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LAND ACQUISITION REGULATION FOR INFRASTRUCTURE DEVELOPMENT IN INDONESIA: THE PROBLEM OF EFFICIENCY OF ITS PERFORMANCE

*Iwan Erar Joesoef¹, Muhammad Helmi Fahrozi², Wardani Rizkianti³,
Siti Nurul Intan Sari D⁴, Sylvana Murni Deborah Hutabarat⁵*

^{1,2,3,4,5}Universitas Pembangunan Nasional Veteran Jakarta
Jl. RS Fatmawati Raya No. 1, Pondok Labu, Jakarta Selatan, Prov. DKI Jakarta. 12450

Email: iwan.erar@upnvj.ac.id; helmifakhrazi@upnvj.ac.id; rizkianti88@gmail.com;
sinuinsada@yahoo.com; sylvana.hutabarat@upnvj.ac.id.

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Abstract: The purpose of this article is to investigate the problem of inefficiency of Land Acquisition performance. The scope of this research is concerning to land acquisition for public purposes like developing of infrastructures in Indonesia, especially toll road infrastructure development. The methods used in this research is qualitative by collecting data from the source, there are: journals, report, conference, seminars, scripts of thesis and dissertation concerning this topic. The result of this research, the local government set up the committee for land acquisition (P2T) both for province level or district level. In its realization, such as toll road infrastructure development, in addition to setting up such P2T, the central government through ministry of public works and people housing development (PUPR) also setting up the land acquisition team (TPT) in order to assist P2T. Of which, there are many constraints such as inefficiency and ineffectiveness in performing of land acquisition both upon the institution or the procedure, and also arising the risk of the government budget usage.

I. Introduction

At the end of the term of office of the President Joko Widodo in the year 2019, a lot of mainstream media to expose the construction of the infrastructure in Indonesia such as hardboard, airport, toll road, railway (inter-urban and urban), tourism location, power plants, dams and hydropower plants, mass rapid transportation, new oil refineries, etc. There are 32 National Strategic Projects completed between 2016 and June 2018 (Darmin Nasution, 9th October 2018). As a major infrastructure development plan, National Strategic Project (PSN) also come with major funding requirement, with majority expected to be coming from private sector of which the estimated investment value for 223 Projects and 3 Programs of PSN are USD 307.4 Billion (State: USD 31.7

Billion, SOE: 94.3 Billion and Private: 181.4 Billion). From December 2017 to June 2018, funding related issues in PSN reported to (Committee for Acceleration of Priority Infrastructure Delivery) KPPIP per June 2018 based on 327 issues reported on 223 Projects and 3 Programs noted that Planning and Preparation Issues: 38%, Land Acquisition: 36%, Construction Issues: 12%, Funding Issues: 8% and Permit Issues: 6% (Committee for Acceleration of Priority Infrastructure Delivery, 9th October 2018).

Previously the Government had launched policies to accelerate development in all fields, including the acceleration of development of toll road infrastructure. In the accelerated development, the Government has formed a Committee for the Acceleration of Priority Infrastructure Provision (KPPIP) based on the President's policy (Presidential Regulation No. 75 of 2014). The Government issued a policy on the Master Plan for the Acceleration and Expansion of Indonesian Economic Development (MP3EI) (Presidential Regulation No. 32 of 2011). MP3EI was born from a big idea to encourage equitable development in the entire territory of the country in order to create prosperity for all the people of Indonesia (sustainable development) (<https://ekon.go.id/berita/view/konsep-sustainable.5.html>, accessed on 18 Mei 2019 at 07:44 a.m.).

KPPIP was formed by the President in order to revitalize the previously established Committee on the Policy for Accelerating Infrastructure Provision which was considered ineffective for several reasons, namely weak decision-making authority, limited role of KKPPI in the entire project stages from planning to the start of development, lack of flexibility to provide incentives and disincentives to accelerate the project, also the Committee structure is too large so that decision making is often ineffective so the President needs to take new policies. The committee consists of the Coordinating Minister for Economic Affairs as Chair with members of the Minister of Finance, Minister of PPN / Head of Bapennas, and Minister of Agrarian and Spatial Planning (<https://kppip.go.id/tentang-kppip/>, accessed on 18 Mei 2019 on 08:20 a.m.).

In general, the constraints in infrastructure development in Indonesia are the lack of effective coordination between stakeholders both from the Government (ministries, institutions, regional governments, state owned enterprise - BUMN and BUMD) and also the private sector. The diversity of goals and responsibilities of each stakeholder has affected the delay in the extension of infrastructure projects. Based on these constraints, the President forms KPPIP which works across institutions and ministries and will assist Project Owners in preparing and carrying out project development. KPPIP was also formed with the main objective as a coordination unit in making decisions to encourage the resolution of problems that arise due to lack of effective coordination between stakeholders. Thus KPPIP is expected to be a "point of contact" in implementing coordination of strategic and priority national projects that face the problem of "debottlenecking".

In the construction of toll road infrastructure, the Government has established a Regulatory Body ("Regulator"), namely the Toll Road Regulatory Agency (BPJT) (Article 45 paragraph (3) Republic of Indonesia Law No. 38 of 2004 concerning Roads). The BPJT was formed on June 29, 2005 in a phase where the toll road construction process re-entered the accelerated era starting in 2005. A phase in which 19 toll road projects have been delayed since 1997. In the BPJT phase, the Government will fund the construction of roads using three financing approaches, namely, full financing by the private sector, public private partnership program and development financing by the Government with maintenance operations by the private sector (<http://bpjt.pu.go.id/konten/jalan-tol/sejarah>, accessed on 18 Mei 2019 at 08:37 a.m.). The BPJT is a non-structural body formed by and under and responsible

to the Minister (Article 72 Republic of Indonesia Government Regulation No. 15 of 2015 concerning Toll Roads.).

The implementation of the accelerated development policy especially in the construction of toll road infrastructure still faces several obstacles. One of them is the obstacle of land acquisition for development in the public interest. In the report "Toll Road Land Procurement" by the Ministry of Public Works and Public Housing, the status and issues of "Toll Road Land Procurement" are mentioned, namely (Ministry of Public Works and Public Housing, Directorate General of Highways, Directorate of Freeways, Urban and Regional Road Facilities, "Toll Road Land Procurement Report" on 28 September 2015): (1) The process of replacing Village Cash Land (TKD) is constrained by the location of replacement land in the same village, (2) The licensing process of "waqaf" land, (3) Establishment of P2T (a team of land acquisition established by government) and the validation process have not been determined in terms of regulations, (4) The process of toll road land acquisition involves many relevant agencies to accelerate land acquisition and problem solving requires good coordination, and (5) There is no integrated land acquisition monitoring system.

Adequate human resource, budget and authority factors, clear and consistent communication, as well as positive support for policy implementation, bureaucratic efficiency that works according to each task as well as limited equipment resources, especially equipment measuring the area to be freed, are inhibiting factors for the implementation of land acquisition, especially in the construction of toll road infrastructure (Thesis Dian Ayu Novianty, Yogyakarta State University, 2014). Factors of understanding and coordination among agencies related to land acquisition such as: P2T, TPT (a team to assist P2T established by the Ministry of Public Works and Public Housing), financial / financing authorities, business entities, and owners are very important in realizing common perceptions for implementation in the field. The land acquisition regulation is also a part of the land law system, so it is necessary to find a solution to the existing problem solving, coordinate with the authorized institutions, both related agencies and law enforcement. The active role of PT. Jasa Marga (Persero) Tbk, together with its subsidiaries through coordination and facilitation with P2T, TPT, related institutions and communities in accordance with their respective competencies is very important for the successful implementation of land acquisition for toll road construction (Agus Yafli Tawas, see *Unsrat Journal of Law* Vol. I / No.6 / October-December / 2013).

II. Methods

In this conceptual research, the author uses the normative juridical writing method. This method is used by collecting the working papers, related books and journals, report, seminars and conference, scripts of thesis and dissertation as well as regulations and official website. Such documents had been scrutinized and analyzed properly by refer to the legal theory. All data then organized in this paper in order to get the problem and conclusion.

In this circumstances, the question arising that, do the institutions related to land acquisition activity for public purpose could run effective and efficiency, and how government regulate it so that giving the effective and efficiency of its performance. Regulations on the factors of human resources and equipment, fiscal and financing resources, institutions and bureaucracy in accelerating the provision and development of infrastructure are important. Establishing a regulator that can accommodate regulations on these factors also becomes important. In the view of economic lawyers (economic analysis of law) especially in the "Fundamental Building Blocks of the Chicago Approach",

mentioning that regulations (legal rules) in an economic activity will produce efficiency. In the legal and economic approach (the Chicago Approach) mentioned (Nicholas Mercurio and Steven G. Medem, 1997: 57).

“The defining characteristic of the Chicago approach is the straightforward application of microeconomic (or price-theoretic) analysis to the law. As such, this approach embodies the following premises: (1) individuals are rational maximizers of their satisfactions in their nonmarket as well as their market behavior, (2) individuals respond to price incentives in nonmarket as well as market behavior, and (3) legal rules and outcomes can be assessed on the basis of their efficiency properties, along with which comes to the normative prescription that legal decision making should promote efficiency ...”.

The “rational” individual of economics contrasts, of course, with the “reasonable” individual of traditional legal theory – an individual who is socialized into the norms and conventions of a community, and whose behavior corresponds to these norms. The law is said to reflect these norms and conventions, and thus is obeyed by reasonable individuals. Those who engage in “illegal” activities are seen as unreasonable in that they have violated these norms and conventions. In contrast, the economic approach says that behavior can be (and usually is) rational even when it conflicts with these social norms. The third defining characteristic of the Chicago approach to law and economics is that legal decision making and the evaluation of legal rules should be analyzed from the perspective of economic efficiency. One criterion employed is Pareto efficiency – that a situation is efficiency – enhancing if at least one person can be made better off without making anyone else worse off.

Regulators that will be formed to accommodate the implementation of regulations on the factors of human resources and equipment, fiscal and financing resources, institutions and bureaucracy must run well and be responsible according to their functions and authorities. The regulator must refer to the principles of good governance or general principles of good governance (AUPB). In Article 3 of Law Number 28 of 1999 concerning the Organization of a Country that Is Clean of Corruption, Collusion and Nepotism (Law-AUPB) these principles have been written in writing, namely: (1) Principle of legal certainty, (2) Orderly principles of administration State, (3) Principle of public interest, (4) Principle of openness, (5) Principle of proportionality, (6) Principle of professionalism, and (7) Principle of accountability (Law No.28 of 1999).

As a body that administers government administration, the Regulator performs its functions based on: the principle of legality, the principle of protection of human rights (HAM), and AUPB (Article 5 of Republic of Indonesia Law Number 30 Year 2014). So that with these principles government objectives will be achieved, namely: creating orderly administration of government administration, creating legal certainty, preventing abuse of authority, guaranteeing accountability of bodies and / or government officials, providing legal protection to citizens and government officials, implementing regulatory provisions legislation and implementing AUPB, as well as providing the best service to citizens.

Prof. Kuntjoro Purbopranoto said that there are 13 principles of AUPB (good governance), namely: (1) principle of legal security, (2) principle of proportionality, (3) principle of equality, (4) principle of carefulness, (5) principle of motivation, (6) principle of non-misuse of competence, (7) principle of fair play, (8) principle of reasonableness or prohibition or arbitrariness, (9) principle of meeting raised expectation, (10) principle of undoing the consequences of an annulled decision, (11) principle of protection

of the personal way of life, (12) principle of sapientia, and (13) principle of public service (Philipus M. Hadjon, at al., 2002: 279).

III. Results

From the problem of the many institutions and institutions as well as regulations and bureaucracy in the acceleration of infrastructure development, it looks very complicated. Coupled with the issue of land acquisition for the public interest, which is applied to all land acquisition processes for all infrastructure development both carried out by central and regional governments, the question is whether all technical, juridical and financial issues can be regulated in one door in a regulatory body (Regulators) and Regulators like what can provide a more efficient solution. To carry out the principle of good governance (AUPB) as Article 3 of the Law-AUPB, it is necessary to establish a Centralistic and Single (General) Regulator for the development of all infrastructure fields both at the central and regional levels. It is hoped that this can help the Government's goals in Sustainable Development Goals that have global goals and targets for 2016 to 2030 (Article 1 of the Republic of Indonesia Presidential Regulation Number 59 of 2017).

IV. Discussion

A. Land Acquisitin in Infrastructure Development.

(1). The Problem of Land Acquisition in Infrastructure Development.

One of the problems of land acquisition in the construction of toll road infrastructure is the process of toll road land acquisition involving many related agencies (Ministry of Public Works and Public Housing, Directorate General of Highways, Directorate of Freeways, Urban and Regional Road Facilities, "Toll Road Land Procurement Report" on 28 September 2015). For example, in the case of the issuance of a Decision Letter on Land Procurement Implementation by the Head of the Regency / City Land Office, coordination of public facilities, social facilities and utilities with the Regional Government, release of village cash land (TKD) from the Village Head which needs approval from the Village Consultative Body (BPD), approval of the compensation price by the Governor. In this case the Government needs to accelerate land acquisition and problem solving requires good coordination.

In the construction of toll road infrastructure, in general the problem of land acquisition is related to the problem (Iwan Erar Joesoef, 2015: 296-297): (a) a jump in the land value of the toll road where the cost of procuring land acquisition under the law on roads is part of the investment of toll road business entities (Law Number 38 of 2004). The increase in land value can be caused by significant differences in the value of land agreed in the tender documents for toll road procurement and the reality of land acquisition after the signing of the toll road agreement by investors, (b) the problem of land acquisition can also be caused by the slow issuance of Decree Development Location (SP2LP) and the establishment of P2T, (c) the slow performance of P2T in the land acquisition process, (d) it could also be due to land disputes resulting in trace changes in the toll road section.

The delay in issuing SP2LP can be seen from the case at PT. Citra Margatama Surabaya in the construction of the toll road "Simpang Susun Waru - Tanjung Perak Surabaya (Report of PT. Citra Margatama Surabaya - Construction Project for the Simpang Susun Waru - Tanjung Perak Toll Road, June 2012). In this case, it can be seen that the SP2LP application at the request of the President Director of PT. Jasa Marga, based on a letter dated February 14, 1997, to the Director General of Highways, Ministry of Public Works, was only issued by the Governor of East Java on January 13, 1998. In this case it was seen that the issuance of SP2LP was processed in approximately 1 (one) year.

Another problem in land acquisition, especially in developing toll road infrastructure, is the dispute resolution mechanism. The land acquisition regulation has stipulated that the settlement of land acquisition disputes with holders of land rights is first carried out by means of deliberation. The meeting has been set for a period of time, which is 120 days (one hundred and twenty days). If there is no agreement, P2T entrusts compensation (consignment) to the District Court whose jurisdiction covers the location of the land concerned (Presidential Regulation Number 65 of 2006).

Particularly for land disputes using the revocation of rights under the revocation of rights law, coordination is needed between the ministries of Law and Human Rights, the President and the National Land Agency. If the holder of land rights is still unwilling to accept compensation determined in the Presidential Decree, an appeal can be made to the High Court (Regulation Number 39 of 1973). The delay in the land acquisition process, especially in the construction of toll road infrastructure, can be seen from the BPJT data. Land procurement progress for 37 toll road sections within 1 (one) year (2014-2015) for Trans Java (Jabodetabek, Sumatra and Kalimantan) sections was 63% (in 2014) and only reached 69% (in 2015). Whereas for the Java Non-Trans segment, it was 29% (in 2014) and reached 31% (in 2015) (Monitoring Report on Toll Road Regulatory Agency, Ministry of Public Works and Public Housing, Toll Road Concession Program in Indonesia, Jakarta 6 February 2016).

The slow process of land acquisition has led to policy initiatives from the Minister of Public Works and Public Housing (PUPR) to take a policy of implementing construction in parallel with land acquisition. This is to achieve the target of completion of toll road construction to operate in 2018. This case can be seen in the case of the Pemalang-Batang and Batang-Semarang toll road construction plan carried out by President Joko Widodo in Batang, Central Java on June 17, 2016 with a total investment of Rp. 15, 85 Trillion for each Pemalang-Batang (39.2 Km) and Batang-Semarang toll road segments (75 Km). At that time the progress in procuring land for the Pemalang-Batang toll road reached around 12% and the Batang-Semarang toll road section reached around 20% (<http://bpjt.pu.go.id/berita/presiden-lakukan-pencanangan-pembangunan-tol-pemalang-batang-dan-batang-semarang>, accessed on 18 Mei 2019 at 14:33 p.m.).

To procure land for development in the public interest the Government has issued regulations in the form of laws (Law Number 2 of 2012). The regulation has undergone several changes related to the issue of involvement of the private sector in infrastructure development in the form of Public Private Partnership (PPP). To procure infrastructure itself, the Government has issued regulations which are related to the acceleration of the implementation of national strategic projects (Presidential Regulation Number 3 of 2016), as well as regulation of cooperation between the Government and Business Entities in providing infrastructure (President Regulation No. 38 of 2015). While the tariff regulation is still determined by the ministry on the proposed regulatory body such as in the construction of toll road infrastructure (Article 75 paragraph 1 (a) Republic of Indonesia Government Regulation Number 15 of 2005 concerning Toll Roads). Other things such as resolving binding disputes are not specifically regulated. All regulations are sectoral and separate. Besides that the authority of the Central Government and the Regional Government in bureaucracy will have an impact on the implementation of land acquisition for development in the public interest (Law Number 23 Year 2014).

A lesson from Ethiopian experience, the study concluded that to provide extensive agricultural land to large-scale agricultural investors requires integrated land use planning, land valuation and governance, monitoring systems, and the capacity to implement various social and environmental laws

in coordination with other sectors. Improving rural infrastructure, especially roads, is also very necessary to increase the level of performance of commercial agriculture. Finally, but most importantly, customary rights to community land must be respected and institutionally recognized (Dereje Teklemariam, Hossein Azadi, Jan Nyssen, Mitiku Haile and Frank Witlox, "How Sustainable Is Transnational Farmland Acquisition in Ethiopia? Lessons Learned from the Benishangul-Gumuz Region", *Sustainability*, 2016, 213; doi:10.3390/su8030213 – www.mdpi.com/journal/sustainability). As mentioned above, Ethiopia adapts the Integrated and Responsible Land Use Management Agricultural Investment Framework to describe key institutional and governance related land frameworks and to examine the effectiveness of land leasing processes in terms of economic, social, and environmental expectations of agricultural outsourcing in Ethiopia.

Lessons from India in terms of Highway Urbanization and Land Conflicts, the tendency of emerging urbanization of roads has major implications for the theory and practice of decentralization, namely: (1) when cities in developing countries develop into large cities, there is a reversed tendency in politics with decentralization of decision-making to city and village governments, (2) urbanization along highways opposed the binary classification of human settlements into urban and rural areas, however, decentralization changed the urban-rural dichotomy through submission of decisions to urban and rural governments, and (3) at present, regional planning tends to refer almost entirely to metropolitan planning. These findings challenge our conventional assumptions about decentralization, as delegating one direction of decision making from the higher to the lower levels of government. This is referred to as the term "negotiated decentralization" to reflect the actual alternating war between local and regional actors in managing trans-local geography such as urbanization of highways (Sai Balakrishnan, "Highway Urbanization and Land Conflicts: The Challenges to Decentralization in India, *Pacific Affairs: Volume 86*, No. 4 December 2013.).

(2). Infrastructure Development: Institution and Regulation

Land procurement regulations cannot be separated from the regulation of accelerating infrastructure development. Based on economic growth in 2015, which amounted to 4.73 percent, the Indonesian Government made a number of efforts to encourage investment in various sectors related to infrastructure such as improvements in regulations, fiscal and institutional. The slow provision of infrastructure in Indonesia is due to constraints at various stages of the project, from preparation to implementation. Weak coordination between stakeholders as a whole often results in the withdrawal of decision making. At the preparation stage there are problems due to the poor quality of project preparation and the limited funding allocation. Then, the project is often constrained by land acquisition problems which results in delays in achieving financial close. For this reason, the Government has formed KPPIP which is a form of Committee (<http://kppip.go.id/tentang-kppip/perkembangan-pembangunan-infrastruktur-di-indonesia/> accessed on 21 Mei 2019 pukul 8:37 a.m.).

Even though Law No. 2 of 2012 concerning Land Acquisition for Public Purpose has been issued, land acquisition remains the biggest problem that slows down infrastructure projects. Identified constraints include: (1) information gap between the person in charge of the project and the Ministry of Agrarian and Spatial Planning regarding the location and plan of land acquisition, (2) lack of coordination among stakeholders if there are obstacles in land acquisition, and (3) absence monitoring and synchronizing the transfer of government / BUMN / BUMD land in the public interest. For this reason,

KPPIP intends to form a Land Acceleration team to resolve these obstacles and provide increased capacity needed for acceleration (<https://kppip.go.id/tentang-kppip/perkembangan-pembangunan-infrastruktur-di-indonesia/> accessed on 21 Mei 2019 at 8:54 a.m.).

In 2015, KPPIP completed various preparations for the purpose of operationalizing and establishing the Committee's image, including (<http://kppip.go.id/tentang-kppip/> accessed on 21 Mei 2016 at 23:49 a.m.):

1. Establishment and operation of various Work Teams and Project Management Office (PMO);
2. Determination of the List of Priority Projects for 2015 - 2019 stipulated in the Regulation of the Coordinating Minister for Economy (Permenko) No. 12 of 2015;
3. Provision of facilities for preparing Pre-Feasibility Study of Value for Money, and AMDAL Review for selected Priority Projects;
4. Preparation and determination of Organizational Governance (SOP) and monitoring and debottlenecking mechanisms;
5. Implementation of accelerated priority projects;
6. Mapping regulatory improvements in the infrastructure sector;
7. Development of an Information Technology system for project management and improving the quality of decision making.

In terms of providing infrastructure requires land, there are several institutions involved in implementing land acquisition, namely (Regulation of the Head of the Indonesian National Land Agency No. 3 of 2007): The first is the P2T institution for the Regency / City level land acquisition committee, which consists of a maximum of 9 people. Second is the Land Price Appraisal Agency that has been determined by the Regent / Walokota or Governor for the territory of the Special Capital Region of Jakarta to assess land prices. This Land Price Institution is an institution that has obtained a license from the National Land Agency. Third is the Land Price Appraisal Team, which is a team formed by the Decree of Regents / Mayors or Governors for the Special Capital Region of Jakarta to assess land prices, if there is no Land Price Appraisal Institution in the Regency/ City concerned or near by. Third is the Land Procurement Team (TPT) formed by the Minister of Public Works on behalf of the Government as a toll road land procurement team with guidance from the Directorate General of Highways (Minister of Public Works Regulation No: 10 / PRT / M / 2006). Fifth, specifically in terms of providing toll road infrastructure, there is a BPJT institution.

Until now Government functions were carried out in a ministry, but at the beginning of the 19th century, the pattern of administration, as we see now, public functions was often carried out by a body, which worked outside the boundaries of ministry ties. Then at the end of the 19th century there was a deterioration of these institutions and the emergence of ministry responsibilities with public services. The agency emphasizes the need for efficiency improvements in traditional ministries, with structures where there are different units with clear authority so that they can be held accountable (Paul Craig, 2008: 93-94.). These bodies are regulatory entities that can provide advice. Common reasons for forming these bodies:

“First, there is the ‘buffer’ theory which sees them as a way of protecting certain activities from political interference. Second, there is the ‘escape’ theory which sees them as escaping known weaknesses of traditional government departments. Third, the ‘corson’ theory, following Mr. John Corson sees them as used to ‘put the activity where the talent was,’ which might be outside government departments. Fourth, there is the participation or ‘pluralistic’ theory which thinks it desirable to spread power. Fifth, there is the ‘back double’ theory. This is based on the analogy with taxi-driver who finds

the main streets too busy and therefor uses back streets – what are known to taxi-driver as ‘back doubles.’ The back double theory is that if governments, local authorities or other bodies find that they cannot do the things they want within the existing structure, they set up new organizations which make it possible to do them. Sixth, the ‘too many bureaucrats’ view, mainly an American one, suggest that if the public thinks a country has too many civil servants it can set up quasi-non-governmental organizations whose employees are not classified as civil servants.”

In infrastructure development in Indonesia, there are many bodies that are not regulatory in terms of the implementation of physical infrastructure development and land acquisition for the purpose of physical infrastructure development. This condition is certainly a factor that has accelerated the acceleration of infrastructure development itself. So many government agencies both from ministry and non-ministry institutions will certainly make it difficult to coordinate both vertically and horizontally.

In addition to institutional factors, regulatory factors are very important related to efficient use of resources and investment productivity in infrastructure development. The legal framework is expected to create a stable environment and atmosphere so that economic actors in carrying out their business activities have no interference in political arbitrariness. To achieve a stable environment and atmosphere, the legal framework requires five requirements (Julio Faundez (Ed.), 1997: 8-9): “(a) There is a set of rules known in advance, (b) the rules are actually in force, (c) there are mechanisms ensuring application of the rules, (d) conflicts are decided through binding decisions of an independent body, and (e) there are procedures for amending the rules when they no longer serve their purpose.”

Seeing the problem of the complexity of infrastructure development, especially in terms of regulation, it is necessary to pay attention to matters that provide regulatory impact analysis, namely (Mitsuhiro Kagami and Masatsugu Tsuji (Ed.), 2000: 48.): “(a) the necessity of a new regulation or the strengthening of an existing one, (b) whether its objective would be feasible or not, (c) whether it could be substituted for non-regulatory measures, (d) the regulatory cost-benefit analysis (numerically measured if possible), (e) whether it includes anti-competitive factors, (f) whether it maintains objectivity and lucidity, (g) whether it requires additional budget and government employees.”

B. Regulation of Land Acquisition for Public Purpose.

(1). Centralization of Land Acquisition for Public Purpose.

The implementation of land acquisition for interests not only involves several government agencies and institutions, but also involves the Central Government and Regional Government. In the planning stage, the process of land acquisition for development for public purpose has involved Government agencies related to the Regional Spatial Plan. For this matter, it certainly involves the Central and Regional Governments because they are related to the National Regional Spatial Plan, Provincial Spatial Planning and/ or Regency/ City Spatial Planning (Presidential Regulation Number 71 of 2012).

In the preparation stage, the process of land acquisition for development for the public purpose, the Regional Government which in this case the Governor forms a Preparation Team consisting of Regents / Mayors, related Provincial Work Units, Agencies that need land and related agencies. Finally, for public objections to the value of compensation, regulations provide a means of resolving disputes through the local District Court. Then for regulations related

to Land Procurement for Development in the Public Interest, mention in detail what infrastructure can be done with the regulation (Law Number 2 of 2012).

Land Acquisition for Development in the Public Purpose can be carried out by the Land Acquisition Committee established by the Government, either the Central Government or the Regional Government, based on regulations on land acquisition for development for public purpose, it can also be carried out by agencies requiring the land without going through the Land Acquisition Committee. This can be seen from the regulation of the oil and gas sector, where a business entity that will use land rights or State land uses deliberation and consensus by means of: buying and selling, exchanging, proper compensation, recognition or other forms of compensation to right-holders or users of land on State land (Law Number 22 Year 2001).

The regulation of land acquisition in Indonesia was seen by involving many agencies and government institutions both central and regional. In additions there are certain sectors that allow not to use the land acquisition regulation facilities through P2T but are carried out independently such as the oil and gas sector. The conditions certainly cause inefficiency and ineffectiveness in the implementation of land acquisition for development in the public purpose, both related to human resource issues, technical equipment, and bureaucracy. This certainly has the effect of delaying the process of land acquisition for development in the public purpose.

(2). The Need for the Centralistic Regulatory as Single Agency (General).

The large number of involvement of agencies and government institutions both central and regional based on the final bureaucratic problem has an impact on the inefficiency and ineffectiveness of land acquisition for development in the public purpose. For this reason, it is necessary to regulate a regulatory body that not only regulates regulations, tariffs, utilization of human resources and equipment, but also to assist the process of land acquisition for development in the public interest for all infrastructure sectors. So that it will be expected to get efficiency and effectiveness in terms of the land acquisition process and of course also the tariff calculation policy for infrastructure that sets tariffs in managing its business.

There are several forms of Regulatory Bodies that can be applied in this case, namely the Regulatory Body that is decentralized and that is centralized, then the Regulatory Body that is Single (General) and Separate (Specific). The application of the Regulatory Body will be related to issues of legitimacy and how they allocate risks and rewards, all related to public trust. Therefore regulatory procedures must be predictable, accountable, dan transparent, and the Regulatory Bodies should be (Ioannis N. Kessides, 2004:18): (a) have competent, non-political, professional staff-expert in relevant economic, accounting, engineering, and legal principles and familiar with good regulatory practices, (b) operate in a statutory framework that fosters competition and market-like regulatory practices, (c) be subject to substantive and procedural requirements that ensure integrity, independence, transparency, and accountability.

A Regulatory Body that has political bargaining (trade-offs), namely an alternative Regulatory Agency that is decentralized or centralized and which is single (general) or separate (specific). In the context of the efficiency and effectiveness of land acquisition for development in the public purpose in Indonesia, a single (General) Regulatory Agency is needed. In this circumstances, the Single (General) Regulatory Agency has many benefits for various infrastructure sectors that are diverse such as sharing for fixed costs, sharing of scarce talent, and sharing other resources. In addition, it can also develop expertise to develop regulations that do not overlap or conflict,

administer tariff adjustment rules, introduce business competition in monopolistic industries, and regulate relationships with stakeholders.

So, Centralized Regulatory Bodies have many benefits as well: (a) the national regulatory structure makes the best use of rare expertise such as expertise in technical and juridical aspects of land acquisition, then also tariff calculation expertise, then can minimize regulatory costs as in maintaining regional offices, (b) centralization also reduces risks of issuing lower-level regulations when competing areas for investment with high financial risk or lower environmental standards, (c) centralization can be needed if the regional level too small to support the efficiency scale or scope of operations for certain industries.

V. Conclusion.

The process of land acquisition for development in the public interest is carried out for various infrastructure sectors which are diverse both from technical, economic and juridical aspects. The implementation of land acquisition for development in the public interest also involves various agencies and government institutions both central and regional. In this case, then to obtain the effectiveness and efficiency of the process of land acquisition for development for the public interest, a Regulatory Body is needed.

In a situation in Indonesia, a Centralistic Single (General) Regulatory Body is needed which not only can accommodate the process of land acquisition, tariff calculation and stipulate regulations, through the effectiveness and efficiency of human resources related to rare expertise for various infrastructure sectors which can be used together but also savings on fixed-costs related to the establishment of an office or secretariat. The Central (Single) Regulatory Body that is Centralistic needs to be regulated in a regulation at the level of law.

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