

LEGAL PROTECTION PATTERN OF INDONESIA'S LAND ACQUISITION REGULATION: TOWARDS THE THICKEST VERSION RULE OF LAW

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ABSTRACT

Land acquisition for public purposes is a process in which there are exist the interests of the government, private sector, communities and landowner. The relation of the interest, make land acquisition becomes a problem prone process, therefore it needs to be mapped aspects of legal protection in the regulation of land acquisition. The purpose of this study is to analyze and mapping the legal protection pattern of land acquisition regulation in Indonesia. Land acquisition can be done with the land rights discharge or land right revocation, from the analysis performed by using the concept of legal protection from Hadjon, legal typology from Nonet and Selznick, and the thinnest and the thickest rule of law from Tamanaha, produces a pattern of legal protection as follows: the land acquisition process with land rights discharge way showed that the characteristic of legal protection pattern is a preventive and repressive which tend to be autonomous law type. On land acquisition with land right revocation way, showed that the characteristic of the legal protection pattern just repressive and tend to repressive law type. Based on the legal protection pattern characteristic and law type, land rights discharge and land right revocation is the thinnest version rule of law. In order to make land acquisition toward the thickest version rule of law which includes formal legality, individual rights, democracy, and social welfare oriente, arrangements for land acquisition should be responsive and participatory with attention to the following factors: 1) consider as most important the land acquisition with consensus approach and agreement with the landowner; 2) changing the land acquisition procedures become more social friendly, but still based on the principle of effectiveness and efficiency; 3) empowerment of land owners after land acquisition activities with the aspect of income restoration and resettlement action plan (RAP); and 4) tend to avoid the use of repressive means such as land rights revocation.

Key words: Land Acquisition, Legal Protection, Land Rights Discharge, Land Right Revocation, Rule of Law.

Introduction

Development carried out by the state is basically done for the benefit of the nation with the greatest benefit to the welfare of the people. Development has a variety of forms and types, one of which is the construction to meet the public good or the public interest,¹ in the context of the construction is done by building a specific infrastructure that is intended for public use. Infrastructure development in the public interest requires that the land be used as a place to do the construction.

The need for the development of land in the public interest is crucial in nature, because there are many intersecting interests therein. Government as may be authorized by legislation to manage the nation's independence through the development of various sectors, in this case the infrastructure will need to realize the construction of the ground.

Procurement of land for public use will be associated with the development of the state economic sector in the broad sense of course, the private sector also contributes to the expansion of its business. Private parties interested in the land acquisition because in reality they are also in desperate need of infrastructure development, such as roads, ports, airports and so well within the framework of the investment as well as government and private pemanfaatannya. Beside the government and private interests, the public interest would be the development of infrastructure to facilitate life are also included in the procurement process ground. However, other interests that also should not be overlooked is the benefit of those whose land is used for the construction of infrastructure for the public interest.

Diverse interests make the process of land acquisition for public use raises many disputes. During the New Order until 2001, there were 1.753 cases. Then in 2007 increased to as many as 2.810 cases.² Data from BPN as of September 2013, the number of land cases reached 4.223 cases.³ The number of cases is due to land acquisition under the pretext of public interest, sometimes wounding people, because of the use of land taken by the government are not as originally planned, and even tend to give birth to the former holders of the rights of society's woes. Not infrequently the pretext of public interest, public land used for the

¹ Academic Draft, Act Number 2 Year 2012 on Land Acquisition to Development for Public Interest, DPR-RI, Jakarta, 2010, P 1.

² Yanto Sufriadi, *Penyebab Sengketa Pengadaan Tanah untuk Kepentingan Umum (Studi Kasus Sengketa Pengadaan Tanah untuk Kepentingan Umum di Bengkulu)*, Jurnal Hukum No. 1 Vol. 18 Januari 2011, hlm 44.

³ <http://www.bpn.go.id/Publikasi/Data-Pertanahan/Kasus-Pertanahan/Nasional>, accessed 1 March 2014.

fulfillment of those needs, e.g. The need for industrial development, the construction of a shopping center which will only be used by only a handful of groups.⁴

Another problem besides the difference, allotment is about compensation. As one example, the case of claims for loss Kedung Ombo citizens in the 1980s. Residents Kedung Ombo the land/building is affected by the dam project given appropriate compensation (in accordance with justice). At that time his case up on appeal.⁵ This means that the issue of compensation is a lengthy and spend a lot of landowners energy.

Interests in land acquisition have been tried in such a manner accommodated in legislation regulating land acquisition for public purposes. The setting has undergone several reforms that will lead to certain consequences. Until now, the mechanism of land acquisition for public purposes can basically be done in two ways as follows:⁶

First, by land right discharge. The land right discharge stipulated in Law No. 2 of 2012 on Land Acquisition to Development for Public Interest refers to the implementation of Presidential Decree No. 71 Year 2012 of Implementation of Land Acquisition of Development for Public Interest.

Second, by applying the land rights revocation to the president. Land right revocation provisions stipulated in Law No. 20 Year 1961 on Revocation of Land and Property objects that are therein, the Government Regulation No. 39 Year 1973 on Determination of Compensation Events By High Court Relating to Land Right Revocation and Assets objects on it, and the Presidential Instruction No. 9 of 1973 on Guidelines for Land Right Revocation and Assets objects on it.

Two different ways of land acquisition for public interest which has been alluded to above, will have implications to the legal protection aspects. The land rights discharge and land right revocation that based on the different laws of the time, the regime and its substance will be further mapped the pattern of legal protection. The problems that will be described further in this study is: How does the pattern of legal protection in the regulation of land acquisition in Indonesia? The purpose of this study is to analyze and mapping the pattern of legal protection in the regulation of land acquisition in Indonesia.

Research Method

This research is a doctrinal research, model of legal research is a comprehensive and analytical study that only used secondary data. The secondary data splitting to the primary legal materials (rules of land acquisition), secondary legal materials (books, journal, reports, results of previous research) and tertier legal materials (magazines, newspaper and dictionary). Approach the problem using the statutory approach and the conceptual approach.⁷ Data were analyzed qualitatively by describing the data generated in the form of an explanation of the study systematically so as to obtain a clear picture of the problem under study. Analysis of the legal materials will done in two phases. First, by mapping the content analysis about the structure of rules, systematization of law indication to the problem that mapped and analyzed, interpreting and assessment of the occur rules.⁸ The second phase, on the legal materials will analyze using the *Regulatory Impact Assessment* (RIA) method.⁹ The results of the data analysis inferred deductively.

Result and Discussion

Legal protection in land acquisition for public interest would be relevant if it is approached with the administrative law perspective, because one field of administrative law is to regulate the relationship of government to the people, also set the legal protection for the people¹⁰, and the land acquisition is one of the forms of government action. Ian Ellis-Jones stated that the law regarding the administration closely with procedural fairness in making administrative decisions that can result in a person's right.

The of cited 'duty to act judicially', in the context of administrative decision making, now refers to a duty to act 'fairly' in the sense of according procedural fairness in the making of any administrative decision that affects a person's right, interests or legitimate expectations.¹¹

According to Philipus M. Hadjon, with "acts of government" as a central point, (associated with legal protection for the people), distinguished two kinds of legal protection, namely: preventive legal protection and repressive legal protection. In preventive

⁴ Christiana Tri Budhayati, *Kriteria Kepentingan Umum Dalam Peraturan Pengadaan Tanah Untuk Kepentingan Pembangunan di Indonesia*, Jurnal Ilmu Hukum Refleksi Hukum Edisi April 2012, hlm 40.

⁵ Suteki, *Desain Hukum Di Ruang Sosial*, Thafa Media, Yogyakarta, 2013, hlm. 68-69.

⁶ In addition by land rights discharge and land right revocation, land acquisition can be done with sell and buy, exchange or the other ways that accepted from a both side, with the regulation of the land not larger than 1 hectare. This way according to Article 121 President Regulation No. 71 Year 2012 juncto Article 53 Chief of National Land Agency No. 5 Tahun 2012.

⁷ Peter Mahmud, *Penelitian Hukum*, Kencana Prenada, Jakarta, 2005, hlm xx.

⁸ D.H.M. Meuwissen, *Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum, dan Filsafat Hukum* (translator B. Arief Sidharta), Bandung, Refika Aditama, 2007.

⁹ Kolin Kirkpatrick and David Parker, *Regulatory Impact Assessment*, Edward Elgar Publishing, 2007.

¹⁰ Mapping of the administratif law field can be seen in Philipus M. Hadjon, *Fungsi Normatif Hukum Administrasi Dalam Mewujudkan Pemerintahan Yang Bersih*. Disampaikan pada Pidato pengukuhan Guru besar di UNAIR 10 Oktober 1994, hlm 4.

¹¹ Ian Ellis-Jones, *Essential Administrative Law*, Cavendish Publishing (Australia) 2nd edition, New South Wales, 2001, P. 2-3.

legal protection, the people are given the opportunity to object (*inspraak*) or her opinion before a decision is the definitive form of government gets. Thus preventive legal protection aims to prevent disputes whereas the repressive legal protection aimed to resolving the dispute.¹²

As described earlier that land acquisition can be done in two ways, namely the land right discharge and land right revocation. Will first be described a pattern of legal protection are accommodated in Law. 2 In 2012 a way that accommodates the release of land rights. How to release land rights provide legal protection, preventive and repressive. Preventive legal protection of land rights in the discharge is given in two ways: First, with regard to public consultation as well as concerns regarding the planned location of the efforts in the development of public consultation began when development plans implemented within a period of 60 (sixty) working days. If after a public consultation exercise which development plans are the objections regarding the location of the development plan, the public consultation carried out repeated objections by the parties no later than 30 (thirty) working days. If the public consultation birthday parties there are objections, the agency requires reporting land objected to the local governor, then the governor will determine whether the appeal is rejected or accepted.

Second, efforts to institute land objection on the results of the inventory and identification of control, ownership, use, and land use inventory conducted at the start time of the identification and control, ownership, use, and use of land by the land agency within a period of 30 (thirty) days employment. The results of the inventory and identification of control, ownership, use, and utilization of the land and shall be announced at the village office/village, sub-district office, and the Land Acquisition carried out within a period of 14 (fourteen) working days.¹³

After the results of the inventory and identification of control, ownership, use, and land use was announced, the party entitled to raise objections to the institution of land within a period of 14 (fourteen) working days after the announced results of the inventory. If there are objections to the results of the inventory, verifies and repairs will be done within a period of 14 (fourteen) working days from the receipt of the result of the filing of an inventory and identification of control, ownership, use, and use of the land. Results announcements or verification and improvement of land will be determined by the institution and subsequently became the basis for determining the party entitled to the compensation payment.¹⁴

Protection of repressive laws on the release of land rights be accommodated in two ways: First, with regard to the determination of the location of development began when the governor rejected the objections and still make the determination of the construction site. To that end, the party entitled to the location determination can file a lawsuit in the local administrative court no later than 30 (thirty) days after the issuance of the determination of the location. Administrative courts decide acceptance or rejection of claims within a period of 30 (thirty) working days from the receipt of the lawsuit.¹⁵

After the administrative court decision of the lawsuit and there are objections. Parties objected to the decision of the administrative court within a period of 14 (fourteen) working days to submit an appeal to the Supreme Court of the Republic of Indonesia. The Supreme Court shall make a decision within a period of 30 (thirty) working days after the appeal is received. Court decision having the permanent legal force be passed on the basis of whether or not the acquisition of land for development in the public interest.¹⁶

Second, the results of deliberations in the form and/or amount of compensation, the party entitled to raise objections to the local district court within a period of 14 (fourteen) working days after the determination of damages deliberations. District Court decides the shape and/or size of compensation within a period of 30 (thirty) working days from the receipt of the objection.¹⁷

After the district court decide the shape and/or the amount of compensation but still no party objected to the decision, within a period of 14 (fourteen) working days to submit an appeal to the Supreme Court of the Republic of Indonesia. The Supreme Court shall make a decision within a period of 30 (thirty) working days after the appeal is received. Decision of the District Court/Supreme Court who have acquired the force of law remains the basis of payment for damages to the party who filed the objection. If the parties are entitled to reject the form and/or amount of damages, but did not file an objection within the allotted time, because the law is entitled to receive the form and magnitude considered compensation.¹⁸

From exposure to the existing forms of legal protection in the Law. 2 In 2012, which accommodates the form of preventive and repressive legal protection. Simply put, if the author describes in a picture to symbolize the X axis as a preventive legal protection and the Y axis as a repressive legal protection. Z axis as a legal protection will be shifted towards the X-axis and Y corresponding phases in the procedure of land acquisition for public purposes. The picture of the Z-axis shift to the X-axis and Y is served on the picture one.

¹² Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia*, PT Bina Ilmu, Surabaya, 1987, hlm 2.

¹³ *Ibid*, Article 29.

¹⁴ *Ibid*, Article 30.

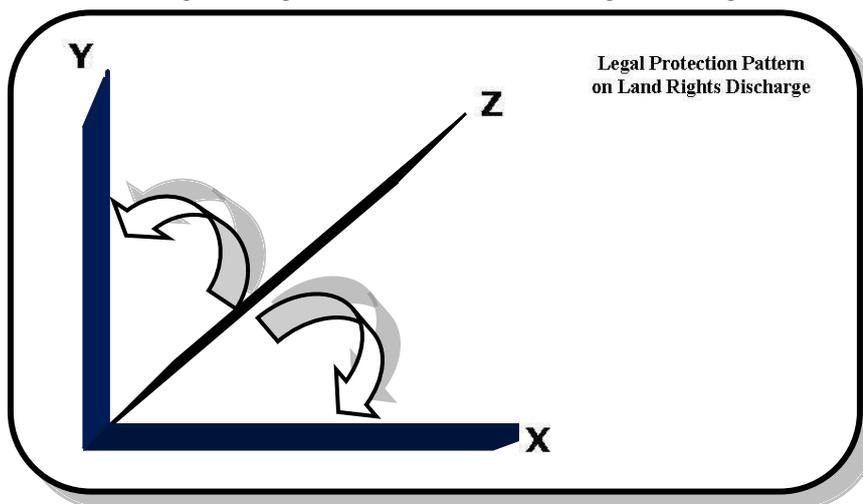
¹⁵ *Ibid*, Article 23.

¹⁶ *Ibid*.

¹⁷ *Ibid*, Article 38.

¹⁸ *Ibid*.

Figure 1: Legal Protection Pattern on Land Rights Discharge

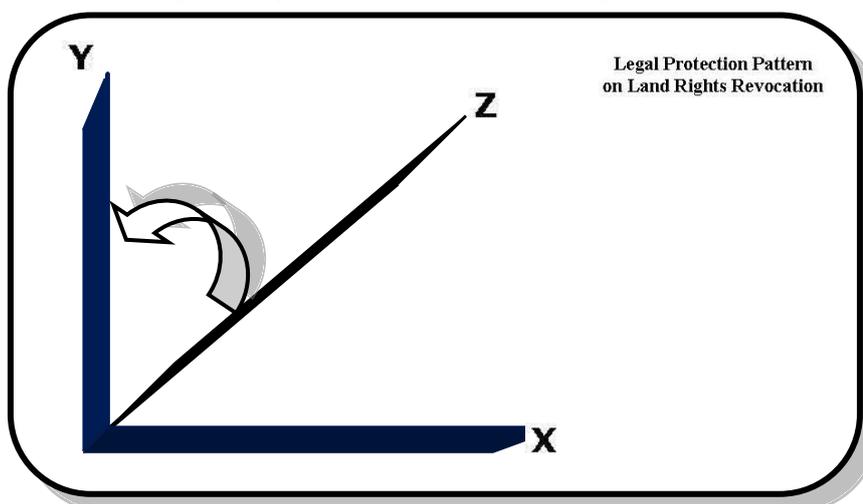


Land rights revocation¹⁹ stipulated in Law no. 20 of 1961 did not provide the legal protection that is preventive, because the regulation did not provide access for people to express opinions or objections in the process of land acquisition. However, the way the revocation of land rights provides legal protection that are repressive to appeal to the high court that his territory lay of the land and includes a place/object if it is not willing to accept the compensation provided for in the decree of the President as deemed less worthy numbers. The high court decides the matter in the first and the last.²⁰

Requests may appeal to the High Court not later than within one month from the date of the Decree of the President submitted to the concerned. No later than within one month after receipt of the appeal request, the case should have been checked by the concerned high court. Examination and judgment rendered in the shortest possible time. High court decision notified to the parties concerned, not later than one month after the court judgment.²¹

Legal protection regulation in the land rights revocation, if plotted on a picture to symbolize the X axis as a preventive legal protection and the Y axis as a repressive legal protection. Z axis as a legal protection can only be shifted toward the Y axis because it does not provide a preventive legal protection form. The picture of the shift towards the Y-axis, Z-axis are presented in picture two.

Figure 2: Legal Protection Pattern on Land Rights Revocation



Once the dimensions of legal protection in land acquisition for public purposes described in picture one and two, will be seen further legal style. By using the concept of Nonet and Selznick and the concept of the rule of law Tamanaha, will be mapped Law legal style. 20 of 1961 and Law no. 2 In 2012, is entered into the legal mode of repressive, autonomous or responsive.

¹⁹ Basically, land right revocation is pull up the assets objects on it. This principle in the same manner as Bryn Perrins said: "In principle, anything growing in the land is part of the land: trees, shrubs, plants, flowers, vegetables, grass". Bryn Perrins, *Understanding Land Law*, Cavendish Publishing (UK) 3rd edition, London, 2000, P. 28.

²⁰ Article 8 ayat 1 UU No. 20 Tahun 1961.

²¹ Article 2, 4 dan 6 Peraturan Pemerintah Nomor 39 Tahun 1973.

Nonet and Selznick distinguishes three modalities or "statements" relating to the legal basis of society (law and society): (1) the repressive rule of law as a maid (repressive law), (2) the law as a separate institution capable of taming repression and protect the integrity of himself, (autonomus law) and (3) the law as a facilitator of the various responses to the social needs and aspirations (responsive law).²² By quoting Albert Von Dicey, Hawke & Parpworth reveal the contents of the rule of law is equality before the law, which is in essence the government should act based on the law.

The Rule of Law requires the recognition of the predominance of the regular law (as opposed to arbitrary or wide discretionary powers), equality before the law and that the British constitution is the product of the ordinary law. In essence, therefore, the Rule of Law requires that there should be a government according to law and an avoidance of arbitrary action.²³

The dicey statement above, then elaborated by Tamanaha which divides the state law definition of range in the three groups (clusters of meaning), namely: first, that the government is restricted by law; second, the state law is understood as a formal legal basis; Third, the setting is based on the law (rule of law), not the (rule of man).²⁴ Tamanaha further divide the rule of law to be the thinnest which is a formal version of the rule of law and the thickest which is a substantive version of the rule of law.²⁵ Tamanaha explains that the thinnest version of the rule of law only requires that all government actions must be carried out under the law. While the thickest version of the rule of law also includes a formal legality, individual rights, democracy, social welfare even added.

The thinnest formal version of the rule of law is the notion that law is the means by which the state conducts its affairs, "that whatever a government does, it should do through laws."²⁶ The thickest substantive versions of the rule of law incorporate formal legality, individual rights, and democracy, but add a further qualitative dimension that might be roughly categorized under the label "social welfare rights."²⁷

By looking at the character of laws from Nonet and Selznick and rule of law category from Tamanaha that have been described before, setting of the land rights revocation in the Law no. 20 In 1961, the authors categorize as patterned repressive laws, which in terms Mahfud MD patterned orthodox/conservative.²⁸ Setting revocation of land rights in the public interest that only provide legal protection that are more likely to repressive character of repressive laws and the thinnest version of the rule of law that bind to the disenfranchisement law, placing legal institutions is directly accessible by political forces; together with state law are identified and placed under the destination country; and legitimize patterns of social subordination.

Land acquisition by the land rights discharge stipulated in Law no. 2 In 2012 the canalyze to accommodate legal protection, preventive and repressive writer can be categorized as an autonomous legal patterned but still is the thinnest version of the rule of law. Procurement of land near a waiver manner tend to put a type of autonomous law procedural aspects of the law as the heart, so that order and justice are the goals and core competencies of the rule of law. Autonomous law, the legal implications that must be removed from political interests, the law should be impersonal, neutral and impartial. Teachings in the law can be said to be autonomous is a translation of the rule of law. In the concept of autonomous law can only be enforced in a democratic society imbued with the spirit of freedom in the attempt.²⁹

Regulation of land acquisition for public purposes should be responsive in order to better ensure legal protection for landowners. This is because the implications of the land acquisition process when viewed with a more comprehensive is not something simple. Various aspects, particularly the interests of landowners whose land is used for construction for public use must also pay attention to the sustainability of their lives post-procurement. Do not let the owners of the land experienced a worsening socio-economic conditions after the land acquisition process. The responsive land acquisition law will be able to harmonize the various interests in land acquisition so that everything can run smoothly in accordance with state law for the purpose of happiness.³⁰

Tamanaha is basing on the function of law as an instrument as proposed Pound, also look at the instrumental side of the law as a tool to mancapai certain goals, such as maximizing social welfare or create a balance of competition.

An instrumental view of law means that law – encompassing legal rules, legal institutions, and legal processes – is consciously viewed by people and groups as a tool or means with which to achieve ends. The supply of possible ends is open and limitless, ranging from personal (enrichment, harassment, or advancement), to ideological (furthering a cause), to social goals like maximizing social welfare or finding a balance of competing interests.³¹

²² Philippe Nonet dan Philip Selznick, *Hukum Responsif*, translated from: *Law and Society in Transition: Toward Responsive Law*, Harper & Row, 1978. Translated by: Raisul Muttaqien, Nusamedia, Bandung, 2008, hlm 18.

²³ Neil Hawke & Neil Parpworth, *Introduction to Administrative Law*, Cavendish Publishing (UK), London, 1998, P. 2.

²⁴ Satjipto Rahardjo, *Negara Hukum Yang Membahagiakan Rakyatnya*, Genta Publishing-cet 2, Yogyakarta, 2009, hlm. 87-88.

²⁵ In line with Tamanaha perspective about the thickest version rule of law, Tisnanta states to improve the quality of law (legislation product) can be made to the substance and technical aspects that directed to the form of purposive law character. HS. Tisnanta, *Progresifitas Pembentukan Peraturan Daerah Yang Berbasis Kesejahteraan Rakyat*, Ringkasan Disertasi Doktor Ilmu Hukum Universitas Diponegoro, Semarang, 2012, hlm 54.

²⁶ Brian Z. Tamanaha, *On The Rule of Law*, Cambridge University Press, The Edinburgh Building, 2004, P. 92.

²⁷ *Ibid*, P. 112.

²⁸ Democratic politics configuration will make the responsive law, whereas the authoritarian politics configuration will make the orthodox or conservative law. Moh. Mahfud MD, *Politik Hukum di Indonesia*, RajaGrafindo Persada, Jakarta, 2012, hlm 7.

²⁹ Op. Cit. Adji Samekto, *Relasi*hlm 97.

³⁰ The goal of law state is to make a great happiness to the people of the nation. Satjipto Rahardjo, *Membedah Hukum Progresif*, Penerbit Buku Kompas, Jakarta, 2008, hlm. 15.

³¹ Brian Z. Tamanaha, *Law as a Means to an End*, Cambridge University Press, The Edinburgh Building, 2006, P. 6.

Pound more emphasis on law can serve as a tool of social engineering because he saw happening in his country kemirisan where conditions at the time of jurisprudence tend to deteriorate because the law only becomes mere regulation.³²

Pound claimed, was mired in this state: “[T]he jurisprudence of conceptions tends to decay. Conceptions are fixed. The premises are no longer to be examined. Everything is reduced to simple deduction from them. Principles cease to have importance. The law becomes a body of rules.”³³

Arrangement of land acquisition for public purposes should also be able to become a tool of social engineering to harmonize the various interests that exist. The interests of the country's development for the welfare of the people who brought in the procurement of land for public purposes can be achieved without sacrificing the land owners.

The exposure of qualifying how the pattern of land acquisition laws is both still considered the thinnest version of the rule of law which tends to repeal repressive and autonomous right to waiver. Expected future land acquisition law is moving towards a responsive law that are the thickest version of rule of law which includes formal legality, individual rights, democracy, and even social welfare oriented. To make the land acquisition law that leads to responsive law and the thickest version of rule of law oriented social welfare, the authors put forward a glimpse of the model need for land acquisition in the United States for comparison. According to Rutherford, the provision of land for public use in the United States is set in the current constitution of the Fifth Amendment. Mentioned that no individual owned property can be taken for public use without compensation. Further explained that the land acquisition can be done in various ways.

Yet certain land is needed for direct public use: for school sites, parks, highways, prisons, municipal offices, public waste facilities, and conservation areas. These needs cannot normally be provided through zoning or other regulations; where public use is involved, public ownership may be required. In addition, public ownership requires “just compensation” to be paid to the owner pursuant to the Fifth Amendment to the U.S. Constitution: “nor shall private property be taken for public use without just compensation.” Public lands (municipal, county, regional, state, or federal) are exempt from local property taxation and usually from local zoning. Land may be acquired for public ownership and use in several ways: (1) negotiated purchase, (2) eminent domain, (3) gift, (4) dedication, (5) zoning incentives, and (6) tax default.³⁴

Further said that the way negotiations with land owners is the first time how the most widely adopted and used in the procurement of land for public use in the United States. This proves that the way of land acquisition in the United States tend to be more participatory approach put forward because it is private than public. In line with the policy of land acquisition for public purposes in the U.S. Richard English & Frederick E. Brusberg of the International Finance Corporation (IFC) of the World Bank group, suggests some requirements that must be met by each project land acquisition that could adversely affect economic conditions “affected people”. There are ten components of the resettlement action plan (RAP) which must be met from the identification of the impact of the project through to monitoring and evaluation. The component was quoted as saying the following:

IFC requires a resettlement action plan (RAP) for any project that results in either the physical or the economic displacement of people. As a minimum requirement, a RAP must ensure that the livelihoods of people affected by the project are restored to levels prevailing before the inception of the project. This section describes a recommended approach to effective RAP preparation. The essential components of a RAP are the following:³⁵

- identification of project impacts and affected populations;
- a legal framework for land acquisition and compensation;
- a compensation framework;
- a description of resettlement assistance and restoration of livelihood activities;
- a detailed budget;
- an implementation schedule;
- a description of organizational responsibilities;
- a framework for public consultation, participation, and development planning;
- a description of provisions for redress of grievances; and
- a framework for monitoring, evaluation, and reporting.

From the comparison of means of land acquisition for public use in the United States and the resettlement action plan components are offered the IFC, to establish a responsive land acquisition law should be based also on aspects of community participation. A land acquisition law that is responsive and participatory can be established by taking into account the following factors:

1. Prioritize way land acquisition approach consensus agreement with the landowner;

³² According to Friedman, some people that have sceptic view to the rules is start from the perception that unobjection. They seen many of rules is too abstract or even tautologically. Lawrence M. Friedman, *Sistem Hukum Perspektif Ilmu Sosial*, Terjemahan oleh M. Khozim, Nusa Media, Bandung, Cet-V 2013, hlm. 55.

³³ Brian Z. Tamanaha, *Beyond The Formalist-Realist Divide*, Princeton University Press, New Jersey, 2010, P. 27.

³⁴ Rutherford H. Platt, *Land Use and Society* (revised edition), Island Press, Washington D.C., 2004, P. 278.

³⁵ Richard English, Frederick E. Brusberg (The International Finance Corporation (IFC), the World Bank Group), *Handbook for Preparing a Resettlement Action Plan*, Pennsylvania Avenue, Washington, 2002, P. 11.

2. Change the land acquisition procedures become more social friendly, but still based on the principle of effectiveness and efficiency;
3. Empowerment post landowners for land acquisition activities with the aspect of income restoration and resettlement action plan (RAP);
4. Avoiding the use of such a repressive manner tend like land rights revocation.

Some of the above factors are essentially an attempt to establish a land acquisition law that is responsive and participatory based on the precepts of Pancasila is both just and civilized humanistic. With land acquisition models that are responsive and participatory, the land acquisition process to become more equitable and civilized and oriented in the thickest version of rule of law.

Conclusion

Land acquisition for public purposes can be done by the land rights discharge stipulated in Law no. 2 of 2012 on Land Procurement for Development for Public Interest, and/or land rights revocation stipulated in Law no. 20 of 1961 on Revocation of Land and Property objects that are therein.

Legal protection of land owners in land acquisition for public purposes by way of waiver of land to accommodate the form of legal protection that preventive and repressive. Preventive legal protection of land rights in the discharge is given relating to public consultation as well as concerns regarding the planned location of the efforts and the efforts of development agencies objected to the land over the inventory and identification of control, ownership, use, and land use. Repressive legal protection given relating to the determination of the location of development began when the governor rejected the objections and still make the determination of the location of the development and the results of consultation on the form and/or amount of damages. The release of land rights and legal relations in terms of power, the law tends to be autonomous and style still shaped the thinnest version of the rule of law.

Legal protection of land owners in land acquisition for public purposes by land rights revocation did not provide legal protections that are preventive, because the regulation did not provide access for people to express opinions or objections in the process of land acquisition. How to land revocation of repressive laws only provide protection to appeal to the high court that his territory lay of the land and includes a place/object if it is not willing to accept the compensation provided for in the decree of the President as deemed less worthy numbers. Revocation of land rights and legal relations in terms of power, style and form of repressive laws tend the thinnest version of the rule of law.

To make the land acquisition law that is more responsive and participatory so nuanced the thickest version rule of law that oriented to the social welfare, it is necessary to pay attention to the deliberation and sustainability aspects of the lives of the owners of the land after land acquisition activities. With land acquisition models that are responsive and participatory, the land acquisition process would be more fair and civilized.

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