

Setting The Urgency Islands Region Province In The System Of National Space Arrangement

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Abstract

In 2015 a change in the number of islands in Indonesia country which previously amounted to 17 508 islands became 17,499 islands with details of 13 466 islands and 4,033 islands named yet named. The foregoing is reinforced in Article 25 A of the Constitution of the Republic of Indonesia Year 1945. Article 3 of Law No. 26 Year 2007 on Spatial Planning Implementation confirms that spatial planning is aimed at establishing national spatial safe, comfortable, productive, and sustainable based Archipelago and National Security. However, Law No. 26 of 2007 is not set to the region in the island province of the national spatial planning system. The legal issues in this paper is the urgency of setting archipelago province in the national spatial planning system. Urgency is based on geographical aspects (territorial), where the characteristics of the territory of Indonesia, which consists of the islands and the islands, the guarantee in Article 25 A Constitution NRI 1945, the statement in the declaration Juanda 1957 on the archipelago insight and UNCLOS in 1982, in addition in the history of spatial Indonesia in 1938 the Dutch government has designed the arrangement of space-oriented Indonesian archipelago.

Keywords: Islands Province, Spatial, Space Arrangement.

1. Introduction

In 2015 a change in the number of islands in Indonesia country which previously amounted to 17 508 islands became 17,499 islands with details of 13 466 islands and 4,033 islands named yet named. While the area of Indonesian waters reached 3:25 million km² with details (a) Size Territorial 0:30 million km² and (b) the archipelagic waters, 2.95 million km². Indonesian EEZ area mencapai 2:55 million km². Indonesia's land mass reached 2:01 million km². Homeland area reached 7.81 million km². and a coastline of Indonesia reaches 80 791 km.¹

In addition to the Indonesian archipelago also called the state beach (coastal state) is the component national territory consists of land, sea (waters) and air space (air space), where two-thirds of the total area of Indonesia is a sea. Judging from the nature, the marine environment Indonesia shows that the properties of the integral between the elements of the sea (water) and terrestrial (ground), then ecologically this is a scientific basis, and naturally also for the concept of insight into the archipelago as the embodiment of a geographical unit, which became the basis of political unity, economic, cultural, defense and security.²

The foregoing is reinforced in Article 25 A of the Constitution of the Republic of Indonesia Year 1945, hereinafter abbreviated NRI 1945 Constitution states that the Republic of Indonesia is an archipelagic country, characterized by the archipelago with the region and the boundaries and rights are defined by enactment legislation. Existence of a large area is the responsibility of Indonesia to manage and utilize the space on land, sea and air and its contents as possible in order to be useful to the overall prosperity and welfare of the nation of Indonesia as stipulated in Article 33 Paragraph (3) Constitution NRI 1945 states that the earth and water and natural resources contained in it are controlled by the state and used for the people's welfare.³

Spatial plan as referred to in Article 2 of Law No. 26 Year 2007 on Spatial Planning compiled beraskan: a. alignment; b. harmony, harmony, and balance; c. sustainability; d. keberdayagunaan and keberhasilgunaan; e. openness; f. togetherness and partnership; g. protection of the public interest; h. legal certainty and justice; and i. accountability. Article 3 "Implementation of spatial planning, aims to create national spatial safe, comfortable, productive, and sustainable based Archipelago and National Security.

Spatial formation was conducted in order to establish the use of the territory, earth / soil, water and air space and the basement by the government and the community, either jointly or individually. The formation of regional spatial rencana a local government authority in accordance with the provisions of Article 1 (1c, d) Act No. 23 Year 2014 on Regional Government.

Government policy in the field of spatial planning not fully accommodate the needs-kebutuhan communities in areas characterized by islands, so the perceived injustice. Theoretically the government or the state recognizes the existence of the islands, where the special treatment of the people included in the spatial arrangement worth special attention to set in legislation representative.

¹ Dikompilasi oleh *Tentara Nasional Indonesia Angkatan Laut*, Dinas Hidro-Oseanografi, Jakarta, Mei 2015.

² Mochtar Kusumaatmadja, *Buga Rampai Hukum Laut*, Jakarta: Bina Cipta, 1978, hal. 78.

³ Pasal 33 Ayat 3 Undang-Undang Dasar 1945.

The existence of the islands is the origin attached to the areas that have the character of islands whose territory is dominated by real waters recognized and kept alive so that ought to get special treatment in the spatial field. As a single entity in the form of the unitary Republic of Indonesia has consequences for the demands of special treatment is a right that is certainly a reflection of the principles of justice and equality meaningful comprehensive.¹

The local government both at the provincial and Kabupaten or city level in this era of reform required to implement good governance to be able to achieve a just society, makmmur and sejahterah in accordance with the state's goals as stated in the preamble NRI Alinea 1945 to four. It is a philosophical values to the people of Indonesia in an effort embodiment of the people's welfare, the province sea area larger than the land area and has hundreds of uninhabited islands such as Maluku province which has approximately one thousand islands with an area of 92.6% marine areas, Riau Islands Province which owns approximately 96% of marine, NTT Province which has 1,192 islands with an area of 80.8% of the ocean, Bangka Belitung province is composed of 79.9% of the sea area, and North Sulawesi Province comprises 95.8 % of sea.

The potential of different regions of the archipelago with the mainland region, is an opportunity that must be captured to be included in consideration of spatial planning and regional development that have an identity or a distinctive personality. Such as for example the area of potential as a tourist destination, developed with particular attention to tourism development. Similarly, for regional spatial potentials in agriculture, should further highlight the interests of its agricultural development.²

These things show that Indonesia before becoming a state, already has a diversity-diversity from region to region (in this case the area is characterized by islands and the mainland). The fact of the differences between the area by I Nyoman Nurjaya is the diversity of law (legal plurality), because in addition to the applicable legal system positive (state law), also apply religious law and customary law which is among the three go hand in hand and apply in governance.³ Indonesia as a country that wrote sesanti Unity on the symbol of the State of an eagle, is a must (*conditio sine qua non*) to consistently maintain, protect, respond to and accommodate the wisdom of the environment (ecological wisdom) local communities in policy making and the establishment of regulations legislation at central and regional level, as a form of respect and recognition of the fact plurality law (legal pluralism) are empirically live and thrive in a society in Indonesia.

Therefore, the success of a country's national development will be achieved, if the orientation of the Development are placed appropriately, especially in accordance with the objective conditions of the relevant geographic country. The geographical condition is owned by the objective conditions of the country concerned. Indonesia is not something land locked country (countries constrained by land), nor a state coastal (littoral states) unusual, but is an archipelagic state (an archipelago) and has a strategic position as the archipelago nation. Because it is not appropriate determination of a development process that runs for this is land base oriented (oriented kedarat), because it objectively does not match the conditions geographical configuration of its territory is an archipelago, not merely land or a continent.

The area is characterized by islands have the diversity that is characteristic of both of the local community (nature locality), differences in customs and culture (culture), differences in language, beliefs and differences in political choice, the difference livelihood (economic), differences in the nature and characteristics of the area (topographic and geography). Because of these differences then it should be in the national spatial planning system settings in Law No. 26 In 2007 there was a special arrangement of the area characterized by islands.

In addition to the foregoing Indonesia as the country's archipelago, the Indonesian government in making policies that govern the system of setting national spatial planning should use geostrategy is based on Pancasila and the Constitution NRI 1945 and in accordance with the geography of the archipelago who animates the life of the nation in achieving the goals or ideals national.

2. Problem Formulation

Based on the background of this problem, so in this paper will analyze what arrangement urgency island province in the national spatial planning systems.

3. Result and Discussion

Understanding Spatial

System space, with an emphasis on "governance" is setting the layout of the rooms of an area or region (region) so as to create conditions beneficial economic, social, cultural and political, as well as beneficial for the development of the regional

¹ Ibid.

² Diyan Isnaeni, *Tinjauan Yuridis Tentang Kebijakan dan Strategi Penataan Ruang Serta Pembangunan Daerah*, Jurnal Dinamika Hukum Fakultas Hukum Unisma, Agustus 2004, hal. 58.

³ I Nyoman Nurjaya, *Paradigma Pembangunan Hukum Nasional Dalam Masyarakat Multikultural: Perspektif Antropologi Hukum*, Makalah dipresentasikan dalam *Seminar Nasional Hukum Adat dalam Pembangunan Nasional di Papua*, diselenggarakan Fakultas Hukum Universitas Cendrawasih pada tanggal 20 – 21 Nopember 2014 di Auditorium Uncen Abepura, Papua.

society. According Karmono Mangunsukarjo cited by A.M. Yunus Wahid, said space is a container of human life and its natural resources contained therein, including earth, water, and air as a whole.¹ Meanwhile, according to D.A. Tisnaamidjaja, which dimkasud the sense of space is "a physical manifestation in the region and gemetris geographical dimension which is a forum for people in conducting their lives in a decent quality of life".²

In Article 1 paragraph 1 of Law No. 26 Year 2007 on Spatial Planning, confirmed that: "Space is a container that includes: space land, sea, and air, including space in the earth as a single territorial unit, where humans and other creatures live, operate, and maintain its survival. " Understanding or formulation This shows that "space" as a container has a broad meaning, which includes three dimensions, namely: land, sea, and air that highlighted both horizontally and vertically. Thus, spatial planning (PR) also reaching three dimensions vertically or horizontally with the various aspects associated with it, such as: economic, ecological, social, and cultural as well as the various interests in it.

"Understanding or the formulation essentially adopted the formulation of the Act prior to the mutatis mutandis. For comparison, that in Act No. 24 of 1992 on Spatial Planning (UUPRL), Article 1, point 1 affirmed: "Space is a container that includes consciousness space, sea and air as a single region, where humans and other creatures live and conduct activities and to continue his life".

Concept of Islands Region

Since the announcement of the declaration dated December 13, 1957 the Government of Indonesia continues to fight for the island nation accepted conception of law and internationally recognized. The struggle has finally resulted in the recognition of the international community as universal acceptance of principles and the arrangements regarding the legal regime of the archipelago (Archipelagic State) in Chapter IV of the United Nations Convention on the Law of the Sea 1982. The Convention has been ratified by the Government by Law No. 17 of 1985 on the Ratification of the United Nations Convention on the Law of the Sea (United Nations Convention on the Law of the Sea). Change the position of the Republic of Indonesia as an archipelagic country very broad implications not only against the national interest, but also to the international interest in Indonesian waters. International recognition of the principle of the island nation as the embodiment of the aspirations of the people of Indonesia, brings the consequence that Indonesia must also respect the rights of the international community in waters that are now national waters, especially the right of innocent passage and right of archipelagic sea lanes passage for foreign vessels. After the world community believe that with this action Indonesia do not mean to diminish the rights of the world cruise legitimate and achieve a balance between the desire Indonesia to secure the territorial integrity and control of natural resources contained therein on the one hand, and the interests of the world of international shipping in the the other, the principle of this island nation finally accepted internationally³.

In terms of the state administration, the Declaration dated December 13, 1957 and Law No. 4 Prp. 1960 on Indonesian Waters represents a milestone in the constitutional development of the Republic of Indonesia that Indonesia as an archipelagic country is then recognized by the international publishing of principles and legal regimes island states in Chapter IV of the United Nations Convention on the Law of the Sea of 1982. The provisions concerning the principles and the legal regime of the island nation of the Convention contains a variety of development from conception to the island nation as stipulated in Law No. 4 Prp. 1960 on Indonesian Waters.⁴

Provincial, characterized Islands is a region in the province that has the characteristics of geographically with the wider sea area of land in which there are islands that make up the island chain so that a single geographical and socio-cultural unity.⁵

Urgency Islands Province Regional Settings In the National Spatial Planning System

As we know that the area is a form of spatial development plan area, which has a strong role in the effort to organize the spaces more efficiently and economically valuable in the region. A new policy in order to make room for local autonomy to organize spatial region in accordance with regional characteristics of the Unitary Republic of Indonesia.

The setting is the province of the islands in the national spatial planning system, has a different and unique with different spatial arrangements in general, the difference in terms of geographical aspects (territorial) as well as from the aspect of urgency settings.

From the geographical aspect (territorial), where the characteristics of the region consisting of the islands and the islands requires a regulatory framework that different regions of space as a consequence of the spread of the islands. Thus, the necessary arrangements were firm and clear on spatial planning in the island province of the national spatial planning system with regard to the interests between sectors which are based on the territorial integrity of the Unitary Republic of Indonesia.

While aspects of the urgency of setting, based on the framework of the integration of development that is oriented towards the broader region (cross jurisdiction), the integration between sectors, between regions and among development actors,

¹ A.M. Yunus Wahid, *Pengantar Hukum Tata Ruang*, Kencana Prenada Media Group, Jakarta, 2014, hal. 1.

² D.A. Tisnaamidjaja, dalam Juniarso Ridwan dan Achmad Sodik, *Pranata Pembangunan*, Bandung: Universitas Parahyangan, 1997, hal 23-24.

³ Naskah Akademik RUU Percepatan Pembangunan Daerah Kepulauan. Hal. 2.

⁴ *Ibid.*

⁵ Pasal 1 Ayat 19 UU No. 23 Tahun 2014 tentang Pemerintahan Daerah

integration between economic interests and sustainability, and using the principle of synergy development and benefits together.

In the Government of Indonesia Juanda Declaration affirms the principle archipelago (Archipelagic State Principle), who saw the sea area, and land as a form a unified whole in accordance with the philosophy of the homeland. The concept archipelago (Archipelagic State) based on the concept that has meaning sea archipelago where there are many islands.

The archipelago in the ratio of the sea, or water is greater than the mainland or the islands, but both are considered as a single entity. It is thus paramount in understanding the concept of archipelago a unity between sea and land, as well as the air above it. So that the sea area ratio greater than the ratio of land area.¹ While the island states in the United Nations Convention on the Law of the Sea (UNCLOS) in 1982 mentions is a country composed entirely of one or more islands and may include other islands.²

Article 25 A of the Constitution of the Republic of Indonesia Year 1945 confirms that the unitary state of Indonesia is an archipelagic country, characterized by the archipelago with the area boundaries and rights are defined by law. On the other hand Article 18 Paragraph (1) Constitution NRI of 1945 confirms that the Unitary Republic of Indonesia in the upper areas of the Province and the province was divided into districts and the City, which each province, district and city that have government regulated areas with legislation. Article 18 A Paragraph (1) NRI Constitution of 1945, the relationship of authority between the Central Government and the Provincial Government, district and city, or between the Province and District and State governed by law with due regard to the specificity and diversity of the area.

Based on the principles of the archipelago, the importance of setting the islands in the province of national spatial planning system is based on the consideration that:

1. Confirmation of unity of land and sea (homeland) is a philosophy as well as the views of Indonesia concerning the sea as a link that gave birth to the principle archipelago (Archipelagic State Principles).
2. The concept of island states in the Convention on the Law of the Sea 1982, championed by the Government and people of Indonesia, has made the province of the islands as their benchmark recognition principles of the archipelago.
3. Recognition of the principle of archipelago should be implemented into the principle of regional (provincial archipelago).
4. The natural resources in the sea on Islands province contributed greatly to the development of Indonesian society, but do not receive remuneration proportional to the local development community welfare.³

In the context of the archipelago, the Indonesian government is required to realize the Islands Province in the national spatial planning systems in order to accelerate the process of regional development, to achieve the welfare of the people in the area. Urgency regulation spatial arrangement in the island province of national spatial planning system is based on some of the problems faced by the Islands Regional Government, such as:

1. The sea area larger than the land area,
2. Occupation is relatively small and the distribution is uneven,
3. Segregated communities within the territorial settlement by an island,
4. The diversity of natural resources,
5. The level of geographic isolation tend to be high with the unique habitat (endemic) and biotic diversity (biodiversity),
6. Activity, the type and degree of economic dynamism are generally limited and small in scale, and has not been supported by a network of distribution and marketing adequately,
7. The resources of small environment, are susceptible to change (entropy), and prone to natural disasters, such as waves on the sea surface,
8. There is the potential of terrestrial and marine biodiversity around the islands (small),

¹ Hasyim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut*, Bandung: Bina Cipta, 1986, hal. 70

² Pasal 46 Ayat (1) *United Nations Convention on the Law of the Sea* (UNCLOS) 1982

³ Badan Kerjasama Provinsi Kepulauan, *Draft Akademik Rancangan Undang-Undang Daerah Kepulauan*, Ambon, hal. 50

9. Almost all the islands are on the territory of the Province / State Border region, which has the outermost small islands.¹

In addition to the above the Unitary Republic of Indonesia (NKRI) is known as one of the archipelago (archipelagic state), which consists of 17,499 thousand large and small islands, which already have a name or that has not been named, and which has been inhabited by humans or not. In addition, Indonesia is also known as a country rich in natural resources, biological (flora and fauna) and non-biological, renewable (renewable) or nonrenewable (nonrenewable), which form an economic good (commodity) such as oil and gas, minerals, wood rattan, fishery resources and intangible nature reserves (natural stock) such as lakes, watersheds, the peatlands and swamps, savannah, the landscape beaches, canyons and others, as well as in the form of environmental services (environmental service).

Professor of geopolitics Friedric Ratzel stressed that the size of the appreciation of a nation on the conception of the space will determine the size of the territory of the State of. Indonesian nation with over 17,000 islands and 6 million km² wider sea around him, must be serious in managing its territory. Although very spacious and plentiful, but not an inch of our land and the sea water was allowed a little off, everything must be defended and preserved because the area is the first element of the new State following the people and the government. Based on the geopolitical theories of government in shaping legislation in this case the Law No. 26 Year 2007 on Spatial Planning must adjust or based on the condition or configuration of its geography, so that the legislation that was formed could actually accommodate and protect against all layers of the people (especially people who are in the province of islands) Indonesia in order to achieve the objectives of national and state as set forth in NRI preamble of 1945. In geopolitical regulates the spatial planning system national, need to reorganize the national spatial planning system in order to empower the province insightful islands of the archipelago as stipulated in the Pancasila and the 1945 Constitution.

The Republic of Indonesia is a Constitutional State.² In the theory of state law by Burkens, State Law (Rechtsstaat) is the State as the law is the basis of his power in the administration of such a power in all its forms is carried out under the rule of law, based on the theory of this law, the government in holding power in the field of setting the province of islands in the system of spatial national to provide welfare to all levels of the people must be based on law. Therefore, it is important for regulating the island province in the national spatial planning systems in accordance with principles of the Indonesian archipelago (Archipelagic State).

Based on the concept of spatial arrangement province region archipelago in the system of national spatial become very urgent or important keeping in that room is a container that includes: space land, sea, and air, including space in the earth as a single territorial unit, where humans and other creatures living, operate, and maintain its viability, other than that of spatial planning, aims to create national spatial safe, comfortable, productive, and sustainable based Archipelago and National Security, which is in line with the geographical form Indonesia as an archipelagic nation made up of thousands of islands have the nature and pattern of its own, as defined in Article 1 Paragraph (19) of Law No. 23 Year 2014 on Regional Government that the province is characterized by islands is the province that has the characteristics of geographically with the wider sea area of land in which there are islands that make up the island chain so that a single geographical and socio-cultural unity.

Associated with the notion of island states and the province is characterized by islands, then in the national spatial arrangement there must be a special space set against the regional spatial island province in the national spatial planning systems which correspond to geographical fact Negara Indonesia is an archipelagic nation. While the urgency of spatial arrangement Islands province in the national spatial planning system, if it is based on a historical picture of spatial planning in Indonesia, that in 1938 the Dutch East Indies government has made arrangement of space to accommodate the bill also to the territory of the islands. But in 1948 the Government of the Republic of Indonesia passed legislation on spatial packed in SVO and SVV, which in SVO and SVV did not take or adopt the concept that the Draft Bill on the arrangement of the space created by the Dutch government, it SVO and SVV only set the region's urban elite that is reserved in the 15 major cities in Indonesia.

Based on your search history of spatial planning in Indonesia, should the settlement of the space setting in Law No. 26 Year 2007 on Spatial Planning adopted the spirit or the concepts included in the bill spatial arrangement made by the Dutch government in 1938 so that Law No. 26 of 2007 contains the concept of regulation of the province of the islands, so it's not like that in Law No. 26 Year 2007 on Spatial Planning oriented to the mainland, which does not accommodate the interests of the province of Islands. It is that attributed to the opinion of Roscoe Pound as saying that the law in this case is the law as a tool to manipulate the public, in order to achieve the welfare of the community, but not to emasculate the rights of territory or community rights. Further Mochtar Kusumaatmadja said that the law must be a means of development.

Of the two opinions it can be concluded that legal means must encourage the process of modernization. This means that the laws are made must be in accordance with the ideals of social justice for all Indonesian people. Along with these functions, the legislators putting a variety of legal basis in a variety of development activities, as one that is in the formation of legislation on spatial planning.

¹ Ibid.

² Pasal 1 Ayat 3 UUD NRI Tahun 1945

In addition to the above, the urgency or importance of spatial planning in the island province of the national spatial planning system if it is based on the preamble of the Act No. 26 Year 2007 on Spatial Planning (c) where in the preamble affirm that to strengthen national defense by Archipelago and in line with the policy of regional autonomy which authorizes increasingly to local governments in the implementation of spatial planning, the authority needs to be regulated in order to maintain harmony and cohesion between regions and between the center and regions so as not to cause regional disparities. But the laws of spatial planning that have turned out to be substantially not reflect the contents of the preamble above, because during the development in Indonesia is more oriented toward their land which affect regional disparities islands with mainland regions. It is in the causes for legislation to be balanced between the spatial arrangement of the islands with the mainland. Therefore, to realize the contents of the preamble it is important that the setting of spatial Islands province in the national spatial planning system.

4. Conclusion

From the geographical aspects (territorial), where the characteristics of the region consisting of the islands and the islands requires a separate regulatory framework region of space as a consequence of the spread of the islands which has different characteristics than on the mainland. It is guaranteed in Article 25 A NRI Constitution of 1945 which confirms that the Unitary Republic of Indonesia is a country that is characterized Islands archipelago with the area boundaries and rights are defined by law. In the history of spatial Indonesia in 1938 the Dutch government has designed the arrangement of space-oriented Indonesian archipelago.

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