

The Use of Civil Law in North Gorontalo Spatial Planning Land Use Zoning Study

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Abstract

The role of civil law in spatial planning in the North Gorontalo Regency area is very important, where civil law regulates administrative sanctions and permits related to land use zoning in the North Gorontalo Regency. The aim of this research is whether the role of civil law in the spatial planning of North Talo Gorontalo district is whether it is in accordance with its designation or not. The method used in this research is empirical normative legal research where researchers conduct literature studies and also conduct direct research in the field. The results of his research on researchers concluded that the role of civil law in supporting spatial planning in North Gorontalo Regency, in implementing land use zoning. In North Gorontalo Regency itself, there is no separate regulation or rule that regulates spatial planning in North Gorontalo Regency which regulates land use zoning. Regional regulation number 5 of 2013 is the main reference in implementing land use zoning effectively and sustainably. Application of civil law to provide legal certainty regarding land rights, use rights and use rights, which must be in line with land use zoning policies. However, the implementation of this policy faces several challenges, one of which is a lack of public understanding and overlapping ownership claims.

Keywords: *Civil; Spatial planning; North Gorontalo; Zoning*

INTRODUCTION

The role of spatial planning is essentially intended to achieve resource utilization optimally wherever possible avoid resource utilization conflicts, prevent environmental damage and increase harmony (Wahyu Yun Santosa, 2005). It is within the scope of spatial planning that land use (Urip Santosa 2008) and allocation becomes an inseparable part of the concept of space in development (Nurhasan Ismail 2006). The reality that happened recently emphasized several strategic issues in the implementation of national spatial planning. First, there are conflicts of interest between sectors, such as mining, the environment, forestry, regional infrastructure, and so on; secondly, the spatial planning has not yet functioned optimally in order to harmonize, synchronize, and integrate various sector plans and programs; third, occurrence deviations in space use from provisions and norms that should be enforced. The causes are inconsistencies in policies regarding spatial planning and weaknesses in development control (Zairin Harahap 2004); fourth, unavailability of allocation of functions firmly in the National Regional Spatial Planning (RTRWN); fifth, there is no openness and sincerity in placing sector and regional interests in the framework spatial planning; and sixth, lack of ability to restrain oneself from wanting to defend one's interests excessively (Darwin Ginting 2011) There are other issues related to spatial planning and the living environment namely, first, inter-sectoral and inter-regional conflicts; secondly, the resulting environmental degradation spatial deviations, both on land and sea and air; and third, support for regional development has not been optimal, as indicated by the lack of policy support sector for the development of national strategic areas in the RTRWN such as state border areas and mainstay areas.

Research related to the spatial planning of the district area has existed before. One of them is a study entitled Spatial Planning Dysfunction in East Kalimantan to Support Green Economy, where this research examines Spatial Planning Dysfunction in East Kalimantan to Support Green Economy (International Journal of Innovation, Creativity and Change, 202). Previously there has also been a kind of literature that has regulated the benefits of spatial planning and the function of spatial planning which aims to preserve the environment (Imran Journal of Law, 2013). And there have also been previous studies that discuss the imposition of witnesses in the enforcement of sanctions in spatial planning in Indonesia. From previous research, there has been no research that examines spatial planning in the North Gorontalo Regency area and also research that discusses the function of civil law in spatial planning. Meanwhile, according to the researcher, this is something very important to be studied and researched regarding the use of civil law in spatial planning in the district of North Gorontalo. This research will provide a deeper understanding of the role of civil law in urban spatial planning, especially in the context of land allocation zoning in the North Gorontalo region which is included in the 3T region. This will help stakeholders to understand the relevance of civil law in the process (National Research Master Plan 2017-2045).

The novelty of this research is related to the role and function of civil law in the spatial planning of the district, and also the novelty between this research and the previous research is located in the object of research where the object of this research is located in North Gorontalo district. In most cities in Indonesia, development and growth is still ongoing naturally, in other words, developing without programmed direction and planning. The consequences at the developmental stage more complex, various urban land problems arise, including: irregular use of spatial planning such as city land, non-optimal use of land (Agus Sekarmadji 2004), the emergence of various traffic problems, the community's needs for facilities and utilities are not met cities, the emergence of urban environmental pollution problems and so on. Thus the city cannot function as it should It is hoped that the research will later become a concrete recommendation to improve the effectiveness of land use zoning in the North Gorontalo region where this region is included in the 3T region group, namely the foremost, outermost, underdeveloped parts of Indonesia.

The territorial space of the Unitary State of the Republic of Indonesia, both as a unified container that includes land space, sea space, and air space, including space within the earth and as a resource, is a gift from God Almighty to the Indonesian nation that must be appreciated, protected, and managed sustainably for the greatest prosperity of the people as mandated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) which states that "The earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." (Undang-Undang dasar 1945).

These three spatial plans must be summarized in a development plan as a reference in the implementation of sustainable development planning in the territory of Indonesia, guided by the Spatial Planning Law as stated in Article 3 that the implementation of spatial planning aims to realize national territory space that is safe, comfortable, productive and sustainable based on Archipelago Insight and National Resilience with: a. the realization of harmony between natural environment and artificial environment; b. the realization of integration in use natural resources and artificial resources by paying attention to human resources; and c. realization of space

function protection and preventing negative impacts on environment due to space utilization.(Laporan akhir kajian hukum 2014)

These solutions can serve as practical guidance for parties involved in urban spatial planning, such as local governments, non-governmental organizations, and the general public. By showing how civil law can be optimized in the context of urban spatial planning, this research will assist in strengthening the application of civil law more effectively. This can improve justice and legal certainty in urban space management. The research can also empower local communities by providing a better understanding of their rights and obligations related to land use within the city. This can help in minimizing conflicts and increasing community participation in the spatial planning process. The focus of this research is the use of civil law in spatial planning can increase the effectiveness of land use zoning in the northern Gorontalo region.

RESEARCH METHODS

Based on the research objectives to be achieved, the research and assessment in this study is to use Empirical legal research methods. In the Empirical legal research method, researchers conduct field research by focusing attention on legal issues as a problem about the existence of a gap between the imperative, namely orders and prohibitions (*das sollen*) contained in various regulations. In this study the steps taken to collect data are researchers conducting observations, interviews, and documentation (Syahrudin Naw, 2014).

The data analysis technique used in this research plan is to use deductive logic, through the method of analysis, normative qualitative. (In this research, the data obtained by researchers through research activities are analyzed qualitatively and then presented in a description, namely by describing, explaining and describing in accordance with the problems and objects of research in this research proposal, namely how the use of civil law in spatial planning can increase the effectiveness of land use zoning in the North Gorontalo region.

In this study, several stages were carried out. The first stage is preparation or observation by conducting an in-depth literature analysis on the application and function of civil law, spatial planning of North Gorontalo Regency, and zoning of land use in Kwandang District. This will help in understanding the theoretical and practical frameworks that are relevant to this study. The second stage is data collection by conducting case studies or direct interviews with informants or authorities and the community, in this case the North Gorontalo Regency Government and the community in the Kwandang District area which is the area or area of land use zoning. Then the data and results of interviews and literature studies (primary data and secondary data) will be studied by researchers for the next stage. The third stage is data management and data analysis. The data obtained from both interviews and literature studies will be processed and analyzed by researchers to later be used to solve problems from the formulation of problems in this study for the next stage. The fourth stage is compiling a report after all data has been collected, both primary data and secondary data, researchers and members will make a report

RESULT AND DISCUSSION

Space is a container that includes land space, ocean space and air space as a unified human territory and other living creatures live and carry out activities and maintain continuity his life (Sutedjo 2007). In space there are three environmental components that can in the form of biotic, abiotic and cultural. Third These components always interact, integrate and

interdependence in a space. Therefore, in order not to reduce the function of these three components, their management is necessary (Sutedjo 2007).

An understanding of spatial planning in a broad sense includes the connection and harmony of land use, water use, air use and resource allocation through coordination and efforts to resolve conflicts between different interests (Eko Budihardjo 1997). The principles of spatial planning according to the spatial planning law are: as follows, first, space utilization for all interests in an integrated, efficient and effective manner, harmonious and balanced and sustainable; and second, Openness, equality, justice (Fence M. Wantu 2012) and legal protection.

The principle mentioned above gives signal 3 (three) main aspects that must be considered in spatial planning. First, aspects of the general physical environment and natural resources especially those utilized; second, Aspect community including aspirations as beneficiaries; third, aspects of managing the physical environment by the government with the help of the community, which regulates its management by paying attention to and considering conditions and the potential of the physical environment and the needs of the community so that the space can be utilized implemented on an ongoing basis (Nurwigati, 2007).

As a form of management to resolve conflict, the objectives of spatial planning include: first, realizing optimal use of space, both as a resource nature and as a place for activities; second, minimize conflicts of various interests; Third, realize the protection function space and prevent negative impacts on environment; fourth, protect interests national in the context of defense and security (Hery Listyawati dan Triyanto Suharsono. 2012).

Environmental law enforcement is not the only thing intended to punish destroying or polluting the environment. But it is also aimed at preventing its occurrence acts or actions that can cause environmental damage and/or pollution life. Therefore, environmental law enforcement is not only repressive, but also preventive (Sundari Rangkuti 2000)

The authority to manage spatial planning and space utilization has been regulated in Law Number 26 of 2007 concerning Spatial Planning, that the space of the Unitary State of the Republic of Indonesia as a unitary container covering land, sea and air space, including space within the earth as well as resources. The Spatial Planning Act also explains that spatial planning as a system of spatial planning, spatial utilization, and control of spatial utilization is an inseparable unity between one another, so that it is expected to realize the successful and efficient use of space and be able to support sustainable environmental management. In addition, there is no waste of space utilization and does not cause a decrease in the quality of space (Haris, n.d.).

Through legal regulations, the government can implement development policies, it must be remembered that the problems faced at this time are not just a matter of formal legality, but the demands of the current situation require that the law be seen in a broader framework that is developing in society (Esmi Warassih, 2011).

Achmad Santosa (Achmad Santosa 2001) stated that administrative law enforcement in the environmental sector has several strategic benefits compared to other law enforcement instruments (civil and criminal). First, administrative law enforcement in the environmental sector (Moh. Hasyim 2004) can be optimized as a preventive instrument. Administrative law enforcement (which is preventive) can be more efficient in terms of financing compared to criminal and civil law enforcement. Second, financing for administrative law enforcement includes routine field supervision costs and laboratory testing which is cheaper compared to efforts to collect evidence, field investigations, hiring expert witnesses to prove the causality aspect (cause and effect) in criminal and civil cases. (Yanto Supriadi 2011) Third, administrative law enforcement has more ability to invite public participation (Eny Kusdarini 2005). Public participation is carried out starting from the licensing process, monitoring of arrangements, supervision, and participation in submitting objections and requesting state administrative officials to impose administrative sanctions.

Land certification has a very important function in improving the effectiveness of land use zoning. The certificate provides legal certainty to the owner and the area of land that can be used in accordance with the applicable zoning. The effectiveness of land use zoning requires integration between civil law and local spatial policies. Civil law becomes an important tool in ensuring that spatial policies set by local governments are properly implemented. Civil law allows the government to control land use through legal instruments, such as sale and purchase contracts, leases, or development permits. This allows for more effective land zoning as any action on the land is bound by agreed rules. In situations where there are conflicts over land use, civil law provides a settlement mechanism that can reduce negative impacts on the applicable zoning. Dispute resolution through civil law channels can provide certainty in land utilization.

The effectiveness of the use or utilization of land use zoning is highly dependent on the legal certainty provided through the application of civil law. Without legal certainty, such as in determining the status of land rights or land, spatial management will be hampered by conflicts between land owners, the community and the government. Land title certificates have a very important role in increasing the effectiveness of land use zoning, land title certificates provide clear legal certainty between owners and the boundaries of land that can be used in accordance with applicable zoning. . This is based on interview data conducted by the researcher where the researcher interviewed Mr. Mohammad Iqbal Paneo on August 29, 2024, he was the Head of Legal Affairs of the Regional Secretary at the North Gorontalo Regency DPRD office, The use of civil law in spatial planning policies to increase the effectiveness of land use, civil law and regional spatial planning policies. The role of civil law is very important in ensuring that regional spatial planning policies. The use of civil law is a very important tool in ensuring that spatial planning policies set by the regional government are implemented properly. The use of civil law allows the government to control land use through legal instruments, such as sales contracts, leases, or building permits. This allows land zoning to be more effective because every action on the land is bound by agreed rules. . This is based on interview data conducted by the researcher where the researcher interviewed Mr. Mohammad Iqbal Paneo on August 29, 2024, as the Head of Legal Affairs for the Regional Secretary at the North Gorontalo Regency DPRD office."... So far, if for example there is a community whose area is a protected forest area or conservation area so it cannot be used as a garden or built a house, the government will buy the land according to the price or more than the current land price or usually the government will replace the land with new land but the previous land area is the same as the area of land to be replaced ..."

The transfer of land rights through sale and purchase, grants, or inheritance is also regulated by civil law. In the context of zoning, this transfer must comply with applicable zoning regulations, so that the land continues to be used according to its intended use. The effectiveness of zoning not only affects land use for housing or agriculture, but also for infrastructure development. Civil law provides a legal basis for the provision of land for public interests, such as roads, schools, and public facilities. In situations where there is a conflict over land use, civil law provides a resolution mechanism that can reduce the negative impacts on applicable zoning. Settlement of disputes through civil law can provide certainty in land use. Based on interview data conducted by the researcher where the researcher interviewed Mr. Mohammad Iqbal Paneo on August 29, 2024, he as the Head of Legal Affairs of the Regional Secretary at the North Gorontalo Regency DPRD office said. "... the obstacle related to the zoning of this land use is that the people of North Gorontalo still lack understanding or knowledge related to the zoning of this land use ..."

Civil law also regulates how the economic value of land is determined based on zoning. For example, land in a commercial or industrial area will have a higher value than land in a conservation area, which has an impact on investment and development. Agrarian reform in

North Gorontalo, which is regulated by civil law, can support better spatial planning, by rearranging land ownership to comply with zoning planned by the government.

The courts play an important role in ensuring compliance with land zoning, especially when violations or disputes occur. In the context of civil law, the courts can order parties who violate zoning to correct their actions. In North Gorontalo, the existence of indigenous communities who have customary rights to land needs to be recognized within the civil law framework. Zoning must take these rights into account to avoid conflict and maintain harmony. The use of civil law in spatial planning allows for more sustainable land management, where land owners must comply with land use provisions that are in accordance with long-term development plans. Contracts made between the government and individuals or companies regarding land use are very useful in ensuring that land is used in accordance with zoning. These contracts are an important tool in controlling land use.

In civil law, land use rights allow the government to grant land use permits to third parties without eliminating ownership rights. This can increase the efficiency of land management in accordance with zoning. Notaries play an important role in ensuring that any agreements or transactions related to land use follow zoning regulations. They are at the forefront in ensuring the legality of land use in accordance with civil law.

To increase the effectiveness of land use zoning, synchronization is needed between civil law and spatial planning regulations. Clear regulations, as well as strict supervision, can help realize more effective and efficient spatial planning.

Agreements made between local governments and landowners can ensure that land is used according to the zoning. This provides a strong legal basis for regulating how land will be developed in the future. So to improve the effectiveness of land use zoning, synchronization between civil law and spatial regulations is needed. Clear regulations, as well as strict supervision, can help realize more effective and efficient spatial planning.

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Obstacles and Problems Faced in the Implementation of Land Use Zoning Based on Civil Law in North Gorontalo Regency.

The obstacles and problems faced by the government in implementing land use zoning based on Civil Law in North Gorontalo Regency are.

a. Limited Public Understanding of Civil Law.

Lack of Public Understanding of Zoning and Civil Law The implementation of zoning is often hampered by the lack of public understanding of civil law, especially regarding their rights and obligations in land use. Many people do not understand the principles of zoning and how these regulations affect the use of the land they own. This ignorance often causes people to violate zoning regulations without realizing it. Conflicts over land ownership status are a serious obstacle to the implementation of zoning. In North Gorontalo, there are often overlapping claims of land ownership which results in difficulties in implementing zoning according to plan.

b. Lack of Legal Certainty in Land Certification.

Many lands in North Gorontalo are not yet certified or have overlapping certifications, making it difficult to ensure that the land is used according to the established zoning. **Overlapping Land Ownership Claims** In North Gorontalo, the problem of overlapping land ownership claims often occurs, especially in rural areas. This problem leads to legal uncertainty and causes conflict between communities. Without certainty over the status of legally recognized land ownership, land use zoning is difficult to implement effectively because interested parties often disagree on land use.

Limitations of Land Certification Many lands in the North Gorontalo area do not yet have official land certificates or face double certification. This condition makes it difficult to implement zoning regulations, because land that has not been legally certified is difficult to map in the established zoning. This also opens up opportunities for violations of zoning regulations due to the lack of legal certainty regarding land status.

c. **Lack of socialization from the local government.**

Lack of Coordination between the Local Government and the Community Implementation of zoning requires close coordination between the local government and the local community. However, in North Gorontalo, the lack of community involvement in the spatial planning process has resulted in low compliance with zoning. The government often sets zoning without adequate consultation with landowners, leading to resistance on the ground.

d. **Law enforcement.**

Weak Law Enforcement One of the major challenges in implementing zoning is the weak law enforcement related to zoning violations. Many cases of zoning violations, such as land conversion or illegal development, are not strictly enforced by the authorities. As a result, zoning regulations are not implemented effectively and the public tends to ignore existing regulations.

e. **Lack of Supporting Infrastructure.**

Lack of Supporting Infrastructure Well-planned zoning is often not supported by adequate infrastructure, such as roads, water access, and public facilities. In North Gorontalo, this limited infrastructure hampers land development in accordance with zoning designations. For example, areas designated as tourist zones do not develop due to the lack of other supporting facilities.

f. **Uncontrolled Land Conversion**

Many lands in North Gorontalo have been converted from their original designations without clear permits, especially in areas undergoing urbanization. This land conversion often conflicts with established zoning and causes disorganization in spatial planning. For example, agricultural land is converted into housing or green areas are used for commercial development.

g. **Lack of Effective Sanctions**

Although there are regulations regarding zoning, the application of sanctions against zoning violations is often ineffective. The lack of strict sanctions against zoning violations makes the community and business actors feel that there are no consequences for their actions. This weakens the authority of civil law in maintaining orderly spatial planning.

h. **Limited Human Resources.**

Limited Regional Government Resources Local governments in North Gorontalo often face limited human and financial resources in overseeing the implementation of zoning. With a limited budget, supervision of zoning compliance is difficult to carry out comprehensively, so that many violations are not detected or not followed up.

i. **Economic Interests Conflicting with Zoning**

Economic interests are often the main factor causing zoning violations. Businessmen or landowners may prefer to use their land for activities that are more financially profitable, even though they conflict with the established zoning. This raises serious problems in balanced and sustainable spatial planning.

Lack of Education and Socialization Programs on Zoning The lack of education and socialization programs on the importance of zoning and related civil laws makes the public less aware of the impacts of zoning violations. More intensive education programs are

needed to increase public awareness of the benefits and consequences of the zoning rules that are implemented.

Development in a broad sense is a conscious effort to change a situation in a planned manner, with the intention of improving the welfare of society in general. Development contains changes that include changes in economic structure, changes in the physical region, changes in consumption patterns, changes in natural resources and the environment, changes in technology, and changes in value systems (Hasyim 2004).

Utilization of space that is not based on the principles of spatial planning can cause various conflicts of interest (J embiring 2006) These interests are related to the duties and authorities of a Department or Government Agency. Seeing this reality, spatial planning is a management to overcome conflict.

CONCLUSION

Based on the results of his research, the researcher concluded that the role of civil law in supporting spatial planning in North Gorontalo Regency, in the application of land use zoning. For North Gorontalo Regency itself, there are no separate regulations or rules that regulate spatial planning in North Gorontalo Regency that regulate land use zoning. Regional Regulation Number 5 of 2013 is the main reference in the implementation of land use zoning effectively and sustainably. The application of civil law in providing legal certainty for land rights, use rights, and use rights, which must be in line with land use zoning policies. However, the implementation of this policy faces several challenges, one of which is the lack of public understanding and overlapping ownership claims. To overcome these obstacles, synergy is needed between civil law and spatial planning regulations through strengthening legal certainty, zoning socialization, and dispute resolution mechanisms. This effort is expected to increase public awareness of the importance of spatial planning, protect land rights, and support sustainable infrastructure and economic development. Integrated spatial planning with a solid legal basis will be an important foundation for more effective and responsive regional management to long-term needs. And it is also necessary for the regional government of North Gorontalo Regency to make its own regulations or rules that regulate spatial planning for land use zoning

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