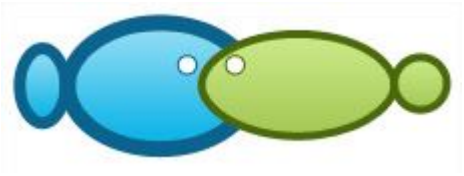

Synchronization of the policies on spatial planning for coastal area in Indonesia with the sustainable development

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Abstract. As an archipelagic country, most of Indonesia's territory is filled with waters which contain highly potential resources. Despite being protected, the coastal area actually has a fundamental economic function in terms of cultivation of various activities therein. However, in contradiction to the abundant resources, the management of territorial waters particularly around the coastal area in Indonesia is raising multidimensional conflict. The problems on the management of territorial waters in Indonesia have emerged since the government began to create coastal area planning as the intermediary ecosystem between the land and the sea. Such era of spatial planning begins in 1992, when the concept of spatial-unity, including the coastal area is viewed as an element that can interact with the environment. There is a dualism of regulation occurred in the regime of spatial planning of the land and the sea. The dualism was raising in line with the planning activity and the conflict of authorization of use and control occurred between the central and the regional government. Such dualism of regulation affects the society around the coastal area, where many try to manifest their interest and use the waters in the coastal area in an unsynchronized manner. The ecosystem that supposedly holds a protecting function, turns into problems instead. In Indonesia, problems in the use of coastal areas are notably caused by the development of artificial islands, unsustainable tourism activities, and the protection of waters with the aim to economically support fishermen and shipping interest. This research is based on the normative legal study, its early stage used the inventory as well as the analysis of various relevant rules and regulations to find the problem in the regulating system of the national law in Indonesia. Then the later stage was focused on the simultaneous identification of the empirical practice by studying the amendment of policies in both regime of spatial planning of the land and the sea in Indonesia. Finally, a comparative study between the practice of the use of coastal area in Indonesia and in other countries was made through the collection of primary data from academicians and practitioners. The result of this research shows that in synchronizing the spatial planning for coastal area with the sustainable development which covers both the land and the sea, the government must not only issue a mere policy, but it must be supported by the government regulation. Hence, there will be a uniformity in the spatial planning for the land and the sea, which in turn will help the achievement of the sustainable development. The authors hope that the result of this research will be able to become the basis to formulate the model of synchronization of policies mentioned.
Key Words: coast, development, law, spatial planning, waters.

Introduction. Indonesia is an archipelagic country, it contains around 17,504 islands and its coastline's length is around 95,181 km. Such coastline is packed with coastal areas which contains abundant natural resources. Coastal area tends to be vulnerable to changes either in temporal or spatial scale. The changes are usually triggered by various activities around the coastal area, such as industries, households, transportations, harbors, tourisms and fisheries. Coastal area has a huge potential of both biological and non-biological natural resources. The biological natural resources usually are from the fisheries, mangrove forests, and coral reefs; while the non-biological natural resources usually derive from the result of mining and crude oil as well as other results of services from the environment. Both types of resources are very important for people's livelihood (Kismartini & Bungin 2019). At times, the use of natural resources may raise conflict among the society, the environment and the development activities, which is usually caused by the problems in their management.

The current coastal management in Indonesia is influenced by the policies covered in the spatial planning regulation. As a process initiated from the spatial planning of the sea, coastal management is made to determine the space allocation, either for protected area, public activities or national development interest. On that note, the coast, as an intermediary space between the land and the sea, according to the Law of the Sea No. 32 of 2014 and the Law concerning Spatial Planning No. 26 of 2007, must be planned in an integrated manner. Instead, the politics of law on the spatial planning in Indonesia regulates that the planning of the land and the sea complies to different regulation. Automatically the spatial planning for the land and the sea is under different authority, responsibility and management of the governmental institution.

The current politics of law in the spatial planning of coastal area in Indonesia is separated into the spatial planning of the land, which is regulated under the Law No. 26 of 2007 concerning the Spatial Planning and the spatial planning of the sea, which is regulated under the Law No. 32 of 2014 concerning the Spatial Planning of the Sea. Separation of the two in different regulations rises dualism in Indonesian spatial planning. As an intermediary area, the coast has been causing problems to the process of the planning, particularly due to the difference of technical matters. It is agreed that coastal area extends up to 8 miles to the sea, while the village administration border extends to the land. Aside from the difference in coverage, the two spatial plannings also have different purposes. The separation policy mostly consider such a problem as an approach, from the technocratic point of view, the priority of the land spatial planning is to control or limit activities allowed under the plan, while the spatial planning of the sea aims to encourage people in optimizing their interest in terms of the use of the marine resources.

Despite of being regulated under different regime, the spatial planning of the land and the sea might be correlated one another in certain issues, for instance, in reclamation. Reclamation in coastal water is one of the activities considered as strategic issue in Indonesia. Most of them, however, are problematic, either due to rejection from the local people, raising concern on the damages to the marine environment or infringement of local people in the coast from the access to waters caused by the reclaimed island. Thus, it is common for most coastal area to face problems stemming from non-sustainable tourism. As many people have been using the coastal area even before the planning-era in Indonesia, one may see the cause of either legal or illegal control to the use of coastal area.

There is the case of reclamation in the Benoa Bay Bali for instance, which intend to turn a conservation area for public use with an illegal control from PT Tirta Wahana Bali International “PT TWBI.” The activity has indeed obtained a location permit from the Ministry of Marine Affairs and Fisheries, however it has not acquired the environmental license from the Ministry of Environment, which supposed to be the basis of the reclamation activity conducted therein. Despite of the absence of the mandatory license, the reclamation effort continued on with the on-going protest from the local people. Illegal control of coastal area did not itself result into the termination of the reclamation activities.

Meanwhile, some other cases of legal reclamation such as in the Palu City of Central Sulawesi or Anyer, Tangerang Province are not guaranteeing safe conduct. They were hit by tsunami in 2018 and 2019 respectively despite the reclamation being held legally. The same occurred for the development of Pantai Indah Kapuk in Jakarta bay, which turned a mangrove forest into a housing area. The reclamation conducted therein had significantly reduced the mangrove ecosystem which was supposed to be protected. Now the question is, if the legal control in the reclamation or other activities in coastal area cannot at the very least prevent problems, then what could?

Aside from tourism, shipping, in terms of harbor establishment, is also considered as an activity capable of giving economic value to the government. It is one of the insistences to the development of the regime of the law of the sea. According to the Law No. 17 of 2008 concerning Shipping, in Indonesia shipping entails all matters correlated with the harbour system, safety and security of the shipping, as well as the protection of the marine environment. Annex II of the Presidential Regulation No. 16 of 2017 as the

marine policy in Indonesia stated that the management of marine space and the protection of the marine environment is one of the pillars of the marine development (Dahuri 2001). However, the use of marine space in reality, is dominated by the harbour activities requiring a quite huge working area. The fact is contradicting with the people's interest, as well as the customary law living and developed among the indigenous people (Tjiptabudy 2013). It may be seen from the case of harbour expansion in Tanjung Priok, which, despite of its validity, still raise conflict of interests between the parties involved.

The condition of coastal area in Indonesia is self-contradicting, many communities actually have rich natural resources however stuck with poor society. The issue persists due to the incapability of formal institutions to take the appropriate policy in promoting effective management to the natural resources for the purpose of people's welfare. Some regulations are also left unsynchronized one another (Kismartini & Bungin 2019), attracting more and more researchers to conduct study on how to synchronize them.

Comparable to Indonesia, Japan also has an archipelagic structure prone to the potential of natural disaster, however with a more developed regulatory framework. The authors consider that in this regard, it shall be beneficial and necessary to conduct a comparison between the regulatory framework on the spatial planning of the law and the sea between Japan and Indonesia. It may be possible for Indonesia to enact the regulatory model of the spatial planning of the land and the sea in Japan as a more developed archipelagic country.

With the aforementioned reason, this study tries to seek a model for a synchronized policy to arrange a spatial planning capable of settling various problems in the coastal area. It is expected that people around the coast will in time be capable of using natural resources for either reclamation, tourism, shipping or other activities in sustainable manner, by extracting the formula from the course of spatial planning from the policies for the coastal area to realise sustainable development in Indonesia.

Material and Method

Doctrinal analysis. This article is a result of a legal study by using a normative method (Soekanto & Mamudji 2007. First, a complete, thorough and comprehensive approach becomes the basis to identify the subject matter of the problem. Second, the study is made to know and understand the policies capable of settling the problems in spatial planning from the legal aspect (Sunaryati 1994). The study compiles researches from April to November 2019, limited to the level of regulation related to the spatial and coastal law in Indonesia, in addition to the comparative study between Indonesia and Japan.

The analysis in this study is made through legal interpretation of principles and norms towards the data and information from Danusaputro (1980): first, principles and rules of law; second, system of law extracted from legal incidents; third, extent of vertical and horizontal synchronization; and fourth, comparison of law in terms of structure, substance and culture of law between Indonesia and in other country.

Results. The coast as a resource is an inseparable part from the environment. The definition of the environment states that it is a spatial-unity, where its elements including the humans are interacting with other resources. In other words, the 'space' in the environment may function as the vessel or container for the humans to interact with their surroundings, including the coastal ecosystem. According to the Law No. 32 of 2009, human's ability to process feelings and reasoning shall in turn direct them to either exploit or to protect the existing resources. The said direction raise from human's desire, as desire is humane, it tends to rise conflict of purpose, notably with regards to the served interest, either for the sake of economic or ecological interest. In this regard, the state is therefore taking its role through the policies and the laws to determine the priority of the utilisation to optimise the direction of the exploitation and the protection of environment in each development activities in a well-balanced manner. The system of the law in spatial-planning is believed to be the manifestation of such role of the state.

With respect to the marine space management, the spatial planning of the coast and the sea shall refer to a wide-range access of planning. It considers all natural processes, resources, and human's use of the coastal and marine spaces concretely to identify the relevance between certain areas and their allotment for particular purposes. It is also expected to be capable of resolving disagreements between the current and future applications, while achieving certain extent of development, conservation, and other goals (Özkan 2018). Indonesia as an archipelagic country has an abundant natural resources that must be managed in a sustainable manner in order to promote social welfare. As the largest part of Indonesia's territory, the sea has a strategic position and value for the use in various aspects of the living, including the politics, economy, social-culture, as well as defense and security. Considering such fact, the resources in the sea may as well be considered as authorized capital in terms of the national development. The management of marine resources may be executed through the legal framework as it aims to give legal certainty and benefits for all people resided therein.

The idea for the Spatial Planning of the Sea (SPS) was formed due to the international and national interests in developing marine protected areas, such as the Great Barrier Reef Marine Park in Australia (Douvere 2008). The International Union for Conservation of Nature (the "IUCN") defines marine protected areas as "any area of intertidal or sub-tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by the law or other effective means to protect part or all of the enclosed environment". The definition highlights its focus on the marine ecosystem as the central component of the management of use of the sea (Schröder-Hinrichs et al 2013). Gradually, as the environmental purposes grow, the SPS has begun to seize multifunctional character, it calls harmonious coexistence between the natural processes and the human activities which are deliberately allocated at the same marine space. Apart from broadening the content of the concept, it soon became evident that transboundary cooperation was necessary for the effective implementation of the spatial plan of the sea (Zervaki 2016).

The spatial planning of the sea (Retzlaff & LeBleu 2018) has emerged as an important tool to plan, manage, and improve the marine environments. SPS contains at least three qualities: first, it covers multi objects - including social, ecological, economic, and political objectives; second, it is spatially oriented - its results are expressed in spatial terms, usually at the ecosystem level; and third, it is integrated - addressing many different issues and activities. This conception is in line with the course of the marine management policies in Indonesia. To achieve such a direction of the marine environment protection, it is very important to put the arrangement plan first before any utilization activities is executed.

In Indonesia, spatial-planning begins to be viewed as a legal product since 1992. At the beginning, spatial-planning does not have that much of legal force either for the government or the society. However, after 2007, the government begins to grant controlling instruments to the spatial-planning, in the form of the authority to issue licenses and impose sanctions. The change gradually leads to the current paradigm, where the infringement of spatial-planning shall be considered as the infringement to the law, and therefore it is imposable by sanctions. The mentioned development of spatial law system in Indonesia is in line with the development of thoughts concerning the role of law in development. Although the law may be claimed as the tool of social engineering, Kusumaatmadja views that in terms of development, the law shall have difficulties in obtaining accuracy from empiric data to arrange policies and legal analysis (Kusumaatmadja 1972).

The purpose of spatial planning in manifesting a secure, comfortable, productive and sustainable environment shall need structure and enforcement from legal instruments. In the conception of law, Kusumaatmadja (1972) stated that one may view the character of developing society from the presence of change, and usually, the law will take the role in becoming assistance to ensure that the process occurred in order through the rules and regulation and/or the court decisions. On that note, legal experts from a developing society must understand that the interaction occurred between the law and non-legal factors must be able to adapt to the development of science and technology.

Now taking a horizontal look to the coastal area, the sea is divided into two zones, namely the seaside (neritic zone) and the high seas (oceanic zone). The seaside is defined as a meeting point between the land and the sea. The seaside's border to the land is comprised of either the dry part of the land or the submerged part of the land. Seaside borders are still affected by the natural occurrences at the sea such as high-tides, sea winds, and sea water seepage. Similarly, the border to the sea comprised of the part of sea which is still affected by the natural occurrences at the land, such as sedimentation and fresh water flows, or other occurrence caused by human's activities in the land such as forest denudations and pollutions (Dahuri et al 2004).

Seaside has a strategic value to the development of national economy and the increase of social welfare, however it is also prone to damages and destruction. It is necessary to implement a wise management thereto, one of which is by placing a proportionate portion of economic with the environmental interest, either for short term or for long term. The management of the seaside area focused to the characteristic of the seaside area itself, whereas the core of the concept is the combination of adaptive, integrated, environmental and economic development with the social system. The strategies and policies taken therein shall be based on the characteristic of the beach, resources, and the utilisation needs. Hence, in the process of planning for the seaside area, it is possible for the future generation to direct the decision-making process for the purpose of maintenance (Fabianto & Berhitu 2014).

Principally viewed from the legal aspect, the seaside planning speaks about the unity of a system. Nonetheless, taking into account that there are limitations for the rules and regulations to regulate, authorize, and institutionalize, the manifestation of spatial planning scheme in Indonesia is often faced with constraints impeding the unity of space. The politics of law in spatial planning in Indonesia is currently requiring separation of documents necessary for the planning of the land and sea (Table 1). The arrangement of seaside is now regulated under three laws, namely the laws of the land, the laws of the sea and the regional law.

Table 1

Distribution of authority and legal documents on spatial planning

	Land spatial planning	*Coastal zone*	*Marine spatial planning*
	Law. 26:2007	*Law. 1:2014*	*Law. 32:2014*
Institution in charge	- the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency; - province Government; - city and regent Government.	- Ministry of Maritime and Fisheries Affair; - Province Government.	
Person in charge	- Minister of Agrarian Affairs and Spatial Planning/National Land Agency; - Governor; - Mayor/regent.	- Minister of Maritime and Fisheries Affair; - Governor.	
Legal document	- National Spatial Planning; - National Strategic Area Planning; - Province Spatial Planning; - Province Strategic Area Planning; - City/Regent Spatial Planning.	- Marine Spatial Planning; - National Strategic Area Planning Zone; - Province Spatial Planning Zone.	

Legal system in Indonesia obligated the law to bestow the authority of certain matters to a Minister. According to the Law No. 26 of 2007 the responsibility over the land spatial planning falls in the hand of the Minister of Agrarian and Spatial Planning, meanwhile according to the Law No. 1 of 2014 and the Law No. 32 of 2014 the responsibility of the marine spatial planning falls in the hand of the Minister of Maritime Affairs and Fisheries. In addition, the current governmental system in Indonesia embraces the concept of autonomy. Despite of the Minister's authority, it is legal for the matters concerning seaside to be delegated to the regional government. Thus leaving the regional spatial planning to be systematically sourcing from a multi-level regulation or hierarchy.

The three regimes of laws are forced to interact one another in any given case of seaside arrangements. In time, efforts to integrate and synchronize the three laws are emerging to ease the implementation process. In the conception of integration between the spatial planning of the land and the sea, Smith et al (2011) stated that integration may be approached through two contexts, first through the spatial planning frameworks per se, which involves the integration of the land and the sea using the planning system; and second through the widening of context of the environmental management, which involves the operation of these system. The integration concept in Indonesia is made through a one map policy, plans with different themes shall be integrated in order to find the overlapping activities.

There are four aspects in the integration of the marine natural resources management. First, the ecology integration: the coastal area has an ecology interconnection between the land and the sea, of which the management of the coastal area must put attention to the environment management of both the land and the sea. Second, the sector integration: since there are vast and various amounts of natural resources at the coast, then there must be multi-sectors running to utilise the said natural resources in this regard, which is often resulting into overlap between sectors. Third, the disciplines' integration: coastal area has a unique nature, characteristic, and social-culture of its people, thus making the integration between disciplines in coastal management to become utterly important. Fourth, the integration of stakeholder: executors in the management of coastal area resources include the government, the people, the private sector and also non-governmental organization, where each of them have their own interest, and therefore, must be accommodated either through top-down or bottom-up approach (Kismartini & Bungin 2019). However those types of integration shall not become further discussion in this article.

The most important process of all after the integration process is the synchronization of the policies, which is made to determine the priority level of certain activities at relevant location (Figure 1). The essence of the spatial planning is to understand the alignment between sectors, interests, regions and authorities. Each Minister is doing the synchronization effort under their respective authority, in order to execute their responsibility, particularly in the activity in simultaneous needs of the land and the sea in the marine space.

<table>
<tr><td rowspan="5">Coastal activity</td><td>Coastal zone and marine spatial planning</td><td>Synchronization</td><td>Coastal zone and marine spatial planning</td></tr>
<tr><td>Coordinator: Ministry for Economic Affair</td><td>Coordination</td><td>Coordinator: Ministry for Maritime Affair</td></tr>
<tr><td>↓</td><td></td><td>↓</td></tr>
<tr><td>Coordinator: Coastal zone and marine spatial planning</td><td></td><td>Coordinator: Coastal zone and marine spatial planning</td></tr>
<tr><td>The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency</td><td>Coordination</td><td>Ministry of Maritime and Fisheries Affairs</td></tr>
<tr><td>Reclamation</td><td rowspan="8">Synchronization and integration of coastal management policy</td><td>Ministry of Environment and Forestry</td><td rowspan="8">Synchronization and integration of coastal management policy</td></tr>
<tr><td>Tourism</td><td>Ministry of Tourism</td></tr>
<tr><td>Industry</td><td>Ministry of Industry</td></tr>
<tr><td>Port and cruise</td><td>Ministry of Transportation</td></tr>
<tr><td>Fisheries</td><td>Ministry of Maritime and Fisheries Affairs</td></tr>
<tr><td>Mining</td><td>Ministru of Energy and Mineral Resources</td></tr>
<tr><td>Natural preserve</td><td>Ministry of Environment and Forestry</td></tr>
<tr><td></td><td colspan="3">Local Government (Province, Regental/City)
Governor, Mayor and Regent</td></tr>
</table>

Figure 1. Institutional synchronization of spatial planning for coastal waters area.

Taking into consideration the pattern of relationship between authorities in the spatial planning, it can be seen that there are various parties and interests involved. The legal system is designed to place several ministries as coordinators to harmonize, align and integrate the management policies in the seaside area. Albeit conflicts in the control of lands and small islands are undeniably still becoming the main problem in almost all parts of Indonesia.

In Europe, problems in the planning for the use of land started to occur during the mid-20th century (Smith et al 2011). Meanwhile the history shows that Indonesia began to face the same problem as of 1960s, when the problems on management of control towards resources in the form of land occurred, either to the lands on the seaside or the small islands in the seaside water. The control referred here, may be categorized into: first, the legal control with rights given by the state; second, the control held by the people in the seaside; and third the control without rights (illegal). The control issues still become the main infringement to the resources management up to this date.

Discussion. Development of science in the marine field tends to went through advancement in the quality of human's life. Aside from raising economic value, the advanced quality of human life is directing the development of seaside area for the protection against the threat of potential disaster, particularly tsunami. Pursuant to the law of the sea in Indonesia, marine space is considered as sustainable and secure area that can be used for people's life and livelihood, for transportation, construction and research on the science and technology. However, some others view the sea as a resource instead, taking into account the Principle of Archipelagic Country; the Right of Innocent Passage; and the environmental approach (ecosystem), the sea is considered as the Common Heritage of Mankind.

With all of its chances and challenges, the seaside may raise various conflicts between many interests, the regions and the authorities. It may in turn also hamper the arrangement of plans and the use of space in the seaside area. For instance, when there is a use of water space under the authority of local government which has a strategic value to the national interest. There might be conflicts between sectors inside the central government itself, or between the relevant local and central government.

Non-sustainable tourism activity becomes a strategic issue in the use of spaces around seaside area. People tend to manage the natural resources' potential with no consideration to its dominant function as protected area, be it for individual or corporate use. Establishment of buildings along the seaside border may be resulting into some side-effects, such as the closure of access for the people in the beach to the seaside; damages to the ecosystem and also pollution. On one hand, the establishment of commercial and services activities along the seaside are indeed necessary, however on the other hand, it shall undeniably adding problems, particularly in case of damages to the ecosystem. Almost all parts of the seaside in Indonesia are used for tourism. The seaside in Jakarta is used for Ancol recreation park; while Pangandaran Beach in the southern part of West Java is known for its exotic sceneries, the same happened to the most part of seaside in Bali and West Nusa Tenggara, they are also dominated by similar tourism activities.

The growing number of tourism activities around the seaside area has attracted more and more investors to participate in its development. Some of them involve expansion of area through reclamation. Despite of its benefit, reclamation sometimes is resulting into problems. One of the tourism activities conducted through a problematic beach reclamation was occurred in the Benoa Bay, Bali province. The reclamation which covers an area admeasuring 838 Ha in Benoa Bay, Badung Regency, began upon the issuance of the location permit from the Governor of Bali to the PT Tirta Wahana Bali International (TWBI). The permit was stipulated under the Decision Letter of the Governer of Bali Number 2138/02-C/HK/2012 concerning the Plan on the Utilization and Development of the Water Area in Benoa Bay. The letter was once revised through the Decision Letter of the Governor of Bali Number 1727/01-B/HK/2013 concerning the License for Feasibility Study on the Plan to Utilize, Develop and Manage the Water Area in Benoa Bay, Bali Province. The revision was meant for the TWBI to halt the reclamation

process and firstly conduct feasibility study to continue the development. However, it was not in fact capable of stopping the polemic of the reclamation plan. Basically, the revision does not legally revoke the permit granted from the first letter and thus TWBI still have the right to continue the reclamation process by taking feasibility study as their cover.

The issuance of permit from the said decision letter as legal basis of reclamation from the regional government is actually in itself problematic in the eyes of law. Taking into account that the water area in Benoa Bay should be categorized as conservation area under the President Regulation Number 45 of 2011 concerning the Spatial Planning of City Area of Denpasar, Badung, Gianyar, Tabanan. The relevant area of Benoa Bay was supposed to be clear from the commercial use. However, as the said President Regulation was revoked and replaced by the President Regulation Number 54 of 2014, the conservation status was said to be removed. After the issuance of the President Regulation Number 51 of 2014, the TWBI then acquired location permit of reclamation number 445/MEN- KP/VIII/2014 from the Minister of Marine Affairs and Fisheries. The letter gives permission for TWBI to continue its plan in the water area of Benoa Bay, which comprised of Badung Regency and Denpasar City in Bali Province, admeasuring 700 hectare. The location permit was expired on 25th of August 2018 since the Minister of Environment and Forestry never issued the supporting Decision Letter on the Feasibility of the Living Environment. The reclamation plan made by the TWBI in the Analysis on the Environmental Impact Assessment was not accommodated by sufficient argument to counter the resulting social and cultural problems in Bali in response to the reclamation plan, and thus it was not successful.

Aside from tourism, shipping activities in the form of harbour establishment are also supporting the national economy. It becomes a necessity for both the national and the international interest. However, its execution will need a large water area, which may lead into conflict. According to the regulation, harbour activities are under the authority of the central government, nonetheless, the authority over the location of the water area is usually under the jurisdiction of the local government. The central government can legally intervene under the pretext of national strategic value, however such reasoning is raising objection and refusal from the local government. Harbour activities usually affect the environment and shall limit people's access thereto, particularly to the fishermen. In addition, harbours usually have a determined port located in certain area of waters for their working station, which shall ultimately will fall under the interest of the local government.

Conflict in the harbour's planning usually happened due to the change of master plan. According to the Law No. 17 of 2008, the master plan must be in accordance with the spatial planning regulation, which clearly gives space for autonomy to the regional government with respect to the use of its waters. However in practice, harbour's expansion tends to decrease the amount of waters under the authority of the regional government. For instance, in the case of the Tanjung Priok harbour's expansion, the project was initiated under the authority of the Ministry of Transportation. However, as the largest harbour in Indonesia, Tanjung Priok is located in the area of the Special Capital Region of Jakarta waters, which automatically place it under the jurisdiction of the local government of Jakarta as well. Aside from the promising tone of the development, the overlapping authority in the Tanjung Priok's expansion leads into complex problems. It has shown that sectoral government's ego is impeding the harmonization of seaside waters' management, which in this case is related to the harbour's activity. The reluctancy to yield from both sides tends to limit the possibility to use the seaside waters for other activities aside from the main focus in frame, for instance, the harbour's interest. It is mandatory for the relevant parties to support the central government's regulation as the shaft to the world's maritime order. Inversely, the conflict between the central and regional government itself is continuously raising problems particularly from the legal aspect of planning.

Not all people around the seaside may be considered as seaside people. In its regulations, Indonesia recognize several characteristics that may include a person as a seaside people: first, Local People, it consists of a group of people who put the order of their daily life according to the custom which they consider as generally accepted value,

however, they are not fully dependant on the resources from the seaside and the small islands; second, Traditional People, it consists of traditional fishermen, the regulation recognize their rights of traditional fishing or other activities around the seaside area, although their presence is only seen as valid in certain area of Indonesia's archipelago, and the exercise of their rights must be in accordance with the rules in the International Maritime Law; and third, Indigenous People, it consists of a group of people who live in a certain geographic area of Indonesia through generations, which order tied by their ancestors, strong relation with the land, the area, the natural resources, and regulated by their own customary institution of government, and customary legal order in their area, nevertheless still in accordance with the rules and regulations in Indonesia. With respect to the potentials in the fisheries resources, seaside people are principally engaged more in fishing.

The said seaside people may be different by their characteristic and pattern in fishing, applicable custom and method they use with regards to their knowledge of the environment. As an entity under the national law, Indonesian government has an obligation to facilitate and ensure the protection of rights of the seaside people as mentioned above, from the harm that may be caused due to the activities such as reclamation, tourism, and harbour activities. To be specific, such activities around the seaside area may hamper, close or decrease the natural resources potential which support the living of the seaside people.

It is true indeed that the Indonesian government has already tried to comply with such obligation of the fulfilment and protection of rights of the seaside people. Indonesia is known for a type of indigenous people living in and dependant to the seaside, they even settle along the beach border and seaside waters. These people are called the Bajo Tribe, they live in the Sulawesi and Nusa Tenggara islands as an entity protected by the state. In exchange of a place to live and resources for livelihood, the Bajo Tribe protects the state interest in their own way. But then again, the mutual protection here shall be meaningless in the absence of synchronization of spatial planning. As spatial planning is one of the most important instruments thereto, insufficient management to the spatial planning will lead government's effort to fulfilment and protection of rights of the seaside people to be in vain, specifically due to the effect resulted from various marine activities therein.

Take, for example, in case of the reclamation development in Jakarta Bay, payang, dogol, bubu, and gillnet fisheries. The government might as well try to fulfill fishermen's rights in that area, however the existance of reclamation therein may in the end hamper the fishermen rights. Reclamation may strongly affect fishermen activities, a reclamation exceeding the coverage area of 1,527.34 Ha will hamper the fishing activities and the cultivation of green mussels. The fishermen might be faced with a change of fishing area, loss of cultivation location for green mussels, disruption of fishing boat's lines, and deterioration of fish quality. Those most perceived conditions in case of reclamation (Adharani et al 2019), might as well place the fishermen in a condition as if the government's effort to fulfill their rights was never been there from the first place.

As it happens, in order to be engaged in a reclamation activity, one most obtain a permission from the Ministry of Marine Affairs and Fisheries of Indonesia, as stipulated under the Regulation of the Minister of Marine Affairs and Fisheries No. 40/PRT/M/2007, concerning the Guidelines on the Spatial Planning for the Reclamation of Coastal Areas. Yet in the sense of social and environmental point of view, administrative requirement is presumably not enough. Despite being a strategic activity, reclamation must have not belittle other activities in the seaside area. Through the example in the Jakarta Bay reclamation, it is clearly seen that compliance to the administrative regulation does not in itself assure the same to the laws of the law of environment and spatial planning. Coastal area management must comply to the environmental principles as required in the number of laws and regulations concerning the environment and spatial planning, since reclamation gives impact to legal, social as well as environmental fields. If the reclamation does not pay attention to the social and environmental impacts prescribed from the laws, then it might violate the basic rights of the citizens or the people live around the coast (Adharani et al 2019).

Comparative study with Japan. Indonesia and Japan are both archipelagic countries with a high potential of natural disaster, particularly in the seaside area (Figure 2). Japan is comprised of more than 3,000 islands. As a result, despite of its smaller space of land compared to Indonesia, Japan has a more long and complicated coastal line. In Japan, coastal area issues are mostly discussed about disaster, port, fishing, industry, environment, and other use of land (Morichi 2019).

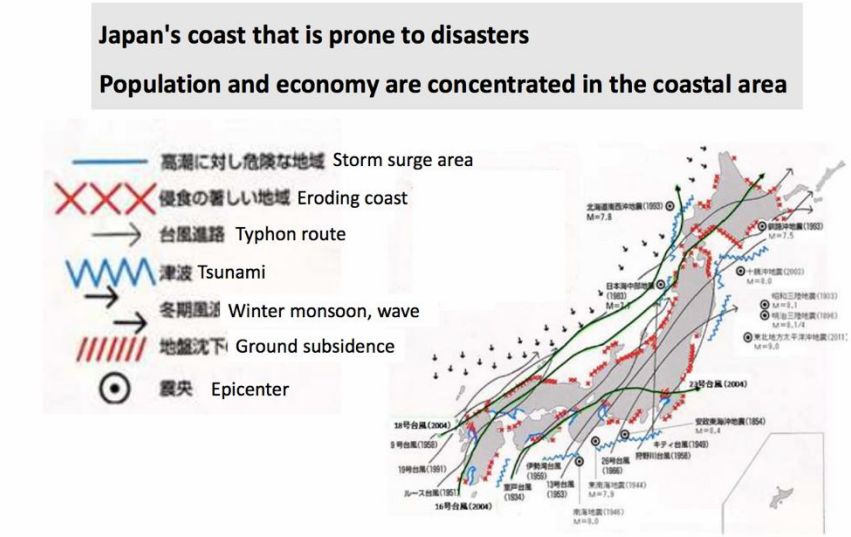

Figure 2. Disasters' potential in Japan (Morichi 2019).

In Japan, the urban land areas are planned using the basic structure of system from the zoning regulations. The zoning categories in the said regulations are mainly divided into four parts; 1) the division of area into Urbanization Promotion Area and Urbanization Control Area; 2) the zone for land use which includes twelve basic categories of use; 3) additional zoning categories that overlay the basic zonings such as the Land Use Zones, if necessary; 4) district plan which enables a detailed regulatory control within the specific districts. All categories mentioned are used in selective manner, except for the division of area which is required in three metropolitan areas and 17 designated large cities. The enforcement measures in the planning of the use of urban land area have three categories: i) the permission for land development which controls the conversion and physical transformation of the "land;" ii) the building confirmation which certifies the compliance to the zoning regulations such as the use, density, height and so forth for each building; and iii) administrative recommendation of the filed notification. The permission for land development has an important role in restricting certain types of conduct in the Urbanization Control Area, while the building confirmation ensures that the use of land complies to the various codes on buildings including the zones regulations. Administrative recommendation is used for the execution of District Plan and voluntary local ordinances. Meanwhile, some matters such as the regulation for the use of land, urban development and building construction are originally not controlled under the Laws. They were actually under the control of area where the procedure of planning designates the zoning for the land use. It is in contrary with the most of European countries where the land development is already controlled by the Law from the beginning. The planning shall only provide judgement as to give permission for the development or not. Regulatory policy in Japan is described as "no regulation without planning"; while most European countries have "no development without planning." The difference is quite significant, this explains on how and why the regulation for the use of land in Japan is organized (Morichi 2019).

As occuring in many other countries, coastal waters in Japan have long been used for marine transportation. It takes advantage on the archipelagic nature of the country, a nationwide shipping network had already been established since the 17th century; this network is correlated and has a contribution to the development of the coastal waters itself (Inoue 1984). Ports in Japan have long been worked and still are used as

intermediary for shipment and other mode of transportation. Many ports also work as the center of city-ports to expand to the sea.

Ports in Japan are quite different with those of other countries, they are rather unique both physically and institutionally (Inoue 2014). Under the Japanese law of the sea, the jurisdiction of the port consists of geographical extent to the land and water. Departments in the government shall collaborate in determining the land area by taking into consideration to the people's demand for future spatial planning, either from the port or from the city as a whole. Once decided under the City Planning Act, the area shall be incorporated into a "port district" and shall enter into the entire zoning system of the city port. The area shall further set out in a sub-zoning of the district port to precisely guide the permissibility of usage types for the land in conformity with the master plan of the port. Any development to the district port, either by public or private entity, shall require the issuance of permit to do so (Inoue 2014).

As for the determination of water area, the approval lies on the hand of the Ministry of Transport. The designated water area of the port shall be labeled as the "harbor limit". It must be wide enough to accommodate people's future demands of various harbor activities. The management of water areas along with their coast is under the responsibility of the national government, however in terms of defined control upon harbor limit, it is possible to be delegated to relevant subordinate institutions. In case of such delegation, a reclamation within harbor limit will need to obtain permission from such subordinate institution, subject to the conformity for the master plan of the port (Inoue 2014).

In Indonesia, the conflict arising from the use of resources in the seaside area is sourcing back to the potential of the seaside itself. On that note, optimization of the economic and ecological interest is a must. In a condition of inharmonious regulations, it is a given that the role of law in the synchronization of policies among different levels shall become the main focus to reach sustainability. In the authors point of view there are several matters that may work as the ground of synchronization model to settle the conflict in the seaside management, among others:

First, the change of status quo in the paradigm, where infringement of spatial planning is equal to the infringement of the law. It will encourage the government and the society to comply to the spatial planning arranged as they will to the law.

Second, dualism of applicable law in the plan arrangement between the land and the sea. The dualism may principally be settled by focusing the approach to the prioritized activities. For instance, in case of the activities dominated by the use of space considered as located on the land, then the necessity to use the space on waters shall be regulated under the land spatial planning. In contrary, the activities dominated by the use of space on waters, shall secure the use of land by the spatial planning. As mentioned above that seaside area conception must follow administrative border determined by the local government, and simultaneously extend 8 miles to the sea. The complementary practice shall not be in violation of such conception.

Third, after 2014, the control from the politics of law to the water space is transferred from the regime of rights to the regime of licenses. There has been no privatization of waters and small islands ever since. The transfer is considered as necessary as a form of state's intervention to all water areas. It is said to be conducted with the consideration to the protection towards the water resources as well as the defence and security of the state.

Fourth, in terms of the activities with national strategic value which situated under the regional jurisdiction, there will usually be disagreements between the central and the regional government. The central government is building a paradigm that both the central and regional government shall have the same right and opportunity of management towards the same area which brings national interest. The concept is based on the joint responsibility principles where both parties are supposed to take the benefits from the resources in the seaside area. To settle the sectoral ego, the conflict must be taken back to the concept of the separation of power within the same affair. Basically, the national law system in Indonesia regulates that the water space outside of 12 miles from the highest tide line shall be under the authority of the regional government. Hence,

in the sense of the national development system, the central government is theoretically trying to enact their jurisdiction over an area or an activity with strategic value, where in fact they have no authority to do it from the first place.

Fifth, it should be understood that before the spatial planning era, there have been many seaside areas development executed already, with or without licenses, and with or without the right to control. The situation has changed ever since the spatial planning era, some developer left with an uncertain condition due to the impediments from the new requirements from the regulations. For the purpose of the legal certainty, the authors considers that it shall be better if the government is tied with an obligation to give a proper compensation in manifesting spaces for the development in the seaside waters area. It shall be in line with the construction regulation, as long as there is a control validly obtained under the law.

Sixth, the unenforceability of the spatial planning in different sectors; all master plans either in the field of shipment, harbour, mining, tourism, or fisheries are merged into one spatial policy. It was due to the raising paradigm in the position of spatial planning in the Indonesian legal system. The politics of law from the state must put forward the separation of spatial planning in different sectors and different spatial use for different activities.

In short, the key to a good spatial plan is the process of the planning itself. One must identify the planning process in the implementation of the alignment principle and the community participation. Such identification shall include the ones conducted to the impact resulted from the planning made for the environment. The implementation of the spatial planning as defined, may resulted into problems from the functionality of the spatial plan, such as potential damage to the environment; or other problems such as the lenience of the politics of law to the economic interest. However, instead of facing such kinds of problems, developing countries such as Indonesia, is likely to face more challenges from the conflicts between the central and regional government. Governmental policies may become short-term keys to the development of sustainable infrastructure in Indonesia. It may lead to the encouragement towards the society to develop second-tier cities and reduce the burden of the primate cities by determining the layout of plan for sustainable places (Priyanta 2019).

Conclusions. From the perspective of spatial law, any activity is executable, as long as it has been planned in advance in the spatial plan. The plan is functioned to set-forth the course headed in a systematic and orderly manner. As a product of policy, spatial plan comprises of various results of considerations from the optimization of the ecology and economic interests made in the enactment of the spatial law in certain area.

The possible conflicts within the seaside waters area may just be settled with one well-planned document. The plan shall become the basis for all relevant sectors and relevant parties to divide the use of space in the seaside area. There is no other document aside from the spatial planning that may be used as the basis to use the resources' in the land and/or the sea. To ensure the legal certainty, all conflicts must be synchronized in a planning document of the land or of the sea.

The result of this research shows that spatial synchronization in the zoning plan of the coastal area, which includes the sea and the coast must be issued by the government. The spatial synchronization shall be endorsed in a form of the government regulation, to prevent discrepancies with the spatial rules and to achieve the sustainable development.

The authors are inviting more people to realize that the seaside waters area in Indonesia have their own local people, either traditional or indigenous. They are practically inseparable from the seaside. As long as the state recognizes their existence, then it is legal for the spatial plan to make clear exception to them from the applicable laws. However, it may have challenges, the policies must be able to make a design where the area where those people live are kept safe, comfortable, productive and sustainable from any change or transfer of function.

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