

Dynamics of Land Acquisition for Public Interest and Rights of Affected Communities in Indonesia

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Abstract:- Land procurement is an activity to provide land by providing appropriate and fair compensation to the entitled party. The need for land for infrastructure development carried out by the government makes the government often make changes to land acquisition regulations so that they match the interests of infrastructure and the interests of the community. This article aims to find out the dynamics of land acquisition for the public interest and the rights of affected communities in Indonesia. In this study, the authors used normative research methods, by reviewing the laws and regulations, with the statute approach, namely reviewing the laws and regulations. The result is that the policy change as contained in the Job Creation Law is a policy that is present to facilitate development in the context of investment and become a supporting policy from the government for the private sector in carrying out a land acquisition. Rights affect communities based on land acquisition law in the context of protection in terms of compensation in the form of money have indeed been protecting because the replacement is base on the NJOP and the accurate price assessed by an independent party/, in this case, the land appraiser. However, with high land compensation and better community protection, there are irreplaceable losses such as social and cultural aspects. Then, by creating a work copyright law that better accommodates investment interests, the potential losses for the affected community will be neglected. There are irreplaceable losses such as social and cultural aspects. Then, by creating a work copyright law that better accommodates investment interests, the potential losses for the affected community will be neglected. There are irreplaceable losses such as social and cultural aspects. Then, by creating a work copyright law that better accommodates investment interests, the potential losses for the affected community will be neglected.

Keywords:- Dynamics, Land Acquisition, Public Interest, Rights, Affected Communities.

I. INTRODUCTION

Land procurement is an activity to provide land by providing appropriate and fair compensation to the entitled party. By law, the government can only implement land acquisition, where the implementation is based on fair principles and is also beneficial for the wider community.[1] The purpose of holding land acquisition for the public interest is to provide land for the implementation of development to

improve the welfare and prosperity of the nation, state, and society while ensuring the legal interests of the entitled parties.[2] In the implementation of land acquisition, there are often dynamics, especially the notion of public interest. However, in practice, the meaning of public interest is often misinterpreted; the government takes over community land by providing minimal compensation through this policy.

This practice does not protect the community because it is contrary to the principles of humanity, justice, and benefit as stated in the law. In the context of land acquisition for the public interest, there is often the potential for rights violations to arise.[3] The principle of land acquisition is a list for implementing justice, but the principle is often not implemented in its implementation. The principles that should have been implementing in the land acquisition did not realize before the land acquisition law regulation.[4] The implementation of the application of the principle that is not conveying in the land acquisition, its implementation is the responsibility of the government to regulate the implementation of land acquisition; this is as stated in article 6 of the land acquisition law. The government can only implement land procurement; in Article 10, it is regulated in a limited manner what activities are including in the public interest. In addition, the land acquisition law clearly states that the role of the private sector in land acquisition is not allowed. As stated in Article 121A of Presidential Regulation 148 of 2015 concerning the Implementation of Land Procurement for Development in the Public Interest, The existence of these various policies in their implementation affects investment. The land acquisition regulations are very protective, as contained in article 10 and article 6 of the land acquisition law.[5]

Their implementation has dramatically protected the community. However, the existence of such protection is a threat to the implementation of the investment. Land acquisition, one of the essential elements of investment development, becomes an obstacle when the regulations governing land acquisition policies are complicated. Therefore, the regulation regarding the land acquisition was previously regulated in the land acquisition law, is now being changed back into the work copyright law.[6] Changes that occur in the work copyright law in its implementation include incorporating the substance of the land acquisition law and the law on the protection of sustainable agricultural land into one cluster regarding land acquisition. These changes impact the dynamics of land acquisition that will occur; the acquisition of land whose process is getting easier for investment in its

implementation has a negative impact, especially for the community.

II. LITERATURE REVIEW

a. Definition of Land Rights

Soil is an important element that always has aspects of human life, especially in development activities.[7] Human needs as a whole can be met with the land,[8] with In other words, land has a major role in the survival of mankind.[9] This is in accordance with what is contained in Article 33 paragraph (3) of the 1945 Constitution which states that: "Earth, water, and including the natural resources contained therein are controlled by the State, and used as much as possible for the prosperity of the people". The article is the basis for the existence of a legal relationship between land and land subjects where the state in this case acts as the subject who holds control over the highest authority over land interests,[10] and aims to create prosperity for its people.[11] State power regarding control over land as stipulated in Article 33 paragraph (3) of the 1945 Constitution as explained above, is a regulation that is used as the basis for carrying out land control by the government.[12]

The use of land for interests must be adjusted to the circumstances and nature of the rights,[13] so that it is beneficial for the welfare and happiness of those who have and is also beneficial for society and the state. The process of implementing these interests must be balanced when faced with the interests of the community or the state, where the implementation of the two interests must be balanced, and there should be no inequality. Land rights are rights of control over land which contain a series of powers, obligations and/or prohibitions for the holder of the right to do something with the land he owns "something" that is allowed, obligated and/or prohibited to be done that is the benchmark for distinguishing between various rights. control over land regulated in the land law of the country concerned. The right to control from the state as stated in Article 2 paragraph (1).

On the basis of these provisions, the state has the authority to determine land rights that can be owned by and or given to individuals and legal entities that meet the specified requirements. Understanding the concept of the meaning and substance of the state's right to control land should be important in order to straighten out the existing authorities in regulating, administering/managing and supervising to avoid confusion and arbitrariness. The current reform era requires the government to carry out the affirmation of land law politics through the regulation of laws and regulations.

Government actions taken to ensure the acceleration of increasing regional prosperity, pluralism of legal communities including customary law communities and guarantees of protection of customary law communities. Laws for land holders as well as government actions that have a positive impact on the community need to be implemented. The authority regarding land control over the state is regulated in Article 4 paragraph (1), which states that: In Article 2, it is determined that there are various types of rights

to the Earth's Surface called Land, which can be given to and owned by people, either alone or together with other people and legal entities. Paragraph (2) of the UUPA states that: "The land rights as referred to in paragraph (1) of this Article give the authority to use the land in question, as well as the body of the Earth and the water and the space above it, which are only needed for interests directly related to the land use management is within the limits according to the law and Higher legal regulations". Based on the sound of the article, the state determines Land Rights as regulated in Article 16 paragraph (1) of the namely:

- a. Right of ownership;
- b. Cultivation Rights;
- c. Building rights;
- d. Right to use;
- e. lease rights;
- f. Right to clear land;
- g. Right to collect forest products;
- h. Other rights that are not included in the rights mentioned above which will have been determined by law and the rights temporary nature as referred to in Article 53.

The party who can have the right to the land is regulated in Article 9 paragraph (2) UUPA which states that "Every Indonesian citizen, both male and female, has the same opportunity to obtain a land right to obtain benefits and results, both for himself and his family". Meanwhile, those who are not Indonesian citizens or legal entities owned by foreigners who have representation in Indonesia are very limited in their use, namely only given use rights or lease rights, as regulated in Article 42 and Article 45 of the UUPA. Legal entities established under Indonesian law and domiciled in Indonesia may have all rights to land except for limited property rights to legal entities established by the Government, as regulated in Article 30 paragraph (1) letter b and Article 36 paragraph (1) letter b.

b. Definition of Land Procurement

Provision and procurement of land is an activity that is intended to provide or procure land for the interests or needs of the government, in the context of project development or the construction of something according to a government program that has been determined. Land Procurement is regulated in Law No. 2 of 2012 and implemented using the implementing regulation, namely Presidential Regulation No. 71 of 2012 (hereinafter written as Perpres), which in its implementation has been amended four times. The first change is Perpres No.40/2014, the second change is Perpres No.99/2014, the third change is Perpres No.30/2015, and the last change is Perpres No.148/2015. Amendments to the implementing regulations of land acquisition which have undergone four changes, in which it contains additions, deletions or changes to paragraphs. Procurement of land for development in the public interest as confirmed in Law Number 2 of 2012.[14]

Article 11 paragraph states that land acquisition for the public interest as referred to in article 10 above must be carried out by the government, and furthermore the land used as the object of land acquisition is owned by the government or local government. From the statement, it gives an

illustration that the only right to carry out the implementation of land acquisition is the Government or authorized agency that has been appointed by the government or local government through an agreement.[15] The agency that requires land for the public interest as referred to in Article 10 above is a State-Owned Enterprise (hereinafter referred to as BUMN), which then automatically becomes the property of the BUMN.

In the context of efficiency and effectiveness, land acquisition for the public interest with an area of not more than 1 (one) Ha, can be directly carried out by the agency that requires the land with the holders of land rights, by way of buying and selling or exchanging or other methods agreed by both parties. party. Renewal of old regulations with new ones, making Government Regulation No. 148 of 2015, a new regulation, which changes the maximum allowed area in the implementation of land acquisition for the public interest to no more than 5 ha. The area that is increased by several hectares from the actual area makes the land acquisition process more optimal. This regulation, in addition to making it more optimal, on the other hand is also useful in creating a positive impact that is pro to the people, because with the provisions on land acquisition limits, it becomes the controller for the implementation of land acquisition by the government.[16]

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2015 (hereinafter written as Permen ATR/BPN) which is an amendment to Permen ATR/BPN Number 5 of 2012, as an affirmation of the above regulations. Then after several years the Law on Land Procurement came into effect along with changes to the existing Implementing Regulations, the meaning of land acquisition was again changed by the government through the renewal of land regulations through the Job Creation Act into cluster 8 concerning Land Acquisition. The existence of these regulatory reforms will not only have an impact on the regulations governing land affairs but also all sectors affected by these changes. The creation of regulations is clearly seen by the change in meaning in article 1 paragraph 1 as contained in the Government Regulation concerning the Implementation of Land Procurement for Development in the Public Interest, which states that "Agencies that require land are state institutions, ministries, non-ministerial government agencies, provincial governments, government regency/municipality, Land Bank Agency and state-owned legal entity/state-owned business entity/regional-owned business entity that received a special assignment from the Central Government/Regional Government or Business Entity that obtained power of attorney based on an agreement from State Institutions, Ministries, Non-Ministerial Government Agencies, Provincial Government, district/city government, state-owned legal entities/state-owned enterprises that receive special assignments from the Central Government/Government.[17]

Regions in the context of providing infrastructure for the public interest. Based on these changes, it shows that in the Employment Act the role of the private sector is represented through a Business Entity that has a power of

attorney based on a joint agreement with state institutions as stated in Article 1 paragraph 1 above.

c. Definition of Public Interest and Types of Public Interest

Land acquisition activities by the Government to carry out development are aimed at fulfilling the Public Interest.[18] The public interest is held to achieve the greatest prosperity of the people. Basically, the basic principle of the public interest as defined by Huybers, as "The interest of the community as a whole which has certain characteristics, among others concerning the protection of individual rights as citizens, and concerning land acquisition and maintenance of public facilities, and services to the public" theory is not difficult to understand.

National development in all aspects is carried out in the context of realizing a just and prosperous society. Based on the General Elucidation of Law Number 2 of 2012 concerning Land Procurement for Public Interest. National development in all aspects, including market development, hospital construction, widening of roads, construction of flats, and construction of other public facilities. National development for the public interest like this requires a very large area of land, either land owned by the government or land rights of the people on which land needs to be liberated for the sake of the public interest, by prioritizing the principles contained in the 1945 Constitution and Law of the Republic of Indonesia National Land.

The existence of these regulations already illustrates that the public interest must be implemented based on the principle of the greatest prosperity for the people. However, in practice it is often irrelevant, for example as contained in Article 10 of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest states that toll roads are included in the public interest.[18] One real example that is not appropriate, and in its implementation toll roads do not prioritize the principle of the public interest, because what can be categorized as public interest, namely non-profit, one of which is not commercialized, but it is the exact opposite.[19] Toll roads should not be included in the Public Interest, this is because basically roads if you understand more deeply these facilities are not included in the Public Interest. In its implementation, toll roads in Indonesia are paid, not free, but in fact toll roads are still listed in the type of public interest. The above argument is in line with the opinion of Kitay (1985) that the public interest contains three essential elements: owned by the government, carried out by the government, and non-profit.[20]

Limitations regarding the understanding of the Public Interest as regulated in laws and regulations often still look abstract so that it has an impact on the emergence of different interpretations in society due to the limited knowledge they have. According to Sumardjono, public interest can be described in two ways. First, Land Procurement is carried out based on Public Interest reasons, in the form of guidelines that can encourage executives to freely declare a project to meet the Public Interest requirements.[21] Second, the elaboration of the Public Interest in the list of activities, the

two methods are often taken simultaneously. According to Salihendo, public interest includes the interests of the nation and state as well as the common interests of the people by paying attention to social, political and psychological aspects on the basis of the principles of national development by taking into account national resilience and insight into the archipelago.[22]

Affirmation of Public Interest which is the basis of Land Procurement needs to be determined explicitly so as not to cause multiple interpretations.[23] Land procurement basically aims for the development of the public interest, so there must be definite criteria regarding the meaning or category of the public interest itself. Public interest broadly means the interests of the state which include personal interests as well as group interests, or in other words, the public interest is an interest that concerns the majority of the community, and cannot be implemented if a policy is only a regulation that is intended only to support certain groups. just. Types of Public Interest, in its implementation tland for the Public Interest as referred to in Article 4 paragraph (1) is used for the Development of:

- a. National Defense and Security;
- b. Public Roads, Toll Roads, Tunnels, Railway Tracks, Railway Stations, and Railway Operation Facilities;
- c. Reservoirs, Dams, Weirs, Irrigation, Drinking Water Channels, Sewerage and Sanitation, and Other Irrigation Buildings;
- d. Ports, Airports, and Terminals;
- e. Oil, Gas and Geothermal Infrastructure;
- f. Power Generation, Transmission, Substation, Network, and Distribution;
- g. Government Telecommunications and Information Networks;
- h. Waste Disposal and Processing Sites;
- i. Government Hospital/Local Government;
- j. Public Safety Facilities;
- k. Government/Local Government Public Cemetery;
- l. Social Facilities, Public Facilities, and Public Green Open Spaces;
- m. Nature Reserve and Cultural Conservation;
- n. Government Office/Regional/Village Government;
- o. Arrangement of Urban Slums and/or Land Consolidation, as well as Housing for low-income communities with Lease Status;
- p. Government/Local Government Education or School Infrastructure;
- q. Government/Local Government Sports Infrastructure; and Public Markets and Public Parking Areas.

Based on the description of several types of activities that fall into the realm of the Public Interest above, the implementation of the rules regarding the types of Public Interest as referred to in Article 10 of the Land Procurement Law has also undergone changes. Where in the previous explanation it was mentioned about changes to agencies that require land, now the Job Creation Act also changes regulations regarding types of activities that are included in the public interest. Amendments to Article 10 as referred to in the explanation above include, "Land for Public Interest as

referred to in Article 4 paragraph (1) is used for the development of:

- a. National defense and security;
- b. Public roads, toll roads, tunnels, railway lines, railway stations and railway operating facilities;
- c. Reservoirs, dams, weirs, irrigation, waterways and sanitation and other irrigation structures;
- d. Ports, airports and terminals;
- e. Oil, gas and geothermal infrastructure;
- f. Power generation, transmission, substation, network, and/or distribution;
- g. Government telecommunications and information networks;
- h. Places for waste disposal and processing;
- i. Central Government Hospital or Local Government Hospital;
- j. Public safety facilities;
- k. Public Cemetery of the Central Government or Local Government;
- l. Social facilities, public facilities, and public green open spaces;
- m. Natural and cultural reserves;
- n. Central Government Office, Regional Government, or Village;
- o. Arrangement of urban slum settlements and/or consolidation of land and housing for low-income communities with rental status including for the construction of public houses and special houses;
- p. Educational or school infrastructure of the Central Government or Regional Government;
- q. Central Government or Regional Government sports infrastructure;
- r. Public markets and public parking lots;
- s. Oil and Gas Upstream and Downstream Industrial Estates initiated and/or controlled by the Central Government, Regional Governments, State-Owned Enterprises, or Regional-Owned Enterprises;
- t. Special Economic Zones initiated and/or controlled by the Central Government, Regional Governments, State-Owned Enterprises, or Regional-Owned Enterprises;
- u. Industrial Estates initiated and/or controlled by the Central Government, Regional Governments, State-Owned Enterprises, or Regional-Owned Enterprises;
- v. Tourism Areas initiated and/or controlled by the Central Government, Regional Governments, State-Owned Enterprises
- w. Central Government, Regional Government, State-Owned Enterprises, or Regional-Owned Enterprises;
- x. Food Security Areas initiated and/or controlled by the Central Government, Regional Governments, State-Owned Enterprises, or Regional-Owned Enterprises; and
- y. Technology development area initiated and/or controlled by the Central Government, Regional Government, State-Owned Enterprises, or Regional-Owned Enterprises.

Changes in the definition of the types of activities as referred to above indicate that the meaning of public interest in the Job Creation Act has become more broadened from the explanation of the letters "s" to "x" which if further examined the meaning of the types of public interest activities contained in the Law. The job creation law was created not only to

strengthen legal protection for the community. However, the meaning of the Public Interest will only weaken the legal protection for the community which has previously been regulated fairly in the Land Procurement Law. This is due to the addition of several areas as referred to in the above changes, including activities oriented to support the rate of increase in investment in Indonesia.

III. RESEARCH METHODOLOGY

This research will discuss the legal dynamics of land acquisition for the public interest and affected communities in Indonesia. The method used in writing this article is normative research,[24] by reviewing laws and regulations, with a statute approach, namely reviewing laws and regulations, including: Law no. 2 of 2012 concerning Land Procurement for Development in the Public Interest, Presidential Regulation No. 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, Presidential Regulation of the Republic of Indonesia No. 40 of 2014 concerning Amendments to the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, Presidential Regulation No. 71 of the Republic of Indonesia. 99 of 2014 concerning the Second Amendment to the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, Regulation of the Head of the National Land Agency of the Republic of Indonesia No. 5 of 2012 concerning Technical Guidelines for the Implementation of Land Acquisition. Presidential Regulation No. 71 of 2012, as well as Law No. 11 of 2020 concerning Job Creation.[25]

IV. RESULTS AND DISCUSSION

a. The dynamics of land acquisition before the issuance of the land acquisition law

The acquisition of land for the public interest uses the legal basis of Law No. 2 of 2012 without using Law No. 20 of 1961 concerning Revocation of Rights to Land and Objects on it. Enactment of Law No. 2 of 2012 in the acquisition of land for the public interest uses the principle of *lex posteriori de rogat legi priori*, namely the new law abolishes or overrides the old law which regulates the same material. Based on this principle, Law No. 2 of 2012 abolishes or overrides Law No. 20 of 1961 as the legal basis for land acquisition for the public interest. Law No. 2 of 2012 which was implemented by the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, both from a legal point of view in the form of a law as well as its content which contains rules regarding land valuation and the existence of a public consultation process as a dialogical communication process, it does look better than previous similar regulations,[26] It is appropriate that the regulation of land acquisition for the public interest is not in the form of a Presidential Regulation of the Republic of Indonesia, but in the form of a law, namely Law no. 2 of 2012 because it regulates the rights and obligations of the Indonesian citizen. In Law no. 2 of 2012 regulates the rights of those entitled to

the object of land acquisition to obtain appropriate and fair compensation, and the party entitled to the object of land acquisition is obliged to comply with the provisions of Law no. 2 of 2012,[27] With guaranteed land rights, land markets can increase incentives for communities to invest and financial institutions to lend, as land can be used as collateral as well as a production base.

Efficient land acquisition is a procurement that can improve the economic performance of a country and increase prosperity. Economic theory suggests that a well-functioning land market is essential to achieving an efficient allocation of resources and a supportive financial system. They are expected from important situations where: (i) the difference in contributions from different agencies is large, for example, high levels of powerlessness coexist with large concentrations of land so that land rents can help to redistribute land to poorer sections of the population; (ii) the wider economy is undergoing rapid structural change and leasing land can allow landowners to participate in the non-agricultural economy without precluding the possibility of returning to rural areas; and (iii) credit market imperfections and other restrictions rooted in customs or policies that limit the ability of economic agents to adapt through land sales markets.[28] Other factors of production, labor and capital; Soil has several distinguishable features. It is also argued that land demand is a function of economic growth and industrialization and urbanization in Indonesia cannot be broad-based unless they are provided with satisfactory solutions for allocating welfare-maximizing land uses. Lack of proper ownership records Rights records are prepared through appropriate surveys by visiting plots and conducting systematic verification of relevant facts related to the preparation of rights and tenure records.

Land acquisition in Article 1 point 2 of Law no. 2 of 2012 in conjunction with Article 1 number 2 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 is an activity to provide land by providing appropriate and fair compensation to the entitled party. The elements in the definition of land acquisition are: activities to provide land, proper and fair compensation, and the rightful party. The definition of land acquisition as stated in Article 1 point 2 of Law no. 2 of 2012 in conjunction with Article 1 number 2 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 is the definition of land acquisition in general.[29] The party that requires land in land acquisition for the public interest is the agency. Which includes agencies according to Article 1 point 1 of Law no. 2 of 2012 in conjunction with Article 1 number 1 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 are State Institutions, Ministries, Non-Ministerial Government Institutions, Provincial Governments, Regency/Municipal Governments, and State-Owned Legal Entities/State-Owned Enterprises that receive special assignments from the Government. Authority Entities, Regional Owned Enterprises, and Limited Liability Companies (PT) that require land cannot use Law no. 2 of 2012 in conjunction with the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 as the legal basis for the acquisition of land.[30]

Article 7 of Law no. 2 of 2012 stipulates that land acquisition for the public interest is carried out in accordance with: Regional Spatial Planning; National/Regional Development Plans; The strategic plan; Work Plan for each agency that requires land; In the event that land acquisition is carried out for oil, gas, and geothermal infrastructure, the procurement is carried out based on the Strategic Plan and Work Plan of the Agency that requires land. Law No. 2 of 2012 in conjunction with the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 regulates land acquisition for the public interest. The definition of public interest is stated in Article 1 point 6 of Law no. 2 of 2012 in conjunction with Article 1 point 6 Presidential Regulation no. 71 of 2012 is in the interests of the nation, state. Fields of development activities that can be categorized for the public interest are stipulated in Article 10 of Law no. 2 of 2012, namely: national defense and security; public roads, toll roads, tunnels, railway lines, railway stations, and railway operating facilities; reservoirs, dams, weirs, irrigation, drinking water canals, sewers and sanitation, and other irrigation structures; ports, airports, and terminals; oil, gas, and geothermal infrastructure; power generation, transmission, substation, network, and distribution; the government's telecommunications, informatics network; place for waste disposal and processing; Government/Regional Government hospitals; public safety facilities; Public burial places of the Government/Regional Government; social facilities, public facilities, and public green open spaces; natural and cultural reserves; Government office/Regional/Village Government; arrangement of urban slum settlements and/or land consolidation, as well as housing for low-income communities with rental status; Government/Local Government education or school infrastructure; sports infrastructure of the Government/Regional Government; and public markets and public parking lots.

The implementation of land acquisition for the public interest is regulated in Article 12 of Law no. 2 of 2012, namely: a. Development for the public interest as referred to in Article 10 letter b to letter must be carried out by the Government and may cooperate with State-Owned Enterprises, Regional-Owned Enterprises, or Private Enterprises; b. In terms of the development of national defense and security as referred to in Article 10 letter a, the development is carried out in accordance with the provisions of laws and regulations. The criteria for public interest in land acquisition must meet cumulative elements, namely: a. Parties requiring land are agencies, which include State Institutions, Ministries, Non-Ministerial Government Agencies, Provincial Governments, Regency/City Governments, State-Owned Legal Entities/State-Owned Enterprises; b. The land procurement is in accordance with the Regional Spatial Plan, National/Regional Development Plan, Strategic Plan, and the work plan of each agency that requires land; c. Its activities are included in 18 areas of development activities; and Land procurement must be carried out by the Government and may cooperate with State-Owned Enterprises, Regional-Owned Enterprises, or private enterprises.

The stages in the implementation of land acquisition for the public interest are stipulated in Article 13, namely: planning; preparation; implementation; submission of results. Law No. 2 of 2012 in conjunction with the Presidential Regulation of the Republic of Indonesia No. 71 of 2012 stipulates that land acquisition for the public interest is carried out by the National Land Agency of the Republic of Indonesia (now Minister of Agrarian Affairs and Spatial Planning / Head of the Indonesian National Land Agency). The implementation of land acquisition for the public interest is carried out by the Head of the Regional Office of the Provincial National Land Agency. Taking into account efficiency, effectiveness, geographical conditions, and human resources, the Head of the Provincial Office of the National Land Agency may assign the Head of the Regency/City Land Office as the Head of the Land Procurement Executive (PPT). Land acquisition in land acquisition for the public interest is carried out through deliberation between the Land Procurement Operator (hereinafter abbreviated as PPT) and the entitled party by involving the agency that requires the land. The agenda of the deliberations is to determine the form and amount of compensation.

The definition of compensation is stated in Article 1 point 10 of Law no. 2 of 2012 in conjunction with Article 1 number 10 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, is a proper and fair compensation to the rightful party in the land acquisition process. Those who are given compensation in land acquisition for the public interest according to Article 33 of Law no. 2 of 2012 in conjunction with Article 65 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, are: land; above ground and underground space; building; plant; objects related to land. The form of compensation in land acquisition for the public interest is stipulated in Article 36 of Law no. 2 of 2012 in conjunction with Article 74 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, namely: money; replacement land; resettlement; shareholding; or other forms agreed by both parties. The party who receives compensation in land acquisition for the public interest is called the entitled party. The definition of entitled party is stated in Article 1 point 3 of Law no. 2 of 2012 in conjunction with Article 1 point 3 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, namely the party who controls or owns the object of land acquisition.

Which includes parties who are entitled to receive compensation in land acquisition in land acquisition for the public interest according to the Elucidation of Article 40 of Law no. 2 of 2012 in conjunction with Article 17 of the Presidential Regulation of the Republic of Indonesia No. 71 of 2012, among others, holders of land rights and holders of management rights and nadzir for waqf land, owners of ex-customary land and customary law communities as well as parties who control state land in good faith, holders of basic land tenure and/or building owners, plants, or other objects related to the soil. In determining the amount of compensation, PPT involves the Land Appraiser. Land Appraiser according to Article 1 number 11 of Law no. 2 of 2012 in conjunction with Article 1 number 11 of the

Presidential Regulation of the Republic of Indonesia No. 71 of 2012 is an individual who conducts an independent and professional assessment who has received an appraisal practice permit from the Minister of Finance and has received a license from the Land Agency (National Land Agency of the Republic of Indonesia) to calculate the value/price of land acquisition objects. If in the deliberation regarding the form and amount of compensation between the PPT and the party entitled to reach an agreement, then the waiver of rights is carried out by the entitled party, followed by the delivery of compensation directly by the agency that requires the land to the entitled party.

The waiver of rights according to Article 1 point 9 of Law no. 2 of 2012 in conjunction with Article 1 point 9 of the Presidential Regulation of the Republic of Indonesia No.71 of 2012,[31] The release of land rights is the activity of terminating the legal relationship between the holder of land rights and the land under their control with or without proper and fair compensation for the benefit of other parties, which results in the nullification of land rights and the return of land rights to state land or land rights. land controlled by the state.[32] Arie S. Hutagalung stated that the process of relinquishing rights is carried out if the party who intends to acquire and control the land with the right of ownership or former Customary Ownership, but does not meet the requirements as the subject of the holder of the rights to the land through direct transfer/transfer of rights. If the land required by the agency that requires the land has right of ownership, while the agency that requires the land is not subject to the Right of Ownership, then the method of acquiring land through the transfer of rights in the form of buying and selling cannot be carried out because materially, the agency that requires land does not meet the requirements as a buyer land. Because the transfer of land rights through buying and selling cannot be carried out, the method of acquiring land that can be taken by agencies that require land in land acquisition for the public interest is through the release of land rights by the holder of the right by providing appropriate and fair compensation.[33]

The legal consequences of relinquishing land rights were stated by Boedi Harsono, the relinquishment of land rights is one of the causes of the abolition of land rights and is not a transfer of land rights.[34] The relinquishment of land rights by parties who are entitled to the interests of agencies that require land does not mean that land rights are transferred from the right holder to the agency that requires the land, but results in the nullification of land rights and land rights returning to state land or land controlled directly by the government country. Land law policies, as stated in the constitution, were redefined through the formation of the UUPA, then set forth in various land policies, one of which is the Land Procurement Law. In its implementation, the regulation is a policy that was formed to accommodate the various shortcomings that existed in the previous regulation. Various land acquisition policies that emerged before the land acquisition law were considered to be less protective to the

community, especially in terms of compensation. In addition, the meaning of public interest which is often misunderstood is a factor in the dynamics in the implementation of land acquisition for the public interest,[35] very unlikely, In implementing this infrastructure development, parties who need land can use the land rights of other parties by seeking approval from the holders of land rights.

The use of land rights of other parties by parties who need land can be reached through the transfer of rights in the form of buying and selling or relinquishing land rights by the holders of land rights by providing compensation by parties who need land to the holders of land rights. The method of acquiring land through buying and selling or relinquishing land rights can do if there is an agreement between the parties who need the land and the holder of the land rights. Land acquisition activities by parties who need land against the land rights of other parties are known as land acquisition. Land acquisition is divided into 2 (two) types based on its importance: First, land acquisition for the public interest. Parties that require land acquisition for the public interest are state institutions, ministries, non-ministerial government agencies, provincial governments, district/city governments, and state-owned enterprises. Second, land acquisition for the benefit of private companies. The party that requires land in land acquisition for the benefit of a private company is a Limited Liability Company (PT). Land acquisition in land acquisition for the public interest requires the holder of land rights whose land rights are required by the agency. In reality, land rights holders do not always agree that their land rights are handed over or released to the agency that requires the land, for example, due to the amount of compensation provided by the agency that requires the land, which is considered inappropriate. Because the holders of land rights are not willing to surrender or relinquish their land rights for the benefit of the agency that requires the land, it can lead to a dispute between the agency that requires the land and the holder of the land right.

Land acquisition regulations that were formed before the Land Procurement Law were implemented are not in favor of the community, as can be seen from the various policies that existed in the regulations prior to the issuance of the Land Procurement Law. Compensation that should be able to accommodate all the losses experienced but in reality it is very detrimental to the community. Although there have been several changes to related regulations, their implementation is still not firm in enforcing legal protection for affected communities. The substance of the land acquisition policy that still has weaknesses in each of its changes has implications for the weakening of community rights to land. Inadequate compensation and the weak bargaining position of the community at that time caused a lot of discrimination against the community's rights. Compensation that is not commensurate with the value of the lost land causes a lot of losses in the future, both economically, socially and culturally.

Permendagri No. 16 Th 1975	Presidential Decree No. 53 of 1993	Presidential Decree No. 65 of 2006 in conjunction with Presidential Decree No. 36 of 2005	Law No. 2 of 2012
Compensation	Compensation	Compensation	Compensation
There is no meaning, but it can be concluded that compensation is to give an amount of money equal to the land that was released	Replacement of land and objects on it due to the release/handover of land rights (Article 1 Point 7)	Compensation for physical and non-physical losses as a result of land acquisition to those who are entitled (Article 1 Number 11)	Adequate and fair compensation to the entitled party through land acquisition (Article 1 Point 10)
Based on the local public works/agricultural office and given based on deliberation	Based on the real value by taking into account the value of NJOPBB and estimated by the government. And compensation is given based on deliberation	Based on the NJOP determined by the land appraisal agency and compensation determined by the land appraisal agency	Based on the assessment of the results of the Land Appraisal Agency and the results of the appraiser, it becomes the basis for the assessment of compensation.

Based on the table above, it can be concluded that the policy setting regarding land acquisition as regulated in PMDN No. 16 of 1975 in the implementation of compensation does not protect because in its implementation compensation for land acquisition is not clearly regulated in PMDN only mentions that the compensation provided by the government is only a certain amount. the value of the land that is the object of land acquisition, besides that the meaning of the public interest is not limited. Then in order to complement the weaknesses in PMDN No. 16 of 1975, the government then again changed the regulation of the policy with Presidential Decree No. 53 of 1993, where this Presidential Decree contained changes in the meaning of public interest which in the Presidential Decree became more limited to what activities were included in the interests of the public. public interest, but even though the category of public interest is limited, then a few years into effect Presidential Decree No. 53 of 1993 in 2005 the government issued a Presidential Regulation, and it was changed again in 2006 where in the substance of this Presidential Regulation it contains changes regarding compensation obtained in the form of physical losses and also non-physical losses, in addition to compensation also determined by the land appraisal agency based on the NJOP of the building. However, from the changes in the substance of the policies that occurred in the various changes above, the implementation is still not taking sides and protecting the affected communities, therefore in 2012 the government finally enacted a policy regarding land acquisition into Law No. 2 of 2012, where in the regulation, substantially the policy really protects the people affected by the land acquisition.

The orientation of the land acquisition law, which was made to accommodate deficiencies, especially regarding compensation which previously did not protect the community, was implemented in the land acquisition law. The government no longer uses the term compensation to replace land affected by land acquisition, but instead replaces profits.[36] This is because people who are not affected by the land acquisition will also benefit, in the form of an increase in land prices. The location of the land that became more strategic after the land acquisition had an impact on the

selling value of the land which became higher. In addition, the provision of compensation based on NJOP and also Real Value makes the government argue that the implementation of land acquisition after Law No. 2 of 2012 is a compensation not compensation. The process is still considered to have a big risk. Compensation for moving costs that are not included in the compensation provided by the government to people who are victims of land acquisition have become difficult in terms of economic, social and cultural. Compensation that only calculates the value of the land as well as the buildings on it is a risk in itself. Although the compensation value obtained is much greater than the land price, it does not cover all moving costs and other social and economic losses.

Based on this, the implementation of the land acquisition law is still not strong enough even though it has protected the community. The risk of various possible losses after land acquisition will also occur, such as difficulties in getting replacement land of equivalent value, besides that social losses will be received after the rights are revoked. This proves that the existing protection in the land acquisition law is not strong enough to protect the community. The existence of strong legal protection for the community in its implementation is a threat to the government, because indirectly the existence of such protection is a threat for the government to acquire land.

b. The rights of communities affected by land acquisition for the public interest

When land acquisition for the public interest is carried out, the community must relinquish their land rights due to land acquisition. Implementation of land acquisition with land rights acquisition mechanism. The mechanism for land acquisition is carried out through a compensation agreement, in its implementation before the land acquisition law, compensation was carried out unilaterally, making the community disadvantaged, the weak bargaining position of the community causing inequality. The domination of government power is stronger, making the government often arbitrary in making decisions. This happened before the issuance of the land acquisition law. The existence of the land acquisition law after it was enacted brought many benefits to the community, the implementation of compensation which

was originally very detrimental to the community, now in its implementation it has shifted to compensation. The compensation given is very large and more than enough. The implementation of compensation based on the sale value of the tax object or the real price through the appraisal process is one of the reasons for compensation for land acquisition to become a compensation. However, even though the compensation has changed into profit compensation, in practice, the community is still covered in losses that include social and economic losses. The picture is if all good neighbors, after the acquisition of the land, then in new settlement the neighbors were not as good as neighbors in his old house. In addition, regarding his original livelihood as a farmer after his land became the object of land acquisition, also lost his cultivated land and also lost his job as a farmer.

This is a picture that will be experienced by the community affected by land acquisition from a social perspective, while the loss to the community affected by land acquisition from an economic perspective is compensation for land acquisition for the implementation of infrastructure projects/toll road needs. Toll road compensation carried out by the government in its implementation often causes losses, for example regarding the remaining land from the implementation of land acquisition projects. Affected communities who originally had a very in-demand business prior to the infrastructure development, but after the existence of a business infrastructure project run by the affected community, there were no buyers, economic losses, which can be related to land objects that are freed, for example, compensation in the context of land acquisition for toll roads related to replacement of residual land where previously having a busy business after the land acquisition the owner had to move his place of business, and not necessarily in a new place of business it will be as crowded as in the old place of business. The need for land that must be available for development purposes makes the government think critically to make changes.

Policies in land acquisition, which are considered difficult to acquire land, especially for infrastructure development, were then facilitated through Law Number 11 of 2020 concerning Job Creation. The substance of the cluster contained in the work copyright law, one of which discusses land acquisition, where in the discussion, land acquisition is contained in cluster 8. Changes and deletions of several articles that are considered by the government as barrier articles, at the implementation level are changed and added new articles. The interest in guaranteeing investors to get land becomes very visible when the substance of the land acquisition regulations that are amended or deleted in the job creation law prioritizes convenience for the private sector rather than strengthening legal protection for affected communities. This is evidenced by the amendment of Article 8 paragraph 4 letter b which states that "Releasing forest areas or borrowing to use forest areas in the case of Land Procurement is carried out by the private sector". In the implementation of the policy, it is very impartial to the community, the non-fulfillment of the "principle of participation" as contained in the land acquisition law, is the

reason for the new policy made in the work copyright law that is not in favor of the community.

Community rights that should be prioritized the argument explains that the addition of the phrase "private" to the change in the substance of the article contained in Article 8 is a facilitation, which is carried out to facilitate borrow-to-use forest area activities carried out by the private sector, especially infrastructure development activities. The role and position of the private sector in various changes to the land acquisition law are not facilitated, good implications for the public interest, but not for the country's economy. The low incoming investment, as well as the difficulty of acquiring land for development, reduce the rate of economic growth. The government then carried out various economic strategies, one of which was through the job creation law. The role of the work copyright law is very much needed to support the ease of land acquisition. The policy facilitation in question is specifically related to land acquisition regulations in the work creation, as follows:

- a. Implementation of Land Acquisition Procedures in an increasingly shortened timeframe.
- b. Implementation of Compensation Procedures that are getting shortened and simplified.
- c. Expansion of the meaning of the public interest.
- d. The location determination period is getting extended.
- e. Ease of Private Parties in Obtaining Land (community land/ forest area land).
- f. Guarantee the provision of land for investors through the Land Bank.
- g. Determination of tariffs for "other purposes" which can be set up to 0.00 rupiah.

Based on the above, it shows that the easiness contained in the work copyright law is a policy strategy that was created to facilitate the interests of investors to acquire land. This can be seen when the implementation of procedures for land acquisition is becoming increasingly shortened in terms of the preparation time for land acquisition to the provision of compensation. In addition, the expansion of the meaning of public interest contained in the work copyright law in its implementation is increasingly being expanded. However, from this expansion, the implementation of activities that are included in the public interest are activities whose orientation is profit, one of which is included in the category of special economic zones. Special economic zones which in their implementation are also included in national strategic project activities whose output is an investment. The increasingly extended period of time proves that this work copyright law contains many policies that are pro-development, the land acquisition preparation process which often encounters many obstacles in its implementation, especially regarding land acquisition is facilitated by granting an extension of time for determining the location.

The ease of borrowing and using community land/forest areas to be used as objects for land acquisition by the private sector, as well as guaranteeing the availability of land for the benefit of investors through land acquisition shows that the role of investors here is highly prioritized through land banks. The procedures for land acquisition and compensation are

being made easier, the definition of public interest is also being expanded in cluster 8 of the Job Creation Law. The various changes and additions to policies in cluster 8 have become a strong legal umbrella for the private sector to acquire land. The impact on the weakening of legal protection for the community which in the previous law was explicitly regulated. The broadening of the meaning of the wider public interest, as well as the more streamlined procedures, are modified and simplified in such a way. The conclusion is that cluster 8 is an acceleration of land policy towards previous regulations which substantially lead to private steps. Policy priorities are oriented only to private interests and investment. It has implications for the policy of expanding the meaning of the public interest, and has an impact on the shift in legal protection for affected communities after the existence of a work copyright law policy.

V. CONCLUSION

Based on the explanation above, it can be concluded that the direction of land regulation policy in the Job Creation Act is a development strategy based on the belief that large foreign and domestic investors are the saviors of the economy from low economic growth. The existence of these regulations actually has an impact on the shift in legal protection for communities affected by land acquisition after the issuance of the land policy in cluster 8 of the work copyright law, and in its implementation only prioritizes private interests. The rights of affected communities based on the land acquisition law in the context of protection in terms of compensation in the form of money have indeed been protected because the replacement is based on the NJOP and the real price assessed by an independent party/in this case the land appraiser. However, with the existence of high land compensation and better protection of the community, there are irreplaceable losses such as social and cultural aspects. Then, with the creation of a work copyright law that better accommodates investment interests, the potential losses for the affected community will be neglected. there are irreplaceable losses such as social and cultural aspects. Then, with the birth of the work copyright law, which more accommodates investment interests, the potential losses for the affected community will be neglected. there are irreplaceable losses such as social and cultural aspects. Then, with the creation of a work copyright law that better accommodates investment interests, the potential losses for the affected community will be neglected.

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