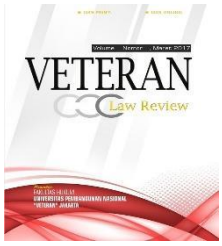

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Legal Interpretation of Regulation Law No. 2 of 2012 Concerning Land Acquisition for Development in The Public Interest

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ABSTRACT

Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest (Land Acquisition Law) has been a guideline for the government in conducting land acquisition for more or less 10 years. In the Land Acquisition Law, land allotment for development in the public interest does not include mining as a part of development in the public interest This research aims to analyze and understand the Legal Interpretation of Regulation Law No. 2 of 2012 Concerning Land Acquisition for Development in The Public Interest. The method of this research is library research as a research in literature or an activity to compile information relevant to topic or object of research and received from books, scientific paper, thesis, dissertation, encyclopedia, internet and other resources. The research shows the result is To ensure the availability of land for public interest by taking into account the balance between the interests of development and the interests of the community.

1. Introduction

Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest (Land Acquisition Law) has been a guideline for the government in conducting land acquisition for more or less 10 years. However, land acquisition for public purposes is not a new theme in the history of land acquisition in Indonesia. During the Dutch East Indies period, Agrarisch Wet 1870 was promulgated and its implementing regulations were Agrarisch Besluit.[1] This regulation contains and enforces the Verklaring Domain principle, namely that the Dutch East Indies State is the holder of property rights over lands that are not under the control of private rights as stipulated in Dutch law. So that at this time, land that did not have evidence in the name of individual ownership/private legal entity became state land. The law emphasizes that the government is not the owner of the land, but based on the

[1] Westi Utami dan Sarjita. (2021). *Pengadaan Tanah Di Indonesia Dan Beberapa Negara Dari Masa Ke Masa*. Daerah Istimewa Yogyakarta: STPN Press. 19.

domain principle, it is the state that owns all the land unless it can be proven by the existence of eigendom and agrarisch eigendom.[2]

While during the Japanese occupation, land acquisition was carried out without special regulations. The Japanese government system is carried out through the concept of "Osamu Seirei". In this concept it is explained that "All laws and statutes, government and powers of the previous government, while not contradicting the rules of the Japanese Army Government, temporarily remain in effect".[3] The war against the Allies caused people's lands to be taken by force to support the Japanese army.

Furthermore, after independence during the Old Order, Law No. 5 of 1960 concerning the Basic Regulations on Agrarian Principles, which states in Article 6 that property rights to land have a social function. Authoritative power is certain as the basis of the formation of the nation that the nation concerned formed because there is a political act of unification by the dominative power holder and encourage unification.[4] In this regulation, the state has the power to regulate agrarian resources, besides that the state also has the power to cancel and take land rights by providing compensation. Soekarno, did not have time to implement this law for a long time, due to a change in national leadership.[5]

During the Soeharto era, the concept of the state controlling land changed to make it appear as if the state were the "owner" of lands that had no evidence, or were referred to as free state land. So that the land is used for development purposes. The people have no choice to reject the authorities' desire to take land for the public interest because it is done by means of violence and by deploying military and police forces. The land acquisition process at this time resulted in low compensation values, there was no fair and transparent agreement process between the community and the government and there was no community participation in the land acquisition stages.

From the New Order era to the present, there are several regulations related to land acquisition:

1. Law Number 20 of 1961 concerning Revocation of Rights to Land and Objects on it;
2. Government Regulation Number 39 of 1973, Presidential Instruction No. 9 of 1973 concerning Procedures for Determining Compensation by the High Court in Relation to the Revocation of Land Rights and Objects on it;
3. Regulation of the Minister of Home Affairs No. 15 of 1975 concerning Provisions Concerning Land Acquisition Procedures;

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[2] Sudrajat Masyrullahushomad. (2019). Penerapan Agrarische Wet (Undang-Undang Agraia) 1870 : Periode Awal. *Historia: Jurnal Program Studi Pendidikan Sejarah*, 7.(2)159–74.

[3] *Ibid.*

[4] Dirkareshza, R., Ibrahim, A. L., & Ardianto, A. (2021). Antinomi Regulations on the Recognition and Enforcement of Ulayat Right from Indigenous Peoples. *International Journal of Social Science And Human Research*, 4, 596-602.

[5] *Ibid.*

4. Presidential Decree Number 55 of 1993 concerning Land Acquisition for Implementation of Development for Public Interests;
5. Presidential Regulation no. 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Interests;
6. Presidential Regulation Number 65 of 2006 Amendment to Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Interests;
7. Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest.

The existing regulation related to land acquisition is Law no. 5 of 1960 concerning Basic Agrarian Regulations, Law no. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, and Law no. 11 of 2020 concerning Job Creation (UU Ciptaker). These three laws complement each other as well as overlap.

In the consideration of the Land Acquisition Law, it is clearly stated that the implementation of development is in the context of creating a just, prosperous and prosperous society and therefore land is needed for such development.[6] The juridical basis in the preamble states that laws and regulations in the field of land acquisition for development for the public interest cannot yet guarantee the acquisition of land for the implementation of development.[7] In reality, the law on land acquisition has not been properly implemented. The last case is the construction of the Bener Reservoir in Purworejo, Central Java. In the construction of this dam there were 2 activities carried out: the construction of the reservoir or the dam itself.

The second was the mining of andesite rock for the construction of the reservoir which is located in Wadas Village, Purworejo. Laws on land acquisition, which should serve as guidance for land acquisition organizers, are often ignored. There were several procedural violations that were committed in the construction of the reservoir such as the absence of an Environmental Impact Analysis (Amdal), the absence of public consultations, and the neglect of spatial plans. The process of land acquisition should observe/adjust to the spatial plan, which is exactly the opposite where the spatial plan is adjusted to the land acquisition process.

In the Land Acquisition Law, land allotment for development in the public interest does not include mining as a part of development in the public interest. Article 10 of the Land Procurement Law states that land for public interest is used for the development of: a. national defense and security; b. public roads, toll roads, tunnels, railway lines, train stations, and train

[6] Dasar menimbang UU No.2 Tahun 2012 tentang Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum huruf a. menyatakan bahwa dalam rangka mewujudkan masyarakat yang adil, makmur, dan sejahtera berdasarkan Pancasila dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pemerintah perlu melaksanakan pembangunan; b. bahwa untuk menjamin terselenggaranya pembangunan untuk kepentingan umum, diperlukan tanah yang pengadaannya dilaksanakan dengan mengedepankan prinsip kemanusiaan, demokratis, dan adil;

[7] Konsideran menimbang huruf c UU No. 2 Tahun 2012.

operating facilities; c. reservoirs, dams, weirs, irrigation, drinking water channels, water drainage and sanitation, and other irrigation structures; d. seaports, airports and terminals; e. oil, gas and geothermal infrastructure; f. power generation, transmission, substation, network and distribution; g. Government telecommunication and informatics network; h. waste disposal and processing sites; i. government/regional government hospitals; j. public safety facilities; k. Government/Regional Government public cemetery; l. social facilities, public facilities, and public green open spaces; m. nature reserve and cultural reserve; n. Government/Regional Government/village offices; o. structuring of urban slum settlements and/or land consolidation, as well as housing for low-income people with rental status; p.s. Government/Regional Government education or school infrastructure; q. government/regional government sports infrastructure; and r. public market and public parking lot.

This designation was later expanded in the Ciptaker Law, then included several things: s. Oil and Gas Upstream and Downstream Industrial Estates initiated and/or controlled by the Central Government, Regional Government, State Owned Enterprises, or Regional Owned Enterprises; t. Special Economic Zones initiated and/or controlled by the Central Government, Regional Government, State Owned Enterprises, or Regional Owned Enterprises; u. Industrial estates initiated and/or controlled by the Central Governments, State Owned Enterprises, or Regional Owned Enterprises; Tourism area initiated and/or controlled by Central Government, Regional Government, State-Owned Enterprises, or Regional-Owned Enterprises; Food Security areas initiated and/or controlled by the Central Governments, State Owned Enterprises, or Regional Owned Enterprises; and technology development areas initiated and/or controlled by the Central Government, Regional Governments, State Owned Enterprises, or Regional Owned Enterprises.

The process of procuring andesite stones is also suspected of violating procedures and even intimidating the public. The mining license (IUP) owned by Balai Besar is also not in accordance with the designation. Where IUP should only be given to individuals, legal entities and or business entities. If the private sector is then appointed to undertake mining for the procurement of andesite rocks, it should be the private party that proposes and holds an IUP. And the land acquisition process should not use a compensation scheme, but an ordinary buying and selling process. In the public service law, the formulation of this new management concept is then normed by involving corporations and other legal entities in an effort to provide public services and is bound in quality by providing service standards, service information, information systems, facilities and infrastructure, service costs/tariffs, complaint management, and performance appraisal.[8]

[8] Dirkareshza, R., Ardiantor, A., & Pradana, R. (2021). Penafsiran Hukum (Legal Interpretations) Terhadap Undang-Undang Nomor 25 Tahun 2009 Tentang Pelayanan

This paper wants to look at the legal politics of the regulation of the Land Acquisition Law and then interpret whether the law is in line with the legal objectives. Legal Politics does not only talk about the direction of legal policy, but also investigates what changes must be made to the law that is currently in force so that it conforms to social reality. According to Sayuti, legal politics adheres to the principle of a double movement, that is, apart from being a framework for formulating legal policies by authorized state institutions, it is also used to criticize legal products that have been promulgated based on the legal policy.[9]

2. Method

The research method in this paper is normative juridical law research, in which law is conceptualized as a rule or norm which is a standard of human behavior that is considered appropriate.[10] The research was carried out by examining library materials, therefore the data used was secondary data. Where the materials obtained are statutory regulations (primary legal materials), namely the Constitution of the Republic of Indonesia, Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, Law no. 11 of 2020 concerning job creation, Law No. 12 of 2011 concerning the Formation of Legislation. Other materials are books, journals (secondary material) related to land acquisition, development and other legal books. After the material is collected, data checking, classification, systematic recording, and finally analysis are carried out. The analysis uses a descriptive-qualitative technique, namely presenting data and information and then analyzing it using several conclusions.[11] According to Bogdan and Tailor, qualitative analysis is a method of data analysis by describing data through word forms and used to interpret and interpret spoken or written data from certain people and observed behavior.[12]

3. Results & Analysis

Before entering into the interpretation of the Land Acquisition Law as the main discussion of this paper, it is better to see the Academic Paper (NA) of the Land Acquisition Draft Law for Development when the Land Acquisition Law was still in the drafting stage. Academic Paper according to Law No. 12 of 2011 is a text of the results of research or legal studies and other research

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Publik Demi Masyarakat Yang Sejahtera, Adil, dan Makmur (Walfare State)(Standpoint Usul Perubahan Terhadap UU Pelayanan Publik). *Reformasi Hukum*, *25*(2), 127-146.

[9] Sayuti. (2013). Arah Kebijakan Pembentukan Hukum Kedepan (Pendekatan Teori Hukum Pembangunan, Teori Hukum Progresif, Dan Teori Hukum Integratif). *Arrisalah*. 13(2), 1–22.

[10] Amirudin & H. Zainal Asikin. (2006). *Pengantar Metode Penelitian Hukum*. Jakarta: PT Raja Grafindo Persada. 118.

[11] http://etheses.uin-malang.ac.id/1398/7/08210045_Bab_3.pdf. Hal 84. Retrived November 9 2022 , 14.21 WIB.

[12] Lexi J. Moleong. (1991). *Metodologi Penelitian Kualitatif*. Bandung: Rosyda Karya. 4.

results on a particular problem that can be accounted for scientifically regarding the regulation of the problem in a Draft Law.[13] At least academic papers will examine what problems are being faced, why is a Draft Law (RUU) needed in solving the problem, which means involving the state in solving the problem, what is the philosophical, sociological, juridical basis for the formation of the bill and finally what are the goals to be realized, the scope of regulation, scope, and direction of regulation of the law that will be formed?[14]

According to R. Rambi, NA's position is important in the process of formulating regulations because it is a reference in planning for the formation of regulations.[15] Rambi further said that NA is a legal research document which is in the planning stage. This opinion is correct, but when a bill has become a law, NA becomes a historical document that shows how the thoughts of legislators struggle in formulating a norm in statutory regulations. Which will describe the meaning (interpretation) of a certain norm which used to be a conclusion or formulation of various kinds of debates. From NA it will also show legal politics and research material that will assist in interpreting the norms contained in the Land Acquisition Law.

In the NA Land Acquisition Bill in Chapter 2 it is stated that there are several obstacles that underlie the formation of this Law, namely: Amount of Compensation Value, Community Reluctance, Obstacles due to Law, Effectiveness of Custody of Compensation Money in Court, Land Administration, Land Freezing Administratively and Price Appraisal Institutions Land.

Amount of Compensation Value. The problem that always arises with regard to compensation is the difference in perceptions of residents and committee regarding the value of compensation. Because of this, it is necessary to stipulate provisions regarding procedures for calculating compensation. This provision should be disseminated not only to the committee but also to residents so that transparency is obtained about the value of the compensation given. NJOP which is a tax value or administrative value is not sufficient to be the basis for calculating compensation in land acquisition for development. For this reason, it is necessary to change the basic mechanism for calculating the amount of compensation.

Community Reluctance. Society's rejection departs from psycho-social studies and studies, that humans basically have a psychological attitude to refuse to lose something (loss aversion). With this innate naturalistic attitude, landowners are more easily provoked and become sensitive to development, apathetic about the role of the state. Cases of provocation were expressed in many forms of refusal, this was found in several cases by mobilizing residents

[13]Pasal 1 angka 11 Undang-Undang No. 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan.

[14] Lampiran I Undang-Undang No. 12 Tahun 2011

[15]Raegen Mic Arthur Rambi. (2016). Kedudukan Dan Fungsi Naskah Akademik Dalam Pembentukan Peraturan Daerah Kabupaten/Kota Menurut UU No. 12 Tahun 2011. *Https://Medium.Com/*, V.4, 22–30 <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

to object to the land acquisition process. Both when in the implementation of deliberations, or in the implementation of socialization takes place.

Barriers due to Law. This problem occurs when in the land acquisition process, the construction site intersects with forests and state or regional property assets which are regulated by other laws and regulations, which is difficult to do. In principle, the use of forest areas must be in accordance with their function and designation. However, this does not rule out the possibility of using forest areas that deviate from their function and designation, provided that there is approval or permission from the Minister of Forestry. In Article 38 paragraph (1) of Law Number 19 of 2004 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2004 concerning Amendments to Law Number 41 of 1999 concerning forestry to become a law in accordance with Law Number 41 of 1999 concerning Forestry which states that: "the use of forest areas for development purposes other than forestry activities can only be carried out in production forest areas and protected forest areas". So that the use of conservation forest areas is absolutely impossible, unless there is a policy from the Minister of Forestry that issues permits for the use of conservation forest areas.

The Effectiveness of Custody of Compensation Money in Court. Provisions for depositing compensation money with the local court are intended so that development projects can continue, without being constrained by disagreements over compensation for landowners. The problem lies not only with the provisions on depositing compensation for damages to the court, but the Perpres does not properly regulate provisions for safekeeping compensation for land acquisitions whose substance is close to human rights. In practice, the implementation of the provisions for depositing compensation, there are courts that accept safekeeping compensation, but there are also many courts that do not accept safekeeping compensation. Another problem with . consignment, namely the existence of doubts by the committee in determining the amount of compensation to be deposited. Is it the NJOP price or independent appraisal price? Then, who is most entitled to make a deposit, from the land acquisition committee or the agency that requires land? There is uncertainty about carrying out the deposit on the part of the executor. Furthermore, regarding the cost of safekeeping, there are no provisions or Standard General Fees (SBU) regarding the amount of safekeeping fees for compensation, both in the internal courts and in the government. Then, how much is allocated for the cost of safekeeping compensation, how do you calculate the amount, then can expenses be accounted for for the cost of securing compensation to the court, this is also a serious issue apart from the matter of compensation. There are things that can open up opportunities for accusations of harming state finances.

Land Administration. Of the several cases studied, one form of land administration obstacle: when the making of a land inventory map by the authorized agency could not be carried out smoothly because the land owner refused entry. Likewise, the land agency cannot help carry out a land inventory if the land owner refuses. One of the things that can be done is to

map the administration of land with the existing administration database at the local Land Office and the village/kelurahan office.

Administrative Land Freezing. The fact that land acquisition did not go smoothly, which was caused by speculators, resulted in land freezing provisions (status quo enforcement) for land to be acquired for development. Conceptually normatively, the land freezing policy can prevent the potential and space for land speculators to move, but in practice it turns out not as expected. With land freezing, all land transactions, both certified and non-certified, will be terminated.

Land Price Appraisal Agency. The Land Price Appraisal Agency is an independent appraisal institution whose role is urgently needed in accelerating the land acquisition process. However, the current number is still limited. This is because the license is given to certain provinces. This has resulted in several provinces having only 1 (one) appraisal agency, thus complicating the tender process, this has made the implementers of the appraisal service procure uneasy.

Of the seven problems mentioned above, when viewed from a quantity perspective, the discussion regarding affected communities or what is referred to by the law as entitled parties is only 2 issues, namely: compensation and community rejection. According to the author, this correlates with the regulation of community issues or parties who are entitled to become very minimal and is not a major issue to be resolved comprehensively together with other land acquisition issues. Like many formulations in other laws, society and its role in a development process are only a complementary part of the sufferer. Necessary but not cared for.

The Law on Land Acquisition for Development in the Public Interest consists of 8 Chapters and 61 Articles. CHAPTER I GENERAL PROVISIONS, which contains Article 1 regarding GENERAL PROVISIONS which contains definitions of: Agencies, Land Acquisition, Entitled Parties, Land Acquisition Objects, Land Rights, Public Interest, Management Rights, Public Consultation, Release of Rights, Compensation, Land Appraiser , Central Government, Regional Government, and Land Institutions. CHAPTER II PRINCIPLES AND OBJECTIVES. This chapter contains Articles 2 and 3 which state the Principle of Land Acquisition for Public Interest and the purpose of this Law is to provide land for the implementation of development in order to improve the welfare and prosperity of the nation, state and society while still guaranteeing the legal interests of the Entitled Parties.

CHAPTER III PRINCIPLES OF LAND PROCUREMENT contains Articles 4 to 9. CHAPTER IV IMPLEMENTATION OF LAND PROCUREMENT contains Articles 10 to 51 and is divided into 6 Parts: First Part General; Part Two Land Procurement Planning; Part Three Land Procurement Preparation; Part Four Implementation of Land Procurement consisting of: Paragraph 1 General; Paragraph 2 Inventory and Identification of Control, Ownership, Use and Utilization of Land; Paragraph 3 Assessment of Compensation; Paragraph 4 Deliberation on the Determination of Compensation; Paragraph 5 Provision of

Compensation; Paragraph 6 Agency Land Release; Part Five Submission of Land Procurement Results; Part Six Monitoring and Evaluation. CHAPTER V SOURCE OF LAND PROCUREMENT FUNDS consists of Articles 52 to 54. CHAPTER VI RIGHTS, OBLIGATIONS AND COMMUNITY PARTICIPATION, which consists of Articles 55 to 57. CHAPTER VII TRANSITIONAL PROVISIONS which contains Article 58. CHAPTER VIII CONCLUDING PROVISIONS contains Articles 59 to 61. If you look at the construction and interpretation of this Land Acquisition Law, several norms that will become a source of debate include the following:

First, the definition of the public interest as mentioned in Article 1, which states that the public interest is the interests of the nation, state and society which must be realized by the government and used as much as possible for the prosperity of the people. Regulations regarding development activities that fall within the scope of public interest have basically been alluded to in Article 18, Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).[16] The non-definitive definition of public interest in its application will have a negative impact on violations of community land rights, especially those affected by development activities for the public interest. This can be seen from the many objections made by the community in connection with land acquisition activities for the public interest.[17] It becomes a problem regarding the meaning of public interest, if an activity has been realized and it turns out that its benefits cannot be felt by the community. For example, with regard to toll roads that are in the public interest as referred to in Article 10, the construction of toll roads that charge fees for toll road users must be a business that can be said to have a commercial element. So that it should be reconsidered to include it in the category of public interest.[18]

Still in Article 1 regarding general provisions, is related to the definition of deliberation. From the NA of the Land Acquisition Bill, especially Chapter V, we get information that deliberations are no longer understood as a means of brainstorming, exchanging ideas in order to resolve a problem. Deliberation in the perspective of land acquisition is a mechanism for finding agreement in determining the form and amount of compensation. And in conclusion, deliberation is not a solution but instead becomes a problem in itself. The real problem is the value of compensation which is not based on justice for the land owners. If legislators really formulate it this way, then our society will be judged from one side only: the economy. Looking at the problem from an economic perspective, it is characteristic of humans to think that everything can be solved with capital and capital (capitalist).

In a country that considers deliberation to be part of the noble constitutional practice as often preached by politicians, the Land Acquisition Law does not

[16]Muhammad Fatkhul Arif. (2016). Makna Kepentingan Umum Dalam Pengadaan Tanah Untuk Jalan Tol Dalam Perspektif Undang-Undang Nomor 2 Tahun 2012 Tentang Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum. *Экономика Региона*, *Kolisch.* 49–56.

[17] *Ibid.*

[18] *Ibid.*

seem to seriously think about the community. Communities are not given the choice to agree or not to a construction site. Residents are only told to choose whether to take compensation or not.[19] In this law, it can be seen that the legislators were confused about the meaning of deliberation. In Article 1 number 8 the word deliberation is equated with public consultation between interested parties in order to reach an understanding and agreement in land acquisition planning for development in the public interest. In this definition, deliberations and the community are placed in an honorable position in determining planning. However, if we look at the provisions of the article, deliberations are placed first in the process of implementing land acquisition, which is regulated in Article 27. Article 27 is the fourth part of the six chapters of the Chapter on Organizing Land Acquisition. This means that deliberations are not carried out in the process of planning and preparation.

Second, Article 5 which states that the Entitled Party is obliged to relinquish its land during the implementation of Land Procurement for Public Interest after the provision of Compensation or based on a court decision that has permanent legal force. Article 5 is located in CHAPTER III which regulates the PRINCIPLES OF LAND PROCUREMENT, where the legal subjects that are regulated are the Government and entitled Parties. However, the design looks very different between the two. In article 9 it can also be seen that the Implementation of Land Procurement for Public Interest takes into account the balance between the interests of development and the interests of the community. If the government is regulated by the words guarantee and pay attention, while those who are entitled to use the word obligatory. In the technique of forming regulations, the implication of the word mandatory is the existence of punishment or criminal sanctions. Apart from that, if you look at the basic sociological basis, consider letter b, and Article 2 concerning the Principles of Humanity; justice; expediency; then there are norms that are empty or not regulated related to the government's obligation to advocate for the impacts arising from the land acquisition process to the rightful parties. For example, "The government or organizers are required to provide moral and material compensation to the rightful party in anticipating the impact of land acquisition for public purposes". Or "Land procurement must follow the procedures regulated in this law". So that the government as the organizer of land acquisition cannot avoid the obligation to fulfill the procedures and stages that have been regulated. For example the stages set out in Articles 16 and 17 which require Notification of development plans. Because of this, the public often complains about the massive lack of notifications related to planning.

Third, Article 12 which states that Development for the Public Interest must be carried out by the Government and can cooperate with State-Owned Enterprises, Regional-Owned Enterprises, or Private Enterprises. This article seems odd because it appears in the land acquisition law. The involvement of the private sector is understandable given the limitations of the government

[19] Pasal 37 Undang-Undang Pengadaan Tanah

in providing development resources. However, land acquisition by the government and the private sector must be distinguished. Land acquisition by the government is carried out by way of compensation, while land acquisition by the private sector is carried out by buying and selling. A distinction should also be made between land acquisition for the public interest and land acquisition for non-public interests. But in this Law as stated in Article 6 it is ensured that Land Procurement for Public Interests is carried out by the Government. Private involvement in land acquisition is mentioned in Law no. 11 of 2020 concerning Job Creation which is mentioned in Article 8 Paragraph (4) letter b which states the release of forest areas or borrow-to-use forest areas in the case of Land Procurement carried out by the private sector. Between Law 2 of 2012 and the Ciptaker Law there are asynchronous and even contradictory.

Fourth, Article 23 which states that in the event that after the determination of the construction site there are still objections, the Entitled Party to the location determination can file a lawsuit with the local State Administrative Court no later than 30 (thirty) working days after the issuance of the location determination. This is also related to Article 38 which stipulates that in the event that there is no agreement regarding the form and/or amount of Compensation, the Entitled Party may submit an objection to the local district court no later than 14 (fourteen) working days after deliberations on the determination of Compensation . Accelerating and limiting the day for filing lawsuits often makes it difficult for people who wish to object to the Governor's determination of location determination. Communities will find it difficult to meet this deadline due to limited resources and logistics. For matters that have the potential to violate human rights, the deadline for filing a lawsuit should be extended to fulfill the people's sense of justice. According to the chairman of the National Commission on Human Rights (Komnas HAM) Abdul Hakim Garuda Nusantara, an important essence in the process of revoking land rights for the implementation of development in the public interest is the presence of community participation and the existence of rights for anyone to use the court route, hence the President's decision to revoke rights the land can be sued in court.

Fifth, Article 31 which states that the Land Agency determines an Appraiser in accordance with the provisions of laws and regulations. The existence of land appraisers for land rights holders whose land will be used as a development project for the public interest is very important because under certain conditions the holders of land rights must surrender their land to the Government. The existence of a Land Appraisal Agency as a party tasked with evaluating land to be used for the public interest will determine the amount of compensation that will be received by the holder of land rights. Moreover, the assessment will be used as a basis for deliberations to determine the value of compensation. Therefore, a professional and credible appraiser is absolutely necessary if the implementation of land acquisition truly prioritizes the principles of humanity, democracy and justice which reflect the balance of rights between holders of land rights and agencies requiring land. Appraisers involving elements of the community will be more accepted by the community

and also the assessment is carried out taking into account material and immaterial losses as also stipulated in Article 33.

Sixth, Article 36 which states that Compensation can be given in the form of: a. Money; b. replacement land; c. resettlement; d. shareholding; or e. other forms agreed by both parties. The problem related to this norm is a matter of its implementation, because compensation in the form of money is the only option in the land acquisition process. Compensation is the most important element in the liberation of land rights, because compensation is the absolute right of the holders of land rights to be released or surrendered, thus there is no authority for anyone, including the Government (State) to take people's land without being given compensation. . The problem faced by the community is the problem after the payment of compensation. After receiving compensation, sometimes consumerism emerges from society in using money by forgetting about the future. If the conditions allow it, that's fine, for example, the person concerned still owns a lot of land. But there is also the possibility of capitalizing compensation, which is then deducted by the PPH tax so that the amount is reduced and other expenses. Thus, the provision of this compensation must really be able to anticipate the emergence of poverty in society, not the cause of new poverty.

Seventh, Article 43 which states that at the time the implementation of the granting of Compensation and Release of Rights has been carried out or the granting of Compensation has been deposited in the district court, the ownership or Land Rights of the Entitled Party are nullified and the evidence of their rights is declared null and void and the land becomes land. directly controlled by the state. The norms in this article become the erasing article for the various steps that have been mentioned. There is no longer an alternative for the community to obtain their rights properly, and to give authority to land acquisition administrators to act arbitrarily.

Eighth, Article 51 related to Monitoring and evaluation of the implementation of Land Procurement for Public Interest is carried out by the Government. This law gives authority to the government to organize land acquisition for public purposes. And when the process is complete, it also gives the government authority to evaluate the process. This article further strengthens the Government to become a closed organization that does not intend to involve many parties in the development process which is said to be in the public interest.

Ninth, it feels necessary to include an explanatory part of this law in an effort to make the organizers of this law aware. That the national land law recognizes and respects the community's rights to land and objects related to land, and gives public authority to the state in the form of authority to make arrangements, make policies, carry out management, as well as organize and carry out supervision as stipulated in the principles of Procurement Land as follows:

1. The Government and Regional Government guarantee the availability of land for public interest and its funding.

2. Land Procurement for Public Interest is carried out in accordance with:
    a. Spatial plans;
    b. National/Regional Development Plans;
    c. The strategic plan; And
    d. Work Plan of each Agency that requires land.
3. Land Acquisition is carried out through planning involving all stakeholders and stakeholders.
4. Implementation of Land Procurement takes into account the balance between the interests of development and the interests of the community.
5. Land Procurement for Public Interest is carried out by providing proper and fair Compensation.

4. Conclusion

From this brief research, several things that can be concluded are that if you look at legal politics, Law no. 2 of 2012 concerning Land Acquisition for Development To ensure the availability of land for public interest by taking into account the balance between the interests of development and the interests of the community. However, in several articles and their construction, it can be seen that the interests of the community are ignored and are only used as objects of development. Apart from being inconsistent with the legal politics of making the law itself, this is also contrary to development theory which places society as the subject and actor of development.

Several provisions in this law indicate that this law gives authority to the government to carry out land acquisition in ways that are not transparent and tend to have the potential to violate human rights. Where the community is not given space in the implementation of appropriate, creative and participatory land acquisition. If you look at the theory of legal objectives, then this law only fulfills the objective of legal certainty for land acquisition organizers. While the goals of expediency and justice have not been optimally formulated.

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