

SPATIAL AND REGIONAL PLANNING AS A BASIS FOR DEVELOPMENT IMPLEMENTATION IN INDONESIA

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Abstract

The writing entitled Spatial and Regional Planning Policy as a Basis for Implementation of Development in Indonesia aims to find out how to regulate spatial planning in Indonesia's territory as an effort to realize national goals and how to use spatial planning as the basis for implementing development. The method used in this research is using normative juridical research methods, with the main data being secondary data in the form of written data/documents consisting of primary, secondary and tertiary legal materials related to spatial planning policies in Indonesia, then the data is analyzed by qualitative analysis with provide an interpretation of the data that has been collected. The results of the study indicate that that spatial planning policies in Indonesia are directed towards the realization of one of the state's goals, namely general welfare, this can be seen in one of the considerations for the establishment of Law No. The archipelago, both as a unitary container that includes land space, sea space, and air space, including space within the earth, as well as as a resource, needs to be improved in its management efforts in a wise, efficient and effective manner by referring to the rules of spatial planning so that the quality The sustainability of national territorial space can be maintained for the realization of general welfare and social justice in accordance with the constitutional basis of the 1945 Constitution of the Republic of Indonesia. based on Archipelago Insight and National Resilience Spatial planning plans are meant to be the basis for implementing development, namely the National Spatial Plan as a guide for the preparation of national long-term development plans, the preparation of a national medium-term development plan, the provincial spatial plans as a guide for the preparation of regional long-term development plans, the preparation of plans regional medium-term development, district spatial plans serve as guidelines for the preparation of regional long-term development plans, preparation of regional medium-term development plans. Recommendations from this paper must be socialization from the central government to local governments in preparing regional spatial plans as well as socialization to the community so that there is an understanding between the central government and local governments as well as the community, so that spatial planning as the basis for implementing development related to grants will be able to run. effectively.

Keywords: *Spatial Planning; Development Implementation*

A. Background

The Republic of Indonesia based on the 1945 Constitution of the Republic of Indonesia is a welfare state, this can be seen in its Preamble stating that after that to form an Indonesian state government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote general welfare, educate people's lives. nation, and participate in carrying out world order based on independence, eternal peace and social justice, the independence of the Indonesian nationality shall be formulated in a Constitution of the State of Indonesia. Article 1 paragraph (3) states that Indonesia is a state of law.

The concept of a welfare law state as a system in regulating state life is the choice of most countries in the world today. This concept was born as a response to the concept of a classical legal state or a formal legal state where the state only operates in the field of law, this is because the classical law state was initiated at a time when liberalism was developing which wanted the state not to interfere in the affairs of its people, the state. only in charge of maintaining law and order. Then a new thought arises, namely the flow that does not only view the state as an instrument of power, but the state is actually seen as an agency of service, so the concept of a welfare state arises.¹

One of the characteristics of the rule of law can be seen in Article 33 of the 1945 Constitution of the Republic of Indonesia which states:

- 1) The economy is structured as a joint effort based on the principle of kinship
- 2) Production branches that are important to the state and affect people's lives are controlled by the state
- 3) Earth and water and natural resources in them are controlled by the state and used for the greatest prosperity of the people
- 4) The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence and maintaining a balance of progress and national economic unity.

This national goal is realized by a series of national development as regulated in Law Number 17 of 2007 concerning Long-term Development, in the general explanation, among others, it is stated that national development is a series of sustainable development efforts covering all aspects of the life of the community, nation and state, to carry out tasks realize the national goals as formulated in the Preamble to the 1945 Constitution of the Republic of Indonesia. The series of development efforts includes development activities that take place continuously, by increasing the level of community welfare from generation to generation. The implementation of these efforts is carried out in the context of meeting the needs of the present without compromising the ability of future generations to meet their needs.

The 2005-2025 National Long-Term Development is a continuation of the previous development to achieve the development goals as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia. Therefore, in the next 20 years, it is very important and urgent for the Indonesian people to carry out realignment various steps, including in the field of natural resource management, human resources, the environment and its institutions so that the Indonesian nation can catch up and have an equal position and strong competitiveness in the association of the international community.

The directions, stages and priorities of long-term development for 2005-2025 are contained in the attachment of Law No. 17 of 2007, Chapter IV that in order to realize a more equitable and just development, among others, through regional development, it is carried out by taking into account the potential and opportunities of superior land resources and/or land resources. or sea in each region, and taking into account the principles of sustainable development and environmental carrying capacity. The main objective of regional development is to improve the quality of life and welfare of the community and its distribution. The implementation of regional development is carried out in

¹ Muntoha, "Demokrasi Dan Negara Hukum", *Jurnal Hukum Ius Quia Iustum*, Vol. 16, (2009), hlm 382.

a planned and integrated manner with all sector and sector development plans. Spatial planning is used as a special policy reference for development in each sector, across sectors, and regions so that the use of space can be synergistic, harmonious and sustainable.

With regard to spatial planning, the state has issued Law No. 26 of 2007 concerning Spatial Planning, in which one of the considerations for issuing the law is that the territorial space of the Unitary State of the Republic of Indonesia, which is an archipelagic state, has the characteristics of an archipelago, both as a unitary container which includes land space, sea space, , and air space, including space within the earth, as well as as a resource, it is necessary to improve its management efforts in a wise, efficient, and effective manner by referring to the rules of spatial planning so that the quality of national territorial space can be maintained in its sustainability for the realization of general welfare and social justice. in accordance with the constitutional basis of the 1945 Constitution of the Republic of Indonesia.

The general provisions of Article 1 paragraph (1) state that space is a container that includes land space, sea space, and air space, including space within the earth as a territorial unit, where humans and other creatures live, carry out activities, and maintain their survival. Article 3 states that the implementation of spatial planning aims to create a safe, comfortable, productive, and sustainable national space based on the Archipelago Insight and National Resilience by:

- a) the realization of harmony between the natural environment and the artificial environment;
- b) the realization of integration in the use of natural resources and artificial resources with due observance of human resources;
- c) the realization of the protection of the function of space and the prevention of negative impacts on the environment due to the use of space.

In 2020 the State of Indonesia has ratified Law No. 11 of 2020 concerning Job Creation, in consideration of the enactment of the Law, among others:

- a. that to support job creation, it is necessary to adjust various regulatory aspects related to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers;
- b. that arrangements relating to the convenience, protection, and empowerment of cooperatives and micro, small, and medium-sized enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers spread across various sector laws are currently unable to fulfill the legal need for acceleration of work creation so that changes need to be made;
- c. that efforts to change regulations relating to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers, are carried out through changes to sector laws that do not yet support the realization of synchronization in ensuring the acceleration of work creation, so that legal breakthroughs are needed that can solve various problems in several laws into one law comprehensively;

B. Problem

Law Number 11 of 2020 concerning Work Goals changes various statutory provisions, one of the amended laws is Law No. 26 of 2007 concerning Spatial Planning, Article 17 of Law No. 11 of 2020 changes the provisions of Article I of Law number 26 of 2007, namely Article 1 number 5 states that spatial planning is a system of spatial planning, space utilization, and space utilization control, in this paper will be discussed about spatial planning. From the above, the problems in this paper are:

1. What is the Spatial Planning Policy as an Effort to Realize Public Welfare in Indonesia
2. How is spatial planning as the basis for implementing development in Indonesia

C. Writing Method

The method used in this paper is a normative juridical approach which in essence is a method of approach using a basis in the form of legal provisions and regulations to analyze the problems contained in the writing of scientific papers.² In normative legal research, written law is studied in various aspects such as aspects of theory, philosophy, comparison, structure or composition, formalities, general explanations and explanations of articles, formalities and binding power of a law and the language used is legal language, thus normative legal research is not synonymous with statutory research alone.³ In this paper, we will examine spatial planning policies as the basis for national development.

D. Discussion

1. Spatial Planning Policy in Indonesia as an Effort to Realize Public Welfare

1) Development Policy to Realize the Country's Goals

The purpose of establishing a state in Aristotle's view is: 1) to carry out the interests of its citizens, 2) to strive for citizens to live good and happy lives (good life) based on justice, justice reigns and must be incarnated in the state.⁴ Thomas Aquinas (1225-1274), the purpose of the state is to provide and organize human happiness to provide the possibility to achieve a life of decency and eternal glory that must be adapted to religious requirements.⁵ Machiavelli in his book *The Prince* says that the purpose of the state is the state as a state of power for further purposes, namely for the sake of the honor and happiness of the nation.⁶ Dante has a different view from Machiavelli, that the aim of the state is not to gain absolute power, but to unite all countries under one power to bring about the progress of mankind throughout the world, especially in achieving the highest happiness in life, to achieve that goal there must be an atmosphere of peace and security.⁷

At the present time when the concept of a welfare law state becomes a choice of state systems in most countries in the world, in general the goal of the state is to achieve welfare for citizens. The welfare state is an idea that emerged after a relatively long time as a reaction to capitalist teachings which in the form of a slogan there are three basic capitalist economic systems: 1) liberalism, individuals are free to realize their interests, 2) Utilitarianism, individual and public happiness will realized by the embodiment of enjoyment and avoidance of distress, 3) Harmony, there is no conflict between the interests of the individual and the public because the public interest will be realized if

² Hadari nawawi, *Metode Penelitian Bidang Sosial*, Gadjah Mada University Press, Yogyakarta, 1985, hlm 36.

³ Irwansyah, *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel*, Mira Buana Media, Yogyakarta, 2020, hlm 99.

⁴ Sjachran Basah, *Ilmu Negara, Pengantar, Metode, dan Sejarah Perkembangan*, PT Citra Aditya Bakti, Bandung, 1997, hlm 114.

⁵ Ibid, hlm 146.

⁶ Moh. Kusnardi, dan Bintang R Saragih, *Ilmu Negara*, Gaya Media Pertama, Jakarta, 1988, hlm 73.

⁷ Ibid.

the individual has realized his personal benefit.⁸

Lawrence M. Friedman said that in the 20th century the state was generally called a "Welfare State", because so large a state regulates welfare, the intervention of a government in the welfare state covers various aspects of the economy, finance, security, even telecommunications and transformation as well as banking. This is a typical form of the State in the 20th century called the "Welfare State", or more broadly a welfare regulatory state.⁹ Jan M. Boekman welfare state means as an integration of economic facts and general ideas about justice, in which various aspects of social life are described, therefore the law is actually evidence that is always related to the welfare state with the characteristics of justice that must be the main goal. generally understood as presence and functioning of law in various aspects of social life. It is thus evident that law in intertwined with welfare state).¹⁰ Franklin Delano Roosevelt 32nd President of the United States, in his messages to the United States Congress on January 6, 1941, summarized his message in four freedoms (the Four Freedoms), namely: 1) freedom of speech, 2) freedom of religion, 3) freedom from want. , 4) freedom from fear.¹¹

Islam as a religion that is complete and perfect in the regulation of human life,¹² including in setting the goals of the state, the Qur'an provides the following direction: "Those who, if We give them a position on earth, they pray, pay zakat, and command do good and forbid what is wrong, and to Allah all matters return." ¹³This verse contains the meaning of the goal of an Islamic state and the basic characteristics of the rulers and state regulators who will receive Allah's help, namely:¹⁴

- a) In their personal lives, they adhere to a godly, obedient way of life. their character is free from the impurities of sin, disobedience to God, despair and disobedience, they behave like true knights, uphold prayers for their Lord, are humble and uphold the prayer system in the life of the people group,
- b) Their wealth and resources are not used for self-indulgence and luxury, on the contrary they enforce zakat institutions, they pay their own zakat, and organize zakat institutions so that the prosperity of society can be distributed equally and the State can fulfill its function as the organizer of prosperity. ,
- c) They use the power of the state to eradicate evil and sin and to promote and uphold virtue and goodness.

According to Maududi, the government must try to lighten the burden on the people and provide guarantees for the fulfillment of their basic needs as well as their comfort. The government must strive for prosperity, a decent life and prosperity.¹⁵ In Maududi's view, the Islamic State is a comprehensive state and protects all sectors of life. It is based on the universality of divine law which must be upheld and obeyed by all people and Islamic leaders.¹⁶

Ahmad Azhar Basyir said that the goal of the state according to Islam is the implementation of the teachings of the Qur'an and the Sunnah of the Prophet in social life towards achieving prosperity

8 Ali Gharisyah, *Al-Ittihajat al-Fikriyyat al-Mu'ashirah*, Dar al Wafa'. Mesir, 1990, hlm. 30

9 Lawrence M. Friedman, *Legal Culture and the Welfare State*, dalam Gunther Teubner, *Dilemma of Law in the Welfare State*, (New York, Walter de Gruyter, 1986), hlm 12. Lihat Djauhari, *Politik Hukum Negara Kesejahteraan Indonesia, Studi Tentang kebijakan Regulasi dan Institusionalisasi Gagasan Kesejahteraan Ekonomi Masyarakat Nelayan di Jawa Tengan*, Unissula Press, Semarang, 2008, hlm 40.

10 Jan M. Boekman, *Legal Subyektivity as a Precondition for the intertwinement of Law and The Welfare State*, *Ibid.*, hlm 79.

11 Edward Conrad Smith and Arnold Jhon Zurcher, *Dictionary of American Politics*, (New York: Bernes & Noble Inc, 1966), hlm 163, Lihat juga Miriam Budiardjo, *Dasar-dasar Ilmu ...*, *op.cit.*, hlm 216.

12 Lihat Al-Qur'an Surat Al-Maidah ayat 3, yang artinya " Pada hari ini telah Aku sempurnakan agamamu untukmu dan telah Aku cukupkan nikmatKu bagimu, dan telah Aku ridhai Islam sebagai agamamu". Al-Qur'an. *Op.cit.* hlm 107.

13 Al-Quran Surat Al-Hajj, ayat 41, *op.cit.* hlm 337.

14 Abul A'la Maududi, *Hukum Dan Konstitusi Sistem Politik Islam*, Diterjemahkan dari *The Islamic and Constitution*, Mizan, Bandung, 1990, hlm, 206.

15 Abul A'la Maududi, *Op.cit.* hlm. 207

16 *Ibid.*, hlm 171.

in the world, material and spiritual, individually and in groups and leading to the achievement of happiness in life in the hereafter.¹⁷ Thus, the functions/duties of the State according to the Islamic view are:¹⁸

- a) Enforcing domestic security and defending the safety of the country from outside attacks,
- b) Uphold and protect da'wah, Islamic law and system,
- c) Uphold the faith and morals of Islam,
- d) Enforcing legal justice, defending the persecuted and punishing the persecutors,
- e) Uphold and implement social justice,
- f) Appoint capable and honest state officials.

The objectives of the Islamic State according to Al Mawardi are as follows:¹⁹

- a) Keeping religion on top of its constant points and according to the understanding agreed upon by generations of salaf Muslims. if a heretic or a deviant appears, he is obliged to explain the evidence for the truth for him and explain the correct understanding to him, and guide him according to existing rights and regulations, so that religion is protected from confusion and misunderstanding;
- b) Implement the law for conflicting parties and decide disputes between disputing parties, so that justice can be felt by everyone;
- c) Maintaining the security of the community, so that people can live in peace and travel safely without fear of being scammed and threats to themselves and their property;
- d) Implement the law of hadd so that the prohibitions of Allah swt do not violate them and protect the rights of His servants so that they do not perish;
- e) Guarding the country's borders with adequate tools and forces that can defend the country, so that the enemies of the state cannot attack the Islamic state, and do not penetrate its defenses and cannot harm the Muslims;
- f) Jihad against those who oppose Islam;
- g) Withdraw fa'i and collect zakat as a provision that has been clearly established by Islamic Shari'ah in the texts and ijihad;
- h) Determine the salary and the amount of certain gifts to the people and parties who have a share of the baitul-mal;
- i) Appointing trusted officials and appointing competent people to assist him in carrying out the mandates and authorities he holds, and managing assets under his authority, so that tasks can be carried out perfectly and State assets can be maintained under regulation. trusted people;
- j) He carried out his own inspection of the work of his assistants.

Indonesia as a country that was founded based on Pancasila and the 1945 Constitution of the Republic of Indonesia, can be said to be a welfare state, this can be seen in the state's goal to educate and prosper its people as stated in the fourth paragraph of the opening of the 1945 Constitution, as stated by Sri Soemantri Martosoewignjo; that from the beginning the unitary State of the Republic of Indonesia has had the concept of a welfare state, we can read this in the fourth paragraph of the Preamble to the 1945 Constitution as follows: 1) protect the entire Indonesian nation and the entire

17 Ahmad Azhar Basyir, *Negara Dan Pemerintahan Dalam Islam*, UII Press, Yogyakarta, 2000 hlm 19

18 Ahmad Azhar Basyir, *Keuangan Negara dan Hisbah Dalam Islam*, UII Press, Yogyakarta, 2010. hlm 1

19 Abu Hasan Al-Mawardi, *Al-Ahkam Asulthaniyah wal-Diniyah*, Terjemahan, Abdul Hayyie Al Kattani dan Kamaludin Nurdin, *Hukum Tata Negara dan Kepemimpinan Dalam Takaran Islam*, Gema Insani Press, Jakarta, 1996, hlm.37.

homeland, 2) promote general welfare, 3) educate the nation's life, 4) participate in carrying out world order based on freedom, eternal peace and social justice.²⁰ The concept of a welfare state can also be seen from the views of Javanese poets which can be seen in the words of every puppeteer when describing a good country, namely; "The long country of hapunjung sand-wukir loh jinawi, gemah ripah karto-raharjo,"²¹ from the country's territory extends from the sea coast to the tops of the mountains, that the land of the region is fertile (loh) and the goods there are cheap, so cheap clothing, food, that merchants can travel everywhere without disturbance (gemah), that the people live crowded together in harmony (ripah) and (karto) shows the condition of the peasants who have enough livestock every day to outside in the cage without any disturbance.

Notonagoro said that our country is a country called a cultural law state which has the aim of avoiding disturbances, maintaining order, security and peace inside and outside, besides that it leads to the maintenance of needs and interests, in order to achieve social justice, meaning that everyone gets everything that has become rights, in order to achieve common prosperity and happiness.²² Furthermore, it is said that the state of cultural law, the state has the obligation to:²³

- a) maintain the needs and interests of the public, which in particular regarding the needs and interests of the state itself as a state,
- b) maintaining the needs and interests of the public in the sense of the common needs and interests of the citizens, which are not entirely carried out by the citizens themselves,
- c) maintaining the common needs and interests of individual citizens, which cannot be entirely carried out by the citizens themselves, in the form of state assistance,
- d) take care of the needs and interests of individual citizens which cannot be fully implemented by citizens, take care of all the needs and interests of individuals such as those of the poor and neglected children.

The state is a community organization that aims to implement justice, the aspiration to bring state justice and a just state requires emancipation in the political field which is intertwined with emancipation and participation in the economic field. This is what is called the principle of "socio-democratic". According to Soekarno, socio-democracy does not want to serve the interests of a small mound, but the interests of the community. Socio-democracy is a political democracy and an economic democracy.²⁴ Thus, the Indonesian state is not desired as a "liberalist state", but as a "welfare state" (social state). In the thoughts of the founding fathers of the nation, the welfare state in question is a form of democratic government which emphasizes that the state is responsible for welfare (at least minimally), that the government must regulate the distribution of state wealth so that no people starve, no people die because they do not get social Security. In Indonesia's welfare state, what is required by its political ethics is not the abolition of private property rights, but that private property rights have a social function, and the state is responsible for the general welfare of society.²⁵

In an effort to realize the goals of the state, especially in promoting general welfare, development is carried out as regulated in Law No. 17 of 2007, in a general explanation it is said that national development is a series of sustainable development efforts covering all aspects of the

20 Sri Soemantri Martosoewignjo, *Bunga Rampai Hukum Tata Negara Indonesia*, Bandung, Alumni, Bandung, 1992 hlm 43-44.

21 Wirjono Projodikoro, *Asas-asas Ilmu Negara dan Politik*, PT Eresco, Bandung, 1981, hlm14.

22 Notonagoro, *Pancasila Secara Ilmiah Populer*, Cetakan ke-tiga Pancuran Tujuh, Jakarta, 1975, hlm.25.

23 Ibid, hlm.25-26.

24 Yudi Latif, *Negara Paripurna, Historisitas, Rasionalitas, dan Akuntabilitas*, Gramedia, Jakarta, hlm.584.

25 . Ibid.

life of the community, nation, state, to carry out the tasks of the goal. as formulated in the preamble to the 1945 Constitution of the Republic of Indonesia. This series of development efforts contains development activities that take place continuously, by raising the level of community welfare from generation to generation, the implementation of these efforts is carried out in the context of meeting the needs of the present without compromising the ability future generations to meet their needs.

The general explanation also explains that the objectives of the enactment of Law No. 17 of 2007 are to:

- a) support coordination among development actors in achieving national goals
- b) ensure the creation of integration, synchronization and synergy between regions, between spaces, across time, between government functions as well as between the center and regions
- c) ensure linkages and consistency between planning, budgeting, implementation and monitoring
- d) ensure the achievement of efficient, effective, fair and sustainable use of resources
- e) Optimizing community participation

The attachment of Law No. 17 of 2007, Chapter II on general conditions related to spatial planning states that Indonesia's spatial planning is currently in a state of crisis. Spatial planning crisis occurs because development carried out in an area is still often carried out without following the spatial plan, does not consider the sustainability and carrying capacity of the environment, and does not pay attention to the vulnerability of the area to natural disasters. Furthermore, in Chapter IV concerning the direction of development in terms of realizing a more equitable and just development between through regional development, it is carried out by taking into account the potential and opportunities for superior land and/or sea resources in each region, as well as paying attention to the principles of sustainable development and environmental carrying capacity. The main objective of regional development is to improve the quality of life and welfare of the community and its distribution. The implementation of regional development is carried out in a planned and integrated manner with all sector and sector development plans. The development plan is elaborated and synchronized into a consistent spatial plan, both in terms of material and timeframe.

2) Spatial Arrangement for Development

Spatial planning in Indonesia has been regulated in Law No. 26 of 2007 concerning Spatial Planning, in its considerations, among other things it says:

- a) that the territorial space of the Unitary State of the Republic of Indonesia, which is an archipelagic country with the characteristics of an archipelago, both as a unitary container covering land space, sea space, and air space, including space within the earth, as well as as a resource, needs to be managed wisely; efficient and effective by referring to the rules of spatial planning so that the quality of the national territory space can be maintained in its sustainability for the realization of general welfare and social justice in accordance with the constitutional basis of the 1945 Constitution of the Republic of Indonesia;
- b) that the development of national and international situations and conditions requires the enforcement of the principles of integration, sustainability, democracy, legal certainty, and justice in the framework of implementing good spatial planning in accordance with

the ideal basis of Pancasila;

- c) that in order to strengthen National Resilience based on the Archipelago Insight and in line with the regional autonomy policy which gives greater authority to regional governments in the implementation of spatial planning, this authority needs to be regulated in order to maintain harmony and integration between regions and between the center and regions so as not to cause disparities between regions. ;
- d) that the existence of limited space and the growing public understanding of the importance of spatial planning so that transparent, effective, and participatory spatial planning is needed in order to realize a safe, comfortable, productive, and sustainable space.

Law No. 26 of 2007 concerning Spatial Planning which has been amended by Law No. 11 of 2020 concerning Job Creation, in Article 1, among others, regulates:

- a) said that space is a container that includes land space, sea space, and air space, including space within the earth as a unitary area, where humans and other creatures live, carry out activities, and maintain their survival.
- b) Spatial planning is a form of spatial structure and spatial pattern.
- c) Spatial structure is the arrangement of settlement centers and a network system of infrastructure and facilities that function as a support for socio-economic activities of the community which hierarchically have functional relationships.
- d) Spatial pattern is the distribution of allotment of space in an area which includes the allotment of space for the protection function and the spatial allocation for the cultivation function.
- e) Spatial planning is a system of spatial planning, space utilization, and space utilization control.
- f) Implementation of spatial planning is an activity that includes regulation, guidance, implementation, and supervision of spatial planning.
- g) Spatial management arrangements are efforts to establish a legal basis for the Central Government, Regional Governments, and the community in spatial planning.
- h) Development of spatial planning is an effort to improve the performance of spatial planning organized by the Central Government, Regional Government, and the community.
- i) Implementation of spatial planning is an effort to achieve the objectives of spatial planning through the implementation of spatial planning, space utilization, and control of space utilization.
- j) Supervision of spatial planning is an effort so that the implementation of spatial planning can be realized in accordance with the provisions of laws and regulations.
- k) Spatial planning is a process to determine the spatial structure and spatial pattern which includes the arrangement and determination of the spatial plan.
- l) Spatial utilization is an effort to realize the spatial structure and spatial pattern in accordance with the spatial plan through the preparation and implementation of programs and their financing.
- m) Controlling the use of space is an effort to create an orderly spatial arrangement.
- n) Spatial planning is the result of spatial planning.
- o) Territory is a space which is a geographical unit and all related elements whose boundaries and systems are determined based on administrative and/or functional

aspects.

- p) Regional system is a spatial structure and spatial pattern that has a service range at the regional level.

Article 1 also regulates what is meant by an area is an area that has the main function of protection or cultivation. Protected area is an area designated with the main function of protecting environmental sustainability which includes natural resources and artificial resources. Cultivation area is an area designated with the main function to be cultivated on the basis of the conditions and potential of natural resources, human resources, and artificial resources. Article 1 of the work copyright law also regulates:

- a) Rural area is an area that has main agricultural activities, including natural resource management with the arrangement of area functions as a place for rural settlements, government services, social services, and economic activities.
- b) Agropolitan area is an area consisting of one or more activity centers in rural areas as a system of agricultural production and management of certain natural resources which is indicated by the existence of functional linkages and spatial hierarchies of settlement system units and agribusiness systems.
- c) Urban area is an area that has non-agricultural main activities with the composition of the function of the area as a place for urban settlements, concentration and distribution of government services, social services, and economic activities.
- d) Metropolitan area is an urban area consisting of a stand-alone urban area or a core urban area with the surrounding urban areas that have functional linkages that are linked to an integrated regional infrastructure network system with a total population of at least 1.000. 000 (one million) people.
- e) Megapolitan area is an area formed from 2 (two) or more metropolitan areas that have functional relationships and form a system.
- f) National strategic area is an area whose spatial planning is prioritized because it has a very important influence nationally on state sovereignty, defense and state security, economy, social, culture, and/or environment, including areas that have been designated as world heritage.
- g) Provincial strategic area is an area whose spatial planning is prioritized because it has a very important influence within the scope of the province on the economy, social, culture, and/or environment.
- h) Regency/city strategic area is an area whose spatial planning is prioritized because it has a very important influence within the scope of regency/city on the economy, social, culture, and/or environment.

Article 1 also regulates what is meant by green open space is an elongated area/lane and/or clusters whose use is more open, a place to grow plants, both those that grow naturally or those that are intentionally planted, taking into account aspects of ecological functions, water absorption, economics. , socio-cultural, and aesthetic.

Spatial planning in Indonesia is formed based on the principles in spatial planning which can be seen in the general explanation as follows:²⁶

- a) The principle of "integration" is that spatial planning is carried out by integrating various

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interests that are cross-sectoral, cross-regional, and cross-stakeholder.

- b) The principle of “harmony, harmony and balance” is that spatial planning is carried out by realizing harmony between spatial structures and spatial patterns, harmony between human life and the environment, balance of growth and development between regions and between urban areas and rural areas.
- c) What is meant by “sustainability” is that spatial planning is carried out by ensuring the sustainability and continuity of the environmental carrying capacity and capacity by taking into account the interests of future generations.
- d) The principle of “utility and usability” is that spatial planning is carried out by optimizing the benefits of space and the resources contained therein and ensuring the realization of quality spatial planning.
- e) The principle of “openness” is that spatial planning is carried out by providing the widest possible access to the public to obtain information related to spatial planning.
- f) The principle of “togetherness and partnership” is that spatial planning is carried out by involving all stakeholders.
- g) The principle of “protection of the public interest” is that spatial planning is carried out by prioritizing the interests of the community.
- h) The principle of “legal certainty and justice” is that spatial planning is carried out based on the law/statutory provisions and that spatial planning is carried out by taking into account the sense of community justice and protecting the rights and obligations of all parties fairly with guaranteed legal certainty.
- i) The principle of “accountability” is that the implementation of spatial planning can be accounted for, both in terms of process, financing, and results.

The purpose of spatial planning is to create a safe, comfortable, productive, and sustainable national space based on the Archipelago Vision and National Resilience by:²⁷

- a) the realization of harmony between the natural environment and the artificial environment;
- b) the realization of integration in the use of natural resources and artificial resources with due regard to human resources; and
- c) the realization of the protection of the function of space and the prevention of negative impacts on the environment due to the use of space.

What is meant by “safe” is a situation where people can carry out their life activities protected from various threats. What is meant by “comfortable” is the condition of the community being able to articulate socio-cultural values and functions in a calm and peaceful atmosphere. What is meant by “productive” is that the production and distribution process runs efficiently so as to be able to provide added economic value for the welfare of the community, while at the same time increasing competitiveness. What is meant by “sustainable” is that the condition of the quality of the physical environment can be maintained and even improved, including the anticipation to develop an economic orientation of the region after the exhaustion of non-renewable natural resources.

Spatial planning must pay attention to other aspects as stipulated in Article 6 of Law No. 11 of 2020, that:

- 1) Spatial planning is carried out by taking into account:

27 *ibid*

- a. the physical condition of the territory of the Unitary State of the Republic of Indonesia which is prone to disasters;
 - b. the potential of natural resources, human resources, and artificial resources, economic, social, cultural, political, legal, defense and security and environmental conditions as well as science and technology as a single unit; and
 - c. geostrategy, geopolitics, and geoeconomics.
- 2) Spatial planning for the national area, spatial planning for the province, and spatial planning for the district/city are carried out in stages and in a complementary manner.
 - 3) Regional spatial planning in stages is carried out by means of the national regional spatial plan being used as a reference in the preparation of the provincial and district/city spatial planning plan, and the provincial regional spatial planning plan being the reference for the preparation of the regency/city spatial plan.
 - 4) Complementary regional spatial planning is a national spatial arrangement, a provincial spatial arrangement, and a regency/municipal spatial arrangement that are arranged to complement each other and synergize so that there is no overlapping of spatial planning arrangements.
 - 5) Spatial planning of the national territory includes the area of jurisdiction and territory of national sovereignty which includes land space, sea space, and air space, including space within the earth as a single unit.
 - 6) The spatial arrangement of the provinces and districts/cities includes land space, sea space, and air space, including space within the earth as a single unit.
- 3) Authority to Organize Spatial Planning

Authority in the big Indonesian dictionary comes from the word "authority" is an object that gets a prefix and a suffix from the word authority, namely authority and authority, in this case both have the same meaning, namely: 1) the right and the power to act (authority), 2) the power to make decisions, govern, and delegate responsibility to others, 3) rights, functions that may not be carried out.²⁸ Prajudi Atmosudirdjo defines that authority (authority, gezag) is a formal power that comes from legislative power/given by law, or from executive/administrative power, while authority (competence, bevoegdheid) is the power to take an action.²⁹

The regulation of authority in the implementation of spatial planning is regulated in Law No. 11 of 2020 as follows:³⁰

- 1) The authority of the Central Government in the implementation of spatial planning
 - a. regulation, guidance, and supervision of the implementation of spatial planning for national, provincial, and district/city areas, as well as on the implementation of spatial planning for national strategic areas;
 - b. provision of technical assistance for the preparation of spatial plans for provincial, regency/municipal areas, and detailed spatial plans;
 - c. technical guidance in the preparation of provincial spatial plans, regency/municipal spatial plans, and detailed spatial plans;
 - d. implementation of spatial planning of the national territory;
 - e. implementation of spatial planning for national strategic areas;

28 Asmaeny Azis, Izlindawati, *Constitutional complaint&Constitutional question Dalam Negara Hukum*, Kencana, Jakarta, 2018, hlm. 46

29 Ibid, hlm. 47.

30 Pasal 6 -11, UU No 11 tahun2020 tentang Cipta Kerja

- f. cooperation in spatial planning between countries and facilitating cooperation in spatial planning between provinces.

The authority of the Central Government in implementing national spatial planning includes:

- a. national regional spatial planning;
- b. utilization of national territory space; and
- c. controlling the use of space in the national territory.

The authority of the Central Government in implementing the spatial planning of national strategic areas includes:

- a. determination of national strategic areas;
- b. national strategic area spatial planning;
- c. utilization of national strategic area space;
- d. controlling the use of space in the national strategic area.

In the framework of implementing spatial planning, the Central Government has the authority to formulate and stipulate guidelines for the field of spatial planning.

In the exercise of its authority, the Central Government disseminates information relating to general plans and detailed spatial plans in the context of implementing national spatial planning; and guidelines for the field of spatial planning, as well as setting minimum service standards in the field of spatial planning.

2) The authority of the Provincial Government is carried out in accordance with the norms, standards, procedures and criteria set by the Central Government in the implementation of spatial planning, including: a. setting, fostering, and supervising the implementation of spatial planning in the provinces and districts/municipalities; b. implementation of spatial planning for provincial areas; c. cooperation in spatial planning to facilitate cooperation between districts/cities. Inter-provincial and inter-district/city spatial planning.

3) The authority of the regency/municipal government is carried out in accordance with the norms, standards, procedures, and criteria set by the central government in the implementation of spatial planning, including: a. setting, fostering, and supervising the implementation of spatial planning for the regencies/kola regions; b. implementation of spatial planning for regency/municipal areas; c. cooperation in spatial planning between districts/cities.

Provincial, district/city governments have the authority to regulate regional structuring as a consequence of the provisions of the 1945 Constitution of the Republic of Indonesia Article 18, among others, regulates:

Article 18 of the Constitution of the Republic of Indonesia states that:

- a. The unitary state of the Republic of Indonesia is divided into provincial regions, and the provincial area is divided into regencies and cities, each of which has a regional government, which is regulated by law.
- b. The provincial, district and city governments regulate and manage their own government affairs according to the principles of autonomy and co-administration.

Based on the article, regional governments, both provinces, districts and cities, are authorized to manage government affairs based on autonomy. Regional autonomy is the essence of local government with a decentralized system, autonomy comes from the ancient Greek words autos which

means self and nomos which means law.³¹ the right to self-government as the joint of the people in a unitary state is nothing but autonomy, namely the right to regulate one's own household.³²

2. Spatial Planning as a Basis for Development Implementation

Spatial planning is carried out to produce: a. general spatial plan; b. detailed spatial plans. The general spatial plan hierarchically consists of:³³

- a). national regional spatial plan;
- b). provincial spatial plan;
- c). district spatial plans and city spatial plans.

The detailed spatial plan includes a. island/archipelagic spatial plan and national strategic area spatial plan; and b. district/city spatial planning detail plan. The detailed spatial plan is prepared as an operational tool for the general spatial plan. A detailed spatial plan is prepared if: a. the general spatial planning plan cannot yet be used as the basis for implementing space utilization and controlling space utilization; and/or b. the general spatial plan which includes a large planning area and the scale of the map in the general spatial plan requires details before being operationalized.

Implementation of spatial planning is carried out by taking into account: a. environmental support and capacity and strategic environmental studies; b. the detail of the spatial information to be presented and the suitability of the accuracy of the spatial plan map. The preparation of strategic environmental studies is carried out in the preparation of spatial plans. Compliance with the accuracy of the spatial plan map is carried out through the preparation of the spatial plan map on top of the Base Map. In the event that the Base Map is not yet available, the preparation of the spatial plan is carried out using another Base Map.

The contents of the spatial plan include: a. spatial structure plan; and b. spatial plan. The spatial structure plan includes the settlement center system plan and the infrastructure network system plan. The spatial pattern plan includes the designation of protected areas and cultivation areas. The designation of protected areas and cultivation areas includes the allocation of space for environmental, social, cultural, economic, defense and security conservation activities. In the context of environmental conservation, the area of the spatial layout plan determines the area of forest and forest cover for each island, watershed, province, district/city, based on the biogeophysical, climatic, population and socio-economic conditions of the local community, the preparation of the spatial plan must take into account interrelationships between regions, between regional functions, and between regional activities.

The stipulation of the provincial or district/city spatial layout plan and the detailed spatial plan must first obtain substance approval from the Central Government. Prior to the submission of substantive approval to the Central Government, the detailed district/city spatial plan as outlined in the draft Regulation of the Head of the Regency/City Regional Head shall be held in public consultation, including with the Regional People's Representative Council. The Regent/Mayor is obligated to stipulate a draft regulation of the head of the regency/municipality regarding detailed spatial planning within 1 (one) month after obtaining substance approval from the Central Government. In the event that the

31 Sri Kusriyah, *Politik Hukum Desentralisasi & Otonomi daerah Dalam Perspektif Negara Kesatuan Republik Indonesia*, Unissula Press, Semarang, 2019, hlm.28.

32 Ni'matul Huda, *Hukum Tata Negara, Edisi Revisi*, Radja Grafindo Persada, Jakarta, hlm. 307.

33 Pasal 14,14 A, 20,22,23 25 dan 26 UU no 11 tahun 2020 tentang cipta kerja

regent/mayor does not stipulate a detailed spatial plan after a period of one year, the detailed spatial plan is determined by the Central Government.

Law No. 11 of 2020 Article 20 regulates what money is included in the spatial plan, namely as follows:

a) The National Spatial Plan contains:

- a. objectives, policies, and strategies for spatial planning of the national territory;
- b. a national spatial structure plan that includes a national urban system related to rural areas within its service area and the main infrastructure network system;
- c. national spatial pattern plan which includes national protected areas and cultivation areas that have national strategic value;
- d. determination of national strategic areas
- e. directions for the use of space containing indications of the main five-year medium-term program;
- f. directions for controlling the use of space in the national territory, which contain indications of directions for the zoning of the national system, directions for the suitability of spatial use activities, directions for incentives and incentives, as well as directions for sanctions.

The National Spatial Plan is a guideline for:

- a. preparation of national long-term development plans;
- b. preparation of national medium-term development plans;
- c. utilization of space and control of space utilization in the national territory;
- d. the realization of integration, linkage, and balance of development between provinces, as well as inter-sectoral harmony;
- e. determination of location and function of space for investment;
- f. spatial planning of national strategic areas;
- g. provincial and district/city spatial planning.

b) The provincial spatial plan contains:³⁴

- a. objectives, policies, and strategies for spatial planning for the province;
- b. the spatial structure plan of the province which includes the urban system within its territory
- c. relating to rural areas in their service areas and network systems
- d. provincial area infrastructure;
- e. provincial spatial pattern plan which includes protected areas and cultural areas
- f. power that has provincial strategic value;
- g. directions for the use of space in the province that contain indications of the main five-year medium-term program;
- h. directions for controlling the use of debt in the province, which contains indications of zoning directions
- i. the provincial system, directions for the suitability of spatial use activities, directions for incentives and disincentives, and directions for sanctions.

The provincial spatial plan serves as a guideline for:

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- a. preparation of regional long-term development plans;
- b. preparation of regional medium-term development plans;
- c. utilization of space and control of spatial use within the province;
- d. the realization of integration, linkage, and balance of development between districts and cities, as well as inter-sectoral harmony;
- e. determination of location and function of space for investment; and
- f. regency/city spatial planning.

The period of the provincial spatial plan is 20 (twenty) years. The provincial spatial plan is reviewed 1 (one) time in every 5 (five) year period. The review of the provincial spatial plan can be carried out more than 1 (one) time in a 5 (five) year period if there is a change in the strategic environment in the form of: a. natural disasters stipulated by laws and regulations; b. changes to the state's territorial boundaries stipulated by law; c. changes to regional boundaries stipulated by law; and D. strategic national policy changes.

Provincial spatial plans are stipulated by a Provincial Regulation. Provincial Regulations must be enacted no later than 2 (two) months from the date of obtaining substance approval from the Central Government. In the event that the Provincial Regulation as referred to in paragraph (7) has not been enacted, the Governor shall stipulate the spatial plan for the province no later than 3 (three) months as of the substance approval from the Central Government. In the event that the provincial spatial layout plan as referred to in paragraph (8) has not been determined by the Governor, the provincial regional spatial plan is stipulated by the central government no later than 4 (four) months as of the substance approval from the central government.

c) Preparation of district spatial planning refers to:³⁵

- a. National Spatial Plan and Provincial Spatial Planning;
- b. guidelines and instructions for the implementation of spatial planning; and
- c. regional long-term development plans.

The preparation of the district spatial plan must take into account:

- a. the development of provincial problems and the results of the assessment of the implications of district spatial planning;
- b. efforts to equalize development and economic growth in districts;
- c. alignment of district development aspirations;
- d. environmental carrying capacity and capacity;
- e. regional long-term development plans; and spatial plans for the adjacent districts.

The district spatial plan contains:

- a. objectives, policies, and strategies for spatial planning in the regency area;
- b. the spatial structure plan for the regency area which includes the urban system in its territory related to the rural area and the district area infrastructure network system;
- c. district spatial pattern plan which includes district protected areas and district cultivation areas;
- d. directions for the utilization of district space which contains indications of the main five-year medium-term program; and
- e. provisions for controlling the use of space in the regency area which contain general provisions for zoning, provisions for the suitability of spatial use activities, provisions for incentives and disincentives, as well as directions for sanctions.

³⁵ Pasal 25, 26 UU No 11 tahun 2020

District spatial plans serve as guidelines for:

- a. preparation of regional long-term development plans;
- b. preparation of regional medium-term development plans;
- c. utilization of space and control of space utilization in the district area;
- d. realization of integration, linkage, and balance between sectors; and
- e. determination of the location and function of space for investment.

The district spatial plan becomes the basis for the Suitability of Spatial Utilization Activities and land administration. The term of the district spatial plan is 20 (twenty) years. The district spatial plan is reviewed 1 (one) time in every 5 (five) year period, the review of the district spatial plan can be carried out more than 1 (one) time in a 5 (five) year period if there is a change in the strategic environment in the form of:

- a. natural disasters stipulated by legislation;
- b. changes to the state's territorial boundaries stipulated by law;
- c. changes to regional boundaries stipulated by law; and
- d. strategic national policy changes.

District spatial plans are stipulated by District Regulations and must be determined no later than 2 (two) months after obtaining substance approval from the Central government. In the event that a Regency Regional Regulation has not been enacted, the Regent shall stipulate a regency spatial plan no later than 3 (three) months after obtaining substance approval from the central government. In the event that the district spatial planning plan has not been determined by the Regent, the district spatial planning plan is determined by the central government no later than 4 (four) months after obtaining substance approval from the central government.

E. Closing

a. Conclusion

1. That the spatial planning policy in Indonesia is directed towards the realization of one of the goals of the state, namely general welfare, this can be seen in one of the considerations for the establishment of Law No. 26 of 2007 concerning Spatial Planning that the territorial space of the Unitary State of the Republic of Indonesia, which is an archipelagic state characterized by an archipelago, both as a unitary container covering land space, sea space, and air space, including space within the earth, as well as as a resource, it is necessary to improve its management efforts in a wise, efficient, and effective manner by referring to the rules of spatial planning so that the quality of regional space national security can be maintained for the sake of the realization of general welfare and social justice in accordance with the constitutional basis of the 1945 Constitution of the Republic of Indonesia, the purpose of spatial planning is to create a safe, comfortable, productive, and sustainable national territory space based on the Archipelago and Cultural Vision. National defense

Law No. 11 of 2020 concerning Job Creation says that spatial planning must pay attention to other aspects as stipulated in Article 6 of Law No. 11 of 2020, that spatial planning is carried out by taking into account:

- the physical condition of the territory of the Unitary State of the Republic of Indonesia which is prone to disasters;
- the potential of natural resources, human resources, and artificial resources, economic, social, cultural, political, legal, defense and security and environmental conditions as well as science and

technology as a single unit; and

- geostrategy, geopolitics and geoeconomics.

2. Spatial planning plans are intended to serve as a basis for implementing development, namely the National Spatial Plan as a guideline for the preparation of national long-term development plans, the preparation of the national medium-term development plans, the provincial spatial plans as guidelines for the preparation of regional long-term development plans, preparation of regional medium-term development plans, Regency spatial plans as guidelines for, preparation of regional long-term development plans, preparation of regional medium-term development plans, therefore the national regional spatial plan contains:

- objectives, policies, and strategies for spatial planning of the national territory;
- a plan for the national spatial structure that includes the national urban system related to rural areas within its service area and the main infrastructure network system;
- plans for national territorial spatial patterns covering national protected areas and cultivation areas that have national strategic value;
- determination of national strategic areas
- directions for the use of space which contain indications of the main five-year medium-term program;
- directions for controlling the use of space in the national territory containing indications of directions for the zoning of the national system, directions for the suitability of spatial use activities, directions for incentives and incentives, as well as directions for sanctions.

Likewise, the spatial plans for Provinces and Regencies/Cities contain the same material according to their respective regions.

b. Suggestion

1. Recommendations from this paper that there should be socialization from the central government to local governments in preparing regional spatial plans as well as socialization to the community so that there is an understanding between the central government and local governments and the community, so that spatial planning as the basis for implementing development related to the provision of can run effectively.
2. There must be harmonization between ministries that carry out development, so that in issuing policies they do not deviate from spatial planning.

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