

Urgency of Transparency as A Means of Public Participation in Spatial Planning of a Region

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Abstract. Land is an inseparable part in planning and developing a region. Land management must be carried out carefully, effectively, and efficiently regarding the principles of spatial planning in order to achieve general prosperity and social justice based on the 1945 Constitution. Spatial planning cannot work alone. It requires active contribution from all parties to improve its quality. One of the significant foundations in achieving optimum and ideal spatial planning is the enforcement of transparency principle. Due to the importance of this principle, this study attempts to discuss: (1) how is the principle of transparency interpreted in spatial planning, and (2) how is the ideal application of transparency principle as a means of public participation in spatial planning? The principle of transparency is very important for the public as it gives information regarding spatial planning, including the planning, utilization, and management. The objective of spatial planning is creating spatial congruence and easy access to discover the functions of the land used as stated in the regional or urban spatial planning.

Keywords: transparency principle, spatial planning, public participation

1 Introduction

Land has a close relationship with Indonesia as stated in Article 1 section 1 of Law No. 5/1969 on Basic Agrarian Law (UUPA). It holds a very important role in human life, especially Indonesian people. The Indonesian people united and fought for their land to the bitter end until they eventually claimed the land by the proclamation of independence. The land is managed by the state and shared to all the people of Indonesia with the spirit of general prosperity. In using the land, the state has authority to control and carry out management, utilization, provision, and maintenance of the land as stated in Article 2 section 2 of Basic Agrarian Law. The general interpretation of Basic Agrarian Law states that “eventually in order to achieve the ideals of the nation in agrarian sector, planning regarding management, utilization, and provision of land, water, and space for interests of the people and state is required, involving national planning of all Indonesian territory and regional planning of each region (section 14). With this planning, land use can be realized orderly in a guided way so that it brings maximum benefits for the state and people. In section 14 of Basic Agrarian Law, it is mentioned that in order to achieve general prosperity widely the government make a general plan regarding management, utilization, and provision of land, water, space, as well as natural resources for all interests and needs of the state and people of Indonesia. In this case, the government refers to both the central and regional government.

Land is one of the parts planned by the government in addition to water, sea, and air, including all of the resources contained. In this view, land, water, sea, air, and all of the resources are regarded as space. The definition of space is also given in Article 1 section 1 of Law No. 26/2007 on spatial planning that space is an area including land, sea, air, and earth as a unified territory, where humans and other creatures live, do activities, and sustain their life. In the consideration of Spatial Planning

Law, it is stated that management of space needs to be improved carefully, effectively, and efficiently regarding the principles of spatial planning so that the quality of national space can be sustainable to achieve general prosperity and social justice based on the 1945 Constitution. In planning and developing a region, land is an inseparable part. Land management becomes increasingly important to achieve optimum, congruent, and balanced use of land in order to achieve sustainable development [1]. Spatial Planning Law also considers limited space and growing public perception; therefore, transparent, effective, and participatory realization of spatial organization is needed to create safe, comfortable, productive, and sustainable space. Development is continuously enhanced as a means of achieving prosperous life physically and mentally towards a just and prosperous society based on Pancasila.

Article 2 of Spatial Planning Law points out the principles used in realizing spatial planning, and one of those is the principle of transparency. In the explanation of Article 2 of Spatial Planning Law, transparency is defined that spatial planning is realized by giving unlimited access to the society to obtain information related to spatial planning. In order to give clear information regarding the physical condition of a region, development is carried out by the central and regional government in order to meet the needs of the region. In development planning, the regional government have very strategic authority and position related to their function as “public servant” in order to improve prosperity, safety, justice, and peace for the society [2] (Armando Soares, Ratih Nurpratiwi, 2015). In planning and developing a region, through the principle of transparency, the society have the right to know the condition of spatial planning in their region. To the same extent, the government have the obligation to inform the public about spatial planning in their region.

The principle of transparency, based on Article 16 of Government Regulation No. 15/2010, is realized by distributing information regarding spatial planning to the society through information media such as pamphlet/brochure, poster, banner, billboard, and/or exhibition. Besides, the information can be distributed through print media such as book of legislation, handbook of spatial organization, bulletin, and other print media.

The principle of transparency is very important for the society as it gives information regarding spatial planning of their region, including the planning, utilization, or management. Therefore, it creates congruence of spatial planning and easy access to discover the functions of the land used as stated in the regional or urban spatial planning. Furthermore, it also aims to minimize confrontation between the society and government regarding spatial organization stated in regional or urban spatial planning. Based on the description above, this study attempts to address the following problems: (1) how is the principle of transparency interpreted in spatial organization? (2) how is the ideal application of transparency principle as a means of public participation in spatial organization?

2 Research Method

This study used a juridical normative method which examined the implementation of provisions of positive law (legislation). Besides, this study was also considered as library research. Theoretical approach was used in which it examined concrete events with relevant theories [3]

3 Discussion

3.1 Interpretation of Transparency in Spatial Organization

With respect to Law No. 26/2006 on spatial planning, it can be showed that spatial planning is important in the Unitary State of the Republic of Indonesia as an archipelagic country where its area includes land, sea, air, and all resources [4] [5]. Thus, the management needs to be carried out carefully, effectively, and efficiently regarding the principles of spatial planning so that the quality of national space can be sustainable to achieve general prosperity and social justice based on the 1945 Constitution. Moreover, with limited space and growing public perception about the importance of spatial planning, the realization of spatial planning needs to be transparent, effective, and participatory in order to create safe, comfortable, productive, and sustainable space. This thing

underlies spatial planning, and spatial planning itself refers to a system of spatial planning process, using space, and controlling spatial use. The process of spatial planning requires activities including management, development, implementation, and supervision.

Spatial planning and realization, with its importance in planning, utilizing, and controlling space, is obviously enforced by principles of spatial planning that underlie its realization. In Law No. 26/2006 on spatial planning, the principles are stated in Article 2 consisting of:

- a) Integration principle,
- b) Harmony, congruence, and balance principle,
- c) Sustainability principle,
- d) Effectiveness and efficiency principle,
- e) Transparency principle,
- f) Mutual partnership principle,
- g) Public interest principle,
- h) Legal certainty and justice, and
- i) Accountability

All of those principles are very important in spatial planning. However, this paper specifically discusses transparency principle as it is closely related to public participation (involvement/concern) in terms of spatial planning and its realization. Transparency principle in spatial planning refers to the condition where spatial planning is realized by giving unlimited access to the society to obtain information regarding the planning.

If this transparency principle is viewed from human rights perspective, it can be regarded as the right to develop themselves [6] [7]. In the Great Dictionary of Indonesian Language (KBBI), the right to develop self means everyone has a right to be more advanced mentally and pedagogically. More specifically, this right includes the right to seek, obtain, have, save, proceed, and provide information through various facilities. This right is certainly related to the regulations in Law of Human Rights in Article 11 to 16 Law No. 49/1999 on human rights. If this right to obtain information is related to the context of rule of law, it corresponds to Law No. 14/2008 on transparency of public information. The society have the right to obtain information as the main interpretation of transparency principle in spatial planning. In this case, the term information implies that human as an individual is one of the public components that has the right to access information from the state and specifically from the government. Law No. 14/2008 on transparency of public information in Article 7 section (1) states that every public institution is required to provide, disclose, and/or publish public information, apart from the information excluded based on the conditions [8].

The life of the people and nation cannot be separated from the vital influence of information, which is closely related to public services. Therefore, transparency and accountability principles become the basic principles in running legal entities, especially public legal entities. If they do not include transparency with limited understanding and contradiction to these basic principles, they will potentially cause anxiety and lead to social conflict.

The legal entities that are required to give the access of information to the society are executive, legislature, and judiciary. They are the institutions running public services with several criteria including operational funds from the state budget (APBN), regional budget (APBD) and endowment from locals and foreigners. They are also in the form of public organizations whose obligations are regulated in Law No. 14/2008 on transparency of public information. One of them is the institution related to policy making on spatial planning and/or realization of spatial planning in a region (province/city/regency). On the contrary, the one requiring the information refers to the applicant of public information, and they are the citizens or legal entities that request information to the public institutions.

Besides, it is needed to make regulations in implementing the rights to seek, obtain, have, save, proceed, and provide information through available facilities that aim to: [9]

- a) guaranteeing citizens' rights to know the plans of public policy makers, programs of public policy, and process of decision making, and reasons of decision making;

- b) encouraging public participation in the process of policy making;
- c) improve active role of the society in policy making and management of well-organized public institution;
- d) realize good governance which is transparent, effective, efficient, and accountable;
- e) discover the reasons underlying public policy related to general interests;
- f) Develop knowledge and nation's intellectual life; and/or
- g) Improve the management and services of information in public institutions to generate quality information services

Transparency of public information becomes the obligation of the government to disclose the plan and what the government does. This transparency represents public rights, as well. If this is approached from the rights of obtaining information, several basic norms for the public institutions include: [10]:

- 1) Serving
Serving means that public institutions related to public services represent the implementation of human rights protection, especially the rights of self-development in terms of rights to information.
- 2) Reliable
The transparency of all information represents good attitudes of public institutions in satisfying information needs from the applicants.

3.2 Realization of Transparency Principle in Spatial Planning

Based on the explanation above, we know that the principle of transparency is closely related to the obligation of the government to provide public information, including close relation to the implementation of spatial planning. Therefore, spatial planning must consider the principles of integration, harmony, congruence, balance, sustainability, transparency, and accountability. The implementation of spatial planning considering transparency principle obviously gives the society access to know the present/future plan as well as opportunity to get involved in spatial planning as the realization of public participation that employs democratic, equal, and transparent approach. This approach underlies community driven planning which places the society as the key and the government as their facilitator. With respect to the interactive process of spatial planning, public participation needs to be involved in every process and responsive in following every dynamic and development in the society [11].

The role of regional government in planning regional development is a strategic authority in performing their function as "public servant" to improve public prosperity, safety, justice, and peace. Through the principle of transparency in regional planning and development, the community have a right to know the condition of spatial planning in their region. Similarly, the regional government have an obligation to inform the community about the spatial planning in their region. The implementation of transparency is stated in Law No. 26/2007 on spatial planning, Article 2 Letter E of Law No. 26/2007 on transparency principle in spatial planning. The realization of transparency principle, based on the explanation in Article 16 of the Government Regulation No. 15/2010 on the implementation of spatial planning, is disseminating information regarding spatial planning to the society through information media such as pamphlet/brochure, poster, banner, billboard, and/or exhibition. In addition to these media, the dissemination can be carried out through print media such as book of legislation and handbook of spatial planning, bulletin, and the other print media. Transparency principle is very important for the society to obtain information regarding spatial planning in their region. Thus, it will create congruence of spatial planning and easy access to discover the functions of the land used as stated in the regional/urban spatial plan.

It is important because basically the principle of transparency represents public participation in spatial planning. Realizing spatial planning by the government requires public participation through: 1) participation in making plan, which is a process of determining spatial structure and pattern including making and establishing spatial planning; 2) participation in using space, which is a means

of achieving structure and patterns of space based on the plan by making and implementing the program as well as its funding; 3) participation in controlling spatial use, which is a means of achieving well-organized space.

After all, the principle of public involvement in spatial planning has the following implications.

- 1) Positioning the society as the subject, not as the audience, especially in the spatial planning related to economic growth and public needs
- 2) Facilitating the society to be the subject of spatial planning in order to avoid marginalization of public rights and preserve local culture
- 3) Encouraging stakeholders' responsibilities and roles in transparency and professionalism in the process of spatial planning
- 4) Encouraging institution reinforcement which is able to represent various public elements in order to be able to convey aspirations.

3.3 Ideal Application of Transparency Principle as a Means of Public Participation in Spatial Planning

Transparency principle in spatial planning, based on Law No. 26/2007 is that spatial planning is carried out by giving the society unlimited access to obtain information regarding spatial planning. Article 17 of Local Government Regulation (Perda) No. 68/2010 on form and procedures of public participation in spatial planning states that the local government has obligations to:

- a) provide information and access of information to the public on spatial use through communication media;
- b) socialize spatial planning to the public;
- c) carry out spatial use based on its function as stated in spatial planning;
- d) give responses to the public feedback on spatial use according to legislation

Based on the contents of the Law, despite the fact that the local government does not specifically have a function to apply transparency principle in spatial organization, they still have obligations to give information and socialization to the society. The dissemination of information aims to make the society understand that there are regulations working in spatial planning so that the society do not violate the law.

With regard to the description above, the writer argues that ideal application of transparency principle as a means of public participation can be achieved through the following ways.

- 1) Disseminate of information regarding things/activities/present or future programs conducted by the government in spatial planning
- 2) Regulate the obligation to disseminate information as the implementation of transparency principle in the form of Local Government Regulation
- 3) Manifestate types/ways of dissemination of information in Local Leader Regulation (Perwali/Perbup) and disseminate the information flexibly in order to reach the public range
- 4) Continuously receive aspiration from the society through public hearing. This can be carried out by legislators within recess period. Public hearing refers to a method adopted by law makers, in this case Regional House of Representatives, to listen to opinion and feedback from the society or related parties in making law in order to create regulation representing public interests.

4 Conclusion

It is widely agreed that the main objective of sustainable spatial organization is to achieve public prosperity. One of the important principles in sustainable development is transparency of

information to the society given by the government regarding the means and/or policies related to spatial planning. Therefore, it allows the society to give aspirations (public participation) in spatial planning. These two elements obviously require clear planning and mechanism in order to achieve the objective because the higher the public participation is, the better the performance of spatial planning will be.

With regard to the transparency principle in spatial planning as the means of public participation, it is fair to argue that public participation is very crucial in spatial planning since the result is achieved for the sake of public interests. The society can get the benefits in terms of economy, social life, and environment. Besides, spatial planning aims to create safe, comfortable, productive, and sustainable national space based on Indonesian Archipelagic Vision and National Resilience.

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