

LAW OF SPACE: FROM THE ECONOMIC ORIENTATION TO THE JUSTICE WELFARE

(Study of Regional Policy in Spatial Planning)

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ABSTRACT

Spatial planning policy in the region was initially seen as limited to meet the growth of development and oriented to efforts to achieve the target of economic growth. Such spatial planning policy does not take into consideration the purpose of the arrangement and use of space in accordance with its designation. The problems studied are how the development of spatial law in a regional policy, as well as what efforts can be done to change the orientation of spatial policy towards a just welfare. The research method used was non-doctrinal with socio-legal approach. The result of the study explains the control of spatial use in the region is set forth in the form of Local Regulation, at the level of policy implementation violation of land conversion. The implications of the violation of land use change have juridical consequences, but law enforcement efforts against spatial violations have not been done optimally. Therefore, it is necessary to reconstruct regional policies in the spatial plan which are prepared comprehensively and integrated by analyzing all aspects and basic development factors with data and spatial maps, so that this policy besides giving welfare, also presenting the values of justice.

Keywords: *Spatial Planning, Regional Policy*

INTRODUCTION

Spatial planning is a crucial issue today. Physically, the development in an area is always followed by an increasingly widespread of built area. Population growth and economic activity on one side, and limited land on the other side, lead to efficient use of space to be an unavoidable demand. The occurrence of natural disasters repeatedly encourages the increasingly important role of disaster risk reduction. The Hyogo Framework for Action (HFA) agreed at the World Disaster Risk Reduction Conference in Kobe in 2005 mandated spatial planning in disaster risk reduction has been widely proposed in planning practice in both developed and developing countries. ¹

Therefore spatial planning should pay attention to sustainable development processes that include decisions or options for alternative uses of resources to achieve the intended objectives². The concept of sustainable development is a development that puts a balance between economic, socio-cultural and environmental aspects. Balance becomes important to ensure sustainability in the utilization of available resources. It means that the balance covers a sense of protection of property rights that can maximize the welfare of the community. John Stuart Mill has a view by considering the interconnectedness and connectedness between rulers with the freedom that individuals possess in society. ³

In fact, spatial planning in Kuningan District is still seen only limited to meet the growth of development and tend to be oriented to efforts to achieve the target of economic growth, or to meet the needs of

the development of a certain region that can not be avoided. The orientation of such spatial planning is less considers the purpose of the arrangement and use of space in accordance with its designation. Implementation of spatial policy tends to violate land conversion⁴. Spatial management guidelines as a benchmark for development are ruled out and forced when there is a desire to implement development with an orientation to increase the Original Revenue. Investment interest in order to boost economic growth and regional income is often seen as a basis for revising or revising the customized spatial plan as a justification for investment activities. The role of government as an executive institution is becoming increasingly prominent, not looking at the broader framework of legal order that is not just a matter of formal legality.⁵

This condition is reminded by the Director General of Spatial Planning of the Department of Settlement and Regional Infrastructure which presents several strategic issues in the implementation of the national spatial layout of the conflict of interests between sectors, the synchronization of spatial arrangement with other sector programs, the occurrence of spatial use deviations, policy inconsistencies on development control, the lack of openness, and the lack of restraint from the desire to defend their own interests⁶

Problem Statement

Based on the description above, then the problems that become the focus of the study in this research is first, how the implementation of local policy in Kuningan District in the spatial plan, second, how efforts can be made to change the orientation of regional policy in spatial to the just welfare

Research Methods

This research was conducted to analyze the policy of spatial planning in Kuningan Regency, therefore the method used in this research was non-doctrinal research method. This was because in this study the law is not only conceptualized as the whole principles and rules that govern human life in society, but includes also institutions and processes that realize the implementation of those rules in society⁷. The type of research used is qualitative analysis method, to examine the condition of natural object, where the researcher was as the key instrument, data collection technique was done by triangulation (combination) data analysis was inductive and result from qualitative research more emphasize the meaning than generalization.⁸

Discussion

Implementation of Spatial Policy in Kuningan Regency

Spatial policy in Kuningan District is regulated in Regional Regulation Number 26 Year 2011 on Spatial Planning (RTRW) Kuningan 2011-2031. Article 79 of this regulation stipulates that no later than one year

4 Bandingkan dengan hasil penelitian yang dilakukan oleh Abdul Wahid, *Identifikasi Penyimpangan Tata Ruang Wilayah Provinsi Sulawesi Selatan*, Jurnal SMARTek, Vol. 7 No. 2, Mei 2009, hlm 108

5 Esmi Warassih, *Pranata Hukum Sebuah Telaah Sosiologis*, (Badan Penerbit Universitas Diponegoro, Semarang, 2011) hlm 111-112

6 Dirjen Penataan Ruang Departemen Pemukiman dan Prasarana Wilayah, *Makalah Pengembangan Wilayah dan Penataan Ruang di Indonesia, Tinjauan Teoritis dan Praktis*.

7 Soetandyo Wignjosoebroto, *Silabus metode penelitian Hukum*, Program Pascasarjana Universitas Airlangga, Surabaya, hlm 1-3

8 Sugiyono, *Memahami Penelitian Kualitatif*, (Bandung, Alfabeta, 2008), hlm 119

after the issuance of this RTRW Kuningan District shall have a Regional Regulation on Spatial Detail Plan (RDTR) which is the operational plan of the RTRW. However, until now RDTR that has been formulated has not been determined to be a regional regulation. This condition allows many policies made by the Regional Government not guided by RTRW⁹. It is seen that there are factors influencing both personal and social that attempt to influence the policy of Local Government in implementing its spatial plan.

Several patterns of land use change that can be identified in Kuningan District are the conversion of agricultural land into housing and industry in Cilimus Subdistrict, Kadugede Sub-District and Ciawigebang Sub-district. Data obtained from the Office of Spatial and Cipta Karya of Kuningan District¹⁰ shows there are 11 (eleven) housing developers who were investing in the vicinity of Cilimus, as the table below:

No	De- veloper	Location	Building	Land Wide	Date Set
1	PT CPP	Sampora Cilimus Village	Peruma- han Panorama Bukit Halimpu	3.762 m ²	2 March 2011
2	PT DI	Bandora- sa Wetan Cilimus Village	Peruma- han Griya Wisa- ta Kuningan	30.000 m ²	2 August 2011
3	PT SP	Karang- muncang Cilimus Village	Peruma- han Graha Mas	4.009 m ²	22 Septem- ber 2011
4	Ir. WS	Caracas Cilimus Village	Peru- mahan Caracas Mountain View	33.400 m ²	26 April 2011
5	DE, SE	Bandora- sa Wetan Cilimus Village	Peruma- han Panorama Bandorasa	18.218 m ²	30 June 2011
6	PT DI	Desa Ban- dorasa Wetan Ci- limus	Peruma- han Griya Wisa- ta Kuningan	30.000 m ²	9 October 2012
7	PT DI	Desa Ban- dorasa Wetan Ci- limus	Peruma- han Griya Wisa- ta Kuningan	30.500 m ²	4 March 2013

8	CV GBA	D e s a Nanggela Mandi- rancan	Peruma- han Era Griya Sae	11.800 m2	27 May 2013
9	JJ	Desa Ran- dobawailir man- dirancan	Peruma- han Dangdeur Village	1.380 m2	13 March 2014
10	PT CGH	Desa Ca- racas Cilimus	Peruma- han Graha Peso- na Caracas	6.319 m2	30 April 2014
11	PT GA	D e s a Sampora Cilimus	P e r u - mahan Grage Manoa Estate	46.122 m2	26 Novem- ber 2014

Source: Department of Spatial Planning and Cipta Karya of Kuningan Regency

The above conditions have caused Kuningan to experience the loss of irrigated agricultural land, so that in the last three years wetland area shrinks 262 hectares or from 29,078 hectares to 28,816 hectares¹¹. The pattern of land use change that occurred in Kuningan District follows the theory of land rent as proposed by Barlowe that green open land will be increasingly pressured by the wake of an economically generated higher value region¹². This can be seen from the desire of Regional Leaders (Regent) to spur the increase in PAD Kuningan District is still low. In 2013, PAD Kuningan District only reached Rp 120 billion, while the district budget of Kuningan reached more than 1.2 trillion. This means that the contribution of PAD to APBD (regional Budget) is still very low. Therefore, the DPRD (Regional People's Representative Assembly) targets the Regent to continue increasing the PAD, and in 2016, PAD Kuningan is targeted to reach Rp 200 billion.¹³

The potential that can be relied upon by Kuningan District in increasing the PAD of course comes from the tax revenue and levy area. Therefore, this potential is done by the Local Government to continue to be improved. Its utilizing does not follow RDTR in a Regional Regulation so that it does not have formal legality. According to Thomas R Dye¹⁴, policy can not be public policy if it is not formulated, legalized and implemented by government agencies. Riant Nugroho describes how the policies made can be implemented or do not depend on available resources and pay attention to the principles of good government that is transparency, accountability, fair and responsible.¹⁵

It is also highlighted by the Central Government through the Ministry of Agrarian and Spatial Planning¹⁶ which sees no alignment in spatial and regional arrangements in West Java, so the Central Government requested that the Provincial Government of West Java and all districts/cities in West Java to be more thorough in arranging spatial plan, required commitment and consistency of all development sectors. This is intended to realize the harmonization of a partial development program with the Medium Term Development Plan of the Region through the synchronization of the space utilization program and its control instruments. The main

purpose of spatial planning is not only intended to create a city or region in Indonesia does not grow chaotic and unpleasant in the eyes of the eye but also avoid the occurrence of environmental damage and the danger of the threat of natural disasters.¹⁷

As a district with a very abundant tourism potential¹⁸, the local government does not have to sacrifice the designated spatial just because of its economic orientation. Tourism management professionally will provide more revenue for the region without having to sacrifice the spatial.

Efforts towards a spatial policy that provides justice values

There are several efforts that can be done to change the orientation of spatial policy in areas that have been leaning on the economic aspects that turned out to have resulted in violations of land conversion functions. The use of space to develop human settlements should not violate the RTRW, but pay attention to the policy to maintain agricultural land, especially technical irrigated rice fields as Green Open Space (RTH) as stated in the Minister of Home Affairs Regulation No. 1 of 2007 on Spatial Green Open Space Setting, urban area of Cilimus District as tourism development center of Kuningan District should be dominant with Green Open Space so that will synergize with development of city function as supporting of tourism.

The local government in implementing the policy should have a commitment to what is stipulated in the spatial plan, because as Andersen says that public policy is a policy developed by government agencies and officials. The important objectives of the policy are to maintain public order, to launch the development of society in various activities and their allocations and to share various materials or allocations.¹⁹

If the economic aspect becomes the demands of the local government's duty to improve the welfare, then the effort to increase the PAD from the tourism sector can be done by²⁰: first, providing infrastructure and services of supporting services and services, promotion of Object of Tourism Destination, second, digging new tourist objects and create tourism zones; and thirdly, establish policies in the form of regulations on fostering the preservation of historical heritage and promotion of tourism objects as well as business partnerships with communities surrounding tourist areas. These three steps are a solution to increase PAD without having to sacrifice the predefined RTRW. Further steps of the local government of Kuningan District in the implementation of RTRW oriented on the values of justice can be done by:

- a. Reconstruct local regulations in spatial planning, by integrating RTRW and RDTR in a policy package in spatial planning.
- b. Officers or government apparatuses that implement the rule of law must have the faith, honest and understand the purpose of making RTRW as a social engineering tool in creating a sense of justice in the community.
- c. Existing facilities and infrastructure should support the implementation of RTRW policy, this is related to the mechanism and standard operational procedure (SOP) in the field of licensing involving among the Regional Device Work Unit (SKPD).

17 Bandingkan hasil penelitian yang dilakukan oleh Siti Aminah, *Konflik dan Kontestasi Penataan Ruang Kota Surabaya*, Jurnal Sosiologi MASYARAKAT, Vol. 2 No. 1, Januari 2005, hlm 61

18 Hasil wawancara dengan Kepala Dinas Pariwisata dan Kebudayaan Kabupaten Kuningan, tanggal 19 Mei 2015

19 Tachjan, 2006, *Implementasi Kebijakan Publik*, AIPI, Bandung hlm 15

20 Simpulan dari wawancara dengan Kepala Dinas Pariwisata dan Kebudayaan Kabupaten Kuningan pada tanggal 19 Mei 2015

- d. There is participation and participation of citizens who are subject to RTRW policy, so that it will act in response to the RTRW policy as a function of the applicable rules, let alone that policy can help create a sense of justice.

CONCLUSION

1. Implementation of spatial policy in Kuningan District is influenced by economic factors in the form of efforts to increase local revenues so that land transfers that have caused environmental damage that have implications for the decline in the welfare of the community.
2. Efforts that can be done by the Regional Government of Kuningan District in implementing the spatial policy that provides the values of justice is by reconstructing local regulations in the spatial plan, which sets the RTRW and RDTR is an integral part, Officers applying the law must understand the purpose of an equitable RTRW, the existing facilities should support the implementation of spatial policies, especially those related to licensing mechanisms, and there is an active role of the communities targeted by the regulation.

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