Spatial land use planning in Indonesia: Pitfalls and opportunities of multi-level governance in Moluccas Province

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Spatial planning system is a public policy tool with the goal to serve as a reference for development planning and infrastructures policies and to orientate land uses.

State-run spatial planning as a threat to local right owners

Tool for Institutional coordination and multilevel governance
Research Questions

The aim of the study is to understand the multilevel nature of land use and land tenure processes in Seram, Mollucas

• What factors influence multilevel and cross-sectoral coordination of Indonesian land use planning and customary society participation?
• How do the related multilevel governance issues affect customary tenure security in Moluccas?
Methods

• Qualitative interviews with local, provincial and central government officials involved in land use planning.

• Literature review on land use planning and customary tenure right legal frameworks.
timeline of the evolution of land use planning issues in Indonesia

Old Order period (1950-1965)


Recentralization forces (2004 – 2013)

Law 24/1992 on spatial planning

Law 26/2007 about spatial planning

Centralized management of the land and natural resources, partition between sectorial ministries

Shift to a multilevel model of decision making in land use planning

Divide between forestry management and land administration

Partition of the land use planning decision making between sectorial ministries


Basic agrarian law 5/1960

Basic Forestry Law

Law 24/1992 on spatial planning

Law 26/2007 about spatial planning

Law 24/1992 on spatial planning

Law 26/2007 about spatial planning
## Coordination Issues

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<th>Indicators</th>
<th>Constraining factors identified</th>
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<tr>
<td>Procedure</td>
<td>• forest estate not mapped  &lt;br&gt;• Delay in approval by national government agencies</td>
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<td>Mapping requirement</td>
<td>• Sectoral maps, inaccurate maps  &lt;br&gt;• Divergences of data between different agencies</td>
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<td>Coordination meetings</td>
<td>• Lack of institutionalization of spatial planning coordination boards  &lt;br&gt;• Exclusion of agencies relating to those boards</td>
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<td>Community participation processes</td>
<td>• Government budget allocation  &lt;br&gt;• Uncertainties/misunderstanding re the spatial planning legal framework  &lt;br&gt;• Control mechanisms from national level  &lt;br&gt;• Trade-offs operated by civil servants for accelerating the spatial planning process</td>
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<td>Enforcement</td>
<td>• Discretionary power of regents with the prerogative of location permit issuance,  &lt;br&gt;• Propensity of sectoral institutions to follow their own agenda without referring to RTRW  &lt;br&gt;• Incentives and disincentives</td>
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### Multilevel Governance, LUP and tenure

<table>
<thead>
<tr>
<th>Type of institutional interplay issue</th>
<th>Issue expression creating the bottleneck in land use planning</th>
<th>Undesirable outcome in land use planning and land tenure mechanisms</th>
<th>Consequence on customary tenure holders in Moluccas</th>
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<tr>
<td><strong>Vertical issue</strong>&lt;br&gt; Disconnect between deconcentrated and decentralized institutions</td>
<td>Exclusion of deconcentrated agencies (BPN, BP3DAS) in LUP processes</td>
<td>Mismatches between different LUP mechanisms designed by different state actors</td>
<td>Overlapping and conflicting claims on land</td>
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<td><strong>Vertical issue</strong>&lt;br&gt; Power struggle between central and local governments</td>
<td>Recover of mining permit control by central state</td>
<td>Persistence of a unilateral centralized decision-making in LUP implementation</td>
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<td><strong>Horizontal issue</strong>&lt;br&gt; Struggle between MoF and BPN</td>
<td>Reluctance of MoF to relinquish control over the forest estate</td>
<td>BPN has no jurisdiction over forest land even when <em>de facto already</em> converted</td>
<td>Weak customary claims</td>
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Conclusion

- Legal contradictions
- LUP – vertical and horizontal tensions →
- LUP and tenure: adat not recognized
- Community participation??
- LUP – letter vs spirit of the law
Thinking beyond the canopy

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