

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest



Ahmad Rijal S.¹, Joko Setiyono²

^{1,2} Faculty of Law, Diponegoro University, Semarang

ABSTRACT: One of the state's efforts in realizing public welfare is through development for the public interest. Land needed by the state as a location for development for the public interest sometimes contradicts those who are entitled to the land. To respond to this, the state can carry out development in the public interest, a rule is drawn up that regulates how land which is a development area can be acquired in order to achieve development goals. However, does the regulation provide space for the community to act according to their beliefs and rights? The research method uses a normative approach, namely studying normative law (applicable regulations). The normative legal review includes regulations on land acquisition for public purposes related to human rights legal instruments as stated in Law No. 39 of 1999 and two international covenants which have been ratified through Law No. 11 of 2005 concerning the International Covenant on Economic, Social and Cultural Rights and Law No. 12 of 2005 concerning the International Covenant on Civil and Political Rights.

KEYWORDS: Land acquisition, public interest, human rights

INTRODUCTION

BACKGROUND

One of the state's efforts in realizing public welfare is by means of development for the public interest. In this case, the state must provide land in an area that is considered potential to be liberated and used as an implementation of development to improve the welfare and prosperity of the nation and state. The land needed by the state as a location for development sometimes conflicts with those who are entitled to the land, the people who own the land are often opposed to the government's plan, because the land is a productive land to support the needs of the community. However, the state has taken the view that property rights have a social function, which means that property rights are not absolute, if they conflict with the public interest, the public interest must take precedence. This means that the public interest must take precedence over the interests of individuals or groups¹.

Land that is the location of development is also often in residential areas, there are buildings that have social functions (schools, markets) and many areas that are considered as historical buildings / areas that contain the cultural meaning of a community, so that the potential for vertical conflicts of interest between the state and the community is inevitable. Conflicts arising from land acquisition are often in the form of intimidation, criminalization to repressive actions by law enforcement officials to those who reject the development plan. In addition to conflicts that purely arise from the rejection of residents because they involve meeting basic needs or principles, conflicts also often occur due to the determination of the value of compensation for land to be acquired is not proportional to the expectations of the community / their sacrifices. According to the year-end records of the Agrarian Reform Consortium (Catahu KPA), at least in 2022 there were 32 eruptions of agrarian conflicts, of which there were 11 conflicts related to national strategic projects with a conflict area of 102,752 hectares affecting 28,795 households². The conflict still occurs in aspects of regulation, land acquisition and the model of land acquisition with compensation.

As for data from the Ministry of Agriculture regarding land acquisition budgets per year 2022, the Ministry of Ku said that funding for land acquisition for PSN reached 6.2 trillion with toll roads still occupying the top position as PSNs with the highest realization of land acquisition funding in the first semester of 2022, amounting to IDR 4.04 trillion, followed by Dams (IDR 1.96 trillion), Irrigation (IDR 38.8 billion), Railway Lines (IDR 140 billion), Port (Rp72 billion), and Water (Rp20.4 billion).³

¹ Pancasila points in social justice for all Indonesian people

² <https://jambi.antaranews.com/berita/541962/mengurai-konflik-agraria-pada-proyek-strategis-nasional>

³ Press Release of Kemenku, SP – 11/DJKN/2022 Funding for Land Procurement for National Strategic Projects 2022

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

Land which is a human need as a manifestation of economic, social and cultural rights, then land procurement must be carried out with a process that guarantees and prioritizes human rights, there is no coercion of the will of one party with another. Even if the community has to give up their land for a development activity, the need to guarantee their socio-economic welfare is no worse than the situation before the land was used by others. In response to this, in order for the state to carry out development in the public interest, a rule was drawn up that regulates how land that becomes a development area can be freed up to achieve development goals. But does the regulation give space to the community to behave according to their beliefs and rights? Whether people who want to contribute to a development can get compensation or solutions for the sacrifices they have made.

PROBLEM STATEMENT

1. What are the arrangements for land acquisition for public interest in Indonesia?
2. Can human rights values be applied to aspects of land acquisition for public interest?

RESEARCH METHODS

Research means re-searching. The search in question is a search for true or scientific knowledge, because the results of this search will be used to answer certain problems⁴. The research method is an effort and systematic way applied by researchers to get answers to what are the questions (problem formulations) in their research.

Based on the formulation of the problem that the author has previously proposed, the approach method used is a normative approach, normative law (applicable regulations), normative law research always takes issues from law which is a norm system to provide "justification" perspective on a legal event. So that normative legal research concentrates the norm system at the center of the study⁵. Normative legal research or literature legal research uses library materials or secondary data as research material that includes research on legal principles, legal systematics, vertical and horizontal synchronization levels and legal history⁶.

THE THEORETICAL FRAMEWORK

Land Acquisition for Public Interest

Gunanegara argues that the concept of public interest is quite difficult to define, because; First, what is meant by public interest is contextual, based on the concept of land law, will be different from the intention of public interest in the economic sphere, and will have different meanings in the political context. Second, the meaning of the public interest by one country can be different from the public interest in another country. So the right way to interpret the public interest is to find the criteria of the public interest itself by finding the right public interest criteria, then the public interest in land acquisition does not develop according to the interests of the state alone⁷.

According to I Gusti Agung Made Wardana, public interest development is Claim Making where the state must be able to prove its usefulness, especially from the planning process to implementation⁸. Based on this information, it is important that the honesty of the state is that the general welfare really has a positive impact or can cause many negative impacts. The state in the implementation of development in the public interest must also prioritize the principles contained in the 1945 Constitution and national law, including the principles of humanity, justice, benefit, certainty, openness, agreement, participation, welfare, sustainability and harmony with the values that exist in society within the framework of nation and state.

Development Strategy

Development carried out by the country which was previously only oriented to economic growth alone, in its current development the concept of development oriented towards efforts to solve inequality and inequality and injustice has begun to be realized, although the percentage is still very limited. One of the mechanisms carried out by the government is through strengthening community capacity and accelerating infrastructure development, especially in underdeveloped, remote, outermost, border areas and preferably in the eastern region. In this case, infrastructure development promoted by the government plays an

⁴ Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Depok: Rajawali Pers, 2018), hlm.19.

⁵ Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2013, hlm.36

⁶ Soerjono Soekanto, *Penelitian Hukum Normatif*, PT. Raja Grafindo Pustaka, Jakarta 2014, Hlm. 14

⁷ Gozalo, Djoni Sumardi, *Hukum Pengadaan Tanah Untuk Kepentingan Umum*, UII Pers, Yogyakarta 2018, hlm. 56

⁸ IGAM Wardana, Dalam sebuah statement di sosmed LBH Yogyakarta. <https://www.instagram.com/p/CdK3TsLbjA/>

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

important role in economic growth and also encourages the realization of equitable development (Maryanti, Hermasyah, Savitri 2014; Surono 2016).⁹

However, it is still relevant that Suparman Marzuki's thoughts in a journal say that the reality of inequality above the amount of equality as has been affirmed in human rights instruments from international and national scopes is not always elaborated in the development stage in a country. Development tends to depend on the market system with all its components so that in its development it causes many problems¹⁰. Development that does not place a human rights perspective often not only causes problems for the poor but will extend from it can cause social, economic, political, legal and cultural crises.

In order for the country's steps in achieving a good development, it is necessary to have a firm development strategy based on the relationship between the development strategy and the development process as an effort to promote respect for human rights. Development is also based on the people to have an impact on improving the ability of the community and providing the widest choice and opportunity for the people to determine their own destiny in order to escape the shackles of poverty. Development must also be carried out by taking into account environmental aspects comprehensively without being aimed solely at economic growth. A development must be based on a human rights approach so that it will bring a positive influence to accountability and balance in the development process between the people who are rights holders and the state as a stakeholder of power which has become imperative in fulfilling the rights of its citizens. Development through an approach based on human rights (right based approach) then the norms and values regulated in human rights law must always be the basic foundation of every development institution in determining its policy direction. Normatively, the human rights-based approach is based on human rights standards both internationally and nationally. So that development based on rights will provide space for the community in participation, contribution and enjoyment of development results based on the values of respect and promotion of human rights both in SIPOL rights and Ecosob rights¹¹.

In contrast to development which is based on aspects of needs (need based approach). Then the purpose of development is based only on the demand to do something. The pretext of the state is that it has done something, namely carrying out its obligations for development without having to maximize existing resources. Community participation is considered a condition that is very formality or sufficient, only seen as to improve services not to be a decisive condition. Development on the basis of necessity makes society an "object of development" not a "subject of development". The community is not given the opportunity to participate or contribute to designing development strategies that are actually needed. Society can only accept development that has been designed by the state which is often contrary to the needs of the community itself¹².

Jared Diamond in collapse theory says that the collapse and development of a community in an area or environment is not only determined by its natural conditions, but depends on the condition of humans who live in it including its leaders. Referring to the theory that the condition of the day in Indonesia intact or damaged an environment is caused by government development policy factors.

In 1998 the United Nations convened an international convention in Aarhus Denmark which resulted in three pillars that guarantee the rights of citizens within the framework of sustainable development, Yakini :

1. Access to information

Everyone has the right to obtain complete, accurate and up-to-date information for various purposes. Access to information is divided into two, namely:

- a. Passive information is the right of the public to obtain information from public officials and their obligation to respond, provide it according to public demand.
- b. Active access to information is the right of the public to receive information and the obligation of public officials to collect and then disseminate or disseminate information to the public without being asked.

2. Participation in decision making

- a. The right of the community to play a role in influencing decisions for certain activities in accordance with their interests.
- b. Playing a role in decision making in terms of determining development policies and programs
- c. Participation in preparing the formation of laws and regulations.

3. Access to justice

The availability of a mechanism for communities to enforce environmental laws directly.

⁹ Westi utami, Sarjita, *Pengadaan tanah Di Indonesia dan beberapa Negara Dari Masa ke Masa*, STPN Perss, Yogyakarta, 2021, hlm.6

¹⁰ Suparman Marzuki, Hak Atas Pembangunan Sebagai HAM, *Jurnal UNISIA* No 44/XXV/1/2002

¹¹ Komnas HAM, *Pembangunan berbasis HAM : Sebuah Panudan*, Komnas HAM, Jakarta, 2013, hlm. 17.

¹² *Ibid*, hlm. 16

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

Based on the three pillars above, it can be interpreted that the essence of the role of society is manifested in the form of thinking about and fighting for their own destiny by utilizing various potentials that exist in society as an alternative channel for their aspirations. The community must also show high awareness in living in society and state by not giving up their fate to others, such as leaders and community leaders who exist both in a formal and informal nature¹³.

That human rights are inherent or universal is the fact that human rights are valid and cannot be revoked regardless of skin color, race, religion, ethnicity, tribe, nation or other social status. These rights belong to the individual, not because they are human beings of his creation, but because they are citizens¹⁴. Human rights are rights that are fundamental and inherent in the universal human identity. Therefore, studying human rights, according to Todung Mulya Lubis, is actually examining the totality of life, the extent to which our lives give a reasonable place to humanity. The value system incarnated in human rights is not merely a western product but a firm foothold of the entire religion and culture¹⁵.

That right is limited by: People's rights. And limited by the government through law, its rationale must be clear, proportional, have clear and measurable goals (Syracuse Principle). In addition, states can impose restrictions even though a state has ratified relevant international agreements by means of derogations applied When a state experiences a state of emergency, reservations in which it places restrictions on international obligations, and limitations (limitations) of agreements that apply to certain rights and freedoms¹⁶.

DISCUSSION

Land Acquisition for Public Interest

Public interest based on the Law on Land Acquisition for Public Interest explains that land acquisition is an activity of providing land by providing compensation properly and fairly to the party entitled to the land. based on Article 1 of Law No. 2 of 2012, compensation is a proper and fair compensation to the entitled party in the land acquisition process. The provision of compensation must be based on an agreement in deliberation between the right holder and the party who needs land in the form and / or compensation as stipulated in the Law. In its development, Law No. 12 of 2012 concerning Land Acquisition for Development for Public Assistance was stated and editorially changed a lot with Law No. 11 of 2020 concerning Job Creation. However, the principles applied still refer to Law No. 2 of 2012 is still applied, these principles include:

- a. humanitarian,
- b. justice,
- c. consensus/agreement,
- d. certainty. e openness,
- f. participation,
- g. welfare,
- h. sustainability,
- i. Harmony.

The regulation explains the meaning of the "principle of agreement" which in the process of land acquisition must also prioritize agreement without being based on coercive elements in the deliberation. The basis for the agreement of the parties is in the preparation process and implementation stage, in the process of preparing the agreement can occur by means of dialogue or deliberation between interested parties or need land by conducting public consultation activities. Further agreement deliberation is also in the implementation stage where the activity of determining compensation is determined by deliberation to determine the form and / or amount of compensation.

Land for public use is used for something that is considered beneficial to many parties, can improve the general economy as stated in article 2 of PP No. 19 of 2021 concerning the Implementation of Land Acquisition for Development for Public Interest Such as ;p and national security, public roads, toll roads, dams, irrigation, telecommunication networks, social facilities, public facilities and so on. The mechanism for land acquisition for public interest is carried out based on PP No. 19 of 2021 concerning the Implementation of Land for Development in the Public Interest, namely through four stages: planning, preparation, implementation, and submission of results. At the planning stage, land acquisition for development in the public interest should be based on spatial plans and development priorities, either on a regional or national scale. The preparatory stage in this case is

¹³ Simon Pattiradjwane, *Mengenal HAM dalam Konstitusi*, YLBHI, Jakarta

¹⁴ Kusniati, R, 2011, "Sejarah Perlindungan Hak Hak Asasi Manusia dalam Kaitannya dengan Konsepsi Negara Hukum", *Jurnal Kusniati*, Vol 4 No. 5

¹⁵ Manfred Nowak, 2003, *Introduction to the International Human Rights Regime*, Leiden: Martinus Nijhoff Publisher, hlm. 1

¹⁶ Katalok dalam terbitan, *Hukum Hak Asasi Manusia*, Pusham UII, Yogyakarta, 2008, hlm.41

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

very important because it contains a stage of public consultation which aims to obtain information on the location of the development plan from the entitled party in a dialogical way. Citizens who are entitled to goods to be released can raise objections or rejections to plans for a development. And in this mechanism, objections or rejections by residents must be submitted by the implementation team to the regional head so that further mechanisms can be carried out. In essence, in accordance with psaal 39 PP No.19 of 2021, if the attitude of residents remains on rejection / objection, the Governor through his decision must cancel or move the construction site to another place.

Several cases of land acquisition for public interest in Indonesia often cause conflicts either in terms of rejection or assessment of compensation, because the land needed in the development is mostly crossed with land that is productive for the community, land that has been used or used by personal ownership such as settlements / residences, social places (worship, schools, markets) and other facilities that are sources of life or community activities. So that the acquisition of land for public security can pose a risk to the community, especially those who depend on productive land (farmers) which in this agrarian country many of the people can survive until generation and grandchildren in the future.

National Human Rights Instruments that must be considered in the Land Acquisition Process for Public Interest Development

A development must be based on a human rights approach so that it will bring a positive influence to accountability and balance in the development process between the people who are rights holders and the state as a stakeholder of power which has become imperative in fulfilling the rights of its citizens. Development through an approach based on human rights (right based approach) then the norms and values regulated in human rights law must always be the basic foundation of every development institution in determining its policy direction. Normatively, the human rights-based approach is based on human rights standards both internationally and nationally. So that development based on rights will provide space for the community in participation, contribution and enjoyment of development results based on the values of respect and promotion of human rights both in SIPOL rights and EKOSOB rights. The obligation to protect is the obligation of the state to protect not only against violations of human rights committed by the state but also carried out by non-state entities that will interfere with these interests¹⁷. In Indonesia, human rights discourse is easily accepted, understood, and accounted for within the framework of developing socio-political policies and developments. In the context of reform, human rights discourse was formed as a stronger guarantee and increasingly gaining momentum.

The Universal Declaration of Human Rights (UDHR) is the first element of legislation on international human rights which is a collection of fundamental rights and freedoms. Rights and freedoms in the UDHR include a set of rights both civil, political, cultural, social and economic rights for each individual and some collective rights. In a narrow sense in the legal sense, the UDHR indicates an international opinion that the declaration is not legally binding. A State has activated a Covenant, and it has the responsibility to implement the obligations contained therein and it must ensure the implementation of its responsibilities in its national law. States that have activated a Covenant are also prohibited from interpreting the rules of the Covenant which result in the destruction of fundamental rights and freedoms as guaranteed in the Covenant. Moreover, States that have activated a convention are prohibited from derogating and making restrictions on human rights either through legislation or making a policy contrary to the spirit of the convention in accordance with the general provisions of a convention.

In the record of the birth of the International Covenant, there is a composition of 2 conventions, the first is the covenant on civil and political rights which is basically a translation of article 3 to article 22 of the UDHR. The second is the Socio-Cultural Economic Covenant which is an elaboration of articles 22-28 of the UDHR. The two conventions are positioned on the same level and complement each other, in which the Sipol convention states based on UDHR The ideal condition of man in enjoying civil and political liberties, as well as being free from fear and free from poverty which can only be fulfilled when humans enjoy their political rights and economic rights together. And in the Ecosob Covenant, ideally people feel freedom from fear and freedom from poverty can only be achieved if there is a situation where everyone enjoys their rights, both the rights of the Ecosob and the rights of Sipol¹⁸.

The state has chosen to uphold human rights, so the state must really strive for the fulfillment, respect and protection of human rights, the inability and unwillingness of the state in fulfilling protecting and respecting the human rights or individual citizens can lead to human rights violations or individual citizens. In addition, human rights violations can occur due to passive negligence / omission including neglect and deliberate by a state¹⁹. Therefore, it is the duty of the binding state to take steps and policies to respect, protect and fulfill human rights,

¹⁷ Rahayu, Hukum dan Hak Asasi Manusia, Universitas Diponegoro, Semarang, 2010, Hlm.24

¹⁸ Adnan Buyung Nasution dan A.Patra, *Instrumen Internasional Pokok HAM*, 2006, Jakarta, Yayasan Obor, hlm. 22

¹⁹ Eko Riyadi, 2018, dalam materi Sekolah Paralegal LBH Yogyakarta mengenai HAM.

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

In addition to the human rights guarantees that have been stated in the constitution in Articles 27-33 of the 1945 Constitution, human rights legal instruments are contained in Law No. 39 of 1999 and two International Covenants that have been ratified through Law No. 11 of 2005 concerning International Covenants on Economic, Social and Cultural Rights and Law No. 12 of 2005 concerning the International Covenant on Civil and Political Rights. The ratification has consequences for the implementation of human rights guarantees in Indonesia which have been binding internationally, the instrument is expected to be able to serve as a legal umbrella and practical reference in the implementation of human rights protection, especially addressing aspects of land acquisition for development for public interest.

Law No. 39 of 1999 on Human Rights

The law provides a fairly detailed regulation of the promotion and protection of human rights on the basis of universal human rights principles as contained in the UDHR. This law describes the guarantee of protection and implementation of human rights for every citizen, so that in this case the state becomes a major element in the protection, respect and improvement of human rights for the sake of human dignity and dignity (its citizens). The Human Rights Law also contains the principle of non-discrimination in which everyone is born with equal dignity, so they are entitled to recognition, guarantees of protection and equal recognition before the law. The rights stipulated in Law No. 39 of 1999 concerning Human Rights include the right to life, the right to have a family and continue offspring, the right to obtain justice, the right to personal freedom, The right to security, welfare, the right to participate in government, women's rights and children's a. The Right to Personal Freedom

a. In the Human Rights Law, personal freedom

Is regulated in Articles 20-43 which include the right not to be enslaved, the right to freely profess religion, the right to freely choose and be elected, the right to assembly and association, the right to express opinions, the right to citizenship status, and the right to residency rights. Focusing on the aspect of freedom of choice and choice, it can be broadly described not only in terms of electing representatives of the people, but extended to aspects of daily life. It can even be interpreted as a choice for how to develop yourself, such as choosing a job, choosing an attitude towards state policy.

b. The right to security.

Referring to Article 33 of the Human Rights Law, the right to security includes rights that can be protected both physically and psychologically These rights include the right to asylum, the right to protection, the right to security, the right to secrecy of letters, the right to be free from torture, the right not to be treated arbitrarily.

c. Right to Welfare

Under Articles 41 and 42 of this right to welfare categorized under the second generation human rights group, the rights of the second generation are aligned with the protection of the rights of the economy, social, cultural which is the right to the creation of conditions that allow each individual to develop his abilities as much as possible.

Law No. 11 of 2005 concerning the International Covenant on Economic, Social and Cultural Rights

In Indonesia, the right to ecosob regulated by international conventions has been recognized by the constitution since the birth of the Republic of Indonesia. The country has recognized that Ecosob is an important element in strengthening the quality of life of the elderly. In Law No. 11 of 2005 concerning KIHESB contained several very important things, in which contained the inherent rights of humans including: : The right to the environment, The right to work and earn a living, The right to enjoy fair and pleasant working conditions, The right to form and join trade unions, The right to social security including social insurance, the right to the widest possible protection and assistance for families, mothers of children and young people, the right to an adequate standard of living (right to health and right to housing, the right to education, the right to participate in cultural life.

The scope of the right to work is not only limited to the wage labor sector, it can be extended to those who work alone, work at home, and other forms of business activities that can generate income. So the importance of environmental, social, economic conditions that are protected or fulfilled by the state so that everyone has the same opportunity to prosper for their own achievements.

Law No. 12 of 2005 on the International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) or the SIPOL convention is a convention that contains a reference on the civil and political rights of every human being. In accordance with the Charter of the United Nations and the Universal Declaration of Human Rights these rights have been recognized and in their implementation must take into account the rights of others. The purpose of the ICCPR is to ensure the civil and political rights of a person which basically every one must have equal and equal rights, and one can enjoy these rights without any pressure from others. The SIPOL Covenant is also used as a promotion for universal respect for ensuring freedom in persons through human rights. The ICCPR requires states to be passive to their citizens to be given freedom in civil and political contexts. The consequence of the state is that any violations

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

committed by the state must stop. The rights guaranteed in the SIPOL convention include; The right to self-determination.²⁰The right not to be discriminated against, the right to life, the right to equal justice, the freedom to move, the right to religion and belief, freedom of expression, the right to marry and have children, the right to assemble and association, the right to vote, the right to participate as a politician and vote.

The right to Personal Security and Privacy means that States have an obligation and ensure that no one can be subjected to arbitrary or unlawful acts such as physical violence, harassment, intimidation or discriminatory treatment by the State or non-State actors that can attack human dignity.

Political rights and freedoms have a strategic role in the promotion of human rights, because with the fulfillment of these rights, the community will be encouraged to participate effectively and meaningfully in political decision making as well as in social and Buddhist life that affect the contribution of development. In addition to general political rights such as the conduct of public affairs, some Political freedom is very important for community participation which concerns access to information, if access to information is unequal then many elements of society do not have the information they need, it will have an impact on crucial decision making so that the community will receive adverse effects from policies issued by the state.

CONCLUSION

In order for the country's steps in achieving a good development, it is necessary to have a firm development strategy based on the relationship between the development strategy and the development process as an effort to promote respect for human rights. In addition to the human rights guarantees that have been stated in the constitution in Articles 27-33 of the 1945 Constitution, Human rights legal instruments are contained in Law No. 39 of 1999 and two International Covenants that have been ratified through Law No. 11 of 2005 concerning the International Covenant on Economic, Social and Cultural Rights and Law No. 12 of 2005 concerning the International Covenant on Civil and Political Rights. The ratification has consequences for the implementation of human rights guarantees in Indonesia which have been binding internationally, the instrument is expected to be able to serve as a legal umbrella and practical reference in the implementation of human rights protection, especially addressing aspects of land acquisition for development for public interest. Some of the rights that have been recorded in national human rights instruments include;

- a. In the Human Rights Law, personal freedom is regulated in Articles 20-43 which include the right not to be enslaved, the right to freely profess religion, the right to freely choose and be elected, the right to assembly and association, the right to express opinions, the right to citizenship status, and the right to reside. Focusing on the aspect of freedom of choice and choice.
- b. The right to security. Referring to Article 33 of the Human Rights Law, the right to security includes rights that can be protected both physically and psychologically. These rights include the right to asylum, the right to protection, the right to security, the right to secrecy of letters, the right to be free from torture, the right not to be treated arbitrarily.
- c. Right to Welfare, Based on Articles 41 and 42 of this right to welfare is categorized in the second generation human rights group, the rights of the second generation are aligned with the protection of economic, social, cultural rights which are the right to create conditions that enable each individual to exercise his or her abilities to the fullest extent possible.
- d. The right to employment is not only limited to the wage labor sector, it can be extended to those who work alone, work at home, and other forms of business activities that can generate income. So the importance of environmental, social, economic conditions that are protected or fulfilled by the state so that everyone has the same opportunity to prosper for their own achievements.
- e. The right to Personal Security and Privacy means that States have an obligation and ensure that no one can be subjected to arbitrary or unlawful acts such as physical violence, harassment, intimidation or discriminatory treatment by the State or non-State actors that can attack human dignity.
- f. Political rights and freedoms have a strategic role in the promotion of human rights, because with the fulfillment of these rights, the community will be encouraged to participate effectively and meaningfully in political decision making as well as in social and Buddhist life that affect the contribution of development.

REFERENCES

Books

- 1) Adnan Buyung Nasution dan A.Patra, *Instrumen Internasional Pokok HAM*, Jakarta, Yayasan Obor, 2006
- 2) Maria S.W Sumarjono, *Tanah dalam Perspektif Hak Ekonomu, Sosial dan Budaya*, Jakarta, Kompas, 2009
- 3) Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Depok: Rajawali Pers, 2018

²⁰ (Right to Self-determination, right to freedom from colonialism) and Right of self-determiniaton (autonomous right) to politics, belief, religion, etc. Every individual knows everyone has the right to actualize themselves.

National Human Rights Instruments in Indonesia in the Process of Land Acquisition for Development in the Public Interest

- 4) Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2013
- 5) Soerjono Soekanto, *Penelitian Hukum Normatif*, PT. Raja Grafindo Pustaka, Jakarta 2014
- 6) Gozalo, Djoni Sumardi, *Hukum Pengadaan Tanah Untuk Kepentingan Umum*, UII Pers, Yogyakarta 2018, hlm. 56
- 7) Westi utami, Sarjita, *Pengadaan tanah DI Indonesia dan beberapa Negara Dari Masa ke Masa*, STPN Perss, Yogyakarta, 2021
- 8) Simon Pattiradjwane, *Mengenal HAM dalam Konstitusi*, YLBHI, Jakarta /I/2002
- 9) Manfred Nowak, *Introduction to the International Human Rights Regime*, Leiden: Martinus Nijhoff Publisher, 2003
- 10) Rahayu, *Hukum dan Hak Asasi Manusia*, Universitas Diponegoro, Semarang, 2010

Journal

- 1) Kusniati, R, 2011, "Sejarah Perlindungan Hak Hak Asasi Manusia dalam Kaitannya dengan Konsepsi Negara Hukum", Jurnal Kusniati, Vol 4 No. 5
<https://jambi.antaranews.com/berita/541962/mengurai-konflik-agraria-pada-proyek-strategisnasional>
- 2) Suparman Marzuki, Hak Atas Pembangunan Sebagai HAM, Jurnal UNISIA No 44/XXV
- 3) Komnas HAM, Pembangunan berbasis HAM : Sebuah Panudan, Komnas HAM, Jakarta, 2013

Other

- 1) Press Release of Kemenku, SP – 11/DJKN/2022 Funding for Land Procurement for National Strategic Projects 2022
- 2) IGAM Wardana, Dalam sebuah statement di sosmed LBH Yogyakarta. <https://www.instagram.com/p/Cd-K3TsLbjA/>
- 3) Eko Riyadi, 2018, dalam materi Sekolah Paralegal LBH Yogyakarta mengenai HAM.
- 4) Katalok dalam terbitan, Hukum Hak Asasi Manusia, Pusham UII, Yogyakarta, 2008



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.