



Flood Disaster: Control and Utilization of Space after the Enactment of the Job Creation Law

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Abstract: The arrangement of Green Open Space is an area in the form of paths and groupings to its broader benefits; the pathway contains plants that grow naturally or are naturally grown directly. The Spatial Planning Law states that 30% of urban areas must have green areas, with 20% for public space and 10% for private. This study aims to determine the utilization and control of space after the enactment of Law No. 6/2023 on Job Creation in the Jember Regency, especially in urban areas. This research is normative juridical, meaning that it is carried out by examining various kinds of formal legal rules, such as laws, literature, and theoretical concepts, which are then related to the problems that are the subject of discussion. The approaches used in this research are the statute approach (legislative approach) and conceptual approach (concept approach / expert opinion). The study results explain that Law No. 26 of 2007 concerning Spatial Planning provisions regarding the content, guidelines, and procedures for preparing provincial and district/city spatial plans are regulated in Ministerial regulations. Still, in Law No. 6/2023 Job Creation, there are renewed provisions regarding the content, guidelines, and procedures for preparing provincial and

district/city spatial plans regulated in Government Regulations. Based on this description, local government efforts to overcome floods can use several regulatory provisions in the Job Creation Law.

Keywords: Local Government, Space Utilization, Flooding

Introduction

Flooding occurs almost every year in Indonesia, and it has always been the number one disaster in the last 10 years. Many claim that flooding in Indonesia is caused by spatial abuse ([Alfiansyah, 2021](#); [Isan & Rosando, 2022](#); [Wijaya et al., 2022](#)). Therefore, cultivation in Indonesia must be guided by the RTRW, which refers to Spatial Law No. 26 of 2007 (Spatial Law) in its preparation.

According to the law, regional planning is a system of regional planning processes, land use, and regional use control, which aims to create a safe, comfortable, productive, and sustainable national and regional space: (1) achieving harmony between the natural environment and the built environment; (2) achieving integration in the utilization of natural and artificial resources attention is given to human resources; and (3) implementing the protection of space activities and preventing adverse environmental impacts for space—

rapid population growth and the dynamics of changing human behavior and so on. In a sense, its needs require a deal that successfully balances the result.

According to the target, the arrangement changes are also necessary due to the background ([Dinh et al., 2021](#); [Erena & Worku, 2018](#); [Luo et al., 2016](#); [Omar & Kamarudin, 2019](#)). Spatial boundaries on earth, unlimited human activities, which satisfy non-human needs such as animals and plants such as space and the need for foresight in the context of disasters ([Deka et al., 2018](#); [Rahmayati et al., 2017](#); [Rosinger, 2018](#); [Saha et al., 2021](#)). (Positive Fictive Mechanisms, Spatial Arrangements, and the Relationship between Center: Regions in the Framework of Job Creation Law: Offering Policy Recommendations, 2020)

The National Disaster Management Agency (BNPB) noted that throughout 2022, there have been 3,432 incidents, 1,524 of which were flood disasters (BNPB, 2022). Floods occur in almost all parts of Indonesia. Even some areas that used to be not flood-prone in 2022 experienced significant floods, such as what happened in East Java Province, especially Jember Regency, where floods hit five sub-districts and six villages. BNPB data states that the flood disaster has caused several residents to be displaced; six people were missing, four people were injured, 455 people were affected, 124 houses were damaged, and five cars were swept away by the flood ([Adikari et al., 2010](#); [Amoako & Frimpong Boamah, 2020](#); [Sall et al., 2020](#)). This is related to spatial planning laws, so flooding should not occur. Flooding occurs when rainwater storage space is reduced or no longer exists so rivers can no longer absorb stormwater and flood various areas, such as campus areas, that should not be flooded ([Adegun, 2023](#); [Ghosh, 2020](#)).

Considering the purpose of regional planning, it can be seen that the occurrence of floods in different regions is caused by the disharmony between the natural environment and the built environment, so the protection of regional functions and the prevention of negative impacts can be ensured that environmental pollution with space use is not realized ([Petrova, 2022](#); [Rustinsyah et al., 2021](#); [Ullberg, 2017](#); [Williams et al., 2018](#)). The growing number and activities of the population and the limited land area affect the cultivation dynamics. Competition for land leads to land use change, a typical urban phenomenon ([Attems et al., 2020](#); [Bendor et al., 2020](#); [Forrest et al., 2020](#); [Haraguchi & Lall, 2015](#)). The problem with this is that changes often deviate from approved local plans and have negative impacts ([Asim et al., 2021](#); [Okoko, 2022](#); [Osman et al., 2023](#); [Rosya et al., 2021](#); [Shimi et al., 2010](#)). Factors affecting implementation discrepancies/inconsistencies with local plans are pressure from market developments, unclear control mechanisms, and weak police. Regional deviations are also influenced by the community's low knowledge of regional planning and the lack of socialization of regional planning. Based on these facts, it can be understood that regional planning violations are caused by:

1. possible conflicts between regions,
2. possible conflicts between industries, and
3. possible conflicts between the government and the community.

Methods

This type of research is empirical juridical, meaning that this research is legal research on the enactment or implementation of normative legal provisions directly on each specific legal event that occurs in society, literature like theoretical concepts which are then connected to the problems that are the subject of discussion. The approaches used in this research are the statute approach (legislative approach) and conceptual approach (concept approach/expert opinion). Data processing techniques are used in this writing, examining primary data interviews with the spatial planning office, secondary data from laws and regulations, and literature books.

Result and Discussion

One indicator of successful regional planning is green open space (RTH) availability in residential areas as part of environmental compensation. Law No. 26/2007 on Regional Planning requires urban areas to provide public green open space of 20 percent of the metropolitan area. Jember Regency currently only has 2.57 percent public open space. In addition to public green space, the government should encourage the provision of private green space (on public and private land) at 10% of the city area. Private Green Open Space (RTH) areas in Jember District include residential and office yards, shops, and commercial spaces. The aim is to ensure private green space through requirements as part of the building permit process. In Indonesia, area utilization means area planning laws, which must be by the area functions set out in the area plan. The aim is to create harmony between the natural and built environment, to integrate the use of natural and artificial resources while respecting human resources, and to protect the operation of space to prevent harmful environmental impacts from using space. Since Indonesia is a disaster-prone country, the Spatial Planning Law also includes regulating land use control through zoning regulations, licensing, incentives and disincentives, and sanctions.

The political alignment utilizes each space based on zoning guidelines set by the government and local governments. In turn, its use must be approved by the state and local governments within their powers. If the use of the area is not by the regional plan or the use permit is granted, sanctions will be imposed. The sanctions vary from written warnings, temporary suspension of operational activities, closure of operational activities, revocation of licenses, revocation of permits, demolition of buildings, and recovery of property to

administrative sanctions. These are detailed in Government Regulation No. 15 Year 2010 on implementing Regional Planning. Local governments (provincial and district/city) can control spatial utilization in their areas (Omnibuslaw and Spatial Planning: Conception, Implementation and Problems in Indonesia, 2021).

The government recently drafted and passed the Job Creation Law, which has impacted several sectors in Indonesia, including the spatial industry. This prompted the government to issue Government Regulation Number 21 of the Year 2021 on the Implementation of Regional Planning as mandated by the provisions of the Job Creation Law. The Job Creation Law partially amends the contents of the Spatial Planning Law, the Coastal Zone and Small Islands Management Law, and the Marine Law. In other words, the Job Creation Law becomes the legal basis for implementing spatial planning at the national level. It is known that spatial planning was previously regulated in the Spatial Planning Law Number 26 of 2007. (Strengthening the Implementation of Spatial Utilization Control After Issuing the Job Creation Law, 2021).

With the enactment of the Job Creation Law Number 11 of 2020, some of what was previously regulated will automatically change in the Spatial Planning Law Number 26 of 2007. The following are some of the changes contained in Laws related to spatial planning; a more detailed explanation of spatial planning as referred to in article 21 of Law No. 26 of 2007 concerning spatial planning is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency No. 21 of 2021 concerning the implementation of spatial utilization control and supervision of spatial planning explained in articles 2 and 3.

Article 2

- (1) The RTR controls Space Utilization to encourage the realization of Tata Space.
- (2) Control of Space Utilization, as referred to in paragraph (1), shall be implemented to encourage every person to:
 - a. comply with the RTR that has been determined;
 - b. utilizing space by the RTR, and
 - c. comply with the provisions stipulated in the KKPR requirements (suitability of space utilization activities)
- (3) Control of Space Utilization, as referred to in paragraph (1), is carried out through:
 - a. assessment of the implementation of KKPR and Self-Declaration of MSEs;
 - b. assessment of the realization of the RTR;
 - c. provision of Incentives and Disincentives;
 - d. imposition of Administrative Sanctions; and
 - e. settlement of Spatial Planning Disputes.

Article 3

Spatial Planning Supervision is organized to:

- a. ensure the achievement of the objectives of the Spatial Planning Implementation;
- b. ensure the implementation of law enforcement in Spatial Planning, and
- c. improve the quality of Spatial Planning Implementation.

(1) The detailed spatial plan, referred to in Article 14 paragraph (3) letter a, is regulated by presidential regulation.

(2) Provisions regarding content, guidelines, and procedures for preparing detailed spatial planning space, as referred to in paragraph (1), shall be regulated by Ministerial regulation.

Regarding the contents of PP No. 21 of 2021 concerning the implementation of spatial planning, it generally regulates various regulations related to spatial planning, such as:

1. Spatial planning, which regulates provisions regarding the creation and establishment of general spatial plans and detailed spatial plans.
2. Utilization that regulates the application of spatial functions and synchronization of spatial programs.
3. Land use control regulates the feasibility assessment of land use initiatives, the assessment of spatial plans and designs, the provision of incentives and disincentives, the imposition of sanctions, and the settlement of disputes over spatial plans.
4. Spatial planning supervision, including assessment monitoring and reporting, aims to maintain the adequacy of spatial planning implementation by laws and regulations by the state, local government, and community.
5. Spatial Planning Guidelines regulate the form and procedure for preparing spatial plans jointly conducted by the state, local governments, and municipalities.
6. Regional planning advice also includes provisions for developing a regional planning profession to help improve the quality and efficiency of regional planning implementation.
7. The spatial planning institution regulates the form, duties, membership, and working procedures of the spatial planning deliberation.

Article 21 of Law 26 of 2007 on spatial planning:

- (1) The detailed spatial plan, referred to in Article 14 paragraph (3) letter a, is regulated by presidential regulation.
- (2) Provisions regarding the content, guidelines, and procedures for preparing detailed spatial plans, as referred to in paragraph (1), shall be regulated by Ministerial regulation.

Ministerial regulation no. 21 of 2021 concerning the IMPLEMENTATION OF USE CONTROL SPACE AND SPACE PENATAAN OVERSIGHT article 1 point 19 reads that Space Utilization is an effort to realize the Spatial Structure and Spatial Pattern by the RTR through the preparation and implementation of programs and their financing. Point 20, Control of Space Utilization, is an effort to realize orderly Spatial Planning.

The government considers the Job Creation Law and PP No 21 of 2021 a strategic step to resolve investment and job creation issues partly caused by overlapping regional planning agreements. This mandate is also issued to facilitate investment by implementing strategic spatial utilization. The spatial planning process has been considered complex and complicated, so enacting this law can solve existing problems and provide comfort in the investment environment. This aligns with the wishes of Wahyu Utomo, Coordinator of Regional Development and Regional Planning of the Coordinating Ministry for Economic Affairs. Hukumonline argues that maximizing the regional planning sector to support economic activities is essential, especially applying land use activities for business licenses. More technical guidelines related to spatial planning affairs are further elaborated in Government Regulation 21 of 2021 concerning the Implementation of Spatial Planning, which replaces Government Regulation 15 of 2010. Furthermore, the regulation becomes the basis of technical guidelines for implementing spatial planning in the regions, which is a derivative of laws and rules from the Job Creation Law and Government Regulation Number 21 of 2021.

Work copyright law No. 21 of 2021 article 20, paragraph 2 point 6 regarding the National Spatial Plan is stipulated by Government Regulation RI no. 21 of 2021 concerning the implementation of spatial planning. As referred to in article 4 of PP RI no 21 of 2021 concerning the implementation of spatial planning, this Government Regulation regulates Spatial Planning, which includes:

- a. Spatial Planning;
- b. Space Utilization;
- c. Control of Space Utilization;
- d. Spatial Planning Supervision;
- e. Spatial Planning Development; and
- f. institutionalization of Spatial Planning.

Conclusion

The government considers the Job Creation Law and PP No 21 of 2021 a strategic step to resolve investment and job creation issues partly caused by overlapping regional planning agreements. This mandate is also issued to facilitate investment by implementing

strategic spatial utilization. The spatial planning process has been considered complex and complicated, so enacting this law can resolve existing problems and provide comfort in the investment environment. This aligns with the wishes of Wahyu Utomo, Coordinator of Regional Development and Regional Planning of the Coordinating Ministry for Economic Affairs. Hukumonline believes it is essential to maximize the regional planning sector to support economic activities, especially the application of land use activities for business licenses.

In PP Number 21 of 2021, it is stated that the implementation of spatial planning is intended to integrate various interests across sectors, regions, and stakeholders, which are manifested in the preparation of Spatial Plans, integration between spatial structures and spatial patterns, harmony between human life and the environment, realization of a balance of growth and development between regions, and the creation of conditions for laws and regulations in the field of spatial planning that support the investment climate and ease of doing business.

Reporting from Kontan, the Director General of Spatial Planning, Abdul Kamarzuki, stated that spatial planning is an essential prerequisite for business guidelines and companies that will be established. In the Job Creation Law, the basic requirements for investment and business licensing include the suitability of space utilization activities and environmental and building approval.

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