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LOCAL DEMOCRACY AGAINST THE ODDS
Law and Practice of Participatory Planning in Post-New Order Bandung

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1. Introduction

It's now almost 16 years ago when, following the Asian monetary crisis and ensuing country-wide protests led by students and other opposition groups, President Suharto’s authoritarian New Order regime collapsed. Since then, ambitious democratic reforms have been undertaken in Indonesia. Not only members of the People’s Representative Council (Dewan Perwakilan Rakyat or DPR) and the newly established Representative Council of the Regions (Dewan Perwakilan Daerah or DPD), which together form the People’s Consultative Assembly (Majelis Permusyawaratan Rakyat or MPR), and the Provincial Assemblies and District/Municipal Councils (Dewan Perwakilan Rakyat Daerah or DPRD), but also the President, Governors, and District Heads / Mayors are now directly elected. All laws on political organisation that were in force during the authoritarian New Order period have been revised, as a result of which there is no longer a limit on the number of political parties and on political activities. The heavily criticised anti-subversion law, enacted in 1963 under President Soekarno, was repealed.

Democratic reforms were supported by other, more general legal reforms that support the development of the Indonesian rule of law (negara hukum). Between 1999 and 2002, the Indonesian 1945 Constitution was amended four times. Although still containing some imperfections, it now clearly reflects rule of law ideology, not only establishing democracy, but also creating a separation of powers, and acknowledging human rights. The DPR and the central government have been supporting the constitutional amendments by implementing legislation and programmes, including legislation creating increased transparency and room for public participation.

Perhaps the most important laws that were enacted after the fall of President Suharto in 1998 were the 1999 Regional Autonomy Laws, which led to substantial administrative and political decentralisation from the central government to the Provinces and particularly the Districts/Municipalities as well as new fiscal relations.
between these government levels. District/Municipal governments now have authority to handle a great variety of matters without any involvement of Jakarta. The legislative and budgetary powers of the DPRD were reinforced, and their control over the executive branch strengthened. The 2004 Regional Autonomy Laws, which revised the 1999 Regional Autonomy Laws created the legal framework for the direct election of District Heads / Mayors. Although at the same time limiting the oversight functions of the DPRD, the 2004 Regional Autonomy Laws thus led to further democratisation at the regional level.

Various studies have shown that, despite the above reforms, little progress has been made in democratic consolidation at the regional level in the first Post-New Order years. Citizens have the chance to directly elect members of District/Municipal Councils as well as the District Heads/Mayors, but once in office, these representatives and leaders are little responsive to the needs of ordinary citizens, who also get little room to participate in planning processes at the regional level. Paradoxically, Post-New Order reforms and particularly regional autonomy contributed to this state of affairs, creating decentralized variations of the politico-business oligarchy that ruled Indonesia under the New Order.

This paper discusses the law and practice of public participation in land use planning in Bandung. It shows that newly enacted legislation on public participation and transparency still offers no guarantee that ordinary citizens can play a meaningful role in land use planning at the regional level. However, we can see that thanks to the emergence of a new breed of regional leaders, in Bandung, but also in Jakarta and Surabaya planning processes are now becoming more inclusive, offering room for ordinary citizens to participate and give input, which input is also used by regional governments in the formulation of plans. Meanwhile, the risk of elite capture is still latent, with elements of the business community, bureaucracy, members of the DPRD and hoodlum groups trying to serve their own interests at the expense of the public interest. It is therefore still uncertain whether the positive developments that can currently be witnessed in Bandung and the other cities under study are of a structural nature.

This paper consists of five sections. The next section discusses the legal framework for participatory planning in Indonesia, focusing on development planning and spatial planning and their interrelatedness, as well as the role that the law grants to the public in these processes. This is followed by section 3, which focuses on experiences of participatory planning in the first Post-New Order years in Bandung. Section 4 constitutes the core section of the paper and addresses the practice of participatory planning in times of democratic consolidation, again with a special focus on Bandung, followed by a conclusion.

2. The Legal Framework for Participatory Planning at the Regional Level

One of the main characteristics of Suharto’s New Order regime was its ‘developmentalist’ focus on state-led industrialisation, intensification of agriculture, and large scale exploitation of natural resources. In order to reach these economic

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4 Law No. 22/1999 on Regional Government (Undang-Undang No. 22/1999 tentang Pemerintahan Daerah) and Law No. 25/1999 on the Fiscal Balance between the Central Government and the Regions (Undang-Undang No. 25/1999 tentang Perimbangan Keuangan antara Pemerintah Pusat dan Daerah).

objectives, the regime created a system of development planning which was top-down, centralist in nature. Economic objectives at the broadest level were enunciated by a comprehensive planning system, consisting of Broad Outlines of Government Policy (Garis-Garis Harapan Negara or GBHN) and Five-Years Development Plans (Rencana Pembangunan Lima Tahun or REPELITA).

The same centralist approach existed in spatial planning. Based on Law No. 24/1992 on Spatial Management, spatial plans were to be enacted at the national level (Rencana Tata Ruang Wilayah Nasional or RTRW Nasional) and at the provincial and district/municipal level (Rencana Tata Ruang Wilayah Daerah or RTRW Daerah). Just as in case of development plans, spatial plans at the lower level should be aligned with plans at the higher level.

Development planning and spatial planning always have been two sides of the same coin (Moeliono 2011:88). So as provided in the 1992 Spatial Management Law, the National Spatial Plan would form an inseparable part of the long term national development plan (25 years). The interconnectedness between spatial planning and development is illustrated by the fact that both development plans and spatial plans were prepared by the National Development Planning Agency (Badan Perencanaan Pembangunan Nasional or BAPPENAS) and the deconcentrated Regional Development Planning Agencies (Badan Pembangunan Daerah or BAPPEDA) at the provincial and district/municipal level.

Despite the introduction of regional autonomy, the basic features of development planning remained the same. After President Suharto’s fall in 1998, a new law on development planning was introduced, Law No. 25/2004. The law creates an alternative system of development planning, which is however still top-down, centralized in nature. The system of top-down, centralized development planning is re-affirmed by Law 32/2004 (one of the 2004 Regional Autonomy Laws). Based on this law (Art. 150 et seq), various development plans should be formulated, including long term plans of 20 years (Rencana Pembangunan Jangka Panjang or RPJP), mid-term plans of 5 years (Rencana Pembangunan Jangka Menengah or RPJM) and short-term plans of one year (Rencana Pembangunan Tahunan, also called Rencana Kerja Pemerintah or RKP). Development plans are to be formulated at the national, provincial and district/municipal level. Plans at the lower level should be aligned with plans at the higher level.

Though top-down, centralist in nature, there is room for public participation in development planning. Government Regulation No. 8/2008 and Regulation of the Ministry of Home Affairs No. 54/2010, which implements Law No. 32/2004, introduce a bottom up consultation process (Musyawarah Rencana Pembangunan or Musrenbang) with stakeholders to be coordinated by BAPPEDA. According to the regulation, the members of this consultation process are, inter alia, the City Quarter Head or Lurah, delegates of the City Quarter (Kelurahan), the head and members of the DPRD, delegates of the District/Municipal Government (Satuan Kerja Perangkat Daerah or SKPD), informal community leaders (tokoh masyarakat), representative of women’s interests and marginal vulnerable groups and other stakeholders at the Sub-District (Kecamatan) level. Notably, legislation does not clarify how the members of

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6 Law No. 24/1992 on Spatial Management (Undang-Undang No. 24/1992 tentang Penataan Ruang).
8 At the national level, the BAPPENAS is entrusted with coordinating a musrenbang nasional. According to Law No. 25/2004 (national development planning system), this musrenbang at the national level, with participants amongs others representatives from the ministries and head of districts, is to result in annual Ministerial Work Plans (RENJA) to be implemented by the autonomous regions.
this consultation process are selected. Furthermore, it is unclear what should be done with the input provided by these members.

In contrast to development planning, spatial planning did become decentralised after 1999 (Moeliono 2011:140). Government Regulation No. 25/2000, which implemented Law No. 22/1999 (one of the 1999 Regional Autonomy Laws) stipulated that the national spatial plan should be made on the basis of district and provincial plans. Decentralised spatial planning turned out to be a brief experiment though. As discussed in the introduction to this paper, the 1999 Regional Autonomy Laws were revised in 2004. They not only introduced direct elections of the regional heads, but also re-established a hierarchal order between the national, provincial and district/municipal governments, while at the same time giving a stronger role to the provincial government at the expense of that of the district/municipal governments.

Just as in case of development planning, although top-down, centralist in nature, there is also room for direct public participation in spatial planning. In April 2007, Law No. 26/2007 (hereafter the 2007 SML) was enacted. All spatial plans at the district/municipal level are now enacted by bylaw, which means that the democratically elected District/Municipal Councils have an important role in spatial planning. The SML explicitly states that spatial management is conducted by the government with the participation of the people, for instance by participating in the formulation of spatial plans, participation in the use of space, and participation in the control of spatial use. Further provisions on the procedure for and the form of public participation in spatial management are to be implemented by Government Regulation.12

Government Regulation No. 68/2010, which is the implementing regulation on public participation in spatial management, affirms the right of the public to participate in spatial management, whether it is in the stage of spatial planning, spatial use or control of spatial use. As far as spatial planning is concerned, participation can be in the form of giving input on the preparation of spatial plans, provisions for the development direction of certain areas, the identification of the potential for and problems of development in certain areas, the formulation of concepts for spatial planning and/or the enactment of spatial plans as well as in the form of collaboration with the central government, the regional governments and/or elements of the public in spatial planning. Notably, Government Regulation No. 26/2010 seems to suggest that the government does not have the obligation to support public participation in spatial planning, stating that it may actively involve the public in spatial planning. Furthermore, reference to “public” is limited to those who are immediately affected by spatial management, are specialised in spatial management and/or whose main activities are in the field of spatial management.13

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10 Law No. 26/2007 on Spatial Management (Undang-Undang No. 26/2007 tentang Penataan Ruang).
15 Art. 7 Government Regulation No. 68/2010.
Considering the current urbanization rate (occurring also within autonomous districts in the form of new (privately managed) town areas) the Minister of Home Affairs issued Regulation No. 1/2008, which creates the possibility to organise public participation through an urban people’s (town estate resident’) forum. This forum may give input to the municipal/district government or town estate/management on the formulation of policy and strategies related to town management. Again, legislation does not clarify how individuals or other neighboring communities can participate in the urban people’s forum and what should be done with the input provided by members of the forum.

Public participation in local spatial planning is also endorsed by Law No. 12/2012 and its implementing regulation, Presidential Regulation No. 71/2012 and Regulation of the Head of the NLA No. 5/2012.¹⁶ Land acquisition in the public interest may only be performed if the proposal for land acquisition as proposed by related government agency is in accordance with existing spatial planning, (national-regional) development planning, strategic planning or working/action plans made by each government agencies.¹⁷ The element of public interest is thus satisfied if future land use is in accordance with existing development/spatial, strategic or working plans made by the government agency in need of the land.¹⁸

The existing land acquisition scheme provides that the government agency in need of the land (for development purposes) should submit a proposal to the provincial Governor. The Governor subsequently establishes a preparatory committee for land acquisition (tim persiapan pengadaan tanah) which has the responsibility to, *inter alia*, conduct public consultation with land owners/occupants. The purpose of this public consultation is for the team to negotiate and reach an agreement with owners/occupants of land located in the area of the proposed development project. In case the local population objects to move away and release their land voluntarily, the team (if after the third attempt at public consultation fails to do so) shall issue a recommendation to the Governor who shall then decide to accept or reject the objection. In case the Governor decides to reject the initial land acquisition proposal will be considered cancelled and another location is to be chosen. On the other hand, in the case there is no objection or the Governor declared the objection is not acceptable, the Governor will issue a decree on the location to be acquired in the public interest (penetapan lokasi pembangunan) and publish this decision using available media to inform the general public as well as those land owners/occupants who are considered at this stage to be under legal obligation to release their claim on land voluntarily.

A different scheme allowing the public to participate is provided for land acquisition in the private interest. As transfer of ownership is regulated under contract

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¹⁷ Art. 7 Law 12/2012.

¹⁸ Notably, in case land acquisition is required in the interest of infrastructure development for geothermal utilization or natural gas and oil exploration/exploitation, the strategic and working plan may also be used as justification. Apparently a government agency may choose which plans (among the four mentioned) can be used to justify land acquisition in the public interest and circumvent other plans that hamper actual/temporal land use plans.
law and may be conducted outside public or even government notice. However, land can only be used in accordance with existing spatial/development plans. Government control over proposals to utilize land submitted by private (including business enterprises) comes in the form of recommendations (a submitted impact assessment analysis must be approved) and licenses (related to environmental permits as well as land use and building permits). The public may participate in controlling private/commercial land use by monitoring how the recommendation-licensing system pertaining to land use is wielded by the relevant government agencies.

The government also endorses public participation in environmental protection and management. According to Law No. 32/2009, the purpose of such public participation is to increase societal awareness, empowering society and partnership, including preserving local wisdom. It asserts that the public possess the right and equal opportunity to actively participate in the protection and management of their environment, the form of which are described as social monitoring, offering advice, opinion, recommendation, or submitting objections and reports; and/or providing advice, opinion, recommendations, objections (to the government); and/or providing information or reports.

More concrete is the right to participate in the drafting and formulation of environmental strategic analysis (kajian lingkungan hidup strategis) and involvement in the process of the making of environmental impact assessment (analisis dampak lingkungan) as to be performed by business enterprises initiating land use considered to have deep and lasting impact to the environment. In regard to public participation in the formulation of environmental impact analysis (the approval of which should determine the issuance of other permits (land use, business permits etc.)), enabling private enterprises to begin their business, the Minister of Environment issued Regulation No. 17/2012. This ministerial regulation provides guidance on how public participation should be performed. To note here is the assertion that public participation should be performed on the basis of disclosure of information (it should be complete and performed in a transparent manner) and be given before such environmental impact study is initiated.

In case public input is ignored in planning processes, citizens may file a complaint to the regional government, which should respond to the complaint within 30 days. Should the regional government fail to handle the complaint in a satisfying manner, the Ombudsman, which now has representative offices in the regions, can take over and handle the case. However, the Ombudsman can only give recommendations, which are not binding. Another option is for the people (individuals or communities) objecting to a proposed plan to take the matter to the media and seeking political support from the regional parliament, or if there is enough public support, take the matter to the court.

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20 Art. 70(1) and (2) Law No. 32/2009.
22 Including environmental licenses (izin lingkungan) as regulated by Government Regulation 27/2012 on Environmental Licenses (PP No. 27/2012 tentang Izin Lingkungan).
23 Regulation of the Minister of Environment No. 17/2012 on Guidelines for Public Participation in the Proseses of Environmental Impact and Environmental Licenses (Permen LH No. 17/2012 tentang Pedoman Keterlibatan Masyarakat dalam Proses Analisis Dampak Lingkungan Hidup dan Izin Lingkungan).
The above avenues for public participation is strengthened by new legislation that aims to create more transparency, thus giving people the information needed to give input in planning processes. Law 14/2008 and its implementing regulation Government Regulation 61/2010 guarantee access to information managed by the government. The government established an information commission (at the central government and provincial level, members of which are appointed by respectively the president and governor), adjudicating and mediating citizens requesting information and government agencies managing those information. In support of this, Law 25/2009 was enacted asserting the need to improve public service by way of providing a reliable information system, and service standards. In combination all these legal engineering provides individual citizens with a better bargaining position vis a vis the government (bureucracy). Legal documents and other government reports which previously customarily were kept hidden from the public can now be made public on demand and accessed by individuals (or NGOs) wishing to challenge government actions before the administrative court or by any other means.

The above legislation, in combination with the more general reforms discussed in the introduction to this paper, form an important move towards the development of substantive democracy at the local level and it will surely change the way how government officials and institutions deal with and interact with citizens. However, the legislation contains some important weaknesses. The legislation still creates a centralist, top down planning system, which is at odds with the whole idea of public participation and transparency at the local level. Furthermore, public participation is still regulated in a haphazard, partial and sectoral way. There is no (legal-political) guarantee that regional governments involve the general public in planning processes at the local level. As far as people are given the opportunity to give input in spatial/development planning processes or decisions pertaining to land allocation and subsequent use, it is not sure whether public input is taken into account by the authorities. Legislation does not clarify what should be done with public input, let alone impose real sanctions for failure to use such input. We thus conclude that the role of citizens in spatial/development planning processes at the local level ultimately depends on the willingness of a regional government and - given their key position under the Regional Autonomy Laws - in particular the District Head/Mayor, to take citizens’ voice seriously.

3. Practice of Participatory Planning in the First Post-New Order Years

As we have discussed elsewhere (Moeliono 2011; Reerink 2011:131-45), at least in West-Java, the top-down approach in development and spatial planning has not prevented District / Municipal governments to develop their own plans, ignoring the plans created by the central and provincial government. However, the limited interference of the central and provincial governments in the formulation of development and spatial plans at the district/municipial level did not mean that ordinary citizens had much influence on this process. Despite major political and legal reforms, in the first years of the Post-New Order ordinary citizens rarely participated in planning processes and were also hardly offered the opportunity by the District /

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24 See footnote 23.
Municipal Governments to do so. District / Municipal Governments appeared more inclined than during the New Order to follow the legally prescribed procedures to ensure participation in planning. However, the procedures were not followed to the full extent, and involved only “token participation”, such as seeking input from only a small selection of ‘stakeholders’, whose input could often then be ignored or whose appearance in the consultation process (as evidenced in their signatures) is considered as sufficient proof of the government observance to the formal procedures in formulating plans. In practice, a small number of NGOs close to the regional government were handpicked to represent the community and meetings were organized only as a “socialization” process where those people representing the local community were given the opportunity to voice their wishes.

Of course the weaknesses in the legislation relating to public participation contributed to the above state of affairs. The District Heads / Mayors could achieve their ends by turning the legal system, which following swift Post-New Order reforms has become increasingly vague, overlapping and contradictory, to their advantage. The limited role of the provincial governments in providing guidance and supervision, and the leniency of the central government, enabled District Heads/Mayors to formulate plans without public participation or at least outside people’s control, basically approving land use at will (Reerink 2011:149).

Paradoxically, Post-New Order reforms and particularly regional autonomy contributed to this state of affairs. Administrative decentralisation resulted in an increased need for funds to finance local government. At the same time administrative decentralisation and the new fiscal relations between Jakarta and regions create new instruments for District Heads / Mayors to gain revenues. So they can grant site permits for commercial land development, generating regional retributions, while at the same time allowing private commercial enterprises to actually hijack the whole process of spatial planning and determine allocation of land within the district/municipal administrative jurisdiction. Commercial land development also increases the value of land, which in turn brings in additional land related taxes. Obviously, development and spatial plans should facilitate the generation of such revenues.27

Political decentralisation and other reforms that were meant to strengthen democracy at the local level also required new revenues for the District Heads / Mayors to finance political support, for instance for the approval of development and spatial plans by the District / Municipal Council. There are strong indications that in many Districts/Municipalities, including Bandung, such political support was financed by extra-budgetary revenues, which were again partly derived from District Heads / Mayors’ newly acquired authority to grant site permits. They granted such site permits to developers in exchange for cash or in kind.28

Hoodlum groups further limit the role of ordinary citizens to participate in planning processes. They commonly intimidate NGOs and the media who take a critical stance towards regional leaders. The involvement of hoodlum groups in local politics is not new in Indonesia, but their influence is unprecedented. Some of the

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27 Since 2014, the authority to manage land tax and tax related to land transfer has been delegated to the autonomous regions. This provides the regional government with a new source of revenues and potentially may increase people’s demand for a more transparent and accountable regional government.

28 Site permits may also be perceived as contractual agreement between the government and commercial private enterprises (public private partnership). In this manner, areas considered under-developed are entrusted to private commercial enterprises which then take over the public authority previously held by the government to “formulate and implement” development plans for that particular area. This contractual agreement, however, is prone to abuse and in practice induce corruption, nepotism and collusion.
groups, such as the Pemuda Pancasila, were already active during the New Order. They were linked to the municipal government, the military, and the ruling Golkar party. Since the fall of Soeharto, in many Districts and Municipalities new groups have emerged. Some of these groups are (still) loyal to the municipal government, the military and political parties, while others claim less attachment to specific interests. In case of Bandung, the loyalty of hoodlum groups can be explained by the funding they receive from the Annual Regional Budget or less conspicuous is their incorporation into the formal government system (satuan polisi pamong-praja/satpol PP or appointment as civil servants in the regional bureaucracy). Funding is significant, amounting to tens of billions of rupiahs (or millions in US Dollars) per year.

It is clear that corruption at the regional level is a huge problem in Indonesia. While corruption was already widespread during the Soeharto regime, this practice became decentralized after 1999. While it is true that in recent years numerous regional heads, members of DPRD and businessmen have been arrested, prosecuted and convicted for corruption, it is generally believed that many power holders can still get away with corrupt practices.

The above developments illustrate the rise of a more decentralized politico-business oligarchy in Indonesia. As Hadiz and Robinson (2008; 2013) as well as Winters (2013) convincingly argue, following the fall of Suharto Indonesia’s economic elite, which was strongly connected to the New Order regime, managed to reorganise its power by forging alliances with new political leaders, “whose authority is embedded in the enforcement of institutional and legal practices that are antithetical to liberal notions of society and markets (Hadiz and Robinson 2013:44).” The fusion of political authority and economic power can not only be recognised at the national level, but also at the provincial and district/municipal level. In fact, as a result of regional autonomy, there are new, direct alliances between certain nationally or regionally operating corporations and the regional leaders. (Hadiz and Robinson 2013:38). As further argued by Hadiz, “the decentralization of political and administrative institutions has more generally provided opportunities for the same kinds of social interests previously at the heart of Suharto’s New Order to assert their power at the local level” (Hadiz, Localising Power in Post-Authoritarian Indonesia).

Against this unholy alliance between new political elites, business people and local ( politicized) hoodlums, citizens have little chance to offer effective resistance. To make it worse, civil society in Indonesia, despite ample political opportunity to do so, had not yet got the chance to develop and become stronger. As asserted by Hadiz and Robinson, “the effective disruption of civil society was achieved not simply through repression by the security apparatus but also within a more complex corporatist cooption of the civil society organizations. So long as prosperity was increased, Indonesia’s middle class embraced Suharto and failed to grasp liberal ideas with any enthusiasm. As a consequence, when the old regime fell, despite the initial enthusiasm and energy of reformist movements, those with the most potential to strengthen civil society have never been able to recover any substantial ideological or organizational cohesion or build a substantial social base” (Hadiz and Robinson 2013:46).

Given the haphazard and fragmented ruling on public participation and the ongoing uphill struggle to consolidate local democracy it is not surprising that people did not use available opportunities to participate in planning and seldom used legal avenues to challenge local-political/legal decisions. The (national-local) media while sometimes active in voicing complaints did not yet possess the political clout it
needed to make the government listen and regard seriously complaints voiced by the public.

Thus despite the changes brought about by the decentralization process since 2004, local government accountability and greater public participation had yet to materialize. As a result of the devolution of greater share of governmental powers to the District Heads/Mayors, and despite increased power of the regional parliament, they have become very influential and powerful so much that they show tendency to disregard public participation and accountability in the same manner as the previous government regime.

4. Participatory Planning in Times of Democratic Consolidation

In the last few years, Indonesia has been witnessing the emergence of a new breed of regional leaders. Although members of established parties, they are outsiders with little experience in political life, willing to undertake ambitious reforms, and are said to be pro-people and clean. The most prominent example is Joko Widodo (PDI-P), nicknamed Jokowi, who after having serving two terms as the Mayor of Solo is now the Governor of Jakarta and the PDI-P’s candidate for the presidential elections in May of this year. Tri Rismaharini (PDI-P) or Risma, who has been the Mayor of Surabaya since 2010, is another important example. Finally, although only elected six months ago, the new mayor of Bandung Ridwan Kamil (PKS), popularly known as Kamil, is also considered to be a new kind of leader with the characteristics as mentioned before.

The emergence of these politicians may be explained by voters’ disappointment over the performance of career politicians and bureaucrats and political parties in general. Established parties seem to be well aware of their lack of popularity and therefore deliberately select candidates who can be presented as outsiders. These developments all illustrate a growing personalization of politics in Indonesia (Tomsa 201X:146).

Although an outsider and initially a little known candidate, Ridwan Kamil could win the elections because people viewed him as a clean candidate, while other candidates could be associated with the former Mayor Dada Rosada, who has been named as a suspect by the Corruption Eradication Commission in a case of misuse of social funds and a related case of judicial bribery.29 In addition, Kamil made clever use of social media in attracting the attention of voters.30 Using applications such as Twitter, he engaged directly with the people, especially the younger generation, who appreciated his approachability. It made Kamil and his running mate Odet M Danial win the elections with 44.24 percent of the popular vote, far more than the second most popular couple, Edi Siswadi – Erwan Setiawan, which obtained only 17.67 percent.31

Being a pro-people mayor, Kamil is committed to increase transparency and public participation. To illustrate this point, within one month after assuming office, Kamil launched the application LAPOR, which gives citizens in Bandung the opportunity to give input on development issues and public services by internet or

29 The Bandung Court at First Instance (PN Bandung) sentenced him with 10 year imprisonment. He was found guilty of bribing a judge who in another case was investigating the misappropriation of public funds by another individual suspected of collaborating with him. “Ridwan Kamil minta Dada Rosada jalani putusan hakim” Sindonews.com, 28 April 2014.


At least in the first months after its launching, about 9,000 reports were submitted by citizens to the municipal government through LAPOR every day.32

Though committed to increase transparency and public participation, Kamil has so far not had much opportunity to show that citizens indeed have influence on policymaking or even planning process. However, there has been one important occasion, namely the drafting process of the RPJMD, which is to be enacted by bylaw within six months after entering into office.33

Immediately after assuming office, Ridwan started to draft the RPJMD. He choose to establish for each separate matter a team of a handful of specialists, which would discuss with the municipal service responsible for this matter. He also did not use the input that was provided by the public through FAKTA. Though it was an effective approach, it was not in accordance with the established rules and procedures (musrenbang) and had nothing to do with participatory planning.

NGOs in Bandung were initially not aware that the RPJMD was already being developed. But after a few months they found out that Ridwan was preparing the RPJMD without involving the public. The NGOs immediately organised themselves as a RPJMD Monitoring Forum and voiced their discontent in the media over the new Mayor’s approach in preparing the RPJMD.34

The NGOs media campaign had immediate effect. Ridwan opened up the procedure by creating a citizen’s forum. The DPRD did the same, by inviting the public to give input. According to one interviewed NGO activist involved in the process, Ridwan was not in bad faith by choosing to consult a handful of specialists only. “Ridwan listened too much to his officials, who were still used to follow the old procedure. He was afraid to make enemies in his maydays.”35 In addition, it seems that this fresh mayor was not aware of the political significance of the plan, which determines what policies he can implement in the next 5 years. He started to take an interest in the plan as soon as NGOs had explained him how important it was. And this resulted in Ridwan opening the process up for public input.

As soon as the NGOs got involved they found that the assumptions for the plan were wrong. This was caused by the municipal services, which provided poor data for the RPJMD.36 They wanted to realise Ridwan’s political promises. And these promises were not related on facts on the ground.37 The Bappeda, which had the task to draft the plan, needed to look for a compromise between what the mayor wanted and what was technically and financially feasible.

Between 400-500 people participated in the Musrenbang. There were far may more people involved in the process than five years ago. Furthermore, those participating were also real representatives of the people. They had not been selected by the mayor, but seeked involvement at their own initiative. This is again in sharp contrast with the previous procedure, when a lot of hoodlum groups were involved, providing stamp approval and which were only interested in getting hold of projects.

32 See www.lapor.ukp.go.id.
34 Government Regulation No. 8/2008.
36 Personal communication NGO activist, 6 April 2014.
37 Personal communication NGO activist, 6 April 2014.
38 And some of the campaign promises he made were also considered unrealistic, such as giving away 100 million rupiah to each sub-quarter to kick start their own development projects.
The meeting to discuss the RPJMD was supposed to be only one day. However, this time there were real discussions. Therefore, for the first time ever it proved impossible for the government to force an agreement within such a short timeframe. At the end of the day, it was therefore agreed that the representatives would continue discussed with the municipal services separately. Some representatives and municipal services came to an agreement after one or two follow up meetings, but in some case as many as 5 meetings were needed to come to an agreement.

When all separate groups of representatives were done discussing with the municipal services, there was one final joint meeting, organised by the BAPPEDA. The Bappeda initially refused to amend some parts of the draft RPJMD, as the mayor wanted to keep them in. However, in the end citizens managed to get these final points amended by using the DPRD.

Several people involved in the formulation of the RPJMD confirm that the final draft that is to be approved by the DPRD contains important elements that came in as a result of public participation. However, there are still some points that the mayor insisted should stay in.

The RPJMD was to be enacted just before the regional elections on 9 April. Enactment will not an easy considering the fact that Kamil’s party, the PKS, only holds 9 out of the 50 seats in the DPRD and he has alienated himself from his own party. According to an interviewed member of the DPRD, several DPRD members asked for money to approve the plan. It is not clear whether indeed money has been paid. As far as the implementation of the RPJMD is concerned, the DPRD will have a key position. Having the authority to determine the regional budget, it can block certain items.

Of course the RPJMD is just a plan and it remains to be seen whether and if so, how this plan will be implemented in the future. According to an interviewed political analyst, elements of the bureaucracy are still in support of the former mayor, Dada Rosada, who tried to sabotage the new mayor’s policies. Particularly the regional secretary seems to be frustrating Kamil’s policies, which raises questions of why he has not replaced the secretary. Kamil has so far not shown the courage to reform the bureaucracy. This is the downside of having an outsider becoming a regional head. “Kamil has little political power, his staff is not politically trained and he has little support in the DPRD. Therefore, he has to operate carefully.”

Kamil is also said to be close with a number of businessmen, including Yusuf Kalla, who may run as Joko Widodo’s running mate for the presidential elections in September. Some of the businessmen own companies that are active in real estate development. Kamil is involving certain companies in corporate social responsibility projects. There are fears that these companies will be rewarded for the support they give.

90 Ridwan and his running mate initially got the support from the faction of the Garindra Party in the DPRD, but it is now in opposition again.
91 According to a DPRD member, his colleagues were asking for about RP 15-20 million each to approve the RPJMD. Personal communication, 24 February 2014. He also insinuated that objections from members of the parliament should be read as invitation for bribery. In addition he suggest that the usual political communication always includes giving away money. His opinion may be part of the way how society expect “traditional” political leaders to behave.
92 Personal communication political analyst, 23 February 2014, DPRD member, 24 February 2014.
93 Personal communication political analyst, 23 February 2014, NGO activist, [X] April 2014.
94 Personal communication DPRD member, 24 February 2014.
95 Personal communication NGO activist, 6 April 2014.

Commented [T2]: Bukankah Ridwan Kamil bukan dari partai. Dia dipilih langsung tapi mendapat dukungan dari Gerindra dan PKS (yang menitipkan wakilnya: ODED sebagai pasangan Ridwan.

Commented [Tristam3]: Kenapa “it is just a plan’. Not according to the person we interviewed. It should be the main reference for Kamil when pushing development agenda and used as a yardstick when evaluating his administration. Apalagi di bawah dikatakan pentingnya RPJMD
Notably, the hoodlum groups, who were so vocal and intimidating during Dada Rosada’s tenure have so far been silent. They have also not played any role in the formulation of the RPJMD. It is likely that they still receive funding from the regional budget through elements of the bureaucracy, although not as much as they used to receive.46 Kamil is trying to divert them from being engaged in hoodlum activities, offering them a formal role in the implementation of his policies.47 However, it is not sure whether the hoodlum groups will accept this offer.

Now that the RPJMD has been enacted, the mayor can use this plan to draft a RPJPD for 2015 as well as a new RTRW. NGOs are already monitoring the process, ascertaining that again a citizen’s forum is created to give public input. But it seems that NGOs do not need to worry about this: the process for the development of the RPJPD was already announced in the newspaper and people are actively invited to participate in the preparations.

We have only conducted fieldwork in Bandung, but reviewing media reports it seems that the recent developments in the city are not unique. A few months after assuming office, Widodo complained about the practice of participatory planning in Jakarta, stating that the Musrenbang was bored and routine, with the same people participating in the process time and time again. In order to change this, he instructed his official to think out of the box and organise meetings at location, involving the people for whom the development plan is relevant.48 Last month, a new Musrenbang was organised in Jakarta, at which occasion Widodo stated: “Don’t let the Musrenbang just be ceremonial and routine, but let it be a facility to accommodate all input from the pubic in a constructive way.”49 Although we haven’t studied the Musrenbang or other planning processes in Jakarta in depth, it is clear that Joko Widodo’s statement is not just rhetoric. He really wants to make Jakarta a better place for ordinary citizens. To illustrate this point, in spite of – no doubt strong – resistance from developers, Widodo passed a decree in 2013 imposing a moratorium on the construction of shopping malls in most parts of Jakarta.50 “It is always malls and other consumptive and luxurious things that are being built,” he said. “There needs to be an equal spatial harmonization between malls and traditional markets.”51

The same promising developments appear to be taking place in Surabaya. There too, the Musrenbang is a real participatory process. Having been a routine process for years, it is becoming a real opportunity for ordinary citizens to give input. For example, in 2013 as many as 3,177 proposals were submitted by citizens.52

Admittedly, there are probably many examples of regions where the problems of elite capture do continue to prevail. Note that the examples of Bandung, Jakarta and Surabaya under study with a relatively high educated population. Indeed, it seems that urban voters are increasingly rational in selecting their regional head. However, the new breed of regional leaders can also be found in smaller cities and districts, such as Jimbrana, Solok and Banyuwangi.

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46 Personal communication political analyst, 23 February 2014, DPRD member, 24 February 2014.
47 Personal communication senior researcher, 24 February 2014.
50 Admittedly, Jokowi’s predecessor Fauzi Bowo already introduced the measure, but he based it on a governal instruction, while Jokowi formalised the policy on the basis of a formal governal decree.
It should be noted that even people like in Ridwan Kamil, Joko Widodo and Tri Rismaharini are required to accommodate the logic of the existing power structure. As Hadiz and Robinson argue “Even where reformist and progressive figures have emerged, they necessarily have had to make accommodation with entrenched political and economic forces and to operate within circumstances already in place. [...] Even the swashbuckling reformer from Solo, Joko Widodo (Jokowi), has had to enter dubious alliances in his time as mayor of Solo and as a Jakarta gubernatorial candidate; the gubernatorial campaign involved no less than accommodation with Gerindra, the political vehicle of former Suharto son-in-law, Prabowo Subianto” (Hadiz and Robinson 2013:54).

Considering the prevailing risk of elite capture, one can wonder whether the positive developments that can be witnessed in Bandung, Jakarta and Surabaya are of a structural nature.

5. Conclusion

Apparently there is still hope. Although spatial-development planning is still centralist in nature, regional government have more room to experiment in formulating their own plans. The advent of a new generation of political leaders, such as Jokowi/Ahok in Jakarta, Tri Rismarini in Surabaya and lastly Kamil in Bandung, who are more than willing to break away with the older elitist politician and previous planning practices, is an additional push factor. Those new generation leaders seems to be more willing to be transparent, even inviting the public to voice their grievances or comments upon public policies utilizing social media.

An additional important factor is the promulgation of a new legislation requiring government agencies to open access to information previously unaccessible to the public. Regional government are under the obligation to publish and made accessible to the public planning documents. This development may prove to be important in boosting genuine public participation. A well informed civil society may be more willing to participate in the formulation and implementation of public policies affecting their lives and tenurial security. At the same time, particularly civil society and NGO’s utilize this small window of opportunity to push reform in planning procedure.

One legal hurdle to overcome is the fragmented and sectoral nature of public participation regulation. Procedure for public participation in planning, implementation and monitoring is overregulated and gives little incentive the government to involve even seek information from the public. No sanction existed forcing government agencies to seek involvement from the public. Unsurprisingly legal procedures for public participation in planning practices are still largely ignored. It may well be that existing bureaucracy still resists radical changes. Not to be ignored is the existing polical system which allow for elite capture at the level of bureaucracy, and local parliament.

Given the above, several solutions are then to be recommended. To boost democratic consolidation, it is important to improve legislation for participatory planning and at the same time solve tension between top-down and bottom up planning.
References

Buehler, M. (2011)


