

Improvement Of Conflict Of Agrarian Period Pandemic Covid-19 Due To Government Policy On Land Acquisition For Infrastructure Development

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Abstract: The Covid-19 Pandemic period did not hinder the implementation of land acquisition for infrastructure development to realize the Vision of Advanced Indonesia 2045 as the top 5 world economic powers. Land acquisition often does not benefit the affected people, causing conflict. The purpose of the study is to understand the legal aspects of land acquisition for infrastructure development, the factors causing the increase in agrarian conflicts in the infrastructure sector during the COVID-19 pandemic, and the legal protection of the community for land acquisition for infrastructure development. The approach method is normative juridical, descriptive analysis research specifications, types and sources of data based on secondary data, and qualitative data analysis. The results of the study, First, the government's policy to ratify the Job Creation Law in providing convenience for corporations to carry out land acquisition has ignored Article 33 paragraph (3) of the 1945 Constitution. Second, infrastructure development contributes to increasing agrarian conflicts due to closed, intimidating, manipulative processes, to use of violence against affected communities. Third. The Law on Land Funding for Development in the Public Interest has not been able to provide legal protection for the rights of the people whose land is used as the object of infrastructure development.

Keywords: Infrastructure; Land Acquisition; Conflict; Covid-19.

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Introduction

Throughout 2020, the world, including Indonesia, experienced a multidimensional crisis not only in the health sector, but also in all lines of life such as the social, cultural, and economic fields as a result of the outbreak of a new pneumonia that started in Wuhan, Hubei Province, which then spread rapidly to other parts of the world. more than 190 countries and territories, and caused the death of 16.8 million people, which

was later named *coronavirus disease 2019 (COVID-19)* caused by *Severe Acute Respiratory Syndrome Coronavirus-2 (SARS-CoV-2)*.¹

The magnitude of the impact caused by Covid-19 became a consideration *WHO* to declare Covid-19 a *global pandemic*, which was followed up by the Government of Indonesia by issuing Presidential Decree Number 12 of 2020 concerning Determination of Non-natural Disasters for the Spread of Coronavirus Disease 2019 (Covid-19).) As a National Disaster, and followed by several other policies including implementing Large-Scale Social Restrictions (PSBB) as regulated in Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019, which has been implemented in several regions, by closing all activities ranging from companies, offices, schools, to micro, small and medium enterprises (MSMEs). The implementation of social restriction policies or restrictions on human mobility and activities in the long term has paralyzed economic centers. Many factories, industrial estates, markets and business centers stopped their operations which resulted in an increase in layoffs (PHK).²

However, based on the records of the Agrarian Reform Consortium, the economic crisis situation and the PSBB did not paralyze and stop corporations that have a strong bargaining position from carrying out repressive land grabbing and land acquisition practices with the support of the government through various policies to provide ease of doing business and investing in Indonesia.³

Based on monitoring carried out by the Agrarian Distribution Consortium (KPA), until the end of 2020 there had been 241 eruptions of agrarian conflicts, on 624,273 hectares of land spread over 359 villages or cities and 30 provinces, thus having a detrimental impact on 135,332 families. Conflicts in the plantation sector were 122 conflict eruptions, the forestry sector (41), infrastructure development (30), property (20), mining (12), military facilities (11), coastal and small islands (3) and agribusiness (2), as can be illustrated in the following chart:

¹ Susilo, Adityo. (2020). "Coronavirus Disease 2019: Tinjauan Literatur Terkini. *Jurnal Penyakit Dalam Indonesia*". 7(1): 45.

² Fauzi, Ahmad. (2020). "Implementasi Pembatasan Sosial Berskala Besar, Sebuah Kebijakan Publik Dalam Penanganan Pandemi Covid-19, *Jurnal Ilmu Administrasi Negara*, 16(1): 176, dan Tanaya, Velliana. Jessica Angeline Zai. (2021). "Penerapan Pembatasan Sosial Berskala Besar (PSBB) Akibat Pandemi Coronavirus Disease 2019 (Covid-19) Sebagai Force Majeure Dalam Kontrak". *Law Review*, XXI(1): 98.

³ Kartika, Dewi. (2020). *Pandemi Covid-19 dan Perampasan Tanah Berskala Besar, Catatan Akhir Tahun 2020 Konsorsium Pembaruan Agraria Edisi Peluncuran I: Laporan Konflik Agraria di Masa Pandemi Krisis Ekonomi*. Jakarta, p. 3.

Figure: Agrarian Conflicts in 2020 in Various Sectors



Source: Consortium for Agrarian Reform The

Conflict has an impact on the worsening of the lives of farmers, farm workers, fishermen, indigenous peoples, women and children in poor communities in Indonesia. villages and cities. Communities who are victims of agrarian conflicts and violence are not only threatened with health, economic and food crises due to the Covid-19 pandemic, but must risk their lives to be able to defend their land rights which are their source of life and livelihood. ⁴

One of these agrarian conflicts is inseparable from the national strategic infrastructure development acceleration program carried out by the Indonesian government to catch up in the infrastructure sector, where Indonesia's position at the Southeast Asia (ASEAN) level is still at level three below Singapore and Malaysia which ranks first. and second. Indonesia's infrastructure development facilitates investors to enter Indonesia to invest their funds, so that in 2025, which is 100 years of Indonesia's independence, it will support Indonesia to become a country that comes out of the "middle income

⁴ Kartika, Dewi. (2020). *Pandemi Covid-19 dan PerampasanTanah Berskala Besar, Catatan Akhir Tahun 2020 Konsorsium Pembaruan Agraria Edisi Peluncuran I: Laporan Konflik Agraria di Masa Pandemi Krisis Ekonomi*". Jakarta, p. 9

trap" condition, and is counted as a country that is included in the ranks of the five largest economies in the world.⁵

Producing infrastructure Strategic Project National (PSN) as many as 223 projects and 3 program with an investment value of Rp 4.180 trillion, and 37 priority projects with a total investment value of more than Rp 2,500 trillion, in addition to requiring financial support is very big too requires a guarantee of land availability, which in fact empirically available land is very limited while the need for land to support the implementation of national development is very large.

Responding to this problem in an effort to create an investment climate for investors, the government passed Law Number 11 of 2020 concerning Job Creation (UUCK), which regulates land related in an effort to provide convenience to the need for land acquisition for the development of public interests in the infrastructure sector.

The government's policy to ratify the Job Creation Law is seen as a form of ignoring the provisions of Article 33 paragraph (3) of the 1945 Constitution which has mandated the state to exercise control over land and use it for the greatest prosperity of the people.⁶ In addition, violating the fundamental principles of Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA 1960) as has been further elaborated in Law no. 2 of 2012 concerning Land Procurement for Development of Public Interest.

Given the breadth of problems identified in land acquisition for the development of public interests, the problems of land acquisition for infrastructure projects during the COVID-19 pandemic are focused on: First, legal aspects of land acquisition for infrastructure development, Second, the factors causing the increase in agrarian conflicts in the field of infrastructure during the covid-19 pandemic, and Third, legal protection of the community for land acquisition for infrastructure development.

Literature review and development of hypotheses

Infrastructure is a public facility provided by the government in both physical and service forms to support the functioning of the social system and the economic system in facilitating people's lives.

⁵ Wirabrata, T. Achmad. Ade Surya. (2021). *Implikasi Putusan Mahkamah Konstitusi atas Uji Formal Undang Undang Cipta Kerja*. Yogyakarta:Dept. Hukum Tata Negara, FH UGM, p. 2.

⁶ Mulyadi, Mohammad. (2017). "Implementasi Kebijakan Pengadaan Tanah Untuk Kepentingan Umum Di Jakarta Utara". *Aspirasi*, 8(2):149.

There are 3 divisions of infrastructure according to The World Bank (1994). Economic infrastructure, which is needed to support community activities in the form of physical infrastructure including *public utilities* (power, telecommunications, water, sanitation, gas), roads, dams, canals, irrigation and drainage (*public work*) and roads, rails, ports, airports and so on known as (transportation sector); Social infrastructure, including housing, health, education, and recreation; Administrative infrastructure, including law enforcement for the enforcement and functioning of legal norms as behavioral guidelines in traffic or legal relations in social and state life, administrative control and coordination.⁷

In order to support infrastructure development as part of national development, Indonesia's national constitution provides a guarantee to the state against the control of the earth, water and the wealth contained therein for the maximum benefit of the people's prosperity, as regulated in Article 33 paragraph (3) of the 1945 Constitution, which is further elaborated with the ratification of the Basic Regulations on Agrarian Principles through Law no. 5 of 1960, on September 24, 1960.⁸

Referring to one of the principles of the LoGA, namely the principle of social function as regulated in Article 6 of the LoGA, it is the obligation of the owner of land rights where ownership of the rights does not only pay attention to the private interests of the owner of the rights, but also pays attention to the public interest, so that the provisions of the UUPA become the fundamental basis for the realization of land that is beneficial for the greatest prosperity and welfare of the community.⁹

In order to meet the need for land for the implementation of national development, the government further ratified Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest as a justification for the government to obtain land both from individuals and legal entities, by providing a counter achievement in the form of compensation to parties who have released or handed over land, buildings, plants and objects related to land in accordance with certain procedures and nominal amounts.¹⁰

⁷ Prasetyo, Adi, Yosep. (2013). *Hak Ekosob dan Kewajiban Negara*. Jakarta: Makalah Komisi Yudisial RI, p. 6.

⁸ Triningsih, Anna. dan Zaka Firma Aditya. (2019). "Pembaharuan Penguasaan Hak Atas Tanah Dalam Perspektif Konstitusi". *Jurnal RechtsVinding*, 8(3): 330.

⁹ Rejekiingsih, Triana. (2016). "Asas Fungsi Sosial Hak Atas Tanah Pada Negara Hukum (Suatu Tinjauan Dari Teori, Yuridis Dan Penerapannya Di Indonesia)". *Yustisia*, 5(2):299.

¹⁰ Fernando. (2020). "Perlindungan Hukum Dalam Pengadaan Tanah Guna Pembangunan Untuk Kepentingan Umum". *Jurnal Bina Adhyaksa*, 10(2): 5.

After going through various changes and shifts in provisions starting from Presidential Decree no. 55 of 1993 as replaced by Presidential Decree No. 36 of 2005, then amended again through Presidential Regulation no. 65 of 2006, a comprehensive understanding of the public interest is structured as the major interests of the community, which is not only limited to the interests of the government and local governments, but also accommodates private interests, which in turn the object of development is owned or will be owned by the government, in increasing prosperity and welfare people.¹¹

Massive land acquisition for infrastructure development in addition to providing benefits for the progress of the national economy, but in practice has implications for the emergence of conflicts caused by several factors. First, from the point of view of the owner of land rights, namely the low level of public understanding of the implementation of social functions on land, besides being triggered by manipulation factors related to land values, compensation recipients, and providing inappropriate compensation, so that it becomes a community reluctance to participate. in land acquisition. Second, from the government's point of view, the administration and land acquisition documents have not been orderly so that there is overlap between the land owner and the object of land acquisition, including not yet optimal and the balance of conflict resolution capacity compared to the speed of the conflict erupting.¹² Third, the involvement of security elements (police and military) is involved, through acts of intimidation against land owners.¹³

Discussion

Legal aspects that are related to land acquisition for infrastructure development

Infrastructure has an important role as a driving force for economic growth, improving the quality of life and human welfare, increasing consumption, labor productivity, access to employment, and increasing the prosperity of the people of a region or country. Empirically, the magnitude of the influence of infrastructure for improving the national economy has prompted the government to accelerate the implementation of national strategic project development. Various regulatory frameworks and ease of investment have been carried out by the government, to support infrastructure

¹¹ Djanggih, Hardianto, dan Salle. (2017). "Aspek Hukum Pengadaan Tanah bagi Pelaksanaan Pembangunan untuk Kepentingan Umum". *Pandecta*, 12(2): 170.

¹² Sibuea, Harris Y. P. (2019). "Aspek Hukum Pelaksanaan Pengadaan Tanah untuk Pembangunan pada Kawasan Ekonomi Khusus Pariwisata". *Negara Hukum*, 10(2): 194.

¹³ Suntoro, Agus. (2019). "Penilaian Ganti Kerugian Dalam Pengadaan Tanah Untuk Kepentingan Umum: Perspektif HAM". *Bhumi, Jurnal Agraria dan Pertanahan*, 5(1): 15.

improvement in the face of lagging infrastructure development in Indonesia, compared to infrastructure improvements in other countries.

This is caused by several factors, namely in addition to internal factors due to limited funds sourced from the APBN and APBD, it is also due to external factors where the biggest obstacle in meeting the land needs of 44% is the issue of land acquisition. This is in accordance with the view of the Ministry of Public and Public Housing of the Republic of Indonesia which estimates that the need for land acquisition for the purposes of infrastructure development from 2015-2019 will reach 133,657 ha, consisting of 21,172 ha for the road sector, 111,437 ha for the water resources sector, 592 ha for the copyright works and 456 ha for public housing.

Judging from its form, land acquisition is in addition to the public interest where the parties who need land are agencies, namely state institutions, ministries, non-ministerial government agencies, provincial governments, district/city governments, state-owned enterprises, also for the interests of private companies such as the interests of the Company Limited (PT).¹⁴

In order to guarantee legal certainty regarding land acquisition for the sake of infrastructure development in Indonesia, the government has ratified Law Number 20 of 1961 concerning Revocation of Land Rights and Objects on it, with various implementing regulations and finally Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest, including the ratification of Presidential Regulation no. 3 of 2016 *jo.* Presidential Regulation No. 58 of 2017 *jo.* Presidential Regulation No. 56 of 2018 concerning Acceleration of Implementation of National Strategic Projects.¹⁵

In addition, the government's seriousness in supporting the acceleration of infrastructure development as a National Strategic Program is carried out by including provisions on land acquisition in Chapter VIII Articles 122-123 of Law no. 11 of 2020 concerning Job Creation, with the aim of making the land acquisition process in the development of national strategic infrastructure easier so that it does not hinder investment and business activities, including avoiding conflicts with holders of land rights.

¹⁴ Santoso, Urip. (2016). "Penyelesaian Sengketa Dalam Pengadaan Tanah Untuk Kepentingan Umum". *PERSPEKTIF*, XXI(3): 188-189.

¹⁵ Surono, Agus. (2017). "Perlindungan Hak Korban Pengadaan Tanah Untuk Pembangunan Jalan Tol Di Kabupaten Kendal". *Jurnal Penelitian Hukum DE JURE*, 17(4): 395, 397, dan Fernando. (2020). "Perlindungan Hukum Dalam Pengadaan Tanah Guna Pembangunan Untuk Kepentingan Umum". *Jurnal Bina Adhyaksa*, 10(2): 9.

However, the Job Creation Act and several of its implementing regulations are indicated to violate the conception, principles, and principles of the UUPA because it has placed land as a commodity for capital owners, through various investment facilities and incentives that are so broad to economic actors who own capital, but exclude other legal aspects include ignoring the interests and aspirations of community groups so that it has the potential to increase conflict in society.¹⁶

Responding to the controversy over the enactment of Law Number 11 of 2020 concerning Job,Creationthrough Decision No. 91/PUU-XVIII/2020, the Constitutional Court (MK) granted a number of points in the *judicial review of the omnibus law* and stated The Job Creation Act is contrary to the 1945 Constitution and has no conditional binding legal force as long as it does not mean "no repairs have been made within 2 (two) years since the decision was pronounced".¹⁷

The factors causing the increase in agrarian conflicts in the infrastructure sector

During the Covid-19 pandemic The Covid-19 pandemic did not stop the rate of land grabbing and evictions of people, this was based on the results of monitoring and reporting of the Agrarian Reform Consortium (KPA), that from 2015 to 2020 accumulated a total of 2,288 structural agrarian conflict eruptions. Even 2020 is considered the year of large-scale land grabbing, which causes conflicts with various typologies accompanied by acts of violence that have made farmers, farm workers, fishermen, indigenous peoples, women, and children's funds in villages and cities live in increasingly worrying situations. This shows that in the midst of the COVID-19 pandemic and the community's economic downturn, business entities (private and state) have made crises and restrictions on people's movement through PSBB an opportunity to evict people from their land as a place for their survival.

In English there are terms *conflict* and *dispute*.¹⁸ Referring to the Regulation of the Head of BPN Number 3 of 2011 concerning Management of the Study and Handling of Land Cases, there are two terms related to land issues, firstly, land disputes involving individuals, legal entities, or institutions that socio-politically do not have a broad

¹⁶ Sukarman, Hendra. dan Wildan Sany Prasetya. (2021). "Degradasi Keadilan Agraria Dalam Omnibus-Law". *Jurnal Ilmiah Galuh Justiti*, 9(1): 31.

¹⁷ Wiratman. (2021). "*Implikasi Putusan Mahkamah Konstitusi atas Uji Formal Undang Undang Cipta Kerja*". Yogyakarta:Dept. Hukum Tata Negara, FH UGM, pp. 2.

¹⁸ Usman, Rachmadi. (2003). *Pilihan Penyelesaian Sengketa di Luar Pengadilan*. Bandung: Citra Aditya. p. 1.

impact. Second, land conflicts between individuals, groups, organizations, legal entities, or institutions that have a broad socio-political impact.

There are various typologies of land disputes/conflicts, namely: Horizontal disputes, namely: civil disputes in the land sector that occur between one legal subject and another legal subject in social life, for example, inheritance disputes, which are caused by differences in perception, values or opinions, interests regarding the status of control over land originating from inheritance. Vertical Dispute, is a dispute between the community and the government, which is caused by a decision by a public official that has the effect of centralizing the ownership, control, use, and utilization of land and natural resources on one party who has a connection with the government, while as a result of this decision, many people who have lost rights or access to land, natural resources, and living areas.¹⁹ Horizontal – Vertical Disputes, are disputes that occur between the community and entrepreneurs (investors). Corporations as the party that gets the main priority for implementing infrastructure development programs in national strategic programs with the support of repressive military forces carry out *land grabbing* accompanied by acts of violence and criminalization in the field. This condition causes resistance from people whose rights to life have been evicted, their ecology is damaged, and the destruction of the socio-cultural environment of the local community.²⁰

Referring to the several typologies of land cases/conflicts above, agrarian conflicts in the field of land acquisition for infrastructure development are included in structural vertical conflicts/disputes, which are caused by the following factors There is a mismatch between the compensation provided and the area of land used as the object of land acquisition. Based on reasons of public interest, the Government unilaterally through the land acquisition committee determines the amount of compensation and then entrusts it to the local district court through a consignment procedure.²¹ The existence of two interests that have contradictory differences. The government as a party that needs community land, through the implementation of various policies is given legal guarantees to carry out "taking rights on community land", in realizing infrastructure development. In contrast to the community, they try to defend their land rights, considering that most of their livelihoods rely on the land sector. As a

¹⁹ Ismail, Nurhasan. (2017). "Arah Politik Hukum Pertanahan Dan Perlindungan Kepemilikan Tanah Masyarakat". *Rechtsvinding Media Pembinaan Hukum Nasional*, 1(1): 47.

²⁰ Widiyanto. (2013). "Potret Konflik Agraria di Indonesia". *Bhumi, Jurnal Ilmiah Pertanahan PPPM – STPN*, 37(12): 23-34.

²¹ Wirabrata, T. Achmad. Ade Surya. (2011). "Masalah Kebijakan Dalam Pengadaan Tanah Untuk Pembangunan Infrastruktur". *Jurnal Ekonomi & Kebijakan Publik*, 2(2): 378, 745.

result, when these two interests cannot meet the same understanding and common ground, it has an impact on the emergence of conflict. Not taking sides with the state in protecting the rights of the people as mandated by the 1945 Constitution Article 28H paragraph (4) through arbitrary taking of community property.²²

Referring to the several typologies of land cases/conflicts above, agrarian conflicts in the field of land acquisition for infrastructure development are included in structural vertical conflicts/disputes. It is a reaction and manifestation of the practice of expropriation of land (*land Grabbing*) on public land by the government through strengthening law on land acquisition for public interest development.

Various government policies in the investment sector, which were then supported by the ease of acquiring land in order to encourage the improvement of the national economy, have placed corporations as a small group of people who have a strong bargaining position to gain the widest possible access to land. On the other hand, community groups that are larger in number but have a weak bargaining position are marginalized to maintain land rights to support their lives. This condition has led to continuous conflict in the midst of the COVID-19 pandemic.

Community legal protection for land acquisition for infrastructure development

The concept of legal protection is closely related to the concept of the Indonesian legal state which is based on (*rechtsstaat*), where every government action must be based on law, not a state based on mere power (*machtsstaat*). Therefore, according to Julius Stahl, it must have the following foundations: (1) protection of human rights (*grondrechten*); (2) there is a division of power (*scheiding van machten*); (3) government based on law (*wetmatigheid van bestuur*), and (4) the existence of a state (*administrative court administratieve rechtspraak*).²³

In line with Julius Stahl's view, Indonesia as a legal state has the obligation to provide protection for human rights as basic rights or citizenship inherent in individuals from birth which are given by nature by God Almighty which cannot be taken and their existence revoked, must be respected, upheld, and protected by the state, law, government and everyone for the sake of honor and protection of human dignity. Regarding human rights, there are three main obligations of the state in the agrarian

²² Husein, Yunus. (2019). *Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi*. Jakarta: Pusat Studi Hukum dan Kebijakan Indonesia (PSHK) dan Pusat Penelitian dan Pengembangan Hukum dan Peradilan (Puslitbangkumdil) Mahkamah Agung Republik Indonesia, p. 42.

²³ Hamzani, Achmad Irwan. (2014). "Menggagas Indonesia Sebagai Negara Hukum Yang Membahagiakan Rakyatnya". *Yustisia*. 90:137.

sector, especially with regard to land acquisition activities for development in the public interest, namely:²⁴

The obligation to respect. It is an attitude of the state not to intervene except in accordance with applicable law. Based on the obligation to respect, the state is obliged to respect the human rights to community land, so that the implementation of land acquisition for infrastructure purposes is carried out without ignoring the personal interests of the land owner as long as the person concerned can prove his ownership. Then, the implementation of land acquisition is carried out by authorized officials, is really intended for the public interest, as well as the provision of appropriate compensation as a respect for the release of community rights to land.

The obligation to protect (*the obligation to protect*). It is the state's obligation to take action both legislatively and administratively and practically in order to fulfill and guarantee the fulfillment and implementation of human rights.

Based on this, the state has the obligation to provide protection and guarantees of certainty to the human rights of its citizens, through efforts to prevent forced evictions of community land rights carried out both by the state itself and by the private sector. In addition, the state protects the interests of the owners of land rights to obtain benefits, either directly or indirectly, for the use of land whose rights have been relinquished.

The *obligation to fulfill*. It is the obligation of the state to take legislative, administrative, judicial measures, including practical steps in fields related to land, especially with regard to the implementation of land acquisition, starting from land acquisition planning, land acquisition preparation, land acquisition implementation, inventory and identification, control, ownership, use, and utilization of land, assessment of compensation, deliberation on compensation determination, provision of compensation, release of agency land, and submission of results of land acquisition.²⁵

In addition to the obligations as mentioned above, the State has obligations, namely *Obligation of conduct*. It is the obligation of the state to take certain steps in requiring access to community land, through land reform mechanisms, mechanisms for

²⁴ Merentek, S. Yanes. (2018). "Tanggung Jawab Negara Dalam Perlindungan Hak Asasi Manusia Menurut Hukum Internasional". *Lex Privatum*, VI(9): 182.

²⁵ Setiyani, Joko Setiyono. (2020). "Penerapan Prinsip Pertanggungjawaban Negara Terhadap Kasus Pelanggaran HAM Etnis Rohingya Di Myanmar". *Jurnal Pembangunan Hukum Indonesia*, 2(2): 266-267.

preventing and resolving land disputes and ensuring that vulnerable groups such as minority groups, indigenous peoples, and groups of women and the poor have access to land.

Obligation of result. The obligation that must be fulfilled by the state is to minimize the negative impacts that may arise from land acquisition activities for such development, and to make efforts to improve the standard of living of the people affected by development projects whose land rights have been released. The economic welfare of the community affected by the development project must be at least the same as before the land acquisition, if necessary there is an increase in the standard of living of the community for the better before the development project and after the development.

Legal protection is the provision of protection for human rights (HAM) and the community which is realized through guarantees of legal certainty for owners of land rights to enjoy their rights and prevent anyone from committing acts that violate the law, or violate the rights of others, including arbitrary actions carried out by the government. along with law enforcement officers in confiscation of land rights, in a certain way based on the applicable laws and regulations.²⁶

The implementation of the concept of state responsibility for the fulfillment, respect and protection of human rights related to the implementation of land acquisition for development for the public interest is manifested in the form of arrangements in the state constitution/state legal basis, namely the 1945 Constitution in particular Article 33 paragraph (3), Article 28 H paragraph (4), Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles, as well as Law no. 2 of 2012 concerning Land Acquisition for Development in the Public Interest.

In implementing these obligations, in line with Article 18 of Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles, which is described in Article 1 point 10 of Law no. 2 of 2012 that for land rights that are revoked in the context of land acquisition for development for the benefit of the nation and the state as well as the common interests of the people, appropriate compensation must be given and according to the method regulated by law as a form of State protection of rights. community whose land has been revoked.

Referring to Presidential Decree Number 55 of 1993 and the provisions of Law Number 2 of 2012 it is stated that "Compensation is a proper and fair replacement of the value

²⁶ Fernando. (2020). "Perlindungan Hukum Dalam Pengadaan Tanah Guna Pembangunan Untuk Kepentingan Umum". *Jurnal Bina Adhyaksa*, 10(2): 9.

of land including buildings, plants and/or other objects related to land to the rightful party. as a result of the land acquisition process, the form of which is in accordance with Article 36 of Law Number 2 of 2012 can be in the form of: a. money; b. replacement land; c. resettlement, namely the provision of replacement land to the Entitled Party to another location in accordance with the agreement in the Land Procurement process d. share ownership, namely through the participation of shares in development activities for the related public interest and/or its management based on an agreement between the parties. e. other forms agreed by both parties, for example a combination of 2 (two) or more forms of Compensation as referred to in letter a, letter b, letter c, and letter d. Through these kinds of compensation, it is hoped that the welfare of the people whose land is affected by the development project will increase their standard of living.²⁷

Assessment of the amount of Compensation value by the Appraiser is carried out field by parcel of land, including: a. land; b. above ground and underground space; c. building; d. plant; e. objects related to land; and/or f. other losses that can be assessed, namely non-physical losses that can be equated with the value of money, for example losses due to loss of business or work, costs of moving places, costs of changing professions, and the value of residual property.

The provision of Compensation in principle must be given/submitted directly to the Party Entitled to Compensation based on the results of the assessment determined in the deliberation, including: a. holders of land rights; b. management rights holders; c. nadzir, for waqf land; d. owners of lands belonging to adat; e. customary law communities; f. parties who control state land in good faith; g. the holder of the basic control over the land; and/or h. owners of buildings, plants or other objects related to land.²⁸

Furthermore, the community receiving compensation in the land acquisition program must have the obligation to relinquish rights and submit proof of control or ownership of the Land Procurement Object. In addition, he is responsible for the truth and validity of the evidence of control or ownership submitted to the Agency that requires land through the Land Agency. Violation of the legality of the land is subject to criminal sanctions in accordance with the applicable laws and regulations.

²⁷ Syah, Iskandar. (2015). *Pembebasan Tanah Untuk Pembangunan Kepentingan Umum*. Jakarta:Permata Aksara, p. 18.

²⁸ Subekti, Rahayu. (2016). "Kebijakan Pemberian Ganti Kerugian Dalam Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum". *Yustisia*. 5(2): 390.

Then, if in the land acquisition process there are parties who still object and refuse the form and/or amount of compensation based on the results of deliberation, then Article 42 of Law Number 2 of 2012 compensation is deposited in the local district court called a consignment. In general, consignment is regulated in Article 1404-1412 of the Civil Code as an offer of cash payment followed by storage or safekeeping of goods or money to the court in accordance with the provisions of the legislation which is carried out against debtors who refuse payment.²⁹

The concept of consignment was adopted in Law no. 2 of 2012 concerning land acquisition for the development of public interest, where the Government can deposit money to the court if the deliberation process does not find results because the land owner still refuses to offer the price determined by the government.³⁰ The consignment due to the refusal of the land owner can only be made if it has taken legal action, and if the land owner objected, he could file a lawsuit up to the Supreme Court. Then, after obtaining approval from either the court or the Supreme Court, the land consignment can be carried out.

Custody of Compensation is not only carried out against the landowner community who refuses the form and/or amount of Compensation, it is also carried out against: (a) The whereabouts of the party entitled to receive compensation is unknown; or (b) the object of the Land Procurement to be awarded Compensation: (1) is being the object of a case in court; (2) ownership is still disputed; (3) placed for confiscation by the competent authority; or (4) become collateral in the bank.

Conclusion

Legal aspects related to land acquisition for infrastructure development are based on Article 33 paragraph (3) of the 1945 Constitution, which was followed up with the ratification of Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles. In accordance with Article 6 of the LoGA, it states that all land rights have a social function, thus placing land use not only for personal interests but also paying attention to the public interest in supporting national development for the welfare of the community. In order to meet the need for land for development in the public interest, various laws and regulations have been promulgated, most recently Law Number 2 of

²⁹ Sitorus, Oloan. Dayat Limbong. (2004). *Pengadaan Tanah Untuk Kepentingan Umum*. Yogyakarta: Mitra Kebijakan Tanah Indonesia, p. 57.

³⁰ Candra, Mareta, Diki, dan Luthy Yustika. (2020). "Perlindungan Hukum Terhadap Pemilik Tanah Atas Pembebasan Tanah Yang Terkena Pengadaan Untuk Kepentingan Umum (Studi Kasus Perkara No.593/Pdt.G/2018/Pn.Tng Tertanggal 12 September 2018)". *JCA of LAW*, 1(1): 74.

2012 concerning Land Procurement for Development in the Public Interest and Law Number 11 of 2020 concerning Job Creation.

The momentum for the ratification of the Job Creation Act in the midst of the COVID-19 pandemic has strengthened the importance of land acquisition for the development of national strategic infrastructure that is legitimized by law, facilitated by the government, and has strong capital and networks that are affiliated to large companies, but ignores rights that the community has worked on. The lower class community with less power continues to be in a circle of land grabbing conflicts because the government is not taking sides in giving respect and acknowledgment to community land rights and sources of livelihood. This condition has led to an increase in agrarian conflicts in the infrastructure sector during the COVID-19 pandemic.

Law No. 2 of 2012 as the highest regulation governing land acquisition for development in the public interest, including infrastructure development, is expected to provide a balance between the interests of those who need land, namely the government, and those whose land is needed for the public interest. However, with the emergence of various conflicts, this law has not been able to fully balance and protect the rights of the community who owns land rights, because it emphasizes the protection of the interests of the Government, including the private sector, in acquiring land for development implementation.

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