

PAPER NAME

Spatial Planning Policy in the Region Problems and Solutions.pdf

AUTHOR

Haris Budiman

WORD COUNT

3609 Words

CHARACTER COUNT

20341 Characters

PAGE COUNT

6 Pages

FILE SIZE

240.2KB

SUBMISSION DATE

Nov 8, 2023 2:36 PM GMT+7

REPORT DATE

Nov 8, 2023 2:36 PM GMT+7

● 24% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

- 24% Internet database

● Excluded from Similarity Report

- Publications database
- Crossref Posted Content database
- Bibliographic material
- Cited material
- Manually excluded sources
- Crossref database
- Submitted Works database
- Quoted material
- Small Matches (Less than 8 words)
- Manually excluded text blocks

Spatial Planning Policy In The Region: Problems And Solutions

Haris Budiman¹, Bias Lintang Dialog², Dikha Anugrah³

^{1,2,3} Universitas Kuningan, Kuningan - Indonesia

E-mail: haris.budiman@uniku.ac.id

Abstract- *Spatial planning policies in the regions must be designed in Regional Spatial Plan (RTRW) and Detailed Spatial Plan (RDTR). In its implementation, the majority of regions in Indonesia only formulate RTRW, and do not elaborate it in RDTR, as spatial planning policy is seen as to achieve the target of economic growth. The policy then leads to the rise of a variety of spatial problems in the regions. Hence, this study aims to analyze the problems faced by the regional government in the implementation of spatial planning policy as well as to propose the solutions that can be made to handle the problems. This study applied an empirical juridical research method with a socio-legal approach. The results revealed that spatial planning policies in the regions are compiled in Regional Regulation on RTRW which is still oriented towards economic growth so that its implementation is vulnerable for violations and land-use conversion. The solutions that can be made to handle this problem are, substantially, to renew the legislation on Spatial Planning, structurally, to strengthen the spatial coordinating institutions, and, culturally, to increase community participation and local wisdom so that Spatial Planning can contribute to the improvement of community welfare.*

Keywords- *Problems; Spatial Planning Policy; Solutions.*

I. INTRODUCTION

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia notes the land, the waters and the natural resources therein shall be under the powers of the State and shall be used to the greatest benefit of the people. This article implies that the task to manage natural resources is fully given to the State to be used to the greatest benefit of the people. Yet, to ensure that the management runs properly, there needs to be a plan for natural resources management, including a plan for space utilization. Therefore, the issuance of Law Number 26 of 2007 concerning Spatial Planning is a form of government responsibility in managing natural resources to the greatest benefit of the people. [1] The issuance of

this Law aims to reduce the impacts of improper spatial use as it can cause various natural disasters. The number of natural disasters occurred shows the important role of disaster risk reduction as agreed at the 13th World Disaster Risk Reduction Conference in Bali in 2007, which was attended by 189 countries, that spatial planning can reduce disaster risk. This concept is widely proposed in spatial planning practices both in developed countries and in developing countries. [2]

Therefore, spatial planning should pay attention to the process of sustainable development which includes decisions or choices of various alternative uses of resources to achieve the expected goals. [3] The existence of sustainable development and environmental-based development concepts as a goal in environmental management shows that both concepts are part of the concepts of environmental management that must be considered in formulating spatial planning. Basically, there are 6 (six) environmental legal instruments that can be used in realizing environmental management based on sustainable development, namely environmental quality standards, environmental management licensing mechanisms, analysis of environmental impacts, environmental audits in environmental management, and enforcement of administrative sanctions in environmental management. [4]

Sustainable development continues to develop into the Millennium Development Goals declared on September 2000. [5] The 6 (six) benchmarks of Sustainable Development, according to Otto Soemarwotto, are pro-environment, pro-poor people, pro-gender equality, pro-employment creation, pro-the Unitary of the Republic of Indonesia, and must be anti-corruption, collusion and nepotism. [6] Sustainable development goals (SDGs) is a concept designed to realize community welfare without damaging environmental sustainability. The purpose of

development, which is to create a just and prosperous society, is our duty. [7] In this context, Law on spatial planning has determined the objectives of spatial planning, namely creating a safe, comfortable, productive, and sustainable space based on national insight and national resilience.

However, based on the preliminary research that the authors have done, spatial planning and management in Kuningan District merely aims at meeting development growth and tends to be oriented towards efforts to achieve the target of economic growth. This type of spatial planning and management will less consider the purpose of spatial planning and the proper spatial use. As a result, it tends to potentially lead to land-use conversion. [8] 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 an economic orientation. Investment as an effort of increasing economic growth and local- own source revenue is often seen as the basis for changing or revising a spatial planing which is then used as a justification for investment activities. Hence, the role of the government as an executive institution has become increasingly prominent, ignoring a broader legal framework that is not just a matter of formal legality. [9]

To this day, Kuningan District has not yet formulated a Detailed Spatial Plan (RDTR) which is an elaboration of the Regional Spatial Plan (RTRW). The requirement to formulate RDTR is clearly stated in Article 14 of Law Number 26 of 2007 concerning Spatial Planning that spatial planning is carried out to produce a general spatial plan and a detailed spatial plan. Yet, this phenomenon does not only occur in Kuningan District. As the result of the research conducted by the Ministry of Agrarian Affairs and Spatial Planning and Indonesian Association of Planners (IAP) revealed that out of 514 districts/cities in Indonesia, there are only 40 districts/cities that have formulated RDTR. [10]

The impact of this phenomenon is that spatial problems, both in Kuningan District and other areas, are increasingly difficult to overcome, especially in the current era of regional autonomy where the regions have the authority to manage their own households, including their spatial planning and management. The inconsistency of spatial planning

also occurs due to the existence of certain groups, certain communities, social systems, positions, and roles ignoring the values of public interests. [11] Spatial problems can become more crucial when there is an increasing requirement of land for development activities, a decreasing area of protected areas and water catchment areas as well as watersheds, and a non-functioning spatial planning to harmonize and integrate various spatial planning programs. [12]

II. PROBLEMS

Based on the description, the problems discussed in this study are, *first*, what problems of spatial planning policy in Kuningan District are, and *second*, what solutions that can be made to implement a safe, comfortable, productive, and sustainable spatial planning policy are.

III. RESEARCH METHOD

This qualitative study aims at analyzing the problems of spatial planning policy in Kuningan District. Hence, this study applied an empirical juridical research method [13] as this study identified the condition of natural objects where the researcher acts as the key instrument. The data were then collected through triangulation. Meanwhile, the data analysis technique is inductive as the results of qualitative study emphasize more on meaning than generalization.

IV. DISCUSSION

Problems of Spatial Planning Policy in Kuningan District

Spatial planning policy in Kuningan District is based on Regional Regulation No.26 of 2011 concerning Regional Spatial Plan (RTRW). The process of formulating this Regional Regulation has been based on Law Number 26 of 2007 concerning Spatial Planning and Government Regulation Number 27 of 2008 concerning National Spatial Plan. It means that, substantially, this Regional Regulation on RTRW was formulated following the procedure and mechanism for the formation of legislation as regulated in Law Number 12 of 2011 concerning Formation of Legislation in

Indonesia. Yet, problems arised when Kuningan District did not immediately formulate a Detailed Spatial Plan as regulated in Article 14 of Law Number 26 of 2007 stating that spatial planning is carried out to produce a general spatial plan and a detailed spatial plan. In fact, these general spatial plan and detailed spatial plan are needed in the implementation of spatial planning in the regions. [14]

This is the initial spatial problem occurred in Kuningan District and possibly in other regions in Indonesia. The most fundamental problem in spatial planning is the occurrence of land-use conversion. Land-use conversion has increasingly occurred when investors have high interest in building business centers, development areas, and housing. The construction of highways connecting Cirebon to Jakarta and Semarang makes Kuningan District a very strategic residential area due to its natural condition which is under the Ciremai Mountain. According to the data obtained from Kuningan District Public Works and Spatial Planning Office, currently, there are 24 Development Companies that are investing in building housing in Kuningan District.

This condition is also highlighted by the Central Government through the Ministry of Agrarian Affairs and Spatial Planning as there was no harmony in regional spatial plan in West Java. Hence, the Central Government asked the Government of West Java Province and all Districts/Cities in West Java to be more careful in formulating a spatial planning as it requires commitment and consistency of all development sectors. This is intended to realize a harmony between the spatial development program and the Regional Medium-Term Development Plan by synchronizing the spatial use program and its control instruments. The main objective of spatial planning is not only to create a comfortable city to live in, but also to avoid environmental damage and the danger of natural disasters. [15]

Referring to the Legal System theory proposed by Lawrence Friedman, there are three main problems faced by the government of Kuningan District in managing spatial planning, namely the problem of legal substance, legal structure, and legal culture. [16] First, substantially, spatial problems are closely related to legislation on spatial planning. In the hierarchy of legislation,

the implementation of spatial planning in Kuningan District is based on Regional Regulation on RTRW which is formulated following the mechanism for the formation of legislation as regulated in Law Number 12 of 2011. Yet, there is a legal vacuum because Law on Spatial Planning and Government Regulation on National Spatial Plan do not explicitly require regional governments to elaborate RTRW into RDTR. As a result, there are many regions in Indonesia, including Kuningan District, which did not formulate yet a Detailed Spatial Plan (RDTR).

Basically, the government has tried to overcome this phenomenon by issuing Government Regulation Number 24 of 2018 regarding Electronic Integrated Business Licensing Services which requires regions to have RDTR as a condition for granting location permits or development permits. Yet, in practice, the implementation of this Government Regulations does not run optimally, especially due to its position which is under the Law.

Second, structurally, spatial problems are related to spatial coordinating institutions. Institutions regulating spatial planning are the National Spatial Planning Coordinating Board (BKPRN) and the Regional Spatial Planning Coordinating Board (BKPRD) established based on Presidential Decree Number 4 of 2009 and Regulation of the Minister of Home Affairs Number 116 of 2017. BKPRN is located in the capital city, while BKPRD is located in the Province and District. Both of these institutions are *ad hoc* and led by the Regional Secretary who is responsible to the Regional Head. Hence, this board becomes less functional in resolving spatial problems in the regions as the focus of the policy is on the Regional Head. In the world of bureaucracy, it is not possible for the Regional Secretary to disagree with the Regional Head. This is the main problem why BKPRD does not work effectively.

In addition to the nature of BKPRD which is *ad hoc*, the institutions implementing spatial planning in each region also differ. This issue is closely related to the policy made by the government when issuing Law Number 23 of 2014 concerning Regional Government that revoked Law Number 32 of 2004. Law Number 23 of 2014 classifies spatial planning as a sub-function of Department of Public Works and Spatial Planning

(PUPR). One of the tasks that is a part of sub-spatial planning is the formulation of RTRW. After the issuance of the new Regional Regulation, the institutions having the responsibility to formulate RTRW became diverse in each region. Indeed, this condition affected the apparatus implementing spatial planning. The quality and competence of the apparatus determine whether or not the legislation on spatial planning is running. Therefore, the quality of the apparatus implementing spatial planning has now become a concern of the government. [17]

Third, culturally, spatial problems in Kuningan District are related to the legal culture as the attitudes and values relating to the law and the legal system embraced by the people concerned. The community of Kuningan District as well as the general community in Indonesia still recognize the existence of customary law. Customary Law is a law that applies in a certain community. Therefore, the characteristics of the community of Kuningan District does not understand that environmental preservation efforts are cost burdens that can reduce profits. The simple living conditions of the community of Kuningan District, due to their incapacity and limited access to the resources they have, have led to the birth of a negative legal culture. Even though the implementation of RTRW aims to realize community welfare, but, in practice, it does not have a big impact on the community concerned. This has then become one of the factors causing the community to be apathetic to the government's efforts to stop land-use conversion. [18]

Solutions to Spatial Problems in the Region

Basically, there are various efforts that can be done to shift the orientation of spatial planning policy in Kuningan District. So far, the orientation of spatial planning policy in Kuningan District tends to focus on economic aspect which has led to violations on land-use conversion. The utilization of space to develop residential areas should not be in conflict with RTRW. Conversely, it should pay more attention to the policies to maintain agricultural land, especially technical irrigated rice fields as Green Open Space (RTH). This has been clearly regulated in Regulation of the Minister of Home Affairs Number 1 of 2007 concerning Spatial Planning for Green Open Space in Urban Areas. Hence, agricultural, plantation, and tourism areas in

Kuningan District should be dominant with Green Open Space.

In implementing policies, Regional Government must be committed to what is stated in the Regional Spatial Plan (RTRW). This is in line with the mandate of the Central Government as stated in Government Regulation Number 24 of 2018 concerning Electronic Integrated Business Licensing Services that requires regions to have RDTR as a condition for granting location permits or development permits. Therefore, Regional Government that has not yet formulated an RDTR, according to this Government Regulation, is given 6 (six) months to immediately formulate a Detailed Spatial Plan (RDTR) as a complement to the Regional Spatial Plan (RTRW).

If economic aspect becomes the demand of the regional government to increase its local own-source revenue (PAD), then efforts to increase PAD from tourism sector can be done in various ways without changing the allotment of land. Some of the ways that can be done include, *first*, providing infrastructure and supporting services to promote tourist attractions, *second*, exploring new tourist attractions and creating tourism zones, and *third*, making policies in the form of regulations regarding the preservation of historical heritage and the promotion of tourist attractions as well as business partnership with the surrounding community. Thus, in detail, the solutions that can be offered to handle spatial problems are:

- a. Substantially, the government should immediately reconstruct Law Number 26 of 2007 concerning Spatial Planning which is no longer in line with the development and condition of the community, especially relating to the requirement for regional government to formulate a Detailed Spatial Plan (RDTR) and to make BKPRN and BKPRD permanent institutions that are free from executive power. Thus, it can be a basis for the regions, including Kuningan District, in carrying out renewal of regional regulation on spatial planning by integrating RTRW and RDTR in an integrated spatial planning policy.
- b. Structurally, it is necessary to conduct training for government officials or apparatus, especially for those who will formulate and carry out spatial planning policies, so that they have professional

competencies and qualifications as well as understand the purpose of establishing a spatial planning policy which is not only to create a safe, comfortable, and sustainable spatial plan, but also to make an RTRW as a social engineering tool in creating a sense of justice in the community. Besides, the existing facilities and infrastructures should support the implementation of RTRW. This relates to the mechanism and standard operational procedures (SOP) in the field of licensing involving Regional Work Units (SKPD).

- c. Culturally, the regional government of Kuningan District should invite the community to jointly formulate a spatial planning policy as community participation has also been regulated in Law on Spatial Planning. Community participation that will be the target of RTRW is expected to function in response to RTRW as an applicable rule in an effort to increase community welfare and values of justice.

V. CONCLUSION

1. Substantially, spatial problems in Kuningan District occurred due to a legal vacuum in Law Number 26 of 2007 concerning Spatial Planning that does not require regions to formulate a Detailed Spatial Plan (RDTR) so that spatial planning policy is not regulated in a Detailed Spatial Plan. Structurally, the Regional Spatial Planning Coordinating Board (BKPRD) as the spatial coordinating institution does not carry out its functions optimally due to the lack of skills possessed by the apparatus in developing and implementing spatial planning policies. Culturally, spatial issues in Kuningan District are influenced by the low level of community participation in formulating and overseeing spatial planning policies.
2. The solutions that can be offered to handle spatial problems in the implementation of spatial planning policies are, *first*, to renew Regional Regulation on spatial planning that integrates RTRW and RDTR into a regional policy, *second*, to increase the competency and qualifications of the government apparatus that will formulate and

implement the spatial planning policies, and, *third*, to increase the community role and participation as they are the targets of spatial planning policy.

VI. SUGGESTIONS

1. The Government should formulate legislation on spatial planning that provides legal clarity and certainty for its implementation in the regions so that it can be used as a guideline for Regional Governments in formulating Regional Spatial Plan (RTRW) and Detailed Spatial Plan (RDTR).
2. The government should increase the authority and role of the Spatial Planning Coordinating Board (BKPR) so that it can be independent in carrying out its duties to create a comfortable, productive, and sustainable space that can contribute to the improvement of community welfare.

REFERENCES

- [1] J. Muhar "Penegakan Hukum Dalam Rangka Penataan Ruang Guna Mewujudkan Pembangunan Berkelanjutan", *Jurnal Penelitian Hukum De Jure*, Vol. 17, No. 4, Dec., pp. 373-390, 2017
- [2] S. Jaka and N. Irmadi, "Kajian Spasial Evaluasi Rencana Tata Ruang Berbasis Kebencanaan Di Kabupaten Kudus Provinsi Jawa Tengah", *Majalah Ilmiah Globe*, Vol. 18 No. 1, Apr., pp. 33-42, 2016.
- [3] D. P. Choerunisa, DN, *Development of Methodology to Evaluate TOD Feasibility in Built up Environment (Case Study Jakarta and Bandung, Indonesia)*, IOP Conference Series: Earth and Environmental Science, 2018
- [4] S. Akhmaddhian, "The Effectiveness of Kuningan Government Policy in Water Conservation", *Jurnal Dinamika Hukum*, Vol. 17, No. 3, Sep, pp. 204-224, 2017
- [5] T. Wiliam, "General Yurisprudence, Understanding Law from a Global Perspective : Is Law Important? Law and The Millinium Development Goals ", *Cambridge University Press.*, pp. 348-349, 2009

- [6] Badan Penelitian dan Pengembangan Kementerian Hukum dan HAM RI, et.al, *Aplikasi Analisis Dampak HAM Mendukung Pembangunan Berkelanjutan di Provinsi Kalimantan Selatan*, Bandung: PT. Alumni, Bandung.
- [7] M. Anis, *Mengembangkan Fungsi Sosial Hak Cipta Indonesia (Suatu Studi pada Karya Cipta Buku)*, Solo: UNS Press, pp. 16-17, 2016
- [8] B. Haris, "Factors Influencing the Implementation of Spatial Planning Policy in the Regions (A Case Study in Region III Cirebon", In Proc. ICLEH (International Conference On Law, Economics, And Health)' 02, 2020.
- [9] W, Esmi, *Pranata Hukum Sebuah Telaah Sosiologis*, Semarang: Badan Penerbit Universitas Diponegoro, Semarang, 2011
- [10] D. Bernardus, *Ikatan Ahli Perencanaan Indonesia (IAP)*, Berita Satu, 2018
- [11] R. Lazarus, "Analisis Pengaruh Penataan Ruang Terhadap Kinerja Pembangunan Wilayah Di Kabupaten Waropen Papua Indonesia", *Jurnal Presipitasi*, Vol. 14 No. 1., Mar., pp. 37-40, 2017
- [12] D. Ginting, "Reformasi Hukum Tanah Dalam Rangka Perlindungan Hak Atas Tanah Perorangan dan Penanaman Modal Agrobisnis", *Jurnal Hukum Ius Qula Iustum*, Vol 18 No. 1, Jan., pp. 63-82, 2011
- [13] Sugiyono, *Memahami Penelitian Kualitatif*, Bandung: Alfabeta., 2008
- [14] Retriani WD Lani, "The Control Of Land Use And Utilization in Kupang Regency Through The Law Formation", *Jurnal Dinamika Hukum*, Vol. 17 No. 1, Jan, pp. 68-74, 2017
- [15] J. Ahmad, "Penegakan Hukum Penataan Ruang Dalam Rangka Mewujudkan Pembangunan Berkelanjutan", *Jurnal Rechtsvinding*, Vol. 6, No. 2, Agustus, pp. 271-289, 2017
- [16] M Friedman, Lawrence, *American Law*, London: W.W. Norton & Company, 1984, Terjemahan Wishnu Basuki, Jakarta: Tata Nusa Indonesia, 2001
- [17] Maladi Y, "Kajian Hukum Kritis Alih Fungsi lahan Hutan Berorientasi Kapitalis", *Jurnal Dinamika Hukum*, Vol. 13. No. 1 Jan., pp. 110-121, 2013
- [18] Rahayu DP, "Pengawasan Preventif Sebagai Kontrol Pusat Terhadap Daerah Di Era Reformasi", *Jurnal Padjadjaran Ilmu Hukum*, Vol. 2, No. 3., pp. 444-461, 2015

● **24% Overall Similarity**

Top sources found in the following databases:

- 24% Internet database

TOP SOURCES

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	jurnal.unissula.ac.id Internet	8%
2	iaeme.com Internet	4%
3	envirobiotechjournals.com Internet	3%
4	eprints.uad.ac.id Internet	3%
5	repository.ubaya.ac.id Internet	<1%
6	ejournal.upnjatim.ac.id Internet	<1%
7	iiste.org Internet	<1%
8	dinamikahukum.fh.unsoed.ac.id Internet	<1%
9	journals.usm.ac.id Internet	<1%

10	ejournal.unib.ac.id Internet	<1%
11	books.openedition.org Internet	<1%
12	ejournal.undip.ac.id Internet	<1%
13	ijmmu.com Internet	<1%
14	journal.uinsgd.ac.id Internet	<1%
15	jurnal.fh.unila.ac.id Internet	<1%
16	doaj.org Internet	<1%
17	ebin.pub Internet	<1%
18	mcser.org Internet	<1%

● Excluded from Similarity Report

- Publications database
- Crossref Posted Content database
- Bibliographic material
- Cited material
- Manually excluded sources
- Crossref database
- Submitted Works database
- Quoted material
- Small Matches (Less than 8 words)
- Manually excluded text blocks

EXCLUDED SOURCES

atlantis-press.com

Internet

78%

download.atlantis-press.com

Internet

12%

researchgate.net

Internet

8%

EXCLUDED TEXT BLOCKS

development, which is to create a just andprosperous society, is our duty. [7] In thi...

www.atlantis-press.com