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**AUTHORITY OF DIRECTORATE GENERAL OF SPACE
MINISTRY OF WORKGENERAL UNDER THE MINISTRY OF
AGRARIAN AND GOVERNANCE / BPN**

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Abstract

The rise of the Ministry of Agrarian Affairs and Spatial Planning / BPN in 2015 is a new chapter for BPN institutions. In view of the existence of these ministries, the functions and duties of the Director General of Spatial Planning of the Ministry of Public Works are merged into a ministry institution named the Ministry of Agrarian Affairs and Spatial Planning / BPN. So that change is based on increasing the authority of a state institution, and that authority is increasing and strategic. But in reality in the field, the two ministries are juxtaposed, many are involved. Therefore, it will be discussed in this quiz in accordance with the Regulation of the Director General of Spatial Planning of the Ministry of Public Works who is in charge of the ministry of agrarian affairs and spatial planning / BPN. The purpose of this study is to analyze the authority of the director general of spatial ministry of public works under the ministry of agrarian and spatial planning / BPN. This study uses a normative legal method, with the approach to the legislation and other literature. Based on research results, the authority of the Director General of Spatial Planning of the Ministry of Work under the Ministry of Agrarian Affairs and Spatial Planning / BPN is an institutional opportunity to unify land management comprehensively. The regulation and management of land is not limited to land surface space but

encompasses underground space, above ground space, water space and surface space itself, Positive Impact of the existence of the Director General of Spatial Planning under the Ministry of Agrarian Affairs and Spatial Planning / BPN mandates the state to conduct land affairs in a manner to spread includes earth, water, space and natural resources for the greatest prosperity of the people. The Negative Impact of the Authority of the Director General of Spatial Planning under the Ministry of Agrarian Affairs and Spatial Planning / BPN is the need for harmonization of various laws and regulations relating to spatial planning and land management, to facilitate implementation in the field.

Keywords: Authority, Director General of Spatial Planning, Land

I. INTRODUCTION

Non-ministerial Government Institutions hereinafter abbreviated as LPNK, formerly known as Non-Departmental Government Institutions, hereinafter abbreviated (LPND) are state institutions in Indonesia formed to carry out certain governmental tasks from the president. The head of the LPNK is under and reports directly to the president through ministers or ministerial level officials. The fundamental difference between a State Institution and a Non-Ministry government agency is if a Non-Ministry Government Institution is led by a minister who is the President's assistant in carrying out governmental duties in the ministry he leads, and are the cabinet formed by the President. LPNK is a state institution formed to carry out certain government tasks from the President. The head of the LPNK is under and reports directly to the President. The basic difference is that the ministry is led by a minister who is a member of the cabinet, while the non-department is led by a chair and not a member of the cabinet.¹

One non-ministerial government agency is the Director General of Spatial Planning of the Ministry of Public Works. The Director General of Spatial Planning of the Ministry of Public Works is a non-ministerial government

¹ Firmansyah et al. 2005. *State Institutions and Authority Dispute Between State Institutions*. KRHN. Jakarta, p. 15

institution in Indonesia that has the task of carrying out governmental tasks in the field of Land in accordance with statutory provisions. According to Presidential Regulation Number 20 of 2015 concerning the National Land Agency Article 1 paragraph (1) explains that the National Land Agency then abbreviated as BPN is a non-ministerial government institution that is under and is responsible to the President. Furthermore, number (2) of the same article determines that the National Land Agency is led by a head.²

This is in line with what is stipulated in Article 6 paragraph (1) of Government Regulation no. 24 of 1997 concerning Land Registration which determines that the task of carrying out land registration is carried out by the head of the land office, except certain activities assigned to other officials. Certain activities in question are activities whose utilization is of a national nature or exceeds the working area of the head of the land office, for example measurement of technical base points, photogrammetric mapping and others.

The Director General of Spatial Planning of the Ministry of Public Works is now the Ministry of Agrarian Affairs and Spatial Planning / BPN. The Ministry of Agrarian Affairs and Spatial Planning / BPN of the Republic of Indonesia is a ministry that has the task of carrying out affairs in the field of agrarian / funding and spatial planning in government to assist the President in organizing state government. The change is not necessarily called a new ministry, but rather an increase in the status of state institutions. The improvement in status is indicated by the increasing spatial dimension within the ministry so that the authority of the National Land Agency is increasing and strategic. The Ministry of Agrarian Affairs and Spatial Planning provides strategic solutions, especially in terms of carrying out the process of removing overlapping licensing barriers over disputed areas. Among other things, related to the existing mining area under protected areas, oil and gas exploration areas that intersect with agriculture, fisheries cultivation, and coastal protected areas.

But in fact, there are many obstacles that occur in the field due to the change of the Director General of Spatial Planning into the Ministry of

² Lukmas Hakim. 2010. *State Position of the Commissioner in Indonesia*. Setera Press. Malang, p. 25

Agrarian Affairs and Spatial Planning / BPN. Starting from the description above, the author is interested in choosing the title "The Authority of the Director General of Spatial Planning of the Ministry of Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN".

II. DISCUSSION

a. **Authority of the Director General of Spatial Planning of the Ministry of Public Works Under the Ministry of Agriculture and Spatial Planning / BPN**

Strictly speaking, the authority to grant or determine land rights can only be done by the State through the government, in this case carried out by Government Agencies, the legal certainty of land rights for the people is entirely one of the objectives of the BAL, so the law requires the government to register land throughout Indonesia, which aims to guarantee legal certainty and certainty of rights. Thus the authority granted to the holder of land rights to use the land in accordance with its designation. But in reality, until now the implementation of land registration has not yet been realized comprehensively. Now, during Jokowi's administration the functions and duties of the BPN and the Directorate General of Spatial Planning of the Ministry of Public Works were combined in one ministry agency named the Ministry of Agrarian Affairs and Spatial Planning / BPN.³

Institutionally, the state has an obligation in organizing spatial planning for the greatest prosperity of the people, whose implementation of the state's authority gives the spatial management authority to the government and regional governments. Based on Law Number 26 Year 2007 regarding Spatial Planning, the Government in the management of spatial planning has the authority in:

- a. Regulating, fostering and supervising the implementation of national, provincial, district / city area spatial planning, as well as the

³ ElzaSyarief. 2012. *Resolving Land Disputes through the Special Land Court*, Gramedia's Popular Library. Jakarta, p.143.

implementation of national, provincial and district / city strategic regional spatial planning;

- b. Implementation of national spatial planning;
- c. Implementation of national strategic area spatial planning; and Spatial cooperation between countries and facilitating spatial cooperation between provinces.

Until the formation of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR / BPN) which handled the spatial planning was the Directorate General of Spatial Planning at the Ministry of Public Works. The Directorate General of Spatial Planning has the task of formulating and implementing policies and technical standardization in the field of spatial planning. The main tasks and institutional functions of spatial planning that are handled by the Directorate of Spatial Planning are integrated with diagramming and land issues with the formation of the ATR / BPN Ministry. Even based on Presidential Regulation No. 17 of 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning, spatial planning affairs evolved from one post to two post, namely the Directorate of Spatial Planning and the Directorate of Spatial Use Control and Land Tenure.⁴

Based on Article 10 of Law Number 17 Year 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning provides an explanation that the Directorate General of Spatial Planning at the ATR Ministry has the task of organizing the formulation and implementation of policies in the field of spatial planning and spatial use, and carrying out functions:⁵

⁴ I Wayan Kumaladewa. 2018. *Kewenangan Badan Pertanahan Nasional berdasarkan Peraturan Menteri agraria dan Tata Ruang*, Jurnal Ilmu Hukum, volume, 2, Nomor 1, Edisi September, p. 123-129

⁵ Hadimoeljono. 2018. *Spatial Use Control: Finding Institutions for Effective Spatial Use in Spatial Planning and Land Bulletin*, Legal and Social Journal, Volume. 4, Number 1, June-Edition, p. 245-251

- a. Formulation of policies in the field of spatial planning and spatial use;
- b. Implementing policies in the field of spatial planning, coordinating spatial use, fostering spatial planning and regional spatial use;
- c. Preparation of norms, standards, procedures and criteria in the field of spatial planning and spatial use;
- d. Providing technical guidance and supervision in the field of spatial planning and spatial use;
- e. Implementation of evaluation and reporting in the field of spatial planning and spatial use;
- f. The administration of the Directorate General of Spatial Planning; and
- g. Implementation of other functions given by the Minister.

The Directorate General of Highways previously had no regulation in the area of spatial planning, so in January the Office of Water Resources and Settlements governed spatial planning, delegating authority to DGH to regulate spatial planning into the Public Works and Spatial Planning Agency. The impact of the delegation of authority is that people in the public works service are transferred but the spatial planning fund is not delegated to the Public Works and Spatial Planning Agency, which hinders the planning of Spatial Planning.

The Director General of Spatial Planning has conducted socialization with the Office of Public Works and Spatial Planning in organizing spatial planning in the Provinces and Regencies. Where are appealing to record areas that are not in accordance with spatial planning, for example, required Regional Regulations related to spatial planning that damage the environment, buildings that are not in accordance with spatial planning, but the Public Works and Spatial Planning Agency is not easy in cracking down on buildings that are not in accordance with regional regulations in spatial planning arrangements, but buildings that have been built before the Regional Regulation governing spatial planning cannot be followed up,

socialization should be conducted to the public who violate regional regulations in order to understand about spatial planning violations and not cause chaos in the community. The affairs of planning, utilization and control of spatial planning are the authority of the provincial government in the implementation of spatial planning as referred to in article 10 paragraph (1) UUPR.

The authority of the Director General of Spatial Planning under the Ministry of Agrarian Affairs and Spatial Planning / BPN has steps to improve the administration of land in Indonesia in the implementation of this work procedure that has been running properly and tactical operations such as:

- 1) Clarifying the legal basis for land ownership Introducing legal recognition of ownership, and allowing non-documentary evidence as its basis. People who have managed a land for a long time, generally have invested their time and resources in the land.
- 2) Creating a land system that better meets the needs of the modern economic community The use of land in Indonesia must be in accordance with the permits stipulated in the given land rights. Land use change requires the management of new rights that involve a long bureaucratic process and can be a source of corruption and mismanagement. To overcome this problem, it is necessary to separate technical functions, such as recording, from political aspects such as land allocation.
- 3) Improving the quality and credibility of land registration Land registration is something that should be carried out only if the process can provide valuable and reliable information, so that it can provide benefits in increasing investment and transfer of land that drives productivity. Creating an efficient and decentralized mechanism for land transfer. The cost of land transfer in Indonesia is recorded as the highest in the region, so that various useful land use activities are hampered or the transfer process takes an informal form, with various negative consequences.
- 4) Strengthen various independent institutions and provide fiscal incentives in the implementation of land rules. Provide penalties for

fraud and forgery, and introduce a system for handling various complaints. Although it is not a specific case of land affairs, a large number of violations in land cases make punishment for fraud in the matter of land is important. Likewise, an attitude of respect for the right of the victim to make a counter-claim for losses incurred by the victim, as well as collect the illegal recording activities and fraud.

2. Positive Impact of Authority on Work on Spatial Planning for Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN

Positive Impact of the Authority of the National Land Agency under the Ministry of Agrarian Affairs and Spatial Planning / BPN in implementing spatial planning policies:

- a) Harmonization of regulations and content; The same meaning between agrarian in the LoGA and space in the Loan is an entry point in the harmonization of land tenure arrangements and other agrarian resources with the use and utilization of the space. Spatial planning institutions within the ATR / BPN Ministry must be able to carry out this harmonization, given that the institutions are already in one ministry.
- b) Placing the arrangement of spatial planning (planning, utilization and control of utilization) in the land management frame. In this case, control and ownership of land is an integral part of the use and use of space. Administratively, the process of granting land rights must be integrated with the use of its space.
- c) Regional Spatial Institutional Integration. So far, spatial planning institutions in the regions are in the local government, both in Bappeda and other SKPDs. There are even local governments that have several institutional structures that deal with spatial planning.
- d) Arrangement of relations between regional spatial institutions with Regional Offices of BPN and District / City Land Offices. This

relationship arrangement is important in order to integrate the granting of land rights by BPN with the use and use of space by the Regional Government, both of which are under the coordination of the Ministry of ATR / BPN.

3. The Negative Impact of the Authority of the Director General of Spatial Planning of the Ministry of Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN

As for the negative impacts that arise the issues that are a strategic focus for the ministry to handle are as follows:⁶

- a) The territorial space of the Unitary Republic of Indonesia faces challenges and problems especially: located in a fast developing region (pacific ocean rim and indian ocean rim);
- b) The implementation of spatial planning still faces various obstacles, including spatial planning arrangements that are still incomplete, the implementation of spatial planning guidance which is still not effective, the implementation of spatial planning which is still not optimal, and supervision of spatial planning which is still weak.
- c) The development of thoughts and awareness in the community to improve the performance of spatial planning that touches matters directly related to the problems of community life, especially with the increase in floods and landslides, traffic congestion, increasing slum housing, decreasing public space and green open space in urban areas, inadequate capacity of metropolitan areas against population pressures, and lack of balanced urban and rural development.
- d) Still incompatible various laws and regulations relating to spatial planning and land management. This has led to overlapping authorities and responsibilities between agencies in the management of spatial

⁶ Muhammad Iqbal. 2017. *Authority of the Land Agency in Providing Legal Certainty to Land Owners*, National Journal and Social Change, Volume, 1, Number 1, Edition-Juni, p.1-10.

planning and land management, especially regarding spatial use patterns and legal certainty over land.

- e) The increase in population in Indonesia is not followed by an even distribution of the population. In the future the spread of population will lead to urban areas. Increasing population in urban areas is increasing the demand for urban land. Increasing land requirements on the one hand, while on the other hand the supply is increasingly limited, can cause an increase in the conversion of land, including productive agricultural land.

The rise of spatial use activities that are not in accordance with spatial planning and legislation, such as illegal land use changes, spatial use activities that are not in accordance with spatial use permits, and spatial use permits that are not in accordance with laws and regulations. Not complete yet basic instruments or rules (Norms, Standards are incomplete, Procedures and Criteria / NSPK) in spatial supervision and control activities as the basis for the implementation of spatial supervision and control. This causes spatial monitoring and control activities can not be carried out optimally, both by the central government and regional governments. The institutional arrangement of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency seems to have been based on several philosophical foundations and state ideals that are expected to facilitate and accelerate the realization of space and land for justice and prosperity.

III. CONCLUSION

The authority of the Director General of Spatial Planning of the Ministry of Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN is an institutional opportunity to unify land management comprehensively. Arrangement and management of land is not limited to land surface space but encompasses underground space, above ground space, water space and ground level space itself. The spatial planning authority that was previously administered by the Ministry of Public Works

has now been combined in one institution with the National Land Agency to become the Ministry of Agrarian Affairs and Spatial Planning / BPN, and in the Ministry of Public Works there is no longer any element of spatial planning. However, in the area of land and spatial planning are not united in one institution. And regional spatial planning matters are handled by the Public Works and Spatial Planning Agency and are directly responsible to the Ministry of Agrarian Affairs and Spatial Planning / BPN.

The positive impact of the existence of the Director General of Spatial Planning of the Ministry of Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN mandates the state to organize land use management in a manner encompassing earth, water, space and natural resources for the greatest prosperity of the people. The negative impact of the existence of the Director General of Spatial Planning of the Ministry of Public Works under the Ministry of Agrarian Affairs and Spatial Planning / BPN is the incompatibility of various laws and regulations relating to spatial planning and land management. This has led to overlapping authorities and responsibilities between agencies in the management of spatial planning and land management, especially regarding spatial use patterns and legal certainty over land.

The National Land Agency under the Ministry of Agrarian Affairs and Spatial Planning / BPN must further improve its performance in implementing policies in the field of land rights, land registration, and community empowerment and the addition of duties on regulating spatial planning in the National Land Agency's work area. The negative impact is still incompatible various laws and regulations relating to spatial planning and land management. So the government must renew the National Land Agency Law to regulate spatial planning in the work area, so there is no overlap between agencies.

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- Presidential Regulation Number 20 Year 2015 concerning the National Land Agency.
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