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Spatial Planning Law as Controller of City Space Utilization in the Sustainable Development Context

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Abstract
The Spatial Planning Law (Law No. 26 Year 2007 on Spatial Planning) can be functioned as controller of city space utilization in the sustainable development context, if it meets the validity of the philosophical, juridical and sociological by referring to the norm basically (Grundnorm) as well as change the paradigm of Anthropocentric to be Eco-Centrism towards Eco-Sufism, in viewing and manage the space (environment).
Keywords: Spatial Planning Law (UUPR), control, sustainable

1. Introduction

Spatial planning law as regulated in Law No. 26 of 2007 on Spatial Planning (LN No. 68 of 2007), hereinafter referred to as (UUPR), defined as a substitute Act No. 24 of 1992 on Spatial Planning (LN No. 115 Years 1992) hereinafter abbreviated as (UUPRL) has been set up with the spirit of renewal of the law, which is replacing the legal product of the colonial powers (the Town Planning Ordinance/Stadsvormings Ordinance, Standsblad 1948 No. 166) and the desire synchronization and harmonization among the various Act, which implement the provisions of Article 33 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945 (Constitution NRI 1945). This setting indicates Indonesia is a country of law, as confirmed in Article 1 (3) Constitution NRI 1945.

The implementation process of development faces two major problems, namely the problem of population growth and high population on the one side, and limited natural resources on the other. Development activities and the increase in population may lead to pressure on natural resources and environmental degradation.

Utilization of natural resources should be accompanied by efforts to manage and sustain the capability of the environment to support sustainable development, by taking into account the needs of present and future generations. In conjunction with the management activities and preservation of the environment, spatial planning is one of the tool used for such activities, and also to use natural resources in an integrated, optimized and efficient.

UUPR been enacted, although not yet fully followed by legislation under it to support the implementation. While various regulations on sectorial activities have been there and prevailing in the society. The enactment of UUPR are expected as an umbrella provision ("umbrella act"), which directs all sectorial legislation comes down, as well as will surrounding the underlying legislation and legislation to match.[1]

UUPR as part of the legal system, are expected to be a means of renewal communities (Law as a tool of social engineering).[2] Law in this conception is assumed to be the rule or the rule of law which can serve as a tool or means of development in a sense, channeling the direction of human activity in the direction desired by the construction or renewal. The law also structuring the entire process, so that the certainty and order guaranteed.[3]

Associated with the law function, Roscoe Pound expression as follows: legal function not only as a social control, but also as a driver/steering the progress of society (a tool of social engineering) or as pacemakers and development (an agent of development) and as a means of ensuring justice.[4]

According to Gustav Radbruch as cited by Satjipto Rahardjo, the laws that have a nature force, its presence will be accepted by society if it fulfills the basic values the laws, namely: fairness, usefulness and legal certainty. These three of basic legal value, has the validity of applicable, philosophical, sociological and juridical.[5]

According J.J.H. Bruggink, the rule of laws enforceability that serves as controller facilities, including: (1). Factual or Empirical Rule of Law enforceability, (2). Normative or Formal Rule of Law enforceability and (3). Enforceability evaluative Rule of Law.[6]

According to Hans Kelsen, with the theory of *"Reine Rechtslehre"* or *"pure theory of law",* it was stated

[1]Mieke Komar Kantaatmadja*, Space Law and the Law of spatial planning*, Alumni, Bandung, 1994, pp 89, see also the Imam Koeswahyono, *Land Use Administration Law and Spatial Planning (Problems Between Text and Context)*, UB Press, Malang, 2012, p. 91
[2]Sunaryati Hartono, *National Legal Development In Globalization World Society,* Speech Inauguration Position Professor of Law, Faculty of Law in the University of Padjadjaran Bandung August 1, 1991, p. 2-4. Law is defined as a series of rules, regulations, sort order, whether written or unwritten.
[3]Mochtar Kusumaatmadja, *Society and the National Law Development,* Binacipta, Bandung, 1976, p. 9.
[4]Soetandyo Wignyosubroto, *Legal Paradigm, Method and Dynamics Problem*, Elsum dan Huma, Jakarta, 2002, p. 60
[5]Satjipto Rahardjo, *Legal studies*, Alumni, Bandung, 1986, p.20-21.
[6]J.J.H. Bruggink, *Reflections About Law*, translation Arief Sidharta, Citra Aditya Bakti, Bandung, 1999, p. 147-152.

that a new legal norms have validity/validity, if the rule was based on a higher rule. Thus the picture raises a legal system as a hierarchical structuring of legal principles that a gradation level of conical form of *stufenbau*. The arrangement found the end point and called by *"Grundnorm"*, base rules that are not based on the higher rules.[1]

The existence of spatial planning laws (UUPR) has a function as a means of social control (law as a tool of social control) for the space utilization. According to Satjipto Rahardjo, laws as a means of social control, defined as a process of influencing people to behave in accordance with the expectations of society that can be run, in various ways. This is in line with the what was said Steven Vago that"*social control refers to the processes and method used by members of society or a group maintain social order by enforcing approved behavior*," it means that social control is aimed at processes or ways/mechanisms used by communities to ensure his adjustment to the existing norms, which the mechanism referred to social control.[2]

To realize the legal function mentioned above, in this case the UUPR require legal politics. Political law as the facilities and measures of the government to create a national legal system to achieve the ideals of the nation and the destination countries. Everything should be achieved based on the philosophy of Pancasila (Five Basic Principles), not only by the capitalist way, communist nor a religious fanatic.[3]

The renewal of Act No. 24 of 1992 on Spatial Planning (UUPRL), then replaced Law No. 26 Year 2007 on Spatial Planning (UUPR) due to several reasons, are: 1) The law implementation of regional autonomy (euphoria regions) was excess, 2) Urban Issues, 3) law enforcement was weak, 4) Coordination between Spatial Planning Organization was weak, 5) Cross-border of the Spatial Planning Administration was weak, 6) The role of society has not evolved, 7) Formulation of norms is difficult to implement, 8) There are no sanctions, 9) Supervision and Law Enforcement Administration was weak, 10) Synchronization with Legislation was weak, 11) The difference in charge RTRWN, RTRWP and RTRWK less clear, 12) Conflicts of authority on Spatial Planning.[4]

The existence of the law on spatial planning lies at the level of the legality of a benefit of the region. Spatial planning without the law, the consequences of losing the juridical validity of spatial planning. In this context it means to build spatial planning laws is a basic requirement in assessing the validity of the law, particularly in law enforcement through the means of controlling the use of space. Therefore, the formulation of spatial planning legislation validity measured from philosophical consideration, theoretical, juridical and sociological, so that spatial planning will be on the total systemic context. Following thought Joseph Ras as cited by Prasetijo Rijadi, in this case the legal instrument used to organize the space, so that the spatial planning has the authority.[5]

One of the issues of spatial planning law in the context of sustainable development is arrangement a norm that is not clear or fuzzy, resulting in Spatial Planning Law (UUPR) can not serve as a means of controlling the use of urban space in the context of sustainable development.

The vagueness of norms in the Spatial Planning Law (UUPR), contained in Article 2 on the principles of spatial planning, Article 3 of the purpose of spatial planning, Article 9 paragraph 2 letter c of coordination, Article 33 of the phrase natural resources, Article 35 on control of utilization of space, Article 65 on the role of the public on Spatial Planning, and still adheres to the paradigm of antroposentis, and has not adheres to eco-centric and theocentric of Spatial Planning.

From the description as mentioned above, it can be understood that the existence of spatial planning law (UUPR), especially in the setting of urban areas, was very important (strategic), and the arrangement compete with various problems increasingly complex society, and how spatial planning law could serves as a means of controlling the use of urban space in the context of sustainable urban development?.

Urban development was not based on spatial planning and visionary, sporadic, or "ad hoc planning or incremental planning", is very dangerous for the future of our cities. Perhaps the "city of tomorrow" in Indonesia one day will truly be a "city of Sorrow", which afflict our children and grandchildren. Imagine, there are up to the heart to say that the big cities is now more like "human zoo".[6]

Based on the above issues, the formulation of the fundamental problems that the boundaries of research and writing, are: Why Spatial Planning Law (UUPR) Currently enacted, was not adequate as a controller the use of urban space in the context of sustainable development (as seen from the aspect of philosophical, juridical and sociological), and is there a political law?

[1]Hans Kelsen, *Pure Theory of Law Basic Legal Sciences Normative*, translation Raisul Muttaqien, Nusa Media, Bandung, 2008, p.216.
[2]Satjipto Rahardjo, *Law and Social Change,* Alumni, Bandung, 1983, p.14.
[3]Sunaryati Hartono, *Law Politics Towards A National Legal System*, Alumni, Bandung, 1991, p.1
[4] Departemen Pekerjaan Umum. *Academic Manuscript Draft Law On Spatial*, Jakarta, 2005, p. 8.
[5]Prasetijo Rijadi, *Spatial Planning Law Development in the Context of Sustainable Cities,* Airlangga University Press. Surabaya, 2005, p. 2.
[6]Eko Budiardjo, *Preventing Urban Reform Urban Areas Being Human Zoo*, Kompas, Jakarta, 2014, p. 2.

2. Research methods

This research is a law (legal research). According to Peter Mahmud Marzuki stated that, "...... legal research conducted to produce arguments, theories or new concepts as prescriptions in solving the problems that faced, so that the expected response in the study of law is right, Appropriate, Inappropriate or wrong. Thus it can be said that the results obtained in the study of law already contains a value.[1]

This research is a normative law, which is a study of the principles, concepts and rules of law to answer this legal issues research.

Following the opinion of Perce D, E and Harding D Campbell, was cited as saying by istislam, this study is a research-oriented reform (Reform-Oriented Research). Research renewal here meant the study legal reforms (Law Reform Research) as intended by William Hulburt as "the alteration of the law in some respect with a view to its improvement", (changing the law by considering the repairs). [2]

Following the concept of legal reform research above, this research is an intensive research to evaluate adequate or not, and true or not of the substance of Spatial Planning Law (UUPR) were analyzed from the side: the philosophical, juridical, sociological and political terms of the law.

Legal research is also considered in interdisciplinary legal research, because this legal research to find a new government policy. In addition, this study requires verification and assistance of other disciplinary science, such as the Agrarian Law, Environmental Law, Local Government Law, the Law of the Land Stewardship, Development Planning Law, in particular those relating to spatial planning law.[3]

In this study, the research approach used philosophical approach, the historical approach, a comparative approach, statute approach, and the conceptual approach, as well as the case approach as an supporting instrument.

3. Results and Discussion

The reasons substance analysis of Spatial Planning Law (UUPR) is inadequate as the controlling utilization of urban space in the context of sustainable development.

3.1 Philosophical analysis of the Spatial Planning Law (UUPR)

Referring to the preamble to the letter (a) Spatial Planning Law (UUPR) 1992 and the preamble to the letter (b) Spatial Planning Law (UUPR), it appears that actually Spatial Planning Law (UUPR) has placed Pancasila as the basic philosophy. The recognition that the space area is a divine grace to be thankful for and maintained continuity or sustainability, to achieve national development goals as the implementation of Pancasila as basic philosophy of entire nation.

The existence of Pancasila as the basic philosophy of Spatial Planning Law (UUPR) as set forth in the preamble, if studied in greater depth was not spelled out in the provisions of the Spatial Planning Law (UUPR), thus providing an overview, that spatial planning narrowed to the issue as if the technical and administrative only.[4]

Based on Article 2 Spatial Planning Law (UUPR) defined as follows, in the framework of the Unitary Republic of Indonesia, spatial planning based on the principles of: a) the integration; b) compatibility, harmony, and balance; c) sustainability; d) efficient and effective; e) openness; f) togetherness and partnership; g) protection of the public interest; h) legal certainty and justice; and i) accountability. When analyzed using Uppu, the Spatial Planning Law (UUPR) which is new in principle, is more adequate than the Spatial Planning Law (UUPR) elderly.

However, according to Imam Koeswahyono, Section 2 Spatial Planning Law (UUPR) regarded not as a principle of law, but in Section 2 Spatial Planning Law (UUPR) is more of a general guideline for spatial planning, while the principle of law that more emphasis on general provisions which could be used as a tool to solve problems, for example: clash of two legislations in different degrees in regulating the same thing.[5]

Meanwhile, according to Suteki, the principles of the spatial planning law as defined in the preamble letter b Spatial Planning Law (UUPR), that the development of the situation and the national and international conditions demand developed principles of integrity, sustainability, democracy ... or Article 2 Spatial Planning Law (UUPR) as: coherence, sustainability, democracy, rule of law and justice, accountability, when analyzed from the amendment of Article 33 of the Constitution NRI in 1945, especially on the addition of paragraph 4, there has been a shift in the orientation of the philosophy of Indonesia Socialism towards Neo-Colonialism based on the concept of "Good corporate governance" that has the characteristics of accountability, transparency and democracy. Those principles carries with individual values, as a condition or compensation of loans granted by the IMF, and

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[1] Peter Mahmud. Marzuki, *Legal research*, Kencana - Prenada Media Group, Jakarta, 2005, p. 35.
[2] Istislam, *Prior sanction of Government Environmental Protection and Management*, Dissertation, Graduate Airlangga University Surabaya, 2012, p. 64-65
[3] *C.F.G.* Sunaryati Hartono, *Legal Research in Indonesia At the End of the 20th Century,* Publisher Alumni, Bandung, 2006, p. 124, 142, 143 and 144.
[4] Imam Koeswahyono, *Land Stewardship Law and Spatial Planning in Indonesia (Problems Between Text and Context),* Press Brawijaya University, Malang, 2012. p. 170.
[5] Imam Koeswahyono, *op.cit*, p. 95

the World Bank's CGI investment in SDA.[1]

Based on the above, can be found various problems. Philosophically, the problems in the spatial planning law (UUPR) lies in the foundation of philosophy or views on which the ideals and objectives of the establishment of the Republic of Indonesia as stipulated in the Pancasila. Spatial Planning Law (UUPR) expressed a philosophical[2], because according to Fritjof Capra, a physicist and environmental philosophy, space (universe) is not seen as a living system intact [3].

Why is this so, it is caused by the fault of anthropocentrism paradigm that sees man as the center of everything, otherwise the universe to be considered as having no intrinsic value in itself, apart from the economic instrumental value for human economic interests.

As for man, should be viewed as a special component that has two positions at once, ie, as a part of nature, and at the same time as the manager of that nature. Very true expression of Leenen (1976) in Hardjasoemantri, that:

> "Human nature has incorporated in its cultural life, but he almost forgot that he himself is part of nature, in which he lived. Thus, the man turned out to not only act as ruler of nature, but also as a servant. "It suggests, too, that" in environmental issues, human beings finally face to face with himself. In that influenced human nature (nature-made man), human-influenced natural (man-made nature) finds itself. This means, that in conjunction with nature, he must take into account other values, in addition to the values of the technical and economical. This means also, that the threat to nature can not be accountable to the other party, but the attitude of the man himself, as a person independently, or as a member of society."[4]

Anthropocentrism paradigm that has led to excessive exploitative behavior that is destructive of nature as an economic commodity and a means of satisfying human interests. Which case should view nature as human beings are equally important, because it has intrinsic value in itself precisely because there is no life in it, not only human life but also the lives of living beings in general that must be respected and preserved, according to the Ecocentrism paradigm. [5]

According to Achmad Santosa, Ecocentrism paradigms acknowledge the legal rights to natural (right for nature) that comes with the rights of subjectively (subjective rights) and the obligation of the state (the duty of the state) in the field of environmental management, as well as the direction of the development pattern, namely sustainable development in special packaging environmental charter or a charter for nature. [6]

The raised of environmental rights issue as human rights and the adoption of the principle of sustainable development and environmentally friendly, it is envisaged that the Constitution NRI 1945 is already shades of green (green constitution). Only very few people are aware of it. While it is a natural right has not obtained attention.

Natural rights/space (right for nature) that theoretically, has not been understood or recognized, would result in a "miss oriented" in development in Indonesia. By using the approach of anthropocentrism, the existence of space/nature was seen as a commodity, resulting in occurred region and sectoral ego. The existence of spatial planning law (UUPR) through RTRW National, RTRW Province and RTRW Regency/City, will divide the space runs out technically and administratively, allowing occur inconsistency and disharmony field of spatial planning legislation. It resulted from a shift in the orientation of "Law as a tool of social control" towards "Law as a tool of social engineering" negatively.

From a philosophical analysis of the above relates to the basic values of justice on the existence of Spatial Planning Law (UUPR), it can be perceived that the Spatial Planning Law (UUPR) that birth after amendment of NRI 1945 in particular on Article 33 paragraph (4), which by Suteki has shifted towards Socialism Indonesia Neo Socialism/Capitalism, spawned legal politics oriented individual interests with anthropocentrism paradigm of thought, rather than social interest with Ecocentrism paradigm of thought.

3.2 Juridical Analysis Against Spatial Planning Law (UUPR)

According to Radbruch,[7] value refers to guarantee legal certainty that the law (which provides justice and norms that show kindness) actually serves as the regulations are adhered to. So according to the Austin rule of law will manifest obedience to the law as an obligation that can not be bargained.[8]

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[1]Suteki, *Reconstruction of Water Rights Law Politics Pro-People*, Surya Pena Gemilang, Malang JawaTimur, 2010, p. 6-7.
[2]Imam Koeswahyono, *Land Stewardship Law and Spatial Planning in Indonesia (Problems Between Text and Context),* Press Brawijaya University, Malang, 2012, p 95.
[3]A. Sony Keraf, *Philosophy of Natural Environment For A System of Life*, Kanisius, Yogyakarta, 2014, p. 8
[4] A.M. Yunus Wahid, *Introduction to the Law of spatial planning*, Kencana Prenadamedia Group, Jakarta,2014, p. 5.
[5]Ibid, hlm. 8
[6]Jimly Assidiqie, *Green Constitution, Shades of Green Constitution of the Republic of Indonesia 1945*, PT. Raja Grafindo Persada, Rajawali Pers, Jakarta, p. v
[7]Bernard L, Tanya, *Legal Theory of Human Conduct Strategy and Space Traffic Generation*, Yogyakarta, Genta Publishing, 2010, p. 130
[8]Andre Ata Ujan, *Philosophy of Law*, Yogyakarta, Kanisius, 2009, p, 70.

Things that gives rise to legal uncertainty caused due to: the emptiness of norms, conflict of norms, norms that are not complete (uncomplete norm), and the vagueness of norms. Legal uncertainty, as mentioned above, the Spatial Planning Law (UUPR) can be stated as follows:

1. The provisions on sanctions. Spatial Planning Law (UUPR) set three forms of sanctions, namely the administrative sanctions (Article 62, Article 63 and Article 64), civil penalties (Article 66 and Article 75), and criminal sanctions (Article 69 through Article 74).

Article 62 Spatial Planning Law (UUPR) asserts, that any person who violates the provisions referred to in Article 61, subject to administrative sanctions. Whereas Article 63 Spatial Planning Law (UUPR) asserts that administrative sanctions as referred to in Article 62 may be: a) written warning, b) suspension of activities; c) the temporary suspension of public services; d) closure; e) revocation of license; f) the cancellation of licenses; g) the demolition of buildings; h) recovery of function space; and/or i) an administrative fine.

From the above description it can be seen the problems/confusion, where the violation of the provisions of Article 61 of the Spatial Planning Law (UUPR) was a violation of administrative, civil or criminal?

In principle, a violation or an error at the level of administrative law should be resolved by legal instruments of administration, except in violation of administrative law was indeed found the elements of a criminal offense.

The elements of the crime is not clearly defined in the Spatial Planning Law (UUPR), so it is difficult to enforce. Is this in line with the precautionary principle (the precautionary principle) and the principle of control (principle of restraint) which is also a requirement of criminalization, stating that criminal sanctions should only used when other legal instruments is not effective, that the criminal law is known as the principle of subsidiarity or "*ultima ratio principle*" or "*ultimum remidium.*"

Within the treatise of Spatial Planning Law (UUPR), the issue of criminal sanctions deemed complex, it must meet the requirements : 1) Who will impose sanctions, 2). What actions that regarded as something that should be sanctioned, 3). Is it evil deeds or acts that violate the regulations, 4) regarding sanctions.

Within the treatise Spatial Planning Law (UUPR), control the use of space is still unclear who the handler Institutions, Parties offenses that may be subject to criminal and civil sanctions indescribable, while administrative sanctions can not be a deterrent, because the charge was the executive who violate Spatial planning. The existence of civil investigator difficult to achieve, it is hampered by bureaucracy and funding problems.

Relating to a breach of article 61 of the Spatial Planning Law (UUPR), which allows offenders are subject to administrative sanctions, civil penalties or criminal sanctions cumulatively, it follows the opinion Hadjon Philip M. et.al, that a rule of legislation in the field of administrative law often does not only contain one kind of sanctions but there are some kinds of sanctions imposed in cumulation. There are times when a provision of the legislation not only threatens violators with criminal sanctions, but also at the same time threatening to administrative sanctions.[1]

Cumulative sanction as mentioned above can be elaborated by melting theory of law *(opplosing).* Meaning, if there is a dispute concerning public law relating to private law, the private law should merge into public law, not vice versa.[2]

2. Provisions disincentives as stipulated in Article 38 paragraph (3) Spatial Planning Law (UUPR) which is a device to prevent, restrict growth, or reduce activities that are not consistent with the planned spatial planning in the form of:

a. Higher taxes are adjusted to the costs required to address the impact caused by the utilization of space; and/or
b. Restrictions on the provision of infrastructure, the imposition of compensation and penalties.

Conditions disincentives are "counterproductive" for the purpose of controlling the use of space is to realize an orderly spatial planning. According to Edy Lisdiyono, disincentives provisions provide opportunities for economic players to get a room for the allotment according to the RTRW effort though not for other uses. This is consistent with rational choice theory, humans are naturally active organism that takes into account ways of acting that allows them to maximize profits and minimize losses in consideration of cost and benefit. According to George C. Homans, was cited as saying Edy Lisdiyono, that social behavior is nothing but an exchange between two parties, both visible and hidden, and more or less manifest in cost expenditure and receipts reward.

The views of this theory suggests that each individual when facing a bid from the outside, then basically he was always motivated by calculations to obtain profits and avoiding losses. The purpose of human action that is economical is to maximize profits.[3] Benefit considerations as the basis of a person's behavior is something that is common, meaning that every behavior always contains a cost-benefit considerations in making decisions.

[1]Philipus M. Hadjon, et.al, *Introduction to the Indonesian Administrative Law,* Gadjah Mada Universty Press, Yogyakarta, 1997, p.263.
[2]Sudarsono, *State Administrative Functions in Relation to Regional Autonomy,* Dissertation, Graduate Program, University of Brawijaya, Malang. p. 362
[3]Edy Lisdiyono, *Legislation Spatial: Study on spatial planning policy shift Laws In Local government regulation in Semarang,* Dissertation, Doctor of Law Science Program Diponegoro University, Semarang, 2008, p. 28.

Seen from the point of the government, the licensing policy disincentives presumably in accordance with the opinion of Thomas R. Dye, quoted Irfan Islamy, that the state policy as *"is whatever Governments choose to do or not to do"* (whatever chosen by the government to do or not do). Furthermore, Dye said that if the government chooses to do something that it has no purpose (objective) and state policies should include all the "action" of the government, so it is not merely a statement of the government or government officials only. Besides, something that is not implemented by the government also includes state policy. This is because "something was not done" by the government would have impact of the same magnitude as "something done" by the government.[1]

Benefit considerations as described above, in accordance with the opinion of Talcot Parsons, as adherents of Sociology Functional and as a *"sociological jurists",* his thinking in the field of law in his book "Social System", states that: cybernetics motion postulates of law in the functioning of four (4) sub-system with of a "social system" that moves vertically, above the current move as a controller (control), namely (1) The cultural subsystem serves to maintain the pattern (pattern maintenance), (2) sub-systems of social (legal) integrative functions (integrative), (3) political subsystem, work in attaining the goal (goal attainment), energy in the form of power and strength (power and force), (4) sub-system functioning economy adaptation, energy in the form of money or capital, therefore the economic subsystem has the strongest energy, even though the motion control (control) is very weak. With high energy, the economic subsystem and sub potentially affect the political system, the law intervenes.[2]

3. Spatial Planning Law (UUPR) in the preamble and its content also stressed the importance of "coherence", "systems approach", and "legal certainty".

When later in Article 33 Spatial Planning Law (UUPR) ordered to set further provisions regarding land stewardship, water stewardship, stewardship of air, and the use of other natural resources in the Government Regulation (PP), difficulties arise because of the lack of discernment about what is meant by "natural resources (SDA) more" was in the Body or Explanation Spatial Planning Law (UUPR). As a result, through the results of normative research conducted by Maria S.W. Sumardjono, et al, found discrepancies in the horizontal 12 laws governing natural resources disigi through seven criteria, namely: orientation, alignments, management, protection of human rights, good governance arrangements, the relationship between people and natural resources, as well as the relation between the state and natural resources.[3]

Twelve (12) of the Act referred to above is, of Law No. Regulation 5/1960 on the Basic Agrarian Law No. 11/1967 Basic Provisions of Mining, Law no. 5/1990 on the Conservation of Natural Resources and Ecosystems Law No. 41/1999 on Forestry, Law No. 22/2001 on Oil and Gas Law No. 27/2003 on Geothermal, Law No. 7/2004 on Water Resources, Law No. 31/2004 on Fisheries, Law No. 26/2007 on Spatial Planning, Law No. 27/2007 on the Management of Coastal Areas and Small Islands, Law No. 18/2008 on Waste Management, and Law No. 32/2009 on the Protection and Environmental Management. It shows the presence of sectoral ego basing on the legislation of each sector.

4. Some of the norm in the Spatial Planning Law (UUPR) unclear or vague is, the norm of reconsideration RTRWN, RTRW Provincial and RTRW District/City to establish a period of 20 years each, which is revisited every five years, which under certain circumstances more than one time in five years, as defined in Article 20 (4) and (5) Spatial Planning Law (UUPR) for RTRWN, Article 22 paragraph (4) and (5) Spatial Planning Law (UUPR) for RTRW Province, as well as Article 26 paragraph (5) and (6) Spatial Planning Law (UUPR) for RTRW Regency/City.

According to Article 26, paragraph (5) spatial planning LAW (UUPR), confirmed that the Spatial Plan planning Regency/City revisited 1 (one) time in five (5) years. RTRWK translated into program space utilization in line with the 5 year development plan regency/city. Program of the space utilization is further elaborated into development activities in accordance with the annual budget.

However, since the provisions of the revised spatial planning LAW (UUPR) plan, namely in the treatises RUUPR happen pros and cons. One of the cons is H. Ali Mubarak from FKB, stating his opinion "if the five years reviewed, what if a 5-year review of the abuse rather than predetermined for 20 years?". Moreover, according to HM. Malkan Amin of FGB, expressed concern that in case of land conversion, there is a gap to be played. Another reason for rejecting reconsideration is, Spatial Planning Law (UUPR) regarded as a condition that the soft/pliable, not comparable with the manufacturing process is difficult.[4]

According to Yunus A.M Wahid, the provisions requiring or allowing reconsideration RTRW, contains at least two drawbacks to the RTRW itself, namely: (1) reduce or even negate the rule of law in the RTRW concerned; and (2) provide an opportunity for policy makers at the time and the area concerned to adjust RTRW with personal or group interests, both on RTRWN stipulated by government regulations and (nor especially) in

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[1]Irfan Islamy, *Principles of State Policy Formulation*, Bina Aksara, Jakarta, 1988, p. 73.

[2] I Dewa Gede Atmadja, *Thematic Legal Philosophy and Historical Dimensions*, Setara Press, Malang, 2013, p. 159-160.

[3]Maria S.W. Sumardjono,dkk, *The setting of Natural Resources in Indoneia Between the Explicit and Tersi Critical Assessment Act Terkaitrat Spatial Planning and Natural Resources,* Faculty of Law, University of Gajah Mada in cooperation with Gajah Mada University Press, Yogyakarta, 2011, hlm.1

[4]Results interview with Dwi Hariyawan S, of BKPRN

spatial planning at the provincial and district/city are set by local regulations that largely determined by political forces.[1]

From the description of the analysis of juridical above, to determine the level of legal certainty Spatial Planning Law (UUPR), found there are norms that are unclear/vague, then the purpose of Spatial Planning Law (UUPR) to control the use of urban space in the context of sustainable development difficult to realize. The condition can be perceived from the legal politics of Spatial Planning Law (UUPR) still dominated by political and economic interests of administrative, technical and physical, than the interests of law oriented on the protection and control of space/environment for future generations.

3.3 Sociological Analysis of the Spatial Planning Law (UUPR)

Sociologically, the enforceability of the legislation (UUPR) depends on the use value/benefit to society. To determine the usefulness of the legislation can be known through public involvement in the process of making such legislation. In the context of the Spatial Planning Law (UUPR) enforceability sociologically can be analyzed through the provision of interest Spatial Planning Law (UUPR) affirmed in Article 3 Spatial Planning Law (UUPR) and provisions on public participation on Spatial Planning which is stipulated in Article 65 Spatial Planning Law (UUPR).

As the command of Article 65 paragraph (1) Spatial Planning Law (UUPR), then later issued Government Regulation No. 68 Year 2010 concerning the form and procedure of the public role on Spatial Planning (PP No. 68/2010) which replaces PP 69/1996 on the implementation of Rights and Obligations as well as forms and procedures for public participation on Spatial Planning.

Article 65 paragraph (1) Spatial Planning Law (UUPR) did not give an explanation of how the legal position of community role of the spatial planning implementation, whether an "obligation" or "Right", so that the formulation of vague norm. Vagueness of the norm (norm vague), about the role of the public on Spatial Planning as an "Obligation" or "Rights" contained in Article 4 letter c PP 68/2010, which affirmed that the goal setting forms and procedures of the public role on Spatial Planning are: create a community that participated "in charge" on Spatial Planning (underlined by the author). Definition of responsibility implies an obligation. The term (participation) from the perspective of the law shows that the subjects of law is concerned, is not a party that has an obligation, or have a responsibility. The main actors of spatial planning is the government. Therefore the law subjects other than the government usually does not put "obligations" but "rights" as set out in Article 4 paragraph (2) letter b above.

From the description of the role of the public on Spatial Planning as defined in Article 65 Spatial Planning Law (UUPR) and PP 68/2010, although there are rules, but there is no legal standing firmness as the "Right" or "obligation".

Another thing that should be highlighted is with regard to the legal consequences if the spatial planning process these people are not involved sufficiently by this regulation. Problems of spatial planning law plans have been made that mean disability law, because it does not involve the public, and the government does not fulfill its obligations in a publish and disseminate the plan of spatial planning or information as mandated by Article 16 of Law No. 68/2010.

From the description of sociological analysis mentioned above, to determine the utility value of the Spatial Planning Law (UUPR), it can be perceived legal politics Spatial Planning Law (UUPR) which is still dominated by political and economic interests, it appears from the purpose of Spatial Planning Law (UUPR) influenced the principles of capitalism and the lack of community participation in the implementation of spatial planning. It is as the implications of the amendment of Article 33 paragraph (4) Constitution NRI 1945.

4. Conclusion

Based on the findings of analysis result has been obtained the problems answer of the existance of Spatial Planning Law (UUPR) prevailing at this time was inadequate as a controller utilization of urban space in the context of sustainable development, because there is still a vagueness/lack of clarity norm arrangement, When viewed from the philosophical aspects/values of justice, juridical aspects/value of legal certainty, the sociological aspect/utility value as well as community participation. Law politics in Spatial Planning Law (UUPR) is affected by the amendment of the Constitution of the Republic of Indonesia in 1945, particularly Article 33 paragraph (4) which shifts the Indonesian Socialism, towards neo-socialism/capitalism, the paradigm used is still anthropocentrism, and not yet Ecocentrism, which proved that the spatial planning is still essentially administrative, technical and physical, not yet oriented paradigm concept of sustainable development.

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