



Dispute Settlement Compensation for Land Acquisition of the Padang to Sicincin Toll Road

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Abstract

Infrastructure development aimed at the public interest can move the wheels of the people's economy. This development requires land as one of the supporting facilities. The need for land for development in terms of public interest can be met by means of land acquisition. Land acquisition for development for public use has been regulated through Law Number 2 of 2012. However, in practice there are always problems in the process of implementing land acquisition. Land acquisition problems generally cannot be separated from the problem of compensation. This is also a problem in the construction of the Trans Sumatra Toll Road, especially in the construction of the Padang-Pekanbaru Session I Padang-Sic Cincin Toll Road which resulted in development activities being hampered for a long time. The issue of compensation, according to the community, is because the price offered by the Public Appraisal Team through the Land Procurement Implementer is considered too low compared to the Fair Compensation Value desired by the community holding land rights. So that the community holding land rights filed an objection to the value of compensation to the Pariaman District Court. This journal examines the process of implementing land acquisition in the construction of the Padang-Sic Cincin Toll Road, regarding disputes in land acquisition for the Padang-Sic Cincin Toll Road and about dispute resolution in land acquisition for the Padang-Sic Cincin Toll Road. The legal research method used is sociological juridical by collecting primary data in the field. However, the result of the decision of the panel of judges rejected the objection of the community holding land rights on the value of the compensation and the value of the compensation still refers to the value of compensation that has been determined by the Land Acquisition Administrator. The legal research method used is sociological juridical by collecting primary data in the field. However, the result of the decision of the panel of judges rejected the objection of the community holding the land rights on the value of the compensation and the value of the compensation still refers to the value of compensation that has been determined by the Land Acquisition Administrator. The legal research method used is sociological juridical by collecting primary data in the field. However, the result of the decision of the panel of judges rejected the objection of the community holding land rights on the value of the compensation and the value of the compensation still refers to the value of compensation that has been determined by the Land Acquisition Administrator.

Keywords: *Dispute Resolution, Compensation, Land Acquisition, Padang-Sic Cincin Toll Road.*

Introduction

One of the important roles of land in the economic sector can be seen from the need for land related to infrastructure development. Infrastructure is one of the driving forces for economic growth. In addition, infrastructure also plays an important role in improving the quality of human life, including increasing the value of consumption, increasing work productivity, access to employment and increasing

prosperity and the realization of macroeconomic stability, namely fiscal sustainability and its impact on the labor market.

In practice, this infrastructure development requires a lot of land or land. Considering the increasing human need for land and the increasing business need for land as a production factor, the land supply decreases. For the provision and use of land must be done wisely. Given the function and role of land in various sectors of human life, it has a very strategic aspect, namely economic, political, legal and social aspects, all of which are integrated into the process of land law policy carried out by the government.¹

The land acquisition policy was first regulated in the Presidential Decree of the Republic of Indonesia Number 55 of 1993 concerning Land Acquisition for Development for Public Interest. Then an adjustment was made by issuing Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Purposes. This Presidential Regulation contains a lot of criticism from the public because it is considered not taking the side of the community. After taking effect for one year, the government finally issued Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Interest. What is prioritized in this regulation is the principle of respect for land rights for the realization of legal certainty in land acquisition, but this change does not provide significant benefits for the community. Until finally the Government issued Law Number 2 of 2012 concerning Land Acquisition for Implementation of Development in the Public Interest.

The land acquisition policy is regulated in the form of Law Number 2 of 2012 and its implementation is further regulated in Presidential Regulation Number 71 of 2012 which has undergone three changes in Presidential Regulation Number 40 of 2014, Presidential Regulation Number 99 of 2014 and Presidential Regulation Number 30 2015. The policy was made at the level of a law so that every interest of the people can be accommodated through their representatives in the government. On the other hand, the Law is expected to be able to overcome various obstacles that occur in land acquisition, both from a legal and practical perspective and can synchronize various products of laws and regulations relating to efforts to acquire land for development in the public interest.²

In the last few years, especially from 2014 to 2019, there has been an increase in infrastructure development. In 2019, the infrastructure expenditure budget will reach IDR 420 trillion. This figure increased by 157% from 2014.³ However, several infrastructure development projects are currently facing obstacles. Among them are related to land acquisition. Although the government considers there are no problems (agrarian conflicts) related to land acquisition, according to the 2018 Agrarian Reform Consortium (KPA) Annual Notes (Catahu) data, that throughout 2017 there were 208 agrarian conflicts in the plantation sector, property in second place with 199 conflicts (30%) and infrastructure is third with 94 conflicts (14%).⁴

In West Sumatra, one of the infrastructure developments that has begun to be implemented is the construction of the Padang-Pekanbaru toll road which is part of the Trans Sumatra Toll Road. This toll road will connect West Sumatra and Riau, namely the Pekanbaru-Padang segment along 255 kilometers. This toll road is divided into six sessions, starting from Session I Padang-Sic Cincin (28 Kilometers), Session II Sic Ring-Bukittinggi (41 kilometers) and Session III Bukittinggi-Payakumbuh (36 kilometers). Then Session IV Payakumbuh-Pangkalan (43 kilometers), Session V Pangkalan-Bangkinang (56

¹H. Idham, Urban Land Consolidation in the Perspective of Regional Autonomy, Prints I, 2004, Bandung Alumni, p. 1.

²Academic Paper of the Draft Law on Land Acquisition for Development, 2010, Jakarta, p. 2.

³CNBC Indonesia Website; A Line of Concrete Evidence for Infrastructure Development in the Jokowi Era!<http://www.cnbcindonesia.com> (last visited was on January 6, 2020).

⁴Website Alinea.id: Agrarian Conflict Due to Infrastructure Development!<http://www.alinea.id> (last visited on 6 January 2020).

kilometers) and Bangkinang-Pekanbaru (38 kilometers).⁵The toll road was built by PT. Hutama Karya (Persero) with a concession period of 40 years.

The construction of the Padang Sic Cincin toll road was piling up on the first section in February 2018. However, the construction of the Padang-Sic Cincin toll road was slow, this was due to the incomplete land acquisition problem due to price issues. As of December 2018, land acquisition was already 97%, especially in Section I Padang-Sic Ring.⁶The uncertainty regarding this price hit residents in Korong Padang Laweh, Nagari Sic ring. Wali Korong Laweh Irwandi said that there were around 100 families affected by the toll road construction plan. So far, residents have participated in at least six meetings, starting from the sub-district, regency, to provincial level. Irwandi stressed that there was no clarity regarding the land price to be paid. So far, only asked to agree or disagree, never explained the price of the land.⁷

Obstacles in land acquisition, especially in the case of disputed compensation disputes, are not new. According to Article 37 paragraph (1) Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest, it only explains that the Land Institution shall conduct deliberations with the entitled parties within 30 (thirty) days from the time the appraiser's assessment results are submitted to The Land Agency to determine the form and / or amount of compensation based on the results of an assessment of compensation. Dissatisfaction with the deliberations held between the government and the community who reject this is always an integral part of any land acquisition process for the public interest. Not infrequently, the problem of refusal for compensation also creates conflicts and causes material and immaterial losses both from the community and from the government itself. Apart from that, of course this will slow down the achievement of the infrastructure development goals aimed at the public interest. On the other hand, there are also public interests related to the guarantee of binding individual rights for the provision of compensation. These two things always intersect with the many problems of land acquisition for the public interest. Of course, this is not what was expected by the mandate of the legislators on Land Acquisition, namely to be able to overcome various obstacles that occur in land acquisition, both from a legal and practical perspective.

Result and Discussion

A. The Implementation Process of Land Acquisition in the Construction of the Padang-Sic Cincin Toll Road

The Padang-Sic Cincin Toll Road is one of the sessions or part of several Trans Sumatra toll roads which have a toll road network starting from Aceh to Lampung along 2818 km. The Trans Sumatra Toll Road is divided into several sections that are officially prioritized by the government, namely: Bakaheuni-Terbanggi Besar (140,938 km); Palembang-Indralaya (21.93 km); Medan-Binjai (16.72 km); Pekanbaru-Dumai (131,475 km); Palembang-Tanjung Api-Api (70 km); Terbanggi Besar-Pematang Roasted Kayuagung (189.20 km); Range-Tebing Tinggi (68,946 km); Tebing Tinggi-Parapat (95 km); Padang-Pekanbaru (240 km); Banda Aceh-Medan (455 km); Bakaheuni-Bengkulu (693 km); and Bengkulu-Painan (485 km).

The Padang-Sic Cincin Toll Road is one of the section divisions of the Toll Road that will connect Padang with Pekanbaru. With a total of 244 kilometers, the Padang-Pekanbaru Toll Road is divided into 6 (six) sections, namely Padang-Sic Cincin Section I (28 Kilometers), Section II Sic Cincin-Bukittinggi (41 kilometers) and Section III Bukittinggi-Payakumbuh (36 kilometers). Furthermore, Section IV Payakumbuh-Pangkalan (43 kilometers), Section V Pangkalan-Bangkinang (56 kilometers) and

⁵Bisnis.com Website: Padang-Pekanbaru Toll Road is Obstructed by Land Acquisition, <http://www.bisnis.com> visited on 27 December 2019.

⁶"Land Acquisition Has Already 97 Percent" Singgalang, 17 December 2019, p. A-1.

⁷Bisnis.com Website: Padang-Sic Cincin Toll Road Project: Residents Want Clarity About Prices, <http://www.bisnis.com>, visited on 27 December 2019.

Bangkinang-Pekanbaru (38 kilometers). The entire Padang-Pekanbaru toll road construction was carried out by PT. Utama Karya with an investment of around 78 Trillion through a Toll Road Concession Agreement signed on October 11, 2017. The concession period for the Padang-Pekanbaru Toll Road Concession is 40 (forty) years from the issuance of a Construction Start Order (SPMK) by the Toll Road Regulatory Agency (BPJT). The following is a detailed description of the development of the Padang-Sic Cincin Toll Road (based on the Padang Pariaman Regency Toll Road Development Progress Report).⁸

In general, the implementation stage of land acquisition on the Padang-Sic Cincin Toll Road is in accordance with the procedures regulated in Law No.2 of 2012 concerning Land Acquisition for Development for Public Interest.⁹ with the process at the implementation stage which is carried out after going through the Planning stage and the land acquisition preparation stage.

Legal effectiveness is a legal ability to create or give birth to a situation or situation that is desired by law or expected by law.¹⁰ A legal product is said to be effective if the legal product has been carried out or implemented in practice. Like Law Number 2 of 2012 which is also a legal product, it can be said to be effective if it has been implemented in practice. The theory of legal effectiveness according to Soerjono Soekanto is that a law is effective or not determined by 5 (five) factors, namely:

- a. The legal factor itself (Law);
- b. Law enforcement factors, namely the parties who form or implement laws;
- c. Facility factors or facilities that support law enforcement;
- d. Community factors, namely the environment in which the law applies or is applied;
- e. Cultural factors, namely as a result of work, creativity and taste based on intention.¹¹

The five factors are interrelated with one another, because they are the essence of law enforcement, and also a measure of the effectiveness of law enforcement. Based on this, if it is related to legal products in this case Law Number 2 of 2012 in order to achieve its objectives, the ineffectiveness of the implementation of Law Number 2 of 2012 is caused by the following factors:

a. Legal Factors

Based on the theories of legal science, three kinds of things can be distinguished regarding the application of law as a rule. This is expressed as follows:

1. A legal rule applies juridically, if the determination is based on a higher-level rule or is formed on a predetermined basis.
2. The rule of law applies sociologically, if the rule is effective. This means that the rules in question can be enforced by the authorities even though they are not accepted by the members of the community or the rules apply because of the recognition from the community.
3. The rule of law applies philosophically, namely in accordance with the ideals of law as the highest positive value.¹²

If the rule of law is studied in depth, for the law to function, every rule of law must fulfill juridical, sociological, and philosophical elements, because if the rule of law only applies juridically, there is a possibility that it is a dead rule, if it only applies sociologically in the meaning of the theory of power, then the rule becomes a rule of force, if it only applies philosophically, it is likely that the rule is only an aspired law.

⁸Interview with Alex Suvrianto, SH., Land Acquisition Section of the National Land Agency (BPN) Padang Pariaman Regency, March 17, 2020 at 10.00 WIB.

⁹ Ibid.

¹⁰W. Yudho and H. Tjandrasari, *Legal Effectiveness in Society*, Law and Development Magazine, UIPress, 1987, Jakarta, hm. 59.

¹¹Soerjono Soekanto, *Factors Affecting Law Enforcement*, Raja Grafindo Persada, Jakarta, 2011.

¹²Sri Warjiyati, *Understanding the Fundamentals of Law: Basic Concepts of Law*, Prenada Media, Jakarta, 2018, p. 82.

The rule of law in Law Number 2 of 2012 as explained above must also fulfill juridical, sociological, and philosophical elements in order to be said to function. In practice, it can be seen that land acquisition activities in the development, especially the Padang-Sic Cincin toll road can be said to be running as it should be based on Law Number 2 of 2012. However, the implementation of law enforcement in the land acquisition process often occurs conflicts between legal certainty and justice, especially those related to provision of compensation which often triggers conflict between the community as the owner of land rights and the government as the organizer of land acquisition. This is because the consequences of justice are an abstract formula, while legal certainty is a procedure that has been determined normatively. Therefore, a policy or action that is not entirely based on law is something that can be justified as long as the policy or action is not against the law. In fact, law enforcement does not only cover law enforcement, but also maintains peace, because law enforcement is actually a process of harmonizing values, norms and real patterns of behavior aimed at achieving peace.

b. Law Enforcement Factors

In the functioning of the law, the mentality or personality of law enforcement officers plays an important role, if the regulations are good but the quality of the implementers is not good, there are problems. Therefore, one of the keys to success in law enforcement is the mentality or personality of the law enforcer. The function of law enforcers here is a function in order to socialize the existence of Law Number 2 of 2012. If we look again, we can see that the regulations governing land acquisition can actually be socialized well in advance to the community, especially those who have rights to their land to be given compensation. Can be started from the purpose why there are these rules.

c. Supporting Facility or Facility Factor

Factors or supporting facilities include software and hardware, one example of software is education. The hardware problem in this case is a physical means that serves as a supporting factor. If these things are not fulfilled, it is impossible for law enforcement to be achieved.

d. Community Factors

One of the factors that make a regulation effective is the community members. What is meant here is his awareness to comply with a statutory regulation, which is often called the degree of compliance. The degree of compliance can only be measured if there is public knowledge of the law. If a statutory regulation has been promulgated and issued according to a legal and official procedure, then juridically the statutory regulation applies. Then the assumption arises that every member of the community is considered to be aware of the existence of this Law, however, this assumption is not what was expected.

e. Cultural Factors

Culture, according to Soerjono Soekanto, has a very large function for humans and society, namely to regulate people so that people can understand how they should act, act, and determine their attitudes when they relate to other people. Thus, culture is a basic line of behavior that establishes rules about what to do and what is prohibited. Indonesian culture is based on customary law. The customary law is a customary law that applies in the community. Apart from that, written law (legislation) also applies that arises from certain groups in society who have official power and authority. This statutory law must reflect the values that are the basis of customary law so that the statutory law can be effective. One of the factors determining the effectiveness of Law Number 2 of 2012 is that the Law must reflect the values that are the basis of customary law. These values, namely the value of justice and order. The value of justice serves to protect the rights of the land rights holders. It is hoped that Law Number 2 of 2012 can provide a guarantee of legal certainty, while the value of order is how Law Number 2 of 2012 is able to create legal order in society so that it must be

obeyed and carried out in accordance with what the legislators want. In fact, the land acquisition regulations which contain elements of public interest and social functions as mandated by the UUPA are an adaptation of customary law. Whereas in customary law there must be elements of togetherness and kinship. In the customary law system, every act of conduct including matters relating to land cannot be separated from the nature of mutual cooperation as a reflection of social functions. However, what distinguishes it when its implementation is due to various factors that the passage of the Law on land acquisition often encounters obstacles, especially when dealing directly with the community, including factors of the interests of the community itself and the stigma regarding development requiring their land which is considered not to have a direct positive impact on their lives.

The effectiveness level of the implementation of Law Number 2 of 2012 which is reviewed by the five indicators or factors from Soerjono Soekanto, that not all indicators or factors can be fulfilled as explained above, including the lack of legal power itself in creating peace in the land acquisition process which is often an obstacle, the lack of law enforcement in providing understanding and approach to the community, and the lack of public knowledge of the existence of Law Number 2 of 2012 which is the cause of the ineffective implementation of the Law.

B. Disputes and Constraints in the Implementation of Land Acquisition for the Padang-Sic Cincin Toll Road

The process of constructing the Padang-Sic Cincin toll road is quite slow because since the groundbreaking was carried out in February 2018 until January 2020, the development progress on this segment has only reached approximately 4% (four percent) of the construction process. This is due to constraints in the land acquisition process. Data as of January 2020, the total compensation assessments that have been assessed are around 26 (twenty six) hectares with 129 (one hundred twenty nine) land parcels for the determination of the first location of Sta. 0 + 000 up to Sta. 4 + 200. Meanwhile, compensation payments are still around 1.78 hectares with 9 (nine) fields.¹³ The community considered the price rejection offered by the committee for implementing land acquisition to be too low. Initially, the community agreed with the toll road construction, especially on the Padang-Sic Cincin section, but after an assessment was made by the public appraisal team and the reimbursement price was submitted, which ranged from Rp. 32,000.00 (thirty two thousand rupiah) to Rp. 200,000.00 (two hundred thousand rupiah) per meter.¹⁴ Rejection occurs among the rightful community who think that the calculation of prices in this range is far from people's expectations that the price is worthy of being valued higher. However, according to the government, this is due to a misconception that exists in the community which considers the price to be equal for all affected land.

After a request from the entitled party through the Pariaman District Court regarding the objection to the value of compensation. Furthermore, the District Court decided on the decision on the lawsuit, namely Civil Decision No.32 / Pdt / G / 2018 / PN.Pmn and the community continued to reject the compensation value. The community is of the opinion that the price proposed by the executor of land acquisition is not in accordance with what was promised by the government which puts forward the term "compensation for profit" while in reality according to the community it is far from what they expect the value they should get.¹⁵

The issue of reimbursing prices and being discussed had already emerged when the public consultation was held. As for what became the subject of discussion during public consultations, one of them was regarding the role of the appraiser in determining the value of compensation. Appraisers are

¹³*Ibid.*

¹⁴ Interview with Mr. Damanhuri, Wali Nagari Kasang, Batang Anai District, Padang Pariaman Regency, on March 16, 2020 at 10:00 WIB.

¹⁵ *Ibid.*

those who understand and apply the discipline of economics, especially with regard to the preparation and reporting of an assessment. As a professional, the assessor must meet the requirements of education, training, competence and improve professional skills related to their profession. They also have to show a high moral attitude by upholding the Indonesian Appraisal Code of Ethics (KEPI), carrying out professional assessment practices by referring to the Indonesian Assessment Standards (SPI). Public Appraiser is an individual who conducts an independent and professional assessment who has obtained a license to practice appraisal from the Minister of Finance and has obtained a license from the Land Agency to calculate the value / price of land acquisition objects. In the Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014, it is stated that Public Appraisers are Appraisers who have obtained permission from the Minister to provide services as regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014. Public appraisers carry out appraisal activities where the appraisal is to provide written public opinion about the economic value at a particular moment. 01/2014 states that Public Appraisers are Appraisers who have obtained permission from the Minister to provide services as regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014. Public appraisers carry out appraisal activities where the appraisal is to provide a written public opinion about the economic value at a certain time. 01/2014 states that Public Appraisers are Appraisers who have obtained permission from the Minister to provide services as regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014. Public appraisers carry out appraisal activities where the appraisal is to provide written public opinion about the economic value at a particular moment.

In land acquisition activities, a deliberation is held to determine compensation for losses between the government and the entitled communities. This deliberation is intended to find an agreement between the government and the entitled community regarding the form and value of compensation. The government wants to get land at a fair price and on the other hand, the people who own land rights want their land to be replaced at a price they think is appropriate. Therefore, deliberations are held in land acquisition activities whose initial purpose is to avoid disputes that may occur between the parties concerned. It can be seen in Article 37 paragraph (1) of Law Number 2 of 2012 that:

"The Land Agency conducts deliberations with the Entitled Party within 30 (thirty) working days from the results of the assessment from The appraiser is submitted to the Land Agency to determine the shape and / or size of the lossian based on the results of the assessment of Compensation as referred to in Article 34 ”.

In practice, especially when deliberations are held in land acquisition for the Padang-Sic Cincin toll road section, the land acquisition committee delivers matters related to compensation, such as forms of compensation and submission of price ranges from public appraisers. Furthermore, the community is asked for their opinion whether they agree or not with the mentioned price range.¹⁶After the submission of the price range, a misunderstanding arose from the community that the price range presented was too low and assumed that the replacement price with this amount was charged to all land parcels that were acquired.

Land acquisition implementation activities, especially in the deliberation process itself as regulated in Article 37 of Law Number 2 of 2012, do not specify what matters will be conveyed when deliberations to determine compensation are carried out. Based on this article, deliberation is carried out by submitting the results of the assessment of the value of compensation from the appraiser. In practice, the price submission from the public appraiser is conveyed in the form of a price range. In fact, it is very important for the public to know that the assessment of public appraisers from the preparation to the report on the results of the assessment has many aspects of assessment from various sides based on the discipline of economics and is professional in nature.

¹⁶*Ibid.*

If seen in Article 2 of Law Number 2 of 2012 concerning the principle of land acquisition for the public interest, one of which is the principle of transparency. In the Elucidation of Law Number 2 of 2012 what is meant by the principle of transparency is that Land Acquisition for development is carried out by providing access to the public to obtain information related to Land Acquisition. This means that the community must be given the best possible access to information regarding land acquisition as clearly as possible, especially transparency when the value of compensation for their land is announced. Law Number 2 of 2012 also does not explicitly order or prohibit the submission of detailed appraisal prices for which the public appraiser's report has been made.

The principle of openness, if it is related to information disclosure in land acquisition for development in the public interest, is an effort to provide information and understanding about the existence of a land acquisition activity. The information submitted during the initial notification should be very clear information regarding what, how and why the activity was carried out, especially regarding compensation. Information is conveyed by the land acquisition preparation team in accordance with the capacity of each agency that delivers the information. In providing early notification and during public consultations, the information conveyed includes not only positive matters but also relates to the negative impacts that will arise and the way the public can raise objections.¹⁷ As well as other matters including the estimated price that will be charged for the value of compensation.

In addition, opening access to information is an obligation for the government and public bodies. The government must maintain a balance between closing information and public interests. However, the public interest must come first. Related to the principle of transparency in the land acquisition process, that affected communities have the right to obtain information about the project and its impacts; compensation policy; construction schedule; resettlement plan and replacement location (if any); and the right of the public to raise objections.¹⁸

The principle of openness can be seen from the Free and Prior Informed Consent (FPIC) as an instrument in international law to protect the rights of people or communities who are potentially affected by a development project. FPIC is a social license to act to ensure that potentially affected people have all the necessary information so that they can negotiate on an equal footing with project proponents means that affected people have the power to veto any project within their territory. With that veto power comes the balancing power to negotiate on an equal footing with proponents.¹⁹ The elements of FPIC are as follows:

1. *Free* relating to the free state without coercion, meaning that an agreement is only possible on the basis of various free choices of society;
2. *Priorit* means that before a certain project or activity is permitted by the government, it must first obtain community permission. For this reason, there must be a clear timeframe to ensure that affected parties have sufficient time to understand the information received, request additional information or clarification from the project proponent, seek third party advice or opinion (experts, etc.), and determine nor negotiate the circumstances they are experiencing.
3. *Informed* means open and broad information about the project to be carried out, both cause and effect. The information in question is correct and sufficient information. This means that the project proponent informs about all the ins and outs of the project, including: the good and bad of the project, the type, size and scope of the proposed activity / project, the duration, the extent of the affected area, the initial assessment of the possible impacts, the reasons and objectives of the activity. / project,

¹⁷Maria SWSumardjono, Land policy between regulation and implementation, Kompas, Jakarta, 2007.

¹⁸*Ibid.*

¹⁹*Get to know Free and Prior Informed Consent (FPIC)*, <https://perkumpulwallacea.wordpress.com/2014/07/23/mengenal-free-and-prior-informedconsent-fpic/>, last visited on 25 June 2020.

parties that are likely to be involved in the construction or operational phases of the project / activity (sponsors or funders, local communities, researchers, etc.).

4. *Consent* meaning that approval is given by the community itself. Full consultation and participation of people who are potentially affected by the project on all aspects (initial assessment, planning, implementation, supervision and project closure).²⁰

In terms of Law Number 14 of 2008 concerning Openness of Public Information, it is stated that information is a basic need of everyone which is beneficial for personal development and their social environment and is an important part of national security. The right to obtain information is a human right and the openness of public information is an important feature of a democratic country that upholds the sovereignty of the people. In the context of realizing good state administration, public information disclosure is one of the means in optimizing public supervision of the administration of the state and other public bodies as well as anything that results in the public interest. The law also defines public bodies as executive, legislative, judicial, and other agencies whose main functions and duties are related to the administration of the state, whose funds are partly or wholly sourced from the State Revenue and Expenditure Budget and / or Regional Revenue and Expenditure Budget (APBN / APBD), or non-governmental organizations as long as part or all of the funds come from the APBN. / APBD, community donations, and / or overseas. In the case of land acquisition activities for development in the public interest, agencies requiring land will finance from the APBN / APBD. Because the actors in land acquisition activities are included in the Public Agency, information disclosure should be done to optimize the public oversight function. some or all of the funds come from the State Revenue and Expenditure Budget and / or the Regional Revenue and Expenditure Budget (APBN / APBD), or non-governmental organizations as long as part or all of the funds come from the APBN / APBD, public donations, and / or abroad. In the case of land acquisition activities for development in the public interest, the agency requiring land will finance from the APBN / APBD. Because the actors in land acquisition activities are included in the Public Agency, information disclosure should be done to optimize the public oversight function. some or all of the funds come from the State Revenue and Expenditure Budget and / or the Regional Revenue and Expenditure Budget (APBN / APBD), or non-governmental organizations as long as part or all of the funds come from the APBN / APBD, public donations, and / or abroad. In the case of land acquisition activities for development in the public interest, agencies requiring land will finance from the APBN / APBD. Since the actors in land acquisition activities are included in the Public Agency, information disclosure should be done to optimize the public oversight function. In the case of land acquisition activities for development in the public interest, agencies requiring land will finance from the APBN / APBD. Since the actors in land acquisition activities are included in the Public Agency, information disclosure should be done to optimize the public oversight function. In the case of land acquisition activities for development in the public interest, agencies requiring land will finance from the APBN / APBD. Because the actors in land acquisition activities are included in the Public Agency, information disclosure should be done to optimize the public oversight function.

Especially in the land acquisition implementation stage, an inventory and identification of procurement subjects and objects will be carried out by the Task Force established by the Head of Land Acquisition Executive. The results of the inventory and identification are announced in the form of a field map and a nominative list, this is intended so that the community can observe if there are deficiencies and disagreements with what has been announced and for the executor of land acquisition has time to fix and announce the results of corrections. After the inventory and identification is carried out, an independent public appraiser will then assess the compensation. The Chairperson of the Land Acquisition Implementer shall determine the compensation based on the results of the appraisal service appraisal / public appraiser. The public appraiser / appraiser services are provided and stipulated by the chief executor of land acquisition. Appraisers will be procured within 30 (thirty) working days. The value of compensation

²⁰*Ibid.*

assessed by the appraiser is submitted to the Chief Executive of Land Acquisition with an official report on the submission of the results of the appraisal, and this is used as the basis for determining compensation in deliberations to determine compensation. The mechanism used to determine independent appraisers is by auctioning appraisal services by agencies requiring land. This is an application of the principle of openness for the appraisal profession to compete. The results of the assessment are used as the basis for deliberations by the executor of land acquisition and the agencies requiring land with the entitled parties within 30 working days. Deliberations are held to determine the form of compensation based on the results of the appraiser's assessment of compensation. The result of the agreement in deliberation becomes the basis for providing compensation to entitled parties. The principle of openness is implemented during deliberations in the form of opportunities for the public to ask questions and objections regarding the amount of compensation received and will be given an explanation by an independent appraiser. Apart from that, the appraiser also knows whether objections are accommodated and calculated. The principle of openness is implemented during deliberations in the form of opportunities for the public to ask questions and objections regarding the amount of compensation received and will be given an explanation by an independent appraiser. Apart from that, the appraiser also knows whether objections are accommodated and calculated. The principle of openness is implemented during deliberations in the form of opportunities for the public to ask questions and objections regarding the amount of compensation received and will be given an explanation by an independent appraiser. Apart from that, the appraiser knows whether or not the objections can be accommodated and calculated.

From the point of view of public appraisers who are also subject to the regulations of the Indonesian Appraisal Standard (SPI), especially in terms of Technical Guidelines for Assessment of Land Acquisition for Development for Public Interest (SPI 306), there are provisions regarding the requirements for approval for publication. In these provisions, it is explained that it must be clearly stated to the assignor when the assignment is received that the Appraiser's approval must be obtained for every publication of all or part of the published report or reference. This means that the appraisal report on land acquisition for development in the public interest can be published with the conditions according to the agreement between the appraiser and the assignor in this case the land institution. Supposedly, a detailed price submission, namely the result of the public appraiser's appraisal, could be carried out by the executor of land acquisition, especially when deliberations to determine compensation are conducted. Because both in terms of Law Number 2 of 2012 and Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014 concerning Public Appraisers and Regulation of the Minister of Finance of the Republic of Indonesia Number 56 / PMK.01 / 2017 concerning Amendments to the Regulation of the Minister of Finance of the Republic of Indonesia Number 101 / PMK.01 / 2014 concerning Public Appraiser does not require the confidentiality of the appraisal report from the public appraiser depending on the agreement between the Appraiser and the assignor in this case, namely the land institution.

2. Domination of Productive Land and Customary Law Community Land

In addition to the problem of the value of compensation that is considered too low by the entitled community, another problem is that the construction location to be built for the Padang-Sic Cincin toll road is dominated by productive land and customary community land or customary land. Productive land is referred to as rice fields and plantations.²¹ Productive land means land that can be cultivated and used for community livelihoods. In addition, the land on which shelter can be built and other buildings can also be built. In other words, cultivating land with a variety of businesses, either with special expertise or with technology, can create economic value uses. So that land is closely related to the functions and economic aspects of society. Communities are very "attached" to land so that ownership of land is sensitive. This means that the community has the opinion that land ownership is absolute and cannot be contested by anyone, either by the government / state.

²¹ Interview with Mr. Damanhuri, Wali Nagari Kasang, Batang Anai District, Padang Pariaman Regency, March 16, 2020 at 10:00 WIB.

This public opinion has been anticipated by agrarian law regulations with the concept of social functions of land rights. The social function of land rights obliges every holder of land rights to always pay attention to the balance between individual interests and public interests in the use and use of their land without reducing respect for individual rights to land. -The Basic Agrarian Law (UUPA) is elaborated from Article 7 to Article 18. The social function of land in the UUPA and its explanation actually takes the concept of customary law that has been developed. This is closely related to the recognition of customary law as the basis for the LoGA. In the customary law system, every act of conduct including matters relating to land cannot be separated from the nature of mutual cooperation as a reflection of social functions. If the private land is neglected, it will be detrimental to the interests of the entire community in the legal partnership area concerned. If the land is abandoned, then that action is a form of violation which violates the purpose of being allowed to control the land.²² So the principles of social function of land rights in the UUPA are rooted in customary law. Ownership rights to land under customary law are recognized and have a place in the position of indigenous peoples. However, property rights are not absolute, because in them there is a social function, namely there are still things that are "together".

In certain societies, the prevailing doctrine is the doctrine that obliges every citizen as an individual to always give in for the welfare of many people in his area / locale. This means that they are willing to give in and are willing to sacrifice for the sake of the public interest, namely in a concrete sense as a sacrifice for many people, so they can be accepted and given a place in the middle of their community life. If in such an environment, it is possible that the relinquishment of land rights or other economic objects can take place without compensation or compensation. It is possible that a person making a sacrifice without clarity for who someone is making a sacrifice will easily take place if the process is contractual or with an agreement between the parties who need the land and the land owner. However, if the process of acquiring land rights is carried out by the government on the basis of or on the pretext of development in the public interest for the glory of the nation or on grounds without concrete references, meaning that the benefits cannot be felt by the community directly, the community will not easily voluntarily give up their rights. - rights to their land unless they receive adequate compensation and satisfy a sense of justice. So from that what is happening today is that people who depend on the productivity of their land for economic activities feel it is not easy to give up their land rights coupled with the problem of compensation that is deemed unfair and appropriate. In addition, there is also an opinion that their land acquisition will only benefit outsiders / other parties even though the government argues for the public interest.

For the people of Indonesia, the right to land or objects on it is an important legal relationship so that if this right is truly relinquished for the sake of public interest, the release should be carried out carefully in a fair and wise manner, considering that in the current development environment the land has important role as a basis in supporting national development in all fields. Relinquishing land rights for public interest is actually also related to the economic problems of the community in general. A person who gets compensation due to the relinquishment of rights will basically still feel disadvantaged because he knows that the land they control has high economic value. Sometimes this is not taken into account so that the person concerned is reluctant to release his land.

Currently, the concept of "compensation for profit" that is echoed by the government can actually be realized if the dignity and welfare of the community are indeed better. The compensation value must be able to give the real meaning of "compensation" for the community affected by land acquisition for the public interest. Providing compensation that benefits the community must have a direct impact on the

²²Arie Sukanti and Markus Gunawan, Government Authority in the Land Sector, PT Raja Grafindo Persada, Jakarta, 2008. p. 25.

assurance of: housing to be occupied properly; sustainable economic livelihoods can still be accessed, and; social relations with relatives are not lost. The driving factors in land acquisition for the development of public interests include:

- a. The principle of benefit, the use of a definite land acquisition project for the public interest regardless of class, degree, and others, is the most important factor in land acquisition for the development of public interests, where the benefits of development must be mostly from the community;
- b. The principle of giving compensation, in fact the state based on the power and authority possessed in the management and control of land has the authority to control and regulate the use of land, including control of land for the development of public interests, however, the state does not want to own land for the development of public interests, meaning that by For the sake of implementation, the state is always given compensation money for its rights holders regardless of social status or type of ownership, both personal and institutional types of land ownership;
- c. The principle of humanity means that it must provide proportional protection and respect for human rights, the dignity and worth of every citizen and population of Indonesia;
- d. The principle of justice, which means providing a guarantee of adequate compensation to those who are entitled to have the opportunity to have a better life.
- e. The principle of agreement, meaning that the land acquisition process is carried out in consultation with the parties without coercion to obtain a mutual agreement.

If these principles are used as the basis for implementing land acquisition for development in the public interest, it is hoped that the landowners will have more dignity recognized, respected and protected by the law. In addition, it is also up to the government as the executor of land acquisition to realize these principles in the implementation of land acquisition activities. Because it is back again that the release or revocation of land rights will be related to providing fair and proper compensation. Where according to AP Parindungan that the person who is deprived of his rights is not in a poorer condition or will become poor in the future because the compensation money for compensation has been consumed, to rebuild their homes and continue their lives in a new place.

Another obstacle is the ownership of customary community land or communal land. Ulayat itself comes from Arabic which means being taken care of and being supervised. Ulayat rights are the power to administer, supervise and control. The term ulayat is then given by the legal circle an additional word in front of it with the word "hak". Thus the word ulayat is now referred to as ulayat rights. Whereas ulayat is in the form of control of a certain land environment by a legal community or legal association. In the literature it is called customary *lawbeschikkingsrecht* which is the highest right in an indigenous community.

If seen from the beginning LoGA and several other regulations, not a single statutory regulation has been issued to confirm what the definition of ulayat rights actually is. In this case, the Minister of State for Agrarian Affairs / Head of the National Land Agency was born. 5 of 1999 concerning Guidelines for the Resolution of Problems of Customary Rights of Customary Law Communities (hereinafter referred to as Permenag No.5 of 1999), which is the first regulation that mentions the definition of customary rights. According to the regulation, what is meant by customary rights is the authority which according to the Customary Law is owned by certain customary law communities over certain areas which are the living environment of its citizens to take advantage of natural resources, including land, in that area, for their survival and life. , which arises from the physical and spiritual hereditary and unbroken relationship between the customary law community and the area concerned. Whereas what is meant by ulayat land is a plot of land on which there is the ulayat right of a certain customary law community.

According to Budi Harsono, customary rights in the UUPA contain or have 2 aspects, namely a public aspect and a civil aspect. The purpose of the public aspect of ulayat rights is that the authority of the subject of ulayat rights, namely indigenous peoples, is to regulate the management and use of their

ulayat. Included in this authority include first, the authority to make planning, supply, designation and maintenance of the ulayat concerned. Second, the authority to regulate and control legal actions related to ulayat. In this case, for example, knowing or approving the legal act in question and announcing it to members of the public. Third, even included in this public authority is the authority to surrender or allow people, both members of their own society and outsiders, to make use of parts of their ulayat. Thus, this public authority does not contain elements of ownership but a kind of right to control over customary law communities. Meanwhile, there is also a civil aspect in customary rights. The civil aspect of ulayat rights means that first, in principle, ulayat is owned by all members of the customary law community concerned. This right cannot be transferred to anyone, including the government, because it is attached to each individual member of society. But secondly, this authority is also to take legal actions regarding the ulayat. On behalf of all members of the community, the legal act is carried out by a leader who is recognized or approved by the community. In ulayat nagari,

In Minangkabau customary law, the scope of customary rights cannot be separated between land, water and natural resources contained therein. This is in accordance with the Minangkabau customary adage which states, all land forest negotiations, ranging from stone / pasie nansaincek, rumpuik nan sahalai, jirek nan sabatang, ka atehnyo taambunjantan, ka Bawah to takasiak bula, pangkek pengulu punyo ulaya t (all those in forest land, starting from a stone / grain of sand, a piece of grass, a jatropa tree, up to the sky, down to the earth is ulayat). Thus, talking about ulayat rights also means talking about land and all its contents. Even though the definition of customary rights in Minangkabau Customary Law includes all natural resources that are above and in the earth, but land is the most common designation. The ulayat land in Minangkabau can be classified into:

- a. Ulayat lands of the people, under the supervision of the head of the inheritance mamak;
- b. Customary land of the tribe, held by the tribal leader;
- c. The ulayat nagari land, under the supervision of the rulers who take shelter in the kerapatan nagari.²³

The ulayat lands of the tribes are usually divided into the ulayat of each clan. If the ulayat lands of the tribes have been completely divided into ulayat clan, then it is possible that in a village there is no known clan ulayat. Even so, there is still a plot or several parcels of land that still have the status of tribal communal land which can be used by all members of the tribe.²⁴ Ulayat Nagari land can be divided into:

1. *Rimbo* in a true sense, which has never been worked on or inhabited by humans. Usually located far from residential areas. Rimbo is divided into: old rimbo, rimbo gadang, rimbo rajo, deep forest, rimbo nan lapeh, rimbonan aguang, rimbo orphanage etc.
2. *Biluka*, that is, land that was previously worked on and then abandoned again until it returns to a forest land. There are old biluka in such a state that there are no signs of human work. Compared to Rimbo, Biluka is located closer to residential areas.
3. *Spoon*, in the form of lands that were previously worked on and then not worked again but the signs are still visible.²⁵

If we look closely at the release of land rights in West Sumatra, it often creates conflicts between the community and the government. Land ownership in West Sumatra consists of individual property and ulayat land (ulayat clan and ulayat Nagari), land conflicts can arise due to several reasons. At the time of liberation of rights regarding ulayat or community land it was not transparent. This arises because of a piece of land that is managed by many people in one tribal community. In addition, when the land rights were relinquished, the government did not see all members of the community but only involved the tribal

²³Alfan Miko, Nagari Government and Ulayat Land, Andalas University Press, Padang, 2006, p. 203.

²⁴ Kurnia Warman and Rachmadi, Still "Far Bake from Fire": A Study on Strengthening Rights in the Era of Decentralization in West Sumatra, Collaboration between the Kemala Jakarta Foundation and the World Resources Institute (WRI) with Qbar.

²⁵Titin Fatimah and Hengki Andora, Ulayat Land Dispute Resolution Patterns in West Sumatra (Disputes between Communities and Investors), Journal of Law Science, Faculty of Law, Andalas University, Padang, p. 50.

or clan chiefs. Though it is not certain that the chief of the tribe can act fairly to members of his clan. Thus the acquisition of ulayat land in land acquisition for development for the public interest should be able to involve all members of the clan who manage the land to be released their rights and the executor of land acquisition needs to involve several representatives of the members of the tribe / clan. Apart from that, considering the unclear administrative boundaries of the ulayat lands of one community with other clans' lands, the boundaries of nagari and other nagari, it is necessary to map the boundaries of ulayat and nagari lands, so that when the release of rights occurs, they do not face the land in dispute.

Meanwhile, in determining the value of compensation for the relinquishment of rights from land for the public interest, the government always offers a price below the actual selling price of the object when the relinquishment of rights is taking place, this price becomes a problem between the land owner and the government. With this problem, whether what is felt is fair to the community, of course this will be answered by the community that compensation does not fulfill the community's sense of justice. For the construction of government facilities and facilities that really involve the needs of the people, the amount of compensation should be adjusted to the market price while the process of relinquishing rights is in progress. According to society that is perceived as fair, there are those that are appropriate and those that are not,

Compensation for damages or compensation in every relinquishment of land rights is not necessarily able to fulfill the community's sense of justice. The people's sense of justice will be fulfilled if the public facilities to be built are truly for the benefit of the community, nation and state. The sense of justice in the community will be tarnished if the facilities built are precisely to support private interests which lead to the eviction of land belonging to the people under the pretext of public interest. When land tenure in Indonesia is currently unbalanced, land tenure is concentrated in a handful of people (national private capital and foreign capital), while millions of farmers lack land. Determination of the amount of compensation should pay more attention to the community as the owner of the land and the government to pay more attention to how the community previously used the land, This is because so far most of the land acquisition has been in the community use area which was originally the livelihood land for the community. If the land must be acquired, it is also advisable to pay attention to appropriate and fair compensation.

Public perception regarding the determination of compensation or compensation in land acquisition for the public interest is appropriate or not with a sense of fairness. There are people who feel that the compensation given is sufficient. There are also those who pay attention to how in the future because when the people's livelihood land is used, of course the compensation given must be appropriate, for example the agricultural community, if their agricultural land is freed for various public interests, of course the compensation must be in accordance with the income or management of the previous community. they get.

Determination of appropriate and fair compensation is indeed necessary, as in West Sumatra they still want to maintain their inheritance, because if there is compensation, the compensation will still be an inheritance that will be used from generation to generation. In compensation, it should also be necessary to take into account the interests of the community whose lives depend on the land that has been acquired, most of the people, even though they have received compensation, still complain about the compensation they get because sometimes the community is forced to give their land to be given to another party. In addition, for farmers' rice fields or plantation fields, which are carried out, sometimes farmers do not get replacement land anymore as a place to do business, not all farmers are able to survive when trying to change their profession.

According to Friedman, for adequate legal effectiveness it is also necessary to support aspects of legal culture. Land acquisition activities as one way can be said to be in a dilemma situation. On the one

hand, this institution is still very much needed to ensure the availability of land necessary for the implementation of development that is beneficial to the public interest. However, on the other hand, the land acquisition must be faced with rejection by the community, so that the development process for the public interest faces several obstacles. This of course results in delays in development aimed at the public interest. These obstacles are inseparable from the history of land acquisition starting from the old order and the new order, even in the reform era there is still a stigma from society. that the land acquisition process so far has done more harm to the people who give up their rights. From the results of research in the areas affected by the construction of the Padang-Sic Cincinnati toll road, which has become a public problem in general, there are pros and cons to the implementation of land acquisition for the public interest and the determination of compensation prices for land owners. From these problems and obstacles, when examined from the aspect of legal culture and the history of land acquisition, it can be seen that there are several obstacles in the implementation of land acquisition for the public interest, among others, because first, government policies as the executor of development are prioritized rather than protecting the community members of the land owner. While the state should provide maximum welfare for the people, but in reality they pay less attention to the welfare of the community. This proves that the government is too dominant in determining the value of compensation, which should pay more attention to the interests of the community who relinquished their land rights before deciding on the value of compensation. With its authority, the government should be able to make policies regarding the procedure for determining compensation to prioritize the welfare of the community.

The sovereign government has 2 positions, namely as the executor of the authority to control the state as regulated in Article 2 paragraph 2 of the UUPA and as a public legal entity is the executor of development. In exercising its authority in accordance with the mandate of Article 2 paragraph 2 of the UUPA, the government is obliged to carry out its duties for the greatest welfare of the people. In such a position, the government, represented as the National Land Agency, must measure the success of its policies and implementation by the magnitude of the increase in the people's welfare, including the success in maintaining the level of prosperity enjoyed by landowners affected by development.

The position of the government as a public legal entity implementing development must carry out development in the sectors under its authority. In the land acquisition process that is needed for the executor of development, in this case the government only concentrates on the availability of land. In land acquisition policies, the government has focused on its position as executor of development. The government is more focused on prioritizing the provision of land needed for development for the public interest because the government does not pay attention to the interests of individual land owners affected by land acquisition. This can lead to negative perceptions of society towards the government. Second, there is resistance to government policies in land acquisition even though these policies are really meant to realize the public interest. The public is more likely to be pessimistic and full of suspicion, that government development implementation policies are not always oriented towards the interests of the public at large, meaning that they are suspected of fulfilling the interests of certain groups. This public opinion is in the form of rejection of the government's repressive actions against landowners. This is because the people who own the land are always faced with coercion when there is land acquisition for the public interest. Landowners are exposed to various forms of stress that create conditions of fear and contain the potential for resistance. The negative attitude and suspicion of the government got its chance when the change towards the reform era was born. The pressure experienced by the community previously erupted in the form of rejection of the obligation to surrender land for the public interest. This results in the landowning community filing demands for land prices that are sometimes unreasonable.

It is undeniable that today's society tends to be individualistic. This can be seen from the courageous attitude of the community to declare their refusal to surrender their land even for the public interest. This attitude shows that the land owners do not want to sacrifice their own interests. Individual interests do not want to be sacrificed only for a common interest. Communities are willing to give up their

land for the public interest if the compensation matches their demands. In fact, they state, why sacrifice for the public interest, if their interests are not protected. This condition is the opposite of the previous condition which always demands and forces individual landowners to make sacrifices for the sake of the state. In the era of democracy, times like this have provided opportunities for the development of this assumption,

All of the above problems lead to the problem of justice where the compensation value is felt to be unfair by the community who holds land rights and the location of the development carried out by land acquisition which is "forced" to give up their productive land as a source of livelihood. The current arrangement regarding land acquisition and the procedure is seen from the theory of justice according to Rawls, which does not reflect justice. Rawls's theory which is also called *Justice as Fairness* (justice as worthiness). Justice does not only cover the moral concept of individuals but also the mechanism for achieving justice itself but also includes how the law can participate in supporting these efforts. In general, there must be formal elements of justice according to Rawls which basically consists of:

1. Whereas justice is a value that directs each party to provide protection for rights guaranteed by law (element of rights);
2. That this protection must ultimately provide benefits to each individual (benefit element).

If it is associated with the element of justice with rights and benefits as well as added legal discourse, regarding the realization of the law it has a physical form, without first questioning its moral intentions. So the value of justice here has an empirical aspect too, in addition to its ideal aspect. It means that what is considered fair in the legal context must be concrete actualized according to the size of its benefits. With this measure of the benefits of the value of justice, in the end, justice can be viewed according to an empirical context as well.

Besides that, look at the deliberation procedure to determine the form of compensation that currently exists, which is like "forcing" the community holding land rights to agree with the price offered. This kind of thing does not yet fulfill a fair way to unite the various interests as expressed by Rawls. It is fair to unite different interests without giving special attention to the interests themselves.

C. Dispute Resolution in Land Procurement for the Padang-Sic Cincin Toll Road

According to data from the Padang Pariaman Regency Land Office, as of January 2020, there are about 95 (ninety five) land parcels that have been issued consignment decisions at the Pariaman District Court and about 20 (twenty) land parcels are in the process of custody of compensation. loss / consignment at the Pariaman District Court. More specifically, the community has the right to file an objection for compensation to the Pariaman District Court. The application for objection to compensation was registered on June 28, 2018 with register number 32 / Pdt.G / 2018 / PN.Pmn at the Registrar's Office at the Padang Pariaman District Court. A request for an objection to compensation basically means that the entitled parties continue to disagree or disagree with the offer for compensation submitted by the government.

According to the people who have the right, the value of compensation that has been assessed has not been able to fulfill their continuation of life properly after their land has been surrendered for the construction of the Padang-Sic Cincin toll road. However, these community efforts cannot be accepted based on the Pariaman District Court Decision Number PN: 32 / Pdt.G.2018 / PN. Pmn because the objection petition is obscure (*Obscur libel*) because the Panel of Judges is of the opinion that between the *posita* and the *petitum* for the objection, besides that it is also because there are some of the petitioners whose legal position as the applicant is not entitled to submit the petition so that the application for objection to compensation cannot be accepted so that it does not arrive when considering the main material of the petition, the community has the right to determine the compensation value. After the issuance of this decision, the people who are determined to refuse.

Custody of compensation or what is called a consignment is a stage taken to deposit compensation that has not been or has not been taken by the entitled party after the determination of compensation by the District Court has previously determined. The determination of compensation by the District Court was issued because previously there was a request related to compensation made by the land acquisition executive committee or an objection by the entitled party regarding the compensation value. In other words, the consignment or deposit of compensation at the District Court is one way to resolve disputes in the process of implementing land acquisition for public interest. In this way it is hoped that it can mediate differences of opinion or have not reached an agreement regarding the value of compensation offered by the executor of land acquisition.

The District Court in this case will decide the amount of compensation that is appropriate for the land to be acquired. This inappropriate value of compensation is a problem that quite often occurs when land acquisition is carried out for public purposes. Land owners usually demand a higher replacement value because usually the price of land in nearby locations has already risen. So that the court's decision becomes the last resort for determining the price for land compensation. However, communication and a good approach are very important between the land acquisition committee for the benefit of the community, especially the rightful parties or land owners. With appropriate explanation and price communication, usually the land owner will accept that the land that belongs to him is taken for the public interest. Settlement through the courts is a last resort if all communications have been made but are unsuccessful, especially if the compensation to be given is sufficiently reasonable at the local market price. Land owners who keep their land usually have social sanctions, their land will be left just like that while the surrounding environment has turned into a means of public interest. There is a need for a breakthrough from the government to strive for accelerated land acquisition, especially for payments, so that the price of land around the location does not increase which is one of the sources of problems related to land acquisition.

In addition, the provision of compensation by the government to land rights holders affected by land acquisition for development in the public interest is a right that is absolutely obtained by land rights holders. In every provision of compensation provided by the government to parties affected by the procurement, there is always a sense of dissatisfaction, because it is considered that the value of compensation is inappropriate and unfair, the compensation is not in accordance with the expected price. However, in reality it is not uncommon to cause land dispute problems due to land acquisition for public purposes. This is because rights holders want high prices. The issue of the price of land, which increases in price every time, sometimes causes land acquisition for public purposes that cannot be implemented properly. In this case, it appears that the role of NJOP is becoming increasingly important because it will be considered in determining the price of land as compensation. In this case, the determination of an accurate NJOP is very important, because if the NJOP is the basis for the actual determination, then for compensation at least the standard of estimation cannot be lower than the NJOP. But by looking at the latest NJOP, the actual value is determined, accompanied by various considerations related to matters that can affect the value of the land so that in the end the land price can be determined as compensation for the community, of course it will be felt fair if for the imposition of taxes and the initial steps for the amount of compensation used the same standard, namely the NJOP of the land and the last building.²⁶

Meanwhile, if we talk about justice, justice is not a static concept or an object that can be completely defined, justice is a process, a complex balance that moves between various factors. In relation to the determination of various factors that can affect land prices, these factors will be perceived as relatively fair, even though this applies to various subjects, in this case land rights holders, the end result

²⁶Maria SW Sumardjono, Land in the Perspective of Economic, Social and Cultural Rights, KompasMedia Nusantara, Jakarta, 2008, p. 263.

does not need to be the same, given the differences in situations and conditions. each object. The determination of compensation for land acquisition must be touching justice as the holder of land rights so that the right holder in relinquishing his rights does not feel forced but can instead accept it happily. With regard to the determination of compensation for the object of land acquisition for development in the public interest, the holder of land rights does not receive the type and amount of compensation stipulated, so the holder of the land right can file an objection to the local district court for a maximum of 14 (fourteen) days. work since the issuance of the determination of compensation, if the holder of the land right does not file an objection during this grace period, the compensation is deemed to have received the type and amount of compensation. If the land rights holder does not accept the decision from the district court regarding the type and amount of compensation, during the 14 (fourteen) working days the land right holder can file an appeal to the Supreme Court of the Republic of Indonesia. The objection made by land rights holders against the determination of compensation given to replace objects that are freed for the development of public interests is one proof that land rights holders have not given a sense of justice and worthiness which can guarantee a better economic life. The existence of rights granted to holders of land rights listed in Law Number 2 of 2012 is a form or form of legal protection provided in land acquisition for public interests.

When viewed from the view of John Rawls that in order to achieve a fairness it requires a substantial element of justice (*justice*) and procedural fairness (fairness). Substantial justice will be interpreted and accepted by the community, while procedural justice is more about justice defined by law in the form of rights and obligations. The law can be said to be fair if both justice can be achieved. Justice that exists in law must be accepted and felt by the community. Meanwhile, in the implementation of land acquisition for the Padang-Sic Cincin toll road, what happened was the injustice felt by the community in relation to the value of compensation that was deemed inappropriate and fair and given the procedure for resolving disputes due to objections to the value of compensation based on Law Number 2 of 2012 can only be resolved through the District Court. Settlement of disputes submitted to the district court is limited to 14 (fourteen) days after the determination of the result of the deliberation on the amount of compensation has been issued. With the procedure for filing such an objection, it is limited to a period of 14 days as if it narrows the movement of the community receiving compensation to prepare the petition for their objection. Meanwhile, even though the decision on the objection request has been issued and the community continues to reject the construction, it must still proceed and the compensation money is deposited in the District Court. With the procedure for filing such an objection, it is limited to a period of 14 days as if it narrows the movement of the community receiving compensation to prepare for the objection. Meanwhile, even though the decision on the objection request has been issued and the community continues to reject the construction, it must still proceed and the compensation money is deposited in the District Court. With the procedure for filing such an objection, it is limited to a period of 14 days as if it narrows the movement of the community receiving compensation to prepare for the objection. Meanwhile, even though the decision on the objection request has been issued and the community continues to reject the construction, it must still proceed and the compensation money is deposited in the District Court.

At the time of the implementation of the award of compensation or being entrusted with the district court, the ownership or rights of the land of the party entitled to be canceled and the evidence of their rights is declared invalid and the land is land that is directly controlled by the State. Depositing compensation for damages is clearly a form of coercion on the community to relinquish their rights, the soul of this law is closely related to the revocation of land rights. Only the revocation procedure is different. Thus, the dispute settlement applied in determining compensation for land acquisition for development in the public interest is by using two settlement patterns, namely litigation and non-litigation. First, non-litigation settlement in land acquisition for the public interest in Law Number 2 of 2012 includes: deliberation in determining the location of development and deliberations on determining compensation, making efforts to objections to the land acquisition committee and agencies requiring land.

Second, the pattern of dispute resolution in land acquisition for development for the public interest is through litigation / through court institutions, in this case, includes: objections made by land rights holders to the determination of a construction location for public interest to the State Administrative Court, filing an objection to the District Court by the land rights holder for refusing the type and means of compensation set by the land acquisition committee. In this case it can be said that the settlement of disputes in land acquisition is caused by not receiving the determination of the construction location and the provision of compensation, the non-litigation pattern used is more of a negotiation settlement because it does not involve a third party as a mediator. In negotiations for compensation for land acquisition objects, the position of the land rights holder is weak because it can be forced to relinquish land rights, but there should be a neutral third party as mediation in determining the location of development and in determining compensation. Negotiation in the form of deliberation is one strategy to resolve disputes, so that negotiations can run and it is easy to get an agreement, the communication skills and insight of the parties are crucial, especially in conveying the interests and desires of oneself or other parties. Settlement of disputes in land acquisition should be carried out to the maximum extent possible through non-litigation or out of court settlement because indeed in national land law it is also based on customary law. In principle, customary law is different from modern society, the settlement of disputes in customary law communities is based on the view of life adhered to by the community itself. The view of life of indigenous peoples rests on a philosophy of existence, namely a human philosophy that teaches living in harmony and together.

Conclusion

From the above problems, based on the data obtained, the following conclusions can be drawn:

1. The implementation of land acquisition for the public interest, especially in the construction of the Padang-Sic Cincin toll road session I in accordance with the provisions in Law Number 2 of 2012, namely (after going through the planning and preparation stages) through the inventory and identification stages, the compensation determination stage, the deliberate determining the form of compensation as well as the stage of giving compensation.
2. Disputes and problems in land acquisition for the Padang-Sic Cincin toll road were caused due to the rejection of the amount of compensation value by the entitled community. Another problem is that there is a lot of productive land as well as land / land belonging to customary law communities or communal land where most of the community still functions as a source of economic needs.
3. The dispute settlement in land acquisition for the Padang-Sic Cincin toll road was resolved by litigation. The parties who reject the compensation value set by the government submit an objection for compensation to the Pariaman District Court through an application for 32 / Pdt.G / 2018 / PN.Pmn at the Registrar's Office of the Padang Pariaman District Court. However, the request was rejected by the Panel of Judges and the compensation price used still refers to the results of the deliberation on determining compensation.

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