

Factors Influencing the Implementation of Spatial Planning Policy in the Regions (A Case Study in Region III Cirebon)

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ABSTRACT--*The implementation of spatial planning aims to realize a safe, comfortable, productive and sustainable space. However, its implementation in the regions still faces serious challenges as it is shown by various problems reflecting that the quality of our living space is still far from the goals of spatial planning. The issues discussed in this study are how the implementation of regional policies in spatial planning implicates on land use conversion and what factors influencing regional policies in spatial planning. This study applied a non-doctrinal method which is a type of qualitative research. Based on the study conducted in Region III Cirebon, it was revealed that legal uncertainty in regional policies in spatial planning is the cause of land use conversion. Further, the factors influencing regional policies in spatial planning are; 1) structurally, the institutions managing spatial planning are ad hoc and are not independent; 2) substantially, there is no clear legislation in spatial planning; and 3) culturally, the level of community participation in spatial management in the regions is low.*

Keywords: *policy, spatial planning, land use conversion*

I. INTRODUCTION

The implementation of spatial planning aims to realize a safe, comfortable, productive and sustainable space through the realization of harmony between natural and artificial environment, the realization of integrity in utilizing natural and artificial resources with respect to human resources, and the realization of protection of space function and prevention from the negative impacts to the environment due to space utilization. [1] Therefore, spatial planning should pay attention to sustainable development program which includes decisions or choices of various alternative uses of resources to achieve the expected goals. [2] The concept of sustainable development is a concept that promotes a balance between economic, socio-cultural, and environmental aspects. Balance is a key to guarantee sustainability in the utilization of the existing resources. Balance refers to a condition when there is protection of property rights that can maximize community's welfare. As asserted by John Stuart Mill that we must take into account the relationship

between the ruler and the freedom that individuals have in society. [3]

The process towards integrated spatial development needs to be directed, assisted, and accelerated by a holistic planning and calculated carefully as a consequence of regional strategic development that is not fully left to the market mechanism. Basically, planning and controlling spatial plan can be done by applying two principles. The first principle is to recognize and formulate various functions that must be carried out at regional and local levels. The second principle is to determine a national policy framework where various development problems will be solved at the appropriate level or hierarchy, whether at national, regional or local level. [4]

Spatial planning is an activity to formulate and determine the benefits of space and the relationship between these benefits based on activities that need and can be carried out to meet human needs in the future. Thus, spatial planning will produce a spatial plan to provide an overview of space utilization, its operational use and when the plan is carried out. [5]

Law of the Republic of Indonesia No. 23 of 2014 concerning Regional Government describes that region as the unity of legal community has the authority to regulate and manage its region at its own initiative based on the aspirations and interests of the community as long as they do not conflict with the national legal order and public interest. Regional autonomy applies the broadest principle of autonomy, namely formulating regional policies to provide services and to increase participation, initiatives as well as empowerment of the community aimed at improving community's welfare. Therefore, since the enactment of regional autonomy, regional governments have done various efforts to manage and utilize their spatial plans in order to improve community's welfare. [6]

However, in its implementation, the efforts to realize a comfortable, productive and sustainable space still face serious challenges as it is shown by various problems reflecting that the quality of our living space is still far from the goals of spatial planning. Those problems include the increasing frequency and scope of disasters, slum housing environment, traffic jams, floods in rainy season, drought in dry season, and environmental pollution. Spatial planning becomes a crucial issue because developments in an area are always followed by an increasingly built-up area. Population and economic growth on the one hand and limited land on the other make efficient use of space a must. Besides, the increasing frequency of natural disasters asserts on the important role of disaster risk reduction. The Hyogo Framework for Action (HFA) agreed at the 2005 World Conference on Disaster Risk Reduction at Kobe mandates that spatial planning in disaster risk reduction has been widely proposed in spatial planning in both developed and developing countries. [7]

The guideline of spatial management as a reference for development is often set aside and forced when there is a desire to carry out development with the orientation to increase Local Own-Source Revenue. Investment interest in the context of promoting economic growth and local Local Own-Source Revenue is often seen as a basis for changing or revising spatial planning. Hence, the government's role as an executive institution becomes increasingly prominent as it does not consider a broader legal framework that is not just a matter of formal legality. [8]

In this regard, Directorate General of Spatial Planning, Department of Settlements and Regional Infrastructure describes several strategic issues in the implementation of national spatial planning, namely the occurrence of conflicts of interest between sectors, the asynchronous spatial planning with other sector's program, the inconsistency of policies on development control, and the lack of openness. [9] Based on the description, the problems discussed in this study are *first*, how the implementation of regional policies in spatial planning implicates on land use conversion, and *second*, what factors influencing regional policies in spatial planning.

II. METHOD

This study was conducted to analyze the weaknesses of regional policies in spatial planning and its influencing factors. Therefore, this study applied a non-doctrinal research method because law is not only conceptualized

as the principles and rules governing human life in society, but it also includes the institutions and processes that embody the enactment of these rules in community. [10] Further, a qualitative analysis method was employed to examine the condition of natural objects where the researcher is the key instrument. In this study, the data collection techniques were carried out by triangulation, while the data analysis technique was inductive as the results emphasize meaning rather than generalization. [11]

III. RESULTS AND DISCUSSION

A. *The Implementation of Spatial Policies in the Regions*

The authority to manage spatial planning and spatial use has been regulated in Law No. 26 of 2007 concerning Spatial Planning. This regulation was then elaborated in Government Regulation No. 26 of 2008 concerning National Spatial Planning, Government Regulation No. 15 of 2010 concerning Spatial Planning, and Government Regulation No. 68 of 2010 concerning Forms and Procedures for Community Participation in Spatial Planning. Meanwhile, at the level of Province and Regency, spatial planning is regulated in Regional Spatial Plan (RTRW) and Detailed Spatial Plan (RDTR). As regulated in Law No. 26 of 2007 concerning Spatial Planning that spatial planning is carried out with the aim to produce General Spatial Plan and Detailed Spatial Plan. In this case, General Spatial Plan is formulated in the form of Regional Spatial Plan (RTRW), while Detailed Spatial Plan is formulated in the form of Detailed Spatial Plan (RDTR). Therefore, RTRW and RDTR are two integrated policies as they complement each other in which RDTR is an operational tool of RTRW.

Yet, as field research showed that there are a number of regions in Indonesia that have not yet formulated RDTR as operational tool of RTRW. As supported by the Chairperson of the Indonesian Association of Urban and Regional Planner (IAP) that [12] there are only 40 out of 514 Cities/Regencies that have formulated RDTR. Besides, the existing RTRW is still normative so that it has not been used as a basis for licensing. Currently, the strategic issues in spatial planning are: [13] the occurrence of conflict of interest between sectors, the deviation in spatial use, the malfunctioning of spatial planning in an effort to harmonize and integrate various sector plans and programs, the absence of strict allocation of functions in RTRW, and the reticence in placing the interests of sectors and regions within spatial framework. [14]

In fact, the territory of the Republic of Indonesia is a gift of God Almighty to the Indonesian nation with its strategic location and position as an archipelago with its diversity of ecosystems that need to be thankful for, protected and managed to realize national development goals as mandated by the Pancasila.

Nowadays, spatial planning for the development of urban areas is becoming a crucial issue in the regions because, physically, the development of urban areas is always followed by an increasingly built-up area. Population and economic growth on the one hand and limited land on the other make efficient use of space a must. Hence, a series of policies have been adopted in the development of urban areas as residential areas, industries, roads, drinking water networks, public buildings, and green lines which are facilities and infrastructure in spatial development. [15]

Spatial management in the regions is merely seen as a fulfillment of development growth and tends to be oriented towards economic growth targets or development needs of a certain area. This type of spatial management does not consider the purpose of spatial planning and spatial use in accordance with its designation. In fact, conceptually, spatial plan should be a plan designed comprehensively and integratively by analyzing all aspects and factors of urban development in an integrated series in the form of policy descriptions and basic steps coupled with data and maps of spatial use.

The numbers of City/Regency that have not yet formulated RDTR should be a concern of the central government. Unfortunately, in this regional autonomy era, the central government does not have the authority to impose sanctions on regions that have not formulated RDTR. Yet, one of the efforts made by the government is the issuance of Government Regulation No. 24 of 2018 concerning Electronic Integrated Business Licensing Services System. This Government Regulation requires City/Regency to make spatial directives contained in RDTR as prerequisite in granting permits, both location permits and building/housing permits. However, this Government Regulation has not run optimally because there is no sanction for regions that do not have the licensing mechanism. Likewise, the Agrarian Reform program also requires regional governments to review their RTRW and RDTR policies. Yet, in its implementation, they still face various problems.

Region III Cirebon is a former area of the Cirebon Residency which includes five (5) Regencies and one (1)

City, namely Cirebon Regency, Indramayu Regency, Majalengka Regency, Kuningan Regency and Cirebon City, known as Ciayumajakuning. This area is a new and large economic force in West Java after Bandung Raya. To optimize development in this region, each regency and city must synergize its own potential. In 2028, the region is projected as a center of prestigious economic growth. Thus, in 2028, Ciayumajakuning will be a giant magnet of economy, not only at the national level, but also at the Southeast Asia. [16]

The National Activity Center (PKN) is an urban area functioning to serve international, national or provincial scale activities. In the context of Ciayumajakuning, Cirebon City functions as the National Activity Center (PKN), in addition to being the center of growth in the eastern of West Java and the Central Area of Ciayumajakuning. There are three regions in West Java functioned as PKN, namely Bandung, Bogor, and Cirebon. Of the three regions, Cirebon has the potential to be developed because the area is not too crowded and the layout can still be managed. In addition to its abundant natural potential (fisheries, agriculture, plantations, trade, services, oil and gas), Cirebon also has a strategic geographical position (access to Jakarta and Bandung and access to Semarang and Yogyakarta). Further, in terms of its topography, Cirebon and Indramayu are coastal areas, and Majalengka and Kuningan are mountain areas. Thus, it is not surprising if Ciayumajakuning is used as a location for infrastructure development, especially transportation either land, sea or air transportation. [17]

In agricultural sector, Indramayu Regency and Cirebon Regency are one of the national rice barns. Besides, Majalengka Regency, Cirebon Regency, and Indramayu Regency have *gedong gincu* mango as their superior product that has been exported abroad. Further, the service and manufacturing industries, such as batik, rattan, processed food, and trade, are concentrated in Cirebon City and Cirebon Regency. Meanwhile, ball exported to Europe and South Africa is the main commodity of Majalengka Regency. On the contrary, Indramayu Regency is an oil and gas producer managed by PT Pertamina.

In tourism sector, Kuningan Regency with its forest around Ciremai Mountain is the mainstay of Ciayumajakuning. Likewise, Cirebon Regency and Cirebon City present cultural as well as religious tourism with the presence of three Palaces and Sunan Gunung Jati tomb. Besides, there is a supporting infrastructure which is the access in Ciayumajakuning. The Jakarta-Cirebon-Semarang toll road will accelerate traffic from Central

Java to DKI Jakarta. Further, railroad transportation routes from Jakarta to Cirebon as well as routes from and to Cirebon are available almost every hour. Therefore, the position of Ciayumajakuning is very strategic as a crossing area.

Cirebon has Kuningan Regency which has a very large potential of water. Water from Kuningan Regency is used by a number of residents, including in Cirebon Regency and Cirebon City. To manage this water resource, a regional drinking water management system will be implemented. If all the potential is managed optimally, Cirebon can be used as the center of government in West Java. Therefore, efforts to prevent land use conversion in Region III Cirebon must be realized because land use conversion can cause various impacts, such as the urban area becomes dirty and the planology of building constraints is hard to implement.

A number of City/Regency has not yet formulated RDTR due to an unclear obligation for regional government in spatial planning sector. This issue has become a national issue as its implication is very vulnerable to land use conversion. This issue is also highlighted by the Central Government through the Ministry of Agrarian Affairs and Spatial Planning arguing that there is no harmony in spatial management in West Java so that the Central Government asks the Government of West Java Province and all Regencies/Cities in West Java to be more careful in compiling spatial plan as it requires commitment and consistency of the whole development sectors. This is intended to realize harmonization of the partial development program with the Regional Medium-Term Development Plan by synchronizing the spatial use program and its control instruments. Spatial planning is not only intended to build a beautiful city or region in Indonesia, but also to prevent environmental damage and natural disasters. [18] As reported by the Agriculture Census in 2013 that Indonesia lost 0.25 hectares of agricultural land that are converted for non-agricultural purposes in every minute. If these 0.25 hectares of the converted land are managed by a farmer household, then due to land use conversion, there is a household losing its source of life in every minute.

B. Factors Influencing Regional Policies in Spatial Planning

a. Factors of Legal Structure

Factors of legal structure refer to institutions, apparatus, facilities and infrastructure. In terms of apparatus, it will relate to the human factor as policy maker, to the extent to which the apparatus feels bound to the existing regulations, to the extent to which the synchronization of the assignments given to the apparatus so that they

can carry out their authority appropriately, to the extent to which the capability, integrity and commitment of the apparatus, to the extent to which the apparatus are permitted to make discretion in order to make appropriate and contextual decisions, and to the examples that the apparatus should show to the public so that they can be trusted. According to Van Doorn, [15] there are several factors that also work in an apparatus as a human being, namely personality, social origin, economic interests, political beliefs, and views of life.

Next, facilities and infrastructure factors relate to the availability of supporting resources helping the policy making process. There are a number of issues concerning facilities and infrastructure factors, namely; whether the facilities and infrastructure needed are available, whether the facilities available (equipment, finance, etc.) are still adequate and can still be used, whether the existing facilities have been used effectively, and what facilities needed to support the policy making process.

Spatial planning is the authority of the National Spatial Planning Coordinating Board (BKPRN) and the Regional Spatial Planning Coordinating Board (BKPRD) established based on Presidential Decree No. 4 of 2009. The National Spatial Planning Coordinating Board is a non-structural institution that is under and is responsible to the President. In the regions, the Provincial BKPRD and the Regency/City BKPRD are formed based on the Regulation of the Minister of Home Affairs No. 116 of 2017.

Yet, the Spatial Planning Coordinating Board, which is also a law enforcement agency of spatial plan, is *ad hoc* so that its implementation does not run effectively. The authority of law enforcement agencies, such as BKPR, is ideally regulated by Law so that they will be free from the influence of government power in carrying out their duties and responsibilities. Law cannot run if there are no law enforcement officials who are credible, competent and independent. Thus, a good legislation without good law enforcement officials will not be able to realize justice.

b. Factors of Legal Substance

Factors of legal substance relate to the applicable legislations which have binding power

and become guidelines for law enforcement officials. Thus, the legal substance in spatial planning policies in the regions essentially covers all legislations relating to spatial management and spatial planning in the regions, namely Law No. 26 of 2007 concerning Spatial Planning. This Law is used as a guideline for regions in formulating their spatial plans as stipulated in Regional Regulations. Yet, this Law has a weakness, namely there is no provision requiring regions to formulate their spatial plans in the form of Regional Spatial Plan (RTRW) and Detailed Spatial Plan (RDTR). RDTR is an operational tool of RTRW.

Concerning regional authority, it is regulated in Article 26 of Law No. 26 of 2007 stating that Regency/City spatial planning consists of: a) goals, policy, and strategy of regency spatial planning; b) arrangement of space structure on regency areas consisting of urban system in its region which relates to rural areas and facilitation network system on regional area; c) regency spatial pattern consisting of conservatory and cultivation area; d) determination of regency strategic area; e) direction for space utilization on regency area which contains directions on main program in an intermediate term of 5 (five) years; and f) provisions for controlling the spatial utilization on regency area which contains zoning regulation, directions on permits, incentives and disincentive, and direction on sactions.

This Article creates an ambiguity in spatial planning policies in the regions as it does not explicitly require the regions to immediately formulate RTRW and RDTR. As result, RDTR was not immediately formulated by Regional Government as a complement to RTRW. In fact, a clear regulation can function as the rule of the game uniting steps intersubjectively. According to Palumbo, "legislative policy ambiguity is a prime cause to implementation failure." Therefore, it can be concluded that the weakness of the formulation order will result in a weak implementation of policies. [17]

c. Factors of Legal Culture

Friedman formulates legal culture as attitudes and values having a relationship with

law and legal system. [19] Therefore, legal culture is the overall factors determining how the legal system has a logical place within the cultural framework of the community.

The community in Region III Cirebon, like the Indonesian people in general, still recognizes the existence of customary law. According to Hilman, people who respect customary law are usually open-minded and simple, meaning that they can accept elements coming from outside as long as the elements are not contradictory, uncomplicated, unwritten and easy to understand. [20] Hence, the community will just follow the government policy, including in terms of spatial management. The exclusion of the community in the process of formulating spatial planning policies has caused the community to be apathetic towards the implications of spatial policies, including land use conversion.

IV. CONCLUSION

1. Spatial planning policies in the regions face various issues due to an unclear regulation leading to legal uncertainty in its implementation. Law No. 26 of 2007 do not explicitly require the regions to formulate Detailed Spatial Plan (RDTR) as operational tool of Regional Spatial Plan (RTRW). As result, there are many development permits which are not in accordance with spatial pattern causing land use conversion.
2. Factors influencing the implementation of spatial policy in the region are; *structurally*, the institutions managing spatial planning are *ad hoc* and are concurrently held by the Regional Secretary who is an official under the Regional Head so that it often causes conflicts of interest; *substantially*, Law No. 26 of 2007 concerning Spatial Planning as a guideline in designing spatial plan in the regions does not provide clarity; and *culturally*, the level of community participation in spatial management in the regions is still very low.

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