



ISSN Print: 2541-5298
ISSN Online: 2541-6464

SRIWIJAYA Law Review

Editorial Office: Faculty of Law, Sriwijaya University
Jalan Srijaya Negara, Palembang, South Sumatra 30139, Indonesia.
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Website: <http://journal.fh.unsri.ac.id/index.php/sriwijalayawreview>

Sustainable Infrastructure Legal Policy in Indonesia: A National Strategic Project Approach for National Development

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Article	Abstract
<p>Keywords: Cities; Developing countries; Indonesian strategic project; Sustainable infrastructure; Legal policy; Spatial Planning.</p> <p>Article History Received: Apr 1, 2021; Reviewed: Jun 17, 2022; Accepted: Dec 23, 2022; Published: Jan 31, 2023.</p> <p>DOI: 10.28946/slrev.Vol7.Iss1.1108.pp1-18</p>	<p>Infrastructure development is the top priority of the Indonesian government. The development of transportation network infrastructure is expected to support the growth of national and international economies by connecting regions and opening public and commodity access. The new integrated growth cities were developed to reduce the burden of Jakarta as the central government and economic national centre. Legal aspects become one of the main issues in realising government politics in developing infrastructure. The national strategic project approach became a mechanism to connect a new development centre, such as the Metropolitan Bandung Area, through infrastructure development. However, its implementation requires a legal and regulatory basis with various technical, social, and economic considerations, including anticipating its environmental impact. This research paper aims to give an academic review of the problem of infrastructure development in Indonesia. The normative legal approach is based on the law's theory, concepts, and principles by considering the technical aspects to develop alternative solutions to provide legal certainty in developing infrastructure in Indonesia. The rules for spatial planning are a key issue in developing infrastructure related to random locations and land acquisition. This conflict becomes a major obstacle in developing new primate cities in Indonesia.</p>

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INTRODUCTION

Cities development becomes one of the economic development keys of a country, including Indonesia. Economic factors in developing countries are still the focus of improving people's welfare. The Indonesian Constitution governs the welfare state concept¹ where the state controls all existing resources and utilises them for the greatest prosperity of the people.

¹ The 1945 Constitution of the Republic of Indonesia.

Jakarta was chosen and designated as the capital Republic of Indonesia and had historically been chosen before 1945 independence when it was still known as “Batavia.” The city has developed as the centre of administration and economy since then. Jakarta, as a primate city, is often a key node in international transportation networks. The dense infrastructure networks around cities, such as transportation links, make cities important national hubs and key global connection points.² Since the beginning of its development in 1619, Jakarta can only grow and endure with support from around its region. In 1966, the Governor of Jakarta, Ali Sadikin, initiated the development of Jakarta with the concept of cooperation between regions including Jakarta, Bogor, Tangerang and Bekasi, known as “Jabotabek” through a planning approach of its absorption capacity for new settlements within the Jakarta Metropolitan Region as the first metropolitan area in Indonesia.

Unplanned development, increased population, and the country's territory consisting of thousands of islands have caused partial growth in cities in Indonesia. Finally, development in Indonesia tends to focus on Java Island. This concept is known as “Java centric.” The “Java centric” encourages the urbanisation of the island along with the processing of natural resources to the island of Java, so that almost 75 per cent of the national strategic industry is located in Java, with most of the locations in West Java around Jakarta as the state capital. John Pemberton, On the Subject of “Java”, mentioned these policies as an effect of Javanese *culture-nisation* Indonesian politics and the effect of conditions of socio-culture on the colonialism era.³ Jakarta's rapid growth as the centre of government and national economy has caused the surrounding area to thrive on supporting Jakarta. Expensive land and high cost of living lead to the development of housing shifts in the surrounding cities. Housing and settlement developed into Depok City, Bogor City, Bekasi City, and Tangerang City, while the industrial area flourished in Bekasi Regency, Tangerang Regency, and Bogor Regency. The overall developments are essential to support Jakarta as the national centre of growth.

The development consequences of Jakarta affect the need for infrastructure development, especially social requirements.⁴ Mobility usage by cars, buses, trucks, trains, aeroplanes and ships requires roads, highways, tracks, train stations, airports, and ports. Infrastructure development in Indonesia does not require capital, investor, or raw materials. The foundation of connectivity requires planning and a solid legal basis to protect the private rights of society and the anticipation of impact on the environment.

The following impacts of the urban development of Jakarta have been identified since the beginning of its development at the time the Batavia canals were built to cope with the problem of flooding, yet the problem must be resolved optimally. In 1922, De Haan reported that one of the causes of the floods was deforestation in the upper reaches of the Ciliwung River, leading to

² Paul G.C. Hector et al., “A Knowledge-Based Development Model for Primate Cities of the Developing World,” *International Journal of Knowledge-Based Development* 9, no. 4 (2018), <https://doi.org/10.1504/IJKBD.2018.096424>.

³ Nuning Damayanti Adisasmito, “The Reflection of Society Culture in Visual Art Illustration of Javanese Manuscript,” *Mudra Jurnal Seni Budaya* 33, no. 3 (2018), <https://doi.org/10.31091/mudra.v33i3.528>.

⁴ Suharto Teriman and Tan Yigitcanlar, “Social Infrastructure Planning and Sustainable Communities: Example from South East Queensland, Australia,” *World Journal of Social Sciences* 1, no. 4 (2011).

a rise in the face of the water in the river.⁵ Upstream Ciliwung River is located on the plateau of Mount Gede Pangrango, mountains and the area on the border of Counties Summit. It leads to the region's reliance on Jakarta or the surrounding area.

Limitations of land in Jakarta have caused problems in the form of waste management. The open pattern of dumping in its management raises environmental problems. Other activities in other country or regional level analyses are only focused on GHG emissions and energy use. In contrast, other environmental impacts, such as acidification potential (AP) and eutrophication potential (EP), are not quantified. At the same time, life cycle perspectives of multi-environmental impacts assessment are conducted at the plant scale to complement the regional and country scale research.⁶ Conflicts and disputes arising from the location of the landfill garbage in the early planning are not yet adapted to the selection criteria, and the implementation of the operations is not yet standard waste processing technology and does not consider the public perception.⁷ In addition, how it is used has resulted in environmental problems, such as Lindi (leachate) that pollutes bodies of water. Puffs of smoke, odours, and flies often interfere with the surrounding environment.

The infrastructure development in Indonesia tends to follow the community. Road construction aims to accommodate the number of vehicles and agricultural land in change for housing, and partial and unplanned development causes a decline in environmental quality and the human environment. The condition does not mean there is no arrangement, but the obscurity and uncertainty of the law become one of the major factors. In China, the national policies, standards, codes, and quantitative policies are grouped into energy structure policies, energy efficiency improvement policies, and production scale policies. When China has accelerated its development and utilisation of new renewable energy sources, such as solar, wind, nuclear, and biomass⁸, Indonesia still uses fossil as the main energy source.

The term urban area emerged in 1992 when the rule of the first spatial planning in Indonesia was established. The concept of urban development began to be directed as a non-agricultural aimed area. Unfortunately, in this period, the legal position tended only to justify activities due to the more dominant political dominance of power. One man showing national and regional leadership caused spatial planning that should be the basis for only some utilisation activities to function optimally. This legal and political situation began to change after the national leadership reform impacting the legal system and national economy.

The euphoria of the reformation gives a new order and freedom in many aspects. The new order was achieved by the formation of new cities and districts and aspects of their authority in the new paradigm of changes in spatial planning regulations by 2007. In the legal state of urban development paradigms, megapolitan and agropolitan are developed with an approach to

⁵ Tri Nugraha Adikesuma, "Permasalahan Pelestarian Sumber Daya Air Jakarta," *Widyakala Journal* 2, no. 1 (2015): 89, <https://doi.org/10.36262/widyakala.v2i1.13>.

⁶ Mingxing Sun, Yutao Wang, Lei Shi, Jiří Jaromír Klemeš, "Uncovering energy use, carbon emissions and environmental burdens of pulp and paper industry: A systematic review and meta-analysis", *Renewable and Sustainable Energy Reviews* 92 (2018): 823-833, <https://doi.org/10.1016/j.rser.2018.04.036>.

⁷ Raden Mohamad Mulyadin, Kuncoro Ariawan, and Mohamad Iqbal, "Conflict of Waste Management in DKI Jakarta and Its Recommended Solutions," *Jurnal Analisis Kebijakan Kehutanan* 15, no. 2 (2018): 180, <https://doi.org/10.20886/jakk.2018.15.2.179-191>.

⁸ Shihong Zeng et al., "Investment Efficiency of the New Energy Industry in China," *Energy Economics* 70 (2018), <https://doi.org/10.1016/j.eneco.2017.12.023>.

developing cities, regencies, and provinces. Primate cities in Java Island (Java centris) and throughout Indonesia flourish through national strategic areas and special economic areas schemes.

Unlike the previous era when the policy was more dominant than the rules -- although on the one hand, the freedom of thought gives better development direction -- at the time of the reform, “precautionary principles” on licensing mechanism⁹ that carried the concept of the law state become more dominant. The development of many areas constrains various regulations, resulting in multidimensional conflict between the government and the community. The government needs help obtaining land for infrastructure development to strengthen the right property and land procurement mechanisms. Decentralisation in the concept of autonomy areas resulted in the difficulty of coordination between regions and the limited authority of the central government. The increasing number of regulations that contain technical aspects and precautionary principles causes the licensing process to become longer. The development of the region becomes dependent on the vision of the mission of the country and local governments. The concept of regional development arrangement in spatial planning is continuously encouraged by governments and academics to become the basis for all development activities, including infrastructure development.

Strengthening the position of spatial planning into the legal basis of all activities to be the area development opportunities is to reduce the burden of Jakarta. The existence of the international port and the international airport in the region of Jakarta has caused a traffic load of transportation from and out of Jakarta. The industrial area is generally located in the outskirts of Jakarta, such as Bekasi, Karawang, and Purwakarta, the regions of West Java administratively. They require infrastructure so that the city of Bandung, the capital of West Java province, is developed extensively to support the nation's capital. Mobility between regions is no longer limited to the region of the Jabodetabekpunjur Metropolitan Area. In 2017, to support the mobility of the population in particular (especially the service sector workers), the government constructed a fast Train from Jakarta to Bandung. However, the construction of the national strategic project was planned outside the spatial planning regulation, causing conflicts and constraints in the implementation.

The accomplishment of the development of the city of Bandung as the centre of growth directly supports Jakarta to make both cities the centres of growth. The determination of spatial planning of the "Bandung Basin" urban area covered Bandung City, Bandung Regency, Cimahi City, West Bandung Regency, and Sumedang to connect the two growth centres. Bandung metropolitan area grew and has become a major supporter of Jakarta.

The Jakarta Bandung fast train project plan is the embodiment of infrastructure development for integrated connectivity experiences constraints related to laws and conditions in Indonesia. Some of the problems are: *first*, the labour union, the issue of the relationship of authority between the Central Government, provinces, and regencies/cities; *second*, spatial planning issues related to the role and position of spatial planning in the construction of infrastructure; *third*, the

⁹ Maret Priyanta, “Regulasi Perizinan Mendirikan Bangunan Dalam Mendukung Kemudahan Berusaha Menuju Bangsa Yang Adil Dan Makmur,” *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 3 (2019), <https://doi.org/10.24843/jmhu.2019.v08.i03.p06>.

issue of environment-related to changes function area on the location of infrastructure development activities; and fourth, the issue of land rights related to site infrastructure's development.

The concept of regulation that has been well developed and ideal is ultimately constrained in its implementation. The government's policy in infrastructure development is to declare that all development-related infrastructure becomes a national strategic project that has been exempted and facilitated by the government over other projects. It raises conflicts in the community about the threat of the government's project activities that will potentially damage the environment due to the many ignored precautionary principles in various environmental licensing processes that have been preserved.

This article aims to identify and analyse the concept of primate city development in Indonesia from the legal aspects, especially the development of infrastructure for connectivity that supports the sustainable growth of the national economy. Legal constraints are constructed in the form of conflict of the authority between regions, the rights of communities affected, the institution, and the long-term impact on the environment. An overview of the concept and legal paradigm developed in Indonesia becomes an obstacle, and alternative solutions must be formulated to optimise environmental and economic interests.

RESEARCH METHODS

This research used normative legal research methods, legal research done by examining library materials or secondary data.¹⁰ The research approaches legal facts and looks at the pure legal theories aspect, analysing public behaviour and behavioural jurisprudence.¹¹ A descriptive-analytical method was used with the approach of comprehensive perspective. A legal issue conducted the research pattern regarding the environment, spatial planning, and infrastructure development with conditions and requirements of typical activity and characteristics of the country of Indonesia in the framework of the Indonesian national legal system. The primary legal materials were obtained directly from authorised sources and published in the form of legislation and jurisprudence.

The analysis was done using the method of legal interpretation of the data and information concerning principles and norms applicable in the community. The analysis process was examined with attention to current problems (*ius constitutum*) and the expected form (*ius constituendum*) against the gap between *das sain* and *das solen*.¹² The problem analysis used a legal research approach; first, this research analyses the legal principles contradicting the norms of the law. Research on principles is philosophical research that contains elements of the ideal law; second, studies on the systematics of law regarding the law and the events associated with this legislation;¹³ third, research on degrees of vertical and horizontal synchronisation, which aims to reveal the extent to which a particular legislation matches by making an inventory of related regulations;

¹⁰ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 1983).

¹¹ Depri Liber Sonata, "Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas dari Metode Meneliti Hukum," *Fiat Justitia: Jurnal Ilmu Hukum* 8, no. 1 (2015): 21, <https://doi.org/10.25041/fiatjustisia.v8no1.283>.

¹² Lawrence M. Friedman, "Is There A Modern Legal Culture?," *Ratio Juris* 7, No. 2 (1994): 122, <https://doi.org/10.1111/J.1467-9337.1994.Tb00172.X>.

¹³ Maret Priyanta, "Pembaruan Dan Harmonisasi Peraturan Perundangundangan Bidang Lingkungan Dan Penataan Ruang Menuju Pembangunan Berkelanjutan," *Hasanuddin Law Review* 1, no. 3 (2015), <https://doi.org/10.20956/halrev.v1n3.113>.

fourth, the comparison is made by law in to see its elements, primarily on their legal structure, substance and culture law, and comparative law¹⁴ about positive law and practice in other countries; and the *fifth*, legal history with the method of identification of the stages of the development of the law.

ANALYSIS AND DISCUSSION

Law Development Paradigm in Developing Countries

Indonesia's status as a developing country impacts some of the public's views on various government policies. Speaking of paradigms in the developing world, a motive for developing countries to push for new categories consists of the efficiency and efficacy of lobbying due to greater ease of coordination with like-minded countries to advance interests and/or claim benefits better.¹⁵ Communities tend to think about and prioritise economic aspects. At the same time, civil society in the environment, on the other hand, strives to compensate them for keeping an eye on environmental interests. Government success indicators increase the economy and allow environmental issues to be ruled out. Friedman argues that research on law and economic development should be directed toward questions that identify those variables in legal culture and organisation, which increase legal "effectiveness."¹⁶

Even when clearly stated on regulation and considered in large part of society, including the government, plans have no binding legal force, so they can be changed and divided for political and economic interests. This results in difficulty in achieving the ideals of sustainability and sustainable development. These paradigms do not replace each other immediately; in any case, new "paradigms" do not spring up full-blown but instead emerge victorious in a long process of intellectual competition. Kuhn mentions that paradigm changes during "scientific revolutions" do not imply absolute discontinuities in scientific debate, that is, a choice between competing but incommensurate theories. Mutual incomprehension between scientists during a period of intellectual crisis is only a matter of degree, and the only point of calling paradigm changes "revolutions" is to underline the fact that the arguments that are advanced to support a new paradigm always contain ideological elements that go beyond logical or mathematical proof.¹⁷ The response and change are inherent in the entire state organs so that law enforcement in environmental issues and the economy in the developing country depend on legal politics or the adopted paradigm.

The legal-political effect of 1965-1999 that is oriented towards the dominance of power in the country's implementation affects the strength of binding of a rule, especially the aspect of law enforcement or rules. Plans for development and spatial planning are defined in regulation or determination of the law. However, in practice, it is only morally binding and can be dissected by a class's political force and interest. It impacts the development of a region and a city, and the

¹⁴ Philip Langbroek et al., "Methodology of Legal Research: Challenges and Opportunities," *Utrecht Law Review*, 2017, <https://doi.org/10.18352/ulr.411>.

¹⁵ Djalita Fialho and Peter A.G. Van Bergeijk, "The Proliferation of Developing Country Classifications," *Journal of Development Studies* 53, no. 1 (2017), <https://doi.org/10.1080/00220388.2016.1178383>.

¹⁶ David M. Trubek, "Toward a Social Theory of Law: An Essay on the Study of Law and Development," *The Yale Law Journal* 82, no. 1 (1972), <https://doi.org/10.2307/795251>.

¹⁷ M. Blaug, "Kuhn Versus Lakatos, or Paradigms Versus Research Programmes in the History of Economics," *History of Political Economy* 7, no. 4 (1975), <https://doi.org/10.1215/00182702-7-4-399>.

development of the territory depends on the political will and figure of interest. There is a tension between the centrality of law in theories of development and existing evidence from Asia. There are at least two possible resolutions of this tension, one empirical and the other theoretical. One possibility is that existing evidence is insufficient, and a more detailed study of Asian legal institutions is needed.¹⁸

Unplanned development results in environmental impact. Danusaputro said that problems related to the state's environment, including in Indonesia, are regarding cases of pollution, population, poverty, and policy.¹⁹ The rapid population growth results in its burden on developing countries. The urbanisation of residents from rural areas to urban areas becomes the cause of uncontrollable population. The burden and demands of urban areas cause competitiveness to become large, resulting in a society needing a decent place to stay. The emergence of illegal settlements on the boundary of the river and the vacant lands have caused the slum to develop and cause pollution due to the poverty suffered.

Indonesia continues to build without a clear direction and objectives so that ultimately progress and development occur partially. Infrastructure development is held to address the problem instead of anticipating the problem so that the law is positioned as a "follower" and only follows the development of the community. Thus, from 1965 to 1999, progressive law Satjipto²⁰ said that the law was always on the status of "law in the making" and was not finalised to become a method for resolving development problems. Legal Gap: that raises legal literature that there will be a law of gaps or failure of legal transplantation when the positive law is imposed into the law of the Customs Society so that there is a law of gaps in the Indonesian legal system.²¹ So, the concept of planning in a progressive view is only partially right in the mindset of the developing country.

Undirected and irregular development result in progressive development and shift of law into a futuristic law. In providing solutions to the problem of dynamic development, Mochtar Kusumaatmadja declared the legal theory conception of development as a manifestation of the role of law in the construction of the law within the meaning of regulations as a tool,²² in the renewal communities, including the government, in connection with planning. Based on the theory expressed by Roscoe Pound, "law as a tool of social engineering", Mochtar stated that one of the difficulties faced by all legal update attempts is the attitude and motion that usually covers all matters concerned with the legal issues as well as prioritises areas neutral in the renewal of the law in Indonesia. Law does not concern itself at first with agreements or breaches of agreements. Its function is to keep the peace by regulating or preventing private war, which only requires it to deal with personal violence and disputes over property possession. In line with the view of the Koentjoroningrat, most of the Nations of Indonesia's mental attitude has yet to be

¹⁸ Tom Ginsburg et al., "Does Law Matter for Economic Development? Evidence From East Asia," *Law & Society Review* 34, no. 3 (2000), <https://doi.org/10.2307/3115145>.

¹⁹ Munadjat Danusaputro, "Pembangunan Hukum Lingkungan (Dalam Mengiringi Terbitnya Dasawarsa Lingkungan Ke-II)," *Jurnal Hukum & Pembangunan* 11, no. 6 (1981): 535, <https://doi.org/10.21143/jhp.vol11.no6.871>.

²⁰ Satjipto Rahardjo, "Hukum Progresif : Hukum yang membebaskan," *Hukum Progresif* 1, no. 1 (2005): 2–5.

²¹ Satria Sukananda, "Pendekatan Teori Hukum Progresif Dalam Menjawab Permasalahan Kesenjangan Hukum (Legal Gaps) Di Indonesia," *Jurnal Hukum Ekonomi Syariah* 1, no. 2 (2018): 136, <https://doi.org/10.30595/jhes.v1i2.3924>.

²² Roscoe Pound, "Classification of Law," *Harvard Law Review* 37, no. 8 (1924): 933–69.

suitable for development. The mental attitude contains two concepts: the cultural value system and attitude. Law in society is very diverse, depending on various factors in society. In addition, the function of the law in a developed country will also be different from that found in a developing country.²³

Indonesia, which tends to embrace civil law or the European continental legal system, develops a hierarchy of statutory regulations. Hierarchies of legislation are important to ensure consistency and alignment of norms at various legislation levels. It is because there are norms in the hierarchy that are not regulated (*regeling*). In addition, there are norms outside the hierarchy governing (*regeling*).²⁴ The objectives of the law built according to Mochtar²⁵ include order in society, legal certainty, benefit and welfare, and justice. Although legal pluralism is embraced in Indonesia by acknowledging other legal sources than laws, establishing law tends to prioritise legislation. Ideally, the rules reflect the overall legal objectives. However, ultimately the influence of non-legal factors (economic, social, cultural, etc.) results in a rule that is made only to reflect one of the legal objectives.

The construction of law in Indonesia's legal system has many linkages with community characteristics that affect the development of the law. L. Friedman stated that the Legal System consists of components such as a legal structure, legal substance, legal function, and legal culture. These components are interconnected to achieve the law's objectives and bring justice to society. L. Friedman suggests that an institution is a fundamental framework for the legal system when considering studies of partial structures, influence on the behaviour of judges, and different theories of legitimacy in various parts of the legal system.²⁶ Institutionalisation determines the pattern of legal relations in a country as well as the fundamental and essential part of a legal system, among others: First, the characteristics of a heterogeneous Indonesia law community as well as the diversity of the community; Second, characteristics culture of Indonesia law related to legal tradition, owned and embraced by the law society in Indonesia; Third, characteristic of the philosophy of Indonesia law in the form of a system of legal philosophy in nation's ideology called "Pancasila"; Fourth, characteristics of legal education in Indonesia are related to less development of information systems and legal documentation; Fifth, the characteristics of the concept of the law of Indonesia which is the idea of the law by the law society and the legal concept of Indonesia set in Indonesia tends to concern the concept of development; Sixth, component characteristics, formation and related forms of legal institutions, personnel and process of formation that affect the quality of the resulting legal products, and Seventh, the characteristics of the components of the organisers of the law in Indonesia related to roles and functions of the Executive and the judiciary in relation to law enforcement. Directly or indirectly, the characteristics will affect the legal system in Indonesia, including its relation to development.

²³ Nazaruddin Lathif, "Teori Hukum sebagai sarana alat untuk memperbaharui atau merekayasa masyarakat," *Palar / Pakuan Law Review* 3, no. 1 (2017): 64, <https://doi.org/10.33751/palar.v3i1.402>.

²⁴ Zaka Firma et al., "Rekonstruksi Hierarki Peraturan Perundang-undangan di Indonesia Reconstruction of the hierarchy of legislation in Indonesia," *Jurnal Negara Hukum* 9, no. 1 (2018): 98.

²⁵ M. Zulfa Aulia, "Hukum Pembangunan Dari Mochtar Kusuma-Atmadja: Mengarahkan Pembangunan Atau Mengabdikan Pada Pembangunan?," *Undang: Jurnal Hukum* 1, no. 2 (2019), <https://doi.org/10.22437/ujh.1.2.363-392>.

²⁶ Donald M. Roper and Lawrence M. Friedman, "The Legal System: A Social Science Perspective.," *Political Science Quarterly* 91, no. 2 (1976), <https://doi.org/10.2307/2148447>.

Infrastructure Development Paradigm in Indonesia

The development of infrastructure in Indonesia began in 1966. The country certainly plans development priorities. The basic needs of society are to improve the quality of life and to stimulate national economic growth. Infrastructure development became a key element in encouraging the increasing quality of life in the community. Infrastructure associated with development questions, as stated by Rémy Prud'homme, "It is a space-shrinker, it enlarges markets and operates like the lowering of trade barriers. In urban areas, it can be shown that infrastructure contributes to enlarging the effective size of the labour market and the goods or ideas markets, thus it increases productivity and output."²⁷

In principle, an infrastructure is geared to meet the needs of human life. The definition of infrastructure is the sum of the material, institutional, and personal data and facilities available to the economic agents. It contributes to achieving the equal remuneration of comparable inputs in the case of a suitable allocation of resources and to completing the integration and maximum level of economic activities. Buhr mentions that infrastructure renders possible opening and development of the economic agents' activities. It puts into action the potential of economic units for the benefit of society.²⁸ The "Buhr" classification essentially shows the basic needs of infrastructure development for human life. Nevertheless, how much the country's ability is developing can realise the whole thing, including Indonesia. Physical requirements and social requirements are essential things that must exist in the development of a region or a city. People who are crowded in a city will certainly need considerable resources. Therefore, the development of regions such as metropolitan has the option to spread or divide the burden to meet these basic needs.

From 1966 to 1992, Indonesia fulfilled the needs of a partial infrastructure without a clear plan. The system of governance was built without the concept of good long-term development; consequently, human life was neither safe, comfortable, productive, or sustainable. Unmeasured connectivity became a constraint, so people lived by adapting to the concept of uncontrolled territorial development. In the year 1992, with the establishment of the rules on spatial planning,²⁹ Indonesia began moving on to a coordinated and integrated development with human and artificial resources in a sustainable development pattern. It was done by developing spatial planning in the unity of a dynamic environment and maintaining the sustainability of environmental capabilities under sustainable development.

The rules on spatial planning in Indonesia place the conception of infrastructure on the legal corridor in the plan of spatial planning from the central government level to the local government. The level of spatial planning structure, the more detailed planning and implementation authority include technical aspects. Spatial planning is structured for 20 years with an opportunity to be evaluated every five years under certain restrictions. Unfortunately, the opportunity to conduct this evaluation is utilised by certain parties to justify violations, so the goal of 20 years of planning is difficult to achieve.

²⁷ Prud'Homme, R., 2005. Infrastructure and development. In *Annual World Bank Conference on Development Economics* (pp. 153-189).

²⁸ Gianpiero Torrisi, *Public Infrastructure: Definition, Classification and Measurement Issues, Economics, Management, and Financial Markets*, vol. 2009, 2009.

²⁹ The 1992 Law No. 24 On Spatial Planning

In principle, the substance of spatial planning regulates the spatial structure plan and spatial pattern plan by establishing areas with protected functions for environmental interests and cultivation functions for economic benefit. Ideally, this spatial planning governs the optimisation of economic interests and environmental interests. The spatial planning arranged at each level should include a strategic environmental review to ensure the principles of sustainable development in spatial planning.

Development of Spatial Structure Plan implementation is the state's responsibility, where the government puts the urban system for the region's development with the development of activities centres and infrastructure systems as a form of connectivity to create a controlled and orderly planning system. Each activity in the spatial structure plan is expressed as a public interest and is in the scheme of national strategic projects that get the attention, facilitation, and priority of infrastructure development in Indonesia. In line with the view of the Buhr fulfilment category, Indonesia expressed development activities for the "public interest", which is defined as the interest of the nation, state, and society, that should be realised by the government and used for the prosperity of the people. Wherein arranged, the state can revoke individual rights over land through land procurement mechanisms for development for the benefit of the public. This is one of the conflicts with the community, although the location to be built should be planned first in the spatial planning regulation. There is evidence of planning traditions where it is customary to integrate environmental issues and concerns into the planning process. This fact, along with existing environmental expertise and growing environmental concern, is an ideal precondition to set the road for SEA even though formal procedures are missing.³⁰

Infrastructure development challenges are not only on its arrangement but also on the quality of being one of the fundamental aspects. Wipplinger defines "quality" as a paradigm not only on the quality of products but also on the quality of services, total quality, and quality of life. For each aspect, it is necessary to meet the requirements for their further development and enable the realisation of the goal in a higher level of quality, observed in the broadest sense. All the participants are taking part in creating a quality infrastructure. Quality, as a paradigm of the 20th and the beginning of the 21st century, greatly influences many aspects of life and business. At the beginning of its development, this paradigm referred to the quality of products. However, later it also included the quality of services, total quality, and, finally, the quality of life.³¹ Community participation is important, as community involvement will determine the success and quality of a plan.

Legal Issues on The Development of Primate Cities and Regions

A primate city according to Jefferson is one city larger than any other in its country.³² This mere fact gives impetus to growth that this city cannot affect any other city, and it draws early from all of them in character and size. It becomes the primate city. Jakarta, Indonesia's capital, is the

³⁰ Markus Eggenberger and Maria Rosário Partidário, "Development of a Framework to Assist the Integration of Environmental, Social and Economic Issues in Spatial Planning," *Impact Assessment and Project Appraisal* 18, no. 3 (2000), <https://doi.org/10.3152/147154600781767448>.

³¹ Slavisa Moljevic, "Influence of Quality Infrastructure on Regional Development," *International Journal for Quality Research* 10, no. 2 (2016), <https://doi.org/10.18421/IJQR10.02-13>.

³² William B. Meyer, "Urban Primacy before Mark Jefferson," *Geographical Review* 109, no. 1 (2019), <https://doi.org/10.1111/gere.12308>.

largest urban area in Indonesia. In contrast to some countries that separate the Central Government and the centre for business and economics, Jakarta has grown into Indonesia's national economic development centre. It is a huge burden to support and facilitate national needs of mobility transportation by cars, buses, trucks, and trains for traffic trades and services into the primary needs.

The Jakarta development has caused the inevitable requirement for the support of its surrounding area. In the end, the neighbourhoods outside of the city of Jakarta cause massive commuting every day. It is also influenced by the high price of land, especially the ones in Jakarta city. Dynamics in urban areas in Indonesia are due to the development strategy of emphasising economic growth compared to sustainable development. It resulted in spatial planning in a developing country such as Indonesia is carried out by a top-down approach to preserve the interests of a primate city.

Combes believed that firms are generally more productive in larger cities for two main reasons.³³ First, intense competition in big cities only lets those enterprises with the highest productivity survive, causing low-productivity firms to be eliminated. The second reason is the economic costs of integration in large cities that increase productivity by expanding interaction between people and firms. These factors increase firms' willingness to inhabit larger cities.³⁴ Jakarta City is experiencing a similar problem, so the region's development is urgently necessary.

Currently, Jakarta is set to be a special region province. The political situation is maintained to remain stable so that Jakarta as a province does not have an independent district/city politically autonomous region in concept. However, it is a city and county that only helps administratively. It intends to maintain a stable political situation and security in Jakarta, the country's capital city. The issue of capital transfer has been initiated for decades. However, discussions are still held around which activity of Jakarta moves, whether Jakarta is the seat of Government or Jakarta as a Metropolitan City. Until now, the issue of Indonesia's capital transfer remains a discourse, even in 2019. The government has already decided to move the capital of the Republic of Indonesia to Kalimantan (Borneo) Island.

In 2007, the government of Indonesia set the legal basis for spatial planning in Indonesia.³⁵ The main considerations that national and international policies are demanding enforcement of the principle of integration, sustainability, democracy, legal certainty, and justice in the framework of the Organization of spatial as well as due to the existence of limited space and lack of understanding of the people of the importance of structuring space. In principle, based on the European Commission (1997), "Spatial planning refers to the methods used largely by the public sector to influence the future distribution of activities in space. It is undertaken to create a more rational organisation of territorial land uses and the linkages between them, balance demands for development with the need to protect the environment, and achieve social and economic objectives."³⁶

³³ M A Maqsoodpoor, "The Impact of Service Sector on Forming Primate City Phenomenon in Khuzestan Province," *Journal of Urban Economics and Management* 4, no. 16 (2016).

³⁴ Maqsoodpoor.

³⁵ The 2007 Law No. 26 On Spatial Planning

³⁶ Erich Dallhammer et al., "Spatial Planning and Governance within EU Policies and Legislation and Their Relevance to the New Urban Agenda," *European Committee of the Regions*, 2018.

Its application in Indonesia is in line with the view that embraces the spatial planning measures to coordinate the spatial impacts of other sectoral policies, to achieve a more even distortion of economic development than market forces between regions, and to regulate the conversion of land and property. Spatial emphasis on transparency, effectiveness, and consummated so as participatory spaces that are safe, comfortable, productive, and sustainable. Nevertheless, one of the specificities and care planning in Indonesia is the requirement of structuring space-based disaster mitigation to improve the safety and comfort of life and livelihood since, geographically, Indonesia is considered a disaster-prone region.

Strengthening the spatial arrangements since 2007 can be seen from the various legal instruments dominating the arrangements. Spatial planning slowly plays an important role in the entire resource utilisation activities. The process of structuring space starts from the planning process to produce spatial planning to control the use of space dominated by the essence of compliance and law enforcement into a governing instrument to prevent damage to the environment.

The position of spatial planning in Indonesia currently has changed the paradigm in the protection and management of the environment that had more emphasis and priority on the process of analysis of the environmental impact as the main instrument in the process of getting started experience the shifting environment permits, cases related environment and development related and even constrained by the spatial planning. Spatial planning is a legal instrument to perform effectively as a controller in many cases, i.e. the utilisation of resources in Indonesia within 5 (five) years. Government policy in the construction of various infrastructure developments extends throughout Indonesia, which in practice requires determining the location that should be regulated or listed in the spatial planning.

Spatial planning issues related to infrastructure development always start with a dilemma between economic and ecological interests. This produces the obligation for any development to consider the environment in its application. According to Benedict and MacMahon, the concept of green infrastructure originates in two basic concepts, namely the establishment of connections between green spaces and parks to benefit populations and biodiversity preservation through delineating the corridors of habitat fragmentation counterpoint. The concept of “green infrastructure” is gaining political momentum and has made a quick materialisation in both planning theory and planning policy.³⁷ In line with the spatial arrangements in Indonesia, that optimisation might be attempted in emphasising the planning and the importance of ecological function in protected areas to be put forward above economic interests.

The New Infrastructure Development Policy for Connectivity and Integration in the Primate Cities in Indonesia

The development of the urban area of Bandung metropolitan in supporting the capital, especially in realising connectivity urbanisation, began to concern the government early in the year 2014 through the development of President Joko Widodo's legal politics. Infrastructure development became the government's primary concern, embodied by preparing various policies. Through Presidential Regulation number 3 of 2016 on the Acceleration of National Strategic Projects, the government set the construction of railways connecting Bandung – Jakarta.

³⁷ Hannah Wright, “Understanding Green Infrastructure: The Development of a Contested Concept in England,” *Local Environment* 16, no. 10 (2011), <https://doi.org/10.1080/13549839.2011.631993>.

Construction of the project as one of the solutions to public transportation gives rise to the pros and cons in society related to legal aspects and the environment. In line with the views of Navarro, public infrastructure, such as street pavement, has a major impact on the value of a home, which in developing countries is perhaps the most important household asset, durable-goods consumption, especially in terms of vehicle ownership, all of them are important indicators of a household's well-being. Even more importantly, we also found evidence that households must have access to the banking system to benefit from infrastructure investments fully. If they do not, it is unlikely that infrastructure will be transformed into credit use and the acquisition of durable goods. From an economic development perspective, our second contribution is to show the fact that the provision of infrastructure—in our case, first-time asphaltting of streets— had sizable positive effects on households' acquisition of household appliances, motor vehicle ownership, and home improvements.³⁸

With the paradigm change of setting plans in Indonesia, entire site activities must be prearranged in spatial planning. The development of a fast train project from Jakarta- Bandung in 2016 did not previously plan spatial planning at all levels, including the Government Regulation Number 26 of 2008 on The National Territory Spatial Plan, Both Area Regulations, West Java Province Number 22 of 2010 about Spatial Planning Area of PWest Java province and the regional regulations on spatial planning area of regency/city (Bekasi, Karawang, Purwakarta, West Bandung, Cimahi and Bandung) which the project would cross.

Strategic issues that concern the government and the public are a negative environmental impact resulting from a change of function spaces to benefit the project's construction. Identifying problems of spatial and environmental impact problems could violate some legislation provisions. The construction of the project can be identified by several strategic issues related to the law aspect, including:

First, The Union, the relationship between the authority of the Central Government, provinces, and regent/city. The authority became one of the legal issues of concern considering Indonesia, as a State of law based on the Constitution, seeks to ensure legal certainty and to protect the community. In the era of regional autonomy in Indonesia, authority is substantially given to the cross-border regions in the construction of administrative building projects, such as in fast-train Jakarta-Bandung, active role and policy directions between the Central Government, provinces and regency/city becomes the main things related in realising infrastructure development with the bureaucratic approach.

Second, spatial issues related to infrastructure development are proving to be one of the governing instruments in Indonesia's entire space utilisation activities. The spatial planning law as the basis for the government and private sector to conduct an activity in Indonesia has changed the paradigm that breaking the law is breaking the plan, especially the imposition of sanctions on the government, when permission does not match the spatial planning in the set. This shows the role and position of spatial planning as a main preventive instrument to the potential negative impact of utilising the space environment.

³⁸ Marco Gonzalez-Navarro and Climent Quintana-Domeque, "Paving Streets for the Poor: Experimental Analysis of Infrastructure Effects," *Review of Economics and Statistics* 98, no. 2 (2016), https://doi.org/10.1162/REST_a_00553.

Third, environmental issues of function area on the location of a high-speed train from Jakarta- Bandung as a foregone conclusion against the environmental permit is based on the environmental impact assessment analysis.³⁹ In principle, a project worthy of the environment in Indonesia must meet various technical, environmental, or economic requirements. At the beginning of its construction, the environmental permits issued by the government were questioned by many parties because it was published too quickly, thus raising the alleged impropriety of the project into legal issues. Based on environmental legislation, to scale the project, the time required to complete the assessment process of Environmental Impact Assessment was six months. However, within less than one month, the government issued a permission-based environment Environmental Impact Assessment.

Fourth, the issue of land rights related to site infrastructure development became one of the phenomena in the project. Although most locations for arbitration of the fast train project Jakarta Bandung used land controlled by the state, several locations require land acquisition by the individual or the community. Indonesia has had regulations for land procurement for development for the public interest (Law 2:2010),⁴⁰ where the construction of the railway is claimed as "public interest". Its status as a public interest is one of the country's main requirements to revoke the land rights owned by the individual for the benefit of development. Even though to be able to revoke those rights, a fairly long process of determination until reparation indicated by the implementation of such development will be hindered.

The Legal Reform of Sustainable Urban Area Development in Indonesia

Ultimately unplanned development impacted the area's development and infrastructure. Ignorance and injustice pose conflicts between the parties concerned. Mochtar's concept of futuristic development law gave a role to the positive laws in providing direction for development. Development planning and spatial planning became the basic rules that were shot in Indonesia's renewal of development conception. Law enforcement instruments must be prepared by looking at the characteristics of Indonesian society. The progressive legal concept is no longer appropriate to solve problems in development, so the orderly paradigm of plans becomes the main key to the success of development in Indonesia.

The success and achievement of legal objectives are ultimately based on good rules and other important elements. In the concept of legal effectiveness, the elements of law enforcement, facilities and infrastructure, and the culture of public law are the determining factors of development success. Repressive law enforcement might be an option, given that change in public behaviour is important to support the country's policy. In developing countries such as Indonesia, the paradigm and politics of state law determine the success of a rule and its implementation. Over the years, Indonesia has not developed a definite plan based on spatial planning considerations. So, while the state requires infrastructure development for connectivity between regions, difficulties arise where the community has developed and occupied locations.

³⁹ Maret Priyanta, "Intergrated Environmental Law System Strategies to Adprt Climate Change Impact From Energy Resilience in Indonesia Ω ," *Dinamika Hukum* 16, no. 122 (2016): 296–307.

⁴⁰ The 2012 Law No. 2 On Land Procurement for Public Utilities Construction as amended by The 2020 Law No. 11 On Job Creation

Spatial planning is obliged to be the basis of all activities, including developing primate cities and infrastructure. Failure in the implementation in Indonesia causes a lack of community involvement in the process of drafting the plan, so conflict between the government, investors, and community-related development site occurs. Strengthening the participation of the community becomes the key factor in the legal construction of Indonesia's infrastructure development.

Every development certainly affects the environment. In a developing country paradigm such as Indonesia, where most people feel not prosperous, environmental factors are likely to be ignored for economical interest. The legal role in setting spatial planning is a major factor. Strengthening licensing instruments and simplification of technical aspects becomes absolute. Ultimately, optimising environmental and economic interests is an option for applying sustainable development principles.

The government ultimately has the deciding factor. Conflicts of authority must be resolved through strict rules where institutional formation to manage urban areas, including metropolitan areas, is important to minimise political conflicts and realise a well-made plan. Coordination has proved ineffective and can no longer be a choice in the era of globalisation and supporting the politics of infrastructure development in Indonesia.

CONCLUSION

Sustainable development should put forward the setup process in the sense of prevention. A spatial plan is used to be the basis for determining the location. The position of spatial planning becoming the first instrument and important advanced paradigm in government permits is based on something other than spatial planning involving public participation. To realise the development of infrastructure to support the nation's capital as a primate city, the government policy in Indonesia holds a crucial role as the main aspect. Optimisation of economic and ecological interests remains a major issue in Indonesia. The environmental impact is ruled out for economic interests, but various attempts through regulation are applied to the potential negative impact of utilisation space on the environment. The burden of the nation's capital can be supported by the area around with bureaucratic approach and planning, bearing in mind the conception of integration between sectors, regions, and the authority as the principle in spatial planning, so the establishment of institution is the key factor. Connectivity between areas of alignment principle becomes an important factor in achieving alignment by recognising each region's autonomy while still prioritising common interests. In realising the legal reform of sustainable urban area development in Indonesia, legal issues on the development of primate cities and regions need to be formulated to optimise environmental and economic interests. In the issue of conflict of authority in regions, the active role and policy directions between each authority of the central government, provinces, and regent/city is important, considering Indonesia as a state of law seeks to ensure legal certainty and to protect the community.

On the issue of affected rights of communities, the issue of land rights is related to site infrastructure development, which is regulated as land procurement development for the "public interest". The status of railway infrastructure development as a public interest is one of the country's main requirements to revoke the land rights owned by the individual for the benefit of development in the Jakarta-Bandung fast train project case. Even though to be able to revoke those

rights, a fairly long process of determination until reparation indicated by the implementation of such development will be hindered.

In the long-term impact on the environment, the government's policy in infrastructure development is to declare that all development-related infrastructure becomes a national strategic project that has been exempted and facilitated by the government over other projects and the usual process. The exempted process may damage the environment due to many ignored precautionary principles in various environmental licensing processes that have been preserved.

The law of spatial planning as the basis for the government and private sector to conduct infrastructure developments has shifted the paradigm that breaking the plan means breaking the law. Thus, it is a main preventive instrument to the potential negative impact of infrastructure developments, with the construction of regulation between authorities implemented through tiered and complementary spatial planning. The essence of spatial planning law is shown in the community participation element, as community involvement will determine the physical, environmental, and social requirements that must be fulfilled in the national infrastructure development over locations that have been developed and occupied by the community.

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