

## Supplementary Materials, S1

### On-site survey questionnaire on the public's perspective towards the residential Public Open Space (POS) issues (Source Ling 2017)

This survey questionnaire will take about few minutes (15 mins) to complete. The users are mainly on-site users and the residents nearby the parks or spaces. The questionnaire gives you, as a local resident, the opportunity to comment on the quality of your local parks and open spaces and how well you feel they are being managed and maintained by the local government and what are the possible reasons behind those parks and spaces issues.

Official Use Only	Please complete all fields
Name of Park or Open Space:	Day of the week: Mon, Tue, Wed, Thurs, Fri, Sat, Sun
Town/City/Village/ Garden:	Weather condition: Rain/ Cloud/ Sun (circle one only) Cold/ Warm/ Hot (circle one only)
Date:	Time:

#### A) About the respondent's personal details (Please tick one [√] only):

- A1) Gender: Male ☐ Female ☐
- A2) Age: 13-17 (Teenagers) ☐ 18-60 (Adult) ☐ 60+ (Senior Citizen) ☐
- A3) Ethnic group: Chinese ☐ Malay ☐ Indian ☐ Others ☐
- A4) Do you own (purchase) or rent your residence: Own ☐ Rent ☐
- A5) How long have you stayed in this neighbourhood:  
Less than 5 years ☐ Between 5- 10 years ☐ Between 11-20 years ☐  
More than 20 years ☐

#### B) About the respondent's visit or use of the space/park:

B1) Have you ever visited or how often have you averagely visited your community space/ park? (Please tick one [√] only):

- Never visit ☐ (Go straight to B1\*, C, and D) Seldom (not even visit it once a month) ☐  
(answer B1\* as well)
- Once a month ☐ Once every two week ☐
- Once or twice a week ☐ Most days or everyday ☐

B1\*) What are the reasons for not visiting or seldom use the nearby spaces/ parks?

(Please tick up [√] as many as relevant for seldom or never visiting the park or open space):

- |  |   |
|--|---|
| It is too difficult to get to/ poor access [ ]   | Shortage of facilities & amenities [ ]  |
| There are too many dogs [ ]                      | Too many people visit (too crowded) [ ] |
| Not enough people visit (too quiet) (unsafe) [ ] | It is poorly/ badly                     |
| cared/maintained [ ]                             |   |
| It is dirty/ cleanliness issue [ ]               | No time available (too busy) [ ]        |
| Strangers loitering (security issue) [ ]         | It is boring/ unattractive/ not         |
| interested [ ]                                   |   |
| It is too far away/ proximity issue [ ]          | Physically unfit to the space [ ]       |
| Little shade (too hot) (climate issue) [ ]       | The park is no longer existing [ ]      |
| Incivility of users that bothers you [ ]         | Due to exclusion/prohibition [ ]        |

Other

reason(s): \_\_\_\_\_

B2) If you are visiting, averagely, how long will you spend on each visit at the space (Please tick one [√] only):

- |                          |                          |
|--------------------------|--------------------------|
| Less than 30 minutes [ ] | 30 minutes to 1 hour [ ] |
| 1 hour to 2 hours [ ]    | More than 2 hours [ ]    |

B3) What do you normally do when you visit your park or open space?

(Please tick up [√] as many as relevant for normally visiting the park or open space):

- |   |   |
|---|---|
| To relax or think [ ]                     | Get some fresh air [ ]                  |
| For peace and quiet [ ]                   | Ride a bike [ ]                         |
| Meeting up friends (social gathering) [ ] | To eat & drink [ ]                      |
| To keep fit & healthy [ ]                 | For a walk / jogging [ ]                |
| For walk & talks [ ]                      | Walk the dog [ ]                        |
| Visit the play areas (playground) [ ]     | Play or watch sports & games [ ]        |
| For shortcut purpose [ ]                  | Enjoy the beauty of surroundings (e.g., |
| landscape) [ ]                            |   |

Others: \_\_\_\_\_

**C) About the Public Open Space (POS) governance & quality issues under the current practice.** (In this section, as we want to know if you think the current park or open space is hitting all the quality features i.e., a welcoming, comfortable, healthy, safe and secure place etc, where the buildings, facilities, amenities and landscape are properly cared for):

C1) Do you know or aware that, under Sabah's current POS/parks governance practice, you and your neighbours (or everyone) have the legal right to access, use and enjoy the park or space that is built nearby your residence and simultaneously, mostly, the local government is the body to maintain and manage its quality although some parks are, by

practice, co-jointly managed by the community that consists of residents who form a committees group<sup>1</sup>?

Yes (totally know about it) [ ☐ ]

Undecided (not sure/ partially know about it) [ ☐ ]

No (totally do not know about it) [ ☐ ]

\*If the answer is undecided, can you please specify your reason(s)? For example, you only know that you have the right to use but you do not know the government has duty to manage it or vice versa. So what will be answer?

Ans: \_\_\_\_\_

C2) In your opinion, how do you define about **standard** /**specific** quality of a park/ POS? Or what are standard/specific qualities/ features should a **basic** park take into account (Please tick up [☒] **5 five most relevant features**):

Safety & security [ ☐ ]

Aesthetic/ Appearance (attractiveness) [ ☐ ]

Maintenance & Management [ ☐ ]

Accessibility [ ☐ ]

Specification & design [ ☐ ]

Landscaping (e.g., horticulture) [ ☐ ]

Cleanliness & hygiene [ ☐ ]

Inclusiveness (appropriate for all users) [ ☐ ]

Adequacy of facilities & amenities [ ☐ ]

Variety /diversity of facilities [ ☐ ]

Others: \_\_\_\_\_

C3) In your opinion or experience & based on your above quality understanding in (C2), overall, what do you think of the **current Sabah's residential park quality** or impression? (Please tick [☒] one only)

Very good [ ☐ ] Good [ ☐ ] Fair [ ☐ ] Poor [ ☐ ] Very poor [ ☐ ] Undecided [ ☐ ]

C4) Under the current local government management (C1), have you encountered/ experienced any direct exclusion imposed by some parties from using the nearby park? (Please tick [☒] one only)

Yes [ ☐ ]

No [ ☐ ] (directly proceed to C8)

C5) Based on the (C4), who is/are involved in such exclusion? (Please tick [☒] one only)

You, yourself only [ ☐ ]

You + your neighbours [ ☐ ]

Your neighbours only [ ☐ ]

Others: \_\_\_\_\_

C6) Do you know what are the possible **reason(s)** of such exclusion? (Please tick [☒] one only):

Yes [ ☐ ] (please specify your reasons below)

No [ ☐ ]

Reason(s): \_\_\_\_\_

<sup>1</sup> However, this joint management by two entities is not focused in this questionnaire.

(e.g., probably thinking that it is your/ their property)

C7) Since there is an exclusion on your nearby park, what is/are the sign(s)/ ways of exclusion. (Please tick [√] as many as relevant).

Physical gating around the park (e.g., fencing, locked) [ ] Use the signboard like “No entry” [ ]

Intimidation (e.g., verbal or written warnings) [ ]

Others: \_\_\_\_\_

C8) Regardless of the issue whether there is an exclusion or without exclusion (open) of park, based on your above quality understanding in (C2), overall, what do you think of your **nearby** current park quality or impression? (Please tick [√] one only)

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

C9) Overall, how satisfied are you with your nearby community park or POS that you have visited or known about? (Please tick [√] one only).

Very dissatisfied [ ] Dissatisfied [ ] Neither dissatisfied nor satisfied (neutral) [ ]

Satisfied [ ] Very Satisfied [ ]

C10) Generally, do you think the current POS/ park that you live nearby governed by the current practice, is having **any** of the above (C2) issue(s)/ problem(s)? (Please tick [√] one only).

Yes [ ]

No [ ] (Go straight to 12)

C11) Generally, based on your opinion or experience, what are the overall POS' or park's quality problem(s)/ issue(s) that you have encountered/ perceived? (**Please tick up [√] as many as relevant**)

<b>Safety &amp; security issue(s)</b> -e.g., strangers loitering, feel unsafe due to overgrown grass, bushes, the space is too hidden (not/hardly visible-due to obstruction of trees), unsafe equipments, facilities or equipments, symptoms: beer bottle, chemical, needle, drugs etc.	
<b>Maintenance &amp; management issue(s)</b> -e.g., poor & unmaintained condition like overgrown grass, bushes, all old, broken, un-functionable & rusted amenities & facilities, equipments- broken see-saw, swings, holes/cracks on the path, floor & vandalism detected, etc.	
<b>Aesthetic(appearance) &amp; cleanliness issue(s)</b> -e.g., dirty, debris, rusted, vandalism, graffiti, littering/ rubbish, no painting, covered by moss, animal's faeces, poor sanitary system-drains blocked, water-clogged, & bad smell sensed which create unattractive sense etc.	

<b>Adequacy of amenities &amp; facilities</b> -e.g., lack of benches, play & sport facilities- basketball courts, see-saws, swings, litter bins, shade-hut/shack, lightings/lamp-posts, congestion etc.	
<b>Landscaping issue(s)</b> -e.g., the plantation like trees are not trimmed, grass are overgrown, flowers or other plantation is destroyed, un-watered plant etc that create less vibrant & attractive scenery.	
<b>Design &amp; specification issue(s)</b> -e.g., in terms of layout like the location of each amenities/ facilities as well as the landscape features are incorrectly designed & placed which may cause some unattractiveness & un-comfortableness issue etc.	
<b>Inclusiveness issue(s)</b> -e.g., the space is not really appropriate to all category of users like elderly, adult, children, disabled persons, like no trail/path for disabled, or no appropriate play facilities for children etc.	
<b>Accessibility issue(s)</b> -e.g., some spaces/ parks may be obstructed by overgrown bushes/grass, or other obstructions like poor path condition or inaccessible for wheelchairs or due to some blocking/exclusion by other group or persons as private space etc.	
<b>Space has lost/ no longer existed (no more park!)</b> -e.g., original park that used for playground/ basketball has been 'illegally' used for other usages like car-park, plantation, or house extension etc or it becomes a total abandoned land (thick bushes)- no man's land!	

Other  
problem(s):\_\_\_\_\_

C12) How would you rate design and specification and appearance (aesthetic) of the park or open space? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

C13) How would you rate the condition (cleanliness and maintenance & management) of the park or open space? (plus the condition & functionality of the amenities & facilities) (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

C14) How easy/ accessible is it for you to get around the park or open space? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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C15) What do you think about the inclusiveness/ appropriateness or range of visitor facilities & amenities/ infrastructures that are available? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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C16) How would you rate the standard and maintenance of the trees, the flowers and flower beds, shrubs and grass areas in the park or open space (landscape issue)? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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C17) How would you rate the standard of safety and security of the park or open space? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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C18) How would you rate the variety or diversity of facilities of the park or open space? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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C19) How would you rate the adequacy of amenities and facilities available within the park or open space? (Please tick [√] one only).

Very good [ ] Good [ ] Fair [ ] Poor [ ] Very poor [ ] Undecided [ ]

If you would like to include a comment, please do so in the space provided below.

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**D) This section is to know, based on your views, perception & experience, how much do you agree with the following statements & your option(s) for each relevant question:**

D1) Mostly, the park users (neighbours or outsiders) are considerate (cooperative) where they use the park properly without ruining the quality of it. (Please tick [√] one only)

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D2) The local government is doing their great job in maintaining and managing the park or in another word, the park's quality remains good especially under the control of government. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D3) Poor management (monitoring)/ enforcement system of government on user's using behaviour/ attitude causes poor quality of park. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D4) The rating tax that allocated by the government for park management is satisfying or reasonable with the current park quality in terms of its provision. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D5) Users may be reluctant to pay the tax of (park maintenance) to government if users know their neighbours who are not paying it yet they are still using the park without any sanction taken. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D6) There are cases where outsiders like squatters or users from other places or category of houses e.g., low cost house, who may not pay any or equivalent tax to your nearby park yet they can still access and use it, since it is meant for public, which it may make you as a user feel dissatisfied as they may create congestion or other nuisances (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D7) Unspecified terms and conditions/ obligation on **when and what time** exactly the park should be used (for instance, to what extent, the usage is allowed- duration like how long the park can be used by that particular person(s) or group(s)) can lead to overcrowded/congestion issue (some users may over-occupy the park for very long time) OR when is the time allowed

to use the park e.g., if midnight, it may create some nuisance to nearby residents (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D8) Unspecified obligation/ instructions on **how** exactly the park should be used, can lead to some issues on the park and nuisance to people. For instance, users may use the park / space as they like which they may purposely or accidentally create park problems (e.g., how they are operating the see-saws, swings may lead to vandalism & cleanliness, food consumption, smoking, dog-walking etc are not allowed as they create uncomfortableness and safety & security issues (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D9) Unspecified obligation/ contingency/ instructions on **who and what age** exactly is allowed to use the park can lead to some issues on the park and nuisance to people. For instance, **who or how old** of the users are eligible to actually operate the facilities e.g., swings, or slides as it may indirectly cause vandalism or ruins on them (too heavy or not suitable). (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D10) Unspecified **contingency/ ambiguity** on how exactly the park should be used can lead to some quality issues on the park. The quality or condition may go worse for instance, without a notice stating if this basketball court/ play equipments/ the cracked path are under maintenance or not fit to be used so, they should not be used or should be used in a preferred manner. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D11) Users may not cautiously use or overly protect the park facilities and amenities as they know that the government will definitely manage or maintain it, plus they have also paid the tax for their responsibility. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D12) The **constant uncooperative (incivilised/inconsiderate) behavior** of other users on the park who create parks' problems like overcrowded, vandalized facilities & amenities, graffiti, and littering-cleanliness issues may make you or other users de-motivated or feel reluctant to cautiously use the park. (Please tick [√] one only)

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]



D13) Users may not monitor other users' using manner, even though they may improperly use the park or create nuisance to surroundings because they are not given any legal right/ obligation to do so plus there is no incentive (not the owner of the park) to do so (Please tick [√] one only)

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D14) Under the current practice, if you are the owner of the park, you are given a title of a park whereby you have an obligation to develop and manage it accordingly to the satisfaction of local authority, at the same time, you must transfer the title to the local authority after you have fulfilled the obligations above. Thinking you are the real owner who owns the space but turn out, it is meant for public space. So, due to this, you may be reluctant or burdened to manage the park properly as you may think this is not your property (you are not the owner) and no benefit to do so as all the goods will eventually be transferred to the government. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

D15) Regardless of the above government governance quality rating, under the current practice, the management obligation is allowed to be initially and temporarily vested in either developer or land owner and it will eventually be transferred to the government for further management. In your opinion, by comparing their management tasks, which one of them provides better park quality? Why? (Please tick [√] one only)

Developer [ ]      Land Owner [ ]      Government [ ]      Neutral/Not sure [ ]

Please state your reason(s), if any: \_\_\_\_\_

D16) Comparing between **any** exclusion and non-exclusion (open) park that you have known about or perceived, the former (with exclusion) park's quality/condition is better. (Please tick [√] one only).

Strongly disagree	Disagree	Neutral	Agree	Strongly agree
[ ]	[ ]	[ ]	[ ]	[ ]

### E) Recommendation(s) for better quality of park/ space

E1) Despite the current efficiency of local government management on POS/ park quality, (whether it is good or poor or satisfied or dissatisfied). So, are there any more comments you would like to make especially there is a room for betterment of the current space i.e., **way(s)/ method(s)** this park or open space should be used, managed or maintained (Please tick one only)

Yes [ ]      No [ ]

*If you answered 'Yes', please provide your additional comments in the space below.*

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E2) Regardless of the above question & response, in order to improve the current park quality issue, in fact, there are many other ways to do it including the self-governing/ organisation system which it is proposed as way to bring better quality of space/park i.e., the residents (community- you & your neighbours) who live nearby to the park have been granted a right by the government to run the management and maintenance tasks on the park. Meaning that, generally, the community has to cooperate with each other (form an association/ organization) to do management & regulatory tasks but of course, with assistance of local government and other rules & regulations to be obeyed.

Thus, are you willing to try this new method? (Please tick [√] one only).

Strongly disagree

[ ]

Disagree

[ ]

Neutral

[ ]

Agree

[ ]

Strongly agree

[ ]

*If you answered 'disagree' or 'strongly disagree', please provide your additional comments in the space below.*

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## Supplementary Materials, S2

### A codebook for categories, codes and remarks for CL and NT POS dilemmas and property rights issues

Residential neighbourhood POS (Commons) Dilemmas (issues) either by private supplier, public officials or public users (residents) (Abstract)			Inter causal-effect relationship realm between POS dilemmas and property rights	Practice-based Property rights tragedies (issues) (As bigger category or abstract)		
Categories/ themes (bigger codes)	Codes/ concepts (for coding/ indexing)	Remarks/ Descriptions & (examples) in interview quotations		Remarks/ Descriptions & (examples) in interview quotations	Codes/ concepts (for coding/ indexing)	Categories/ themes (bigger codes)
Overexploitation/ overuse	Overconsumption/ misuse/ (Tragedy of the commons)	Vandalism, nuisance like pollution including noise, littering, use the POS that causes others cannot enjoy the use, graffiti, illegal use for other purposes- converting the uses to car park, buildings etc. squatting, loitering, congestion (overcrowded) indirect exclusion due to congestion, buildings on the POS, causes others cannot use the POS	<p>Both sides (POS commons dilemmas and property rights issues) are interrelated, i.e. due to the property rights issues, such POS dilemmas emerge. It means that overexploitation (misuse or vandalism or other examples of overuse) can be due to many rights issues either misallocation of rights, attenuation of right or incomplete rights. This also applies to other dilemmas like shirking which can be caused by many rights issues. Therefore, since in one category, it may consist of several relevant codes, e.g. in the theme of overexploitation, it comprises overexploitation due to incomplete rights, attenuated rights, de facto rights etc. This also applies to the property rights issues where in one category or theme of maladaptive right, it consists of several codes as well like due to maladaptive right, the current dilemmas involve misuse of space, vandalism, barricading, gating, poor and ineffective enforcement of duty/ covenant</p> <p>(Commons dilemmas) Category of shirking (occurs): Codes: -Poor enforcement of duty due to incapability and inefficiency of managers - Poor enforcement of duty due to restricted right - Poor enforcement of duty due to unclear right</p> <p>(Property rights issues) Category of maladaptive rights Codes: -Due to incapability and inefficiency of managers, it causes vandalism, congestion - Due to incapability and inefficiency of managers, it causes poor enforcement of duty/ rights -Due to incapability and inefficiency of managers, it may cause direct exclusion and the space may be total desolate or undeveloped</p>	Resources issues: staffing problem, budget issues, too costly in operation implementation (transaction costs too high), unable to maintain due less expertise as well as poor in monitoring, disintegration between government departments	Incapability or inefficiency of developer or government in governing and maintaining the POS	Maladaptive/ misallocated (Malassigned/ unsuitable) right
Shirking (underinvestment)	Deviance of duty: Poor (ineffective) or no enforcement in management and maintenance	No management, maintenance, monitoring on POS like left desolate, unclear, facilities and amenities are left eroded, old, and dysfunctional, or vandalised, poor landscaping (long grass, floor full of leaves, untrimmed trees), squatters issues ungoverned, underused and undeveloped POS		The using and managing rights (duties) are not clearly stated like when and how to use the POS. This includes the transfer and site handing over covenants.	Unclear, uncertain, ambiguous, understated provisions of law, gap or lacuna (non-existence) of the institutions and contracts (rights and duties are understated)	Incomplete (contract) right
Free-riding (free-riders)	Users use the POS but without contributing any tax	Like squatters, other users from other neighbourhood (outsiders as perceived by the frequent users), who use the space but without paying		Some restrictions imposed on the POS like could not transfer to others except to local government, could not develop on the POS, do not exclude others from using since it is public space	The rights are weakened/ restricted (as relative rights), i.e. some rights are limited; hence no incentive, e.g. no income/ reward to manage or try to compensate it via overusing it	Attenuated right
Moral Hazard	Users have no interest to protect or carefully use the POS as this is not their property and knowing that government or developers are persons to run the management and maintenance task	No intention/ interest to protect the POS or carefully use the POS as knowing that this is not their space or property, it is everyone space, not the users' responsibility, since they are taxpayers, then government should maintain even users might have misused it, or even others misused the POS, the users may not intervene		<p>With title deed possession you perceive the ownership, and it is your land, you can treat it like your house such as excluding others from entering or using it for own purposes, more willing to invest in it etc. that has been long dwelled by residents (even without title deed)</p>	<p>Having POS title in hand gives more secured, physical ownership sense, i.e. you are the owner of the land/ This also applies to NT ancestral/ family (inherited)land.,</p>	<p>De facto rights emergence perceived on POS</p>
Direct Exclusion	Blocking others from consumption and, signalling the POS is exclusive	People urged others not to use, access the POS, blocking others by gating, barricading and orally and using signboard indicating this is exclusive				
Disuse	Total desolate, unused space, vacant and undeveloped land	No man's land, the land is abandoned for long time, no maintenance at all, the POS may turn into jungle or forest, no people can use as the POS				

Source: Ling (2017)

## Supplementary Materials, S3

### Governments' views on local property rights issues and POS dilemmas (Source: Ling 2017)

#### (i) De facto (perceived) unattenuated rights by titleholders on CL POS

**Codes used:** [De facto perception on unattenuated title deed (ownership)... misuse and illegal use]  
[Poor enforcement: mismanagement...]

##### LSD-1 explained:

*"... I do believe that some owners may think that they are the rightful owner as they retain the title deed in the hand which means they have the ownership probably due to perception or understanding of laws plus they may feel reluctant to relinquish upon their right to the land (so they are not so willingly to transfer, or they have that notion where it is still owned by them. Sometimes the developer themselves also being trapped in it like Sabindo's case..."*

##### LSD-4 confirmed the above:

*"... it is minority...of course there are cases where the title holders whether landowners or developers, they will somehow presume they are the owners (but mostly this case refers to landowners), some landowners using the title as an excuse to 'misuse' the POS (for their own purposes even though in title deed there are restrictions)... still, the enforcement of government is important to address this issue."*

##### PDC-1 confirmed and elaborated:

*"...as for the individual landowners, the title is held by them, then they will use this opportunity (by saying I am the owner, he still can claim in his context, you see my name is in the title) so I can do whatever I want on it (like in one case, they block it, whereby they lock the gate till we received complaints and need to open it). Some of them came to the office to apply for house construction which needs approval they perceived thinking they are the owners as they hold the title. There is a case at penampang- behind the hotel Eminen, the owner fenced up the open space where he claims that my name is in the POS title deed..."*

#### (ii) Unclearness in terms of interim (18-month) management and post POS management (e.g. site handing over and title transfer); low incentives (i.e. high costs) in POS management by private suppliers

**Codes used:** ["Poor enforcement...due to attenuated rights..."] ["Poor enforcement...due to misallocated rights..."]

##### LSD-1 explained and confirmed:

*"this current practice indeed creates a burden to the subdivider as the eventual transfer makes them, especially the landowner (individual) who lack of resources seriously reluctant and burdened to maintain (shirk- not only maintenance but title deed transfer that incurs some amount of costs, and default land POS tax). Imagine this; they have to pay the tax (land & rating) for the POS simultaneously letting others have an access to it without paying single cent to them plus maintaining the POS is not an easy task as it is costly and tedious (lack of expertise to do that as well). They are restricted as they can't use the space for other purposes that will generate profits like transfer or sell to others or do other developments that generate income... due to such current practice."*

##### KKCH-1 criticised and slightly supported the above:

*"Despite the rights have been restricted, the developers still will work or manage it as they have the incentive to gain profit from the buyers and reputation, for marketing purpose... still, they may just underinvest so long as*

*conditions for site handing over is fulfilled, because to boost up their profit, they will lower the cost as much as possible since they cannot claim fees or residual whenever necessary..."*

**Code used:** ["Poor enforcement...due to misallocated rights..."] ["Illegal use conversion...due to attenuated rights..."]

**LSD-3 agreed and affirmed:**

*"...the owners will try to find a way to maximise the usage on the land like, especially the landowners (individuals) – illegally they do other stuff like a plantation, car park, storage to benefit them and convenience. Some developers may also subject to this issue, influence the government to approve the POS conversion, corruption may be involved So ultimately, enforcement of government matters"*

**PDC-1 further supported:**

*"we've have seen the application of conversion from developers are approved... however, most of them in order to bring them convenience during (defect liability period), even though conversion case is less, mostly, they just use the POS for their purpose, more cost saving like building the offices on POS, debris or used as car park as well meaning to say during that time the POS is unusable by the users (unless they complain otherwise the POS during that time is not an POS)...there were these cases as well as the individual landowners; some of them sent in the application try to use the POS use for this and that but we rejected; due to that, some of them just use the POS illegally...like house extension...too many cases of this."*

**KKCH-4 supported and discussed:**

*"... particularly when the POS is huge, this triggers developer to have stronger intention to lobby or influence the government...there are some cases where some have been done by the developers like Luyang case there, they built the petrol station or some huge POS becomes a car park and hawker centre like the one at the Taman Lido and houses and shop houses were somehow approved. Not all the developers will lobby or convert the use, but occasionally, for convenience and cost saving sake, developers prefer to overuse the space for storage, car-park, container and construction debris during the maintaining period..."*

**Codes used:** ["Poor enforcement...due to unclear, uncertainty..."] ["Poor enforcement...due to misallocated rights..."]

**LSD-2 opined and explained:**

*"...you know there is not so clear statement or a gap on the procedures on how to exactly maintain despite the provision in landscape plan. During that period, the owners may not provide efficiently so the quality may not seem good as they provide at last minute. Also, even this is happening, the local government who receive the call from public just keep notifying the developers to maintain it properly, while during the period of maintenance of developer for 18 months, there is seldom or no inspection done to oversee how the developers work is done only till the day of handing over is about to be executed. Enforcement here is a problem."*

**KKCH-1 further explained and supported:**

*"...we do not really specify it how to maintain, especially how to and when to maintain and their standard of procedures. We do not specify, we just inform them in 1 document (a letter- as a black & white) "memastikan tanaman & landscape features sentiasa berada dalam keadaan yang baik sepanjang tempoh penyelenggaraan". So, you can see, this is not detailed so, it is very general and simple statement. So, some of the developers will do the job last minutes to cut their maintenance cost. This case is considered rampant even some POS, we have acknowledged them, still, they do not amend it during that period. Another issue is some owners (few cases) where the developers forgot to hand over the site like some of them held it for four years, 5-8 years, the POS is still under their management by right and the quality is so poor until the public complained. We have notified them for several times and finding that some developers are no longer available. The developers are not available to transfer or forgot after they secured the occupation certificate. Like at Taman Sepanggar dan Taman Kingfisher, these are the cases."*

**(iii) CL POS management, governance and consumption issues emerged by the inefficiency of government and self-interested public users. Defective behaviour of public users, residents and community association of POS that triggered by poor management and enforcement by governments:**

**Codes used:** ["poor enforcement... due to unclear, uncertainty..."], ["poor enforcement...due to misallocated rights..."], ["unused/desolate...maladaptive rights..."], ["illegal use conversion...due to malassigned rights..."], ["illegal use...due to uncertainty..."], ["using the space without contribution...due to maladaptive rights..."], ["incentivised not to use the space carefully...due to misallocated rights..."] [POS exclusion...due to maladaptive rights..."]

**KKCH-1 explained:**

*"...the public has and will overuse, e.g. they created illegal car-park, squatters break and vandalise the users' facilities and equipments, house extension, and so on. Normally, after few days or weeks of maintenance, the facilities and amenities started going haywire. As they always said, we have paid the tax and you as a government have a duty to maintain as this is government property. This is also due to not clear specification on how to use, who to use, when to use the POS actually. We do not have a proper operational guide and rules. Many squatters (other neighbourhood users) won't pay tax equally yet they use and vandalise it. Some dissatisfied paying residents complained about non-tax payers who used it. This makes some of them reluctant to pay tax and to free ride as well... There are few POS have blocking issues. Some used signboards and locks to indicate exclusivity, e.g. "this park is belonged to this community". There were many committees registered but most of them were not active or being passive, i.e. they did not implement their duty. There were few reasons led to this: aside from the unclearness of rights (no specific management procedures- the exact way of the management), less incentives or non-pecuniary benefits to maintain (e.g. campaigns), sometimes too many POS and neighbourhoods were under one committee's governance which is too burdening (high costs). The community or residents were not cooperative; some will be reluctant to work and irresponsibly push the tasks to others, some of them were not available. Also, since they are the secondary, they will be very much dependent on the primary government's maintenance. Also, the enforcement of government part is too little that contributes to above community failure as we did not closely monitor them (perhaps with some sanctions wherever necessary). Although some inspection and monitor and patrolling were done (2 months once), still, some remote residential area are totally left unmonitored, then users have tendency to misbehave, unlike at city park, there is a monitor (other users)..."*

**Defective behaviour (shirking and overuse) of governments triggered by the current misallocated regime and rights that affects other stakeholders (users) defective behaviour:**

**Codes used:** ["poor enforcement...due to misallocated rights..."], ["unused/desolate...maladaptive rights..."], ["illegal use conversion...due to malassigned rights..."] ["De facto perception on untransferred title..."]

**KKCH-1 explained:**

*"Management (monitoring) and maintenance of current government is indeed problematic and not sufficient, limited budget/ resources allocation- man power (3 staff) for over 350 CL POS, financial issues (land rent is RM35,000 annually approximately, with RM100 per POS). The allocation of POS management is very limited as I used to ask for the fund allocation list – to see how much percentage of fund allocated for the landscape and POS maintenance and management purpose, sadly, until now, I still haven't gotten it. So I suspect it gains the least priority (as it does not generate any gain or income). Sometimes, maintenance will only be carried out after two years or three or we just neglect them totally, since the last one, we only focused on the POS that needs serious attention, e.g. from public complaints, we have to do it selectively. In Kota Kinabalu alone there are about 400 POS in residential area, so it very difficult for us to effectively maintain each of them, although we have a policy on when and how to maintain it, i.e. once a year at least, maintenance shall be executed. As for POS misuse by government, it has few cases but very rare as mostly due to political issue, i.e. some spaces can be converted, especially large parcel of land POS, so, it means high value then higher likelihood for government*

*to approve or convert the use (e.g. shop houses), especially with developer. Lastly, on the untransferred POS title, by law, the government will not be reluctant to maintain so long as the site handing over is executed, depending on the resources allocation. However, if title deed transferred to us, then it would be better as there is a extra budget allocation (as a condition) that we can apply for POS improvement, from the federal government (i.e. Kementerian Sukan dan Belia). The title of POS transferred represents the property of government; thus, making them more willingly to invest, e.g. construction of futsal and basketball court, particularly in rural POS."*

**This is supported and discussed by LSD-2:**

*"...This had always been the problem of government management on non-profitteering POS. This is due to some typical issues like red tapes, bureaucracy, budget (issues of uncovered substantial land rents by local government), enforcement, staffs, priority issue (we rather put the money on the highly-prioritised service, e.g. licensing etc. which can generate money compared to social and environmental dimension). The current state-owned regime is inefficient and unsustainable, as over the years, the management and maintenance right under the government did not show any improvement (as they maintain today, it is broken on the next day. This keeps repeating all over and over again). For the conversion issue by government, like joint venture (JV) with private companies, there are cases where conversion cannot be done alone by the private but must be "assisted" by the government (e.g. Mazo case). Many developers propose to use that land for house construction or shop house or car park, and petrol station...sadly to say, some conversion is more towards commercialisation- profit-based project have been approved."*

**(iv) Whether the current institutions affect the NT POS governance, consumption and management.**

**Result- overall main codes:** ["this is out of jurisdiction/ poor enforcement...due to misallocated rights..."], ["poor enforcement...due to vesting (misallocation of rights)..."], ["unused/desolate...maladaptive rights..."], ["illegal use conversion...due to malassigned rights..."], and ["POS exclusion...due maladaptive rights..."].

**KKCH-4 discussed:**

*"...Officers do not know that they have to manage, and some of them do not even know the existence of the NT POS. So basically the NT POS is totally up to the users there (becomes the storage, house extension, dumpster site, car park, plantation) or just disused as one abandoned huge forest or bushes. Even some NT POS were taken over by government to maintain, due to public demands and complaints, we are still having issues like CL POS (e.g. budget and enforcement inefficiency).*

**This is supported and expanded by PDC-1:**

*Mostly, no development is carried out on that land (no facilities or amenities)- idle land. This probably due to two reasons: (i) outside rating area, mostly NT POS are outside rating area, so there will be no management and development, the residents there are not required to pay the tax, and (ii) there is a missing line or no clear cut policy, i.e. NT POS is not vested and gazetted, by lands and surveys department, so basically this is sort of inter-government problem. We do acknowledge it but we are silent about that matter as we will be having more severe budget issue or resource constraint if they are formally included. Also, some users may think this is their land because mostly, it is derived from the ancestral and family land so, they think they are the owners still, that, aside from constructing their „property“, they also exclude others (verbally or putting a signage do not enter). Indeed, some open spaces have been used for commercial purposes (JV), whereby some NT POS that under state land is alienated and converted (political influence) for housing or other purposes (e.g. shopping mall like Megalong at Penampang area). The case is not tremendous as the location is not good and not so valuable since it is at rural area. Such triviality also extended to shirking (paying tax), free-riding, and moral hazard issues as the NT POS were not inviting as the CL POS for users to use (as not much facilities and amenities)."*

## Supplementary Materials, S4

### Private suppliers' views on local property rights issues and POS dilemmas (Source: Ling 2017)

**(i) Whether the private suppliers behave opportunistically on the POS management and use under this current practice POS governance Result - main codes used:** ["poor enforcement... due to unclear uncertainty..."], ["poor enforcement...due to misallocated rights..."], ["poor enforcement...due to attenuated rights..."], ["illegal use conversion...due to attenuated rights..."].

#### Dev-2 explains:

*"... some developers may think/ perceive they are the ultimate owners... as they are not that knowledgeable or well verse like Sabindo's case but now, it should not happen as this is clearly written there... some developers try to influence the government (for approval) to do something on the space, especially the land size is huge, and the location is desirable (for shop lots, shopping mall or houses extensions, petrol stations). This also happens during the 18 months, i.e. is putting some containers or construction debris but a reputable developer for the sake of marketing, they won't do it...due to no clear specifications (on how and when to maintain it) as it was only written as "sentiasa dalam keadaan yang baik", it tends to make some developers do this way (last minute do the work for the sake of handing over). So many titles of POS are not transferred and its accumulated land rent are not paid because of several reasons like (1) not available, bankrupt, financial issue, (ii) forgot to transfer, (iii) it is a very cumbersome process and no incentive and sanction imposed to do it (e.g. visiting land office and local authority offices)"*

#### The above matters were supported and expanded by Dev-1:

*"...some politicians and developers, they joint venture like in Penampang's Megalong last time was used for car park but now becomes shopping mall. One more case in Lintas Jaya behind the open university, there was the POS-meant for car park about 2-3 acre which is huge parcel of land, had been joint ventured becomes a hypermarket. Also, we do face maintaining problems (i.e. cannot efficiently maintain the quality, and 24/7 monitor the uses of users due to high costs and (this is not revenue generating task) because we maintain it today, few days later, it is broken again, e.g. some parts of the equipments were broken and stolen (unsustainable practice)... a substantial amount of land rent is required to pay, if we have many public services: POS and road reserves in our hands; thus some irresponsible developers may just not transfer the title and pay annual land rent"*

**(ii) Whether the local governments behave opportunistically on the POS management and use under this current practice POS governance Codes used:** ["poor enforcement...due to unclear, uncertainty..."], ["poor enforcement...due to misallocated rights..."], ["illegal use conversion...due to malassigned rights..."], ["unused/ desolate...due to maladaptive rights..."].

#### Dev-1 explained:

*"...management and maintenance is not enough and not efficient at all (1 local government with hundreds of POS (having financial issues). Mostly the POS become jungle POS, which is unusable. Especially on NT POS, state land, this mostly becomes abandoned land...this may make the developer just apply it and use it for commercial purposes so long as the government "illegally" approved it via some political methods. Due to unclearness of terms, and inefficiency of government's governance, site handing over issue arise, i.e. government's poor enforcement did not directly deal with the problems even though they may aware of it. In fact, their policy is having problem for not stating clearly when and how they should take over if the developers fail to sustain it (like financial or not available or any other reasons), e.g. after the 18months plus the extension, they should take over since they got the rating tax from the residents rather than keeps issuing letter of notification. This unclearness also goes to the issue of title transfer, what and how action was taken on the developer who failed to transfer. The local governments did not efficiently manage it well, i.e. since no benefits and no penalty enforced."*



**The above matters were supported and discussed by Const-1:**

*"...we cannot or are impossible to quietly misuse or convert it unless the government's approval/ consent is ultimately secured, i.e. remember the developer or we cannot clap with a single hand without being complemented with the government. Like the Austral park, the POS is meant for the playing park (very big and huge POS) and the government converted it for low cost housing projects 500 units for gerrymandering. The current government maintenance on the park is so poor and no monitoring at all, (due to not enough workforce, budget, resources- too many POS already and how to maintain it one by one) - at most I only noticed two types of services done by the council- grass cutting, and trees trimming and the rest issues like broken facilities, dirty parks and unsafe loitering are unmanaged.*

*"...sometimes the councils themselves do not enforce it seriously (they are reluctant or refuse to take the transfer/handing over, keep dragging or delaying even though 18 months is fulfilled; instead, we have to call them, urge them but we could feel the resistance of council for taking over it...government should take over since they collected the rating tax from the residents (ratepayers). If it is too long has not been handed over knowing that the POS is left unmaintained you cannot use the excuse saying that it is not handed over so u wash off your hand and saying no law to force them to transfer... for the issues of untransferred title deed and irresponsible last minute maintenance done by developers, in fact, the government was aware of them but still, they did not take and enforce stern action to cope with it..."*

**(iii) Whether the public users (residents or non-residents) behave opportunistically on the POS under this current practice POS governance Result- main codes:** ["illegal use... due to unclear, uncertainty..."], ["illegal use conversion...due to malassigned rights..."], ["using the space without contributing any...due to maladaptive rights..."], ["unused/ desolate...due to maladaptive rights..."].

**Dev-6 explained:**

*"...these equipments mostly vandalised by users (always the problems) so it seems like the developers or government did not do any maintenance...in fact we did. Non-tax payer squatters, illegal immigrants (Filipinos) are everywhere, even though we know who has spoilt it but still we cannot exclude or control them from using (because they are public)so they will still come to use it and lastly vandalise it. We feel de-motivated, so better we do not maintain frequently. Especially on NT POS, state land, this mostly becomes abandoned land, overused for small houses there. Due to unspecific use rights: how to use, when to use, what time or how long to use, who can use, if that happens, can it be used issues, users/ residents may misuse. If got the clear guidelines (e.g. with a signboard on operational rules), follow or not follow is another issue...it is enforcement issue."*

**The above matters were supported and discussed by Dev-1:**

*"...on the unclearness terms in consumption, indeed, this is not clear so it should be specified like other countries...should change the policy that the park is only meant for that residents only as they paid the tax there so that they feel fairer. In Sabah, many squatters and illegal immigrants' issue, normally they used it and spoilt it and the residents stand no chance to use it and mostly, the (NT) POS become jungle..."*