



How to Develop Participative, Transparent and Accountable Spatial Planning in Indonesia: Policy Recommendations

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Main Messages

- Spatial planning practices in Indonesia still face problems. These problems are: competing interests in the regulation of access to land and the maintenance of tenure security; limited engagement by the government with local stakeholders, limiting their ability to be working for the public interest; and, instances of corruption at multiple levels of government.
- The current approaches to land-use planning in Indonesia need to be altered as great confusion exists when considering which levels of government have influence and authority over particular land-use planning aspects. Furthermore, the local people who live with the effects of land-use planning are not being properly involved in these processes, and, as such, are not being provided enough self-determination to contribute towards their own futures.
- It is recommended that an official Environment and Land Court be established in order to take away some of the confusion when attempting to figure out who has authority at particular stages of planning. Moreover, the implementation of a “free standing” procedural approach would allow any person to approach the court about a particular land-use planning issue. This is necessary as currently only NGOs and the private sector can make such an application.
- Other recommendations are: the implementation of, and further enforcement of, penalties when land-use planning regulations are ignored; and, recognition and enablement of self-determination for local indigenous people, in order to be able to successfully drive a force towards public participation in land-use planning processes.

Background

Spatial planning practice in Indonesia is designed based on a top-down approach, with limited local participation in the decision-making process. Development planning is designed mainly by the government, with some influence and intervention from business concessions. This creates conflicts with the local people, marginalizing them in spatial planning decision making. There is still the question of how spatial planning in Indonesia can accommodate the needs and aspirations of the local people. There is a need to design the spatial planning framework to accommodate the participation of diverse stakeholders, transparency in decision making, greater access to information, and accountability.

There is a general reluctance of governments to actually engage with local stakeholders, therefore limiting their ability to be working for the public interest. Furthermore, as evidence suggests a variety of instances of corruption, at multiple levels of government, there is arguably non-compliance with the principles of transparency, accountability and good governance.

Spatial Planning and the National Forest Zone

A national law on spatial planning (UU No. 26/2007) was enacted in 2007, stipulating a multi-tiered approach via 20-year national, provincial and district spatial plans. These plans were to be developed in a participative manner, in accordance with more long-term development plans. Implementing the regulations of this law requires these spatial plans to be in agreement with the National Forest Zone, mandating a role and procedure for the Ministry of Environment and Forestry (MoEF) to review and approve the spatial plans. Approximately 130 million of the 187 million hectares of land in Indonesia have been assigned to forest zones under the administration of the MoEF.

The spatial plans are not only used to designate areas for development and as the legal basis for the allocation of licenses, but also detail the Forest Zone that needs to be maintained for biodiversity or environmental services. Governance of land in Indonesia is divided between multiple agencies, namely the MoEF, the Ministry of Agrarian and Spatial Planning (MoASP) and local governments.

Problems in Land-Use Planning in Indonesia

The current Indonesian land-use planning framework claims to serve the public interest through policies which see the fostering of regional development through the distribution of resources and services to residents, without harming local rights. In practice, there are three problems that hinder the success of this current land-use planning framework. They are: i) the competing interests that are often present between regulating access to land and the maintenance of tenure security, ii) reluctance of governments to actually engage with local stakeholders, therefore limiting their ability to be working for the public interest, and iii) instances of corruption at multiple levels of government.

These problems mean that there are meaningless policies in place. The policies are not always followed, and some court decisions are not enforced. Furthermore, if indigenous people are expected to participate in land-use planning processes, first they need to be recognized as people who make a valuable contribution. Presently,



Participative mapping with local stakeholders in Papua villages.
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even though there are frameworks in place that identify the need to value public interests, these people and their opinions are not valued. It is therefore unimaginable that such people would want to participate in a process where their contributions are not being taken seriously, or used to their full potential.

Critique on the way Spatial Planning Operates: Participation, Transparency and Accountability

In terms of spatial planning and local communities, Law No. 26 of 2007 on Spatial Planning explicitly refers to the importance of public participation, including in the formulation, use, implementation, and monitoring of spatial and land-use planning. It broadens the scope of public participation by acknowledging the rights of citizens to access planning-related information, benefits from the planning, compensation when planning activities result in negative impacts, and legal standing among others. Nevertheless, the law does not define how the public can participate—and fully engage—in the land-use planning process at all levels of government: district, provincial and national. It is still uncertain how local people's perspectives can be accommodated in decision-making processes. Moreover, the law does not describe any complaint mechanisms, nor does it stipulate any public rights to access information, or indicate whether the land-use planning decisions can be accountable to the public.

Another issue is forest land tenure. Local communities cannot regularize any activity in or around their territory because the land is officially designated forest land and they cannot obtain permits from the MoASP to change it. Therefore there is not much room for local participation, despite the stipulation in Law No. 26 of 2007. Public participation and community involvement should be an integral part of regional autonomy and decentralization in Indonesia. However the law is not being seen to fruition, and possesses shortcomings.

Policy Recommendations

Currently, Indonesia is the only major source of jelutung latex. Jelutung-latex production centres around the peat swamp area. In Sumatra, this area covers the provinces of Riau, Jambi, and South Sumatra. In Kalimantan, it covers parts of West Kalimantan, Central Kalimantan and South Kalimantan. Jambi and Central Kalimantan were the major manufacturers of jelutung latex until 2007.

Environment and Land Court

The current land-use planning policy decisions are riddled with conflicting interests and power struggles between actors trying to influence the decisions. As a result there is an increasing number of actors who hold varied views and planning initiatives. Therefore, it would be ideal if a Land and Environment Court or sector were

created in Indonesia. This could provide a source of quality leadership if the judges were to have specific environmental knowledge. This mechanism could also work to redefine the current blurred distinction between the roles of central and local governments when it comes to land-use planning.

Ideally, this recommended Environmental and Land Court would serve as the main authority, providing a clear avenue for people to complete land-use planning, as well as providing a sense of accountability for any decisions made.

Open Standing Provisions

Currently in Indonesia, Law No. 32 of 2009 recognizes the class action procedure and legal standing of NGOs to bring claims forward, however it is not always an NGO who may want to process a claim. Therefore, an open standing provision implemented in Indonesian courts would allow for further participation by local people.

If open standing provisions were implemented, they could help to combat social injustice by allowing those already subject to other forms of social disadvantage to combat the environmental disadvantages that they are subject to. Furthermore, such an implementation could mean that there is further scope for open information and data transparency.

Further Implementation and Enforcement of Penalties

Through research, it has become evident that frameworks are not often followed, and penalties are very rarely enforced, in Indonesia. Therefore it would be ideal to have further implementation of existing frameworks and greater enforcement of penalties when the private sector and government do not follow the relevant protocols, or ignore court decisions.

Recognition and Empowerment of Local Participants

Presently, large amounts of academia and research suggest that further public participation is necessary in land-use planning processes. However, for such participation to occur it is necessary to recognize the equality of the people attempting to participate – a notion which



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begins with an assumption of equal respect for all citizens. It is evident that if you are not recognized as a valuable human being, with valuable contributions, you will not participate.

In order to enable a successful participatory and democratic decision-making procedure, basic inequalities must be overcome. Public participation is enabled if the local people are recognized as making a valuable contribution, and if they are included in networking and communication with all other stakeholders. With such a notion adopted, all participants would acquire and share information, and there would be increased involvement by the general, non-activist public in administrative decision making. Public participation has the potential to assist in overcoming the socio-economic disparities presently experienced by local parties. Furthermore, with all participants acquiring and sharing information, increased accountability is enabled as all participants would need to accept responsibility for policy decisions. This would favor the idea put forth by academic observers that the missing link between decentralization and democracy is increased accountability.

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