

# Improving Regulatory Public Participation in Planning Decision-Making for The New Urban Agenda in Indonesia

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**Abstract** – The urbanisation of the contemporary world reveals urban challenges, for example, inequalities in spatial distribution, and Indonesia is no exception. One of the challenges is the unequal and inadequate opportunity for participation in planning decision-making. Country leaders worldwide agree to address their urban challenges by committing to implement the New Urban Agenda (hereinafter NUA) as a guideline to accelerate Goal 11 of the 2030 Agenda for Sustainable Development (SDGs). This study aims to emphasize the extent of public participation in the NUA, to call for specific legal improvements, and to promote prospective enhancements to regulate public participation in planning decision-making as a right to participate in public life. A legal doctrine and content analysis approach is applied by benchmarking the NUA standard to examine existing laws, primarily in the legal frameworks of urban planning, local government, and human rights law. Accordingly, provisions underpinning public participation in planning decision-making require the NUA standard to include the key features of “equal treatment”, “design and implementation”, “evaluation”, and “effective remedies”. The study suggests that Indonesia’s current legal framework is insufficient to accommodate those NUA standards. Therefore, it contributes to developing a regulatory framework in Indonesia, which should foster citizens’ enjoyment of public participation in spatial planning decision-making towards the actualization of the NUA.

**Keywords:** *public participation, planning decision-making, participatory development planning, the New Urban Agenda.*

## I. INTRODUCTION

Insufficient participation opportunity in planning decision-making is among urban issues in present urbanization (Syaodih, 2019). Country leaders worldwide agree to address urban challenges by applying the guiding principles nationwide to accelerate Goal 11 of the 2030 Agenda for Sustainable Development (SDGs) (UN-Habitat, 2017) through a further UN resolution, as outlined in the New Urban Agenda (NUA) (UN-Habitat). Countries’ involvement in the NUA is appreciated as an official means to achieve a dignified standard of living in the city for their population. The NUA is grounded in, among other international documents, the Universal Declaration of Human Rights (UDHR) and international human rights norms (NUA 12). Under the NUA, public involvement is crucial to upholding the global

commitment to sustainable urban development within well-coordinated and integrated worldwide, national, regional, and local contexts (NUA 9).

As urban issues are unavoidable consequences of the present global urbanization, there is no exemption for Indonesia to deal with them (Miranti, 2019). It is urged that the Indonesian government implement the New Urban Agenda (NUA) (Salim & Hudalah, 2020), as other country leaders worldwide are also committed.

Noticeably, the pattern of considering the NUA in Indonesian development reveals promise and challenges. First, the NUA guideline is promising for legal reform in Indonesia, as it guides decision-making processes with a new paradigm that places spatial planning at the centre of urban governance (Salim & Hudalah, 2020). As noted, Indonesia's involvement in the NUA groundwork began with the preparatory event in Surabaya in July 2016. This involvement demonstrates that Indonesia is opening its doors to this global commitment to address the impact of urbanisation on its inhabitants. Fundamentally, Indonesia has constitutional grounds, specifically under Article 18 of the 1945 Constitution, to perform the crucial function of local government in regulating and administering local affairs. It offers a basic solution by making cities critical players, as the UN-Habitat promotes, in addressing climate emergencies, managing migration flows, and other global challenges (UN\_Habitat, 2017).

On the other hand, adopting the NUA can also be problematic. This is due to Indonesia's struggle to achieve the goal of sustainable urbanisation that would require developing and progressively refining a comprehensive, actionable framework, from legislation and rules to governance and municipal financing (Salim & Hudalah, 2020). In that regard, Indonesia's legal position remains unconfirmed. However, it is expected that the NUA standard may elevate Indonesia's condition.

Studies conducted post the NUA 2016 issuance reveal that some argue the virtue of adopting NUA implementation is its integration of the important role of public participation. Mandar, Rany, and Rasyid focus on Kota Pekanbaru as a case study to achieve sustainable urban development (Mandar et al., 2025). The other scholars also elaborated specific sectors, programs, or initiatives. Several works focus on smart cities and creative cities (Mandar et al., 2025; Rafi Ferdilianto et al., 2023; Sugiono & Nugeraha, 2022). Else, Ibnu Affan highlights the significant role of a societal group in expressing societies' needs and interests, thereby manifesting their contribution to development at the local level (Affan, 2021). Unexceptionally, the community's active participation and involvement also play a pivotal role in a program such as slum upgrading in Semarang City, as a venture to improve the quality of neighbourhoods from slum environments (Astuti et al., 2021). In this context, the voice from the community helps actualize the program by identifying specific locations, physical conditions, and social conditions to determine the community's resilience level (Astuti et al., 2021).

Many efforts in urban management across several sectors and city samples in Indonesia are undeniable, but the struggle remains (Handayani et al., 2020; Muzayanah et al., 2020; Sugiarto et al., 2020; Syaodih, 2019). It leads to the contention that, despite the above studies being inspiring, they are considered incomplete because they lack a legal framework perspective. Such studies focus more on regular circumstances with minimal legal framework analysis, whereas, according to Wan Seman et al., the law should anticipate irregular situations (W Seman et al., 2021). It relates to the lack of required conditions, for which the NUA serves as a reference for urban policymakers. Additionally, the above-reviewed studies fail to consider a human rights approach that incorporates recognition of the right to participate in planning decision-making.

The authors subscribe to Oomen and Durmus, who argue that without an adequate human rights law framework, as strengthened by the NUA, decision-making cannot be accelerated, especially in guiding local governments to seek more community participation in urban planning (Oomen & Durmus, 2019). This calls for recognizing the escalating global task of cities in international legal understanding.

For this reason, the present study examines the legal framework for implementing the New Urban Agenda in Indonesia, with a particular focus on incorporating public participation in planning decision-making. This study considers a human rights perspective to motivate local decision-making processes and institutions. Such a perspective aligns with, among other things, a community-based planning approach promoted by Ainul Jaria Maidin and the two other joint authors, who consider the needs and desires of locals throughout the process. Within this narrative, community members' involvement in the planning process allows them to channel their skills and experiences, which contribute to decision-

making (Anafi et al., 2023). The consideration of international human rights norms deserves integration in this particular matter. This is because a human rights perspective may identify a potential enrichment in regulating public participation as a right to participate (RTP) in public life, anchored in the International Covenant on Civil and Political Rights (ICCPR) (Joseph, 2019). In the planning decision-making context, Anafi et.al argue that multi-party involvement may enable a broader range of the population to participate in government, parallel with the attempt to improve effective democracy (Anafi et al., 2023)

**CONSIDERING THIS, THIS STUDY ATTEMPTS TO OUTLINE THE GAPS IN THE COMPATIBILITY OF INDONESIAN LEGAL FRAMEWORKS, AS DISCUSSED BASED ON THE NUA BENCHMARK. TO ADDRESS THE LOOPHOLES, THIS STUDY PROPOSES SEVERAL SALIENT FEATURES TO IMPROVE SO. THEREFORE, THE MAIN DISCUSSION IS DIVIDED INTO FOUR SECTIONS, INCLUDING THE INTRODUCTION AND CONCLUSION. AFTER THE ABOVE INTRODUCTION, SECTION II PRESENTS THE RESEARCH METHODOLOGY. SECTION III PRESENTS RESULTS AND DISCUSSION, DIVIDED INTO THREE PARTS. THE FIRST PART HIGHLIGHTS THE SALIENT FEATURES OF THE NUA, EMPHASIZING PARTICIPATORY PLANNING AND DECISION-MAKING, AND THE SECOND PART EXAMINES THE CURRENT LEGAL COMPATIBILITY IN INDONESIA, CONCLUDING WITH A PROPOSAL FOR LEGAL IMPROVEMENT. THE EXTRACTED POINTS OF DISCUSSION ARE CONCLUDED IN SECTION IV. THE STUDY RESULTS CONTRIBUTE TO ENHANCED LEGAL REFORM IN INDONESIA TOWARDS THE ACTUALISATION OF THE NUA THROUGH PARTICIPATORY URBANISATION TO ELEVATE EQUITABLE OUTCOMES OF LOCAL DEVELOPMENT.**

## **II. METHODOLOGY**

This study applies doctrinal, or other word normative, legal research. It is categorized so that the study attempts to examine the existing law based on legal principles and to harmonize laws vertically and horizontally (Disemadi, 2022). In this regard, this study analyzes the existing laws, primarily the Local Government Law (LGL) 23 of 2014, the Job Creation Law 11 of 2020, c.q. 2023, and the Spatial Planning Law (SPL) 26 of 2007, as amended by the Job Creation Law No. 6 of 2023. By employing content analysis, the main Laws are examined to determine whether they incorporate the international human rights standard, among others, (International Covenant on Civil and Political Rights, Resolution 2200A (XXI) of 16 December 1966, Entry into Force 23 March 1976, 1966), as well as the pointers in the New Urban Agenda (NUA) resolution.

## **III. RESULTS AND DISCUSSION**

### **A. *Planning Decision-Making and Human Rights Standard***

Public participation in planning decision-making to implement the New Urban Agenda raises participatory development in spatial distribution and land use in cities, guided by the refreshed United Nations paradigm on Housing and Sustainable Urban Development (UN-Habitat) from the 2016 III Conference. Participation in this context intends to allow society to realise the right to live with dignity through urban development. The Conference, which was held on 20 October 2016 in Quito, Ecuador, cites the challenges of urban poverty and social exclusion that "haunt" many towns as the impetus for the endeavour. Notwithstanding the response to urbanisation described in Habitat I (1976) and Habitat II (1988) (1996) (UN\_Habitat, 1996; UN-Habitat, 1976), Habitat III promotes a reduction in the prevailing urban trend to mitigate socio-spatial injustices, increase equality, social-spatial participation, political engagement, and decent living for all (UN\_Habitat, 2017). Through this document, the UN encourages cities to be well planned and well managed in their efforts to promote sustainable urbanisation (UN-ECOSOC, 2017). Thereupon, aiming to improve the city's standards and quality of life, urban planning emerged as a response to the poor urban conditions (Watson, 2015).

The Habitat III consists of two main parts: 1) the Quito Declaration on Sustainable Cities and Human Settlements for All; and 2) the Quito Implementation Plan for the New Urban Agenda. This study blends the two parts by referring to the NUA using numbers, e.g., NUA 12 or NUA 47. Being unified with the NUA, the 2030 Agenda prioritises the coordination of an improved UN system coherently in urban development with a broad strategic planning framework system in implementation and reporting (Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations General Assembly, Resolution A/RES/70/1 (25 September 2015), n.d.). The Declaration also

strongly recommends that countries, especially developing nations, follow international law and the UN Charter in allowing unilateral financial corporations. Simultaneously, it advises avoiding corporations that would impede the projected sustainable urbanisation and socio-economic development by disregarding international laws.

Under international Human Rights Law, Article 25 of the Universal Declaration of Human Rights (1948) guarantees the right and opportunity of every citizen to participate (RtP) in public affairs through direct or indirect democratic means. To specify, this study contextualizes RtP to focus on public involvement in policy and law-making, in other words, participation in non-election contexts. Such right is detailed in Art 21 and Art 25(a) of the ICCPR. The Articles also entitle the right to vote and to be voted in periodic elections, and the right to access public services within their jurisdiction. Under the General Comments on Article 25, it is distinguished that direct citizens' participation varies into three types. First, participation is embedded in citizens' involvement as lawmakers or government officials. The second type involves public engagement in a referendum on changing the constitution or electoral context. The third is participation in a public meeting to establish a resolution on community issues. They are directly affected or participate in representative assemblies that gather the community and the government to consult and represent them (Section 6). The exact section also emphasizes the non-discrimination principle guaranteeing citizens to participate without unjustified constraints, should be applied (UN\_HRC, 1996). To measure the enjoyment of this right, the UN Office of the High Commissioner for Human Rights (OHCHR) recommends the standard of the right to participate in public affairs, consisting of (UN-OHCHR, 2018):

- a) legal framework by adhering to or ratifying relevant international and regional human rights treaties,
- b) equal rights recognition,
- c) design and implementation articulated in the laws, policies, and institutional setting,
- d) the evaluation system of any law, policy, programme, or strategy, and
- e) effective remedies upon a violation of such rights.

The above-referenced document is valuable as a benchmark or standard for participating in public affairs in a non-election context. It is examined within the legal framework that adheres to international or regional human rights norms, which imposes four key contents: "equal treatment", "design and implementation", "evaluation", and "effective remedies". The UNGA guideline also aligns with the phases imposed before, during, and after decision-making processes (UN-OHCHR, 2018). In the context of public participation in planning decision-making, this study focuses on the right to participate in the non-electoral process following the procedural participation phases.

As mentioned earlier, the NUA has ascertained human rights norms anchored in UDHR and several international human rights covenants (NUA 12). Thus, the human rights perspective emphasized in this study is identical with various international instruments, including resolutions and guidelines, as may be referred to by the NUA. This study widens the conception of the 'city', 'municipality', or 'urban' to encompass the perspectives of 'rural' and 'urban' centres. This is due to the NUA remarks "cities for all", describing the broad sense of local entities. The city's character promotes inclusion and ensures that all people, current and future generations, can live in and generate the just, secure, healthy, accessible, affordable, adaptable, and viable urban areas and human habitats. Such an opportunity aims to boost prosperity and quality of life for everyone (NUA 11).

Applying a linked vision or concept, the 'cities for all' approach in the NUA is seen intertwined with the international human rights standard to localizing human rights. In line with such a perspective, which links to what Martha F. Davis offers as a human rights city, which may characterize three dimensions, i.e.,

*(1) their vertical relationships with international human rights institutions and national governments; (2) their horizontal relationships with peer local governments; and (3) their internal governance and daily interactions with local residents (Abstract; Davis, 2021).*

Under the Human Rights City (HRC) concept, the pivotal role of municipalities becomes even more pronounced in promoting human rights norms (Karman et al., 2020). This significance goes

without saying, since the human rights concept at the city level requires the guarantee of two salient features, as Smith notes, emphasizing the right to participate in and access decision-making processes (Karman et al., 2020). Applying the human rights (HR) standard is significant, and the NUA also aligns it with the Sustainable Development Goals (SDGs) to develop Human Rights City indicators, particularly to elevate those in vulnerable and marginalized conditions. It is intended to raise awareness among municipalities of the need to incorporate a human rights approach to providing public services, supported by a guideline, and to equip municipal policy design with the tools to prepare strategic plans and performance initiatives (Günlük-Şenesen et al., 2021). Ultimately, the NUA provides critical assistance with holistic, cross-cutting policies and services, tying these local practices to the 2030 Agenda and the SDGs (da Silva, 2018). Therefore, applying the human rights standard to the desired participation in the NUA is critical as a benchmark for countries' domestication efforts. The following discussion will combine human rights perspective with the phases and context of participation under the NUA.

#### *B. Participatory Planning in the NUA*

As mentioned, the NUA is rooted in multiple global adherence to human rights, such as the UDHR and international human rights treaties, and informed by the Declaration on the Right to Development. Therefore, the author's interpretation of the respected human rights treaties primarily focuses on the ICCPR. Ratification of adherence to respected international law will help states domesticate these rights. Moreover, such conditions will support eligibility for participation in the decision-making phases prior to the establishment of the municipal plan. Thus, it is preferred that the legal framework regulating the right to participate in public affairs shall contain, i.e., "equal treatment", "design and implementation", "evaluation", and "effective remedies". Therefore, the identification of the NUA content is categorised into four subject matters.

##### *1) Equal Treatment*

The NUA recognises all inhabitants as the rights holders of political participation, which includes equality for women in all levels of decision-making, and prevents leaving the vulnerable behind (NUA 13(b) (c) and 90). Public participation is highly concerned with promoting the right to safe housing for less privileged people, which shall be afforded and free from violence and discrimination (NUA 149(a) and 29). Their involvement is also crucial in social integration (NUA 33). The different extents of participation in defining and determining socio-economic, integrated water planning and management, mobility and transportation systems, culture, behavior, and traditional aspects of living (NUA 38, 72, 114). Therefore, NUA 41 promotes meaningful participation in decision-making and response processes for all. The NUA 41 also strengthens civic involvement, subsidiary provision, and physical projects in cities and human settlements, in accordance with national policies, accelerated by governmental, legislative, legitimate, and fiscal mechanisms.

##### *2) Design and Implementation*

Design and implementation have collided over how to formalize the right to participate in technical implementation. Essentially, the OHCHR advises that participants must be assured they receive the necessary information to comprehend the agenda-setting and the objective or draft to debate during the pre-phase (UNGA, 2018). Debate participants and speakers must be selected wisely based on their expertise, which must be well-defined to make the debate fruitful. During the debate, the host entity must maintain a neutral stance to gather influential opinions, ensuring access to the debate area, freedom of speech, and the dissemination of associated information. Additionally, a thorough timeline and schedule for the debate should be provided, ensuring that persons with disabilities and vulnerable groups have proper access. Participants must provide a well-documented procedure, an explanation of the decision based on the debate, and why their contribution was not considered at the final stage. Ultimately, participants and society should have the right to appeal or review the formulated decision through conventional administrative and judicial processes (UNGA, 2018).

As is noticeable, the NUA promotes the vision of, among others, just, accessible, affordable, and sustainable cities to foster prosperity and quality of life for all (NUA 11). The commitment includes a legal framework for the inclusive metropolitan government (NUA 90). To implement, it also calls for all relevant actors to contribute to sustainable urban development (NUA 146).

Sharing roles among urban actors is significant across all decision-making processes, as they may serve as policy makers and resource allocators, and also function as regulators of service provision to

guarantee universal access, quality standards, and fair pricing (Rashid Abubakar et al., 2020). Under a decentralization policy, local government enables the government to bring itself closer to the local community, promoting public participation and engaging citizens in the planning and decision-making process (Talitha et al., 2020). That way might allow the facilities to be accessible for the common, including women and girls, children and youth, individuals with disabilities, and indigenous communities. For instance, one of the fundamental issues in planning, as highlighted by Maria Isabel Aldinhas Ferreira, is that the scale of the infrastructure in the city (e.g., steps in buildings or transportation) is likely intended for adults rather than for little ones. Everything in town is designed for adults, not for little ones or for people with physical barriers (M. I. A. Ferreira, 2020). Therefore, national, subnational, and local governments shall enhance their capacity to work with women and girls, children and youth, the elderly, persons with disabilities, vulnerable groups, indigenous peoples, and local communities, as well as scholars and research institutions, as appropriate (NUA 148).

Other crucial aspects include encouraging long-term, integrated urban and land planning and development, effective land and metropolitan management, digital platforms and technologies, and geospatial information systems (NUA 156). The combination of a respected integration system with community participation could help shape legal certainty in spatial management, e.g., land registration (Yubaidi et al., 2022).

### 3) *Evaluation*

NUA concentrates on urban design, policy-making, and implementation, focusing on a meaningful evaluation process to make the entire system accountable and transparent. NUA 111 expresses that a comprehensive social chain enables an automatic evaluation system. It will work in order to combat and prevent speculation, displacement and homelessness, and arbitrary forced expulsion, as well as ensuring sustainability, quality, accessibility, health and safety, the development of adequate and enforceable housing regulations, such as resilient building directions, standards, permission to development projects, land usage and planning regulations. NUA 161 provides methods for maintaining a robust transparency system to ensure the entire process is effective. As it conducts periodic reviews and follows up on the NUA, the evaluation ensures national, regional, and global coherence, tracks progress, and assesses impact. Moreover, it aims to monitor whether the agendas are effective and measurable, thereby enhancing inclusive accountability and transparency for our citizens. As the active and actual partners, the local government is expected to follow up on urban development programs and to develop a local-level review mechanism (NUA 163).

### 4) *Effective Remedies*

The NUA 155 calls for capacity-building initiatives to empower and strengthen the capabilities and abilities of the same subjects acknowledged in the NUA 148. Such a venture aims to shape governance processes, engage in dialogue, and promote and protect HR and anti-discrimination by providing meaningful participation in PDM. However, it lacks the ability to determine whether the right is violated, denied, or deprived. Thus, it remains uncertain and depends on each national jurisdiction's interpretation and political will.

### C. *Compatibility of Indonesia's Legal Position and Towards Improvement*

There is no certain law that specifically regulates public participation in urban planning decision-making in Indonesia. On the other hand, Indonesia's goal of sustainable urbanization, especially under the new urban agenda, would require progressive legislation and governance rules, along with municipal financing, to provide a comprehensive and actionable framework (Salim & Hudalah, 2020). The authors agree with Salim and Hudalah that, to implement the NUA, Indonesia needs a more substantial commitment to detailed plan implementation and regulatory enforcement (Salim & Hudalah, 2020).

Legal compatibility for adopting the NUA is investigated in its legal foundation and policies, which may partially align with the global agenda for inclusive and sustainable development. The finding indicates that in the Indonesian legal setting, regulations are available to welcome the NUA. Although less compatible, the legal position in Indonesia may offer some hope, as the subject matter of spatial planning and development planning systems is found, and can assist the authors in identifying the extent to which the current legal framework supports the implementation of the NUA.

Noticeably, the remaining laws are scattered but potential to continue intention in respecting, protecting, and fulfilling human rights that are committed by ratifying several international conventions, especially the ICCPR and others -International Covenant on Economic, Social, and Cultural Rights

(ICESCR), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Elimination of Racial Discrimination (CERD), and Convention on Rights of the Child (CRC). Thus, the formalized role of society, under the contextualization of public participation in planning decision-making, is anchored in the right to participate in public life under multiple laws. It includes 1) ICCPR Ratification Law 12 of 2005, 2) Human Rights Law (HRL) 39/1999, 3) Public Service Law (PSL) 25 of 2009, 4) Ombudsman Law 37 of 2008, 5) Law-Making Law (L-ML) 12 of 2011 as revised by the Act 13 of 2022, 6) National Development Programme System Law (NDPSL) 25 of 2004, 7) Spatial Planning Law (SPL) 26 of 2007, 8) Local Government Law (LGL) 23 of 2014, and 9) the Job Creation Law 11 of 2020 as renewed by the Law No. 6 of 2023. Several other macro agendas were also laid out in the former President's vision, namely Nawacita and the national long-term and mid-term development planning (RPJPN, RPJMN) (Suchayono, 2018). All those legislations and policies are categorised into urban human rights, planning, and local government law regimes. It was also noted earlier that Indonesia is involved in the NUA establishment process.

Therefore, the Indonesian government acknowledges the importance of adopting the NUA on a national scale, as articulated in the National Urban Policy (Kebijakan Perkotaan Nasional - KPN), and of implementing it at the local level. Nevertheless, as these are more based on Presidential decrees rather than legislation, the legal binding might be weak. This part examines the extent to which the Indonesian legal setting reflects the right to participate in urban planning, as previously framed. It incorporates elements of international Human Rights treaties ratified by Indonesia, including equal treatment, recognition, design and implementation, evaluation, and effective remedies.

As introduced, Indonesia ratified the ICCPR through Law No. 12 of 2005. Consequently, Indonesia should prepare to fulfill its respective obligations. Mulesky, Sandholtz, and Zvobgo outline a larger potential budget of state compliance, as well as more grounds for multi-actors to challenge a state's performance (Mulesky & Sandholtz, 2024).

Among its operationalising the state's obligations, the policy to mainstream human rights in Indonesia is generally laid in the Human Rights National Action Plan (*Rencana Aksi Nasional Hak Asasi Manusia*-RANHAM) and Human Rights City (HRC) adoption at the local level. The latest RANHAM (2021-2025, before it is renewed) is grounded in Presidential Regulation No. 53 of 2021, which prioritizes protecting, fulfilling, and promoting the rights of women, children, senior citizens, and the Adat community (Art. 3 (1)). It shall be noted that the future phase of RANHAM shall renew such an instrument.

### 1) Equal Treatment

Everyone is equal and should have a chance to participate in politics in a way that meets their needs and is safe, as stated in NUA 13(b). To indicate legal compatibility with adopting the NUA in Indonesia, the primary law is the Spatial Planning Law 2007 (No. 26), which aims to build inclusive, safe, resilient, and sustainable cities (Salim & Hudalah, 2020). Article 24(2) of the HRL 1999 entitles the right to participate in the conduct of public affairs and governance in HR protection, enforcement, and promotion. Either individually or collectively, Art 15 also justifies the right to assert self-actualisation to develop society, nation, and state. Those two entitlements had inspired constitutional improvement in the second 1945 Constitution amendment debated in 2000. The PSL 2009 stipulates that society is obliged to participate in public service, in addition to complying with eight rules (Art. 19c). Nonetheless, it is silent in articulating participation as a recognition of the equal right for everyone; moreover, there is a silent, authentic interpretation of this Article in the supplement to this PSL.

Moreover, city planning is barely satisfactory because the community is uninvolved in the planning process, and residents are unevenly informed about development policies and plans (Syaodih, 2019). People who attend *Musrenbang* (development plan deliberation) complained that the city government is indifferent to listening to their ideas (Syaodih, 2019). Less participatory planning also includes the lack of gender-based development planning, political participation in decision-making, data on cities with integrated housing policies and regulations, and a respected budget in their local development plans (PUPR\_Indonesia, 2021).

Actually, the RANHAM (2021-2025) contributes to this point by strengthening the role of local government in involving society in the implementation of the respective action plan (Art. 7(1)). This action might facilitate public participation in planning decision-making if it were gazetted as a bye-law for each layer of government. The role of local government in this matter is also intertwined in the

attempt to localize human rights. The Ministry of Law and Human Rights generated regulations that define the criteria of a Municipality or District considered as a 'Human Rights City' (Peraturan Menteri Hukum Dan Hak Asasi Manusia No. 22 Tahun 2021 Tentang Kriteria Daerah Kabupaten/Kota Peduli Hak Asasi Manusia, n.d.). A municipality or district city will be categorised as a Human Rights City if it satisfies the following features, i.e., 1) the right to education; 2) the right to health; 3) women's and children's rights; 4) the right to work; 5) civil rights; 6) sufficient housing rights, and 7) the right to maintain a sustainable environment (Art 3 (1)). More elaborate indicators are scored and require municipal governments to report annually; eventually, they will be ranked. A package containing the two instruments of human rights mainstreaming should be viewed as a sequel to state obligations in its commitment to human rights, following ratification of international treaties and in preparation for ratification of other binding treaties.

Despite that, the legal framework implies less compatibility, as Mireille Marcia Karman, Rizky Widian, and Sylvia Yazid's review suggests it reflects a minimum coherence in localising human rights. Among several incoherences, the right to political participation in the RANHAM is endorsed but is less emphasized in the human rights policy. This mainstream is also confusing for local officials, as they must prepare two versions of the human rights report: one for the RANHAM scheme and the other for the Human Rights City (Karman et al., 2020), highlighting the vagueness of the Indonesian HRC platform in general.

Shaping the context for decision-making in legislation, the L-ML 2011 is considered a safeguard that grants a legal right to members of society to participate (Art. 96(1)). This process began with the design and continued until the law was formed (Art 1.1). Examples of widely accepted written or verbal modes of participation include roadshows by legislators, public hearings, seminars, dissemination, workshops, or any other types of focused discussions (Art. 96(2)). Article 96(3) also recognises the right holder, whether an individual or a group, as a stakeholder. A similar entitlement is also available in the LGL 2014, but it delegates further specific elaboration to a municipal bylaw. In general development planning, the NDPS Law 2004 recognized the right of citizens and society to participate, through the involvement of the Ministry of National Development Planning and the Provincial and Municipal Planning Development Agencies, in preparing plans at each level (Art 11). In this scheme, spatial planning is part of the macro-governmental function (Art. 2(4)), which means it has a less specific framework.

In spatial planning, everyone has the right to be informed about the preliminary draft (Art. 60 of the SPL 2007). On the other hand, everyone is responsible for complying with or utilizing the land according to the promulgated planning (Art. 61). Therefore, the overall equal treatment in terms of recognizing the right to participate in spatial planning is oriented from the initial planning, appropriation, and control of land use (Art. 65).

The study proposes a framework to address legal gaps, anchoring the shared vision and commitment in the NUA and applying it to the planning decision-making process. An enhancement regarding dissemination and training among multiple stakeholders is needed. This might foster legal cohesion, develop a human rights culture, and avoid uneven perceptions across central government agencies, local governments, the private sector, and civil society.


Equal opportunity, as reflected in legislation, is recognized as an essential factor in the availability of legal rights. Nonetheless, merely mentioning the rights themselves is insufficient without an operational procedure for implementing them. This is why it is understood that Chandra and Irawan indicate an elimination of people's sovereignty when community involvement is far from the law-making process, to which people should have the opportunity to provide input and discuss its contents (Chandra Sy & Irawan, 2022). Meaningful participation also concerns ensuring inclusion, in which everyone has equal opportunity to overcome barriers, such as those faced by vulnerable groups (Sokolaj et al., n.d.). Thus, equal treatment should define a process to help marginalised individuals adapt to available services, so that everyone starts and finishes with the same objectives. The improved laws might include an accessible planning draft, sufficient preparation for participation, transparent and inclusive criteria, and processes for representation (in a consultative form) in participation. Additionally, the design and implementation during decision-making must provide adequate opportunities to collect comments, as well as well-informed, appropriate data collection and analysis that are transparent.



2) *Design and Implementation*

The legal scenario for public participation in planning decision-making indicates phases as shown in the flowchart framed in Table 1:

Table 1. Indication of public participation in the planning process

Access to information	Participation in establishing spatial planning	Participation in the implementation of the spatial planning
	 <ul style="list-style-type: none"> <li>• Public hearing, consultation, site visit, roadshow, dissemination in the legal form of a bye-law</li> <li>• <i>Musrenbang</i> in a separate mechanism</li> <li>• Local government facilitates participation</li> <li>• The municipal government prepares urban spatial planning</li> </ul>	<ul style="list-style-type: none"> <li>• Participant in planning dissemination</li> <li>• Comply with the gazetted planning</li> <li>• Monitor the consistency of development and planning at the neighborhood</li> <li>• Consortium for spatial planning</li> </ul>

Source: Author Compilation motivated by the UNGA Guidelines and Indonesia's Spatial Planning Law No. 26 of 2007.

Motivated by the UNGA Guidelines and Indonesia's Spatial Planning Law No. 26 of 2007, the legal framework imposes a) access to information, b) participation in establishing spatial planning, and c) participation in planning implementation.

- a) *Access to information*. The scenario's initial stage starts with accessible information about the planning draft. Providing public service information and communication (Art. 5 of the PSL Law No. 25 of 2009 and Art. 60a of the SPL 2007) is a prerequisite for enabling inhabitants to participate in available public participation channels in decision-making processes. Unfortunately, the detailed information lacks clarity, leading to a loophole in subject matters guided by the UN General Assembly (UNGA, 2018). Adequate, accessible, and affordable information may also help stimulate participation as desired in the NUA 125. On the other hand, a large web of information should be accessible, adequate, and affordable, featuring subject matter and supporting officials that enable the realization of rights and engage society in agenda-setting.

Article 19c of the PSL 2009 outlines the role of society in enabling city inhabitants to access public services and gain access to information and communication. In terms of access to information, the Ombudsman Law 2008 pertains to the Ombudsman institution, which is the agency responsible for channeling complaints regarding public service, including issues of discrimination experienced by society. However, the Indonesian legal framework hardly acknowledges that appropriate information enables inhabitants to understand that their meaningful participation is pivotal to fostering access to basic needs, such as physical and social infrastructure, essential services, and adequate and affordable housing (NUA 14a).

- b) *Participation in establishing spatial planning*. Public participation is directed through two separate processes, yet there is no systematic linkage between them. The NDPS Law 2004 partially incorporates public participation into the agenda for deliberation of the development plan (*Musyawarah Perencanaan Pembangunan-Musrenbang*). The term refers to the annual gathering of the people of a district or municipality, where citizens usually have open discussions, prioritizing short-term development alongside other public issues. Alternatively, municipal bylaw-making requires participatory processes. Urban spatial planning shall be gazetted in a municipal bylaw as the lowest position in the hierarchy of legislation (Legislation Making Law 2011 (LML, 2011)). The LML 2011 provides the legitimate right for people in society to participate in the law-making process (Art 96(1)). The process includes the procedures of law formulation, i.e., law design, proposal, review, and establishment (Art 1.1). Examples of widely accepted written or verbal modes of participation include roadshows by legislators, public hearings, seminars, dissemination, workshops, or any other types of focused discussions

(Art. 96(2)). The spatial planning law (SPL) 2007 depicts collective engagement in spatial planning in terms of formulation, appropriation, and even control of the formulated planning (Art 65 (2)). Instead of elaborating on an operational procedure for conducting the right to participate, several provisions in the SPL 2007 have been revised by the Job Creation Law 2023 (No. 6), which applies the omnibus law method. The JCL itself amends 11 sectors of laws and has a reputation for impacting the stability of the legal system, particularly among those less familiar with Indonesian politics (Buana & Budiman, 2022). The JCL 2023 appears crucial to Indonesia's interests, as it prioritises the labour sector and industrial relations, particularly in the current neo-capitalist context, and may undermine human rights, such as workers' rights (Buana & Budiman, 2022). The cluster in spatial planning is not exceptional in being uncertain about the elaborated procedural mechanisms for conducting public participation.

SPL 2002 and JCL 2023 reaffirm the obligation for public engagement in municipal spatial planning (Article 23(1) (b)). This legislation defines 'governance' as regulating, supporting, and implementing spatial planning (Art. 1.9). However, it only recognises 'public consultation' as the form of participation (7(3)). Article 57(1) echoes such requirements by emphasising detailed spatial planning, but it is unclear whether the process of participation is accommodated. At the same time, the flow covers a) preparation, b) data collection, and c) data management and analysis (Art. 57 (2)). The entire legal scenario shows the failure to ensure equal rights to embody 'full and effective participation' through the affirmative provision, i.e., for women, persons with disabilities, and youth. It is a sign of a lacuna between national readiness and the NUA 48 and 90, as promoted. The NUA also requests capacity-building to ensure that participants can contribute to official work (NUA 148). In other words, the country's legal framework provides less clarity to ensure that public participation is taken seriously.

To improve the law, the recommended law shall also provide participants with the opportunity to select available expert and technical assistance, which can ease participation practices. At this point, the local government's role in shaping participatory urban planning and implementing SDGs and the NUA becomes more critical (Pieterse, 2022). Thus, it desires a growing role for municipalities in the realization of human rights, among others, socio-economic rights. In an attempt, Indonesia must rethink the balance between centralism and municipal autonomy.

- c) *Participation in the implementation of the spatial plan.* The SPL 2007 encourages society to participate in disseminating the spatial plan. The basic policy after the gazetted spatial plan is that everyone shall comply thereto (Art. 61a and b). It includes participation in monitoring the consistency of development and planning in the neighbourhood. In conducting so, everyone has the right to claim a termination of development, which contradicts the planning (60e). The same clause entitles the right to enjoy the land's added value affected by spatial planning (60b). It also allows everyone to raise an objection addressed to the authorised official concerning a development project that is inconsistent with the neighbourhood planning (Art 60d) after the spatial planning is gazetted in the municipal bylaw.

However, the property's owners, aggrieved by the gazetted spatial planning, are allowed to claim compensation from the central or local government, or the developer, for any disadvantage caused by physical development justified by the planning (Art 60b and f). Therefore, information regarding spatial planning that society has a right to (Art. 60a) is designed not to participate in, but to receive and comply with, the established spatial planning and the appropriate use of space (Art. 61a and b). Assuming a well-planned city fosters an adequate standard of living, the NUA 29 invites relevant stakeholders to participate in the progressive realisation of the right to adequate housing, in line with national legislation and standards. It reflects the state's recognition that housing is a right-based need, rather than a commodity. David Harvey has warned of the risk of a mere commodity mindset -in the sample of housing- that may narrow the opportunities for public services, as it relies solely on those with capital who can access them (David Harvey, 2012). For Indonesia, a well-planned policy and regulation for the implementation of urban development, as encouraged in the NUA 111, should be improved to safeguard, among other things, housing and resilient buildings against speculation, displacement, homelessness, and arbitrary forced eviction. In contrast, the national legislation in this matter remains a gap.

### 3) *Evaluation*

A review of urban planning shall be coherent with the National Spatial Planning, to which the legal setting provides three types, i.e., the 20-year long-term and five-year medium-term, regularly under the revision of Art 20 (3)-(4) of SPL 2007. This aligns with the NUA, which also encourages urban planning improvements by developing a digital platform to enhance access to urban services (NUA 156). Similarly, the SPL 2007 takes information technology into account in processing spatial planning.

Toward legal improvement, an evaluation is necessary to motivate an enhanced framework for monitoring and controlling urban planning implementation. The laws should ensure that the respected decision is incorporated into the development of existing provisions. It is already sufficient that society has the right to participate in planning, monitoring, and implementation. It is more necessary that participants deserve an explanation of how their contribution has been responded to. It includes the reason why their opinion was rejected. Moreover, the documents capturing participation during public engagement will be valuable for taking the lessons learned. All inhabitants also need the opportunity to monitor the consistency of development with the planning and to question or contest unjust planning beyond the regular review, e.g., middle- or long-term planning changes.

### 4) *Effective Remedies*

The SPL 2007 provides a remedy mechanism that entitles society to withdraw its approval of a spatial project (Art. 60e). This clause presents a significant opportunity to implement the NUA, as the Agenda promotes the participation of inhabitants in urban planning as a unified package, alongside a commitment to protecting human rights and combating anti-discrimination (NUA 155). Therefore, Indonesia's legal framework may develop a mindset of employing gazetted spatial planning as a tool to preserve human settlements for inhabitants.

The other provisions in the SPL 2007 also allow disadvantaged inhabitants affected by spatial planning governance to file a lawsuit through the court (Art. 66) (1). For example, the litigant might argue that the information was inadequate during spatial planning management because the litigant loses the benefit (Article 66(1) Explanation). Conversely, the defendant can prove that the alleged deviation of spatial governance is not present (Art 66(2)). However, the court in Indonesia's legal system is competent to judge the relevant files or any other administrative agencies authorized to handle a spatial planning dispute. Prior to the court, the interpretation of stakeholders will depend on the respective agencies' authority. The same dependency applies to the complaint mechanism under the Ombudsman Law 2008, which allows citizens to submit petitions to this institution regarding public services. Additionally, mediation through the national human rights institution (Komnas HAM) is also available.

With the same idea of questioning the established planning, the NUA is more progressive in its commitment to implementing and developing comprehensive legislation and policies for urban development. Notwithstanding, it primarily focuses on mitigating mobility safety issues related to motorcycles and school journeys (NUA 113). The NUA's incompleteness to highlight the countries' commitment to providing remedies for the right to participate violation can lead Indonesia to overlook this matter.

The full remarks on Indonesia's essential legal readiness to implement the NUA identify significant weaknesses. The regulatory setting is inadequate to address how participation can be elaborated to achieve its meaning. This is because both statutes are ambiguous regarding the management of public participation in monitoring and evaluating property investment speculation for logical administration, allocation, and fair treatment in determining city appropriations. Furthermore, the scenario also failed to formalize affirmative clauses for some marginalized groups and ensure equal treatment for gender issues. It disregards the vulnerable group in asserting the right to participate in the planning process, elaboration, approval, and management. Overall, regulatory frameworks are fuzzy in providing robust administrative mechanisms for implementing public participation, leading to the conclusion that the right to participate is less guaranteed in influencing decision-making. If there is a violation of public participation, including incomplete facilitation of public participation, the SPL 2007, along with the relevant Government Regulation, provides less access to justice, including control and assessment of security forces.

This scenario involves an adequate remedy. This setting is obviously after the decision-making process. To constitute a legitimate dispute, it must involve a violation, deprivation, or denial of the right

to participate. The court can definitely hold a hearing on any dispute. As well, mediation may be a developed form of participation and recovery, involving multiple channels. The authors subscribe to the profound role of mediation as a forum for promoting dialogue and cooperation, reducing conflicts, and enabling a measure of sustainable, peaceful resolution (D. B. Ferreira & Severo, 2021). Only with the disputants' willingness to participate can an extrajudicial method of resolving disputes be more valuable than the court process, as it focuses more on collaboration than on their desired winning positions (Agegnehu et al., 2021). As a note, effective remedies require available administrative and judicial mechanisms as an equal option to remedy any infringed right.

#### IV. CONCLUSION

This study focuses on public participation in urban planning decision-making processes to foster well-designed urban areas. A guideline in the New Urban Agenda, among global resolutions, serves as a conceptual framework to standardize policy design for urban governance, with appropriate legal justification to legitimize subsequent steps in its implementation. The study has identified that the NUA promises to preserve human rights and promote anti-discrimination, thereby providing meaningful planning decision-making. A human rights perspective on the right to participate therein has been formulated, which characterizes elements covering “equal treatment”, “design and implementation”, “evaluation”, and “effective remedies”. The elaboration in the NUA is remarkable for framing the acceleration of SDG 11, mainly through community participation in urban policy-making.

This study also reviewed the fragmented Indonesian law settings in urban planning, local government, and human rights law regimes, which portray legal readiness as the foundation for implementing the NUA. The study has discussed the relevant legislation that applies human rights standards for the right to participate, a right recognized universally under international human rights treaties. It suggests that giving people the opportunity to have their voices heard in planning decisions could strengthen their right to participate in public life. The overall equal opportunity is merely in the sense of recognizing the right to participate in spatial planning, is oriented towards initial planning, appropriation, and control of land use, but is less towards integrating a human rights perspective. The fulfillment of the human rights standard is also called into question, as participation in spatial planning is only implicitly framed within a specific scenario and embedded in the macro development planning deliberation. Consequently, the procedural legal formulation that ensures public participation, as it can be framed in a systematic scenario, is also uncertain. Moreover, it remains silent on the ground for asserting mechanisms in the event of a right being infringed.

By and large, the NUA serves as a benchmark for the extent to which Indonesia includes human rights-based principles, as anchored in the NUA, to improve the law. To address this, this study proposes a framework to bridge the shared vision and commitment in the NUA across each element of urban development decision-making. Furthermore, legal improvements should be initiated regarding the dissemination design to familiarize stakeholders, including the planner, with the development of their future urban area design.

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