LAND POLICY FOR HOUSING: A TALE OF TWO CITIES

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BACKGROUND AND CONTEXT
Rapid Urbanisation and Housing Backlog in Indonesia

- Urban population have reached 30% (1999) and 42% (2000), and is expected to be 50% by 2010, and 66.6% by 2035.
  - Four provinces in Java (Jakarta, West Java, Yogyakarta, and Banten Province) are estimated to be at over 80% in 2035 (Bappenas, 2013)

- Impacted the land development and housing: backlog
  - Housing backlog in Indonesia (2013) is estimated to reach 15 million units. New housing demands were 1.2 million units per year.
  - Until 2012, approximately 13 million people in Indonesia were homeless and 4 million people lived in uninhabitable dwellings
Informal and Incremental Housing Production

• The majority of housing production in Indonesia is self-help with informal and incremental processes: squatting, inheritance, purchase, and loan from family member.
  • During the last decade, the government only contributed about 200,000 units (1%), private sectors contributed 2 million units (14%), and 9.8 million units were built by the owners or self help (85%).

• Issues: illegal occupation, access to urban amenities and infrastructure, land use conflicts.
Objective

• To investigate the performance of Indonesia’s land policy system through two extreme case studies of cities experiencing high urban growth and expansion and facing environmental and local institutional constraints.
  • Semarang is an example of large cities in Java, and as a coastal area vulnerable to climate change
  • Manado form the relatively less developed eastern part of Indonesia.
LAND POLICY ISSUES
## Historical Overview

<table>
<thead>
<tr>
<th>Period</th>
<th>Land Policy</th>
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</table>
| Colonial Period (1602–1942) | - Dualism of registered and unregistered land  
|                      | - Economic interest of land                                                |
| Independence (1945 – 1959)    | - Traditional ownership *(Hak Ulayat)* was recognized                      |
| BAL (1960 – recently)           | - Modern order of land administration system  
|                      | - Freehold rights, cultivation right, building right, right to use/exploit, right to rent, land clearing right, other rights |
Land Policy:
Basic Agrarian Law (BAL) 1960

• Three competing attitudes towards the BAL
  • BAL is no longer relevant within the current political and socio-economic context because it hinders the land market to function effectively
  • BAL’s objective to protect poor agrarian households, yet it is ‘too soft’ to deal with the recent trend of commodification of land
  • With reorientation and updating, BAL can keep up with present political and socio-economic conditions in Indonesia
Land Policy:
Basic Agrarian Law (BAL) 1960

- Lack of enforcement, i.e. land abandonment
  - Land embodies economics, social, environment function → welfare, equity, and sustainability
  - At least 7 million hectares of abandoned land in Indonesia, doesn’t include individual ownership (less than 5 hectares). (BPN, 2013)
  - Sanction is poorly enforced
    - Land abandonment: criminal with a maximum imprisonment of 3 months and/or a maximum fine of Rp10,000
    - Economic /market power, urban politics → land speculation → affordability of urban land for low-cost housing
Permitting System

• Indonesia arguably has one of the most costly construction permitting and property registration processes in Asia (Monkkonen, 2013)

• All the land development permits should refer to the land-use plan

• During 1980s and 1990s land-development permit and spatial planning system in Indonesia was a top-down process
  • Exclusive right for few big developers to purchase land (Winarso and Firman, 2002).

• Issues
  • Selective or flexible enforcement used by local officials who use regulation as a means of extracting resources from land development participants – a form of rent-seeking
Spatial Planning System

- **Law 24/1992 on Spatial Planning**:  
  - Spatial plan was exclusive and can only be accessed by few stakeholders → land speculation  
  - Public participation was normative and unclear

- **Law 26/2007 on Spatial Planning**  
  - Spatial plan is more open, more participatory, and accessible for public  
  - Spatial development control is emphasized
Spatial Development Control: Lack of Enforcement

- Many cases showed that land-use plan has simply been rendered ineffective.
  - Poor urban development management, incompleteness and inconsistencies in the law and its enforcement
  - Fragmented policies and regulations regarding the use of urban land and therefore they have been inefficient, inconsistent and sometimes even in conflict with one another
  - Inadequate capacity of local government to manage the plan, particularly in the controlling and monitoring
CASE STUDY OF SEMARANG
Overview

1. Flood and rob is frequently occurred in Kelurahan Bandarharjo, Kecamatan Semarang Utara and other northern part of Semarang.

2. A high density settlement in Kecamatan Semarang Tengah with slum and unhealthy environment.

3. A riverside slum area in Kelurahan Sawah Besar, Kecamatan Gayamsari. The house is only floored by soil.

4. A photo taken from Bumi Banjar Dowo Indah, a housing estate for low-middle income people located in suburban area.

5. A housing located in landslide prone area in Kelurahan Sendang Mulyo Kecamatan Tembalang.

Sources:
Map: Bappeda Kota Semarang, 2010
Photo 1&4: field survey
Photo 2,3&5: Bappeda Kota Semarang, 2008
**Land registration practice**

- The applicants come to kelurahan office to apply for covering letter for IMB and the “letter C” (verification of traditional ownership)
  - This process may require fee of IDR 100,000 to 500,000, which is claimed as “voluntary donation”
  - This process is not required if the data has been verified
- The applicants need to submit the applications
  - Completed with proofs of ownership, declaration letters stating that the land is not in dispute, application fees, ID cards (KTP), and proofs of land and building tax (PBB) payment.
- Meet with a notary or PPAT (land certification officer) to get AJB
  - This process also might involve some additional fees, at least the consultation fee
- Next procedure:
  - The applicants submit required documents to BPN counters
  - The applicants wait for notification of land measurement and survey
  - Survey and measurement
  - BPN makes examination of both physical and juridical data
  - Announcement of land rights title
  - The applicants pay BPHTB
**Land registration practice**

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Time it takes</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document submission</td>
<td>1 day</td>
<td>-</td>
</tr>
<tr>
<td>Land measurement and survey</td>
<td>1 day (might be longer for wider area)</td>
<td>IDR 350,000 or more (depends on area size)</td>
</tr>
<tr>
<td>Mapping</td>
<td>uncertain</td>
<td>uncertain</td>
</tr>
<tr>
<td>Confirmation of data (physical and juridical)/processing</td>
<td>uncertain</td>
<td>uncertain</td>
</tr>
<tr>
<td>Announcement of certificate</td>
<td>1 month</td>
<td>• IDR 50,000 for certificate issuance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• BPHTB (taxes)</td>
</tr>
<tr>
<td>Overall</td>
<td>6 months – 1 year</td>
<td>Total IDR 1 million or more</td>
</tr>
</tbody>
</table>

**Cases example:**
- Land with an area of 300 m² via notary was IDR 5-8 millions and was completed in 1 to 1.5 years.
- It may be needed IDR 8 million for normal registration, while the fee will be only about IDR 120,000 if it is part of systematic registration projects.
Land acquisition process

**Local Government offices**
- Apply for location permit
- Apply for KRK
- Apply for IMB
- Building housing estate

**Developers**
- Buy and get HM from former landlords

**BPN office**
- Submission of required documents for land registration (HGB)
- Re-measurement and survey
- Map making
- Data checking and processing
- Bookkeeping and finishing the main HGB certificate
- Splitting HGB

**Consumers**
- Distribution/sale to consumers
- KPR paid by consumer

- Transform HGB to HM

Local Government offices把控土地征收过程，开发人员负责购买和获得HM，BPN办公室负责提交土地登记所需的文件和进行测量，最终将HGB转换为HM并出售给消费者。
Infrastructure provision

- Minister of Public Works Decree No. 20/KPTS/1986 regulates that housing developers are obliged to provide infrastructure and facilities if they have a project with an area of at least 1 hectare or planned to house at least 250 people (50 houses).
- However, in the case of Semarang, many developers search for loopholes in a way that they can legally be excluded from this obligation.
  - For example, they tend to build many projects in different locations but with much smaller scales in the form of “clusters”, consisting of only several units of houses per project location.
Overview

Slums in coastal zone (Tuminting)

House eroded by flood in Sario village

New housing bloc in the northeastern suburb (Mapanget)

Slums in the inner city (Sario)
Land price

Notes:
- Less than IDR 100,000
- IDR 100,000-250,000
- IDR 250,001-400,000
- IDR 400,001-800,000
- IDR 800,001-1,600,000
- >IDR 1,600,000

MANADO
# Land registration practice

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<tr>
<td>Administration in kelurahan office</td>
<td>1 day</td>
<td>IDR 5,000-10,000</td>
</tr>
<tr>
<td>Document submission</td>
<td>1 day</td>
<td>-</td>
</tr>
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<td>Land measurement and survey</td>
<td>1 day (plus queuing)</td>
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<td>3 months – 1 year</td>
<td>Total IDR 1-7 million</td>
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- A respondent in Sario Utara Village: IDR 5.6 million for registering a land parcel with area of 9x6 m².
- A respondent in Titiwungan Selatan: about IDR 2-3 million
- A respondent in Tuminting Selatan Village: IDR 1 million to pay the backing fee in a Prona project, whilst the fee in regular registration may up to IDR 7 million.
Land acquisition process and infrastructure provision

- Developers are forced to prepare basic infrastructure. The government did not facilitate low income housing developers in the provision of this basic infrastructure.
CONCLUSION
Conclusion

- 70% of land in Semarang has been registered in the National Land Agency (BPN), while the figure accounts for 40% for Manado.
  - Most of the registered land is located in the inner-cities but low-income people in the inner-cities still live in dense kampong (slums), in riverside or flood prone areas with unclear ownership. Some of them informally rent the land thus lack of tenure security in the long run. This situation frequently creates conflicts of ownerships.
  - Many other low- and middle-income people are forced to move out of the inner-cities into formal residential areas built by private developers in suburban areas with lack of accessibility to jobs and services, urban infrastructure and amenities.
- The land policy system has not performed effectively to enable low and middle-income urban dwellers obtain secure housing of an adequate standard – It is one of the obstacles they face.
  - At the national level, the National Land Agency (BPN) has played a central role in administering and regulating land supply in Indonesia.
  - The local BPN offices do not always follow the rules stipulated in the laws and regulations on land administration and provision.
  - People have to pay high additional costs to register their land for housing.
  - The local regulations on permit procedure can be complicated thus contributing to delay in the land acquisition process. It also encourages the developers to violate the procedure by silently acquiring land without prior completion on the permit applications.
  - Lack of institutional capacity as well as human resources has encouraged the practice of informal, if not illegal, transactions between the applicants and the officials in the land registration procedure.
Recommendations

• BPN is suggested becomes a decentralized institution
  • in order to extend land administration services, to make them closer to grassroots society and to increase transparency
• Institutional building of BPN should be focused on the local level
  • Modern infrastructure, human resource
• The reform of regulatory framework
  • Land administration and development procedures shall be made clearer but simpler and more flexible
  • Minimize unofficial and unnecessary transactions
• Nationwide programs, such as Prona, need to be integrated into long-term policy objectives and supported with quality assurance
Recommendations

- The Ministry of Housing can provide **subsidies** not only for buying home but also for securing land for housing through, for example, subsidized land registration program.

- BPN should **cooperate** with the local governments to build an integrated system of land administration and development permit procedures. “**One roof**” services for land registration and development permits can be developed.

- The land supply for housing **cannot** be entirely given to **free market** mechanism because the lowest income groups do not have an equal access to the market.
  
  - The government can cooperate with the private sectors in land banking for anticipating low income housing needs in the future.

- Vertical development is a necessary option for housing low income people in the inner city
  
  - Regular campaign; the central government should involve respective local governments from the early stages.

- If land consolidation will be promoted in urban areas, the program needs to be attractive enough
  
  - Cooperate with local governments in designing, implementing, and following-up land consolidation program; the program should be followed by infrastructure development.