Recent Development in Spatial Planning after the Omnibus Law on Job Creation

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Abstract. The Omnibus Law on Job Creation has been ratified. This law is expected to increase investment in Indonesia. The question is, to what extent will this law impact spatial planning and ultimately on environmental management. For this reason, the texts of the old law and the new law are juxtaposed. The research method used is a comparison of legal texts, which is complemented by analysis of samples of various spatial maps and field visits. The findings of this study are as follows. The detailed spatial planning plan is now sufficiently regulated by a regent/mayor regulation. Approval from Regional Parliament (DPRD) is no longer required. The existence of a large-scale map of 1: 5000 is also no longer necessary. If Detailed Spatial Plan (RDTR) 1: 5000 is not yet available, the General Regional Spatial Plan (RTRW) 1: 50,000 map can also be used as a basis for licensing. Unfortunately, to shorten the process of determining the Spatial Plan, now the supervision of the Geospatial Information Agency is only voluntary, no longer mandatory. The sampling test on map samples and field visits showed that this change could result in space utilization errors and spatial violations due to map accuracy issues.

1. Introduction

What happens if people build on spaces that are not intended for them? What if the government permits to build in a place that is not intended? What if the spatial allocation uses a map with poor accuracy? For this reason, the Spatial Planning Law was made, which regulates the level of map accuracy. However, the long process of creating detailed maps as the basis for detailed spatial planning maps is now considered a hindrance to investment. Finally, these various laws have now been amended by the Omnibus Law on Job Creation.

Since the establishment of the Republic of Indonesia, the first law that regulates Spatial Planning is Law no. 24 of 1992. The technical regulation of mapping of this Law is then held in Government Regulation (PP) no. 10 of 2000 concerning the Level of Accuracy of Maps for Regional Spatial Planning [1]. Map accuracy rules do not cover large-scale maps, which are often only available in digital orthophoto form [2].

After more than five years, this PP is deemed necessary to be refined [3]. However, in 2007, the government revised Law No. 24 of 1992 with Law No. 26 of 2007. Interestingly, Law no. 26 of 2007 was made after several major disasters in Indonesia, and then came Law no. 24 of 2007 concerning Disaster Management [4].

The technical regulation for mapping derived from this law emerged six years later, in Government Regulation (PP) no. 8 of 2013. In this regulation, the scale of the map is regulated in more detail, and the Geospatial Information Agency (BIG) has the mandate to assess the map accuracy of the proposed General Regional Spatial Plan (RTRW) and the Detailed Spatial Plan (RDTR). It is also interesting that this regulation appeared after Law no. 4 of 2011 on Geospatial Information was passed.
Based on Law No. 26 of 2007 and Law No. 4 of 2011 and all of these implementing regulations, a series of new needs in the world of mapping in Indonesia are answered with increasingly sophisticated available technology. There are many unique needs for rural maps [5] and accurate village area calculations [6], especially since there was a law that ordered the distribution of village funds. At the national level there is also a one map policy [7], one of which is to provide a geoportal that interoperates geospatial information from all ministries, agencies and local governments [8]. To meet these enormous needs, the government needs to make a comprehensive geospatial human resource plan by 2025 [9] based on the measured working speed of each operator [10].

In the era of President Joko Widodo's second term, the government increasingly believes that there needs to be a significant breakthrough to increase investment and create around 3 million new jobs per year. Investors from within and outside the country must be given a series of incentives and ease of doing business. Regulatory barriers must be removed. And because there are so many laws that have to be changed, all of this is done in one package, called the omnibus method. So this rules is often also called the "Omnibus Law" no. 11 of 2020 about Job Creation [11].

The laws that were made concurrently in the Omnibus Law model have changed the 79 existing laws. Among the amended laws are those that regulate Spatial Planning (UU 26/2007), Management of Coastal Zone and Small Islands (UU 27/2007 jo UU 1/2014), Maritime Affairs (UU 32/2014) and Geospatial Information (UU 4/2011).

Then in 2021 too, many Government Regulations derived from the Job Creation Law have been promulgated. The Government Regulation on Spatial Planning (PP 21/2021) and the Implementation of Geospatial Information (PP 45/2021) has been ratified.

The objective of this paper is to assess the extent to which this new regulation will impact on future spatial planning. This study is still rarely done. So far, what has been discussed more is the effect of this law on the labor force, as the name implies the Job Creation Law [12-14]. This paper discusses the impact of changes to the law on the quality of spatial planning maps.

2. Method
The primary study material, of course, is the text of Law no. 11 of 2020, along with its explanation and academic text. This law is enormous. The draft bill consists of 1028 pages. The Academic Manuscript consists of 1981 pages (so a total of more than 3000 pages). This bill should be read together with the 79 amended laws (with 1,244 articles) to understand what will change.

The House of Representatives received this bill on February 12, 2020. After being approved on October 5 (905 pages), this law is still being refined. When signed by the President on November 2, 2020, the final page count was 1187 pages, and even then, typos were still found. Figure 1 below illustrates the mind map of Law 11 of 2020. The part that will be used as material in this paper is the amendments to Law 26 of 2007 and Law 4 of 2011.

| CHAPTER | CONTENTS | Amended Law or Number of Amended Laws |
|---------|----------|--------------------------------------|
| 1       | General requirements |                                  |
| 2       | Purpose and objectives |                                  |
| 3       | 1 General |
| 3       | 2 Application of Risk-Based Business Licensing |
| 3       | 3 Simplification of Basic Requirements for Business Licensing and Land Acquisition |
| 4       | 1 General |
| 4       | 2 Application of Risk-Based Business Licensing |
| 4       | 3 Simplification of Basic Requirements for Business |
| 4       | 4 Building Approval and Certificate of Functionality |
| 4       | 45 laws |

Law no 27 of 2007 on Management of Coastal Areas and Small Islands
Law 26 of 2007 on Spatial Planning
Law 32 of 2024 on Marine Affairs
Law 4 of 2011 on Geospatial Information
Law 32 of 2009 on Environmental Protection and Management
In 15 sectors (marine & fishery; agriculture; forestry; energy and mineral resources; nuclear; industry; trade; public works & people's housing; transportation; health, medicine & food; education & culture; tourism; religion; post, telecommunication & broadcasting; defense) 5 Simplifying Investment Requirements in Certain Sectors (Investment, Banking, Islamic Banking) Four laws

4 Employment

5 Ease, Protection, and Empowerment of Micro and Medium Enterprises and Cooperatives 3 laws

6 Ease of Doing Business 9 laws

7 Research and Innovation Support 1 law

8 Land Acquisition 2 laws

9 Economic Zones 3 laws

10 Central Government Investments and Ease of National Strategic Projects 3 laws

11 Implementation of Government Administration to Support Job Creation 2 laws

12 - 15 Contains Sanctions, Other Provisions, Transitional Provisions, and Closing Conditions

There are two research methods used. The first is a literature study on the text of laws and government regulations. The second is the observation of maps of various scales and looking at the deviations that currently occur in the field and may occur if this scaling problem is ignored in the future. The comparison is made between Law 26/2007 with Law 11/2020 related to Spatial Planning, to know the changes that have occurred. Then a more detailed analysis of changes related to maps and the determination of spatial plans will be examined. This method is commonly used in analyzing the impact of legal changes, as reported by [15]. The method of studying law comparison itself is exemplified by [16] and [17].

The second material of this study are various examples of different-scale General Regional Spatial Plans (RTRW) 1:50,000 and Detailed Spatial Plans (RDTR) 1:5,000, to show the consequences if a large-scale 1:5000 RDTR map is not yet available, and then people turn to the available maps are a 1:50,000 medium-scale RTRW map or a 1:1,000,000 small scale National RTRW map. An analysis of the accuracy of the boundary line position was then performed. The map accuracy standard is 0.5 mm times the map scale [BIG-2014]. This means that on a class 3 map with a scale of 1:5,000, the detected error must be below 2.5 meters. While on the 1:50,000 map, the error is 25 meters. What that reality looks like on the ground will be seen in a small survey of forest boundaries and other use areas in Kalimantan.

3. Result and Discussion
Law 11/2020 amends Law 26/2007 to facilitate business licensing. There are only three articles related to spatial planning. These are article 15, which talks about the authority of the central government if the local government has not prepared and provided the RDTR; article 16, which talks about several related laws; and article 17, which changes in detail several articles in Law 26/2007. All of this is on page 12 to page 39 of Law 11/2020.

| no | Law 11/2020 | Substance | Impact |
|----|-------------|-----------|--------|
| 1  | Article 15  | (1) If the Regional Government has not prepared and provided RDTR as referred to in Article 14 paragraph (2), Business Actor submits an application approval of the suitability of space utilization activities for its business activities to the Central Government through the electronic Business Licensing system following the provisions of the legislation. (2) The Central Government approves of conformity space utilization activities as referred to in paragraph (1) following the spatial plan. (3) Spatial planning as referred to in paragraph (2) consists of: a. national regional spatial plan (RTRWN); b. island/archipelagic spatial plan (RTRWP/K); | There are no more licensing barriers because the RDTR in the regions does not yet exist. It will automatically run to the central government, and the central government can decide based on the existing spatial plan, even if it is the |
2. The provisions of Article 1 number 7, number 8, and number 32 are amended, so Article 1 reads as follows:

7. A space utilization permit is a permit required in space utilization activities following the provisions of the legislation. The suitability of space utilization activities is conformity between planned utilization activities with a spatial plan.

8. Spatial plans for rural areas that are part of the district area are part of district spatial plan.

The most interesting part, which is related to maps, and in the older law formed the basis for PP 8/2013 regarding the level of accuracy of maps is article 14 (page 22). The comparison is as follows:

Table 3. Changes related to map.

| Law 26/2007 - Article 14 | Law 11/2020 - Article 14 |
|--------------------------|--------------------------|
| (1) Spatial planning is carried out for produce: | (1) Spatial planning is carried out for produce: |
| a. general spatial plan; and | a. general spatial plan; and |
| b. detailed spatial plans. | b. detailed spatial plans. |
| (2) The general spatial plan as intended in paragraph (1) letter a hierarchically consists of: | (2) The general spatial plan as intended in paragraph (1) letter a hierarchically consists of: |
| a. national Spatial Plan; | a. national regional spatial plan; |
| b. provincial spatial plan; and | b. provincial spatial plan; and |
| c. district spatial plan and urban spatial plan. | c. district spatial planning plan and urban spatial plan. |
| (3) Detailed spatial plan as intended in paragraph (1) letter b consists of: | (3) Detailed spatial plan as intended in paragraph (1) letter b consists of: |
| a. island/island spatial plan and national strategic area spatial plan; | a. island/island spatial plan and national strategic area spatial plan; |
| b. provincial strategic area spatial plan; and | b. district/city spatial planning detail plan. |
| c. district/city spatial planning detail plan and strategic area spatial plan district/city. | |
| (4) Detailed spatial plan as intended in paragraph (1) letter b is arranged as a tool of operational general spatial plan. | (4) Detailed spatial plan as intended in paragraph (1) letter b is arranged as a tool of operational general spatial plan. |
(5) Detailed spatial plan as intended in paragraph (3) letter a and letter b are arranged if:
a. the general spatial plan cannot be made yet the basis for implementing space utilization and control of space utilization; and/or
b. the general spatial plan covers the large planning area and in map scale that available spatial plan requires details before operation.
(6) Detailed spatial plan as intended in paragraph (3) letter c is used as the basis for preparation of zoning regulations.
(7) Further terms regarding the level of accuracy spatial plan maps are regulated by government regulations.

There is a new article inserted after article 14 before article 15. Numbered article 14A.

Article 14A
(1) The implementation of the preparation of the spatial plan as referred to in Article 14 is carried out by taking into account:
a. environmental support and capacity and strategic ecological studies; and
b. the detail of the spatial information to be presented and the suitability of the accuracy of the spatial plan map.
(2) The preparation of the strategic environmental study as referred to in paragraph (1) letter a is carried out in the preparation of the spatial plan.
(3) Compliance with the accuracy of the spatial plan map as referred to in paragraph (1) letter b is carried out through the preparation of the spatial plan map on top of the Base Map.
(4) If the Base Map as referred to in paragraph (3) is not yet available, the preparation of the spatial plan is carried out using another Base Map.

There is only a small difference from Article 14 of Law 26/2007 with that which was amended by Law 11/2020. Therefore, we can see in the PP its implementation, namely PP 21/2021.

The most important thing is that in its stipulation, a Spatial Plan is sufficient with a Regional Head Regulation as long as it has substance approval from the Central Government. It does not have to go through a Regional Regulation that requires approval from the local parliament (DPRD).

Article 18 of Law 26/2007 reads:

| Table 4. Changes related to the Determination of the General Regional Spatial Plan (RTRW). |
|---------------------------------------------------------------|
| **Law 26/2007 - Article 18**                                      | **Law 11/2020 - Article 18** |
| (1) Stipulation of draft provincial regulations peraturan regarding the provincial spatial plan and a detailed spatial plan must first obtain substance approval from the Minister. | (1) The stipulation of the proposed provincial or regency / municipal spatial plan and the detailed spatial plan must first obtain substance approval from the Central Government. |
| (2) Determination of draft regional regulations peraturan regencies/municipalities regarding regional spatial planning districts/cities and detailed spatial plans must first get substance approval from the Minister after obtaining Governor's recommendation. | (2) Prior to submitting the approval of the substance to the Central Government, the detailed spatial plan of the regency / municipality as outlined in the draft Regulation of the Head of the Regency / Municipality shall be held in public consultation, including with the Regional People's Representative Council. |
| (3) Terms regarding content, guidelines, and procedures how to prepare a regional spatial plan province as referred to in paragraph (1) and preparation of regional spatial plans district/city as referred to in paragraph (2) shall be regulated by a Ministerial regulation. | (3) The Regent / Mayor is obligated to stipulate a draft regulation of the head of the regency / municipality regarding detailed spatial plans no later than 1 (one) month after obtaining substance approval from the Central Government. |
| (4) In the event that the regent / mayor does not stipulate a detailed spatial plan after the period as referred to in paragraph (3), the detailed spatial plan shall be determined by the Central Government. | |
Further provisions regarding the content, guidelines, and procedures for the preparation of provincial or district/city spatial planning plans and detailed spatial plans as referred to in paragraph (1) shall be regulated in a Government Regulation.

Thus, it is clear that with this article, the regional authority can be taken quickly by the central government if the regional head is considered slow in setting the spatial plan. Moreover, the Regional Representative Council (DPRD) also no longer has a “veto power”, because they are only consulted. This point can be critical if the politics in power in the regions are different from those in the central government.

Meanwhile Government Regulations (PP) no 21/2021 was also made to completely replace PP no 8/2013. Sections concerning mapping are articles 11 (4), 15 (5), 18 (3), and 21 (5). There’s not much change there. The map scale for the RTRW-National remains 1: 1,000,000, RTRW-Provincial 1:250,000, RTRW-District 1:50,000, RTRW-City 1:25,000. As for the Detail Spatial Plan (RDTR), there are articles 51 (5) and 56 (5) which regulate the scale of the RDTR map to be 1:5,000.

Creating an RDTR is not possible unless the base map, namely the topographic map of Indonesia, is available. This map is only available for a small part of Indonesia (See Fig.2) due to limited central and regional budgets, as well as limited human resources. Participatory mapping initiatives that strengthen communities to participate in mapping must be carried out [18].

In the field, a map error of 0.5 mm on a 1:5000 scale map is already 2.5 meters. What if the absence of a 1:5000 scale map forces the government to switch to an existing map? On maps available throughout Java at a scale of 1:25,000 alone the error is 12.5 m. In some places on the edge of forest areas outside Java, where only 1:50,000 scale maps are available, the error will be up to 25 meters, more than enough to make many settlements fall into forest areas or vice versa, forest areas fall into Other Use Areas.

Figure 3 shows an example of a Spatial Pattern Plan Map section at a scale of 1:50,000, while Figure 4 is when one section of the map is enlarged to a scale of 1:5,000. It appears that there is a serious lack of accuracy, especially when it is the boundary of different spatial use allocations.
This problem becomes critical when the location of the object is close to the designation limit, as confirmed by several studies [19]. Figure 5 shows a place on the boundary of a forest area, where many violations occur “accidentally”.

In figure 5, it appears that the concrete road should be the boundary between the forest and other use areas. However, the existing boundary pillar is approximately 5 meters from the road. This will create legal uncertainty about the status of the land between the road and the pillar. This 5 meter uncertainty is outside the tolerance of 2.5 meters on a 1:5,000 scale map, but is still within the tolerance of 25 meters on a 1:50,000 scale map.

There are several studies to build a geospatial information infrastructure that involves this public participation [20]. And this cannot be separated from the land administration, including forest area boundaries [21]. However, it is interesting that in Law 11/2020, forestry clusters are separated from spatial planning clusters.

Investment problems in Indonesia are not solely due to complicated licensing that must be simplified a lot, but also a number of other things [22], such as: Corruption; Bureaucratic Inefficiency (Long & non-transparent licensing); Inadequate infrastructure; Policy Instability; Tax rates & Tax rules; Labor regulations; Human resources is not certified competence; Worker ethics, lack of focus & discipline; Capacity to innovate & solve problems; Public health; Crime & Thugs; and/or Inflation.
The Law 11/2020 only pays attention to aspects of bureaucratic inefficiency, and has not paid attention to many other aspects.

In discussions with a number of legal experts, it is obtained that the Job Creation Law encourages degradation of agrarian justice [23] or investment and economic growth without considering sustainable development aspects, particularly human safety and environmental sustainability. It can be seen from the 9 changes to Law no. 26 of 2007 [24]: abolition of space utilization permit; simplification of the RTR system by eliminating provincial and district strategic areas as well as spatial planning for rural areas; centralization of licensing and institutions; blurring of the relationship between Strategic Environmental Studies and Detailed Spatial Planning (RDTR); resolving overlapping spatial plans with permits and forest areas using a pragmatic approach (adjustments and even bleaching) instead of the precautionary principle; elimination of criteria for forest area of at least 30%; the addition of one criterion for conducting a spatial review of less than 5 (five) years, namely the existence of "strategic national policy changes" which are very open; reducing the space for public participation, including access to justice; changes in the formulation of criminal sanctions from formal offenses to material offenses that have the potential to complicate evidence and for violations and crimes in spatial planning.

4. Conclusion

In accordance with previous estimates, the Job Creation Law no 11/2020 is is experiencing a legislative process that is problematic both juridically and sociologically. This research shows that not only in terms of workers, but also in terms of spatial planning, this law will have a disproportionate impact on space. Laws related to space should be tested for their impact on spatial and environmental maps. So even though the technical regulations of this Act don't change much about the map, there is a juridical rule that will destroy it all, i.e. the possibility that theoretically central government has enormous powers to bypass local aspirations, as well as the authority to use maps on a smaller scale, which in the field will cause technical and legal problems.

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