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BALTIC JOURNAL OF LAW & POLITICS

A Journal of Vytautas Magnus University

VOLUME 15, NUMBER 3 (2022)

ISSN 2029-0454

Cite: *Baltic Journal of Law & Politics* 15:3 (2022): 1379-1397

DOI: 10.2478/bjlp-2022-002095

The Transformation of Tri Hita Karana in the Implementation of Land Consolidation

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Received: August 10, 2022; reviews: 2; accepted: November 12, 2022.

Abstract

The purpose of this study was to examine land consolidation arrangements in Bali and analyze in depth the transformation of Tri Hita Karana in land consolidation arrangements in Bali. This research method used normative legal research with statutory approach, conceptual approach and facts approach. The result of this research indicated that land consolidation arrangements in Bali must still refer to the Bali RTRWP Regional Regulation and the Regulation of the Head of the National Land Agency Number 4 of 1991 concerning Land Consolidation. In relation to the transformation of Tri Hita Karana, the regulation of land consolidation in the BPN regulation must pay attention to the philosophical values adopted by the community in each region. Thus, land consolidation in Bali is inspired by Tri Hita Karana

Keywords

Transformation, Tri Hita Karana, Consolidation, Land

JEL Classifications: J11, F43

Introduction

According to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (*hereinafter* the Constitution), it is stated that "The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people". The provision clearly regulated that the State has the power over the land and natural resources for the greatest benefit for the people.

The right of State to control the use of land is also regulated under the Article 2 paragraph (2) of Law No. 5 of 1960 "concerning the Basic Provisions concerning the Fundamentals of Agrarian Affairs (*hereinafter* Agrarian Law)". According to this provision, it clearly stated that:

"The State's right of control as to referred to in paragraph (1) of this Article confers the authority:

- a. To regulate and administer the allocation, use, supply, and maintenance of the earth, water, and airspace;
- b. To determine and regulate legal relationship between people and the earth, water, and airspace;
- c. To determine and regulate legal relationship among people as well as legal acts concerning the earth, water, and airspace."

The concept of the authority of the State actually comes from the concept of customary law, which has long been practiced by customary law community long before the formation of Indonesia as a State. In customary law, the public interest takes precedence over personal or individual interests. In other words, customary law is based on the concept of protecting the public or communal interest. [1] The basis for the implementation of the authority of the State is the prevailing law in the society.

According to Agrarian Law, the authority of the State means that the State has the right to control and manage land, but not the right to own the land. The concept of Agrarian Law is influenced by the concept of customary law, which does not recognize absolute individual property rights over land, and only recognizes communal rights to land. Based on Article 5 Agrarian Law, it is stated that:

"The agrarian law applicable to the earth, water, and airspace is adat provided that it is not contrary to the national interest and the interest of the State, which are based on national unity, to Indonesian socialism, to the provisions

stipulated in this Act, nor to other legislation, all with due regard to elements which are based on religious law”.

In this provision, the Agrarian Law does recognize that the prevailing law that applies to the earth, water, and space in Indonesia in customary law as the authentic law of the Indonesian people. The Agrarian Law also accepts the concept of customary rights to land, which known as *hak ulayat* or *beschikkingsrecht*. According to Van Vollenhoven and other experts on customary law, *hak ulayat* or *beschikkingsrecht* is defined as a communal right of the customary community to regulate and cultivate their land in its entirety. [2]

The implementation of Article 2 paragraph (2) of Agrarian Law related to land use is regulated under the provision of Article 3 of Law No. 26 of 2007 concerning Spatial Management (*hereinafter* Spatial Management Law). According the Article 3 of Spatial Management Law, it is regulated that:

“Spatial management aims to realize, safe, comfort, productive and sustainable national space based on Archipelago Point of View and National Defense with:

- a. Realization of harmony between natural and artificial environment;
- b. Realization of integrity in utilizing natural and artificial resources with respect to human resources; and
- c. Realization of protection of space function and prevention from the negative impact to the environment due to space utilization.”

According to the purpose of the implementation of spatial management, it requires the realization of harmony between the natural environment and the artificial environment. One of the artificial environments is land consolidation (*hereinafter* LC). The implementation of LW shall follow the spatial management. Land consolidation is held in order to realize the use and utilization of land for the greatest benefit of the people.

With regard to land use, Article 1 point 1 of Government Regulation Number 16 of 2004 concerning “Land Use states that land use is the same as land use management patterns which include control, use and utilization of land in the form of consolidation of land use through institutional arrangements related to land use”. land as a unified system for the benefit of society fairly. This article shows the existence of land use in the form of consolidation of land use. Consolidation of land use is a form of embodiment of land use stewardship for the benefit of the community in a fair manner. So far, this government regulation still seems to be in sync with the Spatial Management Law related to the use of land for the benefit of the people.

Based on Article 1 point 1 of the Regulation of the Minister of Agrarian Affairs and Spatial Management/Head of the National Land Agency No. 12 of 2019 concerning Land Consolidation (hereinafter referred to as the Ministerial Regulation on Land Consolidation) states that land consolidation is a policy of rearranging the control, ownership, use and utilization of land and space in accordance with spatial planning as well as efforts to provide land for the public interest in the context of improving the quality of the environment and maintaining natural resources by involving the active participation of the community. This article provides an understanding that land consolidation is a rearrangement policy. As a policy, this regulation must refer to the PP on Land Management and the Spatial Management Law, hence there is harmonization between laws and regulations.

In this regard, Article 2 paragraph (1) of the Ministerial Regulation on Land Consolidation stipulates that this ministerial regulation is intended to:

- a. realizing optimal use and utilization of land through Land Consolidation;
- b. increase efficiency and productivity of land and space use;
- c. improve environmental quality; and
- d. provide legal certainty over land and space rights above and/or below ground.

The intent conveyed in this regulation is a form of realizing the optimal use and utilization of land as well as realizing legal certainty of land rights. Furthermore, paragraph (2) stipulates that this ministerial regulation aims to:

- a. structuring the control, ownership, use and utilization of land through Land Consolidation can create a good living environment according to the spatial plan; and
- b. availability of land for public interest by involving the active participation of the community

Observing this provision, the use and utilization of land through land consolidation must refer to the spatial management. If land consolidation is carried out at the provincial level, the consolidation policy must refer to the spatial management. At the national level, it is regulated in the Spatial Management Law, Government Regulation on Land Use and the Ministerial Regulation on Land Consolidation. Meanwhile, at the provincial level, it is regulated in the Provincial Spatial Management.

The Province of Bali has a Regional Regulation concerning the Spatial Management of the Province of Bali which is regulated in Bali Province Regional Regulation Number 16 of 2009 concerning the Spatial Management of the Province of Bali in 2009-2029 (*hereinafter* Perda RTRWP Bali). Article 1 point 20 of Perda RTRWP Bali states that the spatial plan is the result of spatial management. This provision means that the spatial plan is the result of spatial management. Furthermore, Article 1 point 17 of this regional regulation stipulates that spatial management is a process to determine the spatial structure and spatial pattern which includes the preparation and determination of the spatial plan. This understanding emphasizes the existence of a process of spatial planning that is determined in the structure and spatial pattern.

There is uniqueness in spatial management, which is determined on the structure and pattern of indoor spaces on Perda RTRWP Bali. Its uniqueness is reflected in local wisdom which is used as the basis in local regulations. This principle is reflected in Article 2 of Perda RTRWP Bali which stipulates that the RTRWP is based on the following principles:

- a. *Tri Hita Karana*;
- b. Sad Kertih;
- c. Cohesiveness;
- d. Harmony, conformity and balance;
- e. Continuity;
- f. Usability and effectiveness;
- g. Openness;
- h. Togetherness and partnership;
- i. Protection of public interest;
- j. Legal certainty and justice; and
- k. Accountability.

Something interesting in this regional regulation is the absorption of the philosophical values of *Tri Hita Karana* and Sad Kertih into the regional regulation.[3] The value of *Tri Hita Karana* comes from the teachings of Hinduism. These values are transformed into local regulations. This transformation of the value of the philosophy of Hinduism into its own uniqueness is owned by Perda RTRWP Bali.

Tri Hita Karana is recognized as one of the fundamental guidelines in the regional regulation because *Tri Hita Karana* is a Balinese philosophy. In its development, *Tri Hita Karana* was absorbed by the community, thus it became a

way of life for the Balinese people and became the local wisdom of the Balinese people. Bearing in mind that the *Tri Hita Karana* is used as the basis in Perda RTRWP Bali, all regulations relating to the Bali RTRWP must refer to the *Tri Hita Karana* including the implementation of land consolidation in Bali.

The obligation for the implementation of land consolidation in Bali to refer to the Perda RTRWP Bali because it is based on Article 1 point 1 of the Ministerial Regulation on Land Consolidation as explained above that the land consolidation must refer to the spatial management. Thus, land consolidation in Bali must refer to Perda RTRWP Bali. Spatial management in Bali adheres to the principle of *Tri Hita Karana*. Therefore, Land Consolidation in Bali must refer to the *Tri Hita Karana* principle as well.

Juridically, the concept of *Tri Hita Karana* is only reflected in regional regulations. The principle of *Tri Hita Karana* as local wisdom is not contained in the Ministerial Regulation on Land Consolidation. Article 14 paragraph (1) of the Ministerial Regulation on Land Consolidation stipulates that the Land Consolidation Planning as referred to in Article 13 must pay attention to:

- a. Regional Spatial Plans, Spatial Detailed Plans, or other Detailed Plans regulated by the provisions of laws and regulations;
- b. Carrying capacity and environmental capacity as well as protection of natural resources, biodiversity, landscapes (heritage/heritage) and cultural sites;
- c. Community proposals at the Land Consolidation location;
- d. The need for infrastructure, facilities and utilities;
- e. Community empowerment program; and
- f. Regional development policies.

The provisions of Article 14 paragraph (1) do not explicitly regulate the absorption of local wisdom values in land consolidation. The provision only requires that land consolidation must pay attention to these six things. Thus, it can be said that the Ministerial Regulation on Land Consolidation does not regulate the ability to absorb the value of local wisdom in each region. Given that there is no regulation which regulates about local wisdom, then it can be seen that there is a void of norms in the Ministerial Regulation on Land Consolidation.

The void of these norms is a problem in terms of the legal structure. Judging from the legal structure, the spatial arrangement with the regional spatial plan is in accordance with the legal structure in land consolidation. However, in terms of substance, there is a gap in norms related to the values

of local wisdom adopted in each region. Moreover, in terms of legal culture, it is certain that there is a norm vacuum because the substance of norms in land consolidation does not reflect the value of local wisdom, hence the legal culture also does not reflect local wisdom. This legal culture is a reflection of the implementation of land consolidation, including land consolidation in Bali which adheres to the concept of *Tri Hita Karana*.

Methods

This writing was normative legal research using statutory approach, statutory approach, conceptual approach and facts approach. The research examined law and regulation regarding the implementation of land consolidation in Bali as well as the transformation of the concept of *Tri Hita Karana* in the implementation of land consolidation in Bali. The result was examined by qualitative analysis

Results and Discussion

The Implementation of Land Consolidation in Bali

First, the teachers were requested to fill in the SSES (8 pre-test-8 post-test), then creative drama sessions (17 sessions) were designed and implemented. After the sessions, the data collection process was completed by applying the SBC to track the students in terms of observing the expected change and level. In this respect, qualitative and quantitative findings obtained from the data collected during the research process were presented in separate tables so that they can be seen as a whole and are blended together due to the nature of the research design.

The implementation of land consolidation in Bali refers to the Ministerial Regulation on Land Consolidation as well as Perda RTRWP Bali. According to Article 1 point 1 of the Ministerial Regulation on Land Consolidation, Land Consolidation is defined as:

“Land policy regarding re-arrangement of land tenure and use as well as land acquisition for development purposes to improve environmental quality and maintenance of natural resources by involving the active participation of the community.”

Juridically, the implementation of land consolidation in Bali is based on Article 6 of the Ministerial Regulation on Land Consolidation. The provision regulates that with regard to the land use, the implementation of land consolidation is divided into:

- a. Horizontal Land Consolidation; and
- b. Vertical Land Consolidation.

Vertical land consolidation is land consolidation which held for the development of vertically oriented areas and buildings. This vertical land consolidation scheme allows the community to combine and arrange several lands together to be rebuilt by optimizing the collected land. This optimization will result in a greater number of dwellings on the same land. This can also be applied in slum areas. Therefore, people do not need to be evicted but only need to arrange their housing.

In order to increase the number of occupancies, the arrangement shall be done in vertical (flats or apartments). The distribution of the flats or apartments units is determined based on the size of the previous house or according to mutual agreement by the parties. With the new arrangement, there will definitely be excess space that can be used for communal spaces, such as gardens or places to trade.

The available space in Bali is actually still sufficient to carry out vertical land consolidation, meaning that there are not many high-rise buildings. Horizontal density certainly will not be able to accommodate a large number of residents considering that the available land in Bali, especially in the Denpasar area which is very limited. Therefore, the vertical land consolidation is crucial in order to meet the demand for housing.

Conceptually, it can be implemented by combining several horizontal lands (built/vacant) to be built into flats by utilizing the maximum amount of space that can be built. This concept allows the construction of more apartment units. The apartment shall implement the concept of mixed-used and mixed-income. Buildings can add value with a variety of commercial activities and can also accommodate low-income workers closer to their workplaces without having to travel far. With the existence of flats or apartments, there will be more housing units to accommodate the demand for housing in Bali. If the demand is accommodated or there is a lot of supply, automatically residential prices in Bali will fall.

Further, the implementation of land consolidation in Bali refer to Article 21 paragraph (1) of the Ministerial Regulation on Land Consolidation, which stipulated that the implementation of land consolidation is carried out by Land Consolidation Planning/Implementing Team. According to Article 21 paragraph (2) of the Ministerial Regulation on Land Consolidation, it stated that the implementation of land consolidation shall include:

- a. Collection of physical, juridical data and assessment of the object of Land Consolidation;
- b. Preparation of the design and action plan for Land Consolidation;
- c. Relinquishment of Land Rights and affirmation of land object of Land Consolidation;
- d. Implementation of Land Consolidation design (staking out); and
- e. Issuance of certificates of Land Rights and submission of results of Land Consolidation.

The implementation of land consolidation in Bali is carried out in various regencies and/or cities spread over several locations in each district and/or city. Based on the data obtained, the implementation of land consolidation in Bali is described in the form of a table as follows:

Table 1. Implementation of Land Consolidation in Bali

No	Regency/City	Total
1.	Denpasar	8 Locations
2.	Badung	8 Locations
3.	Gianyar	3 Locations
4.	Tabanan	3 Locations
5.	Bangli	3 Locations
6.	Jembrana	2 Locations
7.	Buleleng	2 Locations
8.	Klungkung	2 Locations
9.	Karangasem	None.

Based on the table abovementioned, the implementation of land consolidation was most implemented in Denpasar and Badung, with the total of 8 locations. Further, followed by Gianyar Regency, Tabanan Regency and Bangli Regency with 3 locations. In addition, Jembrana Regency, Buleleng Regency and Klungkung Regency with 2 locations. Meanwhile, in Karangasem Regency, until this research was conducted, had never carried out land consolidation.

From the data obtained, there are several land consolidations that have been completed and are still unfinished. Those unfinished land consolidations are due to several factors, including:

- a. Many of those locations have not yet provided with proper road or have not carried out road paving;

- b. The development process that exceeds the boundaries of the fields that should be owned so that it results in shrinking in certain fields, especially in fields that have not been developed for a long time;
- c. there are several shortages of land area than what should be received/become their rights;
- d. not all residual land or cost equivalent land (*hereinafter* TPBP) is controlled by the city/district government and there is residual land or TPBP controlled by other parties without any recommendation from the government/city or has not been followed up with land certificates.

The implementation of the unfinished land consolidation is the responsibility of the team. As for the implementation of land consolidation, it refers to Article 21 paragraph (1) of the Ministerial Regulation on Land Consolidation which determines the Land Consolidation Planning/Implementing Team as the team of land consolidation.

Prior to the implementation of land consolidation, the team of land consolidation is required to carry out location determination, design preparation, design transfer and certificate issuance. When the location of the land to be consolidated is determined, the team is obliged to pave the road or provide roads, hence the design of the land consolidation to be built is clear. After the road is provided, the next stage is the preparation of the location design.

In the preparation of location design, the team is obliged to involve all participants in the land consolidation. The active involvement of participants in land consolidation in accordance with the Article 1 point 1 of the Ministerial Regulation on Land Consolidation. With this active community participation, the people involved will be able to know the design of the location of their land that will experience changes. If the land change is not in accordance with the urges of the land consolidation participants, it can be resolved jointly with the team. The resolution of these problems has become part of the team, which in accordance with Article 21 paragraph (1) point b of the Ministerial Regulation on Land Consolidation.

Further, in the implementation of land vertical in Denpasar and Badung Regency, it specifically refers to the provision of Article 33 paragraph (1) of the Ministerial Regulation on Land Consolidation. The provision mainly stipulated that the implementation of vertical land consolidation is carried out by the Land Consolidation Planning/Implementing Team. Based on the Article 33 paragraph (2) of the Ministerial Regulation on Land Consolidation, it is stipulated that the implementation of vertical land consolidation shall include:

- a. Collection of physical, juridical data and assessment of the object of Vertical Land Consolidation;
- b. Preparation of design and action plan for Vertical Land Consolidation;
- c. Relinquishment of Land Rights and affirmation of land object for Vertical Land Consolidation;
- d. Application of the Vertical Land Consolidation design (staking out);
and
- e. issuance of Land Rights Certificates and submission of joint land certificates.

Physical data collection and object assessment of Vertical Land Consolidation is carried out by registering land subjects and objects, measuring land, and mapping topography and land use. The results of the registration are then used as the basis for making block designs, which are then brought to a discussion with the community.[4]

With regard to the subject of land consolidation being carried out, it refers to participants in land consolidation. The participants in the land consolidation involved must make an agreement beforehand. Regarding the agreement of the participants of land consolidation as the main condition in the implementation of land consolidation, it is regulated in the provisions of Article 10 paragraph (3) of the Ministerial Regulation on Land Consolidation which states that Land Consolidation can be carried out if agreed by at least 60% (sixty percent) of the participants of Land Consolidation.

This Ministerial Regulation is entry into force in 2019, which means that this regulation is the latest version concerning Land Consolidation. Referring to Article 10 paragraph (3) of the Ministerial Regulation on Land Consolidation, it can be understood that in order to carry out land consolidation in Bali, there shall be at least 60% (sixty percent) of participants who agree to the land consolidation itself, while the other 40% shall follow the majority.

The provision indicated that land consolidation can be carried out if the majority of the community agree to do so. However, this interpretation might arise another issue regarding land consolidation. The issue that might arise is concerning the minority of the participant who refuse to conduct the land consolidation.

Those who refuse the land consolidation, of course will be in a minority position. Minority positions certainly do not have the power to counter the strengths of the participants in the largest positions who are in a position that benefits the most over a minority position.

According to Article 4 paragraph (1) of the Ministerial Regulation on Land Consolidation, it is stipulated that Land Consolidation is carried out in a

participatory and voluntary manner/based on an agreement between the participants of Land Consolidation. The main idea of this provision is the participatory and voluntary and based on agreement. Participation means the participation of participants to carry out land consolidation. Further, there is a sense of volunteerism from the participants of land consolidation to give up their land. Those elements must be based on agreement. Therefore, agreement is a crucial thing in land consolidation. If only 60% (sixty percent) of participants that agree, then the land consolidation shall not be carried out, bearing in mind that there still another 40% (forty percent) of the participant that refuse to do so as well as disagree to the land consolidation. Hence, this provision cannot be enforced in the implementation of land consolidation. If this provision is enforced, it is certain that it will cause big problems in its implementation.

The Transformation of *Tri Hita Karana* in the Implementation of Land Consolidation in Bali

According to Burhan Nurgiyantoro, transformation means changing, namely a change to a thing or situation. If a thing or situation that changes is the culture, then the culture undergoes change.[5] In accordance with the idea of Burhan Nurgiyantoro, it can be interpreted that if the philosophical change, then the philosophical values will change as well. Transformation is a process of change gradually so that it reaches the ultimate stage, changes made by responding to the influence of external and internal elements that will direct changes from previously known forms through the process of doubling repeatedly or multiplying.[6]

In Bali, the culture acknowledges the need of balance and harmony, which known as the concept of *Tri Hita Karana*. [7] *Tri Hita Karana* has been known as a concept which refers to harmonious relationships between the religious (*parahyangan*), social (*pawongan*), and environmental-teritorial (*palemahan*) domains of life.[8]

Literally the description of the three words *Tri Hita Karana* contains an understanding of *Tri* meaning three, *Hita* is good, happy, happy, sustainable and so on, *Karana* means cause or cause. Thus, it can simply be explained that *Tri Hita Karana* means three elements which are the source of the causes that make goodness possible.[9]

The cosmological concept of *Tri Hita Karana* is a very strong Hindu philosophy of life. This philosophy has a concept that can preserve cultural and environmental diversity in the midst of globalization and homogenization.[6] The concept of *Tri Hita Karana* emphasized three relationship between human, environment, and God.

Each of these relationships has a way of life respecting other aspects of the surroundings. The main idea of this concept is balance and harmony with one another. Balance and happiness will be achieved if humans seek and avoid all bad deeds for the life of the environment.

Juridically, according to Article 1 point 6 of Perda RTRWP Bali, *Tri Hita Karana* is recognized as Balinese philosophy of life which contains three elements that build a balance and harmonious relationship between humans and God, humans and humans, and humans and their environment which are sources of prosperity, peace, and happiness for human life. In that sense, *Tri Hita Karana* contains a philosophy of balance and harmony. The balance of the relationship between humans and God, humans with each other and humans with their natural environment. This balance and harmony are in accordance with the teachings of Hinduism which is the purpose of life as a Balinese. The three elements of the *Tri Hita Karana* are:

- a. *Parahyangan* is a sacred place of worship for Hindus;
- b. *Palemahan (lemah)* means land or residential land or natural environment; and
- c. *Pawongan (wong)* means person, which include a person who everything concerns the problems of people's lives in Bali.[6]

According to Dharmika, these three elements contain elements of Hyang Widhi/God Almighty, human elements, and natural elements.[6] All of these elements are then used as patterns by the Balinese people in their life, as follow:

- a. *Parahyangan*, in the form of temple as an element of reflection of God/Almighty;
- b. *Pawongan*, in the form of the organization of customary law community as the embodiment of human beings;
- c. *Palemahan* in the form of the embodiment of natural elements.[10]

According to Dharmayuda, the philosophy of *Tri Hita Karana* teaches a balanced pattern of relationships between the three sources of prosperity and peace.[11] Thus, humans are expected to always try to maintain harmonious relations between the three elements, namely:

- a. harmonious relationship between humans and God,
- b. harmonious relationship between humans and humans, and
- c. harmonious relationship between humans and their environment

In the concept of *Tri Hita Karana* as a relationship, it will be clear that the relationship exists. This relationship can be divided into vertical and horizontal relationships.[9]

Vertically it can be seen the relationship between humans and God (*parhyangan*) and the relationship between humans and nature (*palemahan*) and horizontally it can be seen in the relationship between one human being and another human group or human group with other groups (*pawongan*). Regarding land consolidation in Bali, related to the system of property rights over land known as the existence of members of customary law organization or *krama desa adat* as elements of *pawongan*, land or agricultural land as elements of *palemahan*, and the existence of Pura Kahyangan Tiga as a place of worship is an element of *parahyangan*.

Implementation of *Parhyangan* Value in Transformation of Land Consolidation in Bali

In fact, as a territorial unit of customary law communities in Bali, each of community must own land. The land owned by those communities are used as public facilities that belong to the customary law community itself, for instance *Pura Kahyangan Desa* as a place of worship for the residents.

Regarding land consolidation in Bali, the implementation of land consolidation in Bali must pay attention to the availability of land for the community as participants in land consolidation. The implementation must be in accordance with the provision which stated in Article 33 paragraph (1) of the Ministerial Regulation on Land Consolidation. The obligation to provide land for building for praying is a part of land consolidation which shall be carried out by the team. The implementation must be in accordance with the concept of *Tri Hita Karana* as adopted in the Perda RTRWP Bali. If the Land Consolidation in Bali is in accordance with the *Tri Hita Karana* value, then the Land Consolidation is said to have referred to Perda RTRWP Bali.

In the implementation of the value of *Parahyangan*, the emphasis is on the harmonious relationship between human with God. Therefore, in the implementation of land consolidation, it is obligatory to provide a place for human relations with God. The relationship between humans and God shall be provided for all mankind, which includes all religions acknowledged in Indonesia. However, the implementation of land consolidation that provides places of worship has never been carried out in Bali, hence land consolidation in Bali has not referred to the value of *Tri Hita Karana* as adopted in the Bali RTRWP.

Implementation of *Pawongan* Value in Transformation of Land Consolidation in Bali

The implementation of the value of *Pawongan* is essential in terms of land consolidation. In every land consolidation, it is obligatory to pay attention to the harmonious relationship between the participants of land consolidation.

The implementation of *Pawongan* value is manifested in the form of any buildings that is used as a meeting place for residents. Therefore, it is obligatory to provide lands for a meeting place, such as *balai banjar*, *wantilan desa*, etc. Every customary law community must also have land that is used as cemetery (*setra*). Some traditional villages also have plots of land in the form of field land, market land, and others.[12]

Traditionally in customary law community, the land ownership is owned under communal property rights, which also known as "*Druwe Desa*". "*Druwa Desa*" means that the land belongs to the village. The study conducted by Hendriatiningsih concluded that the society and the Government of Bali Province have recognized the existence of the right of customary law community to land. However, there shall be further examination based on the prevailing law concerning the existence of land belongs to the village itself.[13]

In the implementation of land consolidation, before the land consolidation is carried out or is still at the planning or design stage of land consolidation, it is obligatory to provide a meeting place for the participants of the land consolidation. The design has illustrated the provision of buildings used by participants to hold meetings. If the building can be realized, then the value of the *pawongan* can run well. However, only a small part of land consolidation in Bali is able to provide a place or meeting hall. Therefore, land consolidation in Bali is less able to provide land to be used as a meeting place for participants. The transformation of the *pawongan* value is still lacking in the implementation of land consolidation in Bali.

Implementation of *Palemahan* Value in Transformation of Land Consolidation in Bali

The implementation of *Palemahan* value in land consolidation must also be considered, bearing in mind that the environment is a very crucial factor for the survival of participant of land consolidation. In terms of *palemahan*, every participant is obliged to maintain the harmonious relationship with the environment.[14]

In the event of maintaining the balance, the participants can manifest the value of *palemahan* in the form of maintaining the cleanliness of the environment. This value will become a reference in terms of land consolidation in Bali. The value of *palemahan* has been transformed in Perda RTRWP Bali. Therefore, the implementation of land consolidation must be in accordance with the value of *palemahan*.

Further, the obligation to carry out this value is not only carried out by the participant, but also must be obliged by the Team of Land Consolidation itself. The value can be manifested in the form of obligation to provide land that can be used as laystall. In principle, if the environment at the land consolidation location is clean, the participants will also be clean. Thus, it is very important to provide land for laystall as a form of implementing the *palemahan* value.

The realization of *palemahan* value in land consolidation in Bali is still lacking because land is not provided for laystall, hence it is often found in land consolidation locations that are still not clean. However, currently the regional Government has a waste management program that is handed over to the local traditional village. The program creates a clean environment, including at the land consolidation location, hence the *palemahan* value in land consolidation in Bali has been implemented by the customary law community.

According to Sastrawan, this condition regarding the position of land owned by customary law community can be classified as vacuum of norm. It happened because there is no law and regulation that legalize the relationship of customary law community and its land as a property right ownership.[15]

The plot of land where the temple building stands is called the temple's upright land whose area varies depending on needs. Some temples may own one or more other plots of land in the form of agricultural or plantation land (rice fields, fields, forests) whose results are specifically used directly or indirectly for the benefit of the temple, both for the construction and preservation of temple buildings or for the continuation of activities or social religious activities (rituals) at the temple. This land is known as "*tanah laba pura*" or "*pelaba pura*".[16] All this kind of land has been registered under the status of Freehold Title according to Agrarian Law in accordance with SK Mendagri No SK. DJA/1986, which stipulated that every temple has been acknowledged as religious legal entity which can own freehold title on land.[17] Therefore, if the land consolidation refers to the concept of *Tri Hita Karana*, it means that there is obligation to provide places of worship or places of prayer, a gathering place and a place for waste or garbage disposal. All these obligations must be fulfilled in the implementation of land consolidation based on *Tri Hita Karana*.

The role of Land Consolidation Implementation Team is really needed in the implementation of land consolidation bearing in mind that the transformation of the concept of *Tri Hita Karana* is not easy to be implemented in land consolidation in Bali. If it only refers to the formal requirements specified in Perda RTRWP Bali as regional regulation related to residential areas, it will be easier to implement than referring to the values of the *Tri Hita Karana*. However, the concept of *Tri Hita Karana* and the provisions of Perda RTRWP Bali contain different value, where the concept of *Tri Hita Karana* focusing on religious content and Perda RTRWP Bali focusing on juridical content. The difference of value contained in it makes the implementation of land consolidation in Bali to be slightly different. Juridical based land consolidation and *Tri Hita Karana* based land consolidation. Likewise for land consolidation, which refers to the Ministerial Regulation on Land Consolidation, the legal content is sufficiently clear. In contrast to *Tri Hita Karana*, which has become the local wisdom of the Balinese people, it certainly gives its own meaning in the implementation of land consolidation.

The religious content is very deep in the concept of *Tri Hita Karana*, however the juridical value is completely invisible. On the other hand, Perda RTRWP Bali and the Ministerial Regulation on Land Consolidation have a very strong juridical value.

The transformation of *Tri Hita Karana* in the implementation of land consolidation in Bali supposedly be carried out by the Land Consolidation Implementation Team in order to provide the local wisdom of Balinese people. Therefore, land consolidation in Bali is based on its local wisdom, namely *Tri Hita Karana*. This local wisdom insight certainly unique and manifest the uniqueness of Bali at the same time. The transformation of *Tri Hita Karana* is the hallmark of land consolidation in Bali.

Conclusion

Based on the abovementioned it can be indicated that the implementation of land consolidation in Bali has not referred to the *Tri Hita Karana* as adopted in Perda RTRWP Bali. Up until today, the land consolidation in Bali is carried out by referring to Perda RTRWP Bali and the Ministerial Ministerial Regulation on Land Consolidation. Land consolidation in Bali only refers to the Perda RTRWP Bali in terms of substance, not in terms of principle. The legal substance of the Perda RTRWP Bali has been fulfilled in the implementation of land consolidation in Bali. However, the concept of *Tri Hita Karana* has not been fully implemented. The transformation of *Tri Hita Karana* in the implementation of land consolidation in Bali only implemented in Perda RTRWP Bali. The transformation of its value has not

been carried out properly bearing in mind the the implementation of land consolidation has not met the value of *Parahyangan* and *Pawongan*. However, the value of *Palemahan* has been fulfilled due to the regional government's program related to waste management that has been handed over to each customary law community.

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