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INCLUSIVE AND GENDER-AWARE PARTICIPATORY LAND REGISTRATION IN INDONESIA

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ABSTRACT

Utilising a participatory land registration approach, this paper argues how inclusive and gender aware land titling, involving local community teams, can lead to faster, affordable and more socially anchored land registration.

Coupled with building support across authorities such as village chiefs, district heads and government agencies, allows for a both bottom up and top down approach, capturing interest and concerns of all key stakeholders in the process. The paper also demonstrates, that if not taken seriously, these stakeholders can pose serious risks to the success of the project.

By using a local village community land rights committee that with strong representation of women, the land registration process had a high acceptance rate and support in the communities worked in.

We also show that developing a software application that guides such a process, being easy to use for village members, while compliant with government regulations and requirements, is essential.

KEYWORDS

Participative, fit-for-purpose, land registration, Indonesia



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



1. INTRODUCTION

One of the challenges for Indonesia as an archipelagic country is accessing remote areas for provision of tenure security. There are several government agencies responsible for this. The Ministry of Agrarian and Spatial Planning/ National Agrarian Agency (The Ministry of ATR/BPN) is one of them, that is administrating 30% of Indonesian land area (almost 0.6 million km²). The Ministry of ATR/BPN has set a target that every plot of land in Indonesia has to be certified and registered by 2025.

There is a large variety of land tenure certificates in Indonesia as there are many kinds of traditionally evolved land certificates (e.g. *Letter C*, *Girik*, *Ketitir*, etc). This leads to confusion of the type of land tenure that is legally recognized. As a result of this, people are concerned about the legality of their land tenure.

On top of that, women's awareness and knowledge in relation to land tenure in Indonesia is relatively low. This is because the traditional paradigm in the patriarchal Indonesian society recognizes that men are head of households, where men traditionally regulate tenure of property, including inheritance. An example of such a paradigm practice is the Islamic marriage certificate that may include expressly written in terms of the man as head of the household. As a consequence, women are less involved in land administration processes and are often not specifically addressed in the process of provision of land rights in all its aspects.

The knowledge gap related to provision of land rights and the connected land administration processes persists due to low social awareness on land tenure issues. There is a significant number of people with little to no knowledge or understanding on the importance of tenure security. In addition, in the traditional ways of land recordation the local cultural traditions are not considered. Knowledge on local cultures is crucial for land professionals, executing their duties, especially in remote areas.

Directly involved communities in the land tenure recordation is key to success in the establishment of land rights. A 'participatory land registration' (PaLaR) has been developed to make sure that people are involved from the early stages of land registration all the way through to land title issuance. This approach adopts the concept of multipath land administration to be more economically viable for the government and affordable for the citizen (Paul Saers et al, 2018). Such an approach ensures that a wide range of participants is involved where gender-aware participation is imperative. *PaLaR is an approach in registering property rights by documenting various matters related to location.* It is executed by the community itself, resulting in evidence of both individual and community claims that can easily be



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



understood by stakeholders from outside the village – as government entities, universities, and the wider community. By utilizing PaLaR, the land officers are encouraged to approach people with attention to and understanding of local land cultures.

2. PARTICIPATORY LAND REGISTRATION (PaLaR)

In preparation for PaLaR, The Ministry of ATR/BPN or the Local Land Office that initiates this program needs to involve the local stakeholders such as *Kepala Desa* (Head of Village), community representatives and geo-surveys/technical teams. In this process, they decide on the area of interest to be mapped. Then they develop a Memorandum of Understanding (MoU) as legal basis in carrying out the PaLaR approach. They need to agree on matters related to PaLaR as to be expressed in the MoU that includes the PaLaR work plan, the land registration fee, incentives and the contract for the operator team. With agreements in place, the geo-survey teams work on the set up of the hardware and software, the field tests and on the compilation of baseline data. Community buy-in is critical, and thus key stakeholders participate in a village sensitization including the geo-survey team, the head of village, and The Ministry of ATR/BPN land officers. It's essential that the community understands the PaLaR workflow, shows commitment and feels involved in the approach. Following this, a Community Land Registration Committee (CLRC) is formed as the operational team for the work ahead. The CLRC is created with an inclusion principle in mind, as it supports inclusive and participatory land registration. For example, women are actively participating in CLRC meetings, so they can understand the implications of the land registration process related to the land rights, to their personal rights, to other legal matters and to technical aspects in regard to their lands. This is possible with the open meeting concept - rather than the representative meeting concept which is usually only attended by men being the heads of the households. The participative approach can increase land owner buy-in for land registration, given increased level of involvement in the process resulting in a feeling of process ownership.

The CLRCs can work effectively with the support of information technology using a mobile application such as Meridia Collect. The application has been designed with user-friendly interface and can be easily adjusted to various needs of the CLRC when implementing PaLaR. In addition, the community supports the CLRC as they are responsible for the implementation of this program and therefore have to make sure that the framework, planning and procedures are done in support to more just and gender-sensitive way. In this process, the community can decide whether or not to approve the results of the activity in their village.



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



The CLRC team receives training and assistance in the use of the mobile application as well as training on how to do the household enumeration and use the surveying equipment. The mobile application can be operated online or offline, so that PaLaR can be done in areas where there is little or no network coverage available.

After the training has been carried out, the CLRC team and other stakeholders formulate a work plan. Then the geo-spatial information and legal data (ownership/occupancy/tenancy) collection can begin.

Data collected by the CLRC operator will be stored in a database to be cleaned and prepared for publishing. The entered data will be checked in accordance with the identity of the land owner by The Ministry of ATR/BPN. The correct data is then validated by The Ministry of ATR/BPN and documented in The Ministry of ATR/BPN Data Center (GeoKKP).

Land title certificates will be issued in accordance to the data that has been stored in the GeoKKP. Every citizen can access this GeoKKP to check the results of their personal land tenure documentation. Communities who are registered but have not received a land title certificate are expected to periodically check the issuance of the title with the local land office.

PaLaR increases the capacity of the community in terms of knowing the parcels they occupy and in terms of the ability to use technology in overcoming their land tenure insecurities – so that they become more related about the land they have. PaLaR promotes inclusivity, which can be witnessed through community participation. This further increases the awareness that anyone, regardless gender, can have knowledge on land tenure and access to land.

Even though inequality in society is a common issue, national policies can navigate towards a better society in developing more inclusive policies which target social justice and welfare in general (Ruth Lister, 1998, p.215-225). Due to population increase and inherent better education, Indonesia's population has gained more awareness with regards to land issues. But demographic and topographic challenges in Indonesia remain and hinder the participation in land registration due to capacity of local land offices.

Revisiting participation issues, Indonesia faces a concern in regard to gender awareness. Without gender mainstreaming, the participation is a lasting discourse that grows wider from communities' public issues specifically in regard to land tenure security. Research shows the importance of women's participation in



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



societal processes and the development goes towards equal benefits and more active and democratic communities, this includes women's participation in land registration processes as including mapping.



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



3. INSTITUTIONAL PROCESS AND LOCAL COMMUNITY

A. MINISTRY OF ATR/BPN AS FACILITATOR

The Ministry of ATR/BPN, in its core function, serves as an implementor of land governance policies with multiple stakeholders in mind. The institutional processes are an integral part of ATR/BPN, who with an ambitious agenda for land documentation are seeking new approaches to help scale up their efforts. One approach is Fit-For-Purpose Land Administration (FFP LA) which particularly is developed to achieve economic development and to ensure social inclusion (FIG/World Bank 2014, UN Habitat/GLTN/Kadaster, 2016).

There are three frameworks in FFP LA: a legal framework which focuses on: tenure security, human rights, gender equity and on the continuum of land rights (UN Habitat, 2008); the institutional framework which incorporates accountable and holistic institutions, sustainable IT approaches, capacity development, and a continuum of services; and, finally, the spatial framework including the use of aerial imageries and visible boundaries, participatory field adjudication processes, incremental improvement, and a continuum of accuracy.

B. LOCAL COMMUNITY AS PRIMARY STAKEHOLDER

The FFP LA approach is incorporating multiple actors with different goals. The local community gets a key role in the participation and serves as a linkage to ATR/BPN. Through the participation of all stakeholders in the FFP LA concept all frameworks namely legal, institutional and spatial can be addressed (Syahid, 2018).

The local community with its understanding and knowledge of local lands in respect to boundary determination and any related issues attributed to the land has an imperative role in the FFP implementation. Secure land tenure is essential for giving people tangible incentives to invest in their land and to ensure they have the necessary resources to sustain their livelihoods (Syahid, 2018).



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



4. GENDER-AWARE PARTICIPATORY LAND ADMINISTRATION

A. REMOVING BARRIERS TO LAND TENURE ACCESS THROUGH PARTICIPATION

Gender-based discrimination still occurs throughout the world in all aspects of life, despite considerable progress in gender equality today. The nature and level of discrimination varies greatly in various countries or regions. Gender disparities in opportunities and control over resources, economy, power, and political participation occur everywhere (Rao and Kelleher, 2005).

Gender equality is a key challenge in regard to sustainable development. Promoting gender equality is a major part of development strategies in order to empower people - women and men - to alleviate poverty and to improve their lives (United Nations - Sustainable Development Forum, 2018).

Land registration processes can be implemented in support to the elimination or reduction of gender-based discrimination. Women bear restricted access to land resources since traditionally in many parts of Indonesia's customary lands family business/leadership is left to men (Nisa Annisa, 2018). Even though there is no law in Islam forbidding women's access to land, traditional norms often allow discriminatory family practices that have shaped constraints in land access equity between men and women (Mulinge and Quinlan *eds.*, 2018). For women, access to land means security and stability, leading to freedom and better access to economic means.

Getting FFP LA approaches to realization is one of The Ministry of ATR/BPN priorities in support to the acceleration of nation-wide land registration. Achieving gender sensitive land tenure security can be done through active participation of a Community Land Registration Committee (CLRC). In practice, the CLRC stresses the importance of women's participation in land registration at every step: from preliminary meetings till the final land titling has taken place. Women are full and active members of the CLRC.

The land registration process in Indonesia usually faces several challenges in the field. The problems are categorized into two kinds of data collection namely boundary and legal data collection. Boundary data collection is primarily done through land surveying and mapping and legal data are to complete the land registration specifically data regarding the owner, evidence of ownership, and some other forms. The committee can face difficulties during the boundary determination because sometimes the owner or the committee does not know where the parcel boundaries are exactly located. There is limited supporting devices – e.g. land mapping instruments, printers, plotters, etc. Regarding the legal data collection



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



problems as limited human resources for data entry and validation, different interpretations of evidence of land ownership (due to existing cultural or customary land ownership evidence), and also limited supporting infrastructures occur. These are just a few of the challenges faced (Syahid, 2018).

B. PARTICIPATORY LAND REGISTRATION WITH LOCAL COMMUNITY

The implementation of participatory land registration with the local community is a cooperation between The Ministry of ATR/BPN and Kadaster International and is part of GoI effort to map and certify all parcels in Indonesia by 2025. The FFP LA method is being implemented to realize this effort. The field work is conducted through a cooperation with the technology-based company Meridia. Meridia focusses on both the technological application and the community participation which are integral part of the FFP LA method. The country specific FFP implementation is PaLaR, by The Ministry of ATR/BPN, Kadaster International, and Meridia (Van Den Berg, 2018).

The contract and preparation stages are the most defining stage of which the PaLaR program aligns stakeholders to agree on certain terms of land registration coordination. At this stage, the understanding and cooperation among stakeholders is key; the areas to be mapped are decided; both technology and instruments are introduced to support existing data and further data collection; and finally the framework and planning is agreed upon.

The next stage is the socialization where the mobilization of people starts. This is the stage that creates awareness for the public on the ongoing land registration plan; this stage must involve every stakeholder, with support of the local land office. The methodology and technology is being introduced, and the community is participating. Members of the community then establish the Community Land Registration Committee (CLRC) responsible for the execution of the plan.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019

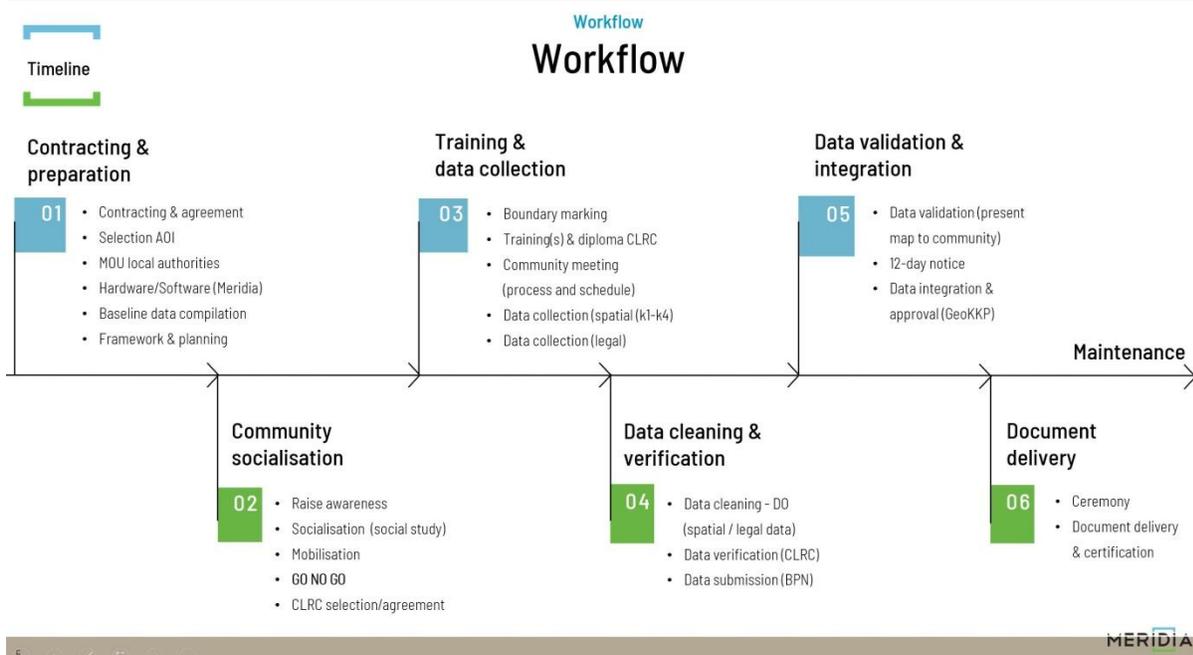


Figure 1 Workflow of PaLaR (Meridia, 2018)

After the training, the CLRC collects the spatial and legal data. Special attention is given to collecting valid spatial data up to certain technical standards to ensure both data accuracy and proper legal administration of land data. Women participation during the process is encouraged as they are part of local community with local land knowledge and interested parties in their own rights (Wits, 2018). The GoI encourages raising gender awareness in nationwide programs enshrined and disseminated in the President’s Instruction No. 9/2000 on Gender Mainstreaming in National Development. Per this instruction, every government agency and official is given a responsibility to introduce a gender sensitive perspective both in public policy design as well as in public programs implementation.

Thus, the primary perspective of PaLaR, aside from active participation of the community in general, is in the role of women in the process of securing land tenure. The Ministry of ATR/BPN and Kadaster International agreed on the importance of the community involvement with special focus on women's access to land.

The PaLaR approach was applied in Tanggamus and Grobogan. The local land office in Tanggamus, Lampung Province initiated the program. The community was trained in the PaLaR workflow. The land registration was done collectively by an active local community with relevant stakeholders such as the village officials and the local land office. Women’s participation was ensured in all meetings and during



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



the implementation of land registration processes, including the mapping process in the field. As noted from the field, data from Tanggamus there are 6 women out of 20 CLRC members, while in Grobogan this was higher, as there were 11 women out of 14 CLRC members.

While women participation is traditionally or socially constructed to be less active in communal or public settings, their involvement was received with enthusiasm and eagerness within the CLRC (Aditya *et al.*, 2018).

As a new approach in land titling, PaLaR has been assessed on data quality, cost and time in order to be compared with existing ATR/BPN efforts in land registration campaigns - named Program *Pendaftaran Tanah Sistematis Lengkap*. As reported by Universitas Gadjah Mada Researcher team, the data quality is measured by a method named Spatial Data Quality Assessment in order to determine the geometric quality of test data against the reference data. The test data are obtained from survey and mapping activities done by the CLRC using GNSS tools for field survey of boundary points. The Spatial Data Quality Assessment reported PaLaR method has 'decent point accuracy and good polygon area and circular ratio measures'. As for the legal data quality using PaLaR noted as 'acceptable' and compliant with other practices.

The calculation of unit cost in applying the PaLaR method also proves that PaLaR is more efficient than conventional approaches. The efficiency allows the unit price of PaLaR to fall within the GoI PTSL budget target ranges. As a result, the PaLaR approach can be considered a good fit for the nation-wide program of PTSL. In Tanggamus reported to cost 8.4 USD per parcel (use only 57% of PTSL budget) while in Grobogan costs 5.9 USD per parcel (75% of PTSL budget). Taking into account of cost calculation PaLaR performs efficiency compared to PTSL method.

In terms of time assessment the PaLaR has shown a time efficiency that is essential for acceleration of land parcels mapping and registration. The efficiency delivered by PaLaR stemmed from streamlined process in both boundary and legal data collection. The field experience in Tanggamus and Grobogan calculated 11.8/11.9 days for boundary data collection, and 4.3 days for legal data collection, comparatively this is clear indication relative to PTSL method that need 30-60 days of processing boundary and legal data collection (Aditya *et al.*, 2018).

The Wandankemiri Village of Grobogan covers 1914 parcels that have been mapped. Kuripan Village of Tanggamus covers 997 parcels. The community took 27 minutes/parcel or 0.2 hectares in average with an



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



average point accuracy of 0.43 meter (Meridia, 2018). The PaLaR process can support land certification move faster than conventional approaches while increasing the support of the community.

5. CONCLUSION

Women's awareness of land tenure in Indonesia is relatively low. Men traditionally regulate tenure of property including inheritance. An example of such paradigm practiced is the marriage certificate that is expressly written in terms of men as head of the household. As a consequence, women experience less involvement in land registration processes and are often not specifically addressed in the provision of land rights.

The knowledge gap related to land registration processes persists due to low social awareness on land tenure issues. There is significant number of people with little to no knowledge or understanding of the importance of land registration. Apart from that, in the traditional way of land recordation local cultural traditions are not fully considered. Knowledge on local cultures is crucial for land professionals during their performances especially in remote areas.

PaLaR is an approach in registering property rights by documenting various matters related to the location whereas the knowledge of the local community is considered of importance for land registration process. It is organized by the community itself and therefore everyone in the community is involved and is led by the CLRC which assures women's participation. This results in evidence of a community's claim and can be easily understood by other stakeholders outside the village – as government, other villagers, universities and the wider community. By utilizing PaLaR as part of the land registration process, an inclusive environment and gender-aware perspective can be achieved in the acceleration of land administration in Indonesia.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019





Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



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Catalyzing Innovation

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