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The Study of the Impact for Social Culture toward the Planning of Reclamation for Benoa Bay in Bali

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Abstract. This study aims to examine the impact of social culture on the planning of reclamation for Benoa Bay in Bali. This study began with a discussion about the process to get a license for the reclamation of Benoa Bay, and then discussed the impact on social culture, especially for the contamination of traditional holy places (places where are used for Balinese Hindus' religious rituals and customs). This study used a descriptive method with regulation, legislative, and literature approaches. The result of this study was recorded, analyzed, interpreted and compiled in the form of a paper. From the results of this study, the authors concluded that the process to get a license ignored the environment, and paid no attention to socialization and the communication of information about the developmental planning of reclamation in Benoa Bay in Bali. From the aspect of social culture, the traditional holy places for Balinese Hindus will be contaminated.

INTRODUCTION

The Balinese people will not cease to fight against the development of Benoa Bay Reclamation. Many banners and billboards have been sprung up in rural areas, especially around the area of Benoa Bay Reclamation which mentioned and revoked Regulation No. 51 in 2014. Currently, about 30 Indigenous Villages have more than 100 Local Customs, dozens of exponents and the community does not want Benoa Bay area to be destroyed.¹ However, the local government has still not acknowledged the opinions of Balinese Hindu communities. The Central Government reacted to this rejection, therefore, the Minister of Marine and Fisheries, Ministry of Forestry and the Environment cannot provide intelligent decisions about their policy, which has been created and designed since the previous Presidential Leadership through the Balinese people will continue their protest.

The plan of utilization and development for the area of the Coastal Benoa Bay already appeared to design on long time ago, as one of the governmental political program already belonged in Regulation No. 67 in 2005,² on Cooperation in Government and Private Development of the infrastructure in Indonesia which is followed by the President Regulation (Perpres) No. 32 in 2011 about the Masterplan for Acceleration and Expansion of the Economic Development of Indonesia (MP3EI),³ which further reinforced again with Governor Regulation (PerGub) No.4 in 2013 of Strategic Plan of the Coastal Areas and Small Islands (RSWP-3K).⁴

The basic consideration of the Government for the Coastal Region of Benoa Bay picks one of the breakthrough programs for reclamation because these coastal regions are the areas which are prone to tsunamis on the island of Pudent, which was almost submerged and severely threatened due to global climate change.

Also, the Governmental policy to design a construction plan of the reclamation in Benoa Bay will add vast land area and forest in Bali, which is highly prospective for the progress and welfare of the Balinese people, especially with regard to unemployment when managed correctly. It is unfortunate that Governor Regulation No. 4 in 2013 about Strategic Plan for Coastal Region of Benoa Bay is not yet well known, although the Governor of Bali has ordered this enactment by placing it in the news.

With low communication and socialization, this policy rose to prolonged polemics because legislative procedure and its impact on the socio-cultural and biophysical chemistry would threaten the sustainability of natural resources

and traditional Balinese Hindu cultural sites (places of religious rituals and customs). From the above background, the purpose of this research is to examine the procedures and impact of the reclamation of Benoa Bay in terms of the social aspect of Bali culture.

RESEARCH METHOD

This research uses a method for the approximation of legislation as the source of primary law materials, case study approach as the secondary legal materials and the approach to librarianship as the tertiary law materials.⁵ The results of this study are then described in the narration as well as interpretation and compiled in the form of a working paper.

RESULT AND DISCUSSION

When researchers examined the process for the reclamation of Benoa Bay, it was found that the procedure for this plan was established a long time ago, namely since discharge Regulation No. 67 in 2005, dated 9 November 2005, about the Government and private Partnership in infrastructure development in Indonesia, and Regulation No. 32 in 2011, dated 20 May 2011, about Masterplan Acceleration and Expansion of the Economic Development of Indonesia (MP3EI). The Benoa Bay area is one of the priority areas of Concern investments (KPI) in the Economic Corridor of Bali and Nusa Tenggara. Further development of the implementation of MP3EI and the report compiled on the development listed in section 5 has the theme "Development gateway of tourism and supporting national food". In point 5.3, there are 4 phrases for KPI Benoa Reclamation for Plan Benoa Bay Plan⁶:

1. Acceleration of publication of the Regional Regulation the Plan of Spatial Regional Design (RTRW) Badung Regency to accommodate investments PT. Tirta Bali Wisata International
2. Determination of the Acceleration plan zoning Benoa Bay area by the Ministry of Marine and Fisheries
3. The acceleration of the implementation of the license issuing reclamation by the Minister of Marine and Fisheries

Depending on the results of the report about the development of MP3EI, the strategic plan regarding the development potential of the area surrounding the waters of the coast of Benoa Bay in Bali, the solution with the acceleration of the preparation of regional regulations concerning the Plan of Spatial Detail Design (RDTR) Benoa Bay (Badung) and, local Zoning Plan of the Coastal Region of Small Islands (RZWP-3K) was drafted to support the world of investment efforts in Benoa Bay.⁷ Thus the Benoa Bay Reclamation Development Plan has established a long time ago as a procedural and systematic issue under the control of the presidential regulation implemented by the Ministry of Coordinator for Economics.

Next, the Governor Regulation No. 4 in 2013 the Plan Strategies of Coastal Regions and Small Islands was ordered (RSWP-3K). The political permits for the utilization of procedures were already entered into the process and the mechanism of discussions, ranging from the solicitation of proposed recommendation of regional investors until the province of Bali led to the decision of the Governor. The recommendations still need some supporting studies, and synchronization and harmonization with the legislation, as well as several stages of compulsory licensing which are owned by investors and permitted by the authorities of the district/city governments.

This decision firmly contended the factors that must be met in the development of a reclamation plan by potential investors, namely:

1. Obey the provisions of the applicable legislation
2. Pay attention to environmental sustainability
3. Involve communities surrounding businesses and help to improve the standard of living of surrounding communities
4. Respect the values of religion, culture, decency and/or public order when organizing activities

The Governor of Bali said that this Reclamation process was still very long and required thinking together to make it happen so that it would provide benefits for the welfare of all people of Bali in the future.⁸ The review of the process of permitting the Environmental Impact Assessment (Amdal) included: (1) the principle of consent (permission of principal agreement); (2) the permit location; and (3) the environmental permit. Along the range, especially on behalf of the BLH (the Environmental Agency), the local government already clearly knew the permit process which was eventually determined by the decision of the Governor. After the final assessment of the Commission's recommendations of the evaluator Amdal provinces,⁹ it seems that the licensing process is directly handled by the

Governor by the principle permit. This usually involves local governments agreeing by assessing worthy or unworthy results of the Environmental Impact Assessment of conducted by Environmental Impact Assessment team, and permit locations, but unfortunately, in this case, the Governor did not think before granting a permit and hurriedly issued Decree No. 2174/02-CL/HK/2012.¹⁰ This deviated from the spaces designated conservation areas, which were listed in Regulation number 45 in 2011,¹¹ about the Spatial Sarbagita and Local Regulation (Perda) RTRW Bali No. 16 in 2009 based on the Indonesian regulation of Law No. 26 of 2007 about the arrangement of the space.¹²

With the occurrence of the Decision Letter (SK) of Governor number 2138/02-CL/HL/2012 Balinese people, whether individuals, NGOs, and academic College in Bali refused the existence of Benoa Bay reclamation project and encouraged Regional province of Bali in order to fight for to revoke this Governor Decree No. 2174/2012. With the refusal of the majority of Balinese people then issued Recommendations of Parliament No. 900/2569/DPRD on 12 August 2013 subject review and/or repeal Decree of the Governor of Bali No. 2174/02-CL/HK/2012 above.

A permit issued by Governor's Decree No. 2174/02-CL/HK/2012 did not comply with law No. 26 of 2007 concerning spatial locations, as the legal umbrella of the Bali Provincial RTRW Local Regulation (Perda) No. 16 in 2009 and Regulation No. 45 in 2011, which decided and defined the Benoa Bay area as a conservation area. Besides utilization in the form of the HP-3 (Coastal Waters of concession Rights), the Governor cannot provide a conservation area and public beaches in accordance with Chapter V, section 22 UURI No. 27 in 2007 about the management of the coastal areas and small islands.

On the recommendation of Parliament No. 900/2569/DPRD, dated August 12, 2013,¹³ the Governor of Bali published Decree No. 1727/01-B/HK/2013, and permitted the Utilization Plan feasibility study, development, and management of the territorial waters of Benoa Bay, while simultaneously revoking Decree No. 2174 Governor/02-C/HK/2012. This recommendation does not mean that the same revocation with termination which eventually regenerates new rights equal to Government Official Certificate first volume to TWBI about permit Utilization Plan feasibility study, development, and management of the Benoa Bay.

Based on above explanation, it can be concluded that the Decision of the Governor of Bali No. 1727/01-B/HK/2013,¹⁴ and Reclamation planning activities are included in the scope of Regulation No. 122 in 2012¹⁵, and could not be categorized as research to permit development, as outlined in Chapter VII of the ACT 27 of 2007. Besides the reclamation activities including Government Official Certificate which come within the Benoa Bay waters conservation location, Benoa was prevented from being reclaimed (Regulation No. 45 in 2011 and Regulation No. 122 in 2012), and the Decree contradicts law No. 26 of 2007 Jo. Regulation No. 45/2011 and law No. 27/2007 Jo President Regulation (Perpres) No. 122 in 2012. Government Official Certificate included tort law by the authorities.

But in an increasingly complex conflict conditions i.e. denial Benoa Bay Reclamation development plan rose to Benoa, suddenly show up the Regulation No. 51 in 2014 which amplifies the Bali Governor's Decree No. 2174/02-C/HK/2012.¹⁶ Regulation No. 51 in 2014 it is about changes to the Regulation No. 45 in 2011 on Urban Spatial Plan Denpasar, Tabanan, Gianyar and Badung (Sarbagita). With one point in the Decree it is to change the allocation of waters into the zone of cultivation, so can be maximum of 700 hectares of reclamation, It's obvious that this Regulation revising Regulation No. 45 in 2011 about Spatial Plan area of Sarbagita, including Benoa Bay area as conservation areas into zones of cultivation and cultivation of the new zone set as P zone that serves for the common utilization of potential areas for marine activities, fisheries, ports, transport, tourism, economic development, social settlements, cultures and religions. Here, zone P is the Benoa Bay region.

In fact this Regulation only to smooths the 838 Ha to be utilized as a tourist center with an investment value of Rp 30 trillion. This will smooth the PT. Tirta Bali Wisata International subsidiary Artha Graha which Regulation No. 45 of 2011 is considered as a barrier because Benoa Bay area was included in the prohibited waters Coastal Conservation Area to be reclaimed.

In the activity plan of the reclamation project for Benoa Bay, there is no detailed plan of activities which range from pre-construction to the construction stage and post-construction; for example, in the implementation of the reclamation, dredging techniques, burying and drying. At that time though, from an estimate of potential impact in the process of analysis of the environmental impact, it is already clear to bring out the impact hypothesis which is important both to the components of marine biology chemistry, geophysical, cultural and social, public health as mandated in the Act No. 27 of 2007.

While the socio-cultural component of that deeply affected and has an important impact was the contamination of the sacred area located in the Benoa Bay as one of the traditional cultural sites (article 28 paragraph (1) letter d law No. 27 of 2007). This study was reinforced by the discovery of 60 holy sites with a traditional culture where religious rituals or customs that existed in some villages around Benoa Bay. It is also said that in terms of the concept of the seamount when Besakih Temple is the upper Benoa Bay is the lower.¹⁷

Operational requirements in the utilization of the resources of coastal and small islands as intended in section 21 subsection (1) and article 4 grain (c) Law No. 27 of 2007 requires a decisive policy and initiator: recognize, respect and protect the rights of indigenous peoples and/or local communities. As for the section on conservation of article 28 paragraph (1), grains of a, b, c, d of the Act No. 27 of 2007 about the conservation of the coastal regions and small islands organized for:

1. Maintaining sustainability of coastal ecosystems and small island
2. Protecting the flow of migration of fish and sea life
3. Protecting the habitat of sea life and
4. Protect traditional cultural sites

It appears that the refusal of an application for HP-3 listed in article 9 paragraph (5) of act No. 27 of 2007 is clearly contrary to the legislation because there are serious threats to the sustainability of traditional cultural sites in the coastal area of Benoa Bay in accordance with article 21 and article 28 above. Therefore, from the legal study and socio-cultural environment of the component studies, geophysical, ocean chemistry, biology and public health it was clear that the plan of utilization, development and management of the coastal area in Benoa Bay must be refused or prevented.

SUMMARY

As for the summary of this study:

1. Socio-cultural impacts are very important in addition to the important impact and also from other components such as geophysical, chemistry, biology and public health. To avoid unwanted conflicts and threaten the conservation of coastal resources including the contamination of traditional cultural sites (places of religious rituals and customs) the Central and Regional Government shall stop the plan to build the Reclamation of Benoa Bay in Bali.
2. Aspects of the procedure clearly appear to include the lack of socialization and communication of information as well as ignoring the procedures for obtaining permits.
3. The Central Government and Regions do not listen to the aspirations of the community.
4. The decision or recommendation issued by the Local government as well as the Center is contrary to the legislation in force.

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3. Protecting the habitat of sea life and
4. Protect traditional cultural sites

It appears that the refusal of an application for HP-3 listed in article 9 paragraph (5) of act No. 27 of 2007 is clearly contrary to the legislation because there are serious threats to the sustainability of traditional cultural sites in the coastal area of Benoa Bay in accordance with article 21 and article 28 above. Therefore, from the legal study and socio-cultural environment of the component studies, geophysical, ocean chemistry, biology and public health it was clear that the plan of utilization, development and management of the coastal area in Benoa Bay must be refused or prevented.

SUMMARY

As for the summary of this study:

1. Socio-cultural impacts are very important in addition to the important impact and also from other components such as geophysical, chemistry, biology and public health. To avoid unwanted conflicts and threaten the conservation of coastal resources including the contamination of traditional cultural sites (places of religious rituals and customs) the Central and Regional Government shall stop the plan to build the Reclamation of Benoa Bay in Bali.
2. Aspects of the procedure clearly appear to include the lack of socialization and communication of information as well as ignoring the procedures for obtaining permits.
3. The Central Government and Regions do not listen to the aspirations of the community.
4. The decision or recommendation issued by the Local government as well as the Center is contrary to the legislation in force.

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