

## The Evaluating Land Regulation Challenges in Mitigating Gentrification: Insights from Bali's Mass Tourism Impact

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**Abstract.** *Gentrification is a complex socio-economic phenomenon that often occurs in tourism areas, where areas previously inhabited by lower-class residents are transformed into more prosperous neighborhoods. In Bali, significant tourism growth, with more than 5.5 million foreign tourists, has driven demand for land and property, especially from wealthy investors and foreigners. This has led to a surge in property prices that are unaffordable for locals, who on average have an income of around Rp 3.5 million per month. Drastic increases in land prices, especially in regions such as Canggu and Ubud, have resulted in the marginalization of local communities and the eviction of indigenous peoples, while also highlighting the growing gap between the rich and the poor. This study aims to explore the relationship between inadequate land regulation and the gentrification phenomenon triggered by mass tourism in Bali. Using socio-legal methods, this study analyzes primary and secondary data, including national regulations and legal literature. The results show that gaps in land regulation, such as the use of nominee agreements and lack of oversight of land ownership by foreign investors, exacerbate gentrification. Therefore, it is important to improve existing regulations by emphasizing the protection of the rights of local communities and the development of inclusive land-use policies. This study recommends the involvement of local communities in every stage of tourism development, as well as the enforcement of laws that limit foreign dominance in property ownership. As such, the principle of social justice should be the basis of tourism planning in Bali, ensuring that economic benefits are evenly distributed and supporting the cultural sustainability of local communities.*

**Keywords:** *Agrarian; Gentrification; Indigenous; Industry; Tourism.*

### 1. Introduction

Gentrification is a multifaceted socioeconomic phenomenon characterized by the transition of an area predominantly occupied by the working class or low-income residents to a more affluent neighborhood, typically accompanied by an influx of money and upper-middle-class individuals. In tourism, gentrification frequently

transpires when formerly underprivileged regions transform into sought-after destinations for tourists, resulting in elevated rental costs and the displacement of residents.(Aziza Ismatillaevna et al., 2023). In Bali, tourism has significantly contributed to economic growth, yet it has also posed substantial issues for the local community, including the erosion of their houses and cultural identity.

Bali is one of the world's tourist destinations, and this island contributes to the tourism sector, which reaches more than 40%(Sutarya, 2018). Bali's natural beauty, vibrant culture, and hospitable inhabitants render it a premier destination for international tourists. According to data from the Bali Provincial Statistical Data Agency, there were 5.5 million foreign tourists, with the highest figure in the past six years being 6,275,210 in 2019 (Anon 2024). This phenomenon motivates numerous individuals to invest, work, and reside on this island. In this scenario, affluent individuals, especially foreign nationals, are vying to acquire land in Bali, exacerbating the real estate demand. Entrepreneurs' interest in investing in property or purchasing land in Bali is corroborated by Johannes Weissenbaeck, Founder and CEO of OXO Group Indonesia, who stated in a news article, "Now, Bali is also a global lifestyle center, attracting tourists and international professionals seeking long-term housing."(Rusyanto, 2024).

This condition also engenders significant issues. The substantial rise in property prices poses challenges for residents, whose average salary is approximately Rp. 18,521 per hour or around Rp. 3,552,000 per month((BPS), 2021) to purchase land. In key locations like Canggu, Ubud, and Kuta, land prices have escalated to 1 billion rupiah per acre, significantly beyond the financial capacity of the Balinese population. It demonstrates that extensive urbanization driven by tourism frequently marginalizes local people as foreign investors and developers vie for land in Bali, exacerbating the disparity between the affluent and the impoverished. The escalation of land and property values has indirectly displaced local populations, as rising land prices hinder their ability to afford properties in their neighborhoods, a point previously articulated by Ni Made Fitri in an interview with BBC News (Wahyuni, 2024); this exemplifies a societal consequence of adverse gentrification. Deficiencies in current rules might intensify the phenomenon of gentrification. The absence of explicit regulations regarding land use and the safeguarding of Indigenous landowners' tenure leads to the growing exclusion of individuals from the development process, which frequently favors business interests and rivalry with foreign nationals for land acquisition in Bali. Without robust controls, the detrimental effects of gentrification may become more pervasive, jeopardizing the existence of local communities.

This study aims to address the deficiencies in the current literature. Several prior studies have examined the deficiencies in land regulation, including Panamadri's work titled "Strengthening Agrarian Reform for People's Prosperity in the Perspective of National Land Law." Nonetheless, the study did not investigate the relationship between land regulation and the gentrification phenomena that induce social and economic transformations in tourism regions. The research on gentrification in Bali by I Wayan Suyadnya in "Tourism Gentrification in Bali, Indonesia: A Wake-up Call for Overtourism" lacks a comprehensive analysis of the specific deficiencies in land regulations that contribute to gentrification. The principal inquiry of this study is, "In what manner does the inadequacy of land regulation in Bali facilitate gentrification as a result of mass tourism?" This research aims to examine the impact of inadequate land restrictions on the gentrification process in Bali and to offer recommendations for more sustainable land management and tourism strategies.

This study seeks to elucidate the connection between regulation and gentrification by examining the issue of elevated property values that lead to community exclusion and the deficiencies in current land rules. The study aims to develop policy advice specifically in land regulation that supports sustainable and inclusive tourism growth, benefits local populations and reduces adverse effects.

## **2. Research Methods**

This study will concentrate on the socio-legal method, which employs social science and legal frameworks to enhance comprehension of the law's functioning within a social environment. (Creutzfeldt et al., 2019). This research methodology employs the statutory approach, the legal fact approach, and the comparative approach. The dataset used in this study comprises primary data, precisely legal sources, including international conferences such as UNWTO, national regulations in Indonesia such as the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Agrarian Staples, and Law Number 10 of 2009 concerning Tourism, as well as secondary data in the form of legal literature and pertinent journals. This study employs the prescriptive legal analysis technique to evaluate and offer recommendations regarding laws and regulations.(Marzuki, 2017)

## **3. Result and Discussion**

### **3.1 The Land and Tourism Regulation: Review of Tourism Development and Land Tenure Policies**

In the realm of tourism, laws play a key role, as numerous sectors overlap with tourist sustainability, including economic growth and employment, which appropriate rules and regulations can bolster (Salihin, 2021). Economically, the law ensures confidence in investment and the development of the tourism sector, positively influencing the economy of a region or nation. Regulations of the tourism sector significantly contribute to the protection and empowerment of local populations. By engaging them in tourism development, the legislation will guarantee that indigenous populations experience the economic advantages of this industry.

The significance of laws in tourist growth is underscored by global governance, exemplified by the UNWTO agreement. Article 5 emphasizes the importance of local community engagement in tourism initiatives and the fair allocation of benefits (Tourism & Unwto, 1980). In this context, local communities are anticipated to actively participate in the design and execution of tourism, ensuring a substantial influence on the industry's development and guaranteeing the realization of its economic, social, and cultural benefits. (Hermawan, 2017)equally.

Tourism in Indonesia is legally governed by Law No. 10 of 2009 on tourism. The regulation elucidates that tourism plays a crucial role in national development, as stated in the tourism law, which mandates that this sector be promoted systematically and strategically. Moreover, tourist development promotes equitable distribution of economic possibilities, delivers advantages to the community, and assists in addressing the difficulties of change at both local and global scales.

Tourism in Indonesia is established and advanced with the fundamental objective of serving the populace's interests. Article 4 of this law explicitly states that the primary

objectives of tourism are fostering economic growth, enhancing human welfare, mitigating poverty and unemployment, and elevating the nation's global image. Article 5 emphasizes the concepts that should be considered while planning tourism to bolster local communities.

However, awareness of the tourism industry requires a considerable investment contribution, and the state has made several investment possibilities contained in Article 10, emphasizing that the central and regional governments are encouraged to attract domestic and foreign investment to support tourism development plans. Not only that, Article 17 highlights the government's commitment to protect and develop micro, small, and medium enterprises in this sector. Lastly, Article 19(2) gives priority rights to local communities to participate in the management and activities of the tourism sector, thus creating fairer opportunities for them.

Consequently, the legislation above seeks to enhance the tourism sector while ensuring its advantages are accessible to all societal strata. In Bali, a similar objective is articulated in Article 4 of the Bali Provincial Regional Regulation Number 5 of 2020, which pertains to the Standards for implementing Bali Cultural Tourism. This regulation encompasses the active participation of the community in tourism activities, which can be interpreted as safeguarding the interests of the local population.

Tourism law extensively addresses the execution of the tourism sector. Nonetheless, the advancement of the tourism sector in terms of accommodation, ranging from large establishments like hotels to smaller entities such as guesthouses, inns, and villas, will inevitably collide with other legislation designed to empower the local population. Similar to Law No. 5 of 1960 regarding Fundamental Agrarian Principles, land is essential for developing physical infrastructure, particularly for establishing the tourism industry.

In the primary agrarian law, we have seen the potential for land ownership competition between Indonesian citizens as a local community and foreign citizens. For example, Article 21 stipulates that only Indonesian citizens have property rights to land. This provision aims to prevent land domination by foreign parties as one of the entities potentially promoting gentrification. In addition, article 26 asserts that any transfer of ownership to a foreign citizen or an ineligible legal entity will be considered null and void, with the land falling into the hands of the state. Thus, this law also guarantees social justice and the welfare of the people. This arrangement aims to prevent the abuse of land rights by foreign parties, ensuring that land use and control remain oriented to the interests of the Indonesian people.

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### **3.2 Thai Agrarian Law**

Thailand has legislation governing agrarian issues, henceforth referred to as the Thai Land Code. The year 2497 B.E. The rule contains clauses that prohibit foreign

nationals' land ownership and prioritize the allocation of rights to local citizens. Article 86 is a crucial provision that forbids foreign nationals from owning land. However, it stipulates that such individuals may obtain land for residential, commercial, industrial, agricultural, funerary, or charitable purposes, contingent upon the approval of the Minister. It is explicitly governed under Article 87. The permissible land area under the preceding Section is as follows:

- a. For residence, per family, not more than 1 rai
- b. For trades, no more than 1 spread
- c. For industry, no more than 10
- d. For agriculture, no more than 10 rai
- e. For religion, no more than 1 rai
- f. For public charity, no more than 5 rai

### **3.3 The Dominance of Foreign Ownership in The Tourism Industry in Bali**

A literature analysis indicates that Bali, especially in Kuta, Canggu, and Ubud, has seen substantial land conversion as a result of tourism development, highlighting a rapid expansion of built-up areas to support population growth and the tourism industry (Dharmayasa et al., 2022). Accelerated land conversion can influence land valuations and result in social inequalities (Pradana et al., 2021). It can affect local people by elevating land values and altering the socioeconomic framework of the region. Furthermore, numerous agricultural fields have been repurposed to construct facilities that support tourism activities (Eryani et al., 2020).

Recent data indicates that land prices in Bali's tourist regions, including Kuta and Canggu, have risen markedly, with 54% of land in Bali undergoing functional transformation over the past 16 years, predominantly within the *Sarbagita* metropolitan area (Denpasar, Badung, Gianyar, Tabanan). (Indrawan et al., 2022). This complicates local populations' ability to acquire or sustain land ownership in their regions (Wahyuni, 2024).

Gentrification is a phenomenon that manifests in numerous metropolitan locales, particularly in Bali, notably in Kuta, Canggu, and Ubud (Suyadnya, 2022). Gentrification has advanced swiftly in Kuta and Canggu, the primary tourist areas in Bali. Due to the rising demand for luxury accommodations and tourism amenities, a significant portion of the farmland formerly utilized by residents has been transformed into hotels and restaurants. This transformed Kuta's appearance and adversely affected the local community.

Conversely, Ubud, recognized as the epicenter of Balinese art and culture, is similarly affected by gentrification (Suyadnya, 2022). According to data from BPS Bali Province, Gianyar Regency will have 35 hotels in 2023, although data from the accommodation booking service Traveloka indicates approximately 1,667 hotels in the Ubud area. Moreover, the commercialization process has altered Ubud's cultural character, eroding or distorting numerous indigenous customs and behaviors to cater to tourist preferences. This presents a quandary for the inhabitants of Ubud, who seek to maintain their cultural heritage while accommodating the continuously changing economic demands, as indicated in an interview with residents cited in an article by Suyadnyana, which notes that previously, in the area where the speakers resided, there were merely 10 bungalows owned by temple families and operated by foreigners.

Nevertheless, homeowners may still traverse the bungalow area to access rice fields and agricultural lands. This contrasts with the present, where access to the riverbank has transformed into a restricted area that cannot be traversed freely (Suyadnya, 2022).

The advancement of tourism in Bali has stimulated economic growth and generated several employment opportunities. Nonetheless, the reality indicates that foreign entities predominantly own the tourism industry in Bali. According to a statement by Putu Astawa, head of the Bali Provincial Tourism Office, reported in the Bali Tribune, approximately 85% of tourism property assets are owned by individuals outside Bali. (Suadnyana, n.d.), Furthermore, In 2020, foreign investment (PMA) predominated in the hotel and restaurant sector in Bali. Data from the Bank Indonesia Bali Representative Office indicates that domestic investment (PMDN) amounted to Rp5,432.7 billion over 2,513 projects, whilst foreign direct investment (FDI) totaled US\$293.3 million for 3,967 projects. Foreign Direct Investment (FDI) accounted for 52 percent of the overall investment in this industry, amounting to US\$152.516 million or Rp2.19 trillion, whereas domestic investment (PMDN) provided 45 percent, equivalent to Rp2,444.7 billion. This signifies that foreign investment predominantly influenced the investment value in the hotel and restaurant sector in 2020(Wiratmini, n.d.) the data from the Central Statistics Agency of Bali Province indicates growth in foreign investors, rising from 6,598,711 in 2021 to 6,450,848 in 2022 and seeing a significant surge to 11,965,581 in 2023((BPS), 2024).

The aforementioned creates apprehensions regarding the erosion of local community governance over resources and the economic advantages derived from the tourism industry. The Community-Based Tourism development strategy needs more enhancement in this Venomena. Consequently, the community is not merely a spectator but also actively manages and develops tourist places, which can ultimately enhance their well-being. Several rules have governed this, notably the Basic Agrarian Law (Law No. 5 of 1960) and the Tourism Law (Law No. 10 of 2009). This legislation underscores the significance of local community engagement. Article 2 of the Basic Agrarian Law stipulates that natural resources are regulated by the state for the benefit of the populace, whilst Article 21 underscores that only Indonesian residents may possess property rights to land.

Concurrently, the Tourism Law underscores communal empowerment. Article 3 mandates that tourism growth enhances well-being and generates employment, but Article 4 necessitates community engagement and reverence for local culture. Article 5 underscores the necessity of environmental preservation, while Article 8 advocates for government and people collaboration. These provisions should facilitate the development of an inclusive tourism model wherein local residents actively participate and benefit from their region's expanding industries.

Despite the Agrarian Law (UUPA) in Indonesia explicitly stipulating that land ownership is exclusive to Indonesians, a legal gap exists that enables foreign persons to control land in Bali. A common practice involves a nominee agreement, wherein foreign nationals utilize the names of Indonesian natives to be recognized as legitimate landowners (Suwanjaya et al., 2020). Moreover, long-term leasing agreements serve as a circumvention for foreign nationals to manage land use in Bali without direct ownership. In reality, the renter or nominee may act as the "successor" of ownership, allowing foreign nationals to maintain effective authority over the land although lacking

official ownership. The oversight of such acts is frequently inadequate, and the current legal restrictions lack sufficient rigor to deter them.

The UUPA forbids foreign nationals from owning land; nevertheless, existing legal loopholes have been utilized to bypass this restriction. These strategies have resulted in gentrification in many tourist regions of Bali, including Kuta, Canggu, and Ubud. Land and property prices in certain areas have escalated, complicating the ability of residents to purchase or retain land ownership inside their jurisdiction. To address this issue, it is essential to enhance the execution of the UUPA and enforce stronger regulations against illicit land ownership activities by foreign nationals. Moreover, the participation of local populations in land use decision-making is essential to safeguard their interests.

### **3.4 Gentrification Due to Mass Tourism Seen from Social Justice Theory**

John Rawls' theory of social justice posits that the principle of difference asserts that social and economic inequalities are only justifiable if they yield the maximum advantage to the most disadvantaged individuals (GALIŠANKA, 2019). The escalation of land prices and homes in Bali, rendering them unaffordable for the local population, starkly contradicts this idea of gentrification. Marginalized local populations affected by escalating land prices are the most disadvantaged demographic. They forfeit access to resources that they could have before possessed or employed.

Those above adversely affect their welfare and quality of life. The Basic Agrarian Law (UUPA) underscores that land tenure should prioritize communal interests. Article 6 asserts that "land is a resource that must be controlled by the State and utilized to the greatest extent for the welfare of the population." In practice, external investors frequently engage in land acquisitions that may lead to the displacement of local people, causing them to forfeit access to previously managed resources.

Furthermore, the Tourism Law (Law No. 10 of 2009) stipulates in Article 2 that "tourism seeks to enhance community welfare and safeguard the environment." Nevertheless, on-the-ground implementation frequently neglects the social ramifications for local communities, potentially resulting in gentrification and the marginalization of these populations. The Investment Law (Law No. 25 of 2007) promotes investment for economic advancement, with Articles 4 and 5 highlighting the necessity of policies that benefit all stakeholders, especially local communities. Regrettably, developers frequently dominate land resources in Bali, leading to an increased disparity between the affluent and the impoverished.

To address this issue, engaging local populations in planning, decision-making, and administration of tourism development in Bali is essential. This aligns with Rawls' ideas of social justice, which underscore the significance of community involvement in decision-making (Moroni, 2023). Moreover, there must be more stringent law enforcement to deter land tenure practices by foreign entities that may adversely affect local people. Consequently, by adopting a community-centric strategy grounded on social justice, it is anticipated that the adverse effects of urbanization resulting from tourism in Bali can be mitigated, facilitating a more equitable and sustainable distribution of economic advantages. The extensive tourism growth in Bali has led to a rise in property values throughout several locations, particularly primary tourist destinations. Unfortunately, the facts show that this increase in land and building

prices often negatively impacts the local community. They are indirectly evicted from their residences due to their inability to afford the escalating property prices (Wahyuni, 2024).

### **3.5 Tourism Development Strategy in The Challenge of Gentrification in Bali**

Gentrification fundamentally opposes the objective of the 11th Sustainable Development Goal (SDG), which underscores the necessity of inclusive, secure, disaster-resilient, and sustainable development. The gentrification resulting from rising property values has engendered inequality and marginalized local people, contradicting the essence of the Sustainable Development Goals aimed at reducing societal inequities (goal 10). An examination of John Rawls' social justice theory indicates that this event is a sort of injustice. Rawls underscored the significance of freedom, asserting that each individual possesses an equal right to the most extensive array of fundamental liberties. (GALIŠANKA, 2019).

The incremental rise in land prices compelling residents to vacate their homes constitutes a limitation on their autonomy. Rawls underscored the necessity of community involvement in decision-making to safeguard their interests (Moroni, 2023). A collaborative endeavor from multiple stakeholders is required to resolve this challenge. The government must guarantee that tourist development in Bali adheres to the principles of social justice and sustainability by actively engaging local people in tourism management, enhancing their sense of ownership and responsibility for the environment, and promoting community welfare (Krisna et al., 2024). Moreover, more stringent laws are necessary to avert activities that may displace Indigenous populations and guarantee that property growth's economic advantages are equitably distributed across all societal strata.

Only through these endeavors can tourism development in Bali genuinely yield inclusive and sustainable advantages for the local community, in alignment with the principles of the SDGs, Rawls' theory of social justice, and the tenets of freedom and difference articulated by Rawls. Consequently, swift economic growth can coexist harmoniously with safeguarding local community rights and establishing social justice.

Furthermore, Article 36 of the Basic Agrarian Law (UUPA) permits the transformation of land ownership into Building Rights (HGB), granting the authority to construct and possess buildings on the property for a specified duration. In the realm of tourism development in Bali, this regulation should prioritize local communities as holders of Building Use Rights (HGB) rather than merely facilitating large investors' control over land. Suwitra also observed that converting property rights into HGB has expedited the gentrification process in Bali. (I Made Suwitra, 2022). This aligns with the ethos of sustainable development goals (SDGs), particularly goal 11, which underscores the significance of inclusive, secure, disaster-resilient, and sustainable development. By prioritizing local communities in the allocation of building use rights, it is anticipated that the economic advantages of tourism development will be equitably distributed among the indigenous Balinese population.

The Community-Based Development (CBD) strategy underscores the significance of using local assets and potential while empowering communities as primary agents in development (Sianny Cindy et al., 2022). In this framework, local communities should be designated as the primary custodians of HGB, enabling them to manage and



develop resources within their region autonomously. Modifications in building rights that emphasize local communities can guarantee their continued access to and control over neighborhood resources. This aligns with Tourism Law No. 10 of 2009, which in Article 19 asserts the preferential right of local communities to engage in the management and operations of the tourism sector.

To achieve equitable and sustainable tourism development, governmental initiatives must prioritize the local community in the transfer of building use rights within the tourism sector in Bali. This can be accomplished by implementing stringent regulations and the active participation of the community in land use and property development decisions. Such measures will ensure that the economic advantages of tourism are distributed fairly across all societal strata, in alignment with the principles of social justice.

#### 4. Conclusion

This study shows that the inadequacy of land regulation in Indonesia, as in this case there are several gaps in supervision, as is the case with the use of nominee agreements, as well as loopholes in regulations such as the evaluation of restrictions on the area of land ownership by foreign investors, as well as the transfer of land rights can exacerbate the gentrification phenomenon driven by mass tourism in Bali, as the substantial escalation of land prices has led to the marginalization of local communities, depriving them of access to previously managed resources. To address this problem, improving existing regulations is essential, emphasizing the protection of the rights of local communities and the establishment of more inclusive land-use policies. Therefore, to ensure the equality of tourism sustainability in Bali, the government and stakeholders must develop policies that involve local communities in every phase of tourism development, highlighting the need for positive interaction between the government, investors, and local communities, in addition to increasing laws that inhibit foreign dominance in property ownership. Therefore, the principles of social justice should support the planning and development of tourism in Bali, ensuring that economic benefits are distributed evenly among all levels of society, while the policies implemented not only benefit investors but also uphold the welfare and cultural sustainability of the local community.

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