

Indonesian Spatial Planning After the Enactment of the Job Creation Law as a Formulation Effort Towards the Society Era 5.0

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Abstract

Entering the society era 5.0, which is based on a computerized program, the Indonesian Government ratified Law No. 11 of 2020 concerning Job Creation to increase the absorption of the number of Indonesian workers by creating job opportunities through investors with the ease and facilities provided by the Government, using a computer program system. This research was normative legal research that used statutory and conceptual approaches. Additionally, it used qualitative analysis, then concluded using deductive-inductive reasoning. Based on the research results, it was found that the Government formulated Job Creation Law to implement a new system in the licensing sector using the OSS (Online Single Submission) system as a business licensing system controlled by the central Government and applied to all provincial or district governments. One of the objects regulated in the Job Creation Law and using the OSS system was Spatial Planning. The first revision in spatial planning regarded the implementation, which clarified the tiered and complementary system. Furthermore, the decision-making related to the performance of regional spatial planning in the district or province was on the central Government.

Keywords: *Society Era 5.0; Job Creation Law; Spatial Planning.*



A. INTRODUCTION

Since the Japanese Government announced it in 2019, people have entered a new era called the Society Era 5.0, an era as a continuation of the industrial 4.0 age to utilize the industrial world and the digital world to benefit the survival of people's welfare. The core point in this era is how to prosper the State's people by utilizing the digital world, although there are global concerns about employment that Artificial Intelligence can replace. Therefore, humans must be able to improve individual abilities to survive in this era. Artificial Intelligence is the main character as a sign of the start of the era of Society 5.0, which is a manufacturing technology that has almost human-like Intelligence.

As one of the very active countries in the international world, Indonesia must be ready to adapt to the life of the Era of Society 5.0 in all sectors of social life and government level. The Indonesian Government must take advantage of technological advances to benefit the Indonesian people's welfare. Other developed countries (Europe, Japan, Korea, China, America) will be left further behind to implement AI technology-based government administration social services. In the Society Era 5.0, Indonesia has a new, relatively complex task: how to use technology to prosper the people by utilizing natural and human resources in Indonesia.

After all, Society Era 5.0 will not be separated from the area, space, or environment as the core means of human life to realize people's welfare. Thus, the State must make the best use of space-based technology to benefit the Indonesian nation and its people. The State, with its policies, must be able to combine Spatial Planning elements with Artificial Intelligence (Era Society 5.0) for the nation's welfare. Combining policy and technology to solve problems must strike a balance and harmonization. According to eastern legal theory, the principle of harmonization and balance aligns with the law objectives. Eastern legal theory does not place "certainty" but only emphasizes the aim of the Law, namely: "justice is harmony, and harmony is peace." (Sinaga, 2020)

Spatial planning is the main instrument for realizing social development goals (people's welfare), namely by regulating and controlling the best use of space under natural and environmental conditions and its designation and paying attention to the carrying capacity and space capacity and being oriented to people's interests. It is not an impossibility that people's welfare will be realized. The State enacted Law 26 of 2007 concerning Spatial Planning to realize this goal. It then underwent a substantial change with Law Number 11 of 2020 concerning the Omnibus Law or Job Creation Law (UUCK). "The Job Creation Law provides solutions to problems, especially due to the rigidity of spatial planning permits," said the Minister of Agrarian Affairs and Spatial Planning or Head of the National Land Agency (ATR/BPN) Sofyan A. Djalil. (Tempo, 2021)

Based on Ahmad Jazuli's report, which was concluded from the 2005-2025 Long-Term National Development Plan (RPJPN) Report of the National Legal Development Agency (BPHN), spatial planning problems in Indonesia consisted of the crisis condition of spatial planning in Indonesia. There were conflicts in the use of space between sectors, for example, conflicts between forestry and mining. There was limited access for people in disadvantaged areas to social, economic, and political services, and they were isolated from the surrounding area. Additionally, the development of border areas was lagging, including the small outermost islands with pretty sizeable natural resource potential and are very strategic for national defense and security. There were also some adverse effects of big cities and metropolitans. (Jazuli, 2017)

The concept of spatial planning regulations and policies in Indonesia is constantly being improved to adapt to the development of society and technological developments. The policy and idea of Spatial Planning regulations enter the industrial era 5.0, which is predicted to be an era of social awakening, namely an idea that will focus more on the combination of utilization between various aspects, such as humans, data, and technology. Although it has similarities with the previous revolutionary era, these two eras are completely different based on their focus) (Andrew, 2021). The primary difference between the two eras is that the 4.0 era prioritizes effectiveness and efficiency in daily life, such as trade, which can be done only at home and in a short time, and similarly with other social services, such as health and education. In comparison, in the industrial era 5.0, humans will use

technology more to meet their needs of life and prosper their lives because, in this era, humans have been able to adapt to the life and technological facilities of the previous era.

Spatial planning regulation in the Industrial 5.0 era was marked by the promulgation of Law Number 11 of 2020 concerning the Omnibus Law or the Job Creation Law which gave some new hope to the community in accelerating the development of welfare by utilizing technological sophistication. By revising several articles in Law 26 of 2007 concerning Spatial Planning, deleting and adding several pieces, hopefully, the Omnibus Law or Job Creation Law will positively affect the industrial development age 5.0. Considering the spirit of the Job Creation Law is in collaboration with the heart of the orientation of the Industrial age 5.0. It is done through efforts to change regulations related to investment. The difficulty of obtaining land to invest in Indonesia is one of the reasons behind the Government proposing the Job Creation Law (Qodriyatun, 2020).

B. METHOD

This research was normative legal research that used statutory and conceptual approaches. These approaches were used to explain the applicable laws and regulations related to spatial planning. Furthermore, this research used qualitative analysis to look for legal principles and the relationship between statutes and regulations, then concluded using deductive-inductive reasoning.

C. RESULT AND DISCUSSION

The Job Creation Law (Indonesia), commonly known as the Omnibus Law, is not new in the legal world. An Omnibus law includes almost all related substances, reflecting the integration, codification of regulations whose ultimate goal is to streamline the application of these regulations (Ima Mayasari, 2020). In Indonesia, the Omnibus Law is named the Job Creation Law. It is following the orientation that the rule aims to achieve, namely to create as many jobs as possible by attracting local or foreign investors to invest more in their business by providing various facilities and incentives. Several countries globally, including America, Turkey, Canada, Philippines, Vietnam, Australia, New Zealand, have used this regulation, although with different backgrounds. The results have been very positive for the desired developments and changes. Such rules prioritize high effectiveness and efficiency because few regulations with other regulations involving two or more State institutions/agencies and have the same object interest will be interrelated and have different orientations and uses. The omnibus law approach is a regulatory concept that the maker makes to eliminate conflicting and conflicting regulations so that it creates obstacles to the growth of the State's development and makes regulations that are in line with several aspects to make a legal product (Fitri, Winda, & Hidayah, 2021).

Although it caused polemics and debates and long protests among the workforce among many groups regarding the material and the formation of Law 11

of 2020 concerning Job Creation, the Law was finally passed and is valid heretofore despite suggestions for improvement from the Constitutional Court. As a multi-sectoral Umbrella Law that accommodates various laws, hopefully, there will be no regulations that collide between one article and another, and people must continue to prioritize the principle of justice. The focus of justice in spatial planning is that spatial planning must uphold a sense of justice so that the available territorial space can be used relatively to meet the Government's interests and the people's interests in general (Arba, 2018). Furthermore, the most important thing is to maintain, preserve, and develop the function of the existence of space so that it continues to provide significant benefits for the next generation. It is because spatial planning is an effort to harmonize the utilization of natural resources by adhering to; Utilization and usability results that must be seen within the maximum limits concerning sustainability do not reduce the ability and preservation of nature and provide use for future development (Yunus, 2014).

The Job Creation Law or the Omnibus Law is a new regulation based on technological sophistication. It is expected not to ignore conventional legal concepts relevant to nature's interests and humankind's interests in the present and the future. The Omnibus Law is a breakthrough in Indonesian legal regulations which accommodates 79 laws, 1200 articles and covers 11 Content Fields consisting of; Simplification of Licensing, Investment Requirements, Employment, Land Acquisition, Ease of Doing Business, Support for Research and Innovation, Government Administration, Imposition of Sanctions, Ease, Empowerment and Protection of MSMEs, Investment and Government Projects, Economic Zones. Based on the author's search of revised, deleted, and added articles, as well as those contained in the Job Creation Law, the objectives of this regulation, are: 1) Building an effort from the central Government with the regional Government to synchronize or harmonize the integrated (Central-regional) development programs based on Spatial Planning so that the program objectives are common; 2) It is building a more accessible business system that can be accessed by all people, even legal subjects abroad, through easy investment to attract as many investors as possible and create the broadest potential employment opportunities; 3) Simplifying regulations so that there is no overlapping of regulations/policy overlaps; 4) We are accelerating economic growth by using a data and fact-based digitalization system; 5) I am minimizing crashes between interested state agencies; and 6) Adjusting the business system, registration, utilization, and control of spatial planning with the Industrial 5.0 era based on the development of the digital world to maximize the goal of people's welfare.

Law 11 of 2020 concerning Job Creation or the Omnibus Law makes Spatial Planning the most important object. It is not without reason. Spatial planning is a prominent and vital instrument in regional development (precisely and nationally). It is a gateway for regional development and a determining device in the administration of licensing and non-licensing, both from permits related to the economy of community business activities or other licensing services related to

public services for the people (I'aannah, 2021). The implementation of regional development, especially licensing, underwent a reasonably fundamental change, namely growth starting from the regions throughout the State leading to national scale development with authority shifting slightly to the central Government. Initially, the licensing authority was with the regional Government but then turned into local government approval. Next, a new formulation of spatial planning in Indonesia will be discussed based on the Job Creation Law.

1. Permission System

Licensing is obtaining a permit with the conditions and stages set by the Government as the main instrument that can control the use of space and other activities that the Government has determined. Licensing is a preventive instrument for all negative impacts or risks that a particular action will cause within a certain period. In other words, licensing is a process to legalize an activity that is initially prohibited from being carried out. After enacting Law 11 of 2020 concerning Job Creation, the risk-based licensing system stipulated in Law no. 11 of 2020 concerning Job Creation Article 6 (letter a) is about applying risk-based business licensing. The reason for this change in the licensing system is simple. The space utilization permits used so far are considered problematic for investors, making it difficult to start business activities.

Meanwhile, with the suitability model for space utilization activities, business actors can take a more straightforward mechanism, and the Government does not limit the space or investment area (Masayu, 2021). Since the stipulation of Government Regulation Number 24 of 2018 concerning Integrated Electronic Business Licensing Services or Online Single Submission (OSS), the Risk-Based Business Licensing policy has improved Indonesia's quality of public services (Carlo, H.H., Bachrudin, D. H., & Firdaus, 2021). Furthermore, the risk-based licensing is regulated in the Government Regulation No. 5 of 2021 concerning the Implementation of Risk-Based Business Licensing as a substitute for Government Regulation No 24 of 2018 concerning Integrated Business Licensing Services.

The risk-based licensing system is a licensing policy that considers the level of business activity effects in the future. The technical implementation of this system is carried out with a computer program system called OSS (Online Single Submission), namely a licensing system using computer system integration from the central Government, which must be obeyed and implemented by regional governments (provincial and district). This system is a mandate from Law No. 11 of 2020 concerning Job Creation (ps.6.a). Besides being required to be used by entrepreneurs/prospective entrepreneurs, this system must also be used by State apparatus, both central and regional, as well as in the form of government institutions, organizations, and state organizations, as well as organizers of special economic zones and operators of accessible port areas. According to Government Regulation Number 5 of 2021, there were 1702 business activities consisting of 1349 classifications of business fields that have been integrated into the OSS system. The

OSS website provides usage guidelines, such as account registration guides and guides for filling out applications for non-individuals, individuals, and micro, small, and private individuals, intended to prevent mistakes by business actors in inputting data (Fuji, 2021). This system provides convenience and accuracy of data inputted by users or prospective registrants. It minimizes duplicate data usage that is not under regulations, considering that registrants have different backgrounds and levels of knowledge. The heterogeneous culture of Indonesian society, and the other quality of human resources, need Online Single Submission (OSS) innovation by organizing One-Stop Services. The One-Stop Services implementation can provide OSS service innovation in three ways, namely through independent services, assistance services, and priority services (Seto, 2020). The convenience of this system will be significantly felt by small entrepreneurs with an initial business capital of less than five million Rupiah. The permit will be issued in just a few minutes by inputting data independently or with assistance from officers according to the format determined by the OSS system. The registrants can get the license and run a business legally.

Based on Government Regulation No. 5 of 2021 concerning the Implementation of Risk-Based Licensing, all sectors totaling 21 stipulated business sectors (ps.6.2) are related to spatial planning through simplification of the specified licensing requirements, including: a) Suitability of space utilization activities; b) Environmental approval; and c) Building approval and function-worthy certificate.

The conformity in question is the suitability of the planned location of activities and business with the Detailed Spatial Planning that the regional Government has Government. The Detailed Spatial Planning (RDTR) is a legal document in digital form that is adapted to the standards set by local governments as a source of information and guidelines for granting permits by the Government through the OSS system for applications submitted by the community, individually or by legal entities. The legal RDTR is an electronic document belonging to the central government integrated online, so it can be used and accessed by the entire people, both at home and abroad. It makes it is easier for prospective registrants and very effective.

2. Spatial Management System

The provisions for changes to Spatial Planning as regulated in Law 26 of 2007 concerning Spatial Planning are stipulated in Article 17 of Law no. 11 of 2020 concerning Job Creation or Omnibus Law. The general provisions for amendments to Law 26 of 2007 are regulated in Article 16 of the Job Creation Law, which states that the amendment aims to provide certainty and convenience for business actors to conform with spatial use activities. The changes referred to in Article 17 of the Job Creation Law are to amend articles, delete and stipulate new regulations in Law 26 of 2007 concerning Spatial Planning. Amendments to Law 26 of 2007 are regulated in Article 17 of the Job Creation Law. However, what needs to be underlined is that the provisions of the articles that the Job Creation Law has not changed are still valid. Therefore, in the discussion of this article, the authors will examine Article 17 of the

Copyright Act, which changes the provisions of Law 26 of 2007 concerning Spatial Planning.

The basic concept of implementing spatial planning is regulated in Law 11 of 2020 concerning Article 6 of Job Creation. The system for implementing spatial planning has undergone a slight change. Article 6 emphasizes implementing spatial planning on two things: tiered and complementary between regional or district governments, provincial governments, and government centers. The tiered and complementary provisions are the same as the concepts in Article 6 of Law 26 of 2007 concerning Spatial Planning. However, the Employment Creation Law clearly states the tiered and complementary provisions.

Tiered means that the provisions on spatial planning must be adjusted to the levels, namely between the central Government, provincial governments, and local governments. The regional or district spatial planning plan must be adapted to the provincial spatial layout plan. Meanwhile, the provincial spatial plan must be adjusted to the national and regional spatial plans. The provisions for explaining the implementation of spatial planning with a tiered scheme were not contained in Law 26 of 2007 concerning Spatial Planning and have caused many polemics in the community because they seem to be centralized and not under the spirit of regional autonomy with the decentralization of state power. One of the impressions is the centralistic impression through the approval of the central Government's suitability for space utilization activities. Article No. 15 of the Job Creation Law states that if the local government has not prepared and provided the RDTR/Detailed Spatial Plan, business actors shall apply for approval of the suitability of space utilization activities for their business activities to the Central Government through an electronic Business Licensing system (Islamuddin, 2021).

The tiered system established by the Government is not without reason, considering the Government's primary goal is to accelerate economic improvement and development. People can realize that the enactment of the 2004 Regional Autonomy Law and the 2007 Spatial Planning Law cannot have succeeded in increasing development and the economy since these two regulations are expected to accelerate regional economic growth and the country's economy entirely. Therefore, these two regulations are entrusted to rely on regional government policy. However, provincial governments' natural resources and human resources within 13 years have not been felt optimally for state development. Consequently, it is deemed necessary to change the system and direction of spatial planning policies for accelerating economic growth.

Meanwhile, the meaning of "complementary" in spatial planning is that the central government, provincial governments, and district governments complement each other and synergize. Hence, there is no overlapping of authorities and regulations in spatial planning. If there is a dispute, the basis for the settlement is a Government Regulation. The last phrase of Article 6 of Law No. 11 of 2020 concerning Job Creation seems to add to the centralistic character of spatial planning, which has received much criticism from environmental practitioners. Therefore,

there is an ideal opinion in the event of a dispute, namely by prioritizing local wisdom, because it is considered more understanding and more interested in space utilization objects.

3. Spatial Planning Authority

Spatial Planning Authority is an attribution authority. Attribution authority is an authority given by the Constitution or Law to a position (Poernomo, 2019). The authority in spatial planning is provided by Article 8 of Law No. 11 of 2020 concerning Job Creation. The central Government's authority provisions are further emphasized in Article 8 of the Law and amended in Article 8 of Law 26 of 2007 concerning Spatial Planning, which also regulates the same thing. The affirmation is in the addition of the word "central" so that it states, *"The authority of the central government in the implementation of spatial planning ..."*.

In comparison, in Law No. 26 of 2007 concerning Spatial Planning, there is no word "central." There is only the sentence "government authority." The authority to administer spatial planning is regulated in Articles 8 to 14 of Law No. 11 of 2020 concerning Job Creation. Article 8 explains that the central Government's authority covers several fields, namely spatial planning arrangements, guidance and supervision of the implementation of national, provincial, and district or city spatial planning as well as national strategic areas, providing technical assistance and guidance in the preparation of the RTRW (Regional Spatial Plan, provinces and districts, as well as the implementation of national spatial planning. In terms of technical, spatial planning, the central Government's authority includes planning, utilization, and control of spatial planning for national areas and national strategic areas.

The authority of the Central Government in spatial planning, as contained in Article 8 of Law 11 of 2020 concerning Job Creation, is very different from the spatial planning authority contained in Law no. 26 of 2007 concerning Spatial Planning. In Article 8 of the Employment Creation Law, the Central Government takes over the authority of the blood government (Provincial &/District/City), which is in Law No. 26 of 2007 concerning Spatial Planning. Previously, local governments were given flexibility in spatial planning as a mandate for decentralization in the regional government law, which is explained in Article 12 Letter c. of Law No. 23 of 2014 concerning Regional Government which states that spatial planning is a mandatory business for regional governments related to essential services. This vital service related to spatial planning is seen as not having a maximum impact on the development of the local and even national economy.

The spatial planning authority must be supported by adequate resource capacity in the regions, especially regencies/cities. Furthermore, the lack of success in policy implementation can be caused by limited resources, both human and natural, adequate instruments, the performance of a less effective and efficient organizational structure, and low commitment among implementers. In Bryant and White's opinion, it is called an administrative disability, namely the inability to meet the

needs that are ignored by the people, including too few resources being allocated even though it is known to be essential. Local institutions are fragile and are always neglected by the departments above them. The social distance between administrators and the public is widening from time to time (Sunarno, 2014). Bryant's opinion describes the weaknesses in implementing spatial planning in Indonesia's regional governments, especially in disadvantaged areas, which hinder economic growth and state development. Therefore, the central Government must change the authority of spatial planning to become more centralized by taking over or limiting the power to manage spatial planning in the Regional Government, both as stipulated in Law No. 26 of 2007 concerning Spatial Planning and Law No. 23 of 2014 concerning Regional Government related to spatial planning.

The stipulation of the authority of the regency or municipal Government in spatial planning is more clearly regulated in Article 11 of Law No. 11 of 2020 concerning Job Creation. It is stated that the authority of district or municipal Governments is carried out according to the norms, standards, procedures, and criteria set by the central Government. Meanwhile, the rule includes regulation, guidance, supervision, and the implementation of spatial planning plus inter-regional spatial planning cooperation.

Based on the licensing system built using the OSS (Online Single Submission) system, which is integrated with the National Spatial Planning (RTRWN) set by the Central Government; the plan for implementing the spatial planning implementation with tiered and complementary; and the authority granted by Law to the provincial and district/municipal governments, the system for implementing spatial planning in Indonesia is a Button Up. It is computerized integrated online, fully processed, and controlled by the central Government, although sometimes applications for spatial planning originate from the Province or Regency.

4. Rural Area Spatial Planning

A significant revision in simplifying Law 26 of 2007 concerning Spatial Planning in Law no. 11 of 2020 concerning Job Creation is contained in the spatial planning of rural areas regulated in Article 48 of the Job Creation Law or Omnibus Law. The Omnibus Law abolishes Article 48, paragraphs 4 and 5, which governs agropolitan areas and removes articles 49, 50, 51, 52, 53, 54, which incidentally regulates agropolitan areas. However, Article 1 number 24, which contains general provisions, still determines the definition of agropolitan areas, but in the body of the job creation law, the requirements regarding agropolitan areas are removed. With the abolition of these articles by the Employment Copyright Law, the regulation on spatial planning in rural areas has not provided further detailed restrictions.

Article 48 of the Job Creation Law is an orientation towards spatial planning in rural areas. It regulates the determination of perpetual agricultural areas for food security on a national scale determined by Law. Furthermore, the structure of the rural regions are parts of the district or provincial Government. Besides, it is the

mandate of the job creation law to form government regulations governing the spatial planning of rural areas.

D. CONCLUSION

Entering the society era 5.0, which is based on a computerized program, the Indonesian Government ratified Law No. 11 of 2020 concerning Job Creation to increase the number of Indonesian workers by creating job opportunities for investors. The Government implemented a new system in the licensing sector using the updated OSS (Online Single Submission) system as a business licensing system controlled by the central Government and applied to all provincial or district governments. One of the objects regulated in the Job Creation Law and using the OSS system was Spatial Planning. The first revision in spatial planning regarded the implementation, which clarified the tiered and complementary system. Furthermore, the decision-making related to the performance of regional spatial planning in the district or province was on the central Government.

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