

# Legislation Inventory in a Spatial Planning.pdf

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# Legislation Inventory in a Spatial Planning: A Normative Juridical Study

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**Abstract**—Various studies on spatial planning is growing along with the decline of land quantity on the one side as well as the increase of land needs and its utilization on the other side. In the Article 33 (3) of the 1945 Constitution as the constitutional foundation, it is clearly stated that the land, water, and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people. Space in spatial planning refers to the space of the Unitary State of the Republic of Indonesia which involves land space, marine space, and aerial space including natural resources contained therein. Spatial planning is therefore considered as an appropriate approach to achieve spatial planning and management which is comprehensive, efficient, and effective as stated in the Constitution No. 26 of 2007 on Spatial planning. Spatial planning essentially consists of three activities: planning spatial planning, utilizing spatial planning, and controlling land utilization which are realized in the form of Spatial Planning (RTRW) in which the implementation corresponds to the National Spatial Planning (RTRWN), Provincial Spatial Planning (RTRWP), and City Spatial Planning (RTRWKab.Kota). The constitution of spatial planning is expected to be able to realize spatial planning which optimally integrates various development activities in utilizing the space. Consequently, it is important to examine what legislation is related to spatial planning. This study discusses legislation inventory related to spatial planning, content material, and law enforcement which is expected from the regulation of spatial planning.

**Keywords**— legislation inventory, spatial planning, law enforcement

## I. INTRODUCTION

Rapid development of a region/city will prompt expanding effects for the development of the city as a whole as a region divided into administrative regions. Spatial planning becomes an issue encountered in the current city development. The rapid development brings problems and effects in all regions and the scope of environmental organization as a whole. Therefore, spatial planning is essential, and every province/city/regency must have regulations which function as a guideline in spatial planning as well as a reference in the implementation of development.<sup>1</sup>

Legal principle of spatial planning currently applied is regulated in the Constitution No. 26 of 2007 on Spatial Planning (Constitution of Spatial planning). The objectives expected from this Constitution are: a) to strengthen national resilience based on the insight of Indonesian archipelago for the sake of maintaining balance and integration among the regions as well as between the center and regions to cut down the gaps; b) to realize spatial planning which is comprehensive, holistic, coordinated, integrated, effective, and efficient by taking into account political, economic, social, cultural, land, security, environmental sustainability factors; c) to achieve spatial planning which is able to harmonize natural and artificial

environment, as well as the integration of its utilization; d) to give protection on the functions of space and prevention of its negative effects on living environment due to spatial utilization; and e) to make an organization based on the approach of system, main function of the region, administrative region, regional activities, and strategic values of the region.

There are at least three strategic issues in the development of spatial planning which are expected from the era of President Joko Widodo in 2014:<sup>2</sup>

- a. Spatial utilization and control of the utilization. Cycle of spatial planning as regulated in the Constitution of Spatial planning consists of planning, utilization, and control of the utilization. Considering spatial planning (RTR) as well as coastal zoning plan and small islands (RZWP-3-K) which has not finished, the utilization and control still cannot be effectively conducted. One of the factors causing all regions less equal distribution of RTR and RZWP3 in all regions is the unavailability of large-scale map. In order to support the utilization and control of the utilization, incentive scheme is required as regulated in the Presidential Regulation No. 15 of 2010 on the Implementation of Spatial planning.

<sup>1</sup> Darmawati, Choirul Saleh, Imam Hanafi: Vol. 4, No. 2 (2015); [www.publikasi.uniri.ac.id](http://www.publikasi.uniri.ac.id)

<sup>2</sup> Directorate of Space Organization and Land, Pocket Book of Book I and II Summary Related to Spatial Planning and Land RPJMN 2015-2019, BAPERATURAN PEMERINTAHENAS, 2015, page 41-42

- b. Institution in the implementation of spatial planning. Institutional problems consist of less adequate quality, quantity, and competence of human resources in spatial planning sector which leads to low quality of spatial planning. In terms of Civil Servant Investigators (Government Regulation) of Spatial planning Sector, in addition to improvement on quality and quantity, their accommodation and working procedures are still not well-defined to support their works. Moreover, the society who utilizes the space has not been able to be role-model for the regional government in implementing spatial planning, and it causes many problems.
- c. Spatial Planning as a reference of development in various sectors. As the legislation which accommodates Spatial planning, all mandates of the Constitution of Spatial planning must be equipped and correspond to another sectoral regulations. However, currently Spatial Planning is still not able to become guideline for sectoral development. In addition, Spatial Planning is still unable to correspond to the development plan as the reference of development funding.

Regarding the strategic issue in spatial planning sector, in order to address the issue, the targets of development in spatial planning within 2015-2019 involve:<sup>3</sup>

- a. Availability of spatial planning legislations which are comprehensive, harmonious, and well-qualified;
- b. Increasing institutional capacity in spatial planning. As short-term target, issuing guideline of protection of government regulations in spatial planning will be carried out immediately;
- c. Increasing quality and quantity of Spatial Planning as well as realizing well-organized spatial utilization and its control. In short-term, revision of Presidential Regulation No. 54 of 2008 on Spatial planning of Jabodetabekpunjur will be established immediately and equipped with institution and/or administrator of National Strategic Regions (KSN). Basic map with a scale of 1:5.000 for arranging Detail Plan of Spatial planning (RDTR) in KSN and prioritized regions will be provided, as well. Besides, land of sustainable food agriculture will be established.
- d. Evaluating the implementation of spatial planning through measured monitoring and evaluation to assure the compatibility of spatial utilization arranged.

Based on the elaboration above, this study attempts to answer the following problems.

1. What kinds of legislation are related to spatial planning?
2. How are the content materials in the legislation related to spatial planning? Do the content materials correspond to the kinds of legislation?
3. How is law enforcement carried out according to the legislation?

<sup>3</sup> *Ibid*, page. 42

## II. INVENTORY OF LEGISLATION RELATED TO SPATIAL PLANNING

Answering the first problem regarding what kinds of legislations are related to spatial planning, the following list contains the legislations related to spatial planning<sup>4</sup>:

### 1. Constitution

No.	Title of Constitution	Legal Basis
1.	Constitution No. 26 of 2007 on Spatial planning	Article 5 (1), Article 16 25A, and Article 33 (3) of the 1945 Constitution of the Republic of Indonesia
2.	Constitution No. 27 of 2007 on Management of Coastal Areas and Small Islands, as revised in 35 Constitution No. 1 of 2014 on Management of Coastal Areas and Small Islands	Article 5 (1), Article 18B (2), Article 20, Article 25 (A), Article 33 (3) and (4) of the 1945 Constitution of the Republic of Indonesia
3.	Constitution No. 23 of 2014 on Regional Government	Article 1, Article 4, Article 17 (1) and (3), Article 18, Article 18A, Article 18B, Article 20, Article 22D (2), and Article 23E (2) of the 1945 Constitution of the Republic of Indonesia
4.	Constitution No. 3 of 2002 on the State's Land	Article 5 (1), Article 10, Article 11, Article 20 (1) and (2), Article 27 (3), Article 30 of the 1945 Constitution of the Republic of Indonesia
5.	Constitution No. 38 of 2004 on Road	Article 5 (1), Article 20, Article 33 (3), and Article 34 (3) of the 1945 Constitution of the Republic of Indonesia
6.	Constitution No. 41 of 1999 on Forestry	Article 5 (1), Article 20 (1), Article 27, Article 33 of the 1945 Constitution of the Republic of Indonesia
7.	Constitution No. 39 of 2009 on Special Economic Zone	Article 5 (1), Article 20, Article 27 (2), Article 33 of the 1945 Constitution of the Republic of Indonesia
8.	Constitution No. 41 of 2008 on Protection for Land of Sustainable Food Agriculture	Article 20, Article 21, Article 27 (2), Article 28A, Article 28C, Article 33 of the 1945 Constitution of the Republic of Indonesia
9.	Constitution No. 1 of 2011 on Housing and Residential Area	Article 20, Article 21, Article 27 (2), Article 28H (1), Article (2), Article (4), Article 33 (3), Article 34 (1), (2), and (3) of the 1945

<sup>4</sup> [https://www.bphn.go.id/data/documents/penataan\\_ruang\\_terpadu.pdf](https://www.bphn.go.id/data/documents/penataan_ruang_terpadu.pdf)

		10. Constitution of the Republic of Indonesia
10.	Constitution No. 4 of 2011 on Geospatial Information	Article 5 (1), Article 20, Article 25 (A), Article 28F, Article 33 (3) and (4) of the 1945 Constitution of the Republic of Indonesia
11.	Constitution No. 5 of 1990 on Conservation of Biotic Natural Resources and Ecosystem	Article 5 (1), Article 20 (1), and Article 33 of the 1945 Constitution of the Republic of Indonesia
12.	Constitution No. 28 of 2002 on Building	Article 5 (1) and Article 20 (1) of the 1945 Constitution of the Republic of Indonesia as revised in the fourth amendment of the 1945 Constitution of the Republic of Indonesia
13.	Constitution No. 24 of 2007 on Disaster Management	Article 20 and 21 of the 1945 Constitution of the Republic of Indonesia
14.	Constitution No. 32 of 2009 on Protection and Management of Environment	Article 20, Article 21, Article 28H (1), and Article 33 (3) and (4) of the 1945 Constitution of the Republic of Indonesia
15.	Constitution No. 3 of 2014 on Industry	Article 5 (1), Article 20, Article 33 of the 1945 Constitution of the Republic of Indonesia
16.	Constitution No. 32 of 2014 on Maritime Affairs	Article 20, Article 22D (1), Article 25A, Article 33 (3) of the 1945 Constitution of the Republic of Indonesia
17.	Constitution No. 4 of 2009 on Coal and Mineral Mining	Article 5 (1), Article 20, and Article 33 (2) and (3) of the 1945 Constitution of the Republic of Indonesia
18.	Constitution No. 20 of 2011 on Flat (Low-Cost Apartment)	Article 20, Article 21, Article 28 (H) (1), (2), and (4) of the 1945 Constitution of the Republic of Indonesia

## 2. Government Regulation<sup>5</sup>

No.	Title of Government Regulation	Legal Basis
1.	Government Regulation No. 80 of 1999 on Ready-to-Build Areas and Ready-to-Build Environment which stands-alone	Article 19 and 32 of the Constitution No. 4 of 1992 on Housing and Settlement
2.	Government Regulation No. 63 of 2002 on City Forest	Article 9 of the Constitution No. 41 of 1999 on Forestry
3.	Government Regulation No. 16 of 2005 on Land Organization	Article 16 (3) of the Constitution No. 26 of 2007 on Spatial

<sup>5</sup> [https://www.bphn.go.id/data/documents/penataan\\_ruang\\_terpadu.pdf](https://www.bphn.go.id/data/documents/penataan_ruang_terpadu.pdf)

		planning
4.	Government Regulation No. 15 of 2005 on Toll Road	Article 43 to 57 of the Constitution No. 38 of 2004 on Road
5.	Government Regulation No. 36 of 2005 on the Implementation Regulation of the Constitution No. 28 of 2002 on Building	Constitution No. 28 of 2002 on Building (not explicitly regulated in particular article of delegation)
6.	Government Regulation No. 39 of 2006 on Procedures of Controlling and Evaluating Plan Implementation	Article 30 of the Constitution No. 25 of 2004 on System of National Development Plan
7.	Government Regulation No. 6 of 2007 on Forestry Organization and Formulation of Forest Management Plan as revised in the Government Regulation No. 3 of 2008	Article 22, 39, 66, and 80 of the Constitution No. 41 of 1999 on Forestry
8.	Government Regulation No. 15 of 2012 on the Implementation of Spatial planning	Article 13 (4), Article 16 (4), Article 37 (8), Article 38 (6), Article 40, Article 41 (3), Article 47 (2), Article 48 (5), Article 48 (6), and Article 64 of the Constitution No. 26 of 2007 on Spatial planning
9.	Government Regulation No. 68 of 2010 on Form and Procedure of Society's Role in Spatial planning	Article 65 (3) of the Constitution No. 26 of 2007 on Spatial planning
10.	Government Regulation No. 50 of 2011 on Master Plan of National Tourism Development 2010-2025	Constitution No. 10 of 2009 on Tourism (not explicitly regulated in particular article of delegation)
11.	Government Regulation No. 40 of 2012 on Development and Preservation of Natural Environment of Airport	Constitution No. 1 of 2009 on Flight (not explicitly regulated in particular article of delegation)
12.	Government Regulation No. 8 of 2013 on Accuracy of Spatial planning Plan Map	Article 14 (17) of the Constitution No. 26 of 2006 on Spatial planning
13.	Government Regulation No. 9 of 2014 on Follow-up of the Constitution of Geospatial Information and 5 Regulations of the Head of Geospatial Information Agency (BIG)	Article 17 (5), Article 28 (3), Article 31 (3), Article 39 (3), Article 53 (3), Article 57 (3), and Article 63 (3) of the Constitution No. 4 of 2011 on Geospatial Information
14.	Government Regulation No. 88 of 2014 on Supervision of the Implementation of Housing and Settlement Area	Article 11 of the Constitution No. 1 of 2011 on Housing and Settlement Area and Article 12 of the Constitution No. 20 of 2011 on Flat (Low-Cost Apartment)

15.	Government Regulation No. 142 of 2015 on Industrial Area	Article 63 (5) and Article 108 of the Constitution No. 3 of 2014 on Industry
16.	Government Regulation No. 26 of 2008 on Plan of National Spatial planning	Article 20 (6) of the Constitution No. 26 of 2007 on Spatial planning

### 3. Presidential Regulation<sup>6</sup>

No	Presidential Regulation	Legal Basis
1.	Presidential Regulation No. 54 of 2008 on Spatial planning in Jakarta, Bogor, Depok, Tangerang, Bekasi, Puncak, Cianjur	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
2.	Presidential Regulation No. 45 of 2011 on Spatial planning in Urban Area of Denpasar, Bandung, Gianyar, and Tabanan	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
3.	Presidential Regulation No. 55 of 2011 on the Plan of Spatial planning in Urban Area of Makassar, Maros, Sungguminasa, Takalar	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
4.	Presidential Regulation No. 62 of 2011 on the Plan of Spatial planning in Urban Area of Medan, Binjai, Deli Serdang, and Karo	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
5.	Presidential Regulation No. 87 of 2011 on the Plan of Spatial planning of Batam, Bintan, and Karimun	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
6.	Presidential Regulation No. 58 of 2014 on the Plan of Spatial planning of Borobudur and its surrounding	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
7.	Presidential Regulation No. 70 of 2014 on the Plan of Spatial planning of Merapi National Park and its surrounding	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
8.	Presidential Regulation No. 81 of 2014 on the Plan of Spatial planning of Toba Lake and its surrounding	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
9.	Presidential Regulation No. 179 of 2014 on the Plan of Spatial planning of National Borders in NTT	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
10.	Presidential Regulation No. 31 of 2015 on the Plan of Spatial planning of National Borders in Kalimantan	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
11.	Presidential Regulation No. 32 of 2015 on the Plan of	Article 123 (4) of the Government

<sup>6</sup> [https://www.bphn.go.id/data/documents/penataan\\_ruang\\_terpadu.pdf](https://www.bphn.go.id/data/documents/penataan_ruang_terpadu.pdf)

	Spatial planning of National Borders in Papua	Regulation No. 26 of 2008 on National Spatial Planning
12.	Presidential Regulation No. 33 of 2015 on the Plan of Spatial planning of National Borders in Maluku	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning
13.	Presidential Regulation No. 34 of 2015 on the Plan of Spatial planning of National Borders in North Maluku and West Papua	Article 123 (4) of the Government Regulation No. 26 of 2008 on National Spatial Planning

### 4. Presidential Decree<sup>7</sup>

No.	Title of the Presidential Decree	Delegation
1.	Presidential Decree No. 34 of 2003 on the National Policy in the Land Affairs	People's Consultative Assembly Decree (TAP MPR) of the Republic of Indonesia No. IX/MPR/ 2001 on Agrarian Reform and Management of Natural Resources – need a policy to establish and produce system of intact and integrated system of national land affairs

### 5. Kinds of Ministerial Regulation<sup>8</sup>

No.	Title of Ministerial Regulation	Delegation
1.	Public Work Ministry Regulation No. 20 PRT/M/2007 on Analysis Technique of Physical, Environment, Economics, Social, and Cultural Aspects in Formulating the Plan of Spatial planning	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)
2.	Public Work Ministry Regulation No. 21 PRT/M/2007 on Volcano Eruption-Prone Areas and Earthquake-Prone Areas	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)
3.	Public Work Ministry Regulation No. 21 PRT/M/2007 on Guidelines for Spatial planning of Landslide-Prone Areas	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)
4.	Public Work Ministry Regulation No. 40 PRT/M/2007 on Area of Beach Reclamation	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)

<sup>7</sup> [https://www.bphn.go.id/data/documents/penataan\\_ruang\\_terpadu.pdf](https://www.bphn.go.id/data/documents/penataan_ruang_terpadu.pdf)

<sup>8</sup> [https://www.bphn.go.id/data/documents/penataan\\_ruang\\_terpadu.pdf](https://www.bphn.go.id/data/documents/penataan_ruang_terpadu.pdf)

5.	Public Work Ministry Regulation No. 41 PRT/M/2007 on Guideline of Technical Criteria of Cultivation Area	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)
6.	Public Work Ministry Regulation No. 5 PRT/M/2008 on Provision and Utilization of Green Open Space in Urban Area	Constitution No. 26 of 2007 on Spatial Planning and Article 189 of the Constitution No. 32 of 2004 on Regional Government
7.	Public Work Ministry Regulation No. 11 PRT/M/2009 on Guideline of Substantial Approval in Establishment of Regional Regulation Draft of Spatial planning in Province and Regency with its detail	Article 18 of the Constitution No. 26 of 2007 on Spatial Planning
8.	Public Work Ministry Regulation No. 13 PRT/M/2009 on Investigator of Government Regulation on Spatial Planning	Constitution No. 26 of 2007 on Spatial Planning and Article 189 of the Constitution No. 32 of 2004 on Regional Government
9.	Public Work Ministry Regulation No. 15 PRT/M/2009 on Guideline of Formulation of Spatial planning in Province	Article 18 (3) of the Constitution No. 26 of 2007 on Spatial Planning
10.	Public Work Ministry Regulation No. 16 PRT/M/2009 on the Guideline of Formulation of Spatial planning in Regency	Article 18 (3) of the Constitution No. 26 of 2007 on Spatial Planning
11.	Public Work Ministry Regulation No. 17 PRT/M/2009 on the Guideline of Formulation of Spatial planning in Urban Area	Constitution No. 26 of 2007 on Spatial Planning (not explicitly regulated in particular article of delegation)
12.	Public Work Ministry Regulation No. of 2016 on Formulation of Spatial Planning of Strategic Area in Province and Regency	Article 24 (2) and Article 27 (2) of the Constitution No. 26 of 2007 on Spatial Planning
13.	Public Work Ministry No. 14 PT/M/2010 on Minimum Service Standard of Public Work Affairs and	Government Regulation No. 65 of 2005 on Guideline of Formulation and Application of Minimum Service Standard

	Spatial Planning	
14.	Forestry Ministry Regulation No. P.28/Menhut-II/2009 on Procedures of Consultation in order to Give Substantial Approval of Forestry on Regional Spatial Planning	Article 18 (1) of the Constitution No. 26 of 2007 on Spatial Planning
15.	Home Affairs Ministry Regulation No. 13 of 2016 on Evaluation of Regional Regulation Draft on Regional Spatial Planning	Article 400 (2) of the Constitution No. 23 of 2014 on Regional Government
16.	Home Affairs Ministry Regulation No. 56 of 2014 on Procedures of Society's Roles in Regional Spatial Planning	Article 12 (2) of the Government Regulation No. 68 of 2010 on Form and Procedure of Society's role in Regional Spatial Planning
17.	Public Work Ministry Regulation No. 32 PRT/M/2006 on Guideline of Designation of Management Agency of Ready-to-Build Areas and Ready-to Build Environment which stands-alone	Government Regulation No. 36 of 2005 on Implementation Regulation of the Constitution No. 28 of 2002 on Building
18.	Public Work Ministry Regulation No. 32 PRT/M/2006 Guideline of Ready-to-Build Areas and Ready-to Build Environment which stands-alone	Government Regulation No. 80 of 1999 on Ready-to-Build Areas and Ready-to Build Environment which stands- alone
19.	Agrarian Affairs and Spatial Planning Ministry/ National Land Agency Regulation No. 32 of 2016 on the Quality Control System of Land, Agrarian, and Spatial Planning Programs	(not explicitly regulated in particular article of delegation)
20.	Home Affairs Ministry Regulation No. 1 of 2007 on Spatial Planning of Urban Green Open Space	(not explicitly regulated in particular article of delegation)
21.	Home Affairs Ministry Regulation No. 69 of 2007 on Collaboration Development of Urban Area	(not explicitly regulated in particular article of delegation)

### III. CONTENT MATERIALS IN LEGISLATION RELATED TO SPATIAL PLANNING, AND CORRESPONDENCE BETWEEN THE CONTENT MATERIALS AND THE LEGISLATION

According to the legislation inventory related to spatial planning as listed in the table above, analysis of the legislation is explained as follows.

#### A. Constitution

Legislation is regulated by the Constitution in several conditions: <sup>14</sup> the Constitution further regulates provisions of the 1945 Constitution of the Republic of Indonesia firmly mandated in the Articles of the 1945 Constitution body; b) in addition to being firmly mandated in the Articles of the 1945 Constitution body, legislation in the form of Constitution can also be used to regulate provisions of the 1945 Constitution which are not firmly regulated in the Articles but meet some indicators related to some points: implementation and limitation of human rights, limitation of citizens' rights and obligations, implementation and enforcement of national sovereignty and distribution of authority, national finance, and regulations on the citizens' wealth; c) instruction to be regulated by the Constitution; d) follow-up of the Constitutional Court's decisions; e) ratification of particular treaty that needs to be regulated by the Constitution.

#### B. Regulation in Lieu of Law (*Perppu*)

This legislation is used in an urgent condition. There is an urgent need to resolve legal problem immediately. Due to unavailability of the Constitution regulating the condition, this legislation fills the gap through establishment process.

#### C. Government Regulation

Legislation in the form of government regulation aims to realize provisions of the Constitution. It can be either firmly or not firmly instructed in the Constitution, but it is required to realize the provisions of the Constitution. This legislation can also be in the form of follow-up of the Supreme Court's decisions so that the content materials of the government regulation do not overlap the decisions.

#### D. Presidential Regulation

Legislation in the form of Presidential Regulation is further an instruction of the Constitution to implement government regulation and authority as well as become follow-up of the Supreme Court's decisions. The indicator of this legislation is the existence of delegation's instruction whether there is instruction from the higher legislation.

#### E. Ministerial Regulation

Legislation in the form of ministerial regulation is an attribution and delegation. The regulation which is delegated by the Constitution contains materials that are limited to technical and administrative things (attachment II of the Constitution No. 12 of 2011). Meanwhile, the indicators of attributive ministerial regulation do not contradict with the higher legislation as well as regulate the structure of organization working standard, and method.

### IV. LAW ENFORCEMENT AS REGULATED IN THE REGULATION OF SPATIAL PLANNING

Spatial planning is an important issue for the existence of a region – from regency/city to national level. In fact, there are still a lot of violations found in this scope. Weak law enforcement directly influences the implementation of spatial planning. The growing issue in the society is that the violations of spatial planning is considered insignificant – no need to comply with and avoid. In the academic document composed by the Department of Public Works contained in the spatial planning bill, it is stated that areas that are supposed to be protected turn to villas, horticultural cultivation, and other activities significantly decrease the function of protected areas. It happens without any firm law enforcement from the government.<sup>9</sup>

Law enforcement is a very essential and substantial issue in *rechtsstaat* or law-based state. It is a process of conducting means of enforcing or functioning legal norms in real situation as a code of conduct in legal activities related to social and national life.<sup>10</sup>

According to Jimly Assidique<sup>11</sup>, law enforcement can be overlooked from the perspective of the subject and object. From the perspective of the subject, law enforcement can have broad and limited definition. In broad definition, the process of law enforcement can involve all of the law subjects. Those who follow normative regulations by doing or not doing something based on the existing norms of rule of law, it means they have complied or carried out rule of law. In limited definition<sup>11</sup> on the contrary, law enforcement is only carried out by law enforcement agencies to ensure and assure that rule of law works properly, and in assuring the enforcement, the agencies is allowed to use forceful power.<sup>33</sup>

The main goal of law is to create well-organized society and balance. By achieving well-organized society, it is expected that human interest can be protected. In order to achieve the goal, law is responsible for dividing one's rights and obligations in the society, distribute authority, and regulate procedures of solving legal problems, and maintain legal assurance.<sup>12</sup> The goal is impossible to be reached unless the law enforcement agencies play their roles properly. Sociologically, every law enforcement agency holds particular position and role. Social position is a particular position in a social structure – high, moderate, or low.

The position is actually a place which contains particular right and obligation. A right refers to authority to do or not to do something while obligation refers to duty. The rights and obligations are role. Therefore, someone having particular position is commonly known as a role

<sup>9</sup> Academic Document <sup>24</sup> Spatial-Organization Legislation, Department of Public Works, 2015

<sup>10</sup> Jimly Asshiddiqie, *Agenda Pembangunan Hukum Nasional Di Abad 21* Analisis, Cet 1, Jakarta: Balai Pustaka, 1998

<sup>11</sup> Assidique, Jimly, *Penegakan Hukum*. (Makalah), Jakarta, [http://34.y.com/makalah/namafile/56/Penegakan\\_Hukum.pdf](http://34.y.com/makalah/namafile/56/Penegakan_Hukum.pdf), 2009

<sup>12</sup> Mertokusumo, Sudikno, *Mengenal Hukum Suatu Pengantar*, Yogyakarta: Liberty 1999, page 71

occupant. Satjipto Rahardjo<sup>13</sup> asserts that law enforcement is essentially enforcement of abstract thoughts or concepts.<sup>14</sup> This view corresponds to Soerjono Soekanto who states that law enforcement is an activity aligning the relationship of values elaborated in conventions or views of steady and manifesting values as well as acts as a sequence of final value elaboration to create (social engineering), maintain, and preserve (social control) peace of social life.<sup>14</sup>

Law enforcement is not a stand-alone factor, but in its implementation law enforcement depends on the existence of factors influencing it. According to Soerjono Soekanto at least there are five factors influencing law enforcement. The first one refers to its legal factor – in this study limited to the Constitution. The second one is law enforcement agencies – parties establishing and applying the law. The third one is facilities and infrastructures supporting law enforcement. The fourth one is society – the environment in which the law is applied. And the last one is culture as a work based on human's intention in social life.<sup>15</sup>

Based on the explanation above, if it is related to the Constitution on Spatial planning No. 26 of 2007, Article 1 point 1 stipulates that space is a place involving land, sea, and air, including the space therein the land as a whole region where people and other creatures live, carry out activities, and maintain their life sustainability. In spatial planning, the main part is its definition. Thus, the most important thing in law enforcement of spatial planning is how the activities carried out in the land, marine, and aerial space correspond to the planning set based on the legislation as regulation on spatial planning becomes an important thing to create synergy between the place where people and other creatures live in order to maintain their life sustainability.

## V. CONCLUSION

Legislation inventory generally needs to be carried out as we can know the legal politics of a legislation including the policy direction that will be achieved within the legislation. However, it needs to be noted that the Constitution is basically an implementation of in 29)ction or elaboration of the provisions contained in the 1945 Constitution of the Republic of Indonesia, Government Regulation of instruction implementation or applying article provisions in the Constitution, Presidential regulation of the instruction implementation or elaboration of article provisions in the Constitution or Government Regulation and/or in order to realize government authority. Meanwhile, in Ministerial Regulation of instruction implementation or elaboration of article provisions in Government Regulation or presidential regulation, the ministerial regulation can also further regulate based on the authority of the delegation from the Constitution. However, it is jut limited to the technical and administrative regulation.

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<sup>13</sup> Satjipto, Raharjo, Masalah Penegakan Hukum Suatu Tinjauan Sosiologis, Bandung: Sinar Baru, 1997, page 15

<sup>14</sup> Soerjono Soekanto, Penegakan Hukum, Jakarta: Bina Cipta 1983, page 22

<sup>15</sup> Soekanto, Soerjono, Faktor-Faktor yang Mempengaruhi Penegakan Hukum, Jakarta: PT Raja Grafindo Persada, 2004, page 8

Law enforcement of spatial planning is very essential in the process of spatial planning. This process is needed to maintain the plan of spatial planning can be properly applied so that the development goals can be achieved. Map of Spatial planning Plan also has important role to show comprehensively which zones have set in particular region.

In the end, with the importance of law enforcement as a strategic step in spatial planning, corrupt spatial planning must be given sanction. Then, in order to achieve spatial planning helping the realization of regional autonomy, strategy of empowering spatial planning which corresponds to the spirit of regional autonomy (regional development) needs to be proposed, and it is expected that it can give effective results by utilizing resources efficiently.

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