



## The Function of Legal Theory in the Establishment of Regional Regulation of Sustainable Spatial Based on Local Wisdom

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**ABSTRACT** - This study aims to analyze the function of legal theory in the regional regulation establishment. Applying a normative legal research method, a conceptual approach to reveal the problem of how the function of legal theory and sustainability principle and also local wisdom in the establishment of regional regulations on spatial planning. The collected legal materials were analyzed by means of the Theory of Legislation, namely the regulation has a legal, sociological, and philosophical basis of validity; The theory of the legal system, namely the characteristics of the law of validity, efficacy, and acceptance and the theory of ecological sustainability which bring together the development and the environment through principles which are contained in adaptive policies. The results of this study show that the function of legal theory in the establishment of a regional regulation is as a basis for formulating substance to comply with legal principles and the function of the principle of sustainability and local wisdom in spatial planning is to ensure protection of the use of space for human life in the present and in the future.

**Keywords:** Legal Theory, Principles of Sustainability, Establishment of Regional Regulations, Spatial Planning, Local Wisdom

### I. INTRODUCTION

The environment, both physical, biological and social, is a basic human need because humans can optimally fulfill their life needs, depending on the environment. The 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUDNRI 1945) in Article 28H mandates that a good and healthy environment is the basic right of every Indonesian citizen. The idea of good environmental management as an effort to put forth the protection of environment is a consequence of human activities that can have bad consequences and can affect various dimensions of human life and the environment which can be in the form of environmental destruction or pollution. The occurrence of environmental damage is in fact caused more by human behavior who explores natural resources that are only economically oriented without paying attention to the carrying capacity and sustainability of environmental functions for life on this earth. The way of thinking of humans in the modern era is still very pragmatic. The influence of the times and modernization that is currently happening can affect the way humans perceive environmental management. The importance of environmental carrying capacity will be related to the efforts made by the government and society to save the

environment. So that national economic development is carried out based on the principles of sustainability and environmental insight.

The heterogeneous nature of the Indonesian gives a community life style, each of which is subject to their customary laws, this also affects the management of the environment in each region. In the socio-cultural context, almost every region in Indonesia has its own indigenous knowledge system when carrying out environmental management. The state as an organization of power, apart from having State Law in the form of statutory regulations, also applies religious law, customary law, and local regulatory mechanisms that can function as social controllers.

Community life reality show that conflict is something that must exist and its presence cannot be negotiated. The existence of differences in power can be a source of conflict in the social system. Moreover, scarce resources in society will raise conflicts over the distribution of these resources.

Different group of interest in the social system will pursue different goals and compete with each other. That is what causes conflict (Safa'at, 2013). The declining quality of the environment has threatened the live continuity of humans and other living creatures, so it is necessary to provide consistent protection and management by all stakeholders. So far, the direction of development has often been interpreted with an economic-centric approach only through modernization. In fact, modernization has brought environmental damage in the long term, so there needs to be an alternative in an environmental management system with local wisdom without prejudice to national law. The local wisdom principle is the concept of thinking and behaving in order to foster awareness and optimal community life to realize the principles of sustainable environmental management. Development cannot simply be left to the market mechanism by subordinating the role of the state under market sovereignty and power because both the market and the state have substantially different objectives. The market exists to maximize profits, while the state is established to manage and protect the interests and welfare of society as a whole regardless of which social class they come from (Safa'at, 2013). Therefore, the environmental management system with local wisdom can be studied through the approach of legislation, *adihulung* 'great quality' values that exist and grow in society through customary law in the form of local wisdom which can be in the form of: ethics, religion, environmental wisdom, and legal norms, custom need to be utilized and accommodated in policy making and in the formation of state laws regarding environmental management.

Legal theory is defined that the rule of law has the power to philosophically applied in the sense that it is in accordance with the ideals of the law which reflects the value of justice in society, sociologically in the sense that it is accepted and recognized as a norm in accordance with the values that live in society and applies juridically (Nurjaya, 2006). These legal principles can be examined in two main characteristics of legal principles, namely those that regulate people's behavior to create order, tranquility and peace in living together as well as coercive rules in the form of repressive sanctions. The object of study of legal theory is positive law, by reflecting on juridical techniques according to legal dogmatics that have positively existed in certain legal systems (Atmadja & Budiarta, 2018).

There are three main problems in the philosophical study of human life, namely (Bakry, 2001):

1. Life problems of facing oneself, namely problems in meeting personal demands including relationships with other living things. Every human being has the desire to live humanly according to the things he wants and according to the demands of his conscience, to do something that is considered good and avoid something that is considered bad.
2. The problem of life in facing others, namely the problem of human life as an incarnation of a social creature, in which this human way of life is shared with other humans. Therefore, humans have a social life cycle, starting from the main family, extended family, community, nation. Every human being naturally wants to be together in accordance with the values of human life that are limited in togetherness, respecting and appreciating other human beings with affection. Such an attitude of life is called a human being and there are those who call

it a humanistic attitude to life.

3. The problem of life in facing God, namely the problem of facing a Essence that is powerful outside of man which is called God. Human thought can believe in the existence of God, this is guided by religious teachings, which are formulated by the value of *Ketuhanan Yang Maha Esa* (in God we trust)

Indonesian jurisprudence, Oeripan Notohamidjojo formulated the definition of Legal Theory is a general theory of positive law that uses a pure distinctive juristic method of understanding. The juristic method is a method that views law as a normative determination of accountability which can be described with a general scheme of normative relationships between conditions and consequences of right and wrong behavior (Atmadja & Budiarta, 2018). Bernadus, Arif Sidharta understands Rechts Theory which he translates as Theory of Legal Studies in more detail. He argued: The theory of legal science is defined as a science or discipline of law in an interdisciplinary and external perspective that critically analyzes various aspects of legal phenomena, both independently and in relation to the whole whether in its theoretical conception and in its practical embodiment, with the aim of gaining a better understanding and providing the clearest possible explanation of legal material presented in social reality (Atmadja & Budiarta, 2018).

The Unitary State of the Republic of Indonesia which is based on the 1945 Constitution in the Preamble of Paragraph IV has a very important meaning from the objective aspect of the Republic of Indonesia, states: "Thus to form an Indonesian State Government that protects the entire Indonesian nation and all the blood of Indonesia and to promote public welfare, educating the life of the nation, and participating in implementing world order based on independence, eternal peace and social justice, then the National Independence of Indonesia is compiled in the Constitution of the Indonesian State, which is formed in a structure of the Republic of Indonesia which is sovereignty of the people based on to the Almighty Godhead, Fair and Civilized Humanity, Indonesian Unity, democracy led by wisdom in Deliberation/Representation, and by realizing a social justice for all Indonesian people. The implementation of the objectives of the Republic of Indonesia, as stipulated in Article 18 Section (5) states: "The regional government shall exercise the widest possible autonomy, except for government affairs which are determined by law as the affairs of the Central Government". Article 18 Section (6) states: "Regional governments have the right to stipulate regional regulations and other regulations to implement autonomy and assistance tasks".

The spirit of regional autonomy has brought changes in the relationship and authority between the Central Government and Regional Governments, including in the field of environmental protection and management. Act Number 23 of 2014 concerning Regional Government, regulates spatial planning under the authority of the regional government as a mandatory affair and is related to basic services. Furthermore, Article 96 regulates the formation of provincial regulation which are carried out within the framework of people's representation in the provincial region, by capturing the aspirations of the community, Law No.12 of 2011 concerning the Establishment of Legislative Regulations, regulating regional regulation is a type of regulation. hierarchically under the law. In relation to central and regional relations, the Central Government has the authority to provide guidance and supervision to the implementation of Government Affairs in the Regions. Therefore, to ensure legal certainty for the formation of regional legal products, regulating the content of regional regulations is an elaboration of higher level law and regulations, and can contain local content as contained in Article 4, Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 120 Years. 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products.

There are several Regional Regulations regarding environmental management in Bali Province, in their consideration include the *Tri Hita Karana* principle as a basis for philosophical and sociological considerations in their formation. Act Number 32 of 2009 concerning Environmental Protection and Management, in its preamble there are principles related to the role of regional autonomy in environmental protection and management, namely: that national economic development as mandated by the 1945 Constitution is carried out

based on principles of sustainable development and environmentally insightful. Furthermore, environmental protection and management is implemented based on the principles contained in Article 2 of Act Number 32 of 2009 concerning Environmental Protection and Management, in letter: b. preservation and sustainability, c. harmony and balance, and l. local wisdom.

In terms of the group, the environment can be classified into 3 (three) namely:

- a. Physical environment, which is everything that is around humans in animate form such as mountains, air, water, rivers, sunlight, and etc.
- b. The biological environment, which is everything that is around humans in the form of living organisms other than humans such as animals, plants, microorganisms, and etc.
- c. The social environment, which is an environment that has aspects of attitude, such as social attitudes, mental attitudes, spiritual attitudes, etc (Nurjaya, 1985).

Juridically, the concept of environmental carrying capacity is formulated in Article 7 of Act Number 32 of 2009 concerning Environmental Protection and Management that the carrying capacity of the environment is the ability of the environment to support the lives of humans, other living things, and the balance between the two. It can be understood that, the environment has the highest ability limit to accept human intervention (Akid, 2014). If this limit is exceeded, there will be a violation of the carrying capacity of the environment, resulting in an imbalance in the environment, and causing environmental problems, whether physical, biological and social.

For instance: Bali is one of the world's tourist destinations having natural and cultural tourism destinations with a community life order that still upholds local wisdom, namely the *Tri Hita Karana* principle. The meaning of the *Tri Hita Karana* principle is that humans in order to be happy in their lives must carry out a harmonious relationship between humans and humans, humans and the environment, humans and God Almighty (*Ida Shang Hyang Widhi*).

The implementation of the *Tri Hita Karana* principle is manifested through the values of local wisdom which are tourism assets, but on the other hand it can carry a negative impact if there is no filtering. Changes in times have occurred globalization which characterized by modernization in all fields. The modernization that occurs will certainly have an impact on the views of the community in environmental management. The impact of modernization can be seen in apathy, materialism, and exploitation (Rato, 2004). Based on this background, the problems that can be formulated are:

1. How is the function of legal theory in the formation of Regional Regulation on Spatial Planning?
2. How do the principles of sustainability and local wisdom function in spatial planning?

## **II. METHODS**

This research applies normative legal research methods. That is, a process to find legal rules, legal principles and legal doctrine in order to answer legal issues at hand. The normative legal research method is guided by the constructionist paradigm, namely constructing positive legal values, customary law and religious law, identifying concepts and legal principles for national environmental management, especially after the enactment of the Act of Environmental Protection and Management, the process of pouring local wisdom values into the *Tri Hita Karana* concept in the establishment of a Regional Regulation in the environmental sector in Bali Province. The author focuses more research on legal principles, namely research to find legal principles carried out on written and unwritten positive law. Then the collected legal materials are processed and analyzed descriptively.

## **III. RESULT AND DISCUSSION**

The Unitary State of the Republic of Indonesia which is based on the 1945 Constitution, at the Preamble of Paragraph IV has a very important meaning from the aspect of the state's objectives states: " "Thus to form an Indonesian State Government that protects the entire Indonesian nation and all the blood of Indonesia and to promote public welfare, educating the life of the nation, and participating in implementing world order based on independence, eternal peace and social justice, then the National Independence of Indonesia is compiled in

the Constitution of the Indonesian State, which is formed in a structure of the Republic of Indonesia which is sovereignty of the people based on to the Almighty Godhead, Fair and Civilized Humanity, Indonesian Unity, democracy led by wisdom in Deliberation/Representation, and by realizing a social justice for all Indonesian people. Article 18 section (6): The Regional Government has the right to stipulate regional regulations and other regulations to carry out autonomy and co-administration. Based on these provisions, local governments have a very important role in achieving the goals of the state in accelerating the achievement of welfare and justice in society.

The development and the growth of development in all fields cannot be apart from the environment in a broad sense, whether physical environment, biological environment and socio-cultural environment. The development process by utilizing the environment with all the natural resources contained in it. It will be able to improve the standard of living of the people and have an economic impact on the people and the state. But on the other hand, it can cause a decrease in the quality of the environment and a threat to the carrying capacity of the environment. Development can still be carried out, if the development carried out does not damage or pollute the environment, which is hereinafter known as the policy of environmentally sound development (eco-development) or sustainable development (Akid, 2014). The environment is an absolute part of every human life. Humans breathe, get light because there is air and sun, as well as human needs in the form of food, clothing, shelter, they get from the environment.

So the presence of the environment is actually very important and very decisive for the presence and survival of humans, as well as for culture and civilization. Or in other words, environmental factors are an absolutely inseparable part of humans (Siahaan, 2006).

In general, the environment can be grouped into 3 (three), namely:

1. Natural environment, which is an environment that is natural in the form of a landscape and contains contents from nature such as oxygen, water and carbon dioxide, and others.
2. Artificial environment, namely the environment that is the result of human engineering in order to meet their physical needs, such as roads, bridges and buildings.
3. Socio-cultural environment, namely the environment that arises as a result of the need to socialize in the community.

The three types of environment are in a large ecosystem called the earth which is a life-support system on planet earth which is part of the planetary system of the universe that is centered on the sun as a source of energy and the power of the system (Silalahi, 2001).

A.V.van den Berg distinguishes parts of environmental law in several aspects, namely:

1. Disaster Law (Rampenrecht);
2. Environmental Health Law (Milieuhygienericht);
3. Natural Resources Law (Recht betreffende natuurlijke rijkdommen) or Conservation Law (Natural Resources Law);
4. Law on the Division of Spatial Use (Rechtbetreffende de verdeling van het ruimtegebruik) or Spatial Planning Law; and
5. Environmental Protection Law (Milieubeschermingsrecht) (Akid, 2014).

According to Koesnadi Hardjasoematri, the scope of environmental law in Indonesia can include the following aspects:

1. Environmental Law.
2. Environmental Protection Law.
3. Environmental Health Law.
4. Environmental Pollution Law (in relation to, for example, industrial pollution).
5. Transnational or International Environmental Law (in relation to relations between countries) (Hardjasoemantri, 2000).

Environmental Disputes Law (in relation to, for example, solving problems of compensation, and so on). Environmental Management Law regulates environmental structuring in order to achieve harmonious relations between humans and the environment, both the physical environment and the socio-cultural environment. Environmental Law is a juridical instrumental for environmental management, regulating usability order (*besteming*)

and the use (*gebruik*) of the environment wisely for various purposes. So that with this regulation the objectives of environmental law can be realized through concrete procedures in order to preserve the ability of a harmonious and balanced environment to support sustainable development for the improvement of community welfare (Hardjasoemantri, 2000).

Legal System Theory according to Lawrence M. Friedman, there are three elements or aspects of the legal system, namely: Structure, Substance, and Legal Culture (Rajagukguk, 2001).

- a. *Structure*, concerning institutions authorized to make and implement laws. The structure of the institution that is authorized to make and implement law in positive law is the authority of the legislative body and the executive branch has the obligation to carry out laws that have been made by the legislative body and laws that are made universally applicable within the territory of the unitary state of Indonesia. The authority in making customary law in the customary law community is the Customary Village which is adjusted to the concept of the *desa* 'place', *kala* 'time', *patra* 'situation'.
- b. *Substance*, that is the material or form of statutory regulations which are divided into written law and the common law system. The substance of written law includes the public interest as a follow-up to the provisions of the 1945 Constitution of Republic of Indonesia and its sources of authority which are attributional, while the unwritten legal substance is strongly influenced by the legal ideals of the community as a construction of thought as contained in local law in the form of *awig-awig* (customary law).
- c. *Legal culture*, is what is called a legal culture, which means the attitude of people towards the law and the legal system, which concerns belief in values, thoughts or ideas. The legal culture of society in Bali is influenced by the teachings of Hinduism and belief in ancestors and every behavior of the people is always associated with sacred and profane characteristics, so that legal compliance that occurs is not only material but also immaterial.

Friedmann argues that every society in the country has its legal culture. This of course does not mean that everyone has the same thoughts, so that in the context of Carl Von Savigny's legal culture with the *volkgeist* doctrine. This doctrine says that the law was not made but grew and developed together with society. This concept according to Van Vollenhoven's theory of reality is influenced by religion with the application of customary law which is determined by the magical-religious balance (Rajagukguk, 2001).

State law is not the only form of law that applies in society. It means that the legal realm also has a legal meaning as a cultural instrument that functions to maintain social order or as a means of social control, so besides state law there are also other legal systems such as customary law. This is proof that in Indonesia there are facts of legal pluralism. One of the approaches in obeying the law is the Moral Approach. Moral is the regulation of human actions as a human being in terms of good and bad in terms of its relationship with the ultimate goal of human life based on natural law, in the implementation of morals it is never enforced. Moral demands of our absolute surrender (Thaib et al., 2015).

Law must be understood with the background of the community in the broadest possible sense, in Bali the people live in vertical and horizontal social relations so that in order to organize human interaction with the environment, the form of regional regulations must be regulated which reflect local wisdom. When viewed from the perspective of Legal Anthropology, it is said that laws that actually apply in society, besides being manifested in the form of state law, are also manifested as religious law and customary law (Nurjaya, 2006).

Besides, law can also be manifested in local regulatory mechanisms that actually apply and function as a means of social control in the community. As explained in the *Mashab* of History, the life of the legal community is governed by legal principles that originate in their culture and because each legal community has its own legal culture (Nurjaya, 2006). According to Maria Farida Indrati, the main material regulated in statutory regulations cannot be limited, so that the extent or absence of material in statutory regulations depends on the needs of each statutory regulation (Soeprapto, 2007).

### **3.1. Theory of Ecological Sustainability**

According to Arne Naess, a paradigm called broad ecological sustainability as a substitute for sustainable development. This theory of ecological sustainability demands a fundamental change in national policy, which gives priority to the preservation of life forms on this planet in order to achieve ecological sustainability. The main objective in this theory is not development, but rather maintaining and preserving the ecology and all the richness of life forms in it (Siahaan, 2007).

The benchmarks of success in this theory is not based on material progress, but is the quality of life that is achieved by ensuring proportional ecological, socio-cultural and economic life. What is very closely related to this theory is in a policy and action from humans, between development and the environment actually cannot always go hand in hand, because both have contradictory characters. Concrete thinking to be able to bring together development and the environment through principles, guidelines contained in adaptive policies and harmonization between the various interests of the state, nation and the pluralistic society of Indonesia.

There are inclusion characteristics in the relation of human with the environment, namely:

- a. Humans have a bond with nature, this bond can also be religious;
- b. Beauty based of ethical motivation;
- c. Nature supports humans because flora and fauna provide basic necessities;
- d. Nature is a union for humans to survive from certain disasters such as storms, floods and other natural changes;
- e. Nature is the source of genetic material that produces plants and livestock and domesticated poultry;
- f. Nature has an important meaning for science and technology and civilization;
- g. Nature is a source of health, recreation and art (Siahaan, 2007).

Focusing that humans have a position as social creature who are aware of norms (*norm bewust*), so that the aspect of norms in human relations with others, human relations with the environment is the principal thing in human relations with the environment.

The development and growth of development in all fields cannot be separated from the environment, whether physical environment, biological environment and socio-cultural environment. Development and the environment are like two different but mutually influencing sides. The development process by utilizing the environment and all natural resources contained therein will be able to improve the standard of life of the people and have an economic impact on the people and the state. But on the contrary, development will cause a decrease in the quality of the environment and a threat to the carrying capacity of the environment. In order to understand the problem of spatial planning, as a fundamental basis for reference, the formulation of the objectives of the Republic of Indonesia in Paragraph IV of the Preamble of the 1945 Constitution of the Republic of Indonesia can be used. so that development must be created by directing the substance of integrated and planned development.

Moreover, in implementing a plan, it must maintain within the framework of the laws and regulations without neglecting harmony between regions and remain within the framework of the Unitary State of the Republic of Indonesia. Article 33 Section (3) of the 1945 Constitution of the Republic of Indonesia affirms that the land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This article emphasizes that the state can use and utilize the earth, water and natural resources as much as possible for the prosperity of the people, therefore the unitary territory of the Republic of Indonesia must be able to be utilized and utilized effectively by taking into account the values of the basic conceptions of man, society, as well as the ecosystems found in Indonesia (Ridwan & Sodik, 2013).

Article 18 Section (5) of the 1945 Constitution of the Republic of Indonesia states: Regional governments execute autonomy to the greatest extent, except for governmental affairs which are determined by law as the affairs of the Central Government. Local government through the implementation of autonomy has a very important role in achieving

the specific state goals in terms of achieving welfare and justice in society.

Regional government in the administration of government in the regions in order to achieve its goals, the Republic of Indonesia has determined the choice of implementing regional autonomy based on a decentralized system due to:

1. Carry out the mandate of the constitution
2. More efficient, because the cost of implementing an autonomous system of government is much cheaper when compared to that implemented by the central government.
3. More effective, by being implemented by leaders and officials who are elected by local people who are more familiar with the characteristics, culture and aspirations of the local community, so that the achievement of goals shall be easier to achieve.
4. More democratic, with an autonomous system, the aspirations of the people in the regions shall be more accommodated because the leaders and representatives of the people are elected by and from the local people themselves (Adisubrata, 2003).

Furthermore, Article 18 Section (6) of the 1945 Constitution of the Republic of Indonesia states: Regional governments have the right to stipulate regional regulations and other regulations to implement autonomy and assistance tasks.

Spatial planning arrangements are also closely related to the Act of Environment Protection and Management. Through this Act, it is possible to strengthen the principles of protection and management of the environment as well as its legal instruments, so that it has implications for the existing environmental legal system in Indonesia. The Rio de Janeiro Declaration dated 3 to 14 June 1992, states one of the important principles of UNCED (United Nations Conference on Environment and Development), namely: recognition of human rights to a decent and productive life in harmony with nature, the principle of prudence, the right of public participation (Akid, 2014).

Article 4 of Environment Protection and Management Act stipulates environmental protection and management which includes: planning, utilization, control, maintenance, supervision, law enforcement. In order to do this it must be based on the principles as regulated in Article 2 of Environment Protection and Management Act, namely: state responsibility; harmonious and sustainability; harmony and balance; cohesiveness; benefits; caution; justice; ecoregion; biodiversity; polluter pays; participative; local culture; good government governance; and regional autonomy.

According to Satjipto Raharjo, that the principle of law is the "heart" of legal regulations. Because the principle of law is the broadest basis for the birth of a legal rule. This means that the rule of law in the end must be able to return to these principles. Apart from being a basis, legal principles are also called the reasons for the bear of legal regulations, or are the *legis ratio* of legal regulations. The principle of law will not run out of strength by bearing to a legal rule, but will still exist and will bear to further regulations (Sirajuddin et al., 2015). From an environmental law perspective, the Environment Protection and Management Act should be the basis for formulating the direction of legal policies by the state to achieve the goals and objectives of environmental management.

One of the duties and authorities of the provincial government as stipulated in Article 63 Section (3) Letter n of the Environment Protection and Management Act is: To establish policies regarding procedures for recognizing the existence of customary law communities, local wisdom, and rights of customary communities related to environmental protection and management at the level of province. Meanwhile, one of the duties and authorities of the district/city government in Article 63 Section (3) Letter k: execute policies regarding procedures for recognizing the existence of customary law communities, local wisdom, and rights of customary law communities related to environmental protection and management at the district/city level.

The policy regarding the recognition of local wisdom related to environmental protection and management as mandated in the Environment Protection and Management Act for both the provincial and district/city regions can of course be observed in the Provincial Regulation on Regional Spatial Planning and the Regency/City Regulation on Regional Spatial Planning. The observation showed that it turns out that the policies for recognizing local wisdom in the



Regional Spatial Planning of Provinces and Regencies in Indonesia, there are those that explicitly state recognition of local wisdom and some do not explicitly include them.

Recognition of local wisdom that is firmly stated in the Bali Provincial Regulation on Regional Spatial Planning Number 16 of 2009 related to environmental protection and management can be seen based on the results of the dissertation research by I Wayan Novi Purwanto in 2012 entitled: Transformation of the Value of Philosophy of *Tri Hita Karana* in Regional Regulation Number 16 of 2009 Regarding the 2009-2029 Bali Provincial Spatial Plan. The embodiment of local wisdom in the form of *Tri Hita Karana* is a manifestation of philosophical values in the formulation of the Bali Provincial Regulation.

Whereas the recognition of local wisdom that does not explicitly include in the protection and management of the environment, is the *Qanun* (regulation) of Aceh Province Regional Spatial Planning which can be seen based on the results of the dissertation research by T. Nazaruddin in 2017, that the local wisdom system for the spatial layout of the *Mukim* customary law community in the results of his research on the legal politics of the *Qanun* of Regional Spatial Planning of Aceh Province does not accommodate customary law community spatial planning.

At the national level, spatial planning is regulated in Act Number 26 of 2007 concerning Arrangement (hereinafter referred to as Act of Spatial Planning). Article 1 number (1) states that what is meant by space is:

“Space covering land space, sea space and air space, including space within the earth as a unitary territory, where humans and other creatures live, carry out activities, and maintain their survival”

Space as a place to carry on human life, as well as a natural resource as well as a gift from God Almighty, so that Indonesia's territorial space is an asset that must be utilized by society and the nation in a coordinated, integrated, and effective manner by considering these factors. such as: economic, social, cultural, defense and environmental sustainability to encourage the creation of a harmonious and balanced development.

This norm implies that space (spatial) is common goods or existence which belongs to public or collective property which requires the State's order in the utilization or use of it by each subject of rights, and does not exclude or seize the rights of other subjects (Muchsin & Koeswahyono, 2008).

In the actualization of space which is common goods through the social contract system, sovereignty is given to the state which in reality is carried out by the government by carrying out spatial planning through activities of regulating, developing, implementing, and supervising spatial planning (Muchsin & Koeswahyono, 2008). The manifestation of regulation as an integral part of the spatial planning management system is carried out by embodying the regulations in statutory regulations, starting from laws, government regulations, to regional regulations.

Article 1 point (2) of Spatial Planning Act explains that what is meant by spatial planning is “spatial structural form and spatial pattern”, what is meant by structural form of spatial utilization is: the arrangement of elements forming the natural environment, social environment, artificial environment which are hierarchically related one another.

Whereas what is meant by spatial utilization patterns includes: location patterns, distribution of settlements, industrial workplaces, agriculture, as well as urban and rural land utilization patterns, in which unplanned spatial planning is naturally occurring spaces, such as streams of rivers, caves, mountains, and others.

Article 1 point (5) of Spatial Planning Act states that what is meant by spatial planning is “a system of spatial planning, space utilization and spatial control processes”. This planning is an important component and from the legal aspect of this planning, it cannot be separated from constitutional law and state administrative law. Planning is a form of wisdom, so it can be said that planning is a species of the genus of wisdom (Muchsin & Koeswahyono, 2008). This causes planning to be closely related to decision making and implementation, as well as licensing. The spatial plan is a field activity to determine the parts of space required for various activities according to the spatial plan. One of the manifestations referred to is the

implementation of a licensing system in the environmental sector. If it is said that the operation of the licensing system in the environmental sector is a development activity, such development must consider spatial planning as an instrument for environmental protection and management (Helmi, 2012).

Spatial planning as a process of spatial planning, spatial utilization, and control of space utilization constitutes an integral system that cannot be separated from one another. In order to create a harmonious spatial arrangement, it requires statutory regulations that are compatible with existing laws and regulations. In accordance with the level of norms, the highest statutory regulations up to the lowest level of laws and regulations are hierarchically related to one another, so that there is no norm conflict, either vertically or horizontally. The regional regulations that are formed will create harmonious coordination in spatial planning.

## CONCLUSION

1. The function of legal theory in the formation of regional regulations is as a foundation and basis for formulating substance or content in order to comply with legal principles so that the objectives of forming regional regulations will be achieved both philosophically, juridically and sociologically, as well as providing benefits to the society at present and in the future.
2. The function of sustainability principle local wisdom in spatial planning is to guarantee and provide protection for space as a necessity not only for the present as well as for the future and to maintain the carrying capacity of the environment for the use of space for human life, one of the efforts made is to maintain local wisdom. in the management of the environment contained in the community, through expressing it in the Formation of Regional Regulations on Spatial Planning.

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