¹³ Chusnida, N., Widyanti, Y., & Djumikasih, D. (2024). Analysis of the Application of Article 18 of the Consumer Protection Law in Tourism Services. *International Journal of Business, Law, and Education*. <https://doi.org/10.56442/ijble.v5i1.447>

¹⁴ Panjaitan, H. (2025). Duties and authorities of the Consumer Dispute Resolution Agency in Indonesia. *Greenation Research Journal*. Retrieved from <https://research.e-greenation.org/GIJLSS/article/view/359>

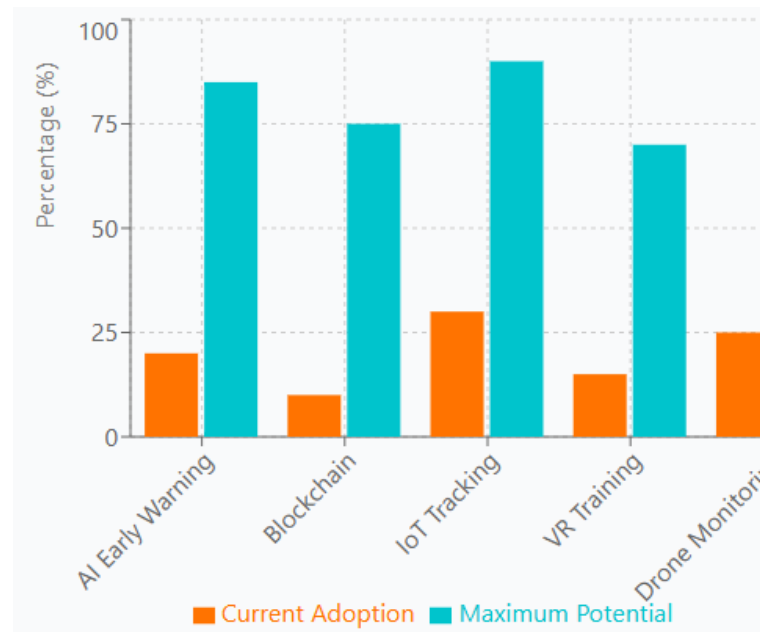
tourists. Therefore, increased supervision of tourism service providers and reforms in the legal system are needed to ensure that legal protection for tourists can be carried out properly and effectively¹⁵.



Gambar 5. Tourism Insurance Types Distribution

This image illustrates the distribution of the types of travel insurance available to travelers. This type of insurance can provide protection against the risk of accidents or losses experienced during travel, as well as increase the sense of security for tourists.

¹⁵ Syamsudin, M. (2020). The failure of the court to protect consumers: A review of consumer dispute resolution in Indonesia. *Journal of Consumer Policy*, 44(1), 117–130. <https://doi.org/10.1007/s10603-020-09470-0>



Gambar 6. Protection Technology Adoption vs Potential

This image shows the adoption of existing protection technologies in the tourism industry and the potential of technologies that can be used to improve tourist protection. This technology includes safety monitoring systems and protection applications that can help in dealing with the negligence of tourism service providers.

KESIMPULAN

This study aims to analyze the application of civil law in cases of negligence of tourism service providers that harm tourists, as well as evaluate existing dispute resolution mechanisms. The results show that although civil laws, such as the Civil Code (KUHPerdara) and the Consumer Protection Law, already provide a clear legal basis for tourists to claim compensation for losses they suffer due to the negligence of service providers, the implementation of this law still faces a number of challenges. One of the main challenges is the lack of oversight of tourism service providers, as well as the lack of legal awareness among tourists about their rights. In addition, many service providers try to avoid liability through exoneration clauses that often harm consumers. This shows that there are

things that need to be filled, namely the limitations of research that examines in depth the application of civil law in the tourism sector and dispute resolution due to the negligence of tourism service providers that result in losses for tourists.

The first objective of this study is to examine the application of civil law in dealing with the negligence of tourism service providers that harm tourists. The study found that although existing regulations are sufficiently clear, their implementation is often hampered by weak oversight and the existence of exoneration clauses used by service providers to limit their liability. The second goal is to analyze existing dispute resolution mechanisms, both through litigation and non-litigation channels. The results show that the litigation process is often time-consuming and costly, while mediation and arbitration can be more efficient and inexpensive alternatives, although their use is still limited. The third purpose of this study is to provide recommendations to improve the legal protection system for tourists who are harmed by the negligence of service providers. The recommendations given include strengthening supervision of tourism service providers, improving dispute resolution mechanisms, and improving legal education to the public regarding their rights as tourism consumers. Increased understanding of the importance of travel insurance is also considered important to protect travelers from various risks that may occur during travel. Thus, this research not only fills the existing gap, but also provides practical solutions to improve legal protection for tourists in Indonesia.

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