

3-5-3 Integration into City Planning and Urban Development System in Reformation Process

Best effects of KASIBA system envisioned in the preceding section can be expected if/when it is integrated in the city planning and development system of Indonesia, which is now in the reformation process.

(1) Major Issues of City Planning and Development in the Reformation Process

1) On-going government reformation in city planning and development

The proposed KASIBA system should be integrated or built in the city planning and urban development system of Indonesia so that it can be really effective for urban and housing development. Urban and land management is not an exceptional field of the on-going government reformation in Indonesia. Major activities related to urban and land management in the current government reformation are listed in Table 3-5-2.

Table 3-5-2 Major Government Reformation in Urban and Land Management

Ministry	Law	Major Issues in Current Government Reformation
State Ministry for Agrarian Affairs/National Land Agency	Law No. 5/1960 on Basic Agrarian Law	1.Re-interpretation of "Location Permit", and Transferred to Local government 2.Amendment (Draft) on "urban land management" and clear-cut classification of land rights
		1.Land Consolidation Law (preparation)
State Ministry of Housing/Human Settlement	Law No. 4/1992 on Housing and Settlement	1.Government regulation (Draft) on "KASIBA and Stand-alone LISIBA"
Ministry of Home Affairs	Law NO. 24/1992 on Spatial Use Management	1.Government regulation (1996-97) on National spatial plan & Right and obligation of people participation 2.Government regulation (Drafting) on Spatial plan in urban/rural area-"Spatial Utilization Permit" 3.Government regulation (Preparation) on Land use, Map scale and Certain area
	Law No. 22/1999 on Regional Administration	1.Government regulation (Draft) on "Urban Area Administration and Management" 2.Government regulation (Draft) on "Authority area"- Local government authority effective
Ministry of Finance	Law No. 25/1999 on Financial Proportion between Central/Regional Government	

2) Urban Area Administration and Management in Law No. 22/1999 on Regional Administration and Government Regulation (Draft)

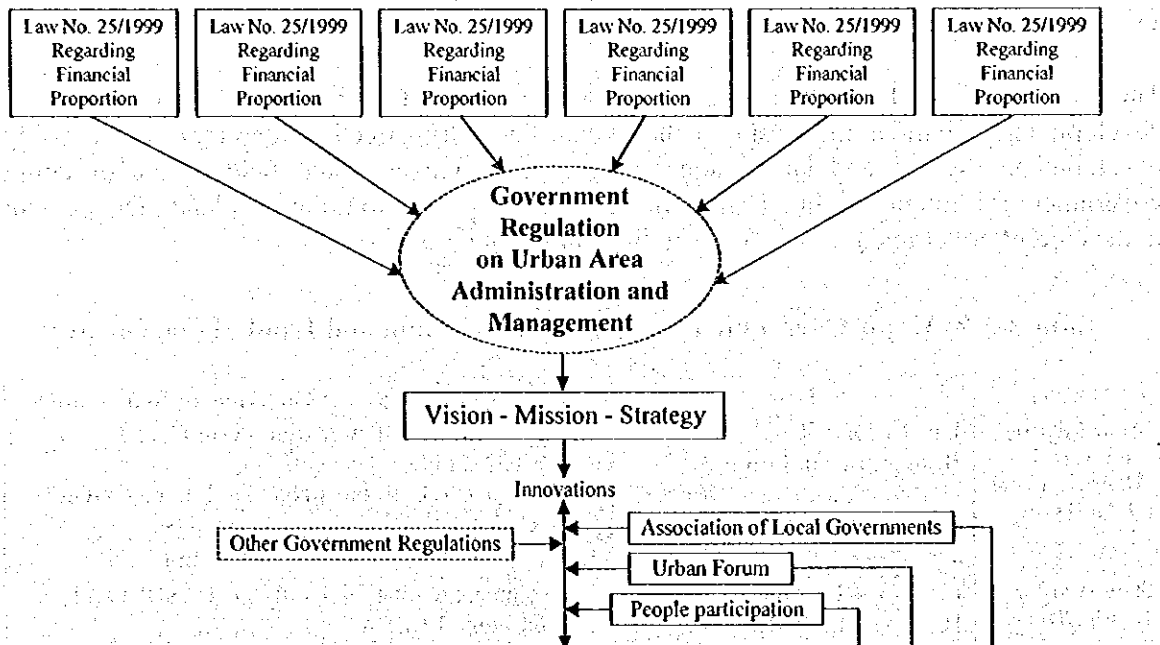
Taking into consideration the urban economic and area growth, also efforts on empowering the community, creating good governance and environment management, the Urban Area Administration and Management system was legally established in Law No. 22/1999. The draft of the government regulation stipulates the system as follows:

Urban area is classified into pre-urban, new urban and metropolitan areas in addition to urban municipality. New urban area or new town is a development result through transforming rural

areas into urban areas called new towns, featured by its minimum compact area of 500 ha, populated at least by 50,000 people.

The new towns' management needs specific regulations governing among others:

- The development will be conducted by SOEs, LSOEs, cooperatives, companies, associations and individuals.
- Managed by Management Body as an extra structural organization of Local Government responsible to Mayor/Regent.



Type of Urban Area	Characteristic	Administration and Management
Pre-Urban (Article 6-10)	<ol style="list-style-type: none"> 1. In regency area or non-autonomy status 2. Kecamatan/District Level 3. Local Function 	<ol style="list-style-type: none"> 1. Head of Region delegates some works to Head of District (Camat), for examples: public works, education, communication, and so on. The delegation level bases on the number of population and service area. 2. Source of finance from Local State budget and self-finance
New Town/Urban (Article 20-26)	<ol style="list-style-type: none"> 1. In regency area or non-autonomy status 2. Village area of District level 3. Developed by SOEs, LSOE, cooperatives, associations and individuals <p>> 500 ha; > 50,000 population</p>	<ol style="list-style-type: none"> 1. Head of region sets-up a management body (Local Government Regulation) as an extra Local Government Organization to manage the New Town. 2. The members of the Management Body: Local government officials, Villages officials, Village representatives, Developers and People 3. The scope of works: planning, controlling, and supervising. 4. Source of finance from people contribution, local government share dev. charges, and assets management 5. Period of Management Body = Period of Development Planning 6. Liquidation = transferring assets to Local Government
Metropolitan (Article 16-19)	<ol style="list-style-type: none"> 1. Inter regency/municipal 2. Greater regency / municipal 3. Provincial/inter-Provincial/ National Function 	<ol style="list-style-type: none"> 1. Regencies/Municipals stipulate a Local Government Regulation respectively to establish a metropolitan agency. 2. Metropolitan Agency consisting of Metropolitan Board and Metropolitan Executive 3. The scope of works: stipulation of spatial planning, coordination of program-project-services-permits, and monitoring/evaluation. 4. Metropolitan Agency is responsible to each of its Head of Region. 5. Source of finance from the members and it is managed by Metropolitan executive
Urban (11-15)	<ol style="list-style-type: none"> 1. Municipal or Autonomy Status 	<ol style="list-style-type: none"> 1. Administration and management are stipulated as pursuant of Law No. 22/1999 Regarding Regional Administration.

Figure 3-5-2 Government Regulation on Urban Area Administration and Management

The Management Body concept considers autonomy, financial sharing, urban control and stakeholders' interest.

Based on such considerations the Management Body concept includes:

- The objectives are to speed development and maintain public and local people's interests.
- The members consist of government officials, village representatives, village apparatus, developers, and people.
- The scope of work includes planning, controlling and supervising.
- The sources of finance are people's contributions, local government share, development charges, and assets management.

The Management Body is established by Local Government Regulation in according to planning policy and feasibility and it works since it was set-up until the end of the planning period. At the end period, the Management Body has to transfer its assets to the Local Government after being audited by Public Accountant and fulfilling its obligation to related parties.

The spirit of this regulation is particularly how to involve people in urban development democratically, transparently, and to give an opportunity to developing innovations base on vision, mission and strategies.

3) Major issues of city planning and development in the reformation process

Collecting information and examining the topics listed, the important issues on discussion in urban and land management emerged in the reformation movement, focusing on the following 4 points:

1. Land purchase right (permit)—Increasing consciousness of property right

The "Location permit", which is one of the 4 permits necessary for urban development, is a unique system of Indonesia, which grants a land purchase permit exclusively to developers to purchase land in the project site. The BPN took the decisive actions (February 1999) as follows:

1. No right on land is granted to location permit holders.
2. The location permit is transferred to the local government

The former appears related to the deregulation or liberalization of government power imposed on landowners, which is viewed unfair or even as a violation of property rights, to some extent. This may reflect the increasing/awakening consciousness of people's property rights in the social democratization process. The latter was motivated by a push toward decentralization.

2. Urban area development approach—To be coordinated/streamlined

The necessity of integrated the urban-area development approach has been greatly recognized by the Indonesian society in order firstly to prevent urban sprawl, secondly to integrate development activities so as to tap the local resources/potentials at maximum for the prosperity of the regions in line with the decentralization policy. Decentralization policy shifts the

development approach from the sectoral approach of the central government in the past to the regional integrated approach of the local government. It is considered that the former purpose initiated the "**KASIBA concept**" (Law No. 4/1992), while the latter purpose created the "**Urban area administration and management concept**" (Law No. 22/1999 on Regional government and Draft of government regulation). It is the present situation that these twins are going forward on their own way without mutual adjustment/coordination (e.g. silent about definition of relationship, demarcation and their authorities).

3. City planning—To be improved and strengthened

Improvement of city planning has been a persistent policy of the government, even before the government reformation. Since the enactment of Law No. 24/1992 on Spatial use management, the government regulations for law implementation have been the responsibility of the central government (Regulations on National plan, Right and obligation of people participation, Spatial plan in urban/rural areas, Land use, Map scales and Certain areas – First two regulations promulgated). Because the city planning is the main task and responsibility of the local administration, its improvement/strengthening has been more and more stressed in the decentralization preparation. This reflects the government efforts in both completing the remaining government regulations for Spatial use management and drafting the government regulations for urban area administration and management in the Regional government law (Ministry of Home Affairs).

The most important elements for strengthening city planning are to increase the capabilities of controlling urbanization and implementing urban development.

Development permit system in city planning

The development permit system is the most effective way to control urbanization as planned in the Spatial plan in parallel with land use ordinance (zoning). In the past, principle permits (based on government regulation No. 5 1975 of Ministry Home Affairs) and location permits (based on No. 2/1993 of the BPN) were in force. Upon transfer of the location permit to the local government as stated before, the Ministry of Home Affairs is preparing a new development system by introducing a "**Spatial Utilization Permit**", which was duly stipulated in Law No. 24/1992 on Spatial use management. However, since the preparation is still in progress (as of September 1999), the final outcome of the new development permit system is unclear: Does the Spatial utilization permit include the land purchase right (permit), which was already denied in location permit?, What is the relationship between principal permit/transferred location permit and spatial utilization permit?, and Does the Spatial utilization permit replace the existing permits?

Designation and development of urban area in city planning

The designation and development of urban areas like KASIBA and urban development management areas controlling and limiting urbanization in certain areas, is a more positive way to realize the Spatial plan. However, Law No. 24/1992 on the Spatial use management and its government regulations does not stipulate anything on them – KASIBA and urban management areas. It indicates that city planning, based on that law, and government regulations cannot directly plan and control the urban area development designed to control urbanization. In order to strengthen local government's city planning, it is imperative to institutionalize planning and designating urban development areas by the local government in charge of city planning.

(2) Proposed Systematization of City Planning and Development of Indonesia including the KASIBA System

The systematization of city planning and development in Indonesia, including the KASIBA system, is proposed by synchronizing the major issues as discussed above, which have not yet been finalized by the government though.

It is hoped to work usefully as reference materials for further improving the KASIBA system as well as city planning system in Indonesia in the future.

1. Combination of the "KASIBA concept" (Law No. 4/1992) and "Urban area administration and management concept" (Law No. 22/1999 on Regional government).

The basic idea and concept of the KASIBA system for integrated urban and housing development as proposed in the preceding section shall be applied on the urban area administration and management of Law No. 22/1999, with the New Urban Development Management Area, outside which urban developments are prohibited, and in which urban developments are coordinated and supervised.

2. The New Urban Development Management Area is due to be designated by the virtue of the city planning administration.

3. The development system and mechanism in the New Urban Development Management Area is the same as in the KASIBA urban promotion area. KASIBA shall be implemented along with the procedure based on the government regulation of KASIBA.

4. L/C shall be implemented covering the New Urban Development Management Area, totally or partially.

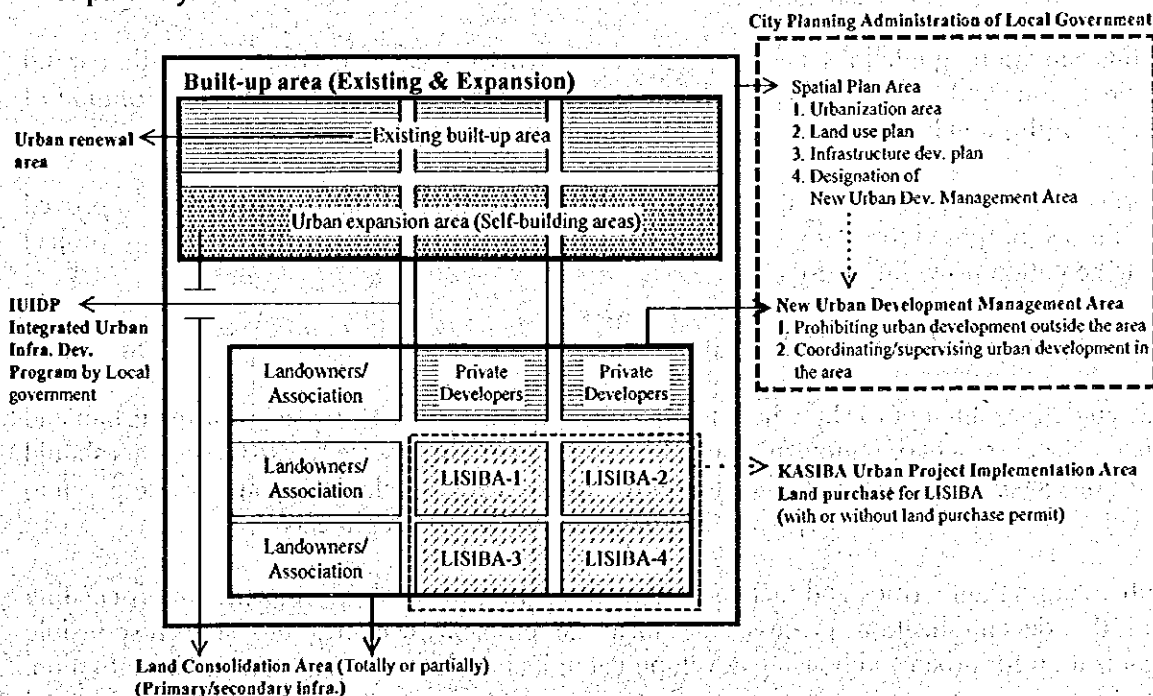


Figure 3-5-3 Proposed Systematization of City Planning and Development of Indonesia including the KASIBA System

3-6 Guidelines for the KASIBA Project and Manuals for Practical Procedures

The scope of work for this study (page 5) stipulates as follows:

C. Transfer of Technology

1. Preparation of guidelines for KASIBA projects
2. Preparation of manuals for practical procedures
3. Transfer of technology through workshop/seminar

It must be stressed that the purpose of preparation of guidelines and manuals is for the transfer of technology in the field of urban/housing development and, among others, city planning.

Guidelines and Manuals are designed to be materials for transfer technology answering:

Guidelines for the KASIBA project: What KASIBA should be?

Manuals for practical procedures: What implementation procedures KASIBA should be?

3-6-1 KASIBA Project based on System 3

Ideas and concepts for further improvement of KASIBA System 3 were discussed in the preceding sections. However, a guideline is proposed for the KASIBA project based on system 3 because:

1. L/C has not yet been developed and established effectively sufficiently to be applied to large urban development areas such as KASIBA and New Urban Development Management.
2. Reformation measures are now proposed and drafted e.g. New Urban Development Management area systems. However, the law on regional administration is still uncertain in terms of implementation.

In this situation, guidelines are prepared for KASIBA based on System 3 with careful considerations and measures alleviating the possible problems of land price rise, violation of property rights and blockade on urban development as discussed before.

However, it must be stated that the guideline is equally applicable to the further improved systems as proposed because the basic system and mechanism are the same in project implementation providing LISIBAs.

3-6-2 Guidelines for KASIBA Projects

This guidelines attempt to show how to effectively use the KASIBA system for the urban and housing development of regions/municipalities, and accordingly what KASIBA projects should be for that sake and purpose. In the current reformation era, special attention must be given to decentralization policies in preparing the guidelines for KASIBA projects.

With enlarging authorities and increasing responsibilities of local governments in proceeding with the decentralization process, the local government becomes the sole responsible organization for urban and housing development in its jurisdictional territory. In this situation, the local government must be a first responsible organization and, initiator and promoter/implementing agency of KASIBA projects. The local government initiative and motivation, and implementing capability become very essential for KASIBA projects.

Then local governments or mayors may simply question themselves as follows:

- What problems facing the local government can KASIBA solve and what improvement can KASIBA achieve in their localities?
- What benefits can KASIBA yield to the constituencies of the municipality?
- How useful can KASIBA be in urban and housing development in their localities?
- Is KASIBA the best way for urban and housing development in their localities? Are there no alternatives other than KASIBA? And so on.

Furthermore, it must be stated that the government administrative bases and systems on which urban development is formulated and implemented, have been changing to new ones, as a result of decentralization, this has not yet shown its total picture though. Success of the decentralization policy relies heavily on the improvement and strengthening of the administrative and managerial capacity of the local government. It may be also true to KASIBA projects, since it cannot be supposed that KASIBA projects will be carried out based on the past and existing administrative and social system.

- How can the local administration be improved so as to be capable of executing urban and housing development projects, like KASIBA and L/C, is the other question for the local government.

The guidelines are to present some suggestions and proposals on the specific important aspects of KASIBA, which the local government may have to take into consideration in developing KASIBA projects in their jurisdictional territories, on the condition that the local government is already knowledgeable about the outline of KASIBA.

[Outline of Guidelines for KASIBA projects]

Guidelines for KASIBA projects are compiled in a separate volume, and the outline is presented as shown in Table 3-6-1.

3-6-3 Practical Procedure and Manuals

(1) Implementation Procedure based on Government Regulation (Draft)

General implementation procedures of KASIBA (Figure 3-6-1) are drawn up in such a manner that the activities stipulated in the government regulation (Appendix-1) are arranged in a logical order and in time sequence.

(2) Manuals for Practical procedures

Along with the implementation procedures, manuals on how to prepare and implement KASIBA projects are proposed and compiled in a separate volume.

Table 3-6-1 Outline of Guideline for KASIBA Projects

<p>1. Development (planning) guidelines</p> <p>1. KASIBA projects are implemented to promote public purposes/interests in each of the municipalities. This distinguishes KASIBA from other traditional housing estate development.</p> <p>2. KASIBA is tasked with two public purposes; one is urban control preventing urban sprawls, while the other is housing provision to the general public in the municipality.</p> <p>3. Good quality housing provision can be made possible only in city planning and development toward sound urban growth of municipality. Therefore KASIBA as one of the urban control measures in city planning leads urban growth, on one hand, which sustainable housing provision can be achieved by KASIBA as a housing provision system on the other hand.</p>
<p>2. Organizational guidelines</p> <p>1. The local government shall set up a Special Task organization-KASIBA Management Body (KMB), which is a public-oriented and none profit-making organization (public entity) as the implementing arm of local government mandated by the people to promote public interest as defined in the KASIBA development plan.</p> <p>2. The overall organizational framework for urban and housing development shall be developed and strengthened in the regional/municipal administration.</p>
<p>3. Management guidelines</p> <p>1. The project management is done by a definitely established management system and method. KASIBA project management is strictly controlled through the initial to terminating stages (approval of implementation plan and monitoring/supervising project implementation) so as to secure:</p> <ol style="list-style-type: none"> 1. Achievement of goals and purposes (quantity, quality, time schedule and cost) 2. Effectiveness and efficiency of achievement 3. Fairness and righteousness of project implementation <p>2. Comprehensive land management shall be done for smoothening land acquisition.</p> <p>3. Private development management shall be done for mobilizing the private sector to the maximum within the limitation of public interest.</p>
<p>4. Financial guidelines</p> <p>1. “Development benefit capturing” is the basic principle of the KASIBA financial system with “proper cost sharing by beneficiaries”: central/local government, KMB and LISIBA developers.</p> <p>2. Government must provide subsidies for the KMB to fulfill “Public Service Obligation”, which is requested of the KMB by the government.</p>
<p>5. Environmental guidelines</p> <p>1. “Environment-friendly Town” is a basic principle KASIBA pursues.</p> <p>2. Neighboring communities are integrated in KASIBA for urban environment improvement as much as possible. (Social and environmental integration with neighboring communities).</p>

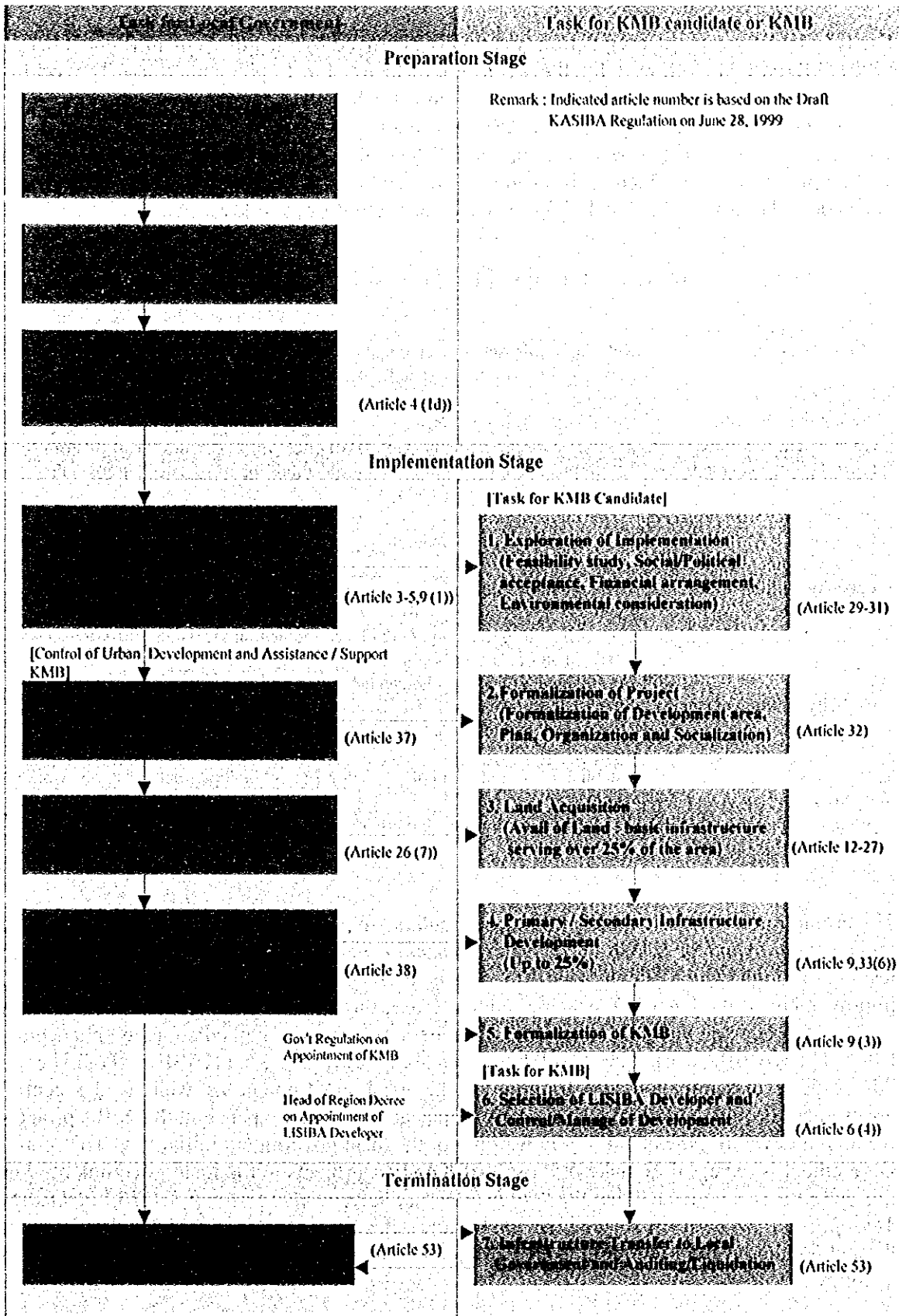


Figure 3-6-1 Implementation Procedure based on Government Regulation

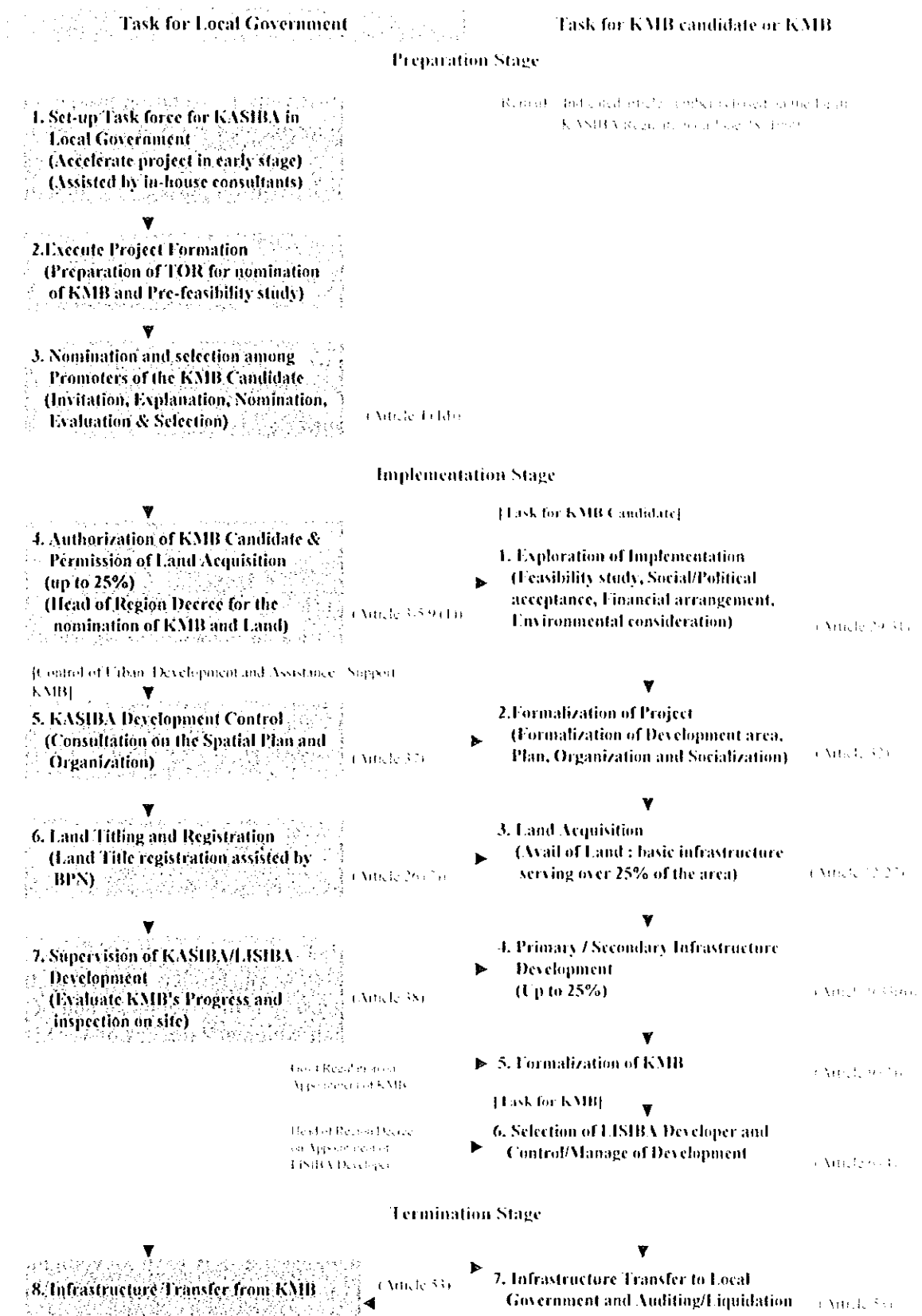


Figure 3-6-1 Implementation Procedure based on Government Regulation

3-7 Action Plan for KASIBA Promotion

The KASIBA Government regulation was finally approved by the government (September 30 1999). It will be followed by the Ministerial Decree for Implementation. The central government must launch the promotional activities for KASIBA implementation by the local government. It seems certain that KASIBA cannot be implemented without *promotional activities of the central government* at the initial stage of the KASIBA program, especially for the first pilot project on which the laws and government regulations are applied for the first time. The action plan is proposed, including the necessary activities as follows:

Table 3-7-1 Action Plan for KASIBA Promotion

<i>Activities for legal arrangement</i>	
Ministerial decree	Relevant ministries stipulated in the government regulation must issue ministerial decree on the specific items for implementation.
<i>Activities for pilot project implementation</i>	
Promotional activities	Creating favorable circumstances for pilot project
Government task force	Task force for promotional activities of pilot project (Central/local government)
Project implementation	L/C implementation plan for pilot project must be formulated based on the results of the above-listed activities.
<i>Activities for KASIBA project development/expansion</i>	
Proposal of KASIBA sites and development projects	Study on urban development through KASIBA in Jakarta Metropolitan Area
Capacity building of local government	Dissemination, education, and training to local government on KASIBA (Seminar, work shop, school)
	Establishment of division of urban development in local administration.
	Assignment of staff and engineers to the division
Capacity building of central organization	Establishment of financial budgetary system
	Strengthening/expansion of division of KASIBA in the Ministry responsible for housing and human settlement (Administration, guidance, promotion, project monitoring)
	Establishment of division of urban dev. project in department of Public works
<i>Activities for research and development</i>	
Strengthening research/dev. function on L/C and urban development	The institute for housing and urban settlement (P.W)
	University

The promotion strategy shall be simultaneous undertakings both of "*activities for pilot project implementation and for KASIBA project development/expansion*". The former works as system testing, through which the lessons are obtained to be used for the technical and legal improvement of the KASIBA system, and showcase, through which advantages of KASIBA projects can become visible. The public awareness may thus be gained so as to enhance the latter. The KASIBA has not been well known and only few know what KASIBA should be. In this respect, dissemination and training of the local government as well as the central government is quite important for KASIBA project development/expansion. KASIBA projects would not develop and expand if only waiting for the local government initiatives. The central government is expected to make proposals of KASIBA projects to the local government. For this end, it is recommended that the "*Study on urban development through KASIBA in Jakarta Metropolitan Area*" be executed so as to find sites suitable for KASIBA development throughout the Jakarta Metropolitan area. Major activities for KASIBA promotion are outlined as follows:

(1) Promotional Activities for the Model/Pilot Project

The *success of the first pilot project* is crucial for continuous development and expansion of KASIBA projects in Indonesia. The central government initiatives, promotions and support in good cooperation with the local government are essential conditions for the success of the first pilot project, especially at the initial stage of the decentralization program. *Perum Perumnas* will be the government arm for promoting/initiating KASIBA projects due to the experiences and knowledge in urban and housing development. In coordination with local governments interested with KASIBA projects, *grand works and project-pipelining* shall be executed by *Perum Perumnas* in the specific region and site selected for the first pilot KASIBA project with the *Special allocation fund* based on Law No. 25/1999 on financial proportion between central and local governments. The exercise of the first project gives a great chance for testing the laws/government regulations, and guidelines/manuals so that they may be modified, if necessary.

(2) Activities for Disseminating and Training

The KASIBA system including the laws and government regulations have not yet been well known at the local as well as central level. It is quite important to disseminate the ideas and concepts of KASIBA among the public/private and academic sectors. This may be instrumental for acquiring the "citizenship" of KASIBA among the society and further improvement of KASIBA as well as Indonesia's city planning system through the discussions aroused. Activities for disseminating KASIBA to the local government, such as *seminars, workshops, technical training and publication* must be intensively rendered periodically and as the opportunity presents itself. It is advisable that a *permanent organization* with technical staff must be set up to be in charge of this activities in addition to the administrative works of KASIBA (legal procedures: approval/supervision, consultation/advice and other administrative works), under the *Ministry that is responsible for Housing and Human Settlement*.

(3) Proposals of KASIBA Projects to Local Governments

A positive approach of the central government toward the local governments is essential for KASIBA development in Indonesia. Thus the study on urban development through KASIBA in the Jakarta Metropolitan area is recommended. The purpose is to identify KASIBA development sites in the short- to long-terms throughout the metropolitan area. The major study activities include 1. Urban restructuring of the Jakarta metropolitan area taking into the drastically changed socio-economic trends and structure, 2. Adjustment and coordination with government reformation on urban area administration and management institutionalized by Law No. 22/1999 on Regional Administration, and three others.

(4) Continuous Research Activities for Improving KASIBA and Urban/Housing Development

As shown in the variety of urban development systems applied to KASIBA, there is still a *great possibility to further improve KASIBA*. Continuous research activities will be needed, especially on the adjustment of KASIBA with the city planning system, which have progressively being improved and strengthened in the coming decentralization program in full scale, and the refinement/modification and localization of the guidelines and manuals accommodating the varying local conditions so as to be more conveniently used by the local government. It may be recommendable that *Institute for Housing and Urban Settlement*

(Ministry of Public Works) be a candidate agency to be tasked with the research activities for KASIBA and the urban development system as well, including the training function.

3-8 Conclusion and Recommendation for the KASIBA System Development

Proposals and recommendations for the KASIBA system development were made in the course of this study. They are summarized in this section.

(1) Variations of Urban Development Systems

KASIBA was broadly defined as "KASIBA is an urban control and management system with designation of development area where urban and housing development projects are promoted and implemented in a planned manner". Based on the broad definition, variation of urban development systems in Indonesia were examined and classified into *three (3) types of systems* which may be applied to KASIBA. *The three proposed systems are not alternatives, but it was recommended that all be selectively used in response to different situations and purposes of urban and housing development projects in different localities in Indonesia. It was confirmed that any of proposed KASIBA systems were not contradictory with Law No. 4/1992 on Housing and Human Settlement*

Table 3-8-1 Variations of Urban Development Systems applied to KASIBA in Indonesia

KASIBA system	Variation of dev. system	Designation of dev. area by Gov.	Primary /secondary infra.	Land management	Building/housing
System 3	3. Main infra. + land provision	Designation of dev. area	P/S infra. by KMB	Land purchase by KMB	Developers
System 2	2. Main infra + L/C	Designation of dev. area	P/S infra. by KMB	L/C	Land owners
	3. Main infra. + land pooling	Designation of dev. area	P/S infra. by KMB	Land pooling	Land owners
	4. Main infra. + developers	Designation of dev. area	P/S infra. by KMB	Land purchase by developers	Developers
System 1	5. Variation of 4 (developer)	Designation of dev. area	P/S infra. by developers	Land purchase by developers	Developers
	6. Variation of 2 (L/C)	Designation of dev. area	P/S infra. by L/C	L/C	Land owners
Combined system	7. Combination of 1 and 6	Designation of dev. area	P/S infra. by L/C	L/C	Developers and landowners

P/S infra. : Primary and secondary network of environment infrastructure

(2) Innovation of Urban and Land Development Measures of Indonesia through KASIBA

The KASIBA improvement plan covering the proposed 3 systems with the emphasis on System-3, indicating the necessary measures taken in sub-systems such as legal authorization, land management, development permit and control system, financial system, legal arrangement and organizational system. The study was executed for establishing the KASIBA system. However, it must be stressed that *it was aimed at the innovation and improvement of the Indonesian city planning and development system itself, through the examination of the*

particular system of KASIBA. In this regard, plans and proposals for KASIBA included even innovative measures, which seem difficult to be enforced immediately in the current social/cultural, economic and political situation. Because it is anticipated that they will be surely made necessary in order to have to response to the needs of more efficient and effective development systems in the process of socio-economic modernization, liberalization, democratization of the country, which now started under the government reformation movement. It was recommended to keep on *researching and examining innovative measures* as proposed in the KASIBA improvement plan for the progressive improvement of the Indonesian city planning and implementing system.

(3) Technology Transfer to Local Government

The implementation system and procedures of the KASIBA system were prepared in the form of *Guidelines for KASIBA projects and Manuals for Practical procedures* based on the urban development System 3 on which the government regulations for KASIBA were drafted and approved by the government on September 30 1999, but not denying the application of the urban development System 1 and 2.

In the process of the drastic change of the government administration systems toward the autonomy by the local governments, which has not yet shown the clear total picture though, it is becoming subject to *the local governments' responsibilities and rights* to decide how urban development systems are applied and implemented, and more specifically, whether KASIBA needs to be implemented in its jurisdictional territories or not, and which urban and housing development systems should be selected from among the proposed 3 systems and other options, including the proposals by the Ministry of Home Affairs.

KASIBA is not a particular system, but a more general urban and housing development system including System 1 to 3. KASIBA guidelines and manuals were designed to *increase knowledge of local government on city planning and development through KASIBA projects*. In turn, it is considered the best way for local government to effectively and efficiently utilize and implement KASIBA projects for meeting the local needs and demand. In conclusion it is recommended that the *Guidelines for the KASIBA project and Manuals for Practical procedures* be used, not limited to KASIBA, for improving city planning and development of the local government.

(4) Systematization of City Planning and Development in Government Reformation

Several measures and programs for improving urban and land management systems of the local government have been proposed and set up in the course of the government reformations centering on decentralization policies of the Indonesian government as summarized in the following table. It may be regrettable to say that *they have not yet been well adjusted and coordinated*. Major topics are on the *development permit system*: Location permit/spatial utilization permit/land use permit, and *urban area development system*: KASIBA supported by the State Ministry of Housing and Urban Settlement or Urban Area Development Management System supported by Ministry of Home Affairs

Local Government City Planning and Development System with Conflicting Points

Spatial plan

(Law No. 24/1992)

Systems and measures for urban infrastructure development

- IUIDP (Integrated Urban Infrastructure Development Program)

Systems and measures for promoting and controlling urbanization

- Location permit/spatial utilization permit/land use permit
- KASIBA prohibiting development outside KASIBA and granting land provision permit within KASIBA (Law No. 4/1992)
- Urban development management area (Law No. 22/1999)

Systems for project implementation

- Land purchase method i.e. Land purchase permit system (Perum Perumnas, real estate developers and KASIBA)
- Land replotting method (Association and government L/C)

Two alternatives were presented to be integrated into the city planning and development system of Indonesia: *City planning-oriented KASIBA* or *Project-oriented KASIBA*. The basic policy of KASIBA improvement is to make it more flexible and more certain in urban and housing development. Urban control power and project implementation power entitled to KASIBA shall be separately applied to the *KASIBA urban promotion area* and the *KASIBA urban project implementation area* respectively.

KASIBA area	Legal power
KASIBA urban promotion (planning) area	1. Prohibiting urban development outside the area 2. Coordinating/supervising urban dev. inside the area.
KASIBA urban project implementation area	1. Project implementation power (Granting land purchase permit and right of management)

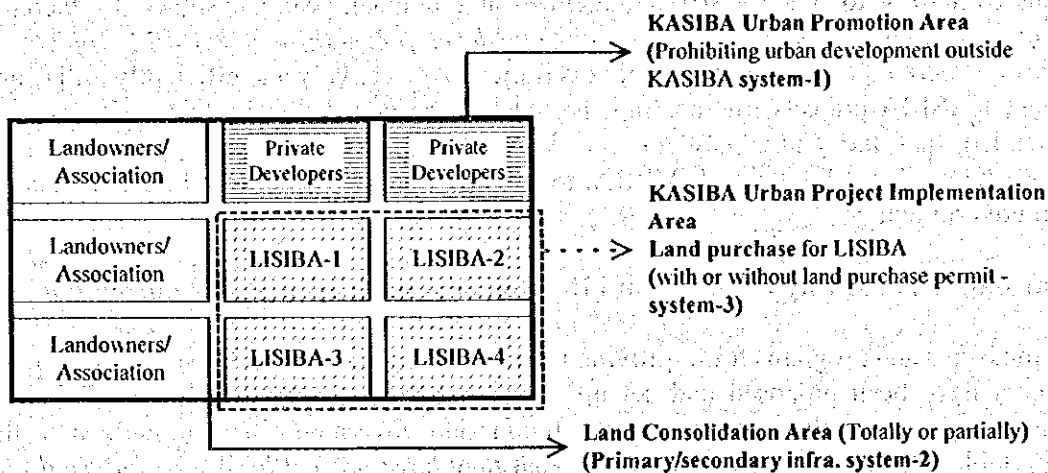


Figure 3-8-1 City Planning-oriented KASIBA

The other alternative is the integration of KASIBA into the global city planning and development system and framework focusing on the *new urban development management area* sponsored by the Ministry of Home Affairs. KASIBA works as a project-oriented system in that global framework. The KASIBA implementation is applied in the KASIBA urban project implementation area.

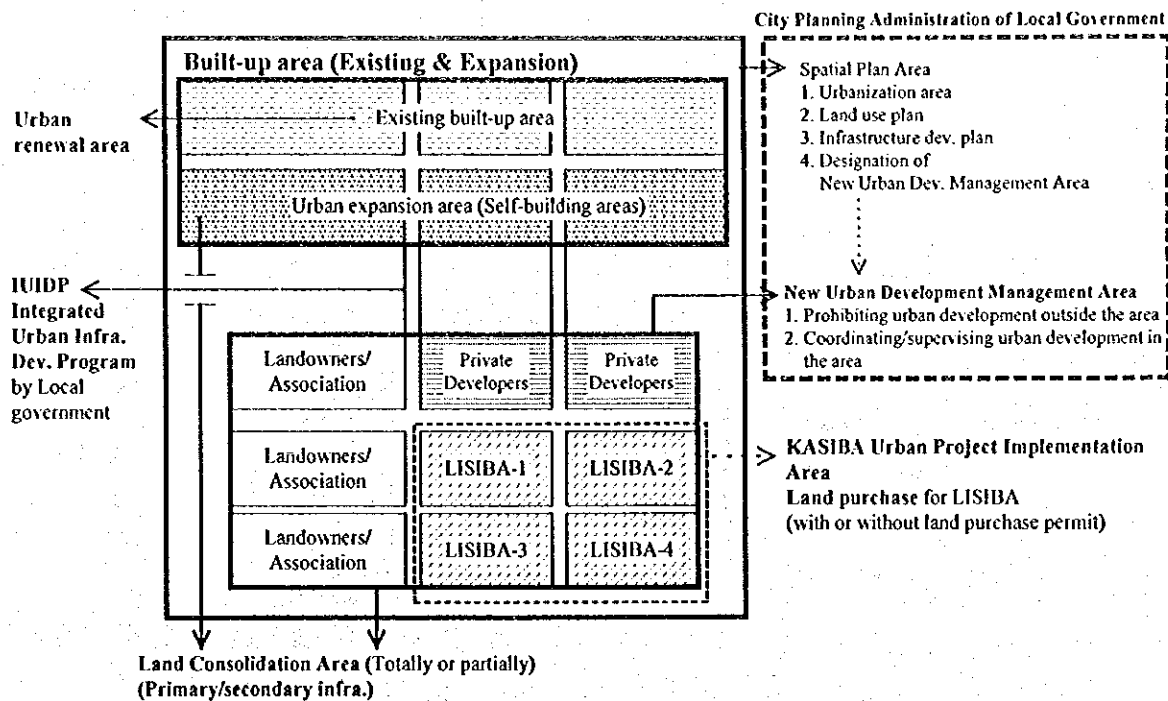
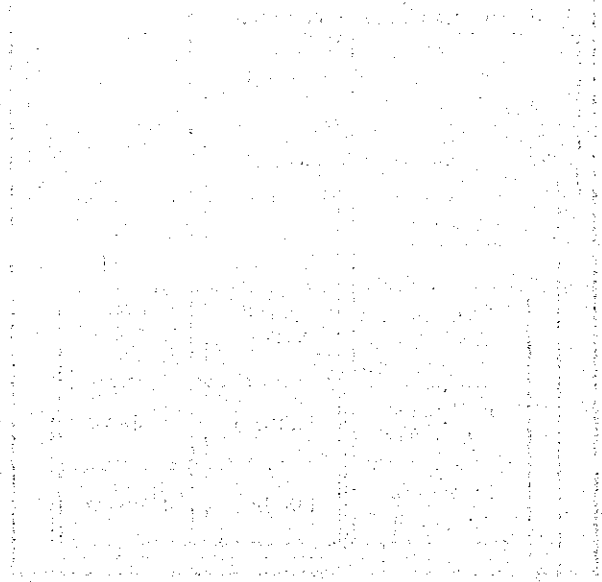


Figure 3-8-2 Project-oriented KASIBA System

(5) Promotional Activities

KASIBA is less-known in the society of Indonesia and due to be implemented by the local government with less-capacity and less-experience in urban and housing development, in the full swing of the decentralization movement. In this situation, the promotional activities and initiatives of the central government are indispensable for the KASIBA development/expansion. An action plan was recommended, comprising promotional activities for the pilot project. For the KASIBA project development/expansion including disseminating/training and study activities for making proposals to local governments, and continuous research activities.



ANALYSIS OF THE DATA

The analysis of the data shows that the results are consistent with the theoretical predictions. The observed values are within the expected range, and the statistical tests confirm the validity of the model. The data points are well distributed, and there is no significant deviation from the expected values. The overall trend is positive, and the results are highly reliable.

Chapter 4 System Development of Land Consolidation

4-1 Definition and Basic Features of Indonesian Land Consolidation

The basic features of Indonesian Land Consolidation are shown here, based on the "LAND CONSOLIDATION SYSTEM IN INDONESIA" authored by Prof. Dr. Ir.H.M. Nad Darga Talkurputra, of the National Land Agency.

4-1-1 Land Policy and L/C

Indonesia's Land Consolidation is based on the basic land policy under Act No.5 of 1960, known as the *Basic Agrarian Law*. In principle, the Basic Agrarian Law regulates four main aspects, namely a.) *Land-tenure arrangement*, b.) *Land-use arrangement*, c.) *Land-tilling*, and d.) *Land-registration*.

Land Tenure Arrangement is aimed at ensuring social justice among people, while land-use arrangement is for realizing people's utmost prosperity. Meanwhile, land-tilling is intended for establishing land rights security. Land-registration is for guaranteeing legal security of land rights. Some of the main provisions related to Land Consolidation under the Basic Agrarian Law are as follows:

Main Provisions of Basic Agrarian Law related to L/C

a. Land is owned by people and controlled by the state, therefore the State is authorized to manage land-tenure and land-use for the utmost prosperity of all people, and consequently the State is not necessarily the owner of land.	(Article 1 and 2)
b. Rights of land embraces a social function	(Article 6)
c. Land holding is carried out in order to for achieving just and equal distribution.	(Articles 7,8,9,10, 12,13,17,24 and 53)
d. Any person or legal body who holds any farmland should use or utilize such land by him/herself.	(Article 10)
e. The government is required to establish a land-use plan in order to accommodate all development efforts.	(Article 14)
f. Types of land rights consist of ownership right, exploitation right, building right, right of use, lease right, right to open-up land, right of gathering forest product.	(Article 16)

4-1-2 Principles and Procedures of Land Consolidation

The National Land Agency in 1991 established *provisions on the implementation of Land Consolidation* in the form of Regulation of the Head of the National Land Agency No.4 of 1991 concerning Land Consolidation along with its Implementation Guidelines as well as Technical Manuals.

(1) Basic Principles of Land Consolidation

The basic policy of land consolidation is stated as follows. It must be noted that "no statement on infrastructure is made in the policy" (JICA study team's notion).

- a. Land Consolidation is a *land policy* concerning re-arrangement of land tenure and land-use as well as an effort on land provision for development needs, in order to increase the quality of the environment and natural resources conservation by involving the active participation of the community.
- b. The purpose of Land Consolidation is to achieve optimal land security and utilization through the improvement of land tenure and efficiency or productivity of land use in supporting rural/urban development.
- c. The target of Land Consolidation is the realization of *orderly-managed land tenure and land-use*.
- d. The implementation of Land Consolidation is based on *the principle of deliberation among landowners*.
- e. Land Consolidation, which is a cross-sector activity in nature, is integrally implemented by involving all institutions or agencies concerned in an integrated way.
- f. Basically, the entire financial burden is borne by the landowners or participants themselves.

(2) Procedures of Land Consolidation

Preparation

In general, the preparation activity starts with the selection of a location, which is determined by the Regent or Mayor (Head of Local Government) concerned.

Data Inventory

A data inventory begins with gathering data on land tenure aspects namely land status, ownership boundary, and landowner identity as well as physical aspects such as land-use and the topographic nature of the location before it is consolidated.

Arrangement/Construction

Arrangement activity is firstly implemented with the formulation of a *Block-plan Draft* through the issuance of land certificates on new plots after the consolidation is done. Later on, the *construction work* is undertaken after those phases. However, as a result of limited financial sources, the construction works are mostly in the form of road-body without pavement, except on some sites where the construction works include road pavement, provision of electricity networks, telephone lines, sanitation systems, public and social facilities.

4-1-3 Organizational System

Land Consolidation in Indonesia is basically viewed as a land policy. Therefore, the main implementing agency of Land Consolidation is the State Ministry for Agrarian Affairs/National Land Agency.

Land Consolidation is undertaken by the National Land Agency with a close coordination with inter-related institutions or agencies and the community as well. At the provincial level, such a coordinating body is in the form of a *Controlling Team*, which consists of Provincial BPN and Regional institutions. At the regency or municipality level, a *Coordinating Team* is established and chaired by the Regent or Mayor as Head of the Level II Local Government and composed of Local Office of BPN and local agencies.

Since the organization of participants has not been developed to the extent that was hoped, *they more or less act as individuals.* As a result, the discussion or deliberation processes between the implementing agencies and the participants or amongst participants very often face constraints. Therefore, such a deliberation is commonly conducted by the assistance of local

public figures or governmental officials at the village level.

However, this may change as the organization of participants gradually improves through either informal or formal institutions, such as *cooperatives*. Since 1995, the National Land Agency has been promoting *groups of landowners (or Community Group)*, through which the landowners are encouraged to form a cooperation so as to ease the implementation of land consolidation.

Land Consolidation participants who have been organized into strong organizations such as cooperatives actually could support the successful implementation of the project. The deliberation of participants, which in the past took a long time, can be achieved more quickly and smoothly through these organizations. *The problem of lack of budget, especially for the construction of infrastructure and house building, can be handled by these organizations cooperating with banks (in cooperation with banking or financial institutions).*

4-1-4 Technical Aspect

(1) Selection and Determination of Project Site

- a. The location of project sites selected for land arrangement through land consolidation should be agreed upon by *at least 85% of the landowners or landholders whose land covers at least 85% of the total land area of the site.*
- b. The location selected for consolidation should be in conformity with the Regency/Municipal Spatial Plan or Local Development Plan and it is estimated to grow in line with the development pace of surrounding areas.
- c. *General Plan on the Implementation of Land Consolidation* should be formulated for the proposed location.

(2) Decision-making

- a. There are three parties that are to make determination on the implementation of L/C as follows :
 - Land-owners:
 - Local government, i.e. the Regent or Mayor of the area concerned ;
 - Office of the State Ministry for Agrarian Affairs / National Land Agency
- b. The Regent or Mayor in the locality concerned determines the proposed location of the site for land consolidation projects with the agreement of 85%, in terms of numbers, of landholders and landowners.
- c. The arrangement of land tenure and land-use on the land consolidation project site can be carried out by the Local Land Office and Provincial Office of the National Land Agency after the State Ministry for Agrarian Affairs/National Land Agency has confirmed the location as the site of the land consolidation project.
- d. The success of L/C mainly depends on the result of the deliberation among the parties involved. The following items for implementing L/C are subject to the deliberation with the landowners for agreement.

- | |
|--|
| <ol style="list-style-type: none">1. General plan on the implementation of land consolidation2. Draft of Block-plan design3. Percentage of Land Contribution4. Proposed new plots as a result of re-plotting design |
|--|

(3) Re-plotting and Reserved Land

- a. Every participant of land consolidation is obliged to surrender certain portion of his or her land as Land Contribution for Development of the so called STUP (Land Contribution). The Land Contribution will be further used for:
 - ① Land provision for infrastructure and facilities.
 - ② Reserved land.
- b. Calculation of Land Contribution imposed on every parcel still uses a simple method. The land area for public or social facilities is calculated based on the land area needed in line with the block-plan, as drawn in the Land Consolidation Design, after considering the existing public and social facilities as well as the road condition. The land area needed is stated as a percentage of total land area or land parcels held by the landowners. *In general, the land condition of the project is relatively the same so the contribution rate is imposed at the same percentage to every single land-plot. Land contribution for implementation has not been calculated based on the price of land before and after the land consolidation project as well as the cost for implementing the project.* Reserved land is generally attained from the remainder of land contribution for public or social facilities and streets supplied by the landowners.
- c. The determination of new plots is also applied in a very simple method, meaning that new plots are established based on such land factors as acreage, site and shape. The new plot acreage is determined based on the calculation of old plot acreage subtracted from the contribution percentage. Therefore, in general, the subtraction is based on *the same percentage* on every plot, but the new plot is kept as close as possible to the old one. This method is equal to that of the simplified acreage.

4-1-5 Budgetary System

(1) Principle of Financing Implementation of Land Consolidation

- a. In principle, the financial burden of the implementation of Land Consolidation is *borne by the participants or landowners* in the form of either land contribution for reserved land or cash money.
- b. The amount of reserved land is subject to deliberation among all participants.
- c. The amount of revenue from the reserved land is subject to the agreement of participants.
- d. Such money gained from sale of reserved land is managed by participants themselves.

(2) Financial Management

- a. By regulation, the Land Consolidation Project is undertaken by the National Land Agency (NLA). For implementing the Land Consolidation, implementation funds, which can be directly managed, are provided through *the government budget and self-finance*. In this case, the self-finance is collected from every landowner, *either through sale of reserved land or cash money from the participants*.
- b. The National Budget's fund is managed through Land Consolidation Projects by the National Land Agency mainly for the arrangement of land up to *provision of land certificates and land provision for road or sheet networks*.
- c. Self-finance is used for construction costs and development of public facilities as well as urban infrastructure, along with funds provided by local government or department budget allocation.

(3) Sources of Fund

Although, in principle, Land Consolidation costs are borne by the participants/landowners, the implementation costs may also come from such sources as the national budget, the provincial budget, the local budget and a combination budgets or others.

As examples following are detailed L/C types:

a. L/C Project with National Budget and Self-finance

This type of project was originally assumed as a *pilot project* with the target that at least one Land Consolidation site should exist in every regency or municipal jurisdiction. In this case, the budget source is allocated by the National Land Agency through its regional offices in the area needed under the L/C Pilot Project Scheme.

The budget's total amount is about *Rp.100 million allocated through the National Budget (APBN) for 250 land parcels*. The fund is distributed for the expense of land arrangement up to *land certification* of every land plot under the name of every landowner as well as the *construction of simple road body*. Therefore, if the construction of road network is to be further implemented, it will be based on the available fund collected from sale of reserved land or fund allocated by local government and Public Works budget. The management for implementation of Land Consolidation carried out by the National Land agency is only limited to the activities funded through National Budget and self-finance from sale of reserved land. Meanwhile, the construction of road network to be funded through Local Budget will be carried out by the local government; similarly, construction of houses on each plot is to be done by the respective landowner.

In order to obtain national funding, the Local Land Office submits a project proposal to the Central Office of the National Land Agency through the Regional Office of the National Land Agency at Provincial level concerned. Whereas the proposal has been agreed upon by all related agencies and local government through a coordinating team before its submission.

This type of project, so far, dominates the Indonesian L/C. Generally, the projects are within urban jurisdiction or in the urban fringe areas which are anticipated to be urbanized in the near future in line with urban development.

b. L/C Project with National Budget and Local Budget

This project type is generally associated or combined with plans of projects drawn up by the local government. In this case, the local government has a certain development plan on a certain area. During its process of land provision and land management, there are some constraints encountered, such as limitation of the local government budget for land acquisition, landowners' reluctance to move, and so forth. Considering these matters, the Land Consolidation measure must be applied. The local government asks the Local Land Office for providing such a fund to be used for financing land arrangement activities.

The amount of the available budget from the National Budget is commonly fixed, i.e., Rp.100 million for its target of 250 land parcels. This budget is mainly allocated for financing land arrangements up to certification and land provision for road or street networks, whereas the local government budget is allocated for construction costs and the provision of urban infrastructure.

This project type is commonly located in some regencies or municipalities where there are some developments of urban infrastructures and facilities, improvement of slum areas, and others. Funds arrived from the Local Budget and will directly be managed by respective local government offices.

c. L/C Project with Local and/or Provincial Budgets

This type of project is commonly found in areas, where both local and provincial governments clearly understand the advantages of Land Consolidation. This may happen when there was a Land Consolidation project previously implemented through the National Budget as a pilot project which was supplied with some prominent extension activities to the community as well as involvement of other government agencies.

Being aware of the Land Consolidation benefits for smoothing development activities in their jurisdictions, some local governments actively employ Land Consolidation in providing land for developing urban infrastructure and facilities, area development, and others by providing all funds for financing land matters up to construction costs. However, whenever the funds required are relatively too high, then the respective local government propose the provincial government to finance through the provincial budget.

The amount of the funding is based on the expenses needed and the respective local government directly manages it, while the National Land Agency only carries out land arrangement activities.

d. L/C Project with Self-finance

This type of project currently gains its ground in some provinces where Land Consolidation is becoming more and more popular among communities. The project is generally implemented in such a location as the landowners have been associated within an organization, e.g., cooperatives. So far, this type of project has been for housing development, by and for the land-owners.

The source of funding for the implementation of this type of Land Consolidation accrues only by collection from the landowners. The provision of finance is carried out through its direct collection in cooperation with banking institutions under the coordination of cooperatives. Therefore, all financial sources for the implementation are generally in the form of bank loans, with a low interest rate. This implementation cost covers land arrangement costs up to land certification, construction cost, development of urban facilities and infrastructure (road networks) and house buildings in every land-owner's parcel.

Funding, which is managed by the National Land Agency, is that allocated for land arrangement up to land certification and land provision for roads and streets. In this case, it is accounted for more or less Rp.300,000 per parcel in average. Construction costs for public facilities and infrastructures as well as house buildings are directly managed by the cooperatives or participants' association.

e. Cost Sharing

So far, specific terms and regulations concerning cost sharing from various financial sources

have not been drawn up. It is clear that in terms of National Budget, the amount is regarded as one package fund, i.e., Rp.100 million for one Land Consolidation site covering 250 land parcels. In accordance with its goal as a pilot project as well as due to the limited budget, the National Budget is intended to finance one Land Consolidation site in one regency or municipality. In addition, allocation of budget is mainly used for financing land arrangement up to land certification and roads or streets clear up, whereas construction costs should be financed by the Local Budget and/or self-help scheme.

The amount of fund, which can be collected, either from sale of reserved land or cash money contribution, is basically also determined as a result of deliberations among all landowners. In the same manner, the amount of fund obtained from the Local Budget is not firmly determined. This usually depends on the availability of the budget managed by the local government and the scope of construction works to be achieved through such a project. Therefore, this matter is commonly addressed by the work of the Coordinating Team involving the regent or the mayor, the National Land Agency, related technical agencies, and representatives of the landowners.

(4) Incentive of Finance

The government is eager to provide access to financing in the form of incentives for landowners that are the participants of L/C project. For instance, ownership rights as commonly prevailing will be granted to Land Consolidation participants at a relatively low tariff.

4-2 Essence of Land Readjustment in Japan

4-2-1 Basic Concept and Principles of Land Readjustment

Land readjustment is designed to be generally and broadly applied to the human settlement development so as to promote public interest and social welfare of the society.

This is the base for the justification of including L/R in the official plan of the spatial plan, which is to promote public interest. At the same time this necessitates the strict enforcement of the principles so as to protect the public interest. The principles of L/R are outlined as follows.

(1) Fair and Equitable Sharing of Cost and Benefit among Landowners

The land areas to be re-plotted and land contribution area are directly related to the cost and benefit of the landowners. In this regard, the land evaluation system, and re-plotting and equitable payment system are established in the L/R implementation system so as to attain fair and equitable sharing of cost and benefit.

(2) Cost Recovery by Development Benefit

The development benefit of L/R is measured in terms of land value increase. Land value increase accrues from land arrangement and infrastructure construction. The cost of the infrastructure must be covered by the increased land value. This also means that the cost of L/R or land contribution, which implies the cost for the landowners, should be limited within the land value increase.

The land contribution system should be precisely defined and strictly implemented because it affects the property right of landowners.

(3) Preservation and Continuation of Land Right, Value and Utility

In re-plotting design, the new lots are designed so as to be as precisely as possible identical to the original lots in terms of value and utility of lands. Under this condition there should be a land registration system particular to L/R which legally stipulates that the re-plotted lots are identical to the original lot in terms of land tenure.

One of the best advantages of L/R is that the land can be continuously used without interruption through the project implementation, even when the construction works are on going.

The system which makes this possible is the provisional re-plotting system which is to transfer the right of land use first in order to keep the utilization of the land.

4-2-2 Authorities for Implementing L/R Projects and Types/Classification of L/R

(1) Authorities for Implementing L/R

*Legitimate L/R agencies are solely **Association of land right holders** and the **Government**.* Property right of landholder and administrative right of government are the sole authorities on which to be able to establish a L/R implementing agency and implement L/R projects.

Who and what organization can implement L/R projects? What are the *authorities*, based on which organizations for developing and implementing land readjustment projects can we rely on?

By nature L/R projects are to be implemented and greatly affect the existing land rights, without which no one can use and develop the land in project sites. Although the primary authorities for L/R implementation enforce not only land right rearrangement, but also land use change and infrastructure, the improvement rests primarily in the land right holders. In this regard, implementation organization must be established based on the *individual authority of the land right holders* and this authority must legally base its activities. No implementation organization can be lawfully created without it. The primary organization for implementing L/R is to be established only on this authority. In other words, L/R organization is to be established under the responsibility and right of landowners. However L/R cannot be implemented by individual landowners. Associations of landowners who are exclusively empowered to develop their own properties are eligible L/C implementing agency. *The associations are designed to collectively represent the will/intention of landowners, and collectively execute the rights of landowners to achieve their will and intention.* In this respect any agency, other than landowners associations, cannot be an L/C implementing agency, and no person, other than land right holders, can in principle be a member of the L/C implementing agency.

The administrative right and responsibilities of the central/local government mandated by people, in achieving and promoting public interest and social welfare, is the other authority on which L/C projects can be developed and implemented. In this case the government, or implementing arms of the government which are in charge of urban and infrastructure improvements to enhance public interest, is qualified to implement L/R on the private lands in order to fulfil the mandated tasks. It may be called a "*public-oriented L/C project*", as compared to "*the land right holders-oriented L/C*" stated above, where/when the public interest takes precedence over the private right (right of land right holder)

(2) Types and Classification of L/R

As shown above there are 2 distinctive types and organization of L/R based on the different authorities. Participation of land right holders is indispensable for both of them.

Those types and organization can be divided into 2 categories – *Voluntary base participation and Obligatory base participation of land owners.*

Although the voluntary base L/R is deemed to be best, because of positive participation of landowners in L/R, implementation of L/R must be dependent on the arbitrary and volatile will and decision of landowners, resulting in lengthy consensus building and, abortion, suspension, mid-way termination of projects. This system can only be applicable to the area where L/R can be implemented depending upon the intention of landowners, not to the areas where L/R is needed to solve the urgent urban and environmental problems, which is not always approved by all the landowners. *This voluntary base L/R should be pursued as much as possible in order to expand the application of L/R. However, the L/R system which Indonesia is striving to develop is generally implemented where needed.*

On these premises, the possibility of the other category – obligatory base or compulsory L/R participation, leading to sustainable implementation of L/R shall be sought in this study. However it must be stated that this system would not deny, rather stress the necessity of the persuaded and encouraged voluntary based participation of L/R. *Compulsory measures are the last resort just in case after the failure of persuasive negotiations with landholders.*

Table 4-2-1 Types and Classification of L/R

Participation of landowners	Type of L/R	
	Public interest	Interest of landowners
Voluntary base participation	Ad hoc	Ad hoc
Obligatory base participation	Institutionalized, based on authority of government	Institutionalized, based on authority of land right holders (Association)

The L/R system development in Indonesia aims at the institutionalized system based on the authority and land right holders respectively.

(3) Legal Powers Based on the Authorities for Implementing L/R

The major works and their procedure of implementing both association and government land readjustment projects are outlined respectively in Figure 4-2-1.

As illustrated in Figure 4-2-2, the major activities of the implementing agencies are *decision-making* (for instance on implementation plan before the project and re-plotting plan during the project implementation), *validation works of the decisions* (authorization through legal procedure stipulated in L/R act), and *enforcement of the decision.*

The procedural works in the figure will be more clearly interpreted from the following 3 viewpoints

Legal enforcement power on landowners

One of the distinctive features of the L/R implementing agency is that it is empowered to make action with the legal enforcement on land rights through due procedure, such as designation of provisional re-plotting and enforcement of re-plotting plan. Without such enforcement power the implementing agency cannot proceed with the project on the lands with the rights which do not belong to the implementing agency. In this regard the L/R association is entrusted by landowners to wield such powers, while the L/R government agency is empowered in order to achieve the public interest and social welfare mandated to the government by people. The L/R government agency is defined as the arms of the government to implement public policies.

Decision-makers

Decision makers on L/R project implementation (implementation plan and re-plotting plan and etc.) are landowners or association of landowners as a collective decision making organ in association with L/R project, and government agencies based on the authorities as stated before. The major works of L/R implementation are included in the decision making process with the view of reaching the democratic, fair and equitable decisions among the landowners (general meeting of landowners to make the association's decision, etc.).

Check and balance

The L/R project is combination of landowners' interests and public interests. In this regard, L/R projects must be checked from both sides. The association of the L/R with the landowners' interests is subject to the approval of the Governor representing the public interest, while government L/R with public interest is subject to the consultation with L/C council representing the landowners.

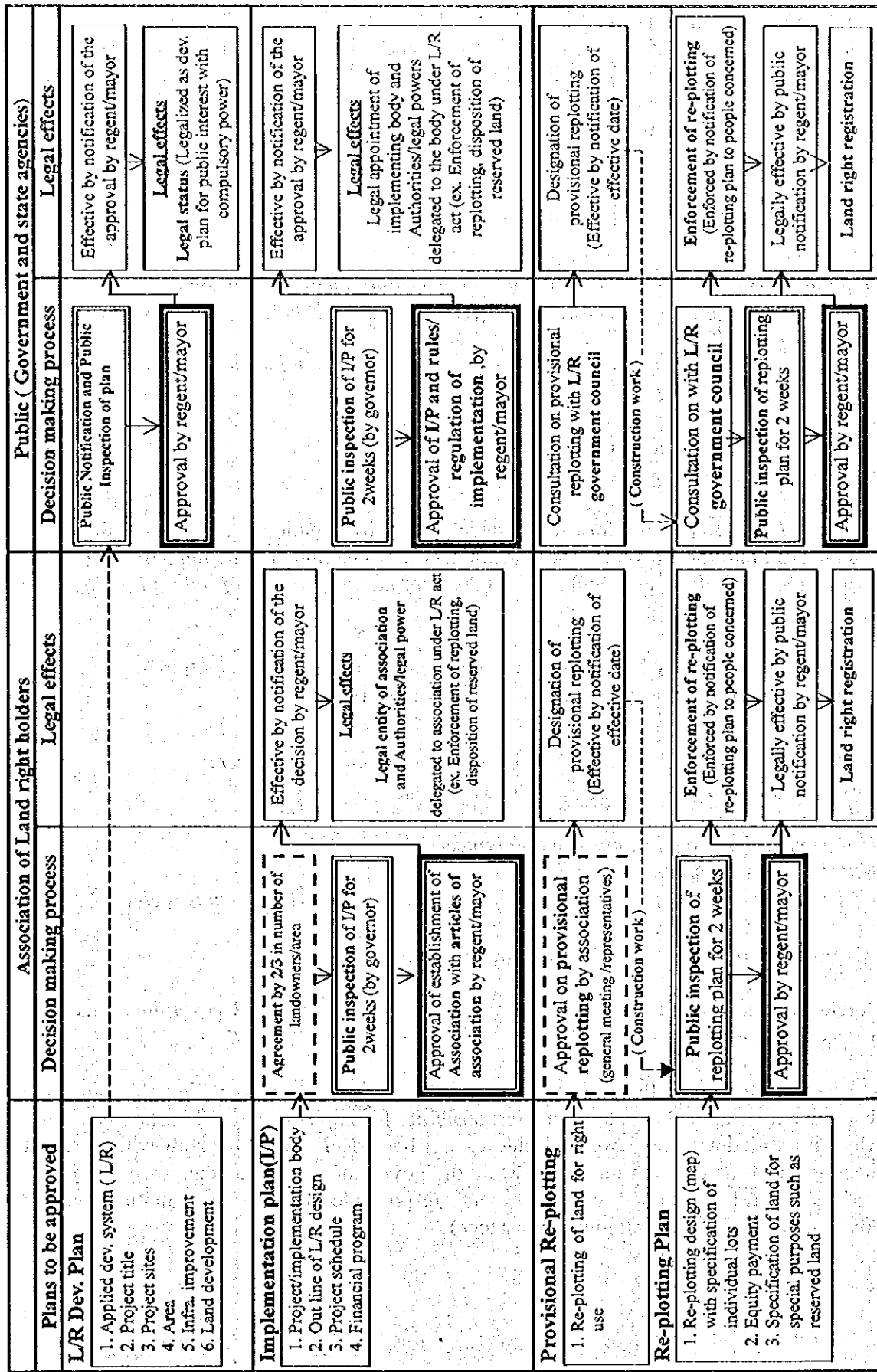


Figure 4-2-1 Decision-Making Process and Organization/Legal Power for L/R Implementation

Association and government L/R is defined as follows:

Association L/R: Urban and infrastructure development as intention of landowners, which is to be initiated and implemented on the initiative, responsibility, and authority (property right) of land right holders. The association is a group of landowners that has intention to collectively improve its living environment in cooperation with each other through the participation in the association.

Basic elements of L/R association, among others, are:

1. Association's right of self-determination and decision-making mechanism:
Democratic and fair decision through general meeting, based on the authority of landowners' rights.
2. Association's administrative powers delegated by government and administrative effect for implementing project:
Quasi-government function for implementing project
3. Check on implementation by government:
Government approval with public inspection.

Government L/R: Urban and infrastructure development by intention of government that is the representative of all local people. The L/R projects are to be initiated and implemented on the initiative, responsibility, and authority of public administration of city planning and development.

The government L/R are endowed with the *decisive power over the land rights* in implementing L/R project so as to promote public interest and social welfare.

1. Right of determination and decision making mechanism by government:
Based on the administrative power of Government.
2. Administrative power and effects of government:
Government function for implementing project.
3. Check on implementation by landowners:
Consultation on re-plotting with L/R council of landowners' representatives elected.

(4) Organizational Structure of L/R Implementing Agencies

The organizational structure and functions of L/R associations and L/R government agencies are respectively outlined in Figure 4-2-2.

1. The basic difference between associations and the government is found in an organization that has a decision making power and responsibility for implementing L/R. The association which is entitled with the power to decide, establishes a decision making body with a general meeting of all association members, while the government who has the power to decide establishes a L/R council of landowners' responsible only for consultation on the government decision (re-plotting for instance).

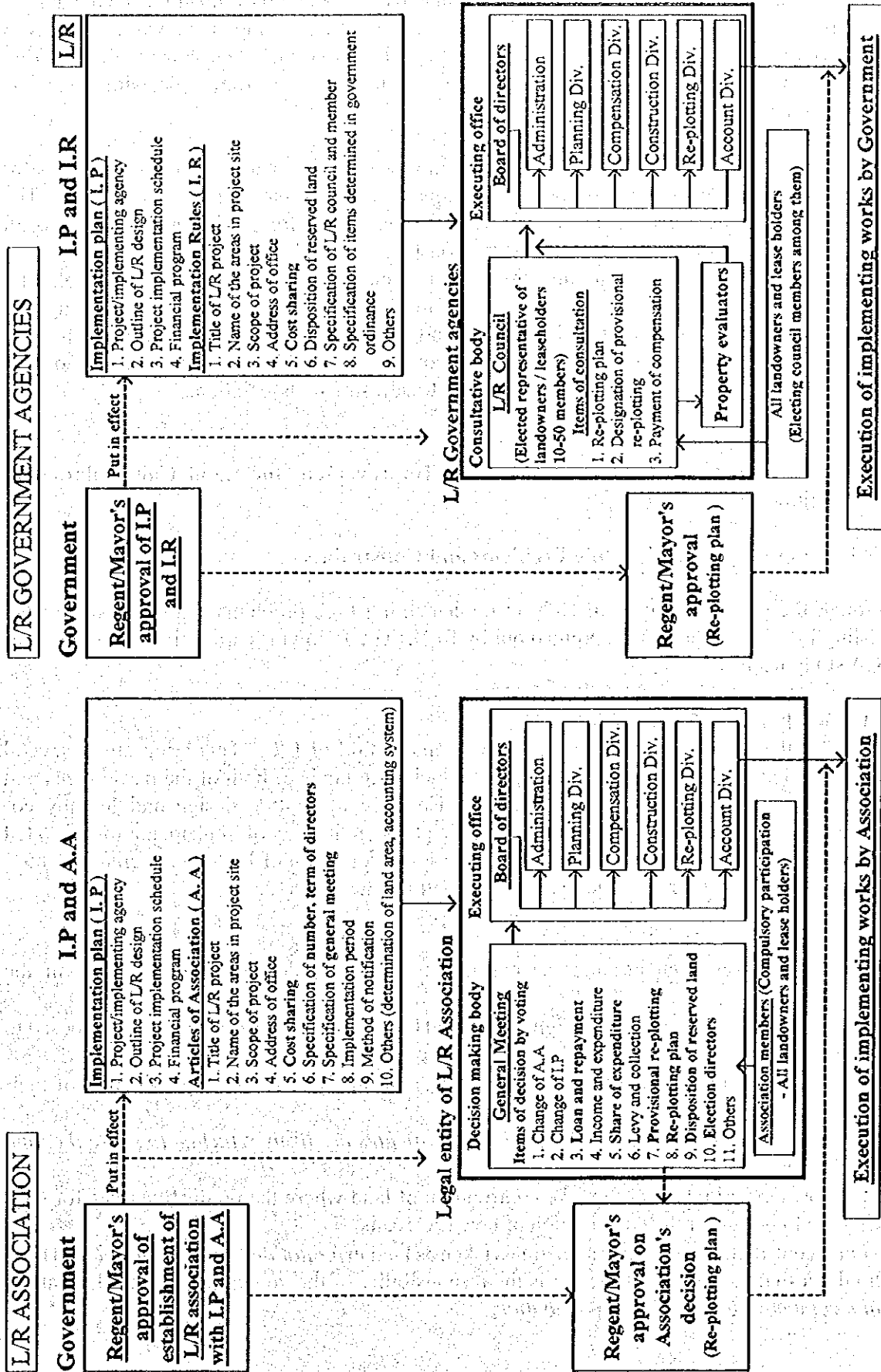


Figure 4-2-2 Organizational System and Functions of L/R Implementing Agencies

2. The L/R association has an executing office managed by a board of directors elected among the members in the general meeting. The executing office does implement works in order to realize the decisions made in the general meeting. The government establishes an executing office in the government organization to execute the governor's decisions for the government L/R.
3. The executing offices of both associations and government usually consist of divisions for administration, planning, compensation, construction, re-plotting and account. The association is designed to do almost all works necessary for implementing L/R project including re-plotting plan/enforcement, construction and accounting. Major works including development plan, implementation plan, design and engineering, re-plotting including land value evaluation, and others are usually contracted to the consulting and engineering firms by the association. To support and technically assist the L/R association, a semi-public organization for promoting L/R, consisting of public and private experts of L/R is established. An example is the Japan Land Readjustment association.

4-3 Basic Policy and Principles of System Improvement for Land Consolidation in Indonesia

4-3-1 Summary of the Existing Problems and Constraints

Through the past experiences of BPN in implementing L/C, problems and constraints of the existing L/C system have been pointed out by BPN. The followings are their interpretation of JICA study team.

a. Difficulty to reach agreement

Not all of the landowners agree upon the implementation of L/C. This brings about several difficulties and problems in re-plotting parcels including lands of both of the participants and non-participants resulting in inefficient and disorderly re-plotting design and lengthy coordination for re-plotting. Drop-out of the participants on the way of implementation as stated below has more serious project problems because the condition of L/C implementation- 85% agreement of landowners is no longer kept to continue the project.

b. Determination of land contribution

Land Contribution often became the constraints of L/C implementation especially in the following cases:

- ① Landowners with the relatively high priced land before the project are likely to be opposed to any land contribution.
- ② Landowners with the land located along streets are likely to refuse any reduction of their land.
- ③ Landowners who previously held any land certificates are likely reluctant to share the land contribution.
- ④ Landowners are reluctant to make contribution of land where the productive trees for their living are to be cut for the construction of new L/C roads.
- ⑤ Land contribution for road is sometimes taken as land *exploitation by the government*. Those who think that the road construction is the responsibility of the government do not hesitate to claim compensations for land contribution.

c. Discontinuation of participation due to financial burden

Some of participants who approved the L/C project at the beginning of the project discontinue their participation on the way of implementation due to the burden to finance the implementation cost, which is informed in the course of implementation.

d. Construction works of infrastructure and facilities

The construction of streets, bridges and others is not always carried out in the L/C projects. This works to keep the land use as the original agricultural land, preventing the more effective and productive land utilization on the re-plotted land, which is the main purpose of L/C.

e. Low understanding on the importance of L/C

The community is less conscious of the importance of L/C, or the importance of infrastructure and environment improvement in/around their settlement. It is more so where the rearrangement of the land tenure and land use is the more important issue. The local people are more concerned with land certificates so that they are likely to view L/C as land certification project, and compare it with other land management programs executed in the country.

4-3-2 Issues for Improvement of L/C

(1) Alternatives of Land Consolidation

There seem to be two (2) types of practices for land transactions or management in Land Consolidation in Indonesia, one is the individual re-plotting into parcels of land and the other is the collective re-plotting into one larger tract of land. The former is close to the Land readjustment with the principle of continuation of the existing land rights and utility, while the latter is close to the land pooling system. To cite an example, land pooling is applied in a form of common ownership. It is effective in re-plotting smaller parcels of land, which otherwise cannot be used as residential site because they are too small.

The Land readjustment and the land pooling system are created and practised to increase the economic and environment value on the distinctive rationality and logic as follow:

1. To rearrange and reshape the existing fragmented lands for urban use, in order to preserve the existing land property and conditions (Land Readjustment).

The rationality or logic of this system is that the economic and environmental value of the lands is yielding more in the development on the orderly rearranged land (for urban activities) than the individual development on the fragmented land, thus leading to the most efficient use of the natural land resource.

2. To consolidate the existing fragmented land into one or more larger development land. (Land Pooling/ Banking and Land Subdivision)

The rationality or logic of the consolidation is that the economic and environmental value of the land and properties is yielding more in the larger integrated development scale on one consolidated land than the fragmented development on the individual small land, thus leading to the most efficient use of the natural resources of land.

Land pooling/Banking and Land Subdivision have been designed and applied so as to pursue this rationality to the maximum.

The Indonesian Land Consolidation tends to be characterized or identified or confused with either or combination of the two distinctive systems. It may be partly attributed to the land registration system following the procedure of releasing land rights to the government and subsequently granting to the original landowners. In this procedure the land seems to be pooled in the hand of the government, but subdivided into parcels of land. The property value increase is not purposefully aimed at through the collective land utilization by this pooling system as stated above.

From the viewpoint of macro-economy of city development, higher value of property is most probably yielded in Land pooling urban development or subdivision development by private sectors than in Land readjustment due to the collective and integrated use of one assembled land. However basic advantage of L/R distinguishable from other systems like pooling system, subdivision and the others is the *continuation of land utilization* in addition to the land right and value of land. This becomes the key matter of urban development and improvement, especially in the fringe of cities and towns on the verge of urbanization where the intensive urban land use has been emerging without basic infrastructure. The continuation of their business (ex. Retail and service shops) and their lives on their lands are vital. In such areas as above Land Readjustment seems more acceptable to the people living than Land pooling which is to interrupt the continuation of the daily business which they depend on.

In conclusion, taking into consideration the dual function of the Indonesia land consolidation and the difference of L/R and L/P, it is recommended that Land Readjustment system (*Alternative -1*) where the continuation of land utilization is more needed, and Land Pooling system (*Alternative -2*) where the efficient and more value-added land use is needed, should be established under the Land Consolidation of Indonesia, but they are separately designed because they differ in their economic rationality and land transaction/management.

It is decided to pursue the establishment of L/C basic system in line with the alternative-1 through improving the following problems inherent to the existing L/C system and practices.

(2) A Chain of Problems in L/C

As shown in the previous section, Indonesian L/C projects have been expanded and spread through the country. However the problems and constraints are left to be solved for the full scale application of L/R in Indonesia.

It seems that most of the problems and constraints identified by BPN derive from the structural problem that basic mechanism of L/R does not well work in the Indonesian L/R. The basic mechanism of L/R is simply interpreted that the infrastructure development through L/R is to increase the utility of land resulting in the corresponding increase in land value, then the increased value is to finance the infrastructure development.

Taking into consideration the problems and constraints identified, a chain of problems in the existing L/C system and practices, which is deemed to hinder the mechanism of L/R is presumed as shown in Figure 4-3-1 and outlined below.

1. The biggest problem, among other things is that infrastructure is seldom constructed and financed by reserved land, which is the base of Land Readjustment.
2. Since the land value is to accrue mainly from the infrastructure development in L/R site,

any land value evaluation can not be properly made without guarantee of the infrastructure development as a base for it, which is not certain in the real practice of L/C project implementation.

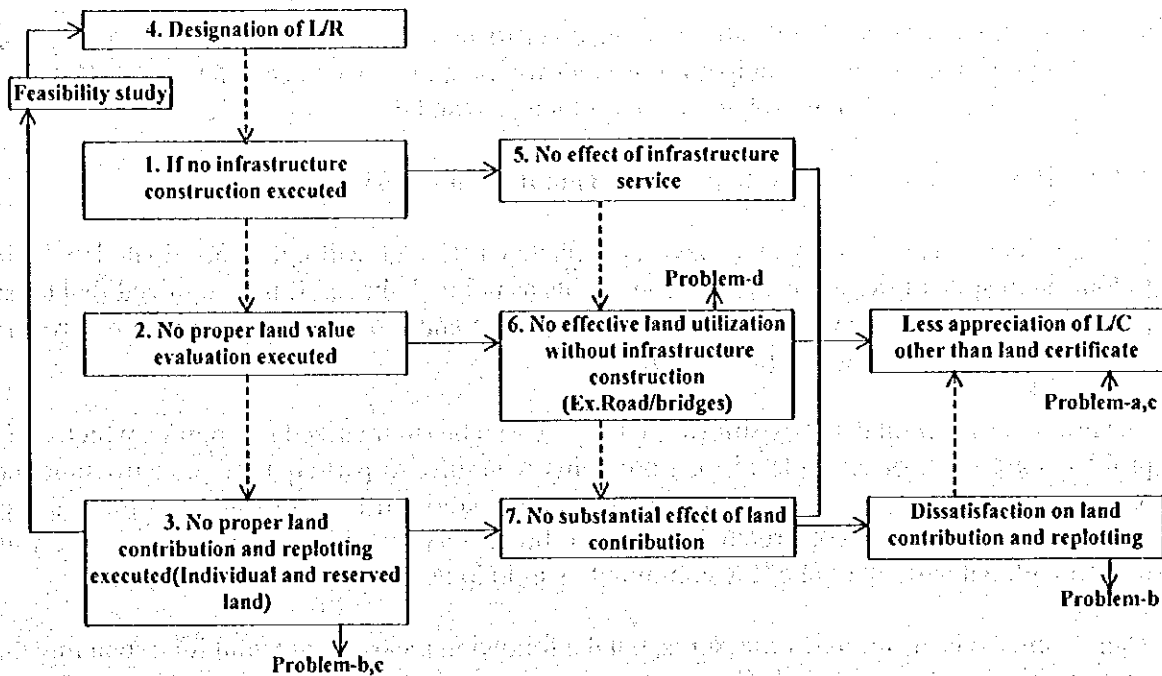


Figure 4-3-1 Chain of Problems in L/C

3. Due to the lack of proper land value evaluation based on the infrastructure development as stated above, the land contribution for refunding all the cost including the cost of infrastructure and re-plotting areas for individual landowners cannot be properly and objectively calculated and enforced. The objectives of re-plotting and the contribution system based on the land value evaluation at least will be instrumental for arresting the apprehension and dispute on individual re-plotting and land contribution as represented in the problem b and c.
4. The failure of proper land contribution calculation and enforcement for covering the cost of infrastructure leads to the designation of project sites without confirmation of the project feasibility. Non-feasibility project is likely to impose an extra financial burden on the landowners. The relatively higher standard of infrastructure, which is never expected to correspondingly increase the land value to finance it especially where urbanization pressure and potential seem to be low, tends to incur undue cost on the landowners because the increased land value cannot cover the cost of the infrastructure.
5. Infrastructure with only the right of way implies that no effects of infrastructure service are expected even after the project completion, and the landowners cannot see and enjoy the effects of L/C.
6. It also impossible for the landowners to make effective land utilization without infrastructure services (Ex. road and bridges). This is related to problem d.

7. The landowners can see no substantial effects of the land contribution they sacrificed
8. In this situation how the land owners can be satisfied with land contribution they have to sacrifice, and
9. The highly appreciated L/R other than land certificate. The improvement of this situation will contribute to more participation of landowners, more social acceptance of L/C, hence expecting the solution of problems like problem a, c and e.

4-3-3 Basic Policy of L/C System Improvement in Indonesia

It is no doubt that many people have appreciated L/C and willingly participated in it in Indonesia in spite of the problems and constraints as pointed above. It is recognized that those problems must be arrested to make L/C more effective and more generally applicable system for urban and infrastructure improvement.

The problems inherent to the existing system of L/C can be summarized in 3 points, which other problems are more or less related to, - problems regarding to participation, construction and re-plotting/reserve land. Measures to enhance participation in L/C is of greatest importance, and improvement in the construction and re-plotting/reserve land is intended to pave the way for more global participation of the communities in Indonesia.

There seems to be no almighty measures, but the following measures are vital for expanding the communities' participation in L/C project.

1. Increase and strengthen public awareness/consciousness of importance of urban and infrastructure improvement, which is a base for L/C.

2. Increase reliability and trust on L/C for reducing reluctance of landowners and enhancing willingness of their participation

These are important conditions for the compulsory participation of landowners in L/R project.

The study on the system improvement of L/C is aimed at Item 2 to increase reliability and trust on L/C. For this end proposed is the establishment and effective operation of the mechanism of L/R including *infrastructure development and proper/objective and scientific re-plotting and reserve land allocation*. Both of them are indispensable for increasing the reliability and trust on L/C as an effective urban and infrastructure system in Indonesia. They are interdependent in such a way that infrastructure financially relies on reserve land, while reserve land and re-plotting areas are based on the infrastructure.

In this regard, first it is most significant to install the infrastructure development system and implementing organization in the L/C system since they have not been built in the existing L/C system of the BPN. It is the base for any improvement of L/C.

4-3-4 Basic Concept and Principles of L/C

In order to improve L/C by that policy set above, it is recommended that L/C adapts the basic concept and principles of L/R in Japan as discussed in the preceding section of 4-2, although the

application systems may differ from those of Japan.

The basic concept of L/C is to promote public interest and social welfare with the following 3 principles.

- (1) Fair and equitable sharing of cost and benefit among landowners
- (2) Cost recovery by development benefit
- (3) Preservation and continuation of land right, value and utility

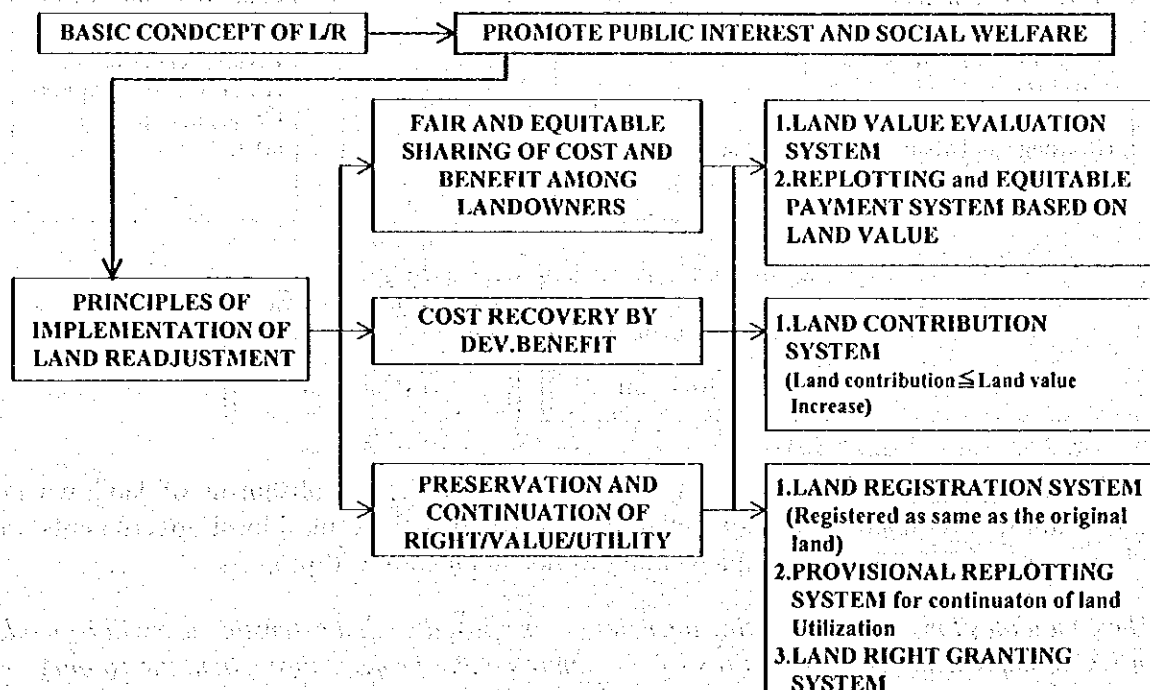


Figure 4-3-2 Basic Concept and Principles of Land Readjustment

4-4 Variation of Implementation System and Implementing Agency of L/C

4-4-1 Types and Classification of L/C

L/C like L/R should be implemented only by legitimate implementing agencies with legal authorities. As discussed in 4-2-2, L/C implementing agencies are supposed to be either association of landowners or the government. Accordingly 2 types of L/C implementations are set forth: Association type L/C and Government type L/C.

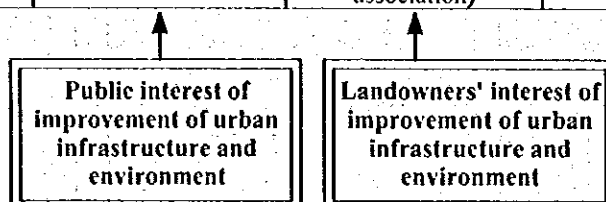
In accordance with 2 types of L/C, eligible agencies for implementing L/C in Indonesia are respectively slated as shown in Table 4-4-1, taking into consideration the character and mandated tasks of the agencies.

It must be stated that this listing of candidate implementing agencies is considered desirable only from the viewpoint of generally expanded application of L/C throughout Indonesia in future. It may be sure that local government and landowners' associations should be the main implementing agencies for L/R overspread in Indonesia when L/C becomes the usual measures

for urban and infrastructure development, say more than 20 projects and 10,000 ha covering area per year. The legality of the proposed candidate agencies to be implementing agencies and implement L/R still remains to be scrutinized.

Table 4-4-1 Types and Implementing Agencies of L/C

L/R Type	Public L/R	Association L/R	Remarks
Association of Landowners	×	○	Contractors to execute L/R works under the authority of Implementing agencies Perum Perumnas Real estate developers General contractor others
Central Government (Min. of Public Works)	○	×	
Local Government (Level II)	○	×	
Perum Perumnas (Housing and Urban Dev. Corporation)	○ (As an implementing agency)	○ (As a member of Landowners' association)	



In fact there exist no laws and regulations that allow the establishment of landowners' associations. It is unclear at this moment of time whether the central/local governments are allowed, or not, to execute the implementing works included in L/R projects.

The candidates for the implementing agencies are proposed so that extensible use will be made of L/C to implement urban and infrastructure improvement projects throughout the country.

The appropriateness/eligibility of local government and association as L/C implementing agencies is shown in section of 4-4-3. Roles and functions of Central government (especially Ministry of public works) and Perum Perumnas are listed in Table 4-4-1 are discussed below.

The Ministry of Public Works (P.U): This ministry (Cipta Karya) is in charge of human settlement development including construction of social infrastructure like urban development, urban road, sanitation, and water supply, which are all related to L/C. L/C is usually established to provide those infrastructure services. Therefore it is usually controlled and supported by the Ministry that is in charge of human settlement development in many other countries. However, P.U. should directly take part in the implementation of L/R projects only in the national interest such as those of construction of national civic center, urban reconstruction project in urgent need in such areas as damaged by natural disaster-flood, earthquake, volcano etc. On the other hand, Cipta Karya is more expected to technically and financially support L/C implementation for human settlement development, which is under the jurisdiction of the Ministry. The other typical undertaking of L/C by the Ministry is shown in those including arterial road construction in order to create space and land for the right of way without resorting to land expropriation. Moreover the advantage of L/C application to road construction is recognized in mitigating unfairness which likely take place between the landowners. While the landowners whose land happened to be in the right of way of the planned roads are ejected with compensation valued at the present price, the landowners whose land happened to be just in

front of the new road can enjoy the direct access to it, consequently obtain land value increased by it just like windfall benefit. In the case of road construction by L/C, supposedly there should be no landowners ejected and benefited unfairly by the road.

On these premises the Minister of public works is proposed to be an implementing agency of the special L/R projects as defined above.

Perum Perumnas: It is stated that urban development in more general terms besides housing provision is under the jurisdiction of Perum Perumnas, although it is stagnant at this moment. In this regard it may be safely said that expansion and development of L/C project in future relies to some extent on the extensive application of L/C in Perum Perumnas projects. The Perum Perumnas involvement will be anticipated either as a member of the landowner L/R association or an implementing agency in Government oriented L/C like those in KASIBA as discussed in chapter 3.

4-4-2 Legal Requirement of L/C Implementing Agency

Key implementing works to be executed in L/R projects are listed up in Figure 4-4-1. The system design of L/R is to determine the appropriate organization and the legal powers with which the organization can execute the implementing works as listed. How these works have been executed in the existing L/C projects is outlined as follows:

- a. The L/C projects have been executed based on the authority and powers vested in BPN with land management tasks.
- b. The land right matters like those of re-plotting plan and its enforcement, for instance, which are under the L/R association responsibility, are all handled directly by the BPN. It seems natural that L/C includes the land conversion and registration, which is subject to the government decision.
- c. Construction works have been seldom executed by the BPN as L/C implementing agency. Reserved land for cost recovery of infrastructure construction has been seldom re-plotted by the BPN. It is reported that the BPN is legally allowed neither to use budgets nor get loans for infrastructure construction nor to execute construction works. There is no legal base for the implementing agency BPN to obtain and dispose the reserved land for refund, which should be lawfully executed in L/R projects.
- d. The implementing agency of BPN contacts directly with each landowner regarding the land right matters. It is a direct relation between BPN and landowners, (BPN versus landowners). There is no intermediate organization, such as landowners' group or association.

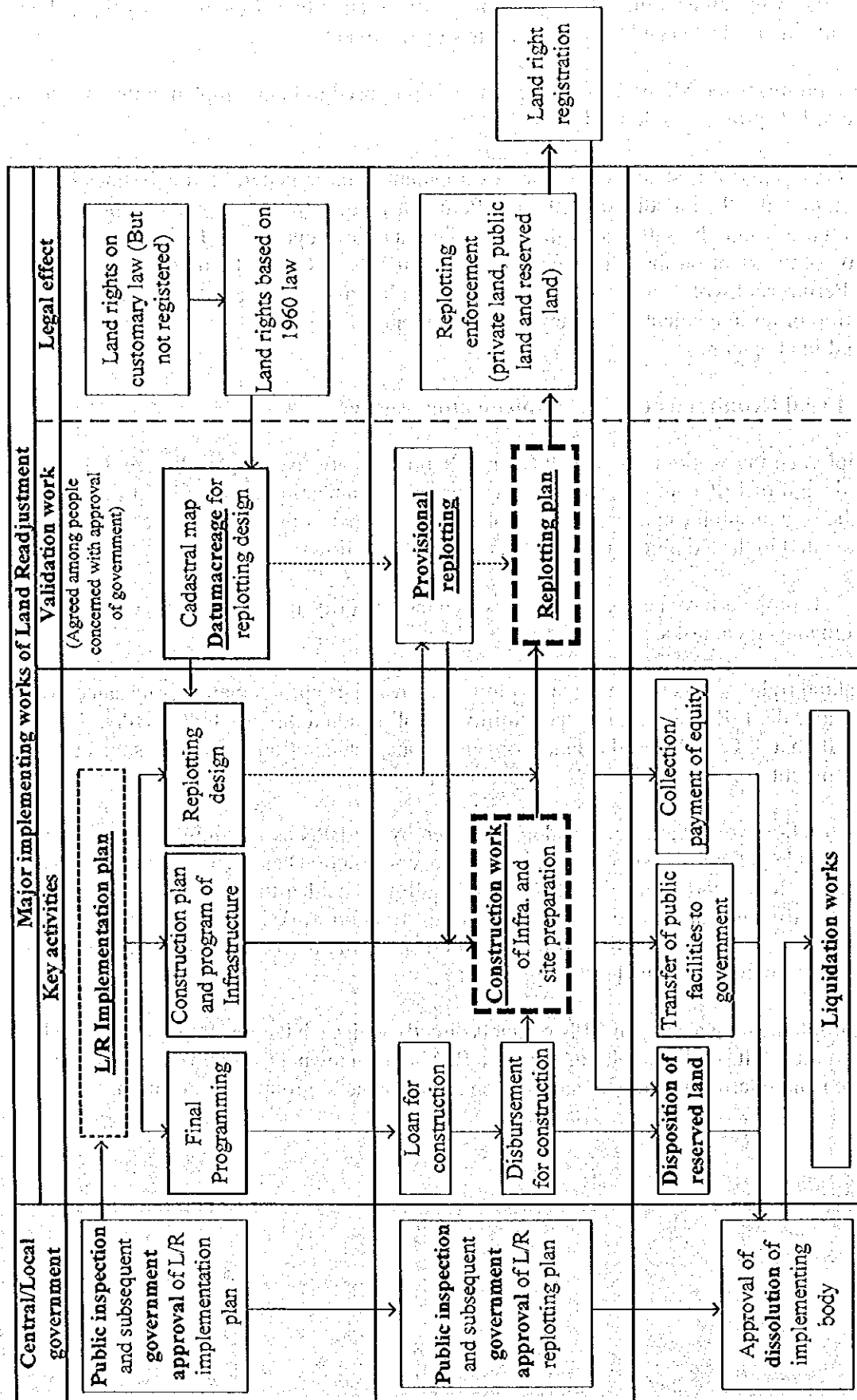


Figure 4-4-1 Key Implementing Works to BE Lawfully Executed in Land Readjustment Project