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Your land is my land: exploring land policy in Tangerang, Indonesia using Kingdon's Multiple Streams Model

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YOUR LAND IS MY LAND: EXPLORING LAND POLICY IN TANGERANG, INDONESIA USING KINGDON’S MULTIPLE STREAMS MODEL

A Thesis

Submitted to the Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College in partial fulfillment of the requirements for the degree of Master of Science in

The Department of Environmental Sciences

by

Milla Budiarto
B. S., Louisiana State University, 2004
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# TABLE OF CONTENTS

ACKNOWLEDGEMENTS........................................................................................................... ii

LIST OF TABLES.......................................................................................................................... v

LIST OF FIGURES........................................................................................................................ vi

ABSTRACT....................................................................................................................................... vii

CHAPTER ONE: INTRODUCTION.................................................................................................. 1

CHAPTER TWO: LITERATURE REVIEW......................................................................................... 4
  2.1 Background............................................................................................................................ 4
  2.2 Land Law History.................................................................................................................. 8
  2.3 Land Disputes...................................................................................................................... 11
  2.4 Multiple Streams Model...................................................................................................... 12

CHAPTER THREE: METHODOLOGY............................................................................................. 17
  3.1 Data Collection...................................................................................................................... 17
  3.2 Influential Factors................................................................................................................ 17
    3.2.1 Problems Stream............................................................................................................. 18
    3.2.1.1 Land Law.................................................................................................................. 19
    3.2.1.2 Government Agencies............................................................................................. 21
    3.2.1.3 Corruptions............................................................................................................. 22
    3.2.1.4 Land Administration and Information Systems...................................................... 22
    3.2.1.5 Land Market and Speculations.............................................................................. 24
    3.2.1.6 Land and Property Taxes....................................................................................... 24
    3.2.2 Policy Stream................................................................................................................ 25
    3.2.3 Politics Stream............................................................................................................... 27
      3.2.3.1 Decentralization...................................................................................................... 27
      3.2.3.2 Challenges.............................................................................................................. 31
  3.3 Implementation.................................................................................................................... 32
    3.3.1 Policy Adoption............................................................................................................. 32

CHAPTER FOUR: RESULTS .......................................................................................................... 34
  4.1 General Overview................................................................................................................ 34
  4.2 Research Questions.............................................................................................................. 39

CHAPTER FIVE: DISCUSSION...................................................................................................... 42
  5.1 Summary of Results............................................................................................................. 42
  5.2 Limitations and Future Research......................................................................................... 43

REFERENCES............................................................................................................................... 44
LIST OF TABLES

1. Tangerang Municipality General Overview.................................................................7

2. Revenue Sharing of Central, Provincial, and Local Governments from Land and Property Tax and Acquisition of Land and Building Rights.........................................................30
1. Map of Indonesia .................................................................................................................. 4
2. Map of Jakarta-Tangerang .................................................................................................. 6
4. Indonesian Land Law Timeline ......................................................................................... 10
5. Kingdon’s Multiple Streams Model Diagram .................................................................. 13
6. Operationalized Kingdon’s Multiple Streams Model ......................................................... 18
7. Total Number of Land Dispute Cases in Tangerang Municipality in 1991-2007 ............... 34
8. Total Number of Approved Land Permits by Tangerang Municipality BPN for the Commercial Sector in 1996-2008 ................................................................. 36
10. Total Number of Approved Land Permits by Tangerang Municipality BPN for the Industrial Sector in 1996-2008 ............................................................. 37
11. Total Area Approved by Tangerang Municipality BPN for the Industrial Sector in 1996-2008 as Specified in the Land Permit Applications ......................................................... 37
12. Total Number of Approved Land Permits by Tangerang Municipality BPN for the Housing Sector in 1996-2008 ............................................................. 38
13. Total Area Approved by Tangerang Municipality BPN for the Housing Sector in 1996-2008 as Specified in the Land Permit Applications ......................................................... 38
ABSTRACT

Indonesia is the world’s largest archipelagic country comprised of over 17,000 islands with more than 300 ethnic groups and more than 250 different ethnic languages spoken. Due to its land mass size and multifaceted culture, land policy in this country has been ineffective and inadequate in addressing some of the land affairs. One of the indicators of effective land policy is land tenure security, where land dispute incidence is a function of it. Given that the government has very minimal guarantee for land tenure security in this nation, land disputes are inevitable and very common. By the end of 2008, there are roughly 7,491 land dispute cases flooding the nation.

This study is an exploratory undertaking that investigates the circumstances that have influenced the transformation of land policy and its implementation in Indonesia. Using Kingdon’s Multiple Stream Model as its main conceptual model, this research identified the primary factors that have influenced the effectiveness of land policy, defined in terms of land disputes. The study examined the above factors on the example of Tangerang Municipality, a large municipality that is home of hundreds of industrial and manufacturing complexes. The results of the study indicated that the country’s land policy implementation and land disputes in particular have been influenced primarily by inefficient land title registration, increased state corruption, lack of due process, and unclear decentralization program.

KEY WORDS: Indonesia Land Policy, Multiple Streams Model, Tangerang Municipality, Indonesian National Land Agency, Basic Agrarian Law, Decentralization.
CHAPTER ONE: INTRODUCTION

Indonesia is a chain-of-islands nation with more than 17,000 islands spread across the equator in Southeast Asia. Along with the large land mass area, rapid population growth, diverse ethnic makeup and scarce land availability, conflicting claims over a plot of land are inevitable.

According to Joyo Winoto, the head of Badan Pertanahan Nasional (BPN) or the Indonesian National Land Agency, by the end of 2008 there are approximately 7,491 land dispute cases that affected over 3.2 million people in Indonesia (Antara, 2008). The total disputed land area reached 608,000 hectares. He claims that 1,778 or 23.7% of land dispute cases have been resolved by the end of 2008 (Winoto, 2009). Although land dispute incidences have been steadily increasing in the last decade, there has been insufficient attention given to understand the underlying causes of the above disputes.

Quan (2007) asserts that land dispute incidences are the direct result of land tenure insecurity. With the rampant of land dispute incidences as a major indicator of dysfunctional or ineffective land policy, there is a dire need of land policy reform in Indonesia.

The focus of this research will be limited to Tangerang Municipality (Appendix C) with some general discussion about Indonesia, serving as a point of reference to put the issue in perspective. The forces and factors of land policy implementation will be evaluated based upon land dispute indicator.

The goal of this thesis is to explore the forces and factors affecting land policy implementation in Tangerang Municipality, Indonesia, employing Kingdon’s Multiple Stream Model (Kingdon, 1995) as the main conceptual framework. Traditional model of policymaking is not applied in this research because traditional model is inappropriate for developing country such as Indonesia due to its lack of hard technical data and information and/or access to these data and information. Multiple Streams Model gives attention to the flow and timing of the policy activities and thus better captures the realities of policymaking. It is very useful in understanding the complexities and realities of policymaking by
breaking down the complex problems into more understandable and manageable process. This research will distinguish the components of each stream –problems, policy, and politics –in the context of land policy implementation in Tangerang Municipality. The results of this thesis will provide an overview of Tangerang Municipality’s current land policy implementation and descriptively point out the factors that influenced its implementation.

A study by the World Bank in 2003 revealed that despite the fact that Indonesia has 1.9 million square kilometers of land mass, only less than 10% of the country is covered by cadastral maps and merely 20% of the land parcels have been officially registered (World Bank, 2003). The World Bank’s study concluded that the reasons of such low percentage are due to several circumstances: a complex and overlapping pattern of land tenure, a large number and rapid increase of land parcels due to booming industrialization and commercialization, lack and absence of land affairs documentations, weak administration and institutional capacity by government agencies, long-term land disputes, and unclear procedures for settlement.

Considering the scarcity of scholarly research and publications on land policy using Kingdon’s model, this thesis is intended as a preliminary research to answer the following research questions:

1. What factors may have affected land policy implementation in Tangerang Municipality?
2. What is the nature of land disputes associated with land policy implementation in Tangerang Municipality?

Chapter 2 provides a brief historical background of the changes in Indonesia’s land law dating back from the Dutch colonial era in the early 17th century to present time. This chapter also discusses the relevant literatures which lead to my research design and methodology. Kingdon’s Multiple Stream
Model is introduced in this chapter as well to provide the basis of this research and succinctly discusses about land disputes.

Chapter 3 discusses the methods used for data collection to explore my research questions. This chapter will further discuss each stream of Kingdon’s model as applied to Indonesia’s land policy in general and Tangerang Municipality specifically (Appendix C). This chapter will descriptively elaborate the influential factors and implementation stage adapted from Kingdon’s model.

Chapter 4 summarizes the results of my research. It will describe how each stream of Kingdon’s model impacts the implementation of land policy in Tangerang Municipality.

Finally, chapter 5 offers discussion and conclusion of my research results. Furthermore, this chapter will address some of the limitations of my research. The chapter will end with recommendations for future research.
CHAPTER TWO: LITERATURE REVIEW

2.1 Background

Indonesia is the world’s largest archipelagic country located in Southeast Asia comprising over 17,000 islands, of which only 6,000 islands are inhabited, scattered over the equator (Figure 1). Indonesia, with Jakarta as its nation’s capital, is ranked as the fourth most populous country in the world with the estimated population approximately 237 million people. The country is very culturally diverse with more than 300 ethnic groups and more than 250 different ethnic languages spoken. Administratively, the country is divided into 33 provinces, 349 districts and 91 cities. The provinces consist of smaller local governments referred to as city districts (kota) and rural districts or regency (kabupaten). The smaller administrative government units or the subdivision of kota or kabupaten are called sub-districts or (kecamatan). These kecamatans are further divided into villages called desa (if in rural areas) or kelurahan (if in urban areas).

Source: http://www.indonesia-ottawa.org/indonesia/map.php

Figure 1: Map of Indonesia
Differing from the common Western land law systems, the Indonesian land law has two distinct categories of land rights: an unregistered customary land (adat land) and a registered land (certified land). The certified land rights are further divided into five degrees of tenure: (1) right of ownership (hak milik), (2) right to build/use of structures (hak guna bangunan) –right to construct and own buildings on land owned by another party, (3) right to lease/rent (hak sewa) –right to use land owned by another party, (4) right to use (hak pakai) –right to use and/or to collect produce from land controlled by the State or land owned by another individual, and (5) right to cultivate (hak guna usaha) –right to work on land.

Based upon the Indonesian land law, a land certificate as evidence of the holder’s title is issued after the completion of land registration. The hak milik title is very restricted and can only be obtained by an Indonesian citizen, excluding local corporate entity. Although the remaining land rights can be obtained by non-Indonesian citizens or foreign companies, there are restrictive conditions attached to them. The respective land or property must only be used for the approved project as described in the title application and the rights must be renewed every certain number of years. Due to the restrictive nature of the hak milik title, only one to three percent of the land mass in Indonesia has this title (World Bank, 2003).

This research will evaluate the forces and factors influencing the land policy implementation in Tangerang Municipality (Appendix C). The Municipality is located approximately 16 miles west of Indonesia’s capital city Jakarta (Figure 2), covering a total area of 164.54 square kilometers. It is a part of the Jabodetabek (Jakarta- Bogor-Depok-Tangerang- Bekasi) metropolitan area that has a population of about 23.6 million people in 2005, which makes it among the ten largest metropolitan areas in the world. As of 2005, Tangerang Municipality had a population of 1.537 million people. This makes it the second largest urban center in Jabodetabek metropolitan area after Jakarta. Tangerang Municipality
consists of 13 kecamatans: Ciledug, Larangan, Karang Tengah, Cipondoh, Pinang, Tangerang, Karawaci, Cibodas, Jatiuwung, Periuk, Neglasari, Batuceper, and Benda, and 104 kelurahans (Table 1).

Figure 2: Map of Jakarta-Tangerang

Source: http://www.cnn.com/WORLD/asiapcf/9906/07/indonesia.elex.02/indonesia.jakarta.tangerang.jpg

Figure 3: Map of Jakarta-Bogor-Depok-Tangerang-Bekasi

Source: http://maps.google.com/maps
Table 1: Tangerang Municipality General Overview

<table>
<thead>
<tr>
<th>No.</th>
<th>Sub-District</th>
<th>Area (km²)</th>
<th>Population</th>
<th>Population density (population/area)</th>
<th>Household</th>
<th>Average household</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ciledug</td>
<td>8.770</td>
<td>108,054</td>
<td>12.321</td>
<td>24,476</td>
<td>4.41</td>
</tr>
<tr>
<td>3</td>
<td>Karang Tengah</td>
<td>10.470</td>
<td>99,678</td>
<td>9.520</td>
<td>24,717</td>
<td>4.03</td>
</tr>
<tr>
<td>4</td>
<td>Cipondoh</td>
<td>17.900</td>
<td>147,272</td>
<td>8.223</td>
<td>35,405</td>
<td>4.16</td>
</tr>
<tr>
<td>5</td>
<td>Pinang</td>
<td>21.590</td>
<td>122,074</td>
<td>5.654</td>
<td>29,338</td>
<td>4.16</td>
</tr>
<tr>
<td>6</td>
<td>Tangerang</td>
<td>15.790</td>
<td>127,955</td>
<td>8.104</td>
<td>29,642</td>
<td>4.32</td>
</tr>
<tr>
<td>7</td>
<td>Karawaci</td>
<td>13.480</td>
<td>169,499</td>
<td>12.574</td>
<td>41,592</td>
<td>4.08</td>
</tr>
<tr>
<td>8</td>
<td>Cibodas</td>
<td>9.610</td>
<td>134,059</td>
<td>13.950</td>
<td>34,476</td>
<td>3.89</td>
</tr>
<tr>
<td>9</td>
<td>Jatiuwung</td>
<td>14.410</td>
<td>135,768</td>
<td>9.422</td>
<td>45,528</td>
<td>2.98</td>
</tr>
<tr>
<td>11</td>
<td>Neglasari</td>
<td>16.080</td>
<td>82,174</td>
<td>5.110</td>
<td>21,960</td>
<td>3.74</td>
</tr>
<tr>
<td>12</td>
<td>Batuceper</td>
<td>11.580</td>
<td>92,520</td>
<td>7.990</td>
<td>22,679</td>
<td>4.08</td>
</tr>
<tr>
<td>13</td>
<td>Benda</td>
<td>5.920</td>
<td>68,137</td>
<td>11.510</td>
<td>16,688</td>
<td>4.08</td>
</tr>
</tbody>
</table>

Tangerang | 164.540 | 1,537,244 | 9.342 | 390,242 | 3.94 |


Due to its strategic location, Tangerang Municipality is home to hundreds of industrial and manufacturing factories. According to a survey in 2005 conducted by the Central Bureau of Statistics (Badan Pusat Statistik –BPS), there are 614 factories (both large and medium) located in the area. Nearly 60% of its income source is generated from industrial sectors and roughly 25% comes from trade and services. Based on the fact that Tangerang Municipality is the second biggest urban city after Jakarta in Jabodetabek metropolitan area and its geopolitical location and importance (i.e. close proximity to the capital city Jakarta, rapid growth in socioeconomic development from industrial and residential sector activities), the Municipality makes a good case study of land policy implementation. Considering such a limited scope of the study, the results of the research are not necessarily representative of the situation elsewhere in the rest of the country. Although the results would not provide a conclusive statement and/or wholly represent the current land policy trends in Indonesia, this
This research is largely motivated by the overwhelming emergence and prevalence of land dispute incidences throughout Indonesia. For more than four decades, land dispute phenomenon in this country is ubiquitous. It is common that one plot of land is claimed by more than one owner. The Indonesian National Land Agency or BPN is very well aware of these issues and openly acknowledges the rampant overlapping land tenure problems. These land disputes occur vertically between the people and the government, the investors (or business entities) and the government, and horizontally between the people and the investors (or business entities), between the governmental agency itself, and among the societies themselves.

2.2 Land Law History

During the Dutch colonial era from the 17th century to 1945, land rights in Indonesia had a dual character (Figure 4). Under the Dutch rule, some lands were governed by the Western laws, while the others were managed by the Indonesian laws. Consequently, each type of land had its own unique legal status (Gautama & Hornick, 1983). As the result, two legal systems for land rights emerged; one was for non-Indonesians and other foreigners and the other was for Indonesians (MacAndrews 1986). Laws governing one’s land ownership were essentially a function of one’s citizenship.

The civil law system that was introduced under the Dutch rule was primarily designed for non-Indonesians. Limited mainly to urban areas, the civil law system required surveying, registering, and titling of lands in accordance to the Western (Dutch) civil law procedures. As opposed to this civil law system, the Indonesian land law was mainly regulated by the adat law or the customary system of law. Under the adat system, lands were owned and managed without any formal registration. Land ownership and land holdings were based primarily on community acceptance of recognized land boundaries, on
oral agreements, as well as on claims by individuals and groups. As a result, there were minimal written documents or proof of ownership under the *adat* system. Lands registered and titled under the Western (Dutch) law procedures, on the other hand, were cadastrally surveyed with specific documentation, legal descriptions, control documents, and written evidence of title to prove ownerships. MacAndrews (1986) points out that because of this dual land law system, only less than five percent of all land in Indonesia were titled based on the Western titling system, leaving the rest of the land in the country remained untitled.

After Indonesia’s independence in 1945, the Dutch colonial laws and regulations were gradually replaced by new laws. In the early period of independence (from 1947 to 1960), however, land law was still largely influenced by the Dutch land law legacy, characterized by the prevalence of *adat* and civil law systems (Figure 4). Similar to colonial times, citizenship ultimately determined which legal system governed one’s land ownership and control. As in colonial times, non-Indonesians’ land continued to be registered, surveyed, and titled. While Indonesians’ land remained under the *adat* law system where land holdings were not surveyed, registered, or titled.

In 1960, Undang-undang Pokok Agraria (UUPA) or Basic Agrarian Law (BAL) was enacted. Although still retaining certain elements of the previous land law system, the BAL was a fundamental step toward a unification of the country’s land law (Figure 4). The basic principles of BAL were adopted from article 33 of the Indonesian 1945 Constitution and principle 5 of the State’s philosophy, Pancasila. Article 33 of the Constitution states that land in Indonesia has an important social function and that land matters are controlled by the State of Indonesia as the people’s representative. While the fifth principle of Pancasila calls for social justice and equitable spread of welfare for the people of Indonesia.

The BAL consists of 67 articles broken down into four chapters covering the basic principles and provisions (Appendix B). The principles address the rights of land, water, and space as well as penal
provisions and land registration. The BAL introduced a system of control and management over all aspects of land and land-use in Indonesia. It brought two fundamental changes to the previous land regulation and practice. First, the BAL revoked all the old land registration and titling laws and regulations. As a result, the dual system of land law was eliminated (Figure 4). Lands previously titled under the Western (Dutch) law could be converted to the new system. If the lands are not titled under the new law within a certain period of time, the lands would automatically be declared as State land.

Second, it established an entirely new system of land rights with various degrees of tenure (i.e. right of ownership, right to build/use of structures, right to lease/rent, right to use, and right of cultivation) and with different citizenship requirements (i.e. Indonesians or non-Indonesians) determining the type of right to be granted. Another important element was that in all land law matters, the BAL would take precedence over the adat law. Rights granted under adat prior to the enactment of BAL, however, were still fully protected. In addition, article 19 of BAL required that all land be registered.

Figure 4: Indonesian Land Law Timeline
2.3 Land Disputes

Some scholars often use the terms ‘conflict’ and ‘dispute’ loosely and interchangeably. To avoid possible confusion, John Burton’s definitions of these terms are used here to distinguish the difference between them, based on time and issues involved (Spangler & Burgess, 2003). Burton’s distinctions of the two terms are the generally accepted definitions by many conflict scholars (Spangler & Burgess, 2003). Burton suggests that disputes are short-term disagreements between two or more parties that are relatively easy to resolve. Conflicts, on the other hand, are long-term disagreements that often involved deep-rooted, non-negotiable issues that are resistant to resolution. In short, a dispute is a form of conflict, where a dispute may exist within a larger and longer conflict (Spangler & Burgess, 2003). Bearing these distinctions in mind, this thesis will primarily focus on disputes in regard to land affairs rather than discussing land conflicts.

In context with the term land dispute, the Indonesian Minister for Agrarian Affairs and BPN define land dispute as “a difference of opinion with regard to the authentication of land rights, grant of land rights, and registration of land rights including conveyance and publication of rights to title” (Harsono, 1996). The BPN notes three main points that lead to land disputes: unclear land certificate administration and/or land information system that induce the duplication of one land certificate given to multiple people, uneven land ownership distribution, and the legality of the land ownership. In many cases, the lands were purchased by investors and had land certificates, but in reality the lands are unused and abandoned. Because the land parcels are unused, neglected and abandoned for a long period of time, the land parcels are being used by the public, mainly by the poor households. Land dispute incidences mainly concern the land area, land boundary, land status, land rights, land release, payment of indemnity, annulment of land rights, expropriation of land rights, and certificate of title issuance.
(Harsono, 1996). These incidences create vertical or horizontal (or both) types of disputes amongst the parties involved.

Sumanto (2008) writes that there are three methods of solving land disputes: direct dispute solving through deliberations by the disputing parties, solving through the judicial system by reporting and submitting the case to public court or administrative court depending on the case involved, and solving through Alternative Dispute Resolution (ADR) including arbitration, mediation, and conciliation.

2.4 Kingdon’s Multiple Streams Model

John Kingdon developed an agenda-setting model or also known as the multiple streams model to conceptualize and explain the public policymaking process (Figure 5). His model was based upon the concepts of the “garbage can model” proposed by Cohen, March, and Olsen in 1972 (Kingdon, 1995). The “garbage can model” suggests that policies are not the product of rational actions because in reality, policy actors rarely evaluate all the alternative solutions and they do not compare these alternatives systematically. The basic concept of the “garbage can model” is that the policymaking process operates like garbage cans, where a mix of problems and potential solutions are poured into the can and with the precise mixture could determine the policy outcomes.

The fundamental approach of this model works differently from its earlier traditional approach of policymaking, which is rational, linear, hierarchical, and rigid. The traditional policymaking process is broken down into series of six sequential stages: identification of policy problems, agenda setting, development of policy proposals, adoption of policies, implementation of policies, and evaluation of policies’ implementation and impact (Porter, 1995). The linear model has been heavily criticized by many policy experts for being overly rational, unrealistic, and not dynamic because in the real world, policymaking is often unsystematic, chaotic, and politically charged (Kingdon, 1984 and Porter, 1995).
Contrary to the traditional approach of policymaking process, the multiple streams model acts and reacts according to their own logic and thus the policymaking process is fluid and non-linear. The model focuses more on the flow and timing of the policy action to better understand the complexities of the policymaking process in contrast with the chronological sequences of policymaking as proposed by the traditional policymaking approach.

Kingdon (1984) considers public policymaking as a “set of processes, including at least (1) the setting of an agenda, (2) the specification of alternatives from which a choice is to be made, (3) an authoritative choice among those specified alternatives...and (4) the implementation of a decision.” He underlines that there are three distinct, but complementary processes (or streams) that flow independently and essential in the policymaking process (Figure 4). These three streams are as follows:

- Problems stream:
  
  This is a process of recognizing, identifying, and explicitly defining problems as perceived to be pressing, serious, and critical to be solved by government actions. This is the process of
persuading decision makers to pay more attention in one problem over the others. Porter (1995) explains that in order for a social condition to be considered a problem, the people must perceive and identify it as such and see it as something that is amenable by the government. However, it is difficult to clearly and explicitly define the problem because many actors involved (e.g. citizens, media, and interest groups) lobby for their own vested interests. If a situation is not clearly defined as a problem, alternatives to solve the problem are usually not seriously considered and proposed to be converted and adopted into a policy issue. Kingdon suggests that problems usually fade from view and government’s attention when people become used to the condition or when people pay attention to the problems only temporarily for a short period of time.

- Policy stream:

This stream is involved with the process of formulating, debating, revising, and adopting policy alternatives and solution proposals; hence this stream is also referred as the solution stream. In this process, the actors (e.g. mid-level government officials and administrators, policy advocates, and academics) compile a short list of solution proposals. Proposals are likely to be successful if they are technically feasible, financially viable, compatible with the decision makers’ values, and appealing to the public. This stream explains how an issue rises and/or falls in the policy agenda; for some ideas or proposals to be picked up and considered by the policy community, policy entrepreneurs should have a strong figure or champion to push the agenda along. This model is based on the belief that solutions and proposals are, in fact, not novel ideas – they are already thought out, and available – and out there “floating,” constantly waiting and in search of issues and problems to which they can be associated with.
Politics stream:

Kingdon states that there are three major components in the political stream: national mood, organized political interest, and the government. Political events such as elections, public protests, changes in government and administration, political mood and climate, and voices of advocacy or opposition groups can highly influence the outcome of the policy. Political events can move the agenda around that may lead a certain issue and policy to be included or excluded from that agenda. Kingdon (1984) argues that with these features, the political stream has its own dynamics and rules.

Even though all three streams are important, no one stream is decisive to the overall outcome of the policymaking process, thus there is no sequence or priority among the streams. Kingdon suggests that in order for changes to happen, from a mere issue and/or problem transformed into a concrete policy, these three streams need to occur simultaneously and converge together at a critical point in time or “policy windows” (Figure 5). The policy windows open unpredictably and are quite volatile to the changes in the political stream; therefore, it is sometimes very difficult to predict or determine when and how long the policy windows will be open at a given time and in a given context. However, it is not always necessary for all three streams to meet simultaneously (or also known as “coupling”) for a policy to be adopted, couplings can be tight or loose, partial or pervasive depending on the degree of dependency among the streams at a given time and at a given context. In some cases, a “partial coupling” – a coupling between two streams – is sufficient enough; however, this made the whole policymaking process more uncertain. In this case, Kingdon (1984) argues that policy entrepreneurs play a key role in connecting the streams.

A policy entrepreneur is someone who is willing to invest his/her time and energy to champion an idea or a proposal in order for the subjects to be moved up on the agenda and into position of
enactment (Kingdon, 1984). A policy entrepreneur couples a particular problem with a particular solution and strives for its attention on the decision agenda. Because of this nature, policy entrepreneur is considered to be the central of the process. According to Kingdon, there are three qualities for an individual to be considered as a successful policy entrepreneur: influential and has the ability to speak for others, must be known for his/her “political connections or negotiating skills,” and persistence. A successful policy entrepreneur would create some kind of alliance among the policy communities based on mutual common interest and compromise to link the streams together.

Multiple streams model is extremely useful to explain why some issues and problems are more prominent in the policy agenda at a given time and are transformed into concrete policy while others never do so. This is possible because the multiple streams model allows the policies to be broken down into more simple, manageable, and generalized terms i.e. problems, policies, and politics.
CHAPTER THREE: METHODOLOGY

This chapter provides a summary of the methodology of this research to explore my research questions. The chapter explains the nature of data collection as well provide an explanation of the influential factors and implementation stage used in assessing land policy implementation in Tangerang Municipality.

3.1 Data Collection

Secondary data were compiled from archives of documents and reports that were gathered directly from Tangerang Municipality BPN office in July 2008. Personal observations were also made during the process of this data collection. Informal discussions and interviews were also held with a few officials in Tangerang Municipality BPN, Tangerang Regency BPN, and Bappenas regarding land policy implementation and land affairs.

It is to be noted that the term “data” in this research does not refer to proven empirical data, instead it refers to qualitative data acquired from archival documentations compiled by the author to provide descriptive information.

3.2 Influential Factors

Influential factors for this research are grouped into the three streams respectfully as discussed in Kingdon’s Multiple Streams model (Figure 5). Each stream will provide various detailed descriptive components that contributed and reinforced the flow of each corresponding stream. However, these components are rather limited and not meant to be exhaustive. Instead, they are mostly meant to capture the pertinent issues normally considered by land policy experts.
3.2.1 Problems Stream

Land is a scarce resource and one of the most fundamental needs for human survival. Therefore, it is very crucial for the government to proactively assure and protect such needs. Land policies adopted by the government become important vehicles to administer land laws and regulations to ensure the livelihood of the citizens. However, land policies in Indonesia have yet to effectively address and regulate some of the issues regarding land affairs. The citizens are commonly dissatisfied with how the government administers land laws and regulations. Sadly, land problems have become a part of everyday’s life in many parts of Indonesia. It is quite prevalent to read stories about public outcries and
criticisms in the newspapers questioning the government’s attention regarding land problems in the country and how they are being handled.

3.2.1.1 Land Law

According to Article 33(3) of the Indonesian 1945 Constitution, the land (earth), waters and the natural resources within the country will be controlled by the State and will be utilized to the greatest benefit of the people. Based on this principle, Law 5/1960 of BAL attempted to create a uniform land law system that is based on adat (customary) law. This law is aimed to achieve “prosperity of the Indonesian people, Indonesian socialism, and adat philosophy” (Behuria, 1994). Abdullah (1966) explains that the definition scope of adat is not only limited to local custom, but also has a broader meaning that includes the entire structural system of the society. This includes the value system, norms, behavior, and social expectations, where local custom is only one of the components in it.

Under the adat law, ownership and holdings of adat land, including the boundaries and claims, are based on community acceptance; the adat land are not surveyed, registered or titled. This grey area of BAL acts as a catalyst of land disputes or worse, land conflicts between the community and the government. First of all, although BAL explicitly recognizes the adat land law, it does not contain the definitions of adat and hak ulayat (customary rights). This is very problematic because the definition of adat is not well-defined within the Law itself. As the result, the word adat can be easily abused and is subject to different interpretations of different interest parties and personal gains. Second, Article 3 of BAL stipulates that the implementation of ulayat rights and other similar adat rights must conform to the national interests of the State and cannot contradict to the State’s law and regulations. Last, Article 5 of BAL states that adat law must not contradict with the national unity, the Indonesian socialism, religious law, and the principles of the Law or other legislation. Backed by the BAL and the 1945
Indonesian Constitution, the government possesses the right to takeover of *adat* land in the name of public and national interest.

One of the most important pieces of legislation promulgated by the BAL is stated in Article 19. This Article requires the people to register their lands to secure the land status. The law also stipulates that parcels of land that do not have official land certificates from the government would be considered as absentee lands; therefore, can be seized anytime by the government and ultimately owned by the state.

Some of the principles of the BAL are perceived to be rudimentary and outdated since they were not originally formulated to govern modern urban land system – it was developed with the intention of addressing rural land issues. Moreover, many of the principles, laws and regulations in the BAL still have not been fully promulgated since the Law was passed in 1960 (Sumanto, 2008). Ironically, under the BAL, formal land ownership rights are very difficult to obtain due to the ill-defined private landholders’ rights. In contrast, the State’s land rights are well-defined, very extensive and well regulated.

Other than the BAL, there are many more land laws and regulations found in Indonesia. Due to the immense amount of laws and regulations and the lack of synchronization, it is unusual that they are often overlapping and contradicting one another. Winoto (2009) notes that there are currently 582 legal documents that were promulgated to regulate land affairs; these documents are comprised of 12 laws, 48 government regulations, 22 presidential decrees, 4 presidential instructions, 243 head of BPN regulations, 209 head of BPN circular letters, and 44 head of BPN instructions. In reality, these contradictory legal documents are serving more harm than good in conveying land policy.
3.2.1.2 Government Agencies

Currently, there are three national agencies that are responsible for land administration and management: the Ministry of Forests, BPN, and the National Development Planning Agency (Badan Perencanaan dan Pembangunan Nasional – Bappenas). The Ministry of Forests controls and manages the majority of the land administration since 70% of Indonesia’s total land is forestland. The remaining 30% of the non-forestland –including much of the urban land– is administered by BPN. BPN is a central agency that reports directly to the President and controls 300 district Land Offices throughout the country. Albeit Bappenas is responsible for the overall land policy, its involvement has been quite marginal in land administration (Sumanto, 2008). In addition, the enactment of Law 22/1999 on decentralization further minimizes Bappenas’ responsibility for land policy and devolves the responsibility to BPN.

With so many agencies responsible at the national level, the implementation and enforcement mechanisms of land policy are even more intricate and heavily fragmented due to poor coordination amongst the agencies. The roles and functions of each agency become arbitrary and obscure; moreover, there is no clear umbrella agency at the national level with the authority to oversee all the agencies involved in land administration. On top of this, the lack of knowledge sharing, data exchange and communication among the agencies, both at the local and national level, have made land administration more difficult.

In general, BPN’s main tasks are as follows: to administer land policies, planning and development, to manage land records, to process land titles, to monitor land use and land reform, to review and resolve land disputes and land conflicts, and to perform land use survey, measurement, and mapping. In Tangerang Municipality BPN, however, land registration records are no longer managed by the Agency. According to Tangerang Municipality BPN, the agency no longer documents and manages
land registration records since 2002 as the responsibility has been devolved to the local government’s office per Law 22/1999. Along with the power devolution, BPN's role has been reduced to monitoring standards, training, and provision of some services. The process to gain access to land registration records at the local government’s office is very confusing and convoluted with unnecessary bureaucratic processes. Even the Tangerang Municipality BPN officials are unaware of the procedures –if any –to inquire such data from the local government’s office.

3.2.1.3 Corruptions

One of the main root causes of land disputes often leads to corrupt government officials; land certificates are easily manipulated, fabricated, duplicated, and forged by corrupt land officials within BPN itself. Any land administration protocols and transactions can potentially be used for rent seeking opportunity and seen as a source of “income” by the corrupt officials. Bribery for the “administrative fees” or often called “grease money” on land sales and/or purchases, land taxation, building regulations, development licensing, zoning, and permits are accepted to cut corners and expedite the administrative procedures. Corruption and bribery are already deep-rooted that the society sees such practices as a norm and a necessary evil to minimize time delays and to get the job done by bypassing formalities.

BPN has been overly criticized as being too centralized, secretive, unresponsive and often called as one of the most notoriously corrupt state agencies in the country. The Agency’s image is even more tainted when the BPN director for land disputes, Elfachri Budiman, was arrested for forging land certificates on November 2008 (The Jakarta Post, 2008).

3.2.1.4 Land Administration and Information Systems

According to Winoto (2009), of the 85 million land parcels existed in Indonesia, only 45% are registered and only a small percentage of the registered lands are mapped. Most of the existing thematic land maps are either out of date or not in the appropriate scale. These maps are very important tools used
for land policy formulation, land administration, land-use planning and management, and land dispute and conflict resolution.

As for land permit records, the existing archives are managed in an unconventional manual system. There is no minimum standard or general standard operational procedures in data entering or recordkeeping. The data entering usually depends on the discretion of the land officials and hand written on a log book. Moreover, the integrity of the records is sometimes questionable since virtually anybody can access the data log and easily alter or fabricate the information. Manual archiving could also create problems such as loss of documents through burglary, fire, moisture, flood or other means, or mistaken and overlooked documents.

Archer (1993) argues that land permit systems in urban development have five main functions: guiding the location of the private land and building development projects, coordinating the government and the formal private sector development activities, facilitating land assembly for the development projects, facilitating land assembly for large-scale development projects, and attaching appropriate project development conditions to the permits for the land acquisition for the proposed development projects. Essentially, land permits function as a vehicle to control and guide land use development. In reality, this permit system has been misused by many developers who acquired large areas of land but have no intention or the capacity to develop the entire area that the permit covers (Firman, 2000).

Additionally, there is no common internal database sharing and exchange for every level of government and institutions on land affairs. Results from studies, surveys, or researches are not shared or synchronized. There is no communication or networking among the departments. In order to obtain data from numerous departments, one literally had to go door to door to do so. Inadequate data and information on land affairs always lead to poor decision-making and land development planning.
3.2.1.5 Land Markets and Speculations

Weak land administration, specifically the land registration system, has impacted the overall economy of the nation because information on land use and land markets are rarely readily accessible to the general public and there are no land clearinghouse database existed as a source of information sharing and dissemination. The mixtures of outdated and complex regulatory framework, unclear and poorly developed land registration system, transparency requirements and enforcement mechanisms and the omnipresence of corruption are distorting the land markets and the economy. The land market distortion encourages the sellers and buyers to abuse the regulatory framework loopholes and evade the formal procedures entirely (Sumanto, 2008). This is one of the reasons why there are many illegal land brokers (also known as calo tanah) found in urban areas working as the middlemen of land sales/purchase. Consequently, land speculations and land disputes flourished everywhere throughout the nation.

Although Article 7 of BAL clearly forbids excessive land ownership and possession, in the Botabek (i.e. Bogor, Tangerang, Bekasi) area, land speculation and concentration of ownership were evident; the record in 1996 shows that 15 companies owned more than 1,000 hectares of land (Winarso, 2001). Winarso (1999) notes that the land speculative behavior has created a pseudo-market demand for land and housing. In Tangerang Regency itself, more than 50 percent of the 60 developers found in the area were owned and controlled by only a handful of people or companies (Winarso, 2000). This behavior also discourages private investments in land and housing development and negatively impacts the supply of affordable land.

3.2.1.6 Land and Property Taxes

In many cities in Indonesia, land taxes, including property taxes and value-added taxes, as well as location and building permits are used as instruments for collecting revenues instead of as legal and
economic instruments in controlling land utilization and development. There is no transparency in
revenue sharing or budgeting reporting by the central and/or local governments. It is unclear how these
revenues from land and property taxes are being utilized for improving and delivering public needs.

Different than many countries, revenues from land and property taxes in Indonesia initially flow
to the central government before being redistributed to the provinces and local governments. Hence,
local governments do not have the leverage in property tax administration, especially in identifying the
tax roll and in collecting it. This notoriously centralized tax system discourages local governments to
perform at their highest capacity in providing services for the public needs. A lot of the times the
property taxes set out by the central government are incoherent with the aspirations of the local citizens.

Triggered by the economic and financial crisis in 1997 and the following political turmoil,
Indonesia hastily adopted Law 22/1999 on regional governance and Law 25/1999 on fiscal balance in
the spirit of political and fiscal decentralization. These laws gave more autonomy to local governments
with the stipulation that any provisions administered and implemented by the local government do not
contradict with the “national interest.” The details of both of the laws will be further discussed in the
section of politics stream.

3.2.2 Policy Stream

Per Law 17/2007, BPN is mandated to implement efficient and effective land management,
reconstruct regulations of land reform, improve the land law system, enhance land regulation and taking
into consideration adat rules, and improve resolution of land conflict through administration, justice, and
alternative dispute resolution. In accordance with the law, BPN constructed four national land policy
agendas based on the principles of social harmony, sustainability, distributive justice and welfare of the
people: (1) agrarian reform such as reform in land politics and land law, land reform, and land access
These land policy agendas are further translated into what is called “the eleven prioritized agendas,” including: (1) public trust building, (2) improvement of land services and registration, (3) improvement of access to land, (4) land conflict resolution specifically in the disastrous and conflict regions, (5) systematic land conflict resolution across the nation, (6) development of national land management information system and land document security system, (7) addressing corruption, collusion, and nepotism and improvement of public participation and empowerment, (8) settlement of large scale abandoned land, (9) consistent implementation of land regulation, (10) institutional reform of the Indonesian National Land Agency, and (11) development of land politics, laws and policies (Winoto, 2009).

In an effort to improve its land administration and services, BPN initiated a mobile land offices program on December 16, 2008 called the Public Service for Land Certification (Layanan Rakyat untuk Sertifikasi Tanah – LARASITA). This program was widely adopted by the central government based on a concept championed by Rukhayat Nur when he was still appointed as the head of Karang Anyar Regency BPN before being drafted by the central BPN as the head of data and information. The purposes of this program are to improve land administration, to accelerate land registration by providing mobile land services utilizing cars and motorcycles, to eliminate the use of illegal land brokers, to fight corruptions in land certification process, to help address land disputes, and to accommodate and provide inexpensive, simple, fast and accurate land certification process. One of the benefits of this service is that it can reach the people in specific geographical conditions and remote areas. This service enables the people to register their land ownership records at the closest mobile land office in lieu of visiting BPN office. The program is gaining popularity with the people and has been acknowledged by the
World Bank as “the pioneer of mobile land information services” (The Jakarta Post, 2008). The inauguration of this program launched 124 cars and 248 motorcycles to 124 BPN offices as the initial pilot project throughout Indonesia. The expenditure for this project is estimated around 100 million Rupiahs (Warta news, 2008). Furthermore, the head of BPN enacted Regulation 18/2009 to strengthen the foundation of this program.

In the spirit of land policy improvement, BPN is currently drafting four pieces of legislation on land law, agrarian reform law, government regulation on idle land, and government regulation on government income (non-tax). The land policy reform includes legal reconstruction to improve people’s land rights, to solve existing land problems, to handle and settle land disputes and conflicts systematically, and to implement all land laws and regulations consistently (Winoto, 2009).

To accommodate land disputes and conflicts resolution, Law 30/1999 regarding arbitration and alternative dispute resolution was enacted to provide legal assurance in accommodating dispute resolution through arbitration, consultation, negotiation, mediation, consolidation and expert assessments (Sumanto, 2008). In addition, BPN also developed and implemented programs such as land dispute settlement operations (Operasi tuntas sengketa) and land dispute investigation operations (Operasi sidik sengketa).

### 3.2.3 Politics Stream

#### 3.2.3.1 Decentralization

For more than 50 years since Indonesia’s independence in 1945, the nation was governed from the center with the central government at the top of the hierarchy. The highly centralized system of governance gave the power virtually on the hands of only a few institutions. The central government had little trust on the local governments in governing their local territory because the local governments were deemed incompetent and under-skilled. There was a fear that greater local autonomy could
undermine the country’s national unity and social cohesion. In addition, many were concerned that
decentralization would reduce the capacity for interregional diffusion of wealth (Devas, 1997). This
multi-tiered centralized authority also begets centralized tax systems in Indonesia.

When the economic and financial crisis hit Indonesia in 1997, as well as other Asian countries,
Indonesia undergone drastic economy shift from rapid growth to devastating contraction within a short
period of time. High levels of unemployment created social unrest, violence, and political upheavals.
Motivated by the economic crisis, the subsequent political turmoil and the growing outcry for
democratic reformation, Indonesia initiated substantial legislative changes and embarked for ‘new’
political and fiscal decentralization.

According to Alm et al. (2001), the term ‘decentralization’ is the transfer of degrees of authority
and responsibility for government expenditures and revenues from the central government to the lower
level of government. De Mello Jr. (2000) further suggests that the objectives of fiscal decentralization
policy include: increasing efficiency in service delivery, reducing transport fees and costs related to
provision of public services and goods, fostering local democratic traditions, and promoting the public
sector activities. In developing countries, decentralization is usually classified into three broad
categories: political, administrative, and spatial (Rondinelli, 1990). Political decentralization involves
giving more decision-making power to the citizens to decide for themselves, in essence, it is a process of
democratization. Administrative decentralization is the transfer of responsibility from the central to the
local government for planning and management of resources. It can be inferred that within this
decentralization, there is also a transfer of authority for decision-making and management of public
services and infrastructure, delegation, and devolution of power and functions from the central to local
government (Rondinelli, 1990). Finally, spatial decentralization is the process of spatial reallocation and
diffusion of economic and financial activities to prevent over-concentration of power in a few regions or
urban areas. The overall objective of spatial decentralization is to achieve a balanced urban and regional development.

In May 1999, the Indonesian parliament adopted two new laws as the initial steps toward decentralization: Law 22/1999 on regional autonomy and Law 25/1999 on fiscal arrangements between the central government and the regional governments. Both laws essentially reorganized and changed the relationship between the central, provincial, and local governments. These statutes substantially shifted a vast degree of functions from the central directly to the local governments, bypassing the provincial governments. The two laws are aimed to bring government closer to the people while empowering local communities and local legislature councils. *Kotas* and *kabupaten* play a more important and active role for most of the public services, while the provinces acts more as coordinators.

Firman (2003) asserts that the government established four stages the decentralization process: initiation (2001), installation (2002-2003), consolidation (2004-2007) and stabilization (2007 and beyond). But in reality, by the end of 2002, the progress was stagnant and the functions of the central and local government were still not clearly defined (Firman, 2003).

1) **Law 22/1999: The Regional Governance Law**

Law 22/1999 basically eliminates the hierarchy between the central, provincial, and local governments and outlines the political and administrative responsibilities for each government respectively (World Bank, 2003).

Based on the new law, the provinces do not have hierarchical relationship with local governments anymore; the local governments become fully autonomous. Apart from assuming a coordinating role, the provincial governments also undertake the tasks that the local governments still unable to perform. However, the law retains the provincial governments’ hierarchical relationship with
the central government. In short, the provincial governments play a dual role as autonomous regions on one hand and as regional vehicles for the implementation of central government policies on the other hand.

Article 4 of the law authorizes the provinces, districts and municipalities in regions to administer and govern the local people based on their aspirations. Article 7 stipulates that the local governments are responsible in implementing programs in public works, agriculture, education, health care, industry and trade, environment and land use, and labor and cooperatives. The central government, on the other hand, retains the responsibility for macroeconomic planning, national defense and security, international affairs, religious affairs, fiscal and monetary affairs, and judicial system.

2) Law 25/1999: The Fiscal Balance Law

Law 25/1999 establishes the legal foundation for fiscal decentralization to complement the autonomy granted by Law 22/1999. It outlines the new division of revenue sources and intergovernmental transfers to improve regional economic abilities and to achieve fiscal balance between the center and regions (World Bank, 2003).

Table 2: Revenue Sharing of Central, Provincial, and Local Governments from Land and Property Tax and Acquisition of Land and Building Rights

<table>
<thead>
<tr>
<th>Revenue from:</th>
<th>Central government (%)</th>
<th>Provincial government (%)</th>
<th>Local government (%)</th>
<th>Cost of collection (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land and property tax</td>
<td>10</td>
<td>16.2</td>
<td>64.8</td>
<td>9</td>
</tr>
<tr>
<td>Acquisition of land and building rights</td>
<td>20</td>
<td>16</td>
<td>64</td>
<td>0</td>
</tr>
</tbody>
</table>

One of the fundamental functions of Law 25/1999 is to delineate the way tax and non-tax revenues are shared between the central government and the regions. This law postulates the revenue distribution ratio among central, provincial and local governments. Table 2 above summarizes the revenue sharing percentage among the central, provincial, and local governments from land and property tax and acquisition of land and building rights.

3.2.3.2 Challenges

Theoretically, decentralization promotes participatory decision-making at the local level and grants local governments more autonomy over local affairs. However, many cities and rural areas throughout the country still remain heavily dependent on the central government regardless of Law 22/1999 and Law 25/1999.

Because decentralization is still in its fledgling stage, there are several obstacles faced by the country in the upcoming years. Although local governments have more opportunity and autonomy for local planning than ever before, many local authorities do not have adequate resources, funds, and institutional capacities to fulfill the functions specified in Law 22/1999. Limited and restricted governmental information prevent local communities from fully participating in public policy and planning.

Local governments are surged with sudden overflowing tasks handed down to them by the central and provincial government that may push their capacities to the limit. Many of the local council representatives are ill-prepared for the transition; they do not have the proper education, knowledge or political experience in regulatory frameworks and public policy.
3.3 Implementation Stage

For the purpose of this research, the outcome of the implementation stage is the policy adoption in Tangerang Municipality. This component is useful to evaluate the effectiveness of land policy and also serves as a feedback mechanism for land policy implementation.

3.3.1 Policy Adoption

Land policy is fundamentally the outcome of regulatory frameworks implementation process. In order to systematically evaluate the effectiveness of the adopted land policies, it is important to focus on how the policies are constructed in response to address some of the issues at hand. As Quan (2007) argues, land tenure security is one of the categories for land policy indicators aside from land access and governance of land resources. The number of land dispute incidence is a direct function of land tenure security –lack of land tenure security gives rise to more disputes and conflicting interests over land. Land tenure security provides the certainty that one’s rights to land will be protected from competing claims and recognized by others (FAO, 2002). It is important to note that the rules of land tenure are governed through land policy and administration.

In response to the need of regulatory framework reform, BPN started its bureaucratic re-organization within the Agency as mandated by the Presidential Decree 10/2006. The institutional reform started by merging some organizational units together and developing new organizational units such as Deputy of Land Survey and Mapping and Deputy of Land Dispute Resolution and Management (Winoto, 2009). Subsequently, the Agency implemented several new systems of reward and punishment based on performance, mutation and promotion, and new staff recruitment.

The head of BPN, Joyo Winoto, claims that the two land dispute programs implemented by BPN (i.e. land dispute settlement operations and land dispute investigation operations) have resolved 1,778 land dispute cases, roughly 24% of the total land dispute cases. He also states that the improvement of
Land services have dramatically increased the number of published land certificate over the last few years from 919,319 in 2005 to 2,671,551 in 2008 (Winoto, 2009). However, policy regarding the resolution for land disputes is still somewhat vague and not well refined.

Due to the fact that the LARASITA program is still a brand new pilot project and in its early stage, its implementation is without drawbacks. The socialization of the program seemed to be inadequate, many of the citizens were under the impression that the program offers cheaper cost than going to BPN office or even free of charge, while in fact, the cost is somewhat the same. In spite of BPN’s claim that LARASITA program has covered more than ¼ of the country’s area, the mobile land services have not widely spread. According to Banten Province BPN, the LARASITA program in the province has not been fully functional and utilized in all four Regencies and four Municipalities. The LARASITA program currently only serves Pandeglang Regency, Lebak Regency, Serang Regency and Cilegon Municipality. It is unclear when the program would cover Tangerang Municipality.
CHAPTER FOUR: RESULTS

4.1 General Overview

According to the information gathered from Tangerang Municipality BPN, the number of land dispute cases has been rapidly growing over the years (Figure 7). During the 10-year period after the country’s economic crisis in 1997, the number of reported land dispute incidences has tripled. This trend is in line with the idea that depressed economic development has an inverse relationship with the amount of land disputes. Old land disputes tend to re-emerge as the economy declines. Although the graph shows that there was no record of land disputes in 1993, it is unclear why the report turned out to be zero. It can only be assumed that the lack of information in 1993 was perhaps due to: (1) missing, lost, or misplaced land dispute records, or (2) complete absence of actual land disputes or no land disputes were reported, or (3) human error while entering the report. This is yet another example of poor land recordkeeping and accountability.

![Bar chart showing the number of land dispute cases in Tangerang Municipality from 1991 to 2007.](chart.png)


**Figure 7: Total Number of Land Dispute Cases in Tangerang Municipality in 1991-2007**
As discussed in the previous chapter, one of BPN’s main tasks is to manage land registration and land permits within its jurisdiction. However, when Law 22/1999 was implemented in early 2001, the primary responsibility for routine land administration was delegated to local governments. With all the land registration records (e.g. data on real estate registry, ownership and rights) being transferred to the local government’s office, Tangerang Municipality BPN does not withhold any land registration records in any shape or form –including hardcopies, hand written documents, computer or digital files or thematic map –in its possession.

As observed onsite, Tangerang Municipality BPN only retains the land permit records in a form of regular oversized notebook. The existing archives are still managed in a manual system; the information are handwritten on the notebook and placed inside of an unlocked file cabinet where access is not restricted or controlled. It appears that there is no copy of the land permit records in form of electronic or digital file existed and no minimum or clear standard operational procedure for the data entering and recordkeeping.

According to Tangerang Municipality BPN’s land permit records, the number of land permits granted was substantially decreased by more than 50% from 1996 to 2008. Figure 8 clearly shows that the number of land permits for commercial sector dropped drastically in 1997/1998 period concomitantly with the economic crisis in Indonesia. Parallel with the downward trend of the land permit applications, the total area requested in the land permit applications for commercial sector also decreased (Figure 9).

As for the industrial sector, the tremendous decrease occurred right before the economic crisis hit Indonesia with a full force in 1997 (Figure 10). Although as the economy picked up again slowly by 2000, the number of land permits for industrial uses were never the same as before the economic crisis.
This indicates that there was a drastic decrease in new industrial activities and economic slowdown within the Tangerang Municipality area since the economic crisis. Along with the extreme decrease in the total number of land permits for industrial purposes, the total area requested for such activities also decreases (Figure 11).

Figure 8: Total Number of Approved Land Permits by Tangerang Municipality BPN for the Commercial Sector in 1996-2008

Figure 9: Total Area Approved by Tangerang Municipality BPN for the Commercial Sector in 1996-2008 as Specified in the Land Permit Applications

Different from the downward linear trend of land permits for commercial and industrial purposes, the trend of land permits for housing sector is somewhat of a U-shaped or parabola (Figure 12). It can be inferred that although there is a sudden decrease in the number of land permits when the economic crisis took place, the housing industries slowly picked up again over the years.
Figure 12: Total Number of Approved Land Permits by Tangerang Municipality BPN for the Housing Sector in 1996-2008

Figure 13: Total Area Approved by Tangerang Municipality BPN for the Housing Sector in 1996-2008 as Specified in the Land Permit Applications
Although there was a growth in the number of approved land permits since 2004, the housing projects are mainly targeted for small scale housing/residential area as the land area requested are for small plots of land (Figure 13). This indicates that the housing sector is also facing slow economic improvements.

4.2 Research Questions

RQ1: What factors may have affected land policy implementation in Tangerang Municipality?

Based on the literature reviews and the results above, the factors that may have affected land policy implementation in Tangerang Municipality are summarized in the influential factors section of the previous chapter (Figure 6). The influential factors are grouped according to the corresponding three streams—problems, policy, and politics. Under the problems stream, these factors are Indonesian land laws and regulations, government agencies especially Tangerang Municipality BPN institutional capacities, institutionalized corruption practices, insufficient land administration and information systems and database sharing across various levels of governmental agencies, land market distortions and land speculative behaviors, and the nature of land and property taxes. The policy stream includes a set of national level policies and programs in response to address land affair issues. And politics stream that is mainly driven by the recent decentralization process, notably the enactment of Law 22/1999 on regional autonomy and Law 25/1999 on fiscal balance and revenue sharing.

RQ2: What is the nature of land disputes associated with land policy implementation in Tangerang Municipality?

Figure 14 below reveals that the majority of land disputes are derived from unclear land ownership status (44%) and overlapping land title and registration (38%). These two main types of land disputes indicate that poor land registration and administration systems and weak institutional capacities
play a big role in land dispute cases in Tangerang Municipality. The lack of proper registration and overlapping land ownership status are also an indication of corrupt government officials.

![Figure 14: Types of Land Dispute in Tangerang Municipality in 1991-2007](image)


**Figure 14: Types of Land Dispute in Tangerang Municipality in 1991-2007**

Unclear and deficient land policies, especially in regard to land dispute resolution, have led to the slow process of dispute resolution. The lack of due process and attention in resolving land disputes made the dispute resolution process more time consuming and costly. Figure 15 below illustrates that only 43% of the total land disputes have been resolved through the court system while 44% are either waiting for trial, in process of trial, or waiting for judicial decision. The percentage of the resolved land disputes is indicative of how slow and inefficient the processes are because of the policy deficiencies in facilitating the resolution.

In the wake of decentralization, many of BPN’s roles have been deconcentrated to local government. However, the two laws enacted for decentralization did not provide a clear program for transferring responsibilities from central to local governments. The decentralization regulations are still unclear that local land offices and local governments sometimes confused of their roles and responsibilities in land administration and management. These unnecessary confusions hinder land
dispute resolutions at the first level and further delay the process. As observed in Tangerang Municipality BPN, land dispute cases are handled by a division within the Agency; however, due to lack of coordination and collaboration with the local government regarding data on land registration records, it takes more time to resolve land disputes on overlapping registration than other types of land disputes.

![Pie Chart](image)


**Figure 15: Current Status of Land Dispute Cases in Tangerang Municipality in 1997-2007**
CHAPTER FIVE: DISCUSSION AND CONCLUSION

5.1 Summary of Results

Land policy and administration are an integral element of economic governance. The adequacy of land policy implementation has a direct effect not only on the viability of economy and poverty reduction, but also on human rights and overall social cohesion. Although decentralization and democratization in Indonesia also initiated land policy and administration reform, the delegation of responsibilities has faced a number of obstacles and challenges. Understanding those obstacles and challenges is the key in addressing them. This study is an important step toward a better understanding of the circumstances that have been affecting the transformation of Indonesia’s land policy system. The results of the study indicate that the country’s land policy implementation and land disputes in particular have been influenced primarily by the inefficient land registration, prevalent corruption, lack of due process, and unclear decentralization program.

The first research question is aimed to explore the main factors that may have affected land policy implementation based on the literature reviews and results of this research. The factors identified in this thesis fall under Kingdon’s three streams accordingly. The second research question examined the nature of land dispute incidences found in Tangerang Municipality. The data revealed that the majority of land disputes resulted from unclear land ownership status. The information also showed that land disputes were a product of overlapping land status. The lack of efforts and deliberations to reach mutual consensus combined with deficient land policies have substantially slowed down land dispute resolution process. There are vast uncertainties regarding the roles of different branches and levels of government in land administration. These uncertainties often create confusions, which, in turn, hinder and delay land dispute resolutions.
5.2 Limitations and Future Research

Due to the extensive nature of the topic and time constraints, this research is not without limitations. As a preliminary research, this work is based on secondary data analysis. Although providing important insights into the variables affecting land policy implementation in Tangerang Municipality, this research’s analysis was limited to the scope of available information due to restricted access, unavailability and incomplete secondary data collected from BPN and other governmental agencies. Future studies, along with employing secondary data sets, should collect primary data by conducting surveys of different actors involved in policy decision-making at various levels. The surveys would ask the respondents to list the issues, proposed solutions, and circumstances that influence the agenda setting and implementation of land policy.

As mentioned in the previous section, this thesis focuses on one region. Although the land policy and management in Tangerang Municipality provides a small representative picture of Indonesia’s land policy, future studies should expand the scope of current research by utilizing multi-region samples from across the nation. Exploring land policy in multiple locations would enable comparative analysis; therefore, providing more comprehensive insights into the causes of inefficient land policy in Indonesia.
REFERENCES


# APPENDIX A: GLOSSARY OF TERMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>BAL</td>
<td>Basic Agrarian Law (BAL) or Undang-Undang Pokok Agraria (UUPA)</td>
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<tr>
<td>Bappenas</td>
<td>Badan Perencanaan dan Pembangunan Nasional (The National Development Planning Agency)</td>
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<td>BPN</td>
<td>Badan Pertanahan National (The National Land Agency)</td>
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<tr>
<td>BPS</td>
<td>Badan Pusat Statistik (Central Bureau of Statistics)</td>
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<td>Desa</td>
<td>Villages in the rural area</td>
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<td>Hak Ulayat</td>
<td>Adat rights or customary rights</td>
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<tr>
<td>Jabodetabek</td>
<td>Jakarta Metropolitan Area consists of Jakarta, Bogor, Depok, Tangerang, and Bekasi</td>
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<tr>
<td>Kabupaten</td>
<td>Rural district or regency</td>
</tr>
<tr>
<td>Kecamatan</td>
<td>Subdivision of kota or kabupaten</td>
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<tr>
<td>Kelurahan</td>
<td>Villages in the urban area</td>
</tr>
<tr>
<td>Kota</td>
<td>City district</td>
</tr>
<tr>
<td>UUPA</td>
<td>Undang-Undang Pokok Agraria (Basic Agrarian Law –BAL)</td>
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</tbody>
</table>
## APPENDIX B: BASIC AGRARIAN LAW OVERVIEW

### FIRST: BASIC PROVISIONS CONCERNING THE FUNDAMENTALS OF AGRARIAN AFFAIRS

<table>
<thead>
<tr>
<th>Chapter 1: The Fundamentals and the Basic Provisions</th>
<th>Articles 1-15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 2: Rights to Land, Water, and Airspace and Land Registration</td>
<td></td>
</tr>
<tr>
<td>• Section 1: General Provisions --Articles 16-18</td>
<td></td>
</tr>
<tr>
<td>• Section 2: Land Registration --Article 19</td>
<td></td>
</tr>
<tr>
<td>• Section 3: Right of Ownership --Articles 20-27</td>
<td></td>
</tr>
<tr>
<td>• Section 4: Right of Cultivation --Articles 28-34</td>
<td></td>
</tr>
<tr>
<td>• Section 5: Right to Build --Articles 35-40</td>
<td></td>
</tr>
<tr>
<td>• Section 6: Right to Use --Articles 41-43</td>
<td></td>
</tr>
<tr>
<td>• Section 7: Right to Lease --Articles 44-45</td>
<td></td>
</tr>
<tr>
<td>• Section 8: Right to Clear Land and to Collect Forest Product --Article 46</td>
<td></td>
</tr>
<tr>
<td>• Section 9: Right of Use of Water and Fishery --Article 47</td>
<td></td>
</tr>
<tr>
<td>• Section 10: Right of Use of Airspace --Article 48</td>
<td></td>
</tr>
<tr>
<td>• Section 11: Land Rights for Sacred and Social Purposes --Article 49</td>
<td></td>
</tr>
<tr>
<td>• Section 12: Other Provisions --Articles 50-51</td>
<td></td>
</tr>
</tbody>
</table>

### Chapter 3: Criminal Provisions

| • Article 52 |

### Chapter 4: Transitional Provisions

| • Articles 53-58 |

### SECOND: PROVISIONS CONCERNING CONVERSION

| • Articles 1-9 |

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Source: Undang-Undang Pokok Agraria (UUPA) 1960.
APPENDIX C: TANGERANG MUNICIPALITY ADMINISTRATIVE MAP

PETA ADMINISTRASI KECAMATAN
KOTA TANGERANG
PROVINSI BANTEN

Legenda:
- Batu Ceper
- Benda
- Cibodas
- Ciledug
- Cipondoh
- Jatinuwung
- K风险管理 Tengah
- Karawaci
- Latapan
- Neglasari
- Perink
- Prang
- Tangerang

Source: BPN Tangerang, 2008
VITA

Milla Budiarto was born and raised in Tembagapura, West Papua, Indonesia. She came to the United States in 2000 to attend Southern Arkansas University, Magnolia, majoring in biology. In 2002, she transferred to Louisiana State University, Baton Rouge, to finish her bachelor’s degree in biological sciences with a minor in business administration. After her graduation in December 2004, she moved to Seattle, Washington, to work for a year in a pharmaceutical company before coming back to earn her master’s degree at Louisiana State University. She will receive her Master of Science degree in environmental sciences with a concentration in environmental planning and management in August 2009.