

Land-use planning in the Moluccas

What of customary tenure security?

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Working Paper 143

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Durey L and Mwangi E. 2014. *Land-use planning in the Moluccas: What of customary tenure security?* Working Paper 143. Bogor, Indonesia: CIFOR.

Illustration by Deni Rodendo.

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We would like to thank all donors who supported this research through their contributions to the CGIAR Fund. For a list of Fund donors please see: <https://www.cgiarfund.org/FundDonors>

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Table of contents

Acknowledgments	iv
1 Introduction	1
1.1 Context	1
1.2 Problem statement	1
2 Materials and methods	3
3 Spatial planning and tenure security in the Moluccas	5
3.1 A brief history of land-use planning in Indonesia	5
3.2 Unpacking institutional coordination throughout the spatial planning process	6
3.3 Multilevel governance and outcomes for land tenure security in Maluku	8
4 Discussion: Complexities in land allocation underlying spatial planning	12
4.1 Effectiveness of land-use planning	12
4.2 Conflicts in land-use planning	12
4.3 Integration in land-use planning	12
4.4 Citizen and community participation in land-use planning	12
4.5 Land-use planning and land tenure	13
4.6 Recommendations	13
5 Conclusion	14
6 Appendices	15
1 Decentralized and centralized government agencies involved in land-use planning in Indonesia	15
2 Recommendations to address constraints on the quality of coordination in land-use planning in Indonesia	16
7 References	18

Acknowledgments

We thank all the interview respondents for giving up their time to make our work on this study possible. We are also grateful to the field assistants in our field work in Maluku.

1 Introduction

1.1 Context

Governments use spatial planning as a public policy tool, in a “statutory system for regulating development and the use of land” (Jay 2010, 494). In practice, a spatial plan serves as a reference for development planning and infrastructure policy and for planning land uses. The value of spatial planning is that it enables governments to record the different land uses in an area, such as forest, industry or agriculture. Although much research has examined planning in developed countries, the connection between spatial planning and customary land tenure in developing countries is an emerging empirical field that merits greater research attention in development studies.

Planning is distinct from other professions in that it claims to serve the public interest alone (Jacobs and Paulsen 2009). The aim of government land-use planning is to foster regional development by distributing resources and services to residents, without harming local rights (Fürst et al. 2013). However, striking a balance may prove difficult, as Moeliono (2011, 23) noted:

Spatial management is an umbrella concept encompassing the formation and implementation of law and policies pertaining to land-use. It involves such issues as regulating access to land, the maintenance of tenure security, and the balancing of various and sometimes conflicting interests in land use.

Several authors have presented state-run spatial planning as a threat to local right holders in both developed and developing countries. For example, land administration systems and titling programs may ignore and threaten the land rights of rural marginalized groups in Africa (Cotula et al. 2004) and Jacobs and Paulsen (2009) argued that US government planning weakens property rights. Therefore, the question of whether government planning and land administration can strengthen or weaken tenure security needs further exploration.

Many studies of natural resource management in Indonesia emphasize the link between forest

governance and community tenure in areas with high deforestation, such as Borneo or Sumatra (e.g. Barr et al. 2001; Djogo and Syaf 2004; McCarthy 2004; Contreras-Hermosilla and Fay 2005; Levang et al. 2005; Wollenberg et al. 2006, 2009; Colchester et al. 2007; Gunarso et al. 2007). In this study, we present results from the Moluccas, a remote archipelago on the periphery of eastern Indonesia. The Moluccas comprise 1027 islands and almost 1000 forest-dwelling and coastal communities (Topatimasang 2005). In contrast to other forest communities in Indonesia, the customary rights of traditional inhabitants in the Moluccas are recognized in regional laws.¹ The Moluccas lag behind Java, the central part of the country, in development, economy and infrastructure. Major sources of livelihoods are swallow farming and fishing (Sevin 2000). Throughout the region, communities are connected to their land and govern their tenure collectively through customary legal regimes (Topatimasang 2005).

1.2 Problem statement

The design of spatial plans in Indonesia is governed by Spatial Planning Law No. 24/1992 (amended by Spatial Planning Law No. 26/2007), which was preceded by the city planning framework. Despite requirements laid down by the law, the use of spatial plans in Indonesia has not resolved the problem of high deforestation. For example, a 2003 report by the Ministry of Forestry stated that “annual deforestation rates of over one million hectares persisted over the past ten years and the installed capacity of the wood processing industry continues to exceed by far the sustainable annual level of extraction” (Contreras-Hermosilla and Fay 2005, 5). In addition, customary tenure rights and state legal rights in Indonesia overlap. The National Land Agency (BPN) initiated a land titling program but lacks the resources to complete it (Durand 2000), especially in isolated regions such as the Moluccas.

¹ Personal communication with a socioforestry lecturer at Pattimura University, 24 June 2011

Deforestation in the Moluccas is low, but multiple pressures on land threaten customary livelihoods, and Indonesian land administration mechanisms might not be able to deal with these pressures. First, the central government has conducted a massive colonization program settling Javanese transmigrants in the Moluccas since 1905 (Sevin 2000). This influx of migrants and their different culture has jeopardized peace, as evidenced by the civil war from 1999 to 2002 following religious tensions between Muslim transmigrants and indigenous Christians. Second, the Moluccas are increasingly attracting external investors. In particular, gold, nickel, coal and copper deposits under the forest have attracted mining companies such as the Australian corporation Newcrest Mining Ltd. (Wilson 2005). Interest in converting forest to oil palm plantations is also growing. Deddy Ratih, campaign manager for Indonesian Forum for the Environment (Wahli), was quoted in the *Jakarta Post* in 2011 as saying that “there are three oil palm plantation companies that are requesting licenses to operate in Moluccas.” Generally, even though spatial planning in Indonesia has the potential to secure local rights, scholars hold reservations about whether this potential can be realized (Moeliono 2011). A compounding issue is the effect of multiple layers of government actors and administrations on local smallholders’ tenure security.

The aim of this study, therefore, is to understand the multilevel nature of land use and land tenure in Central

Maluku Regency in the Moluccas. We examine what aspects of land-use planning are clearly linked across governance levels (and why), and how that linkage affects implementation and decision making. We also look at the relationship between land-use planning and tenure security of customary communities in Central Maluku Regency.

Our research questions are as follows:

- What factors influence multilevel and cross-sectoral coordination of Indonesian land-use planning and participation by customary communities?
- How does multilevel governance affect the security of customary tenure in Central Maluku Regency?

We hypothesize that where land-use planning policies and regulations across sectors and governance levels are inconsistent and/or contradictory, implementation and decision making are likely to be slow, lack integration and be ridden with conflicts. In these cases, land-use planning will be ineffective and unlikely to achieve the objectives of improving community participation and tenure securitization. The purpose of this hypothesis is not to demonstrate failure in providing public services but rather to understand better the complex governance processes that link planning and tenure.

2 Materials and methods

In this study, we use the concepts developed by Young et al. (2008) on environmental governance and institutional interplay. We investigate the role of different actors in different institutions, where ‘institution’ is defined as “a cluster of rights, rules, and decision making procedures that give rise to social practices, assign roles to participants in these practices, and guide interactions among the occupants of key roles” (Young et al. 2008, XXII).

Institutions react to each other in an environment, shaping the institutional interplay, which in turn influences the way spatial planning is conducted and the outcomes for local tenure security:

Institutional interplay occurs when the operation of one set of institutional arrangements affects the results of another or others. Given the rapid growth of institutional arrangements at every level of social organization, interplay is an increasingly common occurrence, one that can produce positive as well as negative results for environmental governance (Young et al. 2008, XVI).

As institutional interplay occurs at and between different levels of governance, we use the term ‘multilevel governance’ to mean “governance that

operates at two or more levels of social organization” (Young et al. 2008, XXII).

Because our object of study is the process by which government institutions make spatial plans, we chose to analyze the concept of institutional coordination. Researchers have adopted various approaches to this topic. In some studies, coordination was defined in contrast to collaboration in between individual actors. This view holds that institutions that seek a common outcome must eschew individualistic behavior and create a collective regime in order to avoid undesired outcomes (Stein 1982). That is, ‘coordination’ refers to the behavior necessary to avoid common undesirable outcomes whereas ‘collaboration’ refers to the behavior that actors adopt to solve a problem of common interest (Stein 1982). This conceptual divide between coordination and collaboration is found in Young’s (2006) framework. In this study, we developed a set of indicators to assess how institutional coordination operates in practice (Table 1).

We reviewed all relevant laws, decrees and government documents to understand the rules and modalities of land-use planning and spatial planning as carried out by Indonesian governments. We then used a process-based approach to

Table 1. Indicators used to address research questions.

Variable	Indicators	Data collection
Quality of coordination between and within government agencies	<ul style="list-style-type: none"> • Functioning of coordination mechanisms (frequency of meetings, meeting attendance, interinstitutional communication and exchange) • Interagency conflicts (type and number of conflicts, conflict resolution) • Level of correspondence between land-use maps • Community participation (quality and type of community participation, representation, number and type of projects, when communities are involved, nature of community involvement, constraints on community involvement, monitoring and evaluation for community projects) • Enforcement of decisions in land-use planning instruments • Achievement of steps in spatial planning 	<ul style="list-style-type: none"> • Literature review • Analysis of policies and regulations • Archives (e.g. meeting minutes, conflict files, etc.) • Quality of inventories completed (number, area covered, team size and formation, quality of technical knowledge, quality of tools) • Interviews and observations

examine the literature on land-use planning in Indonesia to understand recent institutional and political pathways.

Using the findings from this preliminary exploratory literature and documentation review, we mapped all the government institutions involved in land-use planning, whether as the authority overseeing the spatial plan or as stakeholders. We conducted semi-structured interviews with key civil servants in the National Development Planning Board (BAPPENAS), the Regional Development Planning Board (BAPPEDA), BPN (land tenure agencies), legislative assemblies and government departments responsible for public works, forestry, agriculture, environment, transmigration, mining and mineral energy, watershed management, and national parks. In total, between 19 May and 15 August 2011, we conducted 40 interviews at three administrative levels: the national (central state) level in Jakarta, the province level in Ambon (Maluku Province) and the regency level in Masohi (Central Maluku Regency). We also reviewed land-use and spatial

plans produced by government agencies at these three governance levels.

Each interview covered three categories of questions. The first category aimed to identify which factors strengthen or weaken institutional coordination in the governance of land-use planning. The second category of questions looked at the interplay between actors and possible divides and overlaps between agencies' responsibilities. The third category of questions concerned how civil servant perceptions may affect negatively or positively their behavior in promoting community and civil society participation in land-use planning and forest management. These questions allowed us to delve deeply into the mechanisms of land-use planning, approaches to local tenure and community participation, and the factors that influence the implementation of these aspects of land-use planning. Each interview was transcribed and results were grouped according to the themes of interest to this study, namely interagency coordination, multilevel linkages, community participation and customary rights.

3 Spatial planning and tenure security in the Moluccas

3.1 A brief history of land-use planning in Indonesia

The literature reveals several contradictory elements in Indonesia’s legal frameworks for spatial planning and forestry planning as a result of forest estate delineation in the 1980s. At the time, forest boundaries were set based on desk studies, and the materials available at that time were considerably less sophisticated than the remote-sensing technology in use now (Contreras-Hermosilla and Fay 2005). Consequently, much of the land designated as the forest was not actually forested, with much of it under other uses, such as community settlements. To resolve that problem, in 1997, the central government launched a process known as *Paduserasi*, to achieve harmonization between regional development planning boards and Ministry of Forestry plans. In the end, regional governments had to recognize the Ministry of Forestry’s jurisdiction over state forest land (Moeliono 2011).

However, the ministry’s control of officially designated state forest was temporary because the Basic Forestry Law No. 5/1967 required the Ministry of Forestry to undertake field investigations to

gazette the status of the land and exclude from the domain any land under other land uses (including customary use). However, “forest gazettement has been extremely slow, leaving the legal status of almost 90% of Indonesian forests unclear” (Colchester et al. 2007, 65). This suggests that the Ministry of Forestry tended to continue to hold its monopoly over forest land for decades, preventing the BPN from carrying out its duties (see Figure 1).

The Ministry of Forestry’s historical stranglehold over a large part of land in the Moluccas is embedded in a history of power struggles between the central government and the regions. After Dutch colonization, Indonesia’s central Java-based government maintained strong control over the natural resources in the archipelago’s outer islands, including the Moluccas. The Suharto regime (1965–1998) maintained this control, using the village government law (Law No. 5/1979), which imposed a regional and village government structure and allowed the central government to exert control over the outer islands (Safitri and Bosko 2002). The structure was reinforced by the military, which was a major forestry concessionaire and generated a large proportion of its revenue from forestry (Patriat

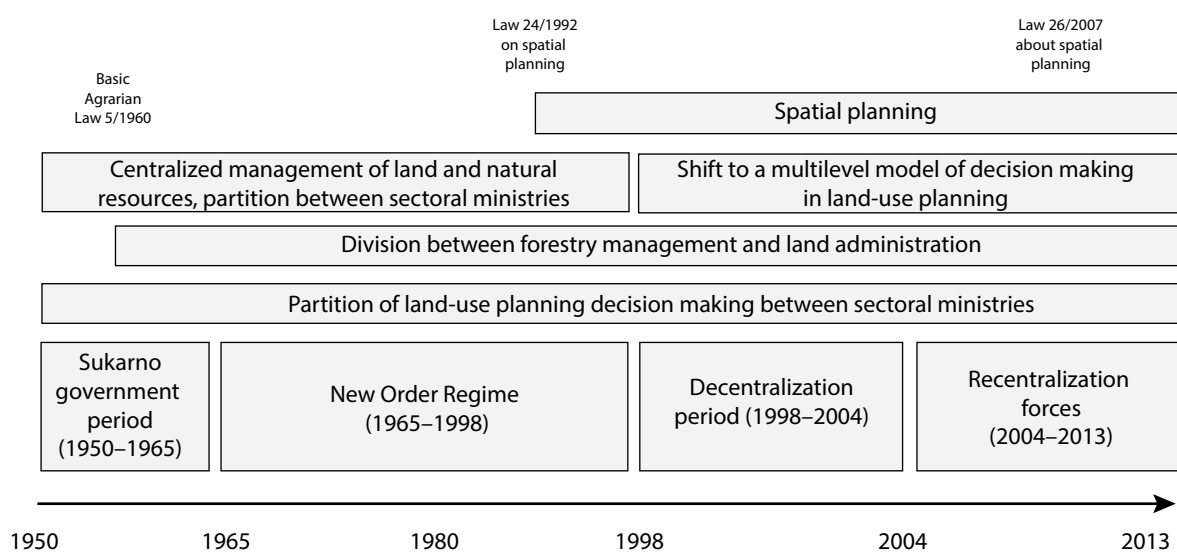


Figure 1. Evolution of land-use planning in Indonesia from 1950 to present.

Source: Authors’ elaboration

2007). This centralization of control substantially weakened local political structures.

This power configuration lasted until decentralization reforms were introduced in 1999 following the fall of the Suharto government. For the first time, this political change created multilevel governance in land-use planning and opened up new channels for community participation and recognition of local rights, although it also often led to natural resources depletion (McCarthy 2004). Indeed, regency governments benefited from this sudden power over natural resources and land and set about rapidly generating revenue through forest exploitation.

However, after several years of decentralization and consequent natural resource exploitation, the central state reacted by reclaiming a level of control over the regencies, returning to upward accountability in land-use and spatial planning from the regencies to upper levels of government. The turning point came in 2004, when the Ministry of Forestry introduced a law (Law No. 32/2004) that reduced regional autonomy and recentralized several powers in natural resource management. The ministry also abrogated several regional laws and displaced some communities and local actors from their concessions (Djogo and Syaf 2004). Implementing rules for the 2001 Forestry Law, such as Government Regulation No. 34/2002, revoked previous decrees that had allowed regencies and provinces to issue permits for forest exploitation (Obidzinski 2004 in Wollenberg et al. 2006). Recentralization was also practiced by the mining ministry, which exerted a new level of control over mining permits issued by regencies. These trends lend some support to our hypothesis that land-use planning in Indonesia is multilevel in nature and ridden with conflict. They show that the lack of institutional coordination in spatial planning in the Moluccas is rooted in the presence of numerous inconsistencies in legal frameworks and struggles over land between levels of government and sectors (see Appendix 1).

Indonesian land-use planning is also historically marked by strong sectoralism. The Suharto government passed sectoral laws for forestry, mining and others that ran counter to the principles in the Basic Agrarian Law of recognition of customary rights (Di Gregorio 2006). However, this sectoral approach to natural resource management, although strengthened by the Suharto regime, was in place during Sukarno's presidency (1950–1965). The institutional setup during that period encouraged

fragmentation in land-use planning and natural resource management, as each type of natural resource (oil, gas, forests, mineral deposits) was given its own ministry with the power to make laws for its sector, with the aim of supporting state development goals (Moeliono 2011).

This brief process of reviewing the context of land-use planning in Indonesia connects several multilevel and sectoral issues stemming from ambiguities and contradictions in legal frameworks. The manifestation of these issues is analyzed in the following section.

3.2 Unpacking institutional coordination throughout the spatial planning process

The most recent Indonesian law on spatial planning (Law No. 26/2007) requires national, provincial and regency governments to make their own spatial plans through their development planning boards (known as BAPPEDA). Importantly, it specifies that lower administrative levels must adhere to the content of spatial plans made by higher administrative levels and must involve local civil society and stakeholders in the planning process.

The legal framework for spatial planning, developed primarily by the Ministry for Public Works, also provides a legal protocol for regional governments for creating their own spatial plans (see Box 1). At each level of governance, the state agency responsible for each sector related to land-use planning takes a seat on a coordinating board. Private consultants contracted by the development planning board complete the spatial plan. The process must involve government agencies and civil society in at least two public workshops, as a minimum legal requirement (Decree PU No. 15/2009); other means of facilitating civil society participation are mentioned but they are not compulsory. Law No. 26/2007 requires regencies and provinces to establish a coordination board tasked with bringing together sectoral agencies to discuss and approve the spatial plans. The aim of this board is to ensure that all government actors involved in land-use policies are also involved in spatial planning. Once a regional spatial plan has been completed, it must be approved by the National Spatial Planning Coordination Board (BKPRN), the Ministry of Forestry, the Ministry of Public Works and the Ministry of Home Affairs.

Box. The spatial planning legal framework

The legal framework includes:

- Law No. 26/2007 on spatial planning;
- Presidential Decision No. 62/2000 on national spatial planning coordination;
- Home Affairs Ministry Regulation No. 147/2004 on regional spatial planning coordination;
- Law No. 25/2004 on the national planning system; Decree (*peraturan pemerintah*);
- PU No. 15/2009 on provincial spatial planning;
- Home Affairs Ministry Decision No. 50/2009 on regional spatial planning coordination;
- Decree (*peraturan pemerintah*) No. 15/2010 on implementation of spatial planning.

It can then be introduced in the regional legislative assembly for voting and enactment as a regional law (*peraturan daerah*).

Government agencies must adhere to the spatial plan when considering applications from investors for permits to convert land to another use (Government Regulation No. 38/2007). The head of the regency (the *bupati*) has the authority to issue such permits; where the land in question crosses regencies, the authority is passed to the governor of the province. The law also sets out a system of incentives and penalties to influence land-use decisions, including taxes or jail terms for violations. In addition, boundaries and land categories set out in the spatial plan must be aligned with the forest estate and its forest management units as established by the Ministry of Forestry. To complement the spatial plan itself, land-use planning in Central Maluku Regency includes a special investment planning tool called KAPET Seram (Integrated Economic Management Zone) managed by an agency in Maluku Province. This tool is used to assess economic activities, thus creating a potential mechanism for enhancing rural livelihoods in Seram and facilitating the entry of investors into the region.

Our analysis of the interview responses and spatial plans collected during the fieldwork revealed many inconsistencies between government institutions across spatial planning mechanisms. First, we found that the legal protocol set out in recent spatial planning laws and decrees had been bypassed in several ways. In both Maluku Province and Central Seram Regency, spatial planning procedures took much longer than the time limit legally allowed. In particular, the Home Affairs Ministry and the Ministry of Forestry run over the legal time limit allowed for the step of reviewing the spatial plan at national level. Also slowing down the process is the requirement that changes to designation of

the forest estate must be made before spatial plans can be passed as regional laws. We were not able to obtain the minutes for several of the compulsory coordination meetings.

Second, discrepancies were observed between land-use plans. For example, the most recent annual report for the Seram economic development zone contains contradictions in its data on the area of forest units in the Central Maluku Regency spatial plan. We also noted that several government agencies used maps that differed from the legal maps in the spatial plan, which must be aligned with those of the National Coordinating Agency for Surveys and Mapping (Bakosurtanal).

Third, several ambiguities were identified in the legal and actual functioning of the regency spatial planning coordination board. The provincial spatial planning coordination board appeared to be operating well, although it did not involve the KAPET management agency.

Fourth, the local spatial planning processes made little allowance for community participation, as promoted by the central government. It is not clear from the laws how many public consultations a subnational government must hold to meet the requirement for civil society participation. The regency government sought almost no civil society participation, citing a lack of public funds, and did not run a public awareness campaign on the spatial plan (a process of transparency called *socialisasi*), even though this is a legal requirement for spatial planning. Although a few public consultations on the new spatial plan were held, customary chiefs and private sector representatives did not attend. Furthermore, there was no monitoring of this process when the regency spatial plan was submitted for approval at national level. Rather, national government officials that we interviewed said it

Table 2. Constraints affecting the variable 'quality of coordination'.

Indicators	Constraints
Achievement of steps in the spatial planning process	<ul style="list-style-type: none"> • Inadequacies in forest maps and requirement to resolve inaccuracies before a regional spatial plan can be passed into law • Delays in national-level reviews of proposed spatial plans
Level of correspondence between land-use maps	<ul style="list-style-type: none"> • Lack of formalization of spatial planning maps because each sector continues to make or use its own maps • Discrepancies in data held by decentralized agencies
Realization of coordination meetings on spatial planning	<ul style="list-style-type: none"> • Lack of institutionalization of spatial planning coordination boards • Exclusion or failure to inform some decentralized agencies that should be represented on those boards
Effective community participation processes	<ul style="list-style-type: none"> • Government budget allocation • Ambiguities in the spatial planning legal framework • Monitoring mechanisms at national level • Trade-offs by civil servants to expedite the spatial planning process • Misunderstandings of the legal framework by regional actors
Enforcement of decisions set out in land-use planning instruments	<ul style="list-style-type: none"> • Reluctance of private actors to learn about and comply with the spatial plan • Discretionary power of regents to issue permits • Tendency of sectoral institutions to follow their own agendas without referring to the spatial plan • Impossibility of implementing incentives/penalties or detailed zoning tools as long as the local spatial plan has not been passed into law

Source: Authors' elaboration

was of greater urgency to expedite regional spatial planning than to ensure community participation. Overall, local governments have few processes to strengthen community participation as members of the public are rarely involved in government projects in the region.

Finally, we found that actors in the region are unlikely to adhere to the spatial plans, because local governments lack the means to implement incentive and penalty schemes and because stakeholders tend to follow their own agendas without referring to the spatial plan. Nevertheless, the interviews revealed that regents wield a lot of authority for issuing land-use permits, which creates the risk that spatial planning will favor the interests of any parties that have an influence over the regent.

Our empirical study of the spatial planning process in Maluku revealed weaknesses in coordination between the actors involved. These features of institutional interplay hamper the enforcement of spatial plans, compromise the integrity of the process and hinder efforts to engage the public.

3.3 Multilevel governance and outcomes for land tenure security in Maluku

Inconsistencies in spatial planning in Maluku are leading to weaknesses in tenure security, revealing several major constraints related to multilevel governance.

In one case, the deputy director for land-use management in BPN said in an interview that regents sideline her agency when issuing land-use permits, and that regents do not seek advice from experts at BPN, even though BPN is supposed to undertake a field investigation before investments are made.² This can have negative outcomes for local tenure security. For example, it is likely that a permit to develop a 300 ha oil palm plantation in Central Maluku Regency was issued without consulting BPN. Indeed, BPN claims that this project encroaches on Manusela National Park and on a transmigration settlement already land titled. This is an example of a causal relationship between weaknesses in multilevel governance and weakening

² Interview, 29 July 2011

of local tenure security resulting from overlapping claims to the same land (Table 3).

Another example of the ongoing power struggles in Central Maluku between local government agencies and national government agencies revealed in the interviews concerns watershed management. The Watershed Management Agency (Badan Pengelolahan Daerah Aliran Sungai, or BPDAS) sought to undertake spatial planning based on the geographic positioning of watersheds. To strengthen this initiative, it created the Regional Watershed Forum (Forum Daerah Aliran Sungai, or FORDAS). The BPDAS, which reports to the Ministry of Forestry, met with resistance from local government officials when seeking to apply its guidelines for integrated watershed management. This disconnect between the BPDAS, a deconcentrated agency, and the decentralized agencies³ is further illustrated in the interpretation of watershed management rules in Article 18 of the Forestry Law (No. 41/1999), which states that at least 30% of every watershed should be under forest cover. During the interviews, officials in the BPDAS claimed that the 30% forest cover is based on the watershed boundaries, whereas local officials maintained that it is based on administrative boundaries.⁴ Government officials even distinguish themselves as ‘vertical agents’ (*orang vertikal*) and ‘autonomy agents’ (*orang otonomi*), referring to the type of agency — deconcentrated or decentralized, respectively — to which they belong.⁵

This tension between centralism and regional autonomy in spatial planning also appeared in the mining sector. Law No. 4/2009 requires regencies to obtain authorization from the Ministry of Energy and Mineral Resources for any new mining activities in their region. A respondent in the regency mining agency criticized this law, on the grounds that the

3 There is a fundamental difference between deconcentrated and decentralized agencies in Indonesia. On the one hand, “de-concentration is the transfer of authority from the central level to provincial governors or to local branches of central government institutions” (Djogo and Syaf 2003, 2). On the other hand, the decentralization process is “the transfer of management from center to the regions” (Djogo and Syaf 2003, 2). Importantly, the two types of agency are funded by different budgets.

4 Interview with the Head of Land-use Planning, Maluku Bappeda, 10 August 2011, interview with staff in inventory and forest management of the regency forestry agency, 11 August 2011; Bappeda report, 2009

5 Interview with the Head of the Watershed Program, BPDAS, 15 August 2011

regency should retain the authority in order to make investment in the region easier.⁶

Finally, another issue in governance that stems from the institutional interplay between sectors is that the Ministry of Forestry and other national and subnational agencies involved in land-use planning delay or otherwise hinder the spatial planning process. Interviews revealed that the Ministry of Forestry tends to be reluctant to gazette land, as required by Decree No. 415/1999, in order to avoid relinquishing parts of the forest estate. In addition, in an interview, the head of the Maluku forestry agency reported that the provincial transmigration agency did not apply to the Ministry of Forestry for a change in status to the land used for transmigration settlements in Central Maluku Regency. Hence, the land passed *de facto* into the jurisdiction of the transmigration agency although it remains *de jure* under Ministry of Forestry authority.⁷ This has been the case with the Sari Putih and North Seram transmigration settlements since they were established during the 1980s.⁸ As a result, BPN is unable to issue land titles to the transmigrants, because its agents must continue to wait for approval from the Ministry of Forestry to change the land status.⁹ This situation also reveals the competition between BPN, which governs agricultural and urban land, and the Ministry of Forestry, which governs the forest estate, because of overlaps between their jurisdictions.

Another example was in 2011 when the Central Maluku government requested a change in status to forest land as part of its spatial planning. Presumably, the aim was to exclude customary settlements from the forest estate and bring their land under the jurisdiction of BPN. Through this change in land category, villages would have been able to receive land titles from BPN, and hence recognition of their tenure. However, the area that the regency government proposed for a change in status contained very few settlements. As a result, more

6 Interview with the Head of Geology, regency ESDM, 11 August 2011

7 Interview with the Head of Planning, Provincial Forestry Agency, 20 May 2011

8 Interview with staff in the Inventory and Forest Management Division of the Regency Forestry Agency, 11 August 2011; interview with the Head of the Provincial Transmigration Agency, 9 August 2011

9 Interview with the Head of Measuring, Cartography and Mapping, provincial BPN, 24 June 2011

Table 3. Examples of weaknesses in multilevel and trans-sectoral governance of land-use planning and land tenure.

Type of institutional interplay	Examples of how weaknesses hamper land-use planning	Undesirable outcomes for land-use planning and land tenure	Consequences for customary land owners in Maluku
Vertical coordination: Disconnect between deconcentrated and decentralized institutions	Exclusion of BPN (deconcentrated agency) by regency government when issuing land-use permits	No field investigation conducted when issuing permits for investors	Overlapping claims on customary land between investors and customary land owners, leading to conflicts
	Exclusion of watershed management agency (deconcentrated agency) from regency-level land-use planning	Reduced integrity of land-use planning, no consideration of watersheds in spatial plan	May be detrimental to community livelihoods generally
	Lack of involvement of deconcentrated agencies in regional spatial planning	Discrepancies between land-use planning mechanisms designed by different state actors	Conflicting claims on land
Vertical coordination: Power struggle between central and local governments	Central government's recovery of control over mining permits	Persistence of unilateral centralized decision making in land-use planning	–
Horizontal coordination: Power struggle between Ministry of Forestry and BPN	Reluctance of ministry to change the status to forest land	Impossibility for BPN to manage land that remains under Ministry of Forestry jurisdiction but has been converted to other uses	Under the formal law, customary land owners are in state forests illegally and lack the legal support or means to deal with conflicts with private sector

Source: Authors' elaboration

than 100 villages were left under the jurisdiction of the Ministry of Forestry. According to the Deputy Director for Land-use Management of BPN, this issue is not specific to Maluku: more than 2000 villages across Indonesia are in the same situation.¹⁰ As a result, the customary rights of communities living in forested areas in Central Maluku are subordinate to the legal rights of the Ministry of Forestry. Villagers cannot regularize any activity in or around their territory because that land is officially designated forest land and they cannot obtain permits from BPN to change its use.¹¹

This refusal by the Ministry of Forestry to share its authority over forest land is also evident in its practice of retaining discretion for determining forest boundaries. The boundaries between forest land

and community land in Masihulang and Sungai Irsal, on the island of Seram, for example, must be redrawn on forest maps.¹² Although the main stakeholders, such as communities and BPN, are consulted for this process, the final decision rests entirely with the provincial agency responsible for determining forest boundaries, which comes under the Ministry of Forestry.¹³ As a result, sectoral rivalry prevents the BPN from regularizing the tenure of local communities in Central Maluku and allows the Ministry of Forestry to retain its authority over forest land even where the land has other uses (Table 3).

Finally, the examination of coordination meetings between government officials did not reveal any interagency conflicts concerning land use categorization.

¹⁰ Interview with the Deputy Director for Land-use Management, national BPN, 29 July 2011

¹¹ Interview with Deputy Director for Land-use Management, national BPN, 29 July 2011

¹² Interview with Head of Forest Resources Inventory, BPKH, 9 August 2011

¹³ Interview with Head of Forest Resources Inventory, BPKH, 9 August 2011

In sum, our research revealed both vertical and horizontal frictions between institutions in land-use planning. The vertical tension — between institutions accountable to regency governments and institutions accountable to the central government — affects several aspects of land-use planning and

their outcomes for local tenure security. Those elements, which reveal the multilevel nature of land-use planning governance, have direct and indirect impacts on the tenure security of local communities in Maluku as summarized in Table 3.

4 Discussion: Complexities in land allocation underlying spatial planning

4.1 Effectiveness of land-use planning

Our results suggest that spatial planning in Maluku is imperfectly conducted and has little effect on how land is actually used. We presented several examples indicating that Indonesia rarely enforces spatial plans, at least in the Outer Islands. Our findings echo those of other studies in Indonesia that reveal evidence of the ineffectiveness of spatial plans at regional and local levels (Wollenberg et al. 2006). This analysis also suggests that spatial plans remain only a minor component of larger land-use planning policies, and whether or not actors adhere to spatial plans is affected by the conflicting interests between stakeholders, which are embedded in deeper dynamics.

4.2 Conflicts in land-use planning

Land-use planning is a highly politicized field and hence its institutionalization and enforcement are controversial by nature. For example, a study in Laos found that spatial planning is subject to the national interest in replacing swidden agriculture with large, foreign agribusiness investment projects (Lestrelin et al. 2012).

Although spatial planning officials in Maluku appeared to take a purely procedural, technical and non-political approach to spatial planning, we found that, in practice, decision making involves more conflict than they admitted. Although ministries tacitly agree upon spatial plans, it appears that government actors do not negotiate land planning or boundaries during this process. In practice, spatial planning in Indonesia appears to follow the model of BATNA, or Best Alternative To a Negotiated Agreement (Susskind and Cruikshank 1987 cited in Saarikoski et al. 2013) although this varies with the land-use change in question. That is, there is no holistic or integrated approach to decisions on land use. Rather, decisions over land use are influenced by tensions fueled by power imbalances between actors, that is, “The overall LUP [land-use planning] system is entangled in conflicts of interest and power struggles, as a growing diversity of actors support different views and planning initiatives” (Lestrelin

et al. 2012, 597). Furthermore, as Jacobs (2003) pointed out, the historical, economic and political context shapes the degree of political autonomy of local governments and therefore the distribution of power in decision making. In practice, despite decentralization in Indonesia, the differential between local communities on the one hand and the government and private sector on the other hand remains highly relevant for understanding power configurations (Gunarso et al. 2007). This interplay involves local collusion, resistance and the use of political resources by competing actors (Lestrelin et al. 2012). The multilevel and sectoral issues revealed in our fieldwork are the products of those power imbalances within the land-use planning process.

4.3 Integration in land-use planning

Land-use planning in Maluku turned out, in practice, to reflect few of the principles of Integrated Land Use Management for Sustainable Development (Enemark 2004 cited in Mitchell 2009), which connects land policies (in ministerial programs) and land data with land-use management by regional spatial planning institutions in order to achieve sustainable development. Rather, land-use planning in Maluku lacks integration, as seen in the disconnect between spatial planning, land administration, land data, watershed management and other elements of land-use planning.

4.4. Citizen and community participation in land-use planning

Our findings reveal a contradiction between the prominence of public participation in Indonesia’s spatial planning legal framework and the total absence of civil society from spatial planning in Maluku. Participation by stakeholders in socio-forestry policies depends on both the presence of controversies and the modalities of participation (Luckert 2005). Although public participation is widely acknowledged as necessary for development policies, researchers are increasingly criticizing the way nongovernmental organizations (NGOs) and government officials use it in discourses

(Contreras 2000). For example, Contreras (2000, 145) claimed that, for these groups, participation and empowerment are only “adjunct strategies to mainstream development”. Yet the question of whether including the public in spatial planning is a valid approach is also subject to debate among political scientists: “whether or not citizen participation contributes to democratic citizenship and democratic decision-making remains questionable” (Michels and De Graaf 2010, 486). However, involving community members in spatial planning decisions that will affect their villages is a different matter from involving the public in policy debates, as villagers have a legitimate claim on the process, given what is at stake for them. Therefore, we argue that local governments in Maluku should include more interest groups in spatial planning, including agribusinesses, local communities, mining companies and transmigrants. This reluctance on the part of governments within Indonesia to fully engage the public in land-use planning may reflect the country’s resistance to the ‘destatisation’ paradigm, under which non-Indonesian organizations have imposed their own approaches on Indonesian processes since the adjustment programs of the 1980s (Olivier de Sardan 2009). The Indonesian case thus differs from other countries such as Kenya, where there is a tendency for NGOs to replace the government in some aspects of governance (Brass 2012). However, this approach by government weakens the legitimacy of spatial plans in Maluku, because of the neglect both of local actors and of institutions that were not included in the spatial planning process.

4.5 Land-use planning and land tenure

We identified several elements that suggested that Maluku’s spatial planners did not consider communities’ customary tenure. This reflects a more general tendency among planners to secure the property rights and interests of elite groups, as pointed out in other studies, even while maintaining a discourse on public interest (Jacobs and Paulsen 2009). This is also linked to the historical rootedness of Indonesian spatial planning in city planning, as, according to a case study by Mitchell (2009), town planners generally have little interest in environmental protection. The behavior of officials and civil servants in this regard might be based on deep cognitive and societal aspects, which deserve further examination.

The lack of enforcement of spatial plans in rural areas means that spatial planning in Maluku has less effect on communities’ tenure security than other forms of land-use planning, particularly forest management, which means that customary rights continue to receive little recognition in practice, despite recent strengthening in the law. In addition, the articulation between regents and government agencies in issuing land permits in Maluku highlights the importance of local government in regulating patterns of land use between companies and communities (Fox and Castella 2010 cited in Lestrelin et al. 2012). At the same time, Indonesian planners claim to be working in the public interest. We therefore recommend, as Jacobs and Paulsen (2009) did for other contexts, that Indonesian planners assess the consequences of enforcement of a spatial plan for different groups’ tenurial rights, with the aim of preventing social conflicts. In all cases, if planners in Maluku gained a deeper understanding of customary tenure systems, they would be better able to introduce compensation schemes to ensure investors that use customary community lands do so in a fair and responsible way, as recommended by Palmer (2011).

4.6 Recommendations

Our results show that authority for land-use planning is fragmented and scattered across a myriad of actors in the government. Rather than opting for a simplistic recommendation, such as increasing or reducing government centralism, we recognize that land-use planning for community tenure rights must take place through a set of nested, polycentric institutions (Ostrom and Cox 2010). This approach could help maintain a balance between a defensive central state and a prospective decentralized government administration (Andrews et al. 2009). Therefore, we recommend that actors seek to build a strong partnership between the levels of government involved in land-use planning, as also suggested by Dyckman and Paulsen (2012). Such a partnership would foster stronger institutional coordination by encouraging the development of relationships between stakeholders, taking into account both the vertical and horizontal dimensions of institutional interplay (Nunan et al. 2012). However, this step will be effective only if the ambiguities and contradictions in land-use planning and tenure laws are resolved.

5 Conclusion

In this study, we shed light on the linkages between ambiguities and contradictions in land-use planning laws, institutional bottlenecks in spatial planning and the outcomes of current processes for customary tenure security, in the context of a developing country. To do this, we analyzed legal frameworks and the literature and then conducted interviews with government officials at different administrative levels involved in spatial planning in Maluku in Indonesia.

The results show that the broader political configuration is a major determinant of the quality of institutional coordination across levels and sectors for achieving spatial planning objectives. This political context includes tensions and power struggles — if not conflicts — over the distribution of authority over land-use planning between the central state and the periphery. Understanding these dynamics is extremely important when diagnosing the quality of institutional coordination for spatial planning.

Another aspect that emerged was the failure of spatial plans to consider the interests of forest-dwelling communities, whose tenure security relies more on forestry management than on spatial planning.

Nevertheless, the interviews revealed that regional spatial planners generally followed the protocol designed by the Public Works Ministry, with the exception of some delays. In addition, despite the disconnect between decentralized and deconcentrated agencies, provincial and regency sectoral agencies attended coordination meetings.

A challenge for Indonesia is to raise awareness among those involved in designing and implementing regional spatial plans of their responsibility in influencing customary land tenure. Another challenge is to resolve legal contradictions and strengthen partnerships between decentralized and deconcentrated agencies in order to increase the legitimacy and enforcement of spatial plans.

6 Appendices

Appendix 1. Decentralized and centralized government agencies involved in land-use planning in Indonesia

Institution	National Land Agency (BPN)	Forestry agencies	Natural Resources Conservation Agency (BKSDA)	Watershed Management Agency (BPDAS)	Agriculture agencies	Mining and energy agencies	Fishing and coastal management agencies	Environment Bureau	Transmigration and human resources agencies
Governance system	Deconcentrated	Decentralized	Deconcentrated	Deconcentrated	Decentralized	Decentralized	Decentralized	Decentralized	Decentralized
Main legal guidance in land-use planning	Basic Agrarian Law (No. 5/1960)	Forestry Law (No. 41/1999)	Law No. 32/2009 on natural resource management	Watershed Management Law	Law No. 41/2009 on protection of staple food crops	Mining Law (No. 4/2009)	Law No. 27/2007 on small islands and coastal management	Environmental Law (No. 23/1997)	Law No. 3/1972
Interest in land-use planning policies	Land titling and field assessment for implementing spatial plans	Maintaining forest cover; conservation and reforestation projects	Management of conservation areas	Integrated management of watersheds	Commercial projects; enhancement of sago plantations; protection of rice fields	Mitigation of natural disasters; exploitation of mineral resources	Coastal management and fisheries development	Co-management of conservation areas with BKSDA	Transmigration settlements

Appendix 2. Recommendations to address constraints on the quality of coordination in land-use planning in Indonesia

Indicators	Constraining factors identified	Recommendation for coordination improvement
Completion of steps in spatial planning	<ul style="list-style-type: none"> Propensity of Home Affairs Ministry and/or Ministry of Forestry to delay their review of proposed spatial plans, causing regions to take longer than the legal time limit to complete their spatial plans Need for forest boundaries to be clarified in regency spatial plans before they can be passed into law 	<ul style="list-style-type: none"> Issue a government regulation on national approval of spatial plans, clarifying each ministry's role and responsibility, the chronology of the steps and deadlines to be enforced Remove the constraint where the Ministry of Forestry holds up the spatial plan during the review process, by allowing the regency to enact those parts of the spatial plans that do not concern the forest estate
Level of correspondence between land-use maps	<ul style="list-style-type: none"> The obligation of regencies to pay the MoF technical team (<i>Tim Terpadu</i>) for examining the forest status change proposal When proposing a change in status to forest land, the need to examine the downgrading of conservation or protection zones through the DPRD, the legislative assembly (and DPR RI in certain cases), which discourages regencies from including forest functions other than conversion forests in their proposals In general, the use of outdated maps, maps with no reference to Bakosurtanal base maps, maps that do not draw on the most recent RTRW made by sectoral agencies or relevant consultants 	<ul style="list-style-type: none"> Relieve regencies from the obligation to pay the Ministry of Forestry integrated team during the Ministry of Forestry review To remove the rule that the DPRD must review proposals to change the status of conservation or protection forest Implement a national program aimed at aligning maps, with the assistance of provincial governments to distribute Bakosurtanal base maps to regional forestry agencies, agriculture agencies, transmigration agencies, mining agencies and Bappeda
Realization of coordination meetings in spatial planning	<ul style="list-style-type: none"> The discrepancies between investment planning (KAPET) and spatial planning The malfunctioning of province and regency BKPRD, as shown by the absence of details about their formal mechanisms Lack of awareness among some decentralized agencies related to land-use planning that the BKPRD exists, and failure by governments to use the BKPRD when implementing spatial plans 	<ul style="list-style-type: none"> Involve the Seram KAPET management agency in the design and implementation of provincial and regional spatial plans; can take place during BKPRD meetings Make the minutes to regular BKPRD coordination meetings to be required attachments for obtaining Public Works Ministry substantial agreement Realize audits and controls of BKPRD functioning during implementation mechanisms especially for controlling the land permits Require decentralized agencies such as Seram KAPET management agency to attend BKPRD coordination meetings

Indicators	Constraining factors identified	Recommendation for coordination improvement
Community participation quality	<ul style="list-style-type: none"> • Inadequate funding for regency spatial planning • Uncertainty in the legal framework over how many public consultations must take place • Failure by BKPRN and public works ministry to enforce community participation requirements • The requirement for the Bappeda to wait for the RTRW to be passed into law before it can begin any awareness raising, including informing communities about boundaries, which reduces communities' understanding of the content of the spatial plan • The low number of community projects in the region and government projects that do not necessarily involve communities 	<ul style="list-style-type: none"> • Create a dedicated fund for community representatives to participate in RTRW public consultations. This would be co-administrated by central and regency governments. This fund could cover other ways of community participation in spatial planning as well • Clarify the exact protocol of society participation as required by law to validate the spatial plan during its review • Require the national departments to use community participation as a criteria during review of the regency spatial plan • Start informing people in the regency about the content in the spatial plan, and identify potential conflict areas for special attention
Enforcement of the decision made from land-use planning instruments	<ul style="list-style-type: none"> • The practice where the regent can issue land permits at his or her own discretion 	<ul style="list-style-type: none"> • Require the government to allocate a minimum amount of funds to projects aimed at community development • Decrease the practice of formulating community development projects at central government level only (for example PMPN Mandiri) and assess the local context to ensure projects are suitable • Give the national IBPN the authority to verify that land-use planning includes recommendations by the regency BPN following field assessments, and the power to revoke location permits issued without field assessment

Source: Authors' elaboration

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Spatial planning in Indonesia is an instrument for guiding land use. Its importance increased with decentralization reforms and the enactment of a new spatial planning law in 2007. Spatial planning involves a cross-sectoral and multilevel governance process for coordinating land-use planning. This study investigates the potential negative impact of spatial planning and land-use planning processes in Seram, in Central Maluku Province, on the tenure security of forest-dwelling communities. The study examines the institutional or cognitive factors that affect the quality of coordination and community participation in land-use planning. Qualitative interviews were conducted with government officials in local, provincial, and central forestry and land agencies in order to identify factors that hamper spatial planning coordination, with a particular focus on institutional interplay. Spatial planning processes we found to fall short of their stated objectives of encouraging community participation and providing conditions that support or strengthen rights to forests and land. Constraints include negative perceptions of customary and communal tenure, contradictions between laws, insufficient sustained investments for revenue generation, an overall lack of coordination and budgets, institutional bottlenecks rooted in decentralization reforms begun in 1999, and competition between agencies at regency, province and national level. Nevertheless, the study also identified opportunities for improving communities' land tenure securitization. For example, governments are formulating new spatial plans, forestry legislation is increasingly allowing for customary rights, and the central government has introduced measures to improve the quality of spatial planning. Institutional coordination and community participation in spatial planning can be improved by refining spatial planning and forest management legal frameworks. This may resolve such problems as the overlap in responsibilities and interagency competition by giving the Ministry of Forestry exclusive power over community forests. The central government state should also enhance society participation in regional planning.

This research was carried out as part of the European Union funded Collaborative Land Use Planning and Sustainable Institutional Arrangement project (CoLUPSIA). Run by CIRAD in partnership with CIFOR, TELAPAK and several local NGOs and Universities, the project aims to contribute to avoided environmental degradation and to strengthen land tenure and community right by collaboratively integrating all stakeholders' views in land use planning processes. The outputs revolve around the relationship between land use planning, land allocation and the provision and potential payment of ecosystem services. The project focuses on two regencies (kabupaten), Kapuas Hulu and Central Maluku in Indonesia.

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