



Reshaping the Culture: Improving and Integrating Social Capital to Affirm Land Use Control

A Case of Bali in Democratic Decentralization Era

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Abstract

One of the important issues emergences in the context of spatial planning is about community participation. In Indonesia, this issue widely spread in line with development of decentralization system and low level of trust to government. In Bali, problem in land management became crucial issue in regard with rocket development of tourism sector. Triangle conflicts among Indigenous Village, State Government and investor became a common things today. Social capital as an instrument of control is absolutely necessary to monitor the implementation of spatial planning. In regard with endogenous concept in contemporary urban planning, and considering the weakness and limitations of current land use control tools this paper discuss and propose an idea to enforce the uses of social capital to support and affirm land use control. This paper began with elaboration of the challenges and conflict of land management in Bali, followed by analysis weakness and limitations of existing regulations and finally ends up with an idea to enforce the function of social capital through institutional reform. Based on the discussion, integrating social capital can be done through accommodating the value into concept of spatial planning and involving indigenous village as institution control for the implementation of spatial plan.

Keywords: indigenous, land conflict, participation, social capital, spatial planning

1. Introduction

The world is changing rapidly in the era of globalization, goods, capital, information and technology can move without any obstacle. Globalizations also creating a diversified market that increase competition, so that the challenges faced by local leaders also become more complex. After the enactment of regional autonomy system, Indonesian government's authority has been divided according to their hierarchical level in which central authority is dealing with monetary, trade, religion, defense and military, while others divided between the central, provincial, district and city government. In practice, there are many irregularities and weaknesses of this decentralization system. Bias division of responsibilities among central, provincial and district/city government resulting in differenced interpretation and overlap in authority. From the perspective of spatial planning, overlapping authority often becomes main reason for some delays in construction project and massive violation in planning project. Irregularities and violations are mostly influenced by political issues.

Development permits in an area that did not comply with the zoning regulation is an example of indications of corruption. Raffles (2012), revealed that some indications of irregularities has been made in the form of: 1) Bleaching licensing violations in previous spatial plan; 2) creating uncertainty function of the area between the spatial plan and the derivative documents, so that violations can be biased and difficult to be tracked; 3) Facilitate recommendations and permit of the land use that is not in accordance with existing regulations.

Reydonnyzar Moenek, Head of Information, Ministry of Home Affairs, said that from 2004 to 2012 total 213 mayors entangled in corruption cases, the number was almost equal 50% of the total regencies / municipalities in Indonesia. Gamawan Fauzi, Minister of Home Affairs, point out that the main cause of many cases of corruption is the high cost to become governor or mayor. In fact, the mayors generally being a hostage of debt, and it requires them to issued business or project permits in their area without an objective deliberation (Kompas 2012).

High number of officials involved in corruption cases, simultaneously impacted in decreasing level of public trust. When trust and legitimacy is no longer owned by the government, it would ruin every program and policies that have been made. In the era of democracy, where sovereignty belongs to the society, community need to give a bigger and real role in the development. Society as social capital should take exact role in supervising and controlling the development. However, the form and role of participation still debatable due to various kind of demographic characteristic.

Related to society, Bali itself has slight different social characteristic compared with other region in Indonesia. The Balinese still strongly maintain their communal value which is manifested into dichotomy of civil and indigenous society. Indigenous value as the culture, derived from the conception of religion (Hinduism), so in public sphere this value highly respected by the local people. This condition made an intangible power reflected in the form of legitimacy. Every single thing related to the indigenous activity seems to be more prioritize.

The challenges now shifted from maintaining into integrating, synergizing indigenous power to actively involved in development to overcome the issue that failed to steam by formal regulation. Indigenous value as a control instrument is absolutely necessary to monitor the implementation of spatial plan. In regard with endogenous concept in contemporary planning this paper try to give an idea how to enforce the involvement of social capital to support and affirm land uses control. This paper is based on a comprehensive literature review which is started by a description of phenomena of vertical land conflict in Bali, followed by an explanation of the role of indigenous value and sum up by an idea to maximize the role of indigenous value as social capital to support legal policy.

2. Tourism, Foreign Money and Commoditization of Land

Development of tourism industry cannot be separated from the availability of land as the primary object for the establishment of the necessary facilities. In the effort to provide this facility, agricultural and non-agricultural land are inevitable from conversion. It causes massive changes both spatially and socially of the local community.

Related with the local community, especially in the indigenous peoples who still strongly maintaining and preserving their communal values, soil or land functions are not only viewed as economic commodity but also the function of which not less important is for sacral religious activity (non-economic). In Bali, all land is directly related to religious tradition, which is manifested in various forms of community obligation. According to Bagus as cited in Astawa, (1998), the function of land in Bali were so important because: 1). Dealing with religion, as it become the location of the religious ceremony, 2). It was for settlement that occupied by the villagers; 3). Associated with kinship or family, and 4). as a source of economic livelihood. Those important functions have created a very close relationship, and people become bounded, mutually dependent to each other. The multifunction uses of land in Bali often became the main source of conflict in the community, such as among local people of Bali, between communities and investors or with the government. In the present situation, especially since the tourism industry presence, conflict over land between the Balinese and migrants is much more prominent.

According to Abdurrachman (2004), slight increase of farmland conversion began to be felt by Balinese people since 1985, when there was a new system of direct flights to Bali which ease the access to bring foreign tourist. This policy increased influx number of tourists to Bali, and this has encouraged entrepreneurs engaged in the tourism industry to look for new land to establish greater infrastructures for tourism activities.

These developments have had a number of effects, both direct and indirect on land use, land value and land tenure. First, the growth of the tourism sector has led to a comprehensive shift of both land and labor from agricultural subsistence to tourism based commerce. Second, it created a demand for street-frontage land through which restaurants and shops could have most direct access to the tourist on the street. Accommodation was provided initially within existing family compounds. Families whose residential land fronted onto main streets had an immediate advantage, but as the tourism zone spread into surrounding agricultural land, farmers began converting or selling their fields for more profitable uses (MacRae, 2003).

In present conditions, As-Syakur (2011), observed that spatial land use change in Bali mostly occurred in the central and southern parts. In the center, land use changes are from forest to farm / plantation. While in the southern part, conversion happens in increasing settlement areas followed by reducing in irrigated paddy field. The growth rate of the settlement reached 2553 hectares in 2003-2008, followed by a decline in 2378 hectares of irrigated paddy field. Increased land conversion is also affected by the issuance of Governor Decree Number 528 of 1993. That Decree set 21 regional tourism area developments in which each region has an area of at least 100 hectares.

Massive development of tourism facilities left dilemma for society. New classes emerged, the cash-rich but land-poor unemployed peasant, the tourism entrepreneur using investment capital or partnership with landowners to obtain access to land, immigrant laborers, real-estate brokers and speculators, and the well-heeled foreigner looking for land on which to build a house or establish an export business (MacRae, 2003).

Another issue arises related to religious activity, where limited land availability hampers the procession. Gelebet (1999) mentioned that spatial deviation of implemented plans, already in a position to threat the sustainability of the environment that was characterized by the emergence of environmental damages. The composition of the region has invasions experienced by land conversion without proper feasibility study. Special sacred area for temple that generally chosen by beauty, natural resources and the religious magical perspective continuously and increasingly occupied by commercial functions of tourism activities. Based on the data revealed by Agrarian Reform Consortium (2000) as cited in Abdurachman (2004) there were some conflict over land among locals with the government and investor. Those conflicts summarized as followed.

Table1: Track Record of Vertical Land Conflicts in Bali

No	Case
1	Land Conflict in the area of Nusa Dua, Subdistrict of Kuta, Badung District. Land Dispute between farmers and investors engaged in tourism sector. The disputed land area was about 10000 hectares. The conflicts began in 1990 and still ongoing (2004).
2	Land Conflict in the Subdistrict of Kuta, Badung District. Land Dispute between farmers and investors engaged in tourism sector. The disputed land area was about 123.000 hectares. The conflicts began in 1995.
3	Land Conflict in the Subdistrict of Kuta, Badung District. Land Dispute between farmers and investors engaged in tourism sector. The disputed land area is about 66.000 hectares. The conflicts began in 1981.
4	Land Conflict in the Subdistrict of Gerokgak, Buleleng District. Land Dispute between farmers and investors engaged in tourism sector. The disputed land area was about 246.000 hectares. The conflicts began in 1999.
5	Land Conflict in the Subdistrict of Kediri, Tabanan District. Land Dispute between farmers and investors engaged in tourism sector. The disputed land area was not clear. The conflicts began in 1994.
6	Land Conflict in Selasih Village, Gianyar District. Land conflicts of land reform result for development of tourism facilities among local peasant and the investors. The disputed land was about 200 hectares. The conflicts began in the early of 1994.
7	Land Conflict in Pecatu Village, Badung District. Dispute between PT. Bali Pecatu Graha with the local farmers related to development of Pecatu Indah resort, a luxury residential area, on an area of 850 hectares. Conflict raised due to no community involvement during planning and implementation of the projects, military intimidation in the process of land acquisition and land status that claimed by the government whereas in fact the land belong to Uluwatu Temple as the buffer zone that maintained by the locals for generations.
8	Case of land conflict of Bali Nirwana Resort This case contains a social dimension of culture in the form of disruption to the traditional system (customary / subak) and community rituals. This case is a small part of the efforts to develop the tourism industry in Tanah Lot which uses irrigated farmland and highly productive area of 620 hectares. Nirwana Bali Resort covers an area of 121 acres for a golf course, resort hotel and condominiums.
9	Land conflict in development of Serangan Island. This case was a dispute over an area of 112 hectares between citizens who reject the construction with the consortium of PT. Bimantara Citra, PT. Ometraco Realty, PT. Summa Surya, PT. Saka Mandiri and PT Kartika Development Udayana. This protest had not come to the surface because of the strong security forces intimidation against local.

Source: Abdurrachman (2004)

Some conflicts over land, shows that there are still weaknesses in the implementation and control of spatial planning. Zoning regulation as the primary tool has not been able to control the spatial arrangement as it should be. Instrument controls in the form of incentives and disincentives have not been enough to force people to comply with the direction of the land use plan. Then how effective is zoning in shaping land use? There is tremendous variation among communities, ranging from almost totally ineffectual to highly effective. Levy (1998), pointed out that zoning may be quite effective in a growing area where the land-use pattern is not yet fully determined. Here zoning can shape the urban pattern by blocking or limiting growth in some areas and thus, there is substantial pressure for change in land use, zoning may be effective in preventing or moderating that change. For example, a prosperous inner suburb might successfully resist the transformation of single-family neighborhoods to multifamily neighborhoods even though the economics of the local housing market favor such a change.

On the other hand, zoning may be relatively ineffective in order urban areas where the land-use pattern is essentially established and where growth forces are not very powerful. Zoning, by itself, cannot address the redevelopment problem, for controls cannot compel anyone to invest in an area. Zoning may also be relatively weak if the community is so eager for investment that it readily adjust its zoning to suits developers preferences. At the other end of the scale, zoning may be weak, or even absent altogether, in semirural or rural areas where the resident do not see much need for public control of land use (Levy, 1998).

Weaknesses in implementation and monitoring of spatial planning raise a concern considering that spatial planning is one key to reach sustainable development. Actually, the guideline for community involvement in the development has been formulated through the Act No 26 of 2007 on Spatial Planning. However, it difficult to implemented due to lack of public interest in spatial planning, public apathy and lack of power to control and supervise the spatial plan.

3. Local Wisdom and Social Value

Behaviors that are common and widespread in society, hereditary, will develop into the values hereinafter referred as culture. Local wisdom defined as the truth that has been a tradition or monotonically in a region (Gobyah, 2003). Local wisdom can be understood as the intellect that used to act, behave towards things, objects, or events in a certain situation (Ridwan, 2007). Wisdom etymologically means a

person's ability to use his mind to address the sense of an event, object or situation. While local shows the place where the interaction took place. Thus, substantially local wisdom is the norm in a society which is believed to be the truth and become a reference in the act and behave every day. Therefore, local wisdom is a crucial entity that shapes human dignity in the community (Geertz, 2007).

Culture is not just an art. Culture is the whole system of life that was born from the power of the mind and humanity (Putra, 1998). Along with the development of globalization, cultural aspects are also progressing quite rapidly as an important part of science and its relation to human social relations (Wicaksono, 2009 as cited in Ernawi 2010). Cultural developments that occurred cannot be separated from efforts to increase awareness of cultural diversity. Because of the close relationship between the culture and spatial planning, it is necessary to accommodate the values of the local culture / customs into positive law, in example to the spatial regulation. Young (2008), believed that culture is the fundamental context of each planning forms. It is the social, environmental and historical grounding of urban and regional planning, at the local and regional scales, and it also determines the fundamental integrity of much strategic planning. Development control at the local scale, for example, needs to reflect local culture in term of the concrete cultural configuration of each place, and its specific social, environmental and historical qualities.

4. Institutional Reform: Shift Paradigm

When a breakthrough policy related to incentives and disincentives have not encountered significant results, an accommodation of social capital for the development is absolutely necessary. Social capital here emphasized in the form of indigenous value, especially indigenous village. Unlike other areas in Indonesia in Bali there are dualism village as unit of governance, the state village and Indigenous Village. Public knows state village as *kelurahan* along with administrative functions, while the Indigenous Village is an institution with religious and social functions. Basic formation of the state and indigenous village has different criteria so the number of inhabitants and the total area is not always congruent. Each Indigenous Village has traditional rules called *Awig Awig*. This *Awig Awig* is regulating the procedures for rituals, prohibitions and sanctions in the society. Collective, bounded, and dependent in social activity, making the Balinese obedient and very much appreciates this customary law, there is a tendency their even more afraid of this sanctions rather than the formal one.

The existence of Indigenous Village judicially has been set out through Bali Provincial Regulation Number 6 of 1986, regarding with the position, function and role of the indigenous village. This regulation is then changed to Provincial Regulations Number 3 of 2003. Through the newest one, the existence of indigenous village was increasingly avowed by an economic concession.

Basically indigenous village is an autonomous and independent institution, where each village in the aspect of social religious, has full right to maintain their own territory. Structurally, this institution also beyond the formal government structure, the relation is in the coordinative form. They are beyond government control, supervision only come from society and *Awig-Awig* itself. By those condition, it can be said that indigenous village, has legal form and strong power in representing the society.

As the time changing, the old paradigm related to functions of the indigenous village need to be readjusted. In the continuity modernization era, the challenges faced by the environment even more complex. Considering its power, indigenous village need to take bigger role outside social religious issue. The power to supervise, to control the development is something that fail to be done by the formal institution. Reinforcement need to come from indigenous village. Their coordinative relation also brings a strong bargaining position to deal with the development project.

The synergy of indigenous value into formal regulation can be done through the integration of the contents and supervision/ monitoring the implementation of spatial plan. Integration of the contents itself is done through the process of adoption and assimilation. Adoption means to accommodate the values of local wisdom completely without any changes in these values. *Awig-awig* in Bali which has regulated procedures for religious social life could be a reference to protect local lands by providing zero growth area in a restriction zone. Protection against indigenous lands will give more security for these lands to be free from land conversion. The assimilation process itself is meant as an effort to merge the culture of the new wisdom, which may be associated with religious values that are still attached to the lives of its people.

Supervision itself done by accommodates the local institution (Indigenous Village) to be formally and actively involved in decision-making process. This condition will raise two important functions. First, together this instrument becomes a strong protection shield for government to control the investment. Second, this becomes a control tool for the action of government itself. Indigenous Village with the support of the community has a strong legitimacy to reject the government's development policies that are considered contradictory and disturbing existing noble values.

Generally, affirmation of the role and status of indigenous village, as described above, will answer the ambiguity of the position and shape of community involvement in development. Indigenous instrument through the idea, function either directly or indirectly. Integrating traditional value indicate an indirect participation, while the involvement of traditional institutions as decision maker form a clear direct participation in the implementation and supervision of formal policy.

5. Conclusion

In Bali, problem in land management became crucial issue in regard with rocket development of tourism sector. Triangle conflicts among Indigenous Village, State Government and investor became a common things today. A broad approach to culture in planning needs to be clearly understood in multiple contexts and to be introduced into planning practice as effectively as possible. As the time changing, the old paradigm related to functions of the indigenous village need to be readjusted. In the continuity modernization era, the challenges faced by the environment even more complex. Considering its power, indigenous village need to take bigger role outside social religious issue. The power to supervise, to control the development is something that fail to be done by the formal institution. Reinforcement need to come from indigenous village. Their coordinative relation also brings a strong bargaining position to deal with the development project. Integrating social capital can be done by accommodating the value into spatial planning concept and formally involving indigenous village as decision maker for the implementation of spatial plan. Instruments of social capital does not directly eradicate corruption, create a clean government, and minimize conflict of land but at least through this instrument there is a strong control for government policy, and together with the government would be a protection shield to control the flow of capital to exploit the region.

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