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LAND ACQUISITION FOR INFRASTRUCTURE DEVELOPMENT WITH THE MECHANISM OF GOVERNMENT COOPERATION WITH BUSINESS ENTITIES (KPBU): CASE STUDY OF LHOK GUCI KPBU PROJECT

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Abstract

This research discusses land acquisition for infrastructure development through the mechanism of Government Cooperation with Business Entities (PPP) with a case study of the Lhok Guci PPP project. Land acquisition is a crucial stage in PPP that often faces various legal, social, and economic challenges. This research uses a normative juridical method to analyze relevant regulations and a conceptual approach to understand key concepts. The stages of land acquisition studied include planning, location determination, implementation, compensation, release of rights, granting land rights, and supervision. The Lhok Guci case study shows the importance of transparency and coordination between relevant parties for the success of PPP projects. The results of the study are expected to improve the efficiency of the land acquisition process in future infrastructure projects.

Keywords: Land Acquisitio; PPP; Infrastructure.

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A. INTRODUCTION

Indonesia, as a developing country, continues to be committed to advancing various aspects of life in order to improve the welfare and living standards of its people. The government is making various strategic efforts to achieve this goal, but the main challenge faced is the lack of adequate infrastructure. Adequate infrastructure is crucial as it not only facilitates the distribution of goods and services, but also supports the implementation of government programs aimed at improving the quality of life of the people. For example, a good transportation network facilitates population mobility, reduces logistics costs, and enables easier access to health services, education, and job markets.¹ In addition, reliable energy infrastructure supports industrial productivity and ensures energy availability for households. High-quality telecommunications infrastructure also enables wider access to information and technology, which can improve the quality of education and facilitate digital economic activities. In other words, infrastructure development is not just about physical development, but also an investment in improving people's ability to access economic opportunities and improve overall quality of life. Therefore, the development of sustainable and resilient infrastructure is key in achieving sustainable development goals and inclusive prosperity for all Indonesians.²

As explained earlier, the role of infrastructure is very important in improving people's lives. However, the benefits of this infrastructure have not been fully maximized by the government due to several influencing factors. One of the main causes of infrastructure development that has not been optimized is the need for huge funds. If not carefully calculated, this development can lead to a decrease in the quality

¹ MSP Vina Maria Ompusunggu, S.Sos., "Dampak Pembangunan Infrastruktur Jalan Terhadap Pertumbuhan Ekonomi Masyarakat Di Desa Semangat Gunung, Kabupaten Karo, Sumatera Utara," *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689-99, <https://jurnal.stkipgritlungagung.ac.id/index.php/jupeko/article/download/870/397>.

² Mhamed Biygautane, Cristina Neesham, and Khalid Othman Al-Yahya, "Institutional Entrepreneurship and Infrastructure Public-Private Partnership (PPP): Unpacking the Role of Social Actors in Implementing PPP Projects," *International Journal of Project Management* 37, no. 1 (2019): 192-219, <https://doi.org/10.1016/j.ijproman.2018.12.005>.

of life of the community. In addition to funding challenges, the lack of efficiency in infrastructure management in Indonesia is also related to bureaucratic rigidity. This bureaucratic rigidity often hampers the implementation of development projects, especially in terms of licensing and administration.

Infrastructure needs in Indonesia can be seen from two main aspects. Economic infrastructure includes transportation networks, electricity distribution, as well as port infrastructure designed to improve connectivity and support regional economic growth. On the other hand, social infrastructure such as the provision of basic services is essential to fulfill people's social needs and improve their welfare. In this context, social infrastructure acts as an essential service provider that supports the fulfillment of people's basic needs. Unlike economic infrastructure that focuses on physical facilities to drive the economy, social infrastructure offers services that are necessary to improve the overall quality of life of people. By strengthening both types of infrastructure, Indonesia can face greater development challenges more readily and effectively.³

The need for infrastructure development as described above in its implementation cannot be provided maximally. This happens because infrastructure development always requires very large funds. And if the development of infrastructure is carried out to the maximum and only utilizes funds derived from the APBN, of course this will not be possible considering the limited APBN funds. In connection with this, a new financing mechanism emerged, which in this case the financing mechanism is by means of Government Cooperation with Business Entities (PPP).

The Public Private Partnership (PPP) funding system allows businesses to invest directly by co-financing infrastructure projects with the government. The important contribution of the PPP scheme in infrastructure development in Indonesia can be seen from the implementation of the Government's Medium-Term

³ Aulia Muthiah, "Pertanggungjawaban Hukum Pada Pengelolaan Dana Haji Untuk Investasi Infrastruktur," *Al-Adl : Jurnal Hukum* 14, no. 1 (2022): 65, <https://doi.org/10.31602/al-adl.v14i1.5965>.

Development Plan 2015-2019. During this period, 2,650 km of new roads, 1,000 km of toll roads, 46,770 km of road improvements, as well as the construction of Bus Rapid Transit (BRT) in 29 cities, 24 new seaports, and the development of 59 seaports were successfully built. In addition, 15 new airports, 2,159 km of railway lines, and 1,099 km of commuter lines were developed. The total estimated cost for infrastructure projects in the Medium-Term Development Plan is Rp. 6000 trillion. Of the total cost, 36.5% is funded through PPP schemes, while the rest comes from the state budget and funds from State-Owned Enterprises (SOEs).⁴

The application of infrastructure development through the Government Cooperation with Business Entities (PPP) scheme is increasing and is often carried out because legally PPP has a strong foundation since the enactment of Presidential Regulation Number 38 of 2015 and Minister of Finance Regulation Number 260 of 2016. These two regulations regulate the Availability Payment which is closely related to infrastructure development using the PPP scheme. A clear example of the success of PPP infrastructure is the irrigation system development project in Lhok Guci, West Aceh region, Aceh Province. The construction of the weir in Lhok Guci shows that PPP is indeed a suitable financing model for infrastructure development. In fact, the project cost of 12,700 hectares was successfully funded through the PPP mechanism.⁵

The implementation of PPP cooperation in practice often raises various problems, especially those related to land acquisition for PPP project development sites. These problems usually arise due to the complexity of the land acquisition process that involves many parties and various legal, social and economic aspects. For example, disagreements between landowners and the government over the value of compensation, or social impacts on communities affected by land acquisition. These land acquisition issues can be resolved with clear and transparent procedures.

⁴ Eliza Bhakti Amelia, "Faktor-Faktor Kritis Penentu Kesuksesan Kerja Sama Pemerintah Dengan Badan Usaha (KPBU) Sektor Air Minum," *Jurnal Litbang: Media Informasi Penelitian, Pengembangan Dan IPTEK* 19, no. 1 (2023): 57-72, <https://doi.org/10.33658/jl.v19i1.317>.

⁵ PU-net, "Konsultasi Publik dan Real Demand Survey (RDS) Proyek KPBU Daerah Irigasi Lhok Guci" accessed from www.pembiayaan.pu.go.id on March 27, 2024 at 08:00 WIB.

Effective land acquisition procedures should include public consultation measures, a fair and comprehensive assessment of land value, and adequate compensation mechanisms for landowners and affected communities. It is also important to have a strong legal framework that provides guidance and legal certainty for all parties involved.

Overcoming this problem is very important for the smooth implementation of PPP projects, because without available and accessible land, the project cannot run as planned. Therefore, in this research, the author will discuss in depth about land acquisition for infrastructure development through the mechanism of government cooperation with business entities (PPP). This research will raise the title "Land Acquisition for Infrastructure Development with the Mechanism of Government Cooperation with Business Entities (PPP) (Case Study of Lhok Guci PPP Project)". In this research, various factors that cause land acquisition problems will be analyzed, as well as how existing procedures and policies can be improved to overcome these problems. The research will also take a closer look at the case of the Lhok Guci PPP project as a case study, to provide a concrete picture of the challenges and solutions that can be applied. As such, it is hoped that this research can make a meaningful contribution to improving the land acquisition process for future infrastructure projects, as well as help ensure the overall success of PPP projects.

B. RESEARCH METHODS

The implementation of research conducted in order to examine the problems in this study was carried out using normative juridical research or in this case the research is also known as literature study research. The implementation of this research itself is carried out by examining various library materials that have been previously available so that later an argument can be produced that can answer the existing problems. The use of the normative juridical research method itself was chosen by the author because actually PPP and land acquisition for the public interest already have regulations that discuss these issues, but the existing regulations need

further discussion so that the existing problems related to land acquisition for the implementation of PPP can actually be carried out in accordance with what is aspired to. The preparation of this research itself is carried out by utilizing a problem approach which can help the author in answering existing problems. The research approach used by the author is as follows:

1. *Statute Approach*

The statutory approach is a problem approach that is utilized in the implementation of a study, which in this case the approach is carried out by examining and examining regulations related to legal issues to be discussed in a study. The regulation referred to in this case itself is Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business Entities which in this case the regulation or regulation has relevance to the problem to be discussed, namely in this case the problem in question is the problem of land acquisition in the implementation of PPP for the provision and development of infrastructure in Indonesia. By using this approach, it is hoped that an explanation of the existing problems can be drawn, but the explanation is actually carried out based on positive law or regulations applicable in a country.

2. *Conceptual Approach*

A conceptual approach is a method applied to analyze a problem based on the perspectives developed in legal science. The purpose of using this approach is to gain an in-depth understanding of an idea by explaining legal concepts or principles related to the issues to be discussed in the research. In the context of this research, the approach involves the use of the concept of PPP (Government Cooperation with Business Entities), the concept of infrastructure, and the concept of cooperation between the government and business entities. This approach is expected to provide a more comprehensive and systematic insight in parsing and understanding various aspects relevant to the research problem, so that the solutions produced can be more effective and applicable.

C. RESULTS AND DISCUSSIONS

The implementation of land acquisition for PPP implementation is actually something that is common and has standardized standards. This means that in this case the overall land acquisition process has the same stages, which in this case means that the implementation of the Lhok Guci PPP with the implementation of other PPPs

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as a whole has the same land acquisition stages. The stages themselves are based on Law Number 2 of 2012 concerning Land Acquisition for Development for the Public Interest and also based on Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business Entities in the Provision of Infrastructure. The stages in question are as follows:⁶

1. Planning and Preparation Stages

The government starts by identifying projects that require land acquisition. The next step is to develop a land acquisition plan that includes the purpose of the project, the exact location and the amount of land needed for the project. This planning process is critical to ensure that land acquisition is done efficiently and in accordance with the needs of the planned infrastructure project. Once the land acquisition plan is developed, it is followed by conducting a feasibility study. This study includes an in-depth evaluation of the possible environmental, social and economic impacts of land acquisition. This assessment aims to ensure that the project not only provides economic benefits, but also takes into account the impact on the environment and surrounding communities.⁷

The feasibility study also considers social factors such as the impact on the landowners affected by the acquisition and the compensation or compensation plan that will be provided to them. These social aspects also include assessing the impacts on local communities, including possible disruptions to people's daily lives and how to mitigate any adverse impacts. To ensure that the concerns and needs of affected communities are taken into consideration, they should be involved through public consultations. In addition to social aspects, economic aspects are also evaluated to assess the financial viability of the project and the potential economic benefits of infrastructure development. This involves an in-depth cost-benefit analysis to ensure that the investment made can provide added economic value, such as job creation, increased productivity and regional development. The study also considers possible monetary losses that may occur.

⁶ Edi Rohaedi, Isep H. Insan, and Nadia Zumaro, "Mekanisme Pengadaan Tanah Untuk Kepentingan Umum," *Palar | Pakuan Law Review* 5, no. 2 (2019): 198–220, <https://doi.org/10.33751/.v5i2.1192>.

⁷ Mustating Daeng Maroa, Rahmat Setiawan Sirjon Tenong, "Tinjauan Yuridis PP 19 Tahun 2021" 5, no. 19 (2021).

The procedure is therefore a solid foundation for the process of land acquisition for infrastructure projects as it ensures that each step is carried out in an open manner and in accordance with laws and regulations. During this process, transparency means that all relevant information is clearly provided to all parties involved, such as investors, government and communities. Every decision made is based on thorough data and analysis to ensure that the project is not only technically and economically feasible, but also fair and sustainable from a social perspective. In addition, to maintain the integrity and legitimacy of the project, it is necessary to comply with applicable regulations. This includes complying with land acquisition laws, environmental regulations, and human rights standards. By complying with all these regulations, the project can proceed without legal obstacles and gain support from various parties. This entire process, from feasibility studies to land acquisition and project implementation, must be conducted with a high commitment to the principles of fairness, transparency and sustainability, in order to achieve optimal outcomes for all parties involved.

2. Stages of Location Determination

In the process of land acquisition for public development projects, important steps include the determination of the location by the Governor based on Presidential Regulation No. 71/2012. The Governor plays a crucial role in determining the location of the land to be used according to the needs of the planned project. Once the location is determined, the government undertakes a series of actions to secure consent from landowners, including the formal announcement of the land acquisition plan. This procedure includes a public announcement, followed by a thorough public consultation. The aim is not only to inform the public about the land acquisition plan, but also to obtain input and feedback from affected communities.⁸

Public consultations are conducted in a transparent and inclusive manner, allowing the public to express their opinions, concerns and suggestions regarding the plan. The process also provides an opportunity for landowners to express their views on the value and use of the land to be used by the government or business entities involved in the PPP project. These steps

⁸ Kartono dan Andaraini, "9080-Article Text-9526-1-10-20221005" 23, no. 2 (2022): 126-34.

are important to ensure that the land acquisition process is conducted in a fair manner and respects the rights of landowners and the public interest equally.

3. Stages of Implementation and Land Acquisition

In the context of land acquisition for PPP projects, this stage is important to ensure that the entire process is transparent and fair. The Preparation Team is first formed to perform crucial tasks such as identifying, inventorying and verifying physical and legal data related to the land to be used. They are responsible for ensuring that all land-related information is properly collected before the rest of the process takes place. This is followed by an appraisal conducted by an independent Appraisal Team. This team plays an important role in determining the compensation value that will be given to landowners affected by the land taking for the project.

The appraisal is conducted carefully to ensure that the compensation value is fair and in line with current market conditions and the characteristics of the land in question. Once the compensation value has been determined, the process continues with deliberations between the government and the landowner. This deliberation is important to reach an agreement on the amount of compensation to be received by the landowner. The aim is for each party to feel that the value given is in line with the actual value of the land as well as fair compensation for the loss of their land. Finally, once an agreement has been reached, the government is responsible for making compensation payments to landowners in accordance with the agreement. These steps not only follow applicable legal procedures but also ensure that the rights of landowners are properly protected and fulfilled in the context of infrastructure project development.

4. Stages of Relinquishment of Rights and Granting of Compensation

Once the landowner has received the agreed compensation payment, they relinquish their rights to the land. This release of rights is a formal step that signifies that the landowner no longer has a claim to ownership or rights to the land. The relinquishment process is usually followed by the physical handover of the land to the government or the Business Entity involved in the Public Private Partnership (PPP). Land handover is an important stage in the land acquisition process for PPP projects. Once the land is handed over, the government or Business Entity will start the implementation of the infrastructure project or other development according to the approved plan.

This step involves rigorous administration to ensure that all land acquisition processes run in accordance with applicable regulations in Indonesia. Legal arrangements related to land acquisition for PPP in Indonesia, including in terms of relinquishing rights and handing over land, are crucial to ensure that the rights of landowners are protected and that infrastructure projects can run smoothly without legal constraints later on.⁹

5. Stages of granting land rights

After the land acquisition stage is completed, the government grants land rights to the Business Entity involved in the PPP project. These rights can be in the form of Cultivation Right on Land (HGU), Right to Built (HGB), or Hak Pakai, depending on the specific characteristics and needs of the project. This process involves careful and meticulous steps to ensure that the rights granted are in accordance with the prevailing regulations and meet the established administrative requirements. Furthermore, once the Business Entity receives the land rights, it is responsible for applying for the land certificate to the National Land Agency (BPN). This involves an administrative process that involves filing the necessary documents and complying with the procedures set out by the BPN for the issuance of a valid and legal land certificate.¹⁰

At this stage, cooperation between the government and the Business Entity is essential to ensure that the entire process from procurement to granting land rights runs smoothly and in accordance with applicable laws. This involves close coordination at every step, from initial planning, to identifying land requirements, to finalizing the necessary administration and legalities. Both parties must work together to overcome potential obstacles, ensure effective communication with all relevant parties, and implement strict monitoring mechanisms to avoid irregularities or corruption. When analyzed, it can also be explained that this step is part of an effort to ensure that the management of land assets in PPP projects takes place with high transparency

⁹ Luh Nyoman Diah Sri Prabandari, I Wayan Arthanaya, and Luh Putu Suryani, "Pemberian Ganti Rugi Terhadap Pengadaan Tanah Oleh Pemerintah Untuk Kepentingan Umum," *Jurnal Analogi Hukum* 3, no. 1 (2021): 1-5, <https://doi.org/10.22225/ah.3.1.2021.1-5>.

¹⁰ Tika Julaika, "JICN: Jurnal Intelek Dan Cendekiawan Nusantara Akselerasi Peningkatan Investasi Antara Pemerintah Dengan Badan Usaha Memacu Pertumbuhan Ekonomi Acceleration of Increased Investment between the Government and Business Entities Spurring Economic Growth," 2024, 1971-77, <https://jicnusantara.com/index.php/jicn>.

and accountability, and takes into account the rights of affected communities. Transparency here means disclosure of information about the stages of the project, decisions involving various parties, and clear and regular reporting. Accountability must be maintained through close oversight, both by authorized government agencies and independent parties, to ensure all actions are in accordance with regulations and the public interest.

In addition, special attention should be paid to the rights of affected communities, both directly and indirectly. This includes fair and timely compensation for landowners whose land is expropriated, as well as efforts to minimize negative social, economic and environmental impacts on local communities. Effective and participatory public consultations should also be an integral part of this process, ensuring that community voices and interests are respected and considered at every stage of the project. By doing so, the main objective of the PPP project can be achieved, which is to provide quality infrastructure for the community while maintaining social and environmental justice. Through solid and continuous cooperation between the government and the Business Entity, as well as a commitment to the principles of transparency and accountability, this project is expected to provide significant long-term benefits for national development and the overall welfare of the community.¹¹

6. Stages of Supervision and Control

The final stage in land acquisition for PPP implementation is related to supervision and control. In this case, the Government has an important role in overseeing how the land that has been acquired for PPP projects is used in accordance with the stated objectives. This supervision is carried out to ensure that the use of land does not deviate from the original project plan and to effectively fulfill the public interest. In addition, periodic evaluations are carried out to ensure that the use of the land remains in accordance with the previously agreed objectives and plans. These evaluations aim to ensure transparency and accountability in the management of land resources, which

¹¹ Luise Noring, "Public Asset Corporation: A New Vehicle for Urban Regeneration and Infrastructure Finance," *Cities* 88, no. December 2018 (2019): 125–35, <https://doi.org/10.1016/j.cities.2019.01.002>.

are critical to the progress of sustainable infrastructure projects that have a positive impact on society.¹²

Referring to the previous description, it can be understood that the process of land acquisition up to the release of land rights for the implementation of PPP is not a simple process. It involves a series of steps that must be followed carefully to ensure that each step is in accordance with Indonesian law. These steps include identification of the right location, fair land value assessment, transparent negotiation with landowners, and fulfillment of strict administrative procedures before finally the land rights can be released and given to the Business Entity involved in the PPP project. Thus, land acquisition in the context of PPP requires good coordination between the government and all relevant parties to ensure that the process runs smoothly and in accordance with the objectives of national infrastructure development.

D. CONCLUSION

Departing from the explanation as described above, it can actually be concluded that overall, the implementation of land acquisition for PPP projects in Indonesia follows the standard standards that have been set. The process involves a series of stages that are the same for every PPP project, based on Law Number 2 Year 2012 on Land Acquisition for Development for Public Interest and Presidential Regulation Number 38 Year 2015 on Government Cooperation with Business Entities in Infrastructure Delivery. These stages include project planning and preparation, location determination by the Governor, public announcement and consultation, implementation and assessment of compensation, release of land rights, granting of land rights to the Business Entity, and periodic supervision and evaluation by the government to ensure that the use of land is in accordance with the project objectives and runs in accordance with applicable laws. Good coordination between all relevant parties and transparent management are the keys to success in carrying out land acquisition for PPP projects for sustainable infrastructure development in Indonesia.

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¹² Dhipayasa Adirinarso, "No Title" *Nucl. Phys.* 13, no. 1 (2023): 104-16.

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