John McCarthy and Kathryn Robinson (eds)

Land and Development in Indonesia: Searching for the People's Sovereignty.

Singapore: ISEAS Publishing [Indonesia Update Series 27], 2016, xxiii + 382 pp.

ISBN 9789814762082, price: EUR 30.99 (softcover).

Land and Development concerns one of Indonesia's most urgent challenges: the difficulty of ensuring that Indonesians obtain more effective control over their land. This book is part of an important book series managed by scholars at the Australian National University that has over the years brought together leading scholarship on key themes facing contemporary Indonesia. This edited volume fits that tradition well. By bringing together essays from Indonesian and international scholars with years of experience, the book's editors have provided an essential overview of the complexities of Indonesia's land governance. The book does a great job in highlighting the problems and injustices associated with land governance in Indonesia. At the same time it does less well in analyzing the causes for this predicament and, particularly, in offering solutions. Given the scope of the problem, I found it somewhat disconcerting to read how this experienced group of scholars struggles to identify a way forward.

It is hard to overstate the importance and urgency of Indonesia's struggle over land. In essence, Indonesia's land problem is that land tenure of millions of Indonesians is insecure. Due to a complex mix of factors—including colonial history, contradictory and inadequate legal frameworks, weak implementing institutions, communal land ownership—rural and slum-dwelling Indonesians cannot get legal title over the land on which they work and live. Despite longstanding efforts to boost land certification, only about one third of Indonesia's land is legally owned. The rest is still formally owned by the Indonesian state, which builds on a colonial tradition to hand out much of this land as concessions to companies. A recent NGO study found that as much as 82 percent of land in Indonesia is now controlled by corporate actors (Hendrartyo 2018).

Various contributions in this book highlight the problems that this unequal and insecure land tenure situation is causing. In a well written locally-rooted historical overview Peluso discusses how insecure land tenure made rural populations vulnerable to waves of state-supported dispossession. At present the expansion of mining and palm oil companies is the primary driver of this process. As both Robinson and Potter highlight, the Indonesian state pays scarce attention to protecting small holders while handing out large land concessions to such companies. These concessions give these companies the means to dispossess rural communities from their land. In their contribution, Afrizal and Anderson highlight that this practice sparks intense conflicts as people try to

protect their land or at least negotiate a better outcome. As Lucas and Warren (2013) also discuss in a related book, these efforts often fail due to the absence of clear legal land titles and the limited mobilizational capacity of affected communities. Indonesia's land problem is, in short, causing misery and contributing to rural poverty.

Access to land is also precarious in areas not experiencing a recent expansion of agribusinesses. As Ambarwati, Harahap, Sadoko and White highlight, existing patterns of land ownership are often highly unequal, as big landowning families co-exist with large groups of landless peasants. This unequal access to land takes different forms in cities: as Guinness details, urban slum-dwellers often have to rely on informal connections with authorities and neighbors to obtain some measure of tenure security, while low-cost housing is rarely developed. Sometimes the Indonesian government also suffers from its own messy land governance: Davidson discusses how overlapping land claims and weak legal instruments sometimes stall president Jokowi's ambitious infrastructure projects.

So why do these problems persist? This kind of forced dispossession of rural Indonesians was a characteristic of Soeharto's authoritarian rule, so why has democratization not put an end to it? Why are politicians and policy makers not finding ways to improve land governance? Bedner provides a partial answer in his very useful overview of the evolution of Indonesia's legal framework related to land. While he highlights the weaknesses and contradictions of the current legal provisions, he argues that the problem largely lies in the limited capacity and unwillingness of Indonesia's judiciary and ministries to faithfully implement the current legal framework. This is a theme running through the book. Various initiatives have been undertaken to address Indonesia's land problems, such as the landmark 2013 ruling of the Constitutional Court that communal land rights should be recognized and the ongoing discussion over a new land reform bill. Yet without an effort to strengthen the capacity (and willingness) of institutions responsible for implementing such reforms, they are unlikely to have much effect.

And this is the area where the book somewhat disappoints. I would have liked more explicit attention to the political economy of Indonesia's land politics. The contributions in this book do a great job of highlighting how Indonesia's land problems relate to inadequate legal provisions or policies, such as the weak formal recognition of communal land rights or the drawbacks of Indonesia's dated Basic Agrarian Law from 1960. Yet there are other reasons why, as Van der Eng asks, Indonesia's cadastral system is still incomplete. Or, for that matter, why the recognition of customary land rights remains limited, or why legal frameworks remain ambiguous and contradictory. Indonesia's land prob-

lems persist, in my view, because bureaucratic and political elites benefit from these problems. The current regulatory system puts much power in the hands of both civil servants inside Jakarta's ministries and politico-business elites in Indonesia's regions. They can exploit these irregularities and ambiguities to obtain power—and money. These elites use their control over land for rent-seeking. Given the expensive bribes that bureaucratic promotions entail, and the costliness of election campaigns, they exploit their control over (particularly) licensing processes to pay for these costs. This book pays only limited attention to such reasons for why many of the well-intentioned policy proposals mentioned in this book—e.g. a well-functioning cadastral system, recognizing communal land rights, prioritizing small holders over big companies—are ineffective or implemented only halfheartedly. All such measures threaten to curtail the control of civil servants and politico-business elites over land. This is also why the draft-land reform bill has been lingering on the desks of Indonesia's parliamentarians for almost four years now. Any kind of progressive reform measure would limit the capacity of these parliamentarians to recover their campaign expenses. These issues are not totally ignored in this book—the editors note for example that democratization has sometimes worsened things (p. 13). But this incentive structure deserves more explicit attention, as it constitutes one of the core challenges of, as the book's subtitle puts it, 'searching for the people's sovereignty'.

In that light the technical, policy-oriented solutions that authors in this book propose come across as timid and even somewhat uninspiring. Indonesia's land problems require not only technical fixes but also political struggle, given the fact that reform measures will inevitably hurt the interests of Indonesia's elites. It seems timid, for example, that Van der Eng proposes that access to land might be strengthened by looking at "alternatives to formal certification" while Guinness similarly calls for making use of "informal communal resources". And while Nielson's evaluation of the discourse of Indonesia's land reform movement is a welcome contribution, his proposal that this movement needs "to articulate a [more] refined narrative of agrarian reform" lacks detail on what that narrative should be, and how it could mobilize support. Given the scope of the problem, the solutions offered here are small, stop-gap solutions with apparent drawbacks—such informal arrangements are unlikely to protect citizens when powerful corporate actors move in. Lacking is a broadly shared progressive agenda with a vision about what Indonesia's land governance should look like. Unfortunately, this much needed discussion is sorely missing—as Nielson suggests (p. 243)—from Indonesia's public debate.

For their part, the editors propose that "Indonesian policy-makers could consider recognizing a collective or corporate actor (...) to control land" (p. 23).

In this vein, Fay and Denduangrudee's contribution discusses the recognition of communal land rights as a means to empower rural communities. Indeed policy makers and activists—led by Indonesia's indigenous rights organization AMAN—have spent much energy over the last two decades getting the Indonesian state to recognize the land rights of indigenous communities. These efforts have often been accompanied by land mapping exercises to help communities stake their claim. Apart from the inherent drawbacks of this strategy—why would Indonesians need to belong to an ethnic community to have their right to land recognized?—the results have been disappointing. Only a handful of customary (*adat*) communities have been officially recognized, and most land maps have ended up in drawers. This lack of success merits more reflection on whether the legal recognition of communal land rights is the most effective way forward. Given the current lack of success and the rate of palm oil expansion, it is very possible that communal land rights will only be effectively recognized *after* rural communities have lost much of their access to land—when it is too late.

In that light I find it surprising that the authors seem somewhat dismissive of the alternative solution: strengthening individual land titles. This is the strategy that Jokowi is now (halfheartedly) pursuing. This solution is disliked for being 'neo-liberal' or a 'market-based reform'. In an ideal world, a better recognition of communal land rights would indeed be a preferred solution. But, reading this book, this seems to me to be a case of the 'best is being the enemy of the better'. It is possible that the ongoing, unsuccessful quest for communal land rights is undermining and discrediting efforts to provide individual land titles. The current lack of individual land titles—often legitimized in terms of an attachment to communal land ownership—is often harmful, as it is making it easier for companies to dispossess rural communities. More extensive land certification might strengthen the bargaining power of rural Indonesians in the face of advancing mining and palm oil companies, and thus lead to more equitable outcomes. In that light this book really misses a concluding chapter with a more explicit reflection on the drawbacks and advantages of different possible solutions to Indonesia's pressing land problems.

In short, this timely and useful book is the go-to reference for anyone who wishes to get his head around Indonesia's complex ways of dealing with land. While the book could have brought the political economy of Indonesia's land politics into sharper focus, the essays in this very useful book should spark fresh debate about how to address Indonesia's land conundrum.

Ward Berenschot

KITLV/Royal Netherlands Institute of Southeast Asian and Caribbean Studies
berenschot@kitlv.nl

References

- Hendartyo, M. (2018), "Walhi Reveals 82 Percent of Land Controlled by Corporations", in *Tempo*. Available at: <https://en.tempo.co/read/news/2018/03/23/055916921/Walhi-Reveals-82-Percent-of-Land-Controlled-by-Corporations> [accessed 23 April 2018].
- Lucas, Anton, & Warren, Carol (2013), *Land for the people: The state and Agrarian conflict in Indonesia*. Athens: Ohio University Press.