



Legal instruments in the spatial planning sector as a spatial utilization control tool

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ABSTRACT

Spatial utilization control, as an integral part of spatial utilization process, is an important element which have its function to maintain the order of spatial utilization, in accordance to planning direction. In the spatial utilization control action, instruments as a mechanism tools is a requirement, specifically related to law. The two is (spatial utilization) permit and sanctions. Permit and sanctions are closely related to spatial utilization enforcement, as a final mechanism of prosecution of spatial planning violations. To imposing a sanctions to the violators of spatial planning, legal instrument of spatial planning is a vital instrument. Its key functions is to analyze and to imposing a legal actions to spatial planning violator.

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1. INTRODUCTION

The process of spatial planning, as a strategic part of the development of the Indonesian state, in its progress requires corridors that can direct it in a direction that is in accordance with the direction of the country's development as a whole. The Republic of Indonesia, in the context of development in the spatial field, in accordance with the principles of the rule of law that it adheres to, will automatically have consequences in the enactment of rules as emphasized in the Republic of Indonesia's constitution (1945 Constitution). Article 1 Paragraph (3) of the constitution of the Republic of Indonesia clearly stipulates: that in administering government, every state administrator is obliged to base his actions on law. This principle is also adhered to in the process of achieving the state's vision, which is contained in the opening of the state constitution. Correlation with the context of this article (Dadang Solihin, 2021). In relation to law enforcement in the field of spatial planning, or more specifically in the field of spatial use, there are several regulations that cannot be abandoned, one of which is important regarding regional autonomy policies (Noor, 2017; Primanto, 2020; Sumirat, 2019), in which matters related to spatial planning (including matters related to control of spatial use as an integral part of spatial planning implementation activities, both of which are inseparable elements). Regional Autonomy (Idn: otonomi daerah/otda) itself, regulated in Law Number 23 of 2004 of Regional Autonomy Law/Reg. Autonomy Law (Idn: Undang-Undang Nomor 23 Tahun 2004 tentang Otonomi Daerah), namely Article 9 of the Reg. Autonomy Law Paragraph (1), Article 9 paragraph (3) and Article 9 paragraph (4) of the Reg. Autonomy Law (Tjandra, 2021).

The articles that are further correlated are regarding concurrent state administration, divided into two main points: matters of state/government administration that must be carried out and optional/optional state administration/government affairs, as explained in Article 11 Paragraph (1) of the Reg. Autonomy Act; then in Paragraph (2) it is explained about matters of mandatory state administration which are divided into two: matters of state administration related to fulfilling the basic needs of the community and matters of administration not related to meeting the basic needs of society. The context of this paper is matters related to public works and spatial planning (Amrullah, 2022), when referring to Paragraph (1) Point c in Article 12 of the Reg. Autonomy Law, it is included in matters of mandatory state administration related to meeting the basic needs of the community, as referred to in Article 11 of the Reg. Autonomy Law.

The embodiment of good spatial planning, also requires a firm and clear law enforcement, to keep the spatial planning's objectives on track. It is this basis of thought that underlies the need for firm action in the handling of spatial planning violations. Strict oversight of this spatial plan, seems explicitly to be one of the crucial and fundamental elements in overseeing the implementation of the spatial plan, because due to the existence of a good spatial planning implementation, it must also be balanced with a control system that is as good as planning (Setiawan, 2019), in order to avoid the spatial development process being deviated from being in line with the direction as planned in various related formal legal regulations. In 2020, matters related to spatial planning (spatial) in Indonesia, apart from being based on Law Number 26 of 2007 of Spatial Planning/SP Law (Idn: Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang) and regulations derived from it, and are also placed in Law Number 11 of 2020 of Job Creation/JC Act (Idn: Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja), along with the enactment of Job Creation Law in 2020. Then because of JC Act in 2022 is declared null and void by the Constitutional Court of Indonesia, then the Government of the Republic of Indonesia issued a Government Regulation in Lieu of Law Number 2 of 2022 of Job Creation/Govt. Reg. iLoL JC (Idn: Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja). For the consequences, some matters related to Spatial Planning, are also placed in Government Regulation in Lieu of Law Number 2 of 2022 of Job Creation/Govt. Reg. iLoL of JC.

The spatial planning implementation system as stated in the SP Law, which was partly revised to be in accordance with the JC Law and later based on the Govt. Reg. iLoL of JC, contains an explanation that in the process of spatial planning activities, there are four (4) mechanisms: regulation, guidance, implementation and supervision (commonly abbreviated with the term "turbinlakwas", Idn: pengaturan, pembinaan, pelaksanaan, pengawasan). Then, in line with the increasing number of spatial planning products that have become legal products (Regional Regulation, Idn: Perda). For its operationalization then, there is a mechanism to control spatial use in these regional regulations, with a function as a regulator of the direction of the implementation of Regional Regulations of Spatial Planning (Idn: Perda RTRW) (A. Sulaiman, 2018). Spatial use control activities are thus mandatory in relation to the implementation of the spatial plan. The main function of spatial control, in principle, there are two things, first is the curative function, namely to improve a room condition that is not good and is in an existing condition (already exists); the second is the preventive function, namely to prevent development processes that are not in accordance with the plan (Spatial Planning Regulation). Both of them basically have the same goal, to direct the spatial development process in accordance with the established path (Herlina, 2017).

In accordance with the Spatial Planning Law jo. Govt. Reg. iLoL of JC, spatial use control instruments consist of permits, Zoning Regulations (ZR), sanctions, and incentives and disincentives. ZR, can easily be explained as a form of arrangement to direct the spatial development process in accordance with predetermined blocks. General Provisions Chapter Number 6, Explanatory Section in the Spatial Law states: zoning regulations, namely instruments that contain rules regarding provisions that must be obeyed in the process of using space; the contents also include spatial control rules, the arrangement of which applies to each designated space/block zone, while the zone itself is determined in accordance with the detailed spatial plan (Idn: Rencana Detail Tata Ruang/RDTR). As for licensing, are certain regulations that allow or do not allow an activity in a certain space, whether or not it is permissible can be known from the issuance or non-issuance of a permit issued by the authorities. According to the Spatial Planning

Law, the Elucidation section, Chapter General Provisions Number 7, it is explained that the permit for space use has the intention of carrying out steps to control space use, so that it has the following consequences: Spatial Plan becomes a mandatory reference for conformity for every activity that utilizes space. Activities to utilize this space are regulated and issued permits by the Central and Regional Governments, with the authority they each have. Then Government Regulation Number 21 of 2021 of Implementation of Spatial Planning (Govt. Reg. 21/2021) Article 163, which contains an understanding of incentives and disincentives. Article 163 Govt. Reg. 21/2021, states that there are incentives and disincentives given, which have the intention of being an effort to: a). make spatial control efforts effective, as part of the realization of Spatial Planning that is in line with the Spatial Plan; b) as a step to facilitate Spatial Utilization activities so that they are in line with the Spatial Plan direction; c). in order to create increased partnerships between all Spatial Utilization stakeholders (Asyiah, 2018).

Control measures, in practice there is of course the potential to deviate from the implementation of the agreed plan (Spatial Plan) at a significant level. As a control measure, stricter steps are needed than 'merely' disincentive measures. So, if there is an activity that utilizes space without conformity/not based on the provisions of the RTR, whether with a permit or not, action will be taken in the form of sanctions in the form of criminal sanctions, administrative sanctions in the form of confinement, and/or fines.

The function of the sanction is as a tool for law enforcement against space utilization activities where there is no conformity in the Spatial Plan and ZR. Sanctions, in brief, can be explained as a measure to control space users whose actions are inconsistent with the Spatial Plan. According to the Spatial Planning Law jo. Govt. Reg. 21/2021, sanctions in the field of spatial planning will be applied to each legal subject who is a proven perpetrator of a proven violation of spatial use.

The processes of implementing the Spatial Plan itself, in its development, show indications of violations of spatial use, with the accommodation of certain interests, which in many cases can be categorized as a flagrant foul. For cases of this category, alternative actions are law enforcement activities (Lanang & Perbawa, 2021) in Article 60 jo. Article 69 of the Spatial Planning Law jo. Govt. Reg. iLoL of JC Article 17 Point 32. Nevertheless, law enforcement in indications of spatial planning violations is carried out by adhering to the *ultimum remedium* principle. This principle is adhered to because it is closely related to the provisions in Articles 62 and 63 of the Spatial Planning Law Article 62 jo. Govt. Reg. iLoL of JC Article 17 Point 30 and Point 32, namely administrative sanctions imposed on space users who commit violations. That is, as long as there are other enforcement efforts that can be carried out, then that effort will be put forward first.

Correlation with the implementation of spatial planning, on the other hand there are also indications of violations of spatial use which show the rise of various cases of neglect towards indications of violations of spatial use. In fact, there have been cases where violations of the use of space have been legalized by changing the existing spatial plans (Adlansyah & Amir, 2021; Hutahaean, 2015; Mahardika, 2016; Subekti, 2020). The result is a bad precedent for the implementation of spatial planning as well as the potential for turmoil/conflict between the community versus the government and/or the community versus the community.

There are indications of cases that describe how space users use space in a way that is not in accordance with the Spatial Plan.

2. RESEARCH METHOD

This research uses a type of qualitative approach related to the urgency of law enforcement in the field of spatial planning, which is carried out with sanctions, which can be carried out using tools in the form of relevant legal regulatory instruments. Qualitative research is a research procedure that produces descriptive data in the form of scientific articles and laws that are in accordance with the research discussion (Sugiyono, 2017). Qualitative research has a starting point from phenomenology or social phenomena which is based on internal reality and truth is the result of agreement, which is in accordance with social and historical conditions.(Setyaningsih, 2016). This article is based on Law Number 26 of 2007 of Spatial Planning, Articles 61 to 67 which regulate administrative sanctions for violators of spatial utilization, and Articles 69 to 74, which regulate

criminal sanctions for violators of spatial utilization, juncto Government Regulation in Lieu of Law Number 2 of 2022 of Job Creation.

3. RESULTS AND DISCUSSIONS

Legal Instruments in the Process of Spatial Utilization Control

a. According to Spatial Planning Law 26/2007 jo. Govt. Reg. iLoL of Job Creation 2/2022 and Govt. Reg. 21/2021

As referred to in Article 147 Govt. Reg 21/2021, what is meant by control is controlling the use of space, which is carried out in order to realize a spatial layout that is in line with the Spatial Plan. The control process begins before the Spatial Plan is implemented, the method is by injecting indicators of achievement of results into the Spatial Plan.

Next is the crucial step, namely how to control space utilization when the spatial plan is implemented. When the plan is implemented, that's when the indicators injected into the Spatial Plan start working. The results of the 'assessment' of the various indicators in the Spatial Plan are the parameters of the ideal criteria for realizing good and sustainable spatial use, as mandated in the Spatial Plan. A well-implemented Spatial Plan, of course, has a bit of a bad 'assessment' of the indicators in the spatial arrangement plan (Putra et al., 2021), and vice versa, a plan that is detected to be implemented poorly, will get a 'red report' from the indicators in the spatial plan that covers it. The consequence is a badly implemented plan (Hariyanto, 2020; Wibawa, 2019), can be directly proportional to the number of violations of the Spatial Plan, which in the constitutional context at the same time has legal weight, because it is a legal rule, which by its coercive nature can result in certain sanctions for the violator of the use of space (Fitria et al., 2020; Muhajir, 2017; Ridwan & Achmad Sodik, 2023). In accordance with the principle of *ultimum remedium* which is adhered to in spatial use activities (Alotia, 2020), it is this legal sanction that is to be avoided as much as possible, and prioritizing other approaches.

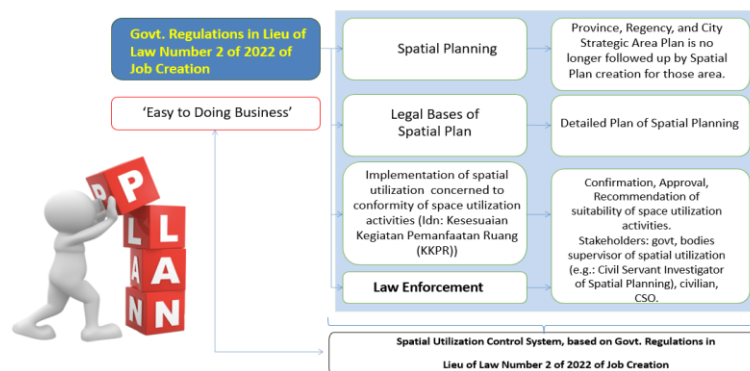


Figure 1. Spatial Utilization Control Mechanism.

Source: primary source, modified.

Next is Article 61 Spatial Law jo. Govt. Reg. iLoL of JC Article 17 number 29 which outlines if in the use of space, it is mandatory for everyone (Van Ness et al., 2022): (a) Obey the Spatial Plan that has been set, (b) Utilization of space is in line with the directions in the Spatial Plan, (c) The regulations listed in the spatial suitability requirements must be complied when the plan is implemented by the space users; and, (d) Access is mandatory in zones designated as common property (public property) by law.

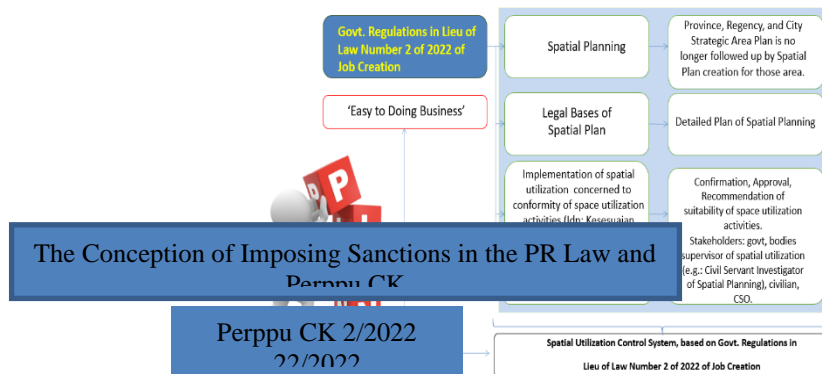


Figure 2. The spatial untulization control mechanism based on Government Regulation in Lieu of Law Number 2 of 2022 of Job Creation. (Source: Petrus Natalivan Indradjati, modification as needed)

The impact is that people who do not comply with the provisions on the use of space, which means they do not carry out their obligations in using space, can be subject to sanctions as contained in the Spatial Planning Law Article 62 jo. Govt. Reg. iLoL of Job Creation Article 17 point 29 Point d. Regarding cases of non-compliance according to these articles, the action to control space utilization that can be carried out is the imposition of administrative sanctions (Abdullah, 2018; Fitri & Hidayah, 2021). The form of the imposition of administrative sanctions is contained in Article 195, PP Number 21 of 2021, the form of which is: (a) Written warning given, (b) Imposition of administrative fines, (c) Activities are stopped for a certain time (temporarily), (d) Not getting public services (general) for a while, (e) Location is closed, (f) Revocation of statement of conformity to Spatial Use Activities, (g) Cancellation of the statement of conformity to the Spatial Use Activity, (h) The demolition of the construction was carried out, (i) Rehabilitation of the use area is carried out.

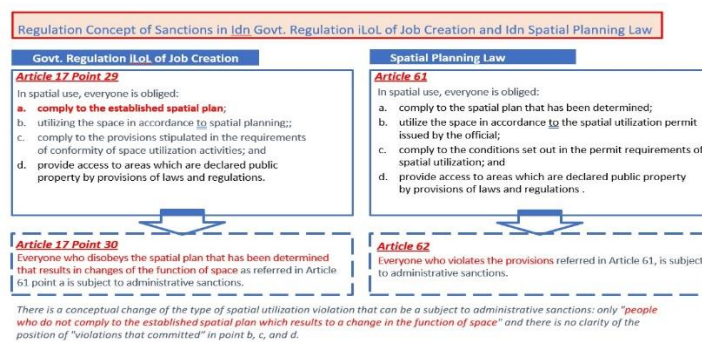


Figure 3. The concept of setting sanctions in the PR Law and Perppu CK (Source: primary data, modified)

Spatial Utilization Control

Spatial Utilization Control: Understanding, spatial use control (SUC), in a simple way can be understood as: an act of supervision and control over the implementation of the Spatial Plan. So, the ideal role of controlling the use of space is as a tool of Spatial Plan, so that the use of space in the field is in accordance with the plan. Another meaning of SUC, namely efforts to carry out certain actions as contained in the relevant rules, with the aim that the use of space (including the use of land (Arba & SH, 2022; Habibah et al., 2019), water use, air use and the use of various other natural resources) in cultivation areas, protected areas, rural areas and also urban areas, can

be realized as written in the spatial plan (East Java Province Government, 2022). With the existence of spatial use control measures, it is possible to identify irregularities in the Spatial Plan, which at the same time avoid potential deviations from the spatial use plan, as stated by Ibrahim (1988:27).

Supervision, supervision, for convenience can be explained as specific efforts with the aim of maintaining the consistency of spatial use with plans. Thus, spatial monitoring activities are not just an act of observing the allotment of space (Fauzan, 2016; S. Sulaiman & Rahayu, 2018), but to see whether the utilization is in accordance with the plan (Spatial Plan). Supervision of shaped space:

Reporting, namely the provision of information, which is done objectively. The intended reporting is regarding the conditions of space utilization, which are compatible or especially those that are not compatible with the Spatial Plan. Monitoring, namely the mechanism for observing indications of changes in the quality of space, whether the implementation of the Spatial Plan tends to be in accordance with the plan or not. Monitoring is carried out with three steps of 'wasmatrik' (observation, supervision, inspection). Spatial monitoring should ideally be carried out routinely by the Regency/City/Provincial Government, one of which can be done by utilizing reports from the public. Evaluation, in the form of efforts to assess the progress of spatial utilization activities holistically. Evaluation is carried out after reporting and monitoring activities have been carried out. The core purpose of the evaluation is an assessment of the overall progress of space utilization activities. Evaluation should be carried out continuously.

Controlling

The definition of control is a specific effort for space users who do not comply with the plan. Against indications of violations of spatial use, enforcement actions will be carried out directly or vice versa. If done directly, the mechanism is through law enforcement (Sunarso & SH, 2023). Controlling indirect utilization is carried out by imposing disincentives on violations of space utilization. Disincentives are carried out in several ways, including the imposition of progressive fees, and other methods through restrictive measures on access to basic environmental infrastructure and facilities.

The terminology of policing, with its strategic role in the context of how space is controlled, is not defined in detail in the Spatial Planning Law or Govt. Reg. 21/2021. The explanation for the act of controlling the use of space, is as referred to in Article 39 of the Spatial Planning Law, namely: "The imposition of sanctions referred to in Article 35 is a measure of controlling space, namely an action aimed at the use of space with an act of using space that is inconsistent with Spatial Plan and ZR." In essence, policing can be understood as: 'how is the process of imposing sanctions on space users who violate spatial allotments'.

Law Enforcement of Spatial Utilization Violations: Conception

The application of the law to the audience through a concrete format, the effect is on feelings towards the law, the satisfaction of the law, the community's need for the law and the existence of a fair law to the public, is the notion of law enforcement as said by Manan (2009: 52). Broadly speaking, law enforcement activities are considered synonymous with activities that are correlated with legal activities, which are carried out by formal law enforcement agencies, such as the Attorney General's Office, the Police, and the Courts. Lawrence Meir Friedman argues, there are three elements of the legal system which influence one another: (a) Legal Construction (Legal Structure): an overview of the design of legal implementation in accordance with formal rules. The scope of the legal structure includes two important things: law enforcement apparatus and law as an institution, (b) Legal Substance (Legal Substance), including rules whose existence is not only in legislation in the sense of positive law. Its meaning includes various values and norms that exist in society. Legal substance that is "alive" is its strong point, not only based on the contents of formal law books, (c) Legal Culture: views/attitudes on formal law, patterns of legal beliefs, ideas (ideology), values (values) and expectations on *juridische cultuur* (legal culture) by the public (society)

Spatial Utilization Control: Devices and Mechanisms

Legal instruments in SUC, in principle, function as a deterrent to changes in space utilization that deviate from the RTR. In theory, if the use of space is carried out with consideration of directions according to applicable regulations, then it has definite legal force and is legally in accordance with the needs of residents and regional development. (Fauzi, 2019). As a consequence, any application for space utilization whose designation is not appropriate, the construction process cannot be continued, except for certain space utilization activities that receive relief (dispensation) according to applicable regulations.

Based on Govt. Reg. 21/2021 Article 159, the mechanism for controlling the use of space is: (a) boundary/delineation of the controlled area, (b) rules in Spatial Utilization Control activities, (c) rules regarding the granting of incentives and disincentives, (d) rules regarding the imposition of sanctions; And, (e) supervision measures for development activities, guidance by the authorities, coordination and cooperation between stakeholders, and the role of the community in the process of controlling the use of space.

In this paper, what will be described is related to the implementation mechanism of controlling the use of space in relation to the science of law, namely sanctions and permits.

Sanctions in SUC

The PP21/2021 regime recognizes that there are several kinds of sanctions for space users who do not comply with the designation of the space: (a) Administrative Sanctions: "The imposition of penalties for violations related to administrative matters or to laws and regulations with an administrative nature", (b) Civil Sanctions: "An obligation to carry out achievements from someone who is declared to have violated someone's civil rights to someone who has been violated.", (c) Criminal Sanctions (Penalties): In brief, criminal sanctions can be understood in terms of: "A decision made by a judge, in a trial court, with a certain verdict against a person who is clearly and proven to have committed an offense according to criminal laws and regulations".

The correlation with point number 2, the civil verdict imposed is: (a) A condemnatoir decision, is a decision with the nature of carrying out punishment on the defeated party in order to fulfill his achievements (obligations). Example: in a case, payment of losses is imposed as a form of punishment on the losing party, and payment of court fees by the losing party, (b) Declaratory verdict. According to this decision, there is a condition which according to the law is valid according to the order. Affirmation and clarification of the legal condition of a thing is solely its nature. Example: a decision in a legal case stating that the plaintiff is the legal owner of a parcel of land which is the object of the dispute, (c) Constitutive decisions, with the nature of eliminating a legal condition and creating a new legal condition. For example: The marriage bond of man A and woman X which was decided by the Religious Court Z.

Spatial Utilization Permit

It is mandatory for each space user to have a space utilization permit. Likewise, there is an obligation for everyone to carry out each of the permit provisions in their activities to utilize the said space. Requirements for existing permits for space utilization activities, likewise, must comply with applicable legal provisions, namely: (a) The Government (Central) and Regional Governments (Pemda) regulate licensing provisions, as stated in the law and according to their respective authorities, (b) Permits for space utilization activities without conformity with the Regional Spatial Plan, the Government and Regional Governments will cancel, in accordance with their respective authorities according to statutory provisions, (c) For the use of space where permission is obtained and/or issued which is not carried out through legal procedures according to regulations, by law it will be cancelled, (d) For the use of space where the permit is obtained according to the procedure, but later it is proven that it does not conform according to the Regional Spatial Plan, the Government and the Regional Government will cancel it, (e) Issuance of permits by all authorized officials is not permitted if the permits issued are not in conformity with the Regional Spatial Plan.

Licensing, as a form of SUC, has the main objective of overseeing the implementation of spatial use so that it runs in harmony with the directions for the function of the space as contained in the Spatial Plan. Licensing for spatial use can be seen as a spatial utilization policy at the

operational level, its relation to determining the location, maintaining the quality of the space and the building layout so that it complies with formal regulations, local customs and traditions. Determination of permits is in the hands of the local government and the government, with their own authority. The legal basis for regulation regarding licensing is the Spatial Law Law No. 31 of 2009 (Idn: IMB/Izin Mendirikan Bangunan), which is proof that a person can build a building based on a technical plan (which has received approval from the Regional Government) and its construction does not violate the function of space as determined. This means that the establishment permit has been obtained from the Regional Government, as the party authorized to issue the IMB. The legal basis for building construction activities is Law Number 28 of 2002 concerning Buildings (Law 28/2002) (Evangelista & Tanawijaya, 2018).

Application of Spatial Utilization Control Instruments: The Case of Violation of Spatial Utilization "The Lost World Castle"

The application of legal instruments in the field of spatial planning, in relation to PPR activities, can be seen in indications of cases of violations of spatial use in the form of the construction of artificial tourist facilities "The Lost World Castle" (TLWC), located on the south-southeast slopes of Mount Merapi, precisely in Padukuhan Petung, Kepuharjo Village, Kapanewon Cangkringan, Sleman, DIY.

The previous use of space at the intended location was as a protected area. Construction of tourist attractions began in 2013, and for some time the construction was "undetected" by the authorities until the building began to operate around 2016. The case handling process was then carried out in 2017 and continues, and at the same time the construction process is still ongoing, said The same goes for tourism activities.

The indicated violation is the construction and development of artificial tourism facilities and infrastructure, right in the area that is included in the Merapi Volcano (fire) III Disaster Prone Area (commonly called KRB III Merapi), which is an area that is prohibited from being developed because it is located right in the area eruption of Mount Merapi. The distance is very close to the Merapi lava dome, approximately only five kilometers from the summit. After the Regional Spatial Planning Regulation of Sleman Regency was stipulated and promulgated, a new TLWC was built, and its spatial utilization was not in accordance with the RTR, did not obtain a construction and operation permit from the authorities.

In this case which has caught the public's attention, the competent agency, namely the Land and Spatial Planning Service, has given a written warning to the relevant parties, but development activities and tourism activities are still ongoing as of the time this writing was written. This tourist facility building also does not have information on not having a permit (IMB) and permits related to the AMDAL. Based on the existing chronology, basically the authorities have been able to carry out more stringent sanctions against building owners and/or managers.

Indications of violations are in the form of non-compliance with the function and designation of the spatial plan in Regional Regulation Number 12 of 2012 concerning Sleman Regency Spatial Planning for 2011-2030 (Perda RTRW Sleman) and Presidential Regulation Number 70 of 2014 concerning Spatial Plan for Mount Merapi National Park Area (Presidential Decree No. 70 2014) (Undang-Undang, 2014). The Sleman RTRW Regional Regulation, in its spatial pattern map, clearly shows that the location of the TLWC is designated as a Protected Area (water catchment) and a Geological Disaster Prone Area (III), while the existing condition is in the form of The Lost World Castle building and its other supporting facilities. The main points of violation for this TLWC case are:

Inconsistency with Presidential Regulation Number 70 of 2014, namely carrying out development activities that are not permitted in the L2 zone (L2 zone: Vulnerable Areas to Geological Disasters that are directly affected), (Article 30 letter b and explained in Article 32 paragraph (1), (2), and (3)); Non-compliance with the Sleman RTRW Regional Regulation, there are infrastructure and physical facilities built on areas directly affected by the 2010 eruption of Mount Merapi. The Spatial Pattern Plan Map states that the spatial designation is as a Protected Area (water catchment) as well as a Geological Disaster Prone Area (III) while the condition the

existing building is The Lost World Castle; Not yet/does not have permission in accordance with Sleman Regent Regulation Number 71 of 2018 concerning Stages of Granting Permits (Sleman Regency Regulation Number 18 of 2018).

The owner and/or manager of the TLWC, according to the PR Law and Perppu CK, is indicated as not complying with the obligations as stipulated in Article 61 letter b, namely that the use of space is not in accordance with the permit issued by the authorities.

Based on the violation indication data found, a table can be briefly made containing regulations related to spatial planning that are indicated to have been violated by the owner and/or manager of the TLWC along with recommendations for the imposition of sanctions:

Table 1. Indication of Regulations Violated by the Owners and/or Managers of The Lost World Castle Artificial Tourism Facilities.

Space allotment	Violated Regulations	Description of the Article Violated	Sanction Recommendations
Spatial Pattern of Disaster Prone Areas III Mount Merapi, L2 Zone and Protected Areas.	a. There are indications of violating the PR Law in conjunction with Perppu CK.	<p>Article 69 paragraph (1):</p> <p>Changes in the function of space as a result of the disobedience of certain parties, as referred to in Article 61 letter a, are subject to a maximum imprisonment of three (3) years or a maximum fine of five hundred million (Rp. 500,000,000.00)</p> <p>jo.</p> <p>Article 61 letter a:</p> <p>In the process of utilizing space, each citizen must:</p> <p>a. comply with the applicable spatial plan.</p> <p>jo.</p> <p>Article 74:</p> <p>paragraph (1): If the criminal (criminal) act as referred to in Articles 69, 70, 71 and 72 is the perpetrator of a company (corporation), then a fine can also be imposed in addition to the criminal penalty for the management, in the form of a criminal sanction of a fine that is weighted in the amount 3 (three) times as much as calculated from the fine criminal sanction. This is as referred to in Article 72; paragraph (2): Penalties apart from criminal sanctions in the form of fines as referred to in paragraph (1), can also be subject to additional penalties for corporations that are:</p> <p>a. business license is withdrawn; and/or</p> <p>b. its legal entity status is withdrawn.</p> <p>jo.</p> <p>Perppu CK:</p> <p>Article 17 number 32:</p> <p>Amendments to Article 69 so that it reads:</p> <p>Article 69</p> <p>(1) Changes in the function of space as a result of a party carrying out activities and/or business without affirmation of the appropriate use of space (from the authorities) as referred to in Article 61 letter a, shall be subject to a maximum imprisonment of three (3) years and a maximum fine one billion rupiah (Rp. 1,000,000,000.00).</p>	Criminal Punishment

	jo.	
	Article 17 point 29:	
	Amendments to the provisions in Article 61 so that it reads:	
	Article 61 letter a:	
	In the process of using space, each citizen must:	
	a. comply with the applicable spatial plan.	
	jo.	
	Article 17 number 36:	
	Amendments to the provisions in Article 74 (paragraph 1) so that it reads:	
	Article 74 paragraph (1):	
	If the criminal act referred to in Articles 69, 70 or 71 is the perpetrator of a corporation, then in addition to imprisonment and a fine against the management of the corporation, other criminal penalties that can be imposed on the corporation are in the form of a fine weighing one third (1/3) of the fine as meant in Article 69, Article 70, or Article 71.	
b. Indications of violating Law 28/2002.	Article 44: Each party who owns and/or uses the building, but does not fulfill the obligation to fulfill its function, and/or does not fulfill the requirements, and/or according to this law does not fulfill the building administration, shall be subject to punishment in the form of criminal penalties and/or administrative punishment.	Criminal Punishment
c. Presidential Decree Number 70 of 2014.	Article 30 letter b: Protected Zone 2 (Zona L2) as a Natural Geological Disaster Vulnerable Area that is directly affected.	Criminal Punishment
	jo.	
	Article 29 paragraph (1): Spatial pattern plan for the Mount Merapi National Park Area (TNGM), its stipulation aims to provide: increased environmental protection, continuous control over the exploitation of natural resources, increased protection of water resources, and also protection of residents for the risk of geological natural disasters (volcanic eruptions) in the TNGM Area; paragraph (2) point a: The planned spatial pattern as referred to in paragraph (1) is the designation plan for Protected Areas.	
	jo.	
	Article 32:	
	paragraph (1): Zone L2 as referred to in Article 30 letter b, its stipulation is intended to provide maximum protection for humans, infrastructure and settlements against the probability of a Geological Natural Disaster (volcanic eruption);	
	paragraph (2): The L2 zone referred to in paragraph (1), is an area with a high probability of being hit again as a result of the eruption of the Merapi Volcano, with the form of wedhus gembel waves (hot clouds) and other hot eruptions and causing significant impacts on people, residence, and infrastructure;	
	paragraph (3) point b: Zone L2 as referred to in paragraph (2) includes Areas Vulnerable to Natural Geological Disasters that have the potential to be directly affected by the direct impact of	

	the eruption of Mount Merapi, located in some areas:	
	a. ...	
	b. Kapanewon Cangkringan, Sleman Regency.	
d. It is indicated that he has violated PP No. 21 of 2021.	Article 148 letter c: Space utilization activities are controlled through: a. ... b. ... c. ... d. imposition of sanctions. jo. Article 188: Administrative sanctions are imposed on space users with violations as stated in Article 148 letter d. jo. Article 180 paragraph (1): Against each party that does not comply with the RTR, which results in changes to the changing function of space, administrative sanctions are applied as referred to in Article 188. jo. Article 190: Administrative sanctions as referred to in Article 188 are also applied to parties who use the space who do not comply with the arrangements as stated in the RTR.	Administrative Punishment
e. Indications of violating Regional Regulation Number 5 of 2019 concerning the 2019-2039 DIY RTRW.	Article 96: paragraph (2): For each person who violates the use of space, given administrative and/or criminal penalties; paragraph (3 point a): Activities that do not utilize space according to the RTR are prohibited for everyone. jo. Article 97 letter c: Utilizing space without permission to use space in a place where the space allocation is not appropriate. jo Article 31: The water catchment area as referred to in Article 29 letter b covers an area of 49,850.90 hectares which is located in Sleman Regency, including ..., Kapanewon Cangkringan, which has an area of 24,293.76 hectares. jo Article 49: Areas prone to natural geological disasters as referred to in Article 48 letter a are areas prone to disasters related to volcanoes with the locations of Kapanewon Turi, Kapanewon Pakem, and Kapanewon Cangkringan (Sleman Regency), with an area of 3,355.86 hectares.	Criminal Punishment and/or Administrative Punishment
f. There are indications of violating	Article 79 letters a & b Zoning provisions in protected geological areas as stated in	Criminal Punishment and/or

Regional
Regulation
12/2012
regarding the
District Spatial
Planning.
Sleman 2012-
2032

Article 74 letter e, the general rules are:

- a. In areas that were directly affected by the 2010 Merapi eruption, the growth of human settlements is prohibited.
 - b. In areas directly exposed to the 2010 Merapi eruption, the addition of new infrastructure and new facilities is not permitted.
- jo.

Administrative
Punishment

Article 106:

paragraph (1): each party who uses space without permission to use space as described in Article 90 paragraph (3), is subject to a maximum prison sentence of three (3) months and/or a maximum fine of Rp. fifty million rupiah (Rp. 50,000,000.00).

paragraph (2) Each space user with the consequence of not complying with the implementation of the spatial plan with the RTR as referred to in Article 102, is subject to criminal penalties as referred to in Article 69 to Article 75 of the PR Law jo. Perppu CK.

jo.

Article 102 letter a:

Spatial utilization activities require everyone to obey the RTR that has been set.

jo.

Article 99 paragraph (1) and (3) point a & b:

paragraph (1): for violations of the RTR, administrative sanctions are imposed.

paragraph (3): the types of violations against the RTR as referred to in paragraph (1) are:

- a. the function of the violated space.
 - b. violation on the intensity of space utilization.
- jo.

Article 90 paragraph (1) and paragraph (3):

(1) Licensing rules as referred to in Article 61 paragraph (1) letter b are activities in a certain sequence, administrative and technical in nature, which must be fulfilled before any activity to utilize space, in order to ensure conformity of space utilization with the RTR, namely:

- a. principal licensing;
- b. place permits;
- c. permits for land use;
- d. construction establishment permit; as well as
- e. other permits based on the applicable laws and regulations.

(2) paragraph (3): regarding the use of space, it is mandatory for everyone to have a permit for use of space and must comply with each of the provisions of the permit in implementing the use of space.

jo.

Article 75 letter f:

The general rules for zoning provisions for areas that provide protection to the areas below them as referred to in Article 74 letter a are in the form of general rules for zoning provisions for

	water catchment areas, the provisions of which are: all types of activities that become a disturbance to the function of water catchment are prohibited.	
g. Indications of violating Sleman Regency Regulation 71/2018 regarding Stages of Granting Permits	Section 2: Permits and documents in accordance with the type of activity must be owned by each individual or institutional body that carries out certain activities/activities and/or businesses	Administrative Punishment

4. CONCLUSION

Spatial control, in essence, is one of the three main forms of spatial planning implementation, namely planning, actuating, and controlling. balanced: (1) The spatial planning process, with its product in the form of RTRW, functions like 'guidance for the actions in the future'. This process is then followed by a process of controlling and supervising space, which in principle is a form of intervention (by the authorities), with the aim of harmonizing and balancing between humans/living things and their surroundings. The process of controlling and supervising spatial planning also aims to maintain environmental quality and sustainable development. (2) Spatial utilization activities, which are manifestations of the operationalization of the RTR and the implementation of development, also require supervision, the purpose of which is to maintain the direction of spatial planning; (3) The activity of controlling the use of space, which in one of its specific forms is in the form of controlling space, takes the form of applying punishment to the implementation of using space that deviates from the spatial layout plan. in the process it is carried out through checks and re-checks on permits and legal based actions with the aim of keeping activities utilizing space in line with the RTR directives. (4) The process of controlling the use of space is highly dependent on the availability of good and complete planning documents. Without good and complete planning documents, the process of taking action against violators of the use of space will be hampered if it is linked to the process of proving which points were violated and furthermore, with the imposition of articles to ensnare the violators.

Continuous monitoring and evaluation of spatial use is one of the needs in the implementation of spatial development, to produce the required space audit as a recommendation material for the necessary actions, to produce conformity in utilizing the existing space with the applicable RTR. As a recommendation of this paper, namely: (a) If the level of conformity between planning and implementation of spatial planning is categorized as high, then what is done is to continue the ongoing process by keeping the process in line with the RTR directives. (b) If the level of conformity between planning and implementation of spatial planning is categorized as moderate, then new policies and strategies are needed, the aim of which is to improve spatial suitability, whose actions are in the form of controlling (and supervising) the use of space; (c) The need for a review (PK) of the ongoing RTR, if it is indicated that there is a level of conformity between the planning compared to the implementation of the spatial use. The review in this case includes the instruments (devices) used to control the use of space.

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