DEPOLITICISATION OF PUBLIC ISSUE:LOW DEGREE OF GOVERNMENT'S DEMOCRATIC LEGITIMACY

(The Case of the Reclamation Policy of Benoa Bay, Bali, Indonesia)

M. Dian Hikmawan dan Rahmad Hidayat
Jurusan Ilmu Pemerintahan, Fakultas Ilmu Sosial dan Ilmu Politik
Universitas Sultan Ageng Tirtayasa
Ilmu Administrasi Negara, STISIP Mbojo Bima
dionk_90@yahoo.com, rahidsmart@gmail.com

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Kata Kunci: *Depolitisasi, Pemerintah, Elit, Publik dan Demokrasi.*

Introduction

Depoliticisation of public issue is a normal event happening in the Global South where the major public concerns have become matters of technocratic governance or privatised to the market as well as communal, patronage, and privileged citizens' networks (Törnquist, 2009: 1). The core of depoliticisation of democracy is that relatively autonomous political relations between state and people are underdeveloped (Törnquist, 2009: 5).

Depoliticisation has been concepttualised as the passing of responsibility, and accountability, in a given issue area away from government (Burnham, 2001: 3). Depoliticisation can also be understood as a disregard for the importance of power relations in society (Prestegard, 2005: 6). Depoliticisation is a governing strategy or a process of placing at one remove the political character of decision-making.

This may involve the creation of decision-making arenas that are theoretically insulated from political pressures or the adoption of rule-based systems that remove or significantly diminish the discretion of politicians and public (Flinders, Matthew and Buller 2005: 4). In other words, depoliticisation is a governing strategy whereby the discretionary nature of decision-making is reduced and replaced with a more 'rules-based' system over which state managers, and politicians (more specific for public interest) have less active control (Burnham, 2001: 136).

The reduction of public space is a fundamental problem that accompanies the growth of new democracies in the Global South. This problem occurred because of the pact making and institution building among elites. Moreover, some failures in building good governance create the elit capture issue, and elite capture has an important role in depoliticisation issues because of their resources. The views and interests of the majority of the population are thereby excluded from the formal political arena. In the absence of effective popular control over public affairs, economic and political power in many countries of the Global South rests primarily with actors related to the combination of state and private businesses (Tornquist, 2009: 4).

Depoliticisation in Approach

There are various charac-teristics of the depoliticised form of democratisation based on Harris et al (2004) classification (Stoke and Tornquist 2013: 4-5):

(1) Pacts between powerful elites on building core institutions of democracy that simultaneously ex-clude ordinary people and their representatives;

(2) Privatization to the mar-ket, and affluent civil society organisations, ethnic and religious communities;

(3) Decentralization of government based on 'subsidiarity' and the idea that people in local communities have common interests, and that relation of power between

people and regions are unimportant;

(4) Technochratic and 'non-interest' based on 'good governance' involving government, market actors, civil-society organizations, ethnic and religious communities, again without consi-dering power relations;

(5) A number of problems of abuse and privileged control of institutions of democracy such as unequal citizenship, un-equal access to justice poorly implemented human rights, elite and money-dominated elec-tions, corrupt adminis-tration, middle-class dominated civil society and otherwise pre-dominance of 'illiberal' democratic practice; and

(6) Some popular-oriented civil society projects that contest negative politics and authoritarian states, but often neglect that is necessary to foster progressive political pro-jects such as partici-patory budgeting and planning, thus try to implement these ideas

and projects within the hegemonic framework.

Depoliticisation had not just shown up without any cause. It was affected by the tendency of current development discourse ─the good governance agenda in particular─ to look at policy issues from a technical economic perspective. The emphasis on governance was a new stage in the long-term process of depoli-ticising development (Hout, 2009: 38). 'Good governance' –under-standably, in view of the World Bank's formally non-political role– was defined in technical, manage-rialist terms (Harriss, Stokke and Tornquist 2004: 7). The introduction of the governance concept can be seen as an attempt to represent problems that are rooted in differences of power and in class relations as purely technical matters that can be resolved outside the political arena (Harris 2001: 2-3).

The restriction of public space was an acute problem of democracy in Indonesia. Hence, there is a need to counter the problems of democracy by way of more, not less, popular influence to alter the

structure of power and open up for alternative processes and agents of change (Tornquist 2009: 5). Democracy should promote public deliberation among citizens and authorities as to what does best for the society as a whole and should elicit decision-making on that basis (Pettit 2004: 52).

Space is the one thing to discussing participation, opened and closed space can be a sign of the government degree. When the spaces are opened by government for public participation in formulating a policy, so we can conclude that the degree of "democratic legitimacy" of the government is high which in closed government opposite with this concept. Because the concept of democratic legitimacy is used to determine when the practice of the authority ruled justified. In "democratic legitimacy", an autho-rity to collectively adopt the binding decisions and to implement them with resources that are taken from members of community and with state monopoly on the use of legitimate force.

Only when a system is considered to be legitimated, then the individual will comply with binding decisions collectively as a moral obligation, even though the decisions were in fact contrary to the preferences of each individual. If this can be achieved, then a political system can be considered as a democratically legitimated. Govern-ment and its decisions legitimized if the rules and decisions drawn up in a democratic manner (Schneller, 2011: 5).

Discussing Democracy

The concept of democratic legitimacy can be classified in 2 (two) types, namely *input-oriented legitimacy* and *output-oriented legitimacy*. Input-oriented legitimacy refers to "government by the people" and is fundamentally linked to the question of whether "political choices are legitimated if and why these choices reflect the will of the people, that is, if they can be derived from the preferences of authentic members of society". Only when citizens feel that they can adequately provide "input" for the decision-

making process, the political system can be labelled legitimated.

Substantive democracy should be seen as a competitive political system in which competing leaders and organizations define the alternatives of public policy through a way in which the public can participate in the decision-making process (Schneller, 2011: 5). The concepts that associated with this input-oriented legitimacy are participation, representation, accountability, transparency, or openness of the process of agenda setting.

Output-oriented legitimacy builds a relationship between a legitimated political system with effective performance. This is what called by Abraham Lincoln as "government for the people": a political system would be considered to be legitimated if it is effective in achieving the objectives of citizens and if it can provide a solution to the problems of citizens. The political system is then called democratically legitimated when it produces output that equivalent to the preferences of the citizens.

Legitimacy on the input side relies on mechanisms that translate the "will of the people" into political decisions. If the mechanism is considered "democratic" or "good" by the people, then there is an input-oriented legitimacy. While, legitimacy on the output side is an effective level of government's performance i.e. the extent to which the political system meets the basic functions of government. This output-oriented legitimacy has component "objective" and "subjective" as well. Objective component refers to the extent that policy outcomes succeeded in solving social problems effectively. And subjective component refers to the extent to which citizens are satisfied with the content of government policy. Interactive processes will bring content closer to the line of policy preferences of citizens and that it will contribute a positive assessment of citizens about the content of the policy (Boedeltje and Cornips 2013: 5-6).

The restriction of popular access in formulating public policy as a typical manifestation of

depoliticisation, allegedly occurred at the issuance of Benoa Bay reclamation policy by the Provincial Government of Bali i.e. Governor Decree No. 2138/02-C/HK/2012 on Plan of Utilization and Regional Development of Aquatic Benoa Bay, which are then replaced with Governor Decree No. 1727/01-B/HK/2013 on Permit of Feasibility Study about Plan of Utilization, Development and Management of Aquatic Benoa Bay. Both of policy formulation did not involve public into the process. Instead, both are accused of secretly issued by the Provincial Government of Bali without the knowledge of the public.

The reclamation activities of Benoa Bay (838 hectares) will be fully carried out by PT. Tirta Wahana Bali International owned by Tommy Winata, where 438 hectares of it will be used as mangrove forests, while another 300 hectares will be used as public facilities site (e.g. handycraft fair building, sports arenas, places of worship, schools, etc). And the remaining 100 hectares will be built for tourist acco-mmodation. Development of tourism

accommodation and public facilities are expected to create employment opportunities for the people of Bali in the next 5-10 years, which are as many as 200,000 new jobs.[1]

The pros and cons of public attitudes then appear due to the Benoa Bay reclamation plan. The reason that the reclamation project will bring various new jobs encouraging certain groups to fully support the reclamation plan, while the reason for the threat of damage to the environment and culture as the negative impact of reclamation sparked rejection from other community groups.

A moment later, the plan of the Provincial Government of Bali to reclaim Benoa Bayis becomes a warm conversation in the media, especially social media with the theme *Bali Not For Sale*. Over time that online disclosure of certain party's disapproval to the recla-

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[1] Biro Humas Provinsi Bali. 2013. Reklamasi Teluk Benoa untuk Masa Depan Bali. http://birohumas.baliprov.go.id/index.php/artikel-detail/53/Reklamasi-Teluk-Benoa-Untuk-Masa-Depan-Bali/. Accessed at 20/05/2016, 17.29 PM.

mation plan, then consolidated and transformed into a real social movement whith slogan *Bali Reject Reclamation*. They also form the People's Forum Bali Reject Reclamation (ForBALI). The Forum is made up of various circles concerned with the threat of cultural values and environment in Bali. From all the situation of reclamation, how did the Provincial Government of Bali reduce public space in formulating the reclamation policy?

The Primacy of Elitist Approach in Elitist Democracy

Elitist democracy is a concept that reflects an unhealthy situation where the powerful, well-connected, and intolerant have become extremely well adept at using those institutions and procedures to further concentrate wealth and power among themselves. In the process, what were originally constituted as inclusionary mechanisms are trans-formed into practices of exclusion (Nylen, 2003: 4). Elitist Democracy supporters always use technocratic approach in generating a policy to sustain their political power. As we know

technocracy is an idea about the role of technical expertise and problem-solving approach in economic and political governance (Crane 2008: 1161). Or refers to a situation in which effective power, attached to the experts who are called technocrats (Martins & Connie. 1972: 35-38).

In democratic eras, techno-cracy is usually opposed to democracy. Democracies which highlights the intensity of parti-cipation or involvement of citizens in governance, is contrary to techno-cracy that puts utilization of scientific expertise as something that should be dominant in governance, especially in the decision- or policy-making process. Contradictory usage of technocracy and democracy in governance then appears. Placing excessive pressure on knowledge and expertise as the main determinants of policy outcomes was likely to cause erosion or the democratic deficit. Conversely, too much emphasis on democracy (i.e. direct involvement of citizens in decision-making and implementation) will relegate tech-nical and scientific informations in a

limited role and will increase the likelihood that complex problems seem to be ignored or handled in a less optimal way (McAvoy, 1999: 3).

Referred to above explana-tions, it can be concluded that the process of formulation (1) Governor Decree No. 2138/02-C/HK/2012 on Plan of Utilization and Regional Development of Aquatic Benoa Bay, and (2) Governor Decree No. 1727/01-B /HK/2013 on Permit of Feasibility Study about Plan of Utilization, Development and Management of Aquatic Benoa Bay, have used the elitist-technocratic approach (ignoring the pluralistic approach that requires public participation) in all stages that have been passed, starting from the preparation of the agenda between PT. TWBI and the Provincial Government of Bali (including the determination of the area; assessment of the technical aspects, economic, socio-cultural) until the policy formulation stage (involving the provincial government of Bali and the Bali Provincial Parliament) that produced output Benoa Bay reclamation policy.

Although the approach was technocratic, but both policy formulation process of reclamation Benoa Bay did not fully examine high accuracy, because both compiled based on minimal or weak data. This is indicated by the results of the feasibility study from Udayana University that clearly contrary to the contention of experts who come from the scope of the provincial government of Bali. The study results showed that the Benoa Bay "unfit" reclaimed. And scientific findings of the Institute for Research and Community Service of Udayana University is not necessarily influence the attitudes and minds of the Governor of Bali. He still does not want to impose and revoke his Decree No. 1727/01-B/HK/2013. Governor of Bali has obtrude assessed blindly order Benoa Bay reclamation program can be continued despite public resistance has emerged from here and there.[2]

Disregarding of the feasibility study result from the Institute for Research and Community Service of

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[2]   http://www.ForBALI.org/. Accessed, 22 May 2016, 01.45 AM.

Udayana University by the Governor reflected the irregularities of technocratic approach in reclamation policy formulation. Not accommodating the interests of society who repell the reclamation policy, the Governor instead proposing changes of Benoa Bay status as a conservation area into a buffer zone to the Coordinating Minister for the Economy of the Republic of Indonesia. The proposal was then approved by the issuance of Presidential Decree No. 51/2014 by President Susilo Bambang Yudhoyono. This status changing of Benoa Bay, undoubtedly, has added some complexities in the discussions of reclamation.

These technocratic endeavors can be labelled as an elitist policy. Elitist policy emerged when the authorities act in accordance with the will and interests of their group. Even to smooth the embodiment of all interests, the elite did not hesitate to mobilize economic resources, including a network between institutions, knowledge, and information. Public policy interests of its cargo was not pro the public, but only benefit certain groups, and the process is deliberately obscured, producing elitist policies. And Benoa Bay reclamation policy is concluded by some parties as a product of the elite because it is not only problematic in terms of content, but also negates the formulation process of public access to get involved in its discussion.

Table 1: The Genealogy of Depoliticisation of Benoa Bay Issues[3]

Times	The incidence over time
September 8, 2012	PT. TWBI submitted a written request to UNUD for the preparation of the feasibility study and AMDAL.
October 1, 2012	The signing of the cooperation agreement between PT TWBI and LPPM UNUD for conducting a feasibility study.

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[3]   Ibid. Accessed, 10 June 2016, 02.30 AM.

November 5, 2012	PT. TWBI hearings apply to the Governor of Bali with the number 009 / TWBI / L / XI / 2012.
November 12, 2012	LPPM UNUD presented some results of feasibility study for the first time in BAPPEDA Bali.
December 14, 2012	LPPM UNUD conducted a second presentation on the feasibility study documents in BAPPEDA Bali.
December 20, 2012	DPRD Bali issued recommendations No. 660.1 / 142 781 / DPRD as a follow-up for the results of feasibility study by LPPM UNUD. This recommendation was the basis for the issuance of Decree 2138/02-C / HK / 2012.
December 26, 2012	The Governor of Bali issued a Decree No. 2138/02-C / HK / 2012 on Licenses and Use Rights, Development and Management of Aquatic Benoa Bay.
July 3, 2013	Ministry of Maritime Affairs and Fisheries endorsed the Ministerial Decree No. 17 / PERMEN-KP / 2013 as a permit for reclamating the non-core conservation zone. There was no any publication about this.
August 3, 2013	Presentation by UNUD LPPM team in an open dialogue on the governor's office. In this dialog, Governor said that he would not insist on maintaining the reclamation plans if the results of the feasibility study declared unfit.
August 12, 2013	DPRD Bali sent a recommendation No. 900/2569 / DPRD to Bali Governor for reviewing and / or revocating his Decree No. 2138/02-C / HK / 2012.
August 16, 2013	Bali Governor revoked his Decree No. 2138/02-C / HK / 2012 and then issued a Decree No. 1727/01-B / HK / 2013 as a permit for conducting the Feasibility Study on Utilization Planning, Development and Management of Aquatic Benoa Bay, and encouraging the feasibility study as part of a reclamation effort forwarded.

August 19, 2013	The final draft of feasibility study by LPPM UNUD stated about the decent conditions for Benoa Bay reclamation.
August 23, 2013	ForBALI reported Bali's governor and the Parliament to the Ombudsman for alleging maladministration on the release of Benoa Bay's Reclamation Decree.
September 30, 2013	UNUD restated that the reclamation plan of Benoa Bay was not feasible according to its environmental conditions. The Head of Tanjung Benoa Village also stated about villagers' rejection to the plan and / or reclamation activities in the waters of Benoa Bay. The rejection letter as a result of their meeting (in September 30 2013) has been sent to the Parliament and the Governor.
May 3, 2014	Former President Susilo Bambang Yudhoyono issued a Presidential Decree No. 51 of 2014 which allowed the reclamation activities in Benoa Bay's conservation area.

The Low Degree of Government, Is Democratic Legacy?

Unfinished with the lack of public space problems in formulating the Governor Decree No. 1727/01-B/HK/2013, the issuance of Presidential Decree No. 51/2014 increased the smarting wounds of the people of Bali. It was an authentic proof that the pressure of the investors (the bourgeoisie) is so large to the executive, and the public space which was supposed to be a place for popular participation in policy formulation, has been engineered in such a way only to launch the interests of the bourgeoisie. Reclamation policy, in fact, has reduced the role of the state, which no longer supported the interests of its people. The emergence of people's resistance movements against the Benoa Bay reclamation plan has shown the lowest qualify of public policy. And those elitist-technocratic policies have demonstrated dramatically how policy was generated through the

procedures that are less democratic (due to the closed space of popular participation in the formulation of public policy).

According to the essensial meaning of democratic legitimacy, government has a high degree of legitimacy when its decision is arranged in a democratic way, which involves public in the formulation process. Conversely, a low degree of government's democratic legitimacy occurs when the decision is formulate without public involvement. As opposed to all depolitisation practices in Benoa Bay reclamation policy, elits and bureaucrats must proof their position as qualified provider of public services in democratic-era. It means the government must prioritise the public goodness than developer interests. In Benoa Bay problem, we can't run out of the low degree of government's legitimacy topic.

As a policy maker, the government fall into the controversial decision. All assessments about the feasibility study of reclamation are not pisitioned as a consideration for government to make a decision, even the president's decree. Finally, because the Benoa Bay reclamation policy did not involve popular in its formulation, we contend that the degree of democratic legitimacy of the provincial government of Bali was low.

In other hands, public never give up to counter such bad governmental decision. Depolitici-sation change the democratic way, the high aspiration of public couldn't change the situation. Until the president's decree which support the reclamation, all the agenda between government and public make a dangerous sign in democracy way. Distinction agenda between public and government just let the PT TWBI as a developer in the advantagous situation. Unclearly of law and politics make reclamation project continue to be done and so on. In this situation depoliticisation really happened in a democratic era.

Opposed to the low degree of government in policy making, public which not included in the participation to create the good policy as democratic legacy. Change

to the social movement position. As the transformative politics, the public has changed into hegemonic movement and force the governmet and elite to cancel the policy that are considered contrary to public interest.

Back to the discussion of democracy working in depolitisation of Benoa Bay policy, is this democracy legacy? We need a comprehensive knowledge to answer that question, but in a simple way we can relate it with the concept of democratic-deliberative way. If citizens' deliberation in democracy is closed by elites, there is always a chance for them to "present" their-common-interests (Mouffe 2005: 73) through direct movement or representation. These principal forms of citizens' antagonism can be used effectively to counter a hegemonic power.

Conclusion

The dispute of Benoa Bay reclamation originated from a series of governor policies about the plan to use the space and territorial waters of the Benoa Bay. Rejection to the Benoa Bay reclamation plan is voiced by the people of Bali because of that policy was only decided unilaterally by the authorities in the elite circle of the Provincial Government of Bali. Benoa Bay reclamation policy was decided by elites who tended to weak the degree of democracy. The lack of public participation in its formulation has generated a conflict of values in local democracy.

The rejection of Balinese people to Benoa Bay reclamation policy could be related to the reason of limited access of public to participate in its formulation. That was a deficit of democracy, because substantive democratization efforts in a country should be supported by an inclusive governmental politics that enables popular to participate in all political activities, especially in public policy formulation process. When the government is able to apply a participatory democracy in the public policy formulation, we can conclude its degree of democratic legitimacy is high.

Public participatory becomes a sign to degree of democracy. As a sign, it's a must for public become inclusive. Inclusive means not only give the affirmation to a government action for policies, but also counter respons to government which less involved public in participatory to policies. In depoliticisation issues, the government has any challenges to face the political hijacking of elites in good governance rules. As we know, in the process of depoliticisation actually not only involved the bureaucrats working, moreover the elitist hands which reach the government legitimation. It's not a good news for democracy today, for instance in the global south. The third countries always face a dramatic problem in their efforts to developt democratitation. Shadow state, local regime, and democratisation process are the frames of elitist working and challenges democratitation.

Based on the case of Benoa Bay Reclamation, we can learn about the dynamics of elitist endeavor in influencing a public policy that will save their vested interest. We can also perceive about what popular could do when such technocratic style produces negative effects for their common good. Any form of grassroot social movements can create a new hegemonic power to fight the elitist government's domination. Now, the big challanges for all social movements in Benoa Bay case is how to keep in co-exist (substance idea) as a hegemonic power to counter the elitist government. The substance ideas become the important thing to fight against depoliticisation from elitist government.

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