

## LEGAL PROTECTION ANALYSIS OF MARIA CAVE AS A SPIRITUAL TOURISM

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### ABSTRACT

*The tourism potential in Indonesia is very significant. However, based on the phenomenon that occurs in several tourist destinations around the world it is found that many tourist attractions are especially damaged in Indonesia due to irresponsible actions. The purpose of this study was to reveal the legal protection of one of the tourist attractions in Indonesia, Maria Cave as a spiritual tourism destination in the City of Kediri. The study was conducted based on research methods using normative jurisdiction review. The results of the study revealed that so far the legal protection of spiritual tourism has been supported by the government but concretely has not been found in the Kadiri city government regulations. Therefore, to minimize the existence of activities that can cause damage and forms of protection of existing tourist destinations, it is necessary to specifically make government and local government regulations as well as to supervise and impose strict sanctions on all forms of irresponsible actions which are certainly supported by a budget enough when using technology for sustainable tourism. Both the community, tourists and entrepreneurs have their respective obligations that must be obeyed in accordance with the provisions and laws in force in Indonesia.*

**Keyword:** *legal protection; maria's cave; spiritual.*

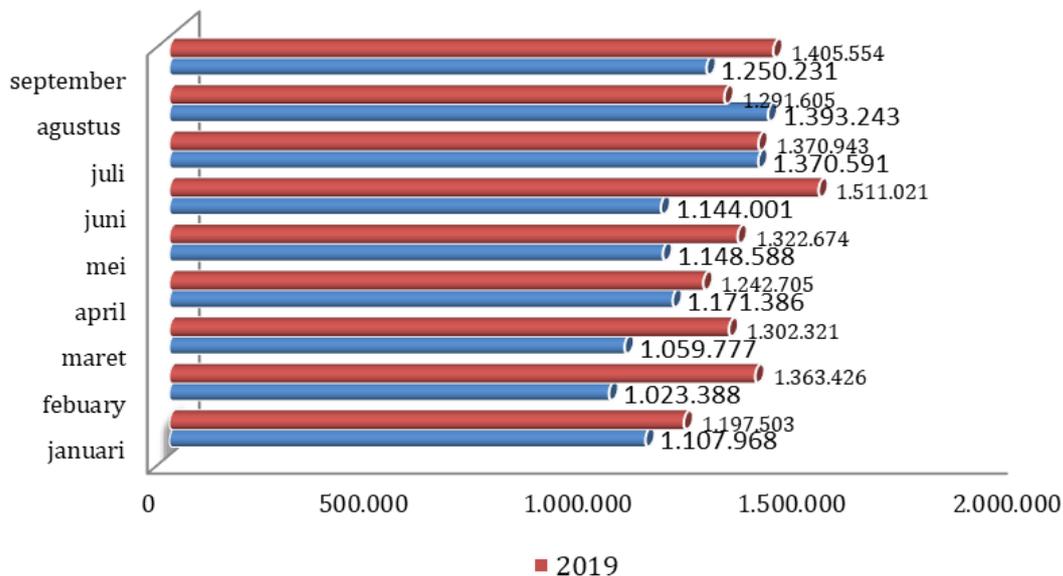
### ABSTRAK

*Potensi pariwisata di Indonesia sangat signifikan. Namun, berdasarkan fenomena yang terjadi di beberapa destinasi wisata di seluruh dunia ditemukan bahwa banyak tempat wisata yang rusak khususnya di Indonesia karena tindakan yang tidak bertanggung jawab. Tujuan dari penelitian ini adalah untuk mengungkap perlindungan hukum dari salah satu tempat wisata di Indonesia, Gua Maria sebagai tujuan wisata spiritual di Kota Kediri. Penelitian ini dilakukan berdasarkan metode penelitian menggunakan tinjauan yurisdiksi normatif. Hasil penelitian mengungkapkan bahwa sejauh ini perlindungan hukum pariwisata spiritual telah didukung oleh pemerintah tetapi secara konkret belum ditemukan dalam peraturan pemerintah kota Kadiri. Oleh karena itu, untuk meminimalkan keberadaan kegiatan yang dapat menyebabkan kerusakan dan bentuk perlindungan terhadap tujuan wisata yang ada, perlu untuk secara khusus membuat peraturan pemerintah dan pemerintah daerah serta untuk mengawasi dan menjatuhkan sanksi tegas pada semua bentuk tindakan tidak bertanggung jawab yang tentunya didukung oleh anggaran yang cukup ketika menggunakan teknologi untuk pariwisata berkelanjutan. Baik masyarakat, wisatawan dan pengusaha memiliki kewajiban masing-masing yang harus dipatuhi sesuai dengan ketentuan dan hukum yang berlaku di Indonesia.*

**Kata Kunci:** *perlindungan hukum; gua maria; spiritual.*

## INTRODUCTION

Based on statistics from the Ministry of Tourism in 2019, "Foreign tourist arrivals to Indonesia through all entrances in September 2019 amounted to 1,557,712 visits or an increase of 3.09% compared to the same period in September 2018 amounting to 1,511,021 visits. The following statistics are monthly tourist visits in 2019;



**Figure 1.** Monthly Overseas Tourist Visits in 2018-2019  
Source: Kemenpar, 2019

The development of tourism in Indonesia from year to year has increased. One of them is related to changes in socio-economic structure and the increasing number of people who have a high enough income level so that interest in visiting various tourist destinations also rises. The tourism sector contributes 4% of the total economy. To reach the target of 8% of GDP, the government focuses on improving Indonesia's infrastructure and increasing online promotion campaigns abroad (Indonesia-investment, 2019). One of them is Tourism in the City of Kadiri attracts quite a lot of tourists because it has a variety of beautiful places. One of them is Maria Cave which aside from being a place of devotion, many tourists deliberately visit just to see the beautiful Maria Cave. Apart from that, the more tourists there are in the Cave of Maria, the greater the possibility of damage to tourist attractions due to repeated human hands. But there is a pretty sad phenomenon in Indonesia regarding the existence of some tourist destinations that are not maintained or damaged due to neglect and behavior of some people who are not responsible.

Tourist attraction vandalism, littering, open defecation, unorganized hotel making are some of these phenomena. Even in six other countries such as Italy, New York, Croatia, Iceland, Spain and Mexico have implemented regulations that are strict enough for tourism to minimize human damage and neglect, for example by reducing the maximum number of tourists coming, prohibiting damaging public places, and imposing sanctions administrative. (Dimiyati. 2018).

In addition, weak tourism institutions and governance systems can cause mass tourism to be controlled by strong stakeholders (Badola, 2018). What is feared is that strong stakeholders do not have a strong awareness of being partly responsible for preserving tourist destinations. Local government arrangements in terms of legal

protection including in institutions play an important role in ensuring the equitable sharing of benefits from the benefits of spiritual tourism and maintaining harmony among religious communities. Based on the research of Badola et al (2018) that it is very important to conduct a three-level arrangement involving local communities and civil society organizations because it is most effective in socio-economic development between local communities and environmental issues within the framework of tourism management. A strong local institution with intrinsic spatial engagement is needed to ensure that benefits can be felt by the community.

The issue of conservation for spiritual tourism sites to enhance and maintain the value of spiritual heritage is also worthy of consideration. A systematic conservation plan is essential for the sustainability of existing buildings or cultural reserves (Kwong & Mohamed, 2018). Without good legal protection, conservation efforts will be in vain. The building will be damaged and maybe the interest of tourists who will visit tourist destinations will be reduced.

The tourism industry is a large industry in the world (UNWTO, 2016), but like other tourism, spiritual tourism is quite complicated and complex because it has strong ties with social, cultural, religious, and environmental. So in this case special attention to the laws governing it is necessary to meet challenges and achieve sustainable tourism goals (Asadzadeh & Mousavi, 2017). Spiritual tourism is also very vulnerable to the ongoing threat of terrorism. Internationally, terrorism can influence the mindset of tourists for example by creating fear for tourists and causing quite serious impacts on the economy and society. The presence of terrorism can be a major problem for the travel of the spiritual tourism industry. (Chowdhury, et al, 2017).

Basically, tourist destinations are entitled to legal protection of their sustainability. As stated in the Law No. 10/2009 concerning Tourism. The purpose of this study is to reveal how the form of legal protection for spiritual tourism in the Cave of Mary. Based on studies conducted, it is expected that the tourism destination such as the Cave of Mary can continue to be preserved so that the interest in visiting tourists and religious worship facilities for religious people can be maintained in harmony.

## LITERATURE REVIEW

### 1. The concept of Leading Tourism Industries

Previous research examines the problem of the tourism industry with factors that contribute to internal environmental pollution, especially in the island tourism region (Akadiri, et al, 2020), travel efficiency (Lam, & Wong, 2020), the quality of relationships and programs in tourism shopping loyalty with economic development (Barisic, & Cvetkoska, 2020). This is related to one another, where hospitality will make a memorable trip. In essence, the tourism industry must now be smart tourism both in terms of information towards sustainable innovation and the quality of services and the social environment in which tourism is empowered (Li, Hu, Huang, & Duan, 2017; Hadinejad, et al, 2019; Yuksel, 2017). Empirically, the tourism industry contributes to the welfare of the local community (Satya, 2018; Lee, Sin Yee, & Har, 2020).

The tourism industry is a leading sector that can improve the economy in areas that have the potential for tourism development. According to Sujali (1989), "The concept of leading industries bases the thought that in growth centers there is an activity and these activities are attractive attractions in the form of attractive and visitor-intensive attractions that are located in strategic locations. The Director General of Tourism of the Republic of Indonesia in 1985 classified tourism activities into three types of tourism activities as follows: 1) Natural tourism objects in the form and form

of natural scenery; 2) Cultural attractions (Cultural resources) which are more influenced by the environment and humans; and 3) Man-made attractions (Man made resources) in the form of attractions that are influenced by human efforts and activities.

Competition and cooperation in the tourism industry seem to occur in various forms in various regions. Cooperation can be distinguished between stakeholders in areas where stakeholders have an interest; and this is what makes the tourism industry in one region have another case or problem of empowering tourism that is different from both the community and marketing problems. The role of local educational institutions also varies and depends on certain tourist areas. It is clear that, for the development and facing the challenges of the tourism industry, destination managers need to adjust to the existing management structure (Touhino, & Konu, 2014; Birgit, ike, & Chung-Shing, 2018).

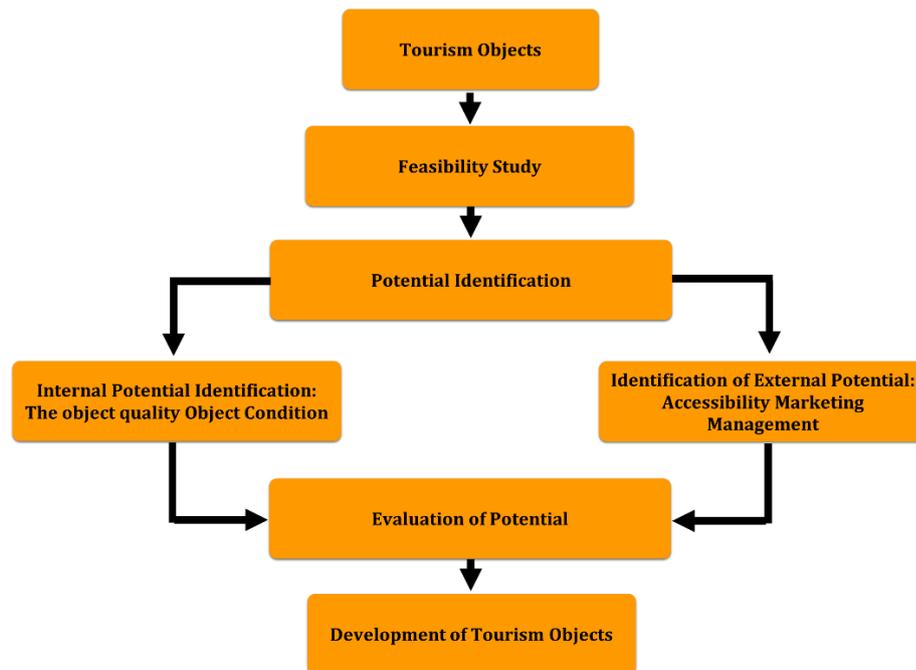
Today, a good model for tourism development is responsible tourism development. The responsible tourism industry is assumed to be a sustainable growth in tourism setinya and marketing strategies. Without attractions such as adequate quality of services and facilities, the opportunity to promote tourism is impeded. Specifically, the focus is on strategic products and destination brand image that is a reference for local and foreign tourists. Stimulating aspects such as the natural and cultural environment of the destination is also important for tourism development (opangga, & Puhi, 2019; Lopes, & Silva, 2020).

Tourism development in a region is determined by several factors, namely; 1) tourist attractions (tourist attractions); 2) accessibility or convenience in traveling to tourist destinations; and 3) facilities and facilities needed (Kodhyat, 1996). Musanef (1996) explains that, "The implementation of tourist attraction and tourist attraction development aims to obtain commercial benefits, develop regionally socio-economic development, meet the recreational needs of the community and in order to optimize existing resources."

Sujali (1989) revealed that to improve the economy of the community, tourism development must meet feasibility studies including; "1) financial feasibility means that tourism development meets commercial criteria by comparing operational costs with the results of operations that will be obtained; 2) socioeconomic feasibility means that it must consider the comparison ratio for tourism development compared to economic development in other sectors such as agriculture and Micro, Small and Medium Enterprises (MSMEs); 3) the feasibility of the technique by considering the construction of attractions so that they can be accounted for; and 4) environmental feasibility means that environmental impact analysis has concluded that the negative impacts that can be overcome based on science and technology are smaller than the positive impacts".

It was further explained that the next step was to evaluate the potential by doing; "1) Selection of potential adjusted to the availability of funds; 2) evaluation of the potential location of the region so that misunderstandings between administrations are not related; and 3) measurement of the distance between potentials to determine which ones are sufficient to develop." (Sujali, 1989).

For more details about the development model of tourism development can be seen in the following figure;



**Figure 2.** Tourism Potential Development Diagram  
Source: Sujali (1989)

The existence of tourism can have an impact on society including; 1) lead to negative activities such as gambling, liquor, and prostitution; 2) demonstration effect, namely the desire of the public to use luxury and imported goods such as tourists; 3) racial tension; 4) fostering humility in some tourism business workers; 5) organizing crafts and arts to produce a large amount for tourists; 6) standardizing the role of workers; 7) loss of cultural pride; 8) changes in the way of life that is too fast; 9) the imbalance of the workforce (McIntosh & Goeldner, 1986).

## 2. Spritual Tourism

Spiritual tourism is the basis for developing sustainable goals in modes of tourism practices that have a social economic effect (Ozcan, Biskin, & Simsek, 2019). Tourism to the holy sites has brought different connotations which have been carried out not merely for religious reasons (Ricketts, 2018). In addition to utilizing the healing qualities of the natural environment such as walking, spiritual tourism has become an important part of tourism outside the religious context including health, welfare, and self-improvement. The point is that spirituality and tourism in destination management are important where local community involvement is needed (Kato, & Prozano, 2017; Uchenna, Obieleum, & PU Okpoko, 2017).

Spiritual tourism is the act of traveling at home or abroad to visit spiritual places such as mosques, churches or neighborhoods and wildlife parks for the purpose of meeting the needs of thanking the Almighty, forgiveness, and inner peace (IGI Global, 2019). Meanwhile, according to Sharply and Jepson (2010) explain that spiritual tourism is tourism that is motivated by religious beliefs or reasons that have been proven for centuries. On one hand, spiritual tourism can be identified as a particular type of tourism whose participants are motivated either in part or only for reasons of tolerance and peace between religious communities and on the other hand, this tour is considered a spiritual activity (Vukonic, 1996).

Aggarwal et al (2008) explain that the core of spirituality is understanding with deep feelings and beliefs, often religious, including feelings of peace, purpose, connection with others, and beliefs about the meaning of life.

Pilgrim tourism is associated with the intention or desire of people to get something, inner strength, firmness of faith, and rarely also because they want to obtain blessings, abundant wealth (Pendit, 1999). Besides aiming to show respect for those who have died, pilgrimage activities are not only carried out at the graves of saints but also at the tombs of the ancestors who were saved or the tombs of the royal family (Jamhari, 1998). According to Sudiro (2005), "pilgrimage motivation can be classified into four categories namely; 1) *taktyarasa* that is a pilgrimage with the aim of obtaining blessings and the determination of life (blessing blessing); 2) *gorowasi* (pilgrimage to the tomb of the legendary to gain strength, popularity, personal stability, and longevity, seeking inner peace; 3) *widiginong* (pilgrimage with the aim of seeking world wealth or worldly positions or seeking fortune; and 4) *samaptadan* that is an effort to search for fortune happiness of children and grandchildren to be saved or to seek salvation".

Spiritual tourism is understood differently by humans, including; First "1) as a cultural activity by visiting historical sites, archeological excavations, cities to the battlefield, interests in certain historical eras or events. Visit a place where historical figures or famous figures. Visiting places of religious importance (pilgrimage). And this involves the inculcation and practice of religious beliefs and the implementation of religious duties (Herntrei & Pechlaner, 2011). Second, religious activities which become integral motives for traveling. Rinschede (1992) distinguishes forms of spiritual tourism based on time, that is long-term where it is meant to travel the world and short-term trips that involve the nearest religious attraction. But the motive for the journey is the same, which is towards perfection (Timonthy & Olsen, 2006).

Spiritual tourism is not just religious tourism such as pilgrimage. The broad spectrum of forms of travel with adanaya 'meaning inflation' where spiritual tourists are looking for something worthy of interest, which is able to give their lives a new direction. Travel related to a broader meaning by studying art, and religion as 'spiritual'. (Melchars, 2006).

The authenticity of spiritual tourism is a characteristic form of tourism proposition as it must have 1) an ethical nature that originates from authentic experiences built from community principles, sustainability and ethical consumption; 2) be honest with visitors where the tourism industry cannot promise something that cannot be delivered; 3) simple and easy to understand for visitors to feel the benefits; 4) has a beauty or beautiful scenery that is able to create a feeling that the experience cannot be copied except by visiting; 5) authenticity rooted in goals or community; and 6) human experience is something that lives and focuses on people. There fore tourists want contact with people who are local and real (Boyle, 2004).

## METHOD

The research method used is normative jurisdiction in the form of a legal review based on RI Law No. 10 of 2009 concerning Tourism; East Java Province Regional Regulation No.6, 2017 concerning the Tourism Development Master Plan for East Java Province 2017-2032; Joint Regulation of the Minister of Religion and the Minister of Home Affairs No.9 of 2006 and No.8 of 2006 concerning Guidelines for Implementing the Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering Religious Harmony Forums, and Establishing Religious Houses. The consideration of the

review of this law is based on: 1) that the historical, artistic and cultural heritage of the Indonesian people are a source of tourism development; 2) freedom to travel and make use of free time in the form of travel which is part of human rights; and 3) tourism is an integral part of national development. According to Soekanto (2001), this empirical approach was carried out by examining library materials as a basic material for research by conducting a search of regulatory issues and literature relating to a series of problems contained in research.

## RESULT AND DISCUSSION

Kediri City has a tourism sector that is quite potential. This can be seen from the development of businesses providing accommodation and hotels for tourists who visit. Based on data from the Office of Investment and Integrated Services of the One Gate of Kediri City, in 2018 there were 83 registered restaurants / restaurants, 10 of which are located in Kota District, and 3 registered restaurants / restaurants reaching 31 restaurants / restaurants. One tour that is quite famous is the Pohsarang Church which has a replica of Maria Lourdes Cave.

Maria Lourdes Cave is a replica cave of Maria Lourdes Cave in France. Deliberately chosen the name of Maria Lourdes Cave because in the old Church of Santa Maria Phsarang in this area there is a copy of the Lourdess cave in a small form. This place is very beautiful and is able to provide a different sensation from daily community activities. For this reason, aside from being a Devotion place, Maria Cave is a tourist destination for people from outside the city of Kediri. It was founded in 1936 by Father Jan Waolters CM with architect Henri Mclaine Pont located on Jalan Raya Puhsarang Semen Kediri, East Java.

Mary was seen as a special figure among the saints and received special respect in the Catholic church. So many places of devotion to Mary as in the Cave of Mary. (Alexander, 2018) Devotion itself is not something typical of Catholicism. Every religion and belief about habits and deeds that express 'populist religiosity', pious piety to the divine, is embedded in the hearts of the people. (Stolk, 1990).

Maria Cave Tourism is one of the spiritual tourism destinations that has legal protection as in the laws and regulations and Government Regulations. Based on RI Law No.10 of 2009 concerning Tourism CHAPTER VII Rights, Obligations, and Prohibitions of the second part of the Article 23 of the Obligatory provisions explained that the Government and Regional Governments are obliged to: "a) provide tourism information, legal protection, as well as security and safety to tourists ; b) creating a climate conducive to the development of tourism businesses which includes opening up equal opportunities in trying, facilitating, and providing legal certainty; c) maintain, develop and preserve national assets that are a tourist attraction and potential assets that have not yet been explored; and d) supervise and control tourism activities in order to prevent and mitigate various negative impacts on the wider community. Further provisions regarding the supervision and control of tourism as referred to in paragraph (1) letter d shall be regulated by Presidential Regulation".

Article 24 states that everyone has an obligation; "A) maintain and preserve tourist attractions; and b) help create a safe, orderly, clean atmosphere, behave politely, and preserve the environment of tourism destinations. "Then in article 25, every tourist is obliged; "A) maintain and respect religious norms, customs, culture and values that live in the local community; b) maintain and protect the environment; c) participate in maintaining environmental order and safety; and d) participate in preventing all forms of acts that violate decency and activities that violate the law.

Whereas Article 26 has stated that every tourism entrepreneur is obliged; "A) maintain and respect religious norms, customs, culture and values that live in the local community; b) provide accurate and responsible information; c) provide non-discriminatory services; d) provides insurance protection for tourism businesses with high-risk activities; f) develop partnerships with local micro, small and cooperative businesses that need, strengthen and benefit each other; g) prioritizing the use of local community products, domestic products, and providing opportunities for local workers; h) increasing the competency of the workforce through training and education; i) plays an active role in efforts to develop infrastructure and community empowerment programs; j) participate in preventing all forms of acts that violate decency and activities that violate the law in the area of the place of business; k) maintaining a healthy, clean and beautiful environment; l) maintaining the preservation of the natural and cultural environment; m) maintain the image of the country and nation through responsible tourism business activities; and n) applying business standards and competency standards in accordance with statutory provisions".

Part Three Provisions on Prohibition of Article 27 explains that; 1) everyone is prohibited from damaging some or all of the physical tourist attractions; and 2) physically destroying the attraction as referred to in paragraph (1) performing acts of changing colors, changing shape, eliminating certain species, polluting the environment, moving, taking, destroying, or destroying tourist attractions so as to result in reduced or loss of uniqueness, beauty, and authentic value of a tourist attraction that has been determined by the government and / or local government.

In the explanation above it can be analyzed that each citizen, tourist and businessman and the government has their respective obligations. And specifically the government and regional governments have the obligation to provide legal protection for tourists, communities and religious tourism sites that are included in the area of Indonesia's tourism destinations. The provisions of the sansi violation of the law are explained in Chapter XIV concerning administrative sanctions article 62 that, "1) Every tourist who does not comply with the provisions as referred to in Article 25 will be subject to sanctions in verbal reprimand accompanied by a notification regarding matters that must be fulfilled; 2) If the tourist has been given a reprimand as referred to in paragraph (1) and heedless the tourist concerned can be expelled from the location of the act.

Article 63 further explains that, "1) every tourism entrepreneur who does not meet the provisions referred to in Article 15 and / or Article 26 are subjected to administrative sanctions; 2) Administrative sanctions referred to in paragraph (1) in the form of written reprimands, restrictions on business activities, and temporary suspension of business activities; 3) Written reprimand as referred to in paragraph (2) letter a is imposed on the employer at most 3 (three) times; 4) Sanctions for limiting business activities shall be imposed on entrepreneurs who do not comply with the warning referred to in paragraph (3); and 5) Sanctions for temporary acts of business activities are imposed on entrepreneurs who do not meet the provisions referred to in paragraph (3) and paragraph (4)".

From the laws and regulations CHAPTER XIV clearly explains that there are provisions of administrative sanctions that can ensnare those who commit unpleasant acts or adverse actions related to the tourism sector. Then in Chapter XV there are Criminal Provisions Article 64 namely; "Anyone who intentionally and unlawfully destroys physical attractiveness as referred to in Article 27 is sentenced to a maximum imprisonment of 7 (seven) years and a maximum fine of Rp 10,000,000,000.00 (ten billion rupiah); 2) Every person due to his negligence and violates the law, physically damages, or reduces the value

of tourist attraction as referred to in Post 27, imprisoned for a maximum of 1 (one) year and/or a maximum fine of Rp 5,000,000,000.00 (five billion rupiah)".

As the regional government regulation of East Java Province No. 6 of 2017 Concerning the Tourism Development Master Plan of East Java Province 2017-2018 describes the strategic plan in the form of accessibility, infrastructure, attractiveness of public facilities, community empowerment, marketing and tourism industry for the development of tourist destinations. (Perpu. East Java, 2017) But there are no specific regulations in the regional regulations of the Province of East Java regarding the form of legal protection of spiritual tourism destinations in the tourism development plan.

However, in the Joint Regulation of the Minister of Religion and the Minister of Home Affairs No.9 of 2006 and No.8 of 2006 concerning Guidelines for Implementing Duties of Regional Heads / Deputy Regional Heads in Maintaining Religious Harmony, Empowerment of Religious Harmony Forums, and Establishment of Houses of Worship it is explained that place / place of worship which is a place of tourism destination Rohai actually aims to maintain religious harmony and empowerment of religious harmony forum which supervision is carried out by the Governor assisted by the head of the regional office of the provincial religious department and the regent / mayor assisted by the head of the office and village head / village head and related agencies in areas where there are places / places of worship with a copy of the Minister of the Interior and the Minister of Religion.

Maria Cave spiritual tourism is one of sustainable tourism. Sustainable tourism will encourage and create so many social and economic opportunities for the community (Carey, 2006). Therefore, the importance of legal protection to protect the existence and sustainability of Maria Cave Tourism. This kind of spiritual tourism is a powerful development tool, but it can turn into a futile potential if the tourism company is not monitored by the government because basically the tourism company aims to profit and compete. In addition, strong legal protection aims to minimize damage to Maria Cave tourism due to irresponsible behavior. Therefore, local governments should pay more attention not only to planning tourism development strategies but also legal protection of existing spiritual tourism destinations. Because in essence the house / place of worship which is a tourist destination is a place for religious people to carry out their religious activities so it is necessary to maintain harmony between tourists and people in the area of the spiritual tourist destination.

## CONCLUSION

Pursuant to the Law No. 10 of 2009 concerning Tourism clearly explains that there is a form of legal protection, obligations and sanctions in the administrative and criminal forms if they are not responsible for the existing tourist attractions. For the Regional Government Regulation (Perpu) of East Java Province. 2017. East Java Provincial Government Regulation No. 6 of 2017 concerning the Master Plan for the Development of Tourism in East Java Province in 2017-2018 especially Kadiri City is limited to discussing the strategic planning for sustainable tourism. Whereas in the Joint Regulation of the Minister of Religion and the Minister of Home Affairs No.9 of 2006 and No.8 of 2006 concerning Guidelines for Implementing Duties of Regional Heads / Deputy Regional Heads in Maintaining Religious Harmony, Empowerment of Religious Harmony Forums, and Establishment of Houses of Worship there are no restrictions about visits to spiritual tourism in places / places of worship while following the norms and regulations that apply. More specific legal protection regarding the empowerment of tourist destinations is needed by the tourist destinations of Cave Maria and other tourist destinations. Not

without reason, if not taken seriously then it will have an impact on physical damage and reduce the interest of tourists to visit the region. Strict legal protection will provide a deterrent effect on people who are not responsible for the empowerment of tourist destinations. In addition, the social and cultural conditions of the community around the Cave of Mary must also be taken into account so that the existing noble values are not disturbed. Special attention from the government and local government and the participation of the community in the surrounding environment will reduce these irresponsible actions. Implementation of Technology, for example, just installing CCTV and IT applications can support and help oversee all forms of actions and activities of existing tourist destinations.

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