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Legal Convergence Related to Investment Policy Problems and Land Acquisition for Industrial Development and National Programs

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ABSTRACT

The issuance of Law Number. 6 Year 2023 on Job Creation aims to encourage investment, accelerate economic transformation, harmonize central-regional policies, provide ease of doing business, overcome overlapping regulatory issues, and to eliminate sectoral egos. In carrying out investment, the availability of land is the main instrument for national development in Indonesia. However, massive development activities by the government and communities often cause friction in the management, development, security and control of land. Investment policy in its implementation requires land area for industrial development and national programs. This research uses normative-empirical research methods, using a statute approach and social legal approach related to legal convergence related to investment policy problems and land acquisition for industrial development and national programs. The output of this research is first, providing a regulatory map related to legal convergence related to investment policy problems and land acquisition for industrial development and national programs, as well as secondly ideal arrangements related to the sustainability of investment policies and solving land problems.

Keywords: Legal Convergence; Investment Policy, Land Acquisition.

INTRODUCTION

Investment is an important capital for developing countries, because it has a large role in the process of economic development. Sustainable economic development will be able to create production activities, open employment opportunities and increase income in the country so that it will increase economic growth. There are three types of investment spending. Business fixed investments include equipment and structures that the company purchases for the production process. Residential investment includes a new home that a person buys for a residence that the landlord buys for rent. Inventory investment includes goods that the company stores in warehouses, including materials and supplies, work-in-progress goods and finished goods. The manufacturing industry sector is believed to be a sector that can lead other sectors in an economy towards progress. Industrial products always have high or more profitable "terms of trade" and create greater added value than products of other sectors. This is because the industrial sector has a very diverse variety of products and is able to provide high marginal benefits to its users. Business people (producers, dealers, traders, and investors) prefer to be in the industry because this sector provides more attractive profit margins.

The issuance of Law No. 6 of 2023 concerning Job Creation (Job Creation Law) is an Omnibus Law that regulates changes in regulations in various sectors with the aim of improving the investment climate and Realizing legal certainty. The breakthrough of the Omnibus Law allows 80 laws and more than 1,200 articles to be revised with the Job Creation Law that regulates multisector. Thus, the revision trimmed the ineffective articles. This breakthrough is needed to improve the business climate, improve horizontal and vertical policies that clash with each other, increase Indonesia's low regulatory index, overcome the phenomenon of hyper-regulation and inefficient policies, as well as laws that are sectoral and often asynchronous. The main objectives of the Job Creation Law are to encourage investment, accelerate economic transformation, harmonize central-regional policies, provide ease of doing business, overcome overlapping regulatory problems overlap, as well as to eliminate sectoral egos. The ratification of the Job Creation Law is expected to have an influence on good economic development. The ratification of Law No. 6 of 2023 concerning Job Creation encourages investment with a simple licensing system. The business licensing process has now been changed from permit-based to risk-based. Investment requirements have become easier with the Job Creation Law.

However, in its implementation, investment policies that are simplified in the licensing aspect are not enough to increase the pace of investment in this country. Because in the development of national and industrial programs require land. Land availability is the main instrument for national development in Indonesia. However, the massive development activities by the government in the field of industry and national and community programs often cause friction in management, development, security and security problems control over the land. The presence of a land bank agency is expected to be able to bridge the availability of land in development for public, social and economic equity. Land acquisition must not only get support from the government, but also community participation. Investment and land acquisition problems must have a meeting point to be a mechanism for solving them. Land acquisition for investment development ideally aims to improve the welfare and prosperity of the nation, state, and society while guaranteeing the legal interests of the Entitled Party.

The government not only focuses on investment growth but also realizes quality investment that can give birth to equitable economic growth. The Ministry of Investment/Investment Coordinating Board said that one of the problems that became an obstacle to investment for business actors in the region was the uncertainty of land availability. Thus, he emphasized the importance of collaboration between the central and local governments in finding solutions or meeting points of these land problems.

The existence of investment is the basic capital for the realization of sustainable economic growth. With so much investment entering an area, it will certainly bring positive impacts such as the creation of new jobs for the community, increased purchasing power, and changes in the quality of living standards for the better. Investment becomes more attractive, so local governments must continue to strive to make changes, especially in the implementation of business licensing services in the regions, with the concept of fast, easy, clear, and cheap services through the OSS system, providing incentives and ease of investment, and trying to create a pro-business environment. Industrial development and the development of national programs on community land, especially on agricultural land, will have pros and cons. Therefore, a meeting or commitment is needed to both parties regarding what is desired so that the proplematics of land acquisition will be completed properly. The community will approve their land to be used as development if there is a commitment to the existence of investment, including foreign investment to guarantee additional employment, make the country's foreign exchange rise, and various other benefits and do not damage the environment live. Based on this description, the problems in this study are What is the urgency of legal convergence related to investment and land acquisition policy problems for industrial development and national programs? and What is the ideal arrangement related to the sustainability of investment policies and solving land problems?

REVIEW OF LITERATURE

Theories related to the convergence of laws related to investment policy issues and land acquisition for industrial development and national programs can cover several relevant aspects. Here are some theories that may be relevant in this context:

1. **Legal Convergence Theory:** This theory focuses on the process by which the laws and regulations of different jurisdictions begin to converge or become more similar to one another. In the context of investment and land acquisition, legal convergence may occur as countries seek to adopt more uniform

standards to attract foreign investment and promote industrial development. This could involve harmonization of regulations and legal protection for foreign investors.

2. **Foreign Direct Investment Theory:** This theory explores the relationship between foreign investment regulation and economic growth. Several theories of foreign direct investment argue that countries with more open and attractive investment policies will tend to get more foreign investment, which can be used for industrial development and national programs.
3. **Industrial Development Theory:** This theory focuses on how countries can plan and implement policies to promote industrial development. This relates to how countries can use their resources, including land, to promote the growth of certain industrial sectors.
4. **Land Acquisition and Development Theory:** This theory examines various aspects related to land acquisition for development purposes, including the legal, social, and economic issues involved. This is relevant in the context of industrial investment and national programs that may require land acquisition for large projects.
5. **Public Policy Theory:** This theory examines how public policies, including investment and land acquisition policies, are made, implemented, and evaluated. This is relevant in understanding how investment and land acquisition policies are made and how they can influence industrial development and national programmes.
6. **National Development Theory:** This theory includes an understanding of how countries plan and implement their national development programs. This can include the use of resources such as land to achieve economic and social development goals.

These theories can assist in understanding the complex dynamics involved in investment policies, land acquisitions, industrial development, and national programmes. They can also be used as a framework for analyzing the implications of legal convergence in this context.

METHODOLOGY

The research method used is a normative-empirical research method, using a statute approach and social legal approach related to Legal Convergence Related to Problematics Investment Policy and Procurement for Industrial Development and National Program. The statute approach is to examine matters concerning legal principles, legal views and doctrines, and laws and regulations related to electronic money, and accurate and accountable data while the social legal approach is to examine. The problem of the effectiveness of legal work in the entire institutional structure of law in society. In addition, an in-depth examination of the legal facts is also held to then seek solutions to the problems that arise in the symptoms concerned.

RESULTS AND DISCUSSION

The urgency of legal convergence related to investment and land acquisition policy problems for industrial development and national programs

Various developments carried out to support the public interest, development to prioritize increased economic growth and industrial development, or business expansion are certainly inseparable from soil. To meet these needs, land acquisition efforts are important to be implemented and this condition certainly cannot be avoided by any country. Some cases explain that infrastructure development carried out in various regions for public interest often experiences obstacles in the stages of land acquisition. This condition is caused because the land used for development is land that has mostly been used / used, controlled and owned by individuals, communities customary law or legal entity, where the land was previously used as a settlement/residence, place of worship, infrastructure of community life or as the main source of land for community livelihood.

Indonesia wants to become the top 5 (five) world economic powers by becoming a high-income country by 2040. Therefore, in the National Development Planning Agency's National Medium-Term Development Plan document for 2020-2024, the Government has targeted growing economic growth an average of 6 (six) percent in 5 (five) years and per capita Gross Domestic Product (GDP) growth of 4 (four) +/- 1 (one) percent. In the long run, the economic transformation carried out in 2020-2024 will make Indonesia out of the Middle Income Trap (MIT) in 2036. With an average economic growth of 5.7 (five point seven) percent and real GDP growth per Capita of 5 percent, in 2045 Indonesia is predicted to become a country Developed with a sustainable economy, poverty rate close to 0 (zero) percent, and has a qualified workforce.

However, in the current conditions, Indonesia faces great challenges, both external and internal. External challenges are triggered by global economic conditions that are currently experiencing weakness and uncertainty. Geopolitical dynamics in various parts of the world, as well as the presence of various new technologies in the era of the Fourth Industrial Revolution that changed the global economic landscape are sources of uncertainty that limit global economic movements. Slowing global economic growth has had a significant impact on the Indonesian economy. In order to maintain economic growth momentum, the Government continues to strive to maintain people's purchasing power, encourage increased government consumption, and improve investment performance. Land acquisition for industrial development and national programs are based on the aim of national or state economic development which can have an impact also on the people's economy. Indonesia's current economic condition is still deteriorating which is increasingly poverty everywhere due to the sluggish world of work and many natural disasters that befall the nation of Indonesia. It made life worse and many people lost their jobs and many of the workforce did not get opportunities in the world of work. So the government carries out economic movements in all trade sectors and infrastructure improvements to support the economy in favor of the people.

The problem of poverty and economic inequality are two problems that must be addressed immediately in order to realize the national development goals as stated in the Preamble to the 1945 Constitution which affirms that it is wrong One goal of the Indonesian state is to promote the general welfare. This affirmation is inseparable from the main thoughts contained in the preamble, namely that the state wants to realize social justice, so the implementation of development needs to be further improved and expanded, especially development to further encourage the achievement of prosperity for all Indonesian people. But development carried out in the framework of the development of a whole society and the development of all Indonesian people does not only pursue external progress, but harmony, Harmony, and balance between the two, as well as equitable development throughout the country, not only for groups or some people as an improvement A level of social justice life that is the goal and ideal of independence.

Industrial development and economic development as well as the development of national infrastructure supporting which is quite rapid have an impact on the high demand for land used both for industrial activities and for its supporting activities. On the one hand, land is used and utilized as much as possible for the prosperity and welfare of the people outwardly, mentally, and evenly, on the other hand, it needs to be maintained. Land is a gift of God that can be used to realize the prosperity and welfare of the people of Indonesia, so there needs to be government intervention to realize this.

Various studies show that the trigger for conflicts related to land acquisition often occurs because the value of compensation/ compensation given to affected communities is not given directly. Decent and fair, lacks transparency and harms the community. In addition to issues related to injustice, Rachmawan mentioned that some land acquisitions carried out in Indonesia have not fully involved community participation, lack of extension processes/ Meaningful public socialization and consultation on land acquisition plans carried out by parties who need land to the community, the lack of procurement planning documents Land that is studied in depth in accordance with the environmental, socio-economic conditions of the community and the lack of involvement of parties / agencies that have authority related to procurement land since the initial planning process. The uncertainty regarding the condition of community resettlement and what the sustainability of community life after land acquisition is also a dominant factor the emergence of rejection in land acquisition. In addition, the implementation of land acquisition projects as a national strategic agenda is also limited by time due to development targets and budgeting systems that are not Arranged correctly, making the stages / processes in land acquisition seem rushed so that many stages are not carried out optimally. The condition of haste and the perspective of land acquisition which often only views land acquisition as a formal physical-legal aspect has implications for the neglect of socio-economic, environmental aspects as well as the neglect of intangible aspects and community rights that should be a unity in the land acquisition process.

Some land acquisition practices that have been implemented, especially in rural areas, often result in the marginalization of farmers, laborers, ranchers, farmers, fishermen in rural areas. This is because most Indonesian people are agrarian people who in fact depend on the land. In addition, in general, it can be said that most Indonesian people have a relationship with land that is religious-cosmic, namely a relationship that highlights collective control and There are still religious patterns related to the belief in magical things. The religiomagis-raisin relationship between the community and the land is marked by traditional ceremonies and traditional traditions that are still upheld by the community. Meanwhile, for societies that tend to change towards industrial society, the relationship between humans and land is individualist and oriented towards the economy.

When the Indonesian government wants to use land for development, of course, there are sacrifices of human rights including the rights of people who have previously lived safely and comfortably in Land must be sacrificed, people's livelihoods and livelihoods, especially those who depend on the agrarian sector, must be uprooted, besides the difficult impact To be replaced are socio-cultural values that have been deeply rooted in people's lives for many years must be moved. When viewed from a juridical aspect, the government actually holds the principle of "rule of law", where human rights must be respected, but if this land acquisition is not Done then development will certainly stop and economic growth will experience a slowdown. These two things are like two sides of an inseparable coin, in this case the responsibility of the government / agency that needs land is formulate, implement policies and orient land acquisition programs by prioritizing the sustainability of community life and protecting community human rights.

Apart from that, to know the losses or adverse effects of economic development, it is first understood that one of the conditions for implementing economic development is enthusiasm economical. This means that the implementation of economic development must be based on economic measures. Economic action is action based on economic principles. Human beings should always strive to use the opportunities and factors of production as efficiently as possible. He must strive to gain greater benefits from sacrifice. In other words, economic development will succeed well, if everyone in carrying out their economic activities is always based on economic principles. If we look back at it that one of the indicators of economic development is an increasing income level. A high level of income can be achieved if one works efficiently or works on economic principles. Thus, economic development will encourage a person to think and act economically. The impact of economic action will make people materialistic and selfish. From the description above, it can be concluded that the disadvantages of economic development are encouraging someone to think and act more selfishly, encouraging someone More materialistic, the nature of mutual aid life that is generally found in developing countries is decreasing, familial nature and family relationships are decreasing. Development promoted by the government in this era should not only be oriented towards macroeconomic growth alone which only focuses on increasing Gross Domestic Product (GDP) and Regional Domestic Product Gross only. Economic growth plays an important role in terms of improving people's living standards, but when what is pursued is only limited to macroeconomic development, it will be very Dangerous to high inequality and injustice, due to the uneven distribution of economic sectors. So far, most of the development promotion efforts that have been carried out on a large scale are only oriented towards economic growth alone, this is actually able to bring Benefits on macroeconomic growth / nationally and increasing per capita income at the national level. However, several studies and facts on the ground show that the development scheme as mentioned above is only focused on a few existing provinces in Java and in major cities in Indonesia so that the acceleration of economic improvement and increase in per capita income only targets specifically in the region. Realizing this impact, the government changed the orientation of development which was previously only oriented to economic growth alone, in its current development the concept of development is oriented towards efforts to solve inequality and inequality and injustice. Investment development policies carried out by the government in national economic development will sacrifice land area which is both very important. Although the use of land for investment intended for the community should ideally still pay attention to environmental policies so that sustainability occurs.

Ideal settings related to the sustainability of investment policies and solving land problems

a) Political Law National Economic Development

The infrastructure acceleration program is one part of President Joko Widodo's strategic program as outlined in Nawacita point number 3, namely the work program implemented aimed at building Indonesia from the periphery by strengthening regions and villages within the framework of the Unitary State of the Republic of Indonesia. The Presidential Staff Office in 2016 stated that the work programs implemented by Jokowi include accelerating infrastructure development aimed at connecting peripheral areas with growth centers and efforts to promote inter-island connectivity as an archipelago. In addition to aiming to encourage economic growth and equity, especially for the outermost, remote, deepest and eastern regions, this development also aims to strengthen resilience nationally, reducing inequality and reducing poverty which is still high, especially in eastern Indonesia.

Various potentials and natural wealth in areas that are difficult to access are also the main factors in infrastructure development promoted on a large scale during Jokowi's leadership. To realize this target, President Jokowi formed the Committee for the Acceleration of Priority Infrastructure Provision. Where this committee is mandated to coordinate policies among various stakeholders and to unblock stalled national strategic projects and priority projects national. If debated, Jokowi's development strategy can be narrowly said to only focus on infrastructure development and attracting infrastructure investment. However, when analyzed in depth the aims and priorities of development has a much larger mission, which aims to overcome inequality, reduce poverty and encourage economic growth of the community at large and open economic access that has been constrained due to limited infrastructure networks. With the construction of this infrastructure, it is certainly able to bridge the socio-cultural conditions of the community that have been closed. The ease of access provided is certainly able to have implications for ease in increasing human capacity, especially related to education which has been felt very much inequality, especially for inland / peripheral communities and the people of Eastern Indonesia.

The acceleration of development carried out is expected to be a catalyst for economic development, able to open and create new jobs and is expected to reduce the number of poverty especially for remote areas, inland areas, outermost parts of Indonesia and border areas. The target of accelerating and expanding economic development in Indonesia had previously been set through the era of President SBY's leadership through Presidential Regulation of the Republic of Indonesia Number 32 of 2011 concerning Master Plan Acceleration and Expansion of Indonesia's Economic Development (MP3EI) Year 2011-2025 or often referred to as MP3EI.

The implementation of the National Strategic Project is an effort to realize a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, with an emphasis on physical and non-physical development which has an important role to increase community economic growth through a regional infrastructure development approach. In addition to supporting various fields of development, National Strategic Projects also play a role in supporting the growth and development of various goods and services industries and creating job space for the wider community to support the improvement of the national economy and welfare. In this effort, the government establishes policies and strategic steps through Law Number 11 of 2020 concerning Job Creation, which in its implementation requires the involvement of all relevant parties, to create the widest possible employment for the Indonesian people in order to fulfill the right to a decent livelihood, through the acceleration of the National Strategic Project. In the completion of National Strategic Projects, regulations and institutions are still the most important obstacles besides fiscal, infrastructure, and human resource constraints. Existing regulations are considered unable to support business creation and development, and even tend to limit the implementation of National Strategic Projects. So that regulations are needed that provide facilities for the acceleration of the implementation of National Strategic Projects at the stages of planning, preparation, transactions, construction, as well as ease in operation and maintenance of the National Strategic Project, including ease in the implementation of government procurement of goods/services to support the Ease of National Strategic Projects.

The government continues to implement various policies to increase economic activity, address regional inequality, and encourage national economic development and growth for now and in the future. One of the main policies that is the basis for regional development-based economic development, especially infrastructure transformation, is the prioritization of infrastructure programs/projects, namely through projects National Strategic. Based on the Coordinating Minister for Economic Affairs Regulation Number 9 of 2022, the Government is currently trying to complete 200 National Strategic Projects and 12 National Strategic Programs with an investment value of reaching Rp5,481.4 trillion spread from Sabang to Merauke. national strategic project is a project that has a high investment value and has a broad economic impact, such as the road, port, railway, airport, dam, energy sectors, electricity and telecommunications. national strategic project is spread throughout Indonesia covering 14 multisectors and 12 programs, which not only focus on physical infrastructure development, but also ensure increased equity economy and food supply. In addition, the impact of national strategic project on the world of employment is that it can absorb approximately 1.95 million workers for four years (2020-2024 period) which is in line with the estimated absorption of investment by the national strategic projects. It is even estimated that the potential for employment for economic development based on regional development can reach 11 million people since 2016.

Investment in the development of National Strategic Projects in various sectors has benefits for regional development and regional economy, as well as industrial added value. On the other hand, we hope that the completion of this National Strategic Projects can cause a social and economic multiplier effect that will continue to grow along with the acceleration of the completion of various strategic projects in the future. National Strategic Projects development is spread across various regions, this seeks to improve the quality and quantity of infrastructure in Indonesia indirectly can reduce the gap in per capita income growth and welfare between regions in the long term. Acceleration of the completion of various National Strategic Projects will continue to be carried out in the coming years. Will continue to oversee and make efforts to solve problems in the implementation of 208 projects and 10 programs included in the National Strategic Projects list. To achieve the vision of Advanced Indonesia 2045, the Government of Indonesia realizes several challenges that must be achieved, including meeting the needs of infrastructure spending as a support for economic growth. The limitations of the Indonesian State Budget encourage the government to be able to cooperate and collaborate with the private sector in meeting infrastructure spending needs in the 2020-2024 period.

Furthermore, the Government is committed to continuing to maintain the momentum of recovery of the national industrial sector by directing the development of the industrial sector to 3 principles, namely independent and sovereign industries, advanced and competitive industries, and equitable and inclusive industries. The industrial sector plays an important role as the main driver and support of the national economy even despite the turmoil and challenges caused by the Covid-19 pandemic. The principle of an independent and sovereign industry means that the sustainability of the domestic manufacturing industry must not depend on foreign resources and of course it is hoped that this can become a domestic economic strength.

To build the independence and sovereignty of the domestic industry, the Government encourages the optimization of several programs, namely the 35% Import Substitution Program in 2022, the Domestic Production Improvement Program, Downstream Natural Resources Industry, as well as encouraging industries that can generate foreign exchange, including natural resource-based industries. Meanwhile, advanced and competitive industrial principles are realized through the Making Indonesia 4.0 Program in seven industrial sectors, namely the food and beverage industry, chemical industry, industry textile and clothing, automotive industry, electronics industry, pharmaceutical industry, and medical device industry. These seven sectors contribute 70% of total manufacturing GDP, 65% of manufacturing exports, and 60% of industrial workers. Then one of the principles of a fair and inclusive industry is realized through the Small and Medium Industry Development Program. Increasing the role of the sector as part of the national manufacturing value chain will help the resilience of the domestic industry.

Based on the description above, it can be seen that the legal politics of Indonesia's economic development policy is to accelerate economic recovery and realize the foundation of sustainable development based on the people's economy and national development in the economic sector trying to overcome the economic crisis and its impacts. caused, overcoming increasing unemployment, economic disparities between economic actors and between the central and regional, as well as income equality, and other economic problems carried out by means of industrial development and increasing the development of National Strategic Projects that can support the improvement of the Indonesian economy.

b) Ideal Arrangements Related to National Development Policy and Land and Environment Policy in Indonesia

After the Indonesian nation proclaimed its independence on August 17, 1945, and the next day, August 18, 1945 formulated the form and main joints of the Unitary State of the Republic of Indonesia, the arrangement regarding land is based on the purpose of the establishment of the Republic of Indonesia. As stated in the preamble to the 1945 Constitution, the purpose of establishing the Unitary State of the Republic of Indonesia is, among others, to promote general welfare. However, keep in mind that every policy taken that aims to improve and develop the economy either by investing, industrial development or national strategic project must continue to pay attention to the provisions of Article 33 Paragraph (4) of the 1945 Constitution which explains that (4) The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity.

Indonesia as an agricultural country, of course, its people in meeting their needs are very dependent on the use of land in their daily lives. The needs and circumstances of Indonesian society continue to develop in line with the development of Indonesian civilization itself. The relationship has become even more complicated, this is as a result of population growth, population movement, rapid development along with the times. While on the other hand, the land area and natural wealth it contains are relatively fixed and limited when compared to the high percentage of population movement and the number of people who are is increasing. Therefore, there is a need for legal rules that regulate land issues, especially in terms of policies regarding the use of agricultural land, where the rule of law aims to protect the interests of the entire community and ensure legal certainty in the land sector. Apart from being a producer of food crops, agricultural land also has many functions. Among these functions are as a support for food security, employment providers, guardians of cultural preservation and provide a typical rural atmosphere. In addition, rice fields also provide benefits to the environment, namely as flood and erosion control, recycling water and organic waste. The demands of the Indonesian people's need for land continue to increase, causing many agricultural lands in Indonesia to be converted into non-agricultural land.

CONCLUSION

Based on the results of research related to legal convergence related to investment policy problems and land acquisition for industrial development and national programs, several conclusions can be drawn as follows:

1. The urgency of legal convergence related to investment policy problems and land acquisition for industrial development and national programs needs to be carried out considering that these policies can conflict with the provisions that stipulated in law. Apart from that, the importance of legal convergence related to the above problems is because every legal product issued by the government has strong legal politics in its regulation. The problem of investment and land acquisition policies for industrial development and national programs that are currently being carried out is still not considering the environmental impact that only prioritizes improvement economy. Therefore, there is a need for regulations that regulate in detail related to the limits of the investment policy so that the goal of development, namely the welfare of the people, can be achieved.
2. Ideal arrangements related to the sustainability of investment policies and solving land problems can be focused on policies or legal products that regulate suitability related to the location of construction with spatial plans and seek replacement of land that It has been transferred and provides limits on dozens of land that can be used for investment development , namely industrial development and national program development.

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