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Correlation Analysis of Land Acquisition Regulation Policy for Public Interest with Regional Development and Financial Planning Regulations

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ABSTRACT: Law enforcement in Indonesia faces challenges in addressing the rampant practice of prostitution, particularly involving service users and traditional commercial sex workers. Despite government efforts to reduce involvement in prostitution, the absence of specific regulations in Indonesian law has allowed users of these services to evade appropriate legal consequences. This research aims to highlight the urgency of criminalising both traditional commercial sex workers and their clients. The primary issue stems from economic factors, such as an individual's income or needs, particularly the difficulties faced by women in meeting their needs due to a lack of skills, which reduces their competitiveness in the job market. Additionally, there is a significant gap in the legal framework concerning regulation. This study employs a normative juridical method, utilising legislative, conceptual, and comparative approaches. The researchers analysed secondary legal materials, including local regulations from DKI Jakarta, Indramayu District, Tangerang City, Denpasar City, Badung Regency in Bali, Batam City, and Bandung Regency. Additionally, they examined Dutch regulations on brothels, specifically the "Wet Regulering Prostitutie en Bestrijding Misstanden Seksbranche" (Regulation on Prostitution and Combating Abuses in the Sex Industry). The findings suggest a pressing need to integrate these regulations into the NATIONAL CRIMINAL CODE to enable the prosecution of both traditional sex service users and workers. Alternatively, adopting the Dutch policy of legalising brothels, where owners must demonstrate consistent tax payments and non-involvement in criminal activities, could be beneficial. Such measures aim to prevent issues like HIV/AIDS and human trafficking.

Keywords: Correlation, Land Acquisition, Development Planning

INTRODUCTION

Law No. 23 of 2014 on Regional Government represents a dynamic shift in regional governance, significantly impacting various legislative regulations concerning local government, including the regulation of development planning and budget management. Planning and budgeting are inseparable because planning documents require budget management as a guideline for executing activities. Ministry of Home Affairs Regulation No. 90 of 2019 serves as a guideline for presenting and providing tiered information, including grouping and classification, coding, and naming lists to be

used in the preparation of regional programs and sub-programs for orderly regional development planning and financial management(Hamid & Siddiqui, 2023; Warnecke-Berger, 2022). This regulation also codifies the authority over land procurement.

Ministry of Home Affairs Regulation No. 90 of 2019 is a mandate that must be implemented to create a clean government. In executing this governance, the preparation of the regional internal control system refers to Regulation No. 90 of 2019, which is adjusted to the applicable rules as mandated by Law No. 12 of 2011 on the Formation of Legislation.

Furthermore, we must analyze Government Regulation No. 19 of 2021 on Land Procurement for Development in the Public Interest, as the implementation of this regulation cannot be separated from other regulations, ensuring no overlap in execution. Government Regulation No. 19 of 2021 outlines the government's authority in the acquisition of land rights for public interest development, detailing the steps for implementing land acquisition for public interest projects(Sitorus & Limbong, 2004).

We must highlight issues related to other regulations, particularly regarding the authority in land procurement based on applicable laws. All activities in land procurement must be well-planned because planning is the initial step in executing management functions, ensuring no parties are disadvantaged and minimizing problems in the field.

Reviewing Ministry of Home Affairs Regulation No. 90 of 2019, it is evident that the regulation of authority in land procurement matters falls under central government jurisdiction. This indicates a limitation of authority in the implementation of land procurement for public interest development. However, with the enactment of Government Regulation No. 19 of 2021 on Land Procurement for Public Interest, it is mandated that there is a regulation of local government authority in land procurement for public interest.

The ongoing issue, particularly in the field of land affairs related to land acquisition for public interest, is the confusion in carrying out tasks if we still refer to Ministry of Home Affairs Regulation No. 90 of 2019. This is because many mandates in that regulation have been altered by the provisions in Government Regulation No. 19 of 2021.

Based on these issues, this article will conduct an in-depth study of the two regulations, namely Ministry of Home Affairs Regulation No. 90 of 2019 on Classification, Codification, and Nomenclature of Regional Development and Financial Planning (with codification related to land affairs) and Government Regulation No. 19 of 2021 on Land Procurement for Public Interest. The author examines these two regulations to ensure that the old regulation does not override the new one. Analyzing this based on the hierarchy of legislation, government regulations have a higher standing than ministerial regulations.

The principle of "Lex posterior derogat legi priori," which is a legal principle stating that newer regulations can override or annul older regulations, is fundamental in Indonesian law(Soekanto, 1986). This principle is used to prevent the coexistence of two regulations at the same hierarchical level that could cause legal uncertainty. According to former Chief Justice Bagir Manan, there are two principles to consider in the lex posterior derogat legi priori doctrine:

1. The new legal regulation must be equal to or higher in status than the old regulation.
2. The new and old legal regulations must address the same aspect.

Regarding the study on land procurement for public interest, many analyses have been conducted, which are presented in the table below:

Tabel 1

No	Title	Author	Discussion
1.	Land Acquisition for Public Use (Comparison between Malaysia and Indonesia)	Mukmin Zakie (Fak Hukum Universitas Islam Indonesia	This research focuses on land acquisition and the concept of public interest between Indonesia and Malaysia
2.	Procurement of land for public purposes in the perspective of determining a location permit includes compensation for the resulting dispute	Muhammad Hoirul Nail (Universitas Islam Jember)	This article focuses on the mechanisms for making location permits, disputes and compensation
3.	Land procurement for development in the public interest in Indonesia is based on Pancasila	Putri Lestari (universitas Esa Unggul Jakarta)	This article focuses on the application of legal principles in land acquisition, such as compensation which must be based on justice
4.	Implementation of land acquisition for public purposes with a land area of less than 5 hectares and burdened with mortgage rights	Natasha meutia Emiliana (Universitas Indonesia)	The focus of this article is on the process of land acquisition for public purposes in the form of electrical energy installations on land with an area of less than 5 hectares
5.	Problems of land acquisition for development in the public interest in Indonesia	Taupikurrohman	In this article the focus is on discussing the existence of 2 regulations governing land acquisition, namely Law No. 20 of 1961 and Law No. 2 of 201

The previous articles have provided many references for writing this article. However, the references from the earlier articles mainly discuss land acquisition for public interest by outlining the stages of land acquisition for public interest, including the planning, preparation, implementation, and handover stages. In contrast, this article not only outlines the stages of land acquisition but also discusses the authorities involved in land acquisition for public interest, whether it be the central government, regional, or municipal authorities, based on the correlation analysis between Government Regulation No. 19 of 2021 and Ministry of Home Affairs Regulation No. 90 of 2019(Padjo & Salim, 2020).

METHOD

The method used in this research is a normative juridical approach through a literature study that examines (primarily) secondary data in the form of legislation, other legal documents, research results, studies, or other references(Sunggono., 2003). This normative juridical method is complemented by interviews, focus group discussions (FGDs), and hearings with strategic steps that includeThe research methodology should cover the following points: (1) A concise explanation of the research methodology is prevalent; (2) reasons to choose particular methods are well described; (3) research design is accurate; (4) the sample design is appropriate; (5) data collection processes are proper; and (6) data analysis methods are relevant and state-of-the-art.

a) Analyzing various legislative regulations (legislative review) related to land acquisition and the utilization of idle land and areas.
b) Conducting academic reviews through discussions and meetings to gather input from the public and relevant officials.
c) Formulating and studying the correlation between the three regulations to determine whether there is a connection, whether it is partial, or whether it overlaps.
d) Conducting outreach to educate the public about the importance of regulations regarding land acquisition and the utilization of idle land and areas.
e) Analyzing information and aspirations from various related agencies/institutions and community leaders (technical review), and all stakeholders involved in land acquisition and the utilization of idle land and areas.
f) Formulating and compiling the findings in a descriptive analysis and presenting them in a report.

In the Public Interest, which will serve as the foundational regulation to explore the correlation between Ministry of Home Affairs Regulation No. 90 of 2019 on Classification, Codification, and Nomenclature of Regional Development and Financial Planning and Government Regulation No. 19 of 2021 on Land Procurement for Public Interest. The research will involve examining and analyzing the provisions contained in these laws. The researcher will identify and formulate problems relevant to the research objectives. The main issue is the stages of the land procurement process for public interest based on Law No. 2 of 2012. Subsequently, the researcher will gather and review various other legislative sources, particularly examining these three regulations and reviewing relevant literature, such as books, journals, and other legal documents. Thirdly, the researcher will analyze the applicable regulations and legal norms, in this case, Law No. 2 of 2012 and other related regulations. Fourthly, based on the analysis, the researcher will draw conclusions and provide recommendations aligned with the research objectives, clarifying the division of authority between central and regional governments regarding land procurement for public interest.

RESULT AND DISCUSSION

Regional Government Authority in Land Procurement for Public Interest Based on Government Regulation No. 19 of 2021

The 1945 Constitution of the Republic of Indonesia mandates that the Government must create policies to achieve public welfare. One of the Government's efforts to realize this is through development. Every development process requires land, but over the years, the amount of land controlled by the state has decreased (Kristian et al., 2014). Therefore, land procurement is necessary to support development for public interest, which will benefit the general public. According to Appendix J of Law No. 23/2014, the authority of the Regional Government includes granting location permits, land procurement for public interest, disputes over cultivated land, compensation and indemnity for land used for development, permits to open land, and land use. Based on Appendix J of Law No. 23/2014, the authority for land procurement for public interest lies with the Governor.

The concept of public interest is crucial in land procurement activities for development purposes (Sutepi, 2020). According to Article 18 of Law No. 5/1960, land rights can be revoked for public interest, including state interests and the collective interests of the people, with fair compensation and according to legal procedures(Hukum & Edisi, n.d.; Saleh, n.d.). A decent living, housing, and private property ownership are among the human rights of every individual. Article 28H paragraph (4) of the 1945 Constitution states that everyone has the right to private property, and this right cannot be arbitrarily taken by anyone, including the state. Ownership rights are a form of human rights that cannot be unilaterally seized by anyone, including the Government (Rangian & Pardede, 2021). Land rights include ownership rights, cultivation rights, building use rights (HGB), usufruct rights, lease rights, surface rights, forest product harvesting rights, and other rights recognized under Law No. 5/1960. According to Article 21 of Law No. 5/1960, only Indonesian citizens can acquire ownership rights, which are the highest form of land rights(Sumardjono, 2016).

Indonesian positive law stipulates that toll road construction is one form of public interest, even though there are various interpretations of the phrase "development for public interest" and the limitations of this concept are not fully clear, as stated in Article 10(b) of Law No. 2/2012(Simamora, 2017). According to Article 4 of Law No. 2/2012, the Central and Regional Governments must ensure the availability of land for public interest. Land procurement for public interest is regulated in Law No. 2/2012. Based on this law, the Government has the obligation to carry out development for public interest. Article 4 of Law No. 2/2012 also mandates that both central and regional governments must ensure the availability of land and funding for public interest development. Article 6 of Law No. 2/2012 stipulates that the implementation of land procurement(Noer, 2005).

Land procurement for public interest is organized by the Government, and thus, the Regional Government also serves as the organizer of land procurement for public interest. According to Law No. 2/2012, the Regional Government is now the entity responsible for organizing land procurement for public interest. This law also establishes that the Government is the executor of land procurement for public interest development.

The Governor, as the Provincial Government, can either prepare the land procurement independently or delegate it to the Regent/Mayor as the Regional Government (Kristian et al., 2014). The delegation of the Governor's authority in land procurement preparation is regulated by Articles 50 and 51 of Government Regulation No. 19/2021. According to Article 50 of Government Regulation No. 19/2021, the delegation of land procurement preparation authority for public interest development to the Regent/Mayor must consider efficiency, effectiveness, geographical conditions, human resources, and other considerations. The Governor cannot delegate this authority arbitrarily without clear considerations. This delegation must be executed within a maximum of three (3) days after receiving the land procurement planning documents. To support the realization of public interest development, land procurement is necessary. Public interest can revoke land rights from any individual, as Article 18 of Law No. 5/1960 stipulates that land rights can be revoked for public interest, including state interests and the collective interests of the people, with fair and proper compensation according to legal procedures(Asnakew et al., 2024; Widiyono & Khan, 2023).

Law No. 5/1960 regulates that land rights include ownership rights, cultivation rights, building use rights (HGB), usufruct rights, lease rights, surface rights, the ability to harvest forest products, and other recognized rights. Article 28H paragraph (4) of the 1945 Constitution guarantees that everyone has the right to private property, and this right cannot be arbitrarily seized by anyone. This means that neither the state through the Central Government nor the Regional Government is allowed to arbitrarily take private property rights. The right to private property is a manifestation and implementation of the recognition of human rights in Indonesia. Human rights encompass rights and obligations that must be carried out harmoniously. Individuals who hold land rights have the obligation to release their land if it is used for public interest development. Land procurement for public interest development is directly related to human rights. When individuals relinquish their land, it impacts other rights, including the right to welfare, employment, children's education, and livelihood.

From a human rights perspective, the state, Central Government, and Regional Government have a significant responsibility and obligation to protect and ensure the fulfillment of human rights for all citizens as stipulated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights, and Law No. 39 of 1999 on Human Rights (hereinafter referred to as Law No. 39/1999). If the Government or Regional Government arbitrarily revokes these rights, they directly violate the human rights of their citizens (Suntoro, 2019b). Land procurement for public interest must implement the ten principles contained in Article 2 of Law No. 2/2012, and it must also consider the principles of land procurement(Mulyadi, 2017). The principles of land procurement that must be observed include the principle of respect for people's rights, as regulated in Article 36 of Law No. 39/1999, which states that everyone have the right to property, and no one can arbitrarily seize their property. This principle of fair and just compensation is regulated in Article 1 point 12 of Government Regulation No. 19/2021, and the principle of deliberation, which involves listening to and considering opinions to reach an agreement (Mulyadi 2017). Public interest is always for development purposes, but development purposes are not always for the public interest (Sutepi 2020). Law No. 2/2012 stipulates that certain developments are categorized as being for the public interest, including the construction

of toll roads as stated in Article 10 letter b of Law No. 2/2012. However, in Indonesian positive law, the concept of public interest is not clearly and specifically defined in the legislation, leading to multiple interpretations.

In Law No. 5/1960, public interest is defined in terms of its allocation for the interests of the nation and the state, the common interest of the people, and development interests (Sudiyono 2013). Meanwhile, in Article 1 point 6 of Law No. 2/2012, there are no criteria set for public interest, which is defined as the interests of the nation, state, and society that must be realized by the government and used for the maximum welfare of the people. Therefore, many legal experts provide their interpretations of the meaning of public interest. Public interest, in principle, is the interest of all society and the state (Sutepi 2020). If public interest is interpreted as the interest of all society and the state, then development for the public interest should mean that the development can be enjoyed and felt by all members of the public, regardless of status, social class, or other backgrounds.

Development for the public interest is generally funded by the state budget (APBN) and regional budgets (APBD) at both the provincial and district/city levels. According to Law No. 2/2012, the acquisition of land for toll road construction falls under the authority of both the central and regional governments, as toll roads are categorized as being for the public interest in Article 10 letter b of Law No. 2/2012. Article 50 of Government Regulation No. 19/2021 stipulates that the regional government, specifically the Governor, has the authority to prepare land acquisition and may delegate this authority to the regent/mayor based on certain considerations.

On the other hand, the central and regional governments have the responsibility and obligation to protect and fulfill the human rights of all their citizens, including the right to own property and the right to housing. This means that while regional governments have the authority to acquire land for development for the public interest, they also have a significant responsibility to ensure and fulfill the human rights of their citizens (Putu Cintya Meriasti and Gde Subha Karma Resen 2021). According to Law No. 9/2015, in exercising their rights, powers, and obligations to manage their affairs based on the broadest autonomy principle, regional governments aim to improve the welfare of their citizens.

In carrying out land acquisition for development, regional governments must prioritize the welfare of their citizens by providing fair compensation based on the principle of justice. Regional governments must prioritize the welfare of their citizens because the principle of development for the public interest is aimed at enhancing the welfare of all people, not reducing the existing welfare (Nyoman Diah Sri Prabandari and Wayan Arthanaya and Luh Putu Suryani 2021). Citizens have the obligation to relinquish their rights to the regional government if the land is to be used for development for the public interest, but their rights must also be realized and respected.

Optimized primarily for the right to fair and just compensation, as well as the right to adequate housing and livelihood. Law No. 2/2012 stipulates that land acquisition should prioritize fair compensation and proper assessment.

Furthermore, regional governments also have authority in small-scale land acquisition. For small-scale land acquisition, where the land acquisition does not exceed 5 hectares, Government Regulation 19/2021 regulates this in Article 126 and Article 127. Article 126, consisting of 6 paragraphs, mandates that small-scale land acquisition can be carried out by agencies in need of land through buying and selling, exchanging, or according to agreements between both parties, with the land acquisition still going through 4 stages: planning, preparation, implementation, and handover of results. The issuance of location determination permits for land acquisition less than 5 hectares is issued by the regent or mayor. Small-scale land acquisition still needs to consider the suitability of spatial utilization activities. During the determination of location, it must be accompanied by land acquisition planning documents based on content and feasibility studies and work plans from the requiring agency. This is further reinforced by Minister of ATR Regulation No. 19/2021 regarding the implementation rules of Government Regulation No. 19/2021.

The Relationship between Government Regulation No. 19 of 2021 Regarding the Implementation of Land Procurement and Ministry of Home Affairs Regulation No. 90 of 2019 Regarding the Classification, Codification, and Nomenclature of Regional Development Planning and Financing

Regional autonomy is a process of decentralizing authority that was originally centralized and then devolving it to the regions, with the aim of providing services closer to the community, accelerating regional development, improving the welfare of the people, and expediting the democratic process. The principles in implementing regional autonomy include democracy, community participation, equitable distribution and justice, as well as considering the potential and diversity of the regions. The grant of authority is accompanied by financial balancing between the central and regional governments. The implementation of local government involving community participation enables the establishment of democratic local governments, leading to the creation of good governance(Titahelu, 1993). Regarding the principles of good governance, there are four factors to consider, namely;

a. Accountability,
b. Transparency,
c. Openness,
d. Rule of law.

In addition to these factors, to achieve good governance, there are several important elements of regional autonomy that need to be considered, namely:

1) Autonomy is related to demarcation.
2) Autonomy implies self-initiative.
3) The concept of autonomy involves freedom and independence for communities to make decisions.
4) Autonomous regions must have power.
5) Autonomy is not only influenced by internal factors but also external factors.

The implementation of regional autonomy has implications for various authorities delegated to the regions. Regions are given significant authority to manage and administer their own territories with the aim of improving the welfare of the people. However, in matters concerning land acquisition for various development purposes, it is understood that the available state land is extremely limited. Therefore, the only viable option is through the acquisition of land owned by the people, whether under customary law or other rights attached to it.

On one side, the will of the state, represented by the government, to conduct land acquisition activities for public purposes in order to enhance the welfare and prosperity of the nation and society through development projects, is indeed in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia.

The regulation regarding development activities falling within the scope of public interest has been mentioned in Article 18 of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA)(Ramadhani, 2019). Development activities carried out at both the central and regional levels are certainly inseparable from the concept of public interest underlying every development activity implemented by the Government or Regional Governments within the framework of development activities classified as public interest. This concept serves as the basis for development activities in Indonesia, especially those related to land acquisition. The enactment of the latest land acquisition legislation, namely Law No. 2 of 2012 concerning Land Acquisition for Development for Public Purposes. One manifestation of governance is through National Development. Development is any process of change carried out through conscious and planned efforts. National development, on the other hand, is the deliberate economic, social, and cultural transformation through policies and strategies towards desired goals(Asshiddiqie, 2020; Sumardjono, 2008).

In the National Development Planning System (SPPN), national development policies and strategies are embodied in the Long-Term Development Plan (RPJP), Medium-Term Development Plan (RPJM), and Short-Term Development Plan (RPJP), covering political development, defense and security, law and governance, socio-cultural aspects, human resources, economy, regional development, infrastructure, as well as natural resource and environmental development. Land issues are always of interest because land involves various aspects of community life and livelihoods. One of the livelihood problems faced by both developed and developing countries today is the shrinking land area used for development, as seen in Indonesia, where many people still depend on land-related activities for their livelihoods and income.

The issue is equally complex when it comes to the need for land for development purposes, which also requires special attention in order to achieve a fair and prosperous society based on Pancasila. The problem arises when Ministerial Regulations are confronted with Regional Regulations, both at the Provincial and District/City levels(Abdurrahman, 1991). In the hierarchy of legislation, Ministerial Regulations are not mentioned or included in the hierarchy of legislation. Therefore, from the perspective of enforceability and binding force, it becomes a dilemma whether Ministerial Regulations hold a higher position than Regional Regulations or vice versa.

From an institutional perspective, the position of ministries as assistants to the President has a

higher status compared to Regional Governments. However, from a territorial perspective, the position of Regional Governments as Autonomous Regions entitled and authorized to regulate their households through Regional Regulations. Legal products born from ministries, such as Ministerial Regulations, often become the subject of debate, both in legal theory and practice(Fuady, 1999). At the legal theory level, there is debate because there is no clear legal norm regulating the position of Ministerial Regulations, while at the practical level, the debate arises during the drafting of Regional Regulation drafts, as almost every Regional Regulation never includes Ministerial Regulations as "consideration" as a legal basis.

Interestingly, in the current context, the issuance of Permendagri No. 90 of 2019 regarding the Classification, Codification, and Nomenclature of Regional Development Planning and Finance is expected to have an impact on the sustainability of development in the regions. It is feared that it will limit the space for innovation that has emerged in various regions and hinder programs and activities considered essential to achieve the development goals according to their characteristics.

Permendagri No. 90 of 2019 is also feared to clash with Government Regulations (PP) concerning the Standard Chart of Accounts (BAS) for Regions, the draft of which has been prepared by the Ministry of Finance. The PP on BAS for Regions is mandated by PP No. 12 of 2019 concerning Regional Financial Management. One factor that will hinder development in the regions, especially land acquisition for development, is the lack of synchronization in the substance of these regulations. Ultimately, it will only confuse regions in their implementation(Manurung et al., 2019).

As an initial analysis, based on the experience of regional governments so far, which have been asked to prepare two types of financial reports, namely the Permendagri 13/2006 version and the Government Accounting Standards version, it is hoped that this new Permendagri will not repeat that incident. In addition, the perspective of this Permendagri is considered to standardize all regions. However, each region has different activities according to their needs. For example, development in Papua Province, which has a Special Autonomy Bureau under the Regional Secretariat, but does not have its code and nomenclature in Permendagri.

Ministerial Regulations, according to the Explanation of Law No. 12 of 2011, are interpreted as regulations stipulated by ministers based on the material content in the context of the implementation of certain affairs in governance. Therefore, Ministerial Regulations become entities in the legal system of legislation and are the most important part in regulating the governance system to be implemented according to the function of the ministry itself.

Therefore, in this study, we want to know the extent of the relationship between PP No. 19 of 2021 concerning land acquisition implementation, and that is why we are also examining Examining Minister of Home Affairs Regulation No. 90 of 2019 concerning the Classification, Codification, and Nomenclature of Regional Development Planning and Finance using various perspectives, besides the normative juridical perspective related to the nomenclature of land affairs in districts/cities, ensures that regional authority is executed to the best of its ability without overlap, and that the regulation is not counterproductive to the overall public interest.

The nomenclature of district/city affairs in the field of land, as mandated by Minister of Home

Affairs Regulation No. 90 of 2019, includes:

a. Location permit management program
b. Land acquisition program for public purposes
c. Land dispute resolution program
d. Compensation settlement program
e. Land tax program, as well as excess land and absentee land compensation programs
f. Customary land designation program
g. Vacant land management program
h. Land opening permit management program
i. Land utilization regularization program

1. Government Affairs in the Field of Land Location Permit Management Program

In Minister of Home Affairs Regulation No. 90 of 2019 regarding the codification and nomenclature of regional development planning and finance, for the nomenclature of district/city affairs in the field of land, it is mandated that the government affairs in the field of land location permit management program are the authority of the regional or city government, which consists of :

- Issuing location permits within a district or city.
- Coordinating and synchronizing location permits for investment and ease of doing business.

If we examine Government Regulation No. 19 of 2021 concerning land acquisition implementation regarding the articles outlining location permit management, it is also described in Chapter 1 under general provisions, Article 1 point 20 states that:

Location Determination is the determination of the location of development for Public Purposes established by the governor/regent/mayor's decision, used as a permit for Land Acquisition, land use change, and transfer of Land Rights in Land Acquisition for development for Public Purposes.

This is further emphasized in the Minister of ATR BPN Regulation No. 19 of 2021 concerning the implementation rules of Government Regulation No. 19 of 2021 concerning land acquisition for public purposes, which regulates Small-Scale Land Acquisition Location Determination by Regent/Mayor in Minister of ATR BPN Regulation No. 19 of 2021 Articles 126-151, which regulate small-scale land acquisition.

Based on what is mandated by both regulations, both by Government Regulation No. 19 of 2021 regarding land acquisition for public purposes, which is stipulated in articles 126-127, and reinforced in Minister of Agrarian Affairs and Spatial Planning Regulation No. 19 of 2021 regarding the implementation rules of Government Regulation No. 19 of 2021, which is stipulated in articles 146-149, there is a correlation or relationship with Minister of Home Affairs Regulation No. 90 of 2019 which similarly mandates that the management of permits for small-scale land is the authority of the district/city government(Perangin, 1991). Therefore, in this case, the authority of regional/city governments in the field of land has the power to provide recommendations to the regional/city leadership on the determination of location permits.

2. Land Acquisition Program for Public Purposes

In Government Regulation No. 19 of 2021, several articles regarding the land acquisition process, which is the authority of regions, can be seen in paragraph 7 concerning the delegation of land acquisition preparation from Article 50 to Article 51, which mandates the delegation of land acquisition for public purposes by the Governor to regional/city governments for efficiency reasons. Based on what is mandated in Government Regulation No. 19 of 2021, Article 50-51, and Minister of ATR BPN Regulation No. 19 of 2021, Article 78-79, it is stated that for large-scale land acquisition for public purposes, there is an additional article related to delegation by the governor if it is within the jurisdiction of the regional/city government to achieve efficiency, which is the authority of regional/city governments. It is emphasized in the articles that the submission originates from the agency requiring the land.

In the delegation article mandated in Government Regulation 19/2021, the delegation of authority for land acquisition preparation for development for public purposes to Regent/Mayor must be based on considerations of efficiency, effectiveness, geographical conditions, human resources, and other considerations. The Governor cannot delegate authority arbitrarily without clear consideration.

If we analyze based on the hierarchy of legislation, government regulations are positioned above ministerial regulations. The Indonesian nation contains the principle of Lex posterior derogat legi priori, which is a legal principle where new regulations can override or invalidate old regulations. This principle is used to prevent two regulations of equal hierarchy that can cause legal uncertainty. According to former Chief Justice Bagir Manan, there are two principles to consider in the principle of lex posterior derogat legi priori, namely: The new legal rule must be equal or higher than the old rule. The new and old legal rules regulate the same aspect.

Therefore, based on the principle we adhere to, that land acquisition for public purposes for the preparation process based on delegation from the governor to the city government will be the authority of the regional/city government. The preparation phase is mutatis mutandis. Furthermore, regional governments also have authority in small-scale land acquisition. For small-scale land acquisition, where the land acquisition does not exceed 5 hectares, in Government Regulation No. 19 of 2021, it is regulated in articles 126 and 127. In article 126, which consists of 6 paragraphs, it mandates that small-scale land acquisition can be carried out by agencies in need of land through buying and selling, exchanging, or according to agreements between both parties, with the land acquisition still going through 4 stages: planning, preparation, implementation, and handover of results. Small-scale land acquisition is also strengthened by the implementation rules of Government Regulation No. 19 of 2021, namely Minister of ATR/BPN Regulation No. 19 of 2021, which is stipulated in articles 146-149. So, we can conclude based on what is mandated in these regulations that for small-scale land acquisition or less than 5 hectares and land acquisition based on delegation from the governor, it becomes the authority of the regional/city government.

3. Land Cultivation Dispute Resolution Program

In Minister of Home Affairs Regulation No. 90 of 2019, it is mandated that regional/city governments have the authority in the land cultivation dispute resolution program, which is the

authority of regional/city governments. If we analyze Government Regulation No. 19 of 2021, it only mandates that the authority of regional or city governments in the land acquisition preparation stage is to involve the prevention of disputes over cultivated land, namely the involvement of regional or city governments as a public consultation team in the land acquisition preparation stage for public purposes, as mandated in article 34 paragraph 3 point.

Based on what is mandated in Government Regulation 19 of 2021 with Minister of Home Affairs Regulation No. 90 of 2019 regarding the regulation of land cultivation disputes, the involvement of regional/city governments is only in the prevention stage of land cultivation disputes, specifically on the day when the land cultivation sector of the district/city will be appointed as an examining team if objections arise during the public consultation regarding land acquisition for public purposes. In this case, the land cultivation sector of the city/district will have involvement as one of the examining teams based on the Governor's or Mayor's Decree in the land acquisition preparation stage.

4. Compensation Settlement Program

Land acquisition for public purposes is carried out by the government on land owned by the community. To acquire this land, the government is obliged to be responsible by paying a certain amount of money known as compensation. Compensation has been regulated in Government Regulation No. 19 of 2021 concerning the Implementation of Land Acquisition for Development for Public Purposes, which has just been issued. The settlement of compensation has been regulated in Government Regulation No. 19 of 2021, as mandated in article 6 point 9, which states:

The estimated value of the land as referred to in paragraph (1) point i, outlines the estimated value of Compensation for the Land Acquisition Object, including :

a) Land;
b) Upper and Lower Space of the Land;
c) Buildings;
d) Plants;
e) Objects related to the land; and
f) Other assessable losses.

Compensation settlement has been regulated in Government Regulation No. 19 of 2021, which is stipulated in Articles 67-99 and Articles 107-129. Therefore, based on the explanation of the mandate of Government Regulation No. 19 of 2021, Minister of Agrarian Affairs/BPN Regulation No. 19 of 2021, and Minister of Home Affairs Regulation No. 90 of 2019 are closely related(Harsono, 2003). The issue of compensation settlement is the authority of regional/city governments for small-scale land acquisition following the regulations mandated by Government Regulation No. 19 of 2021 regarding land management for public purposes and its implementing regulations. The land sector has the authority to continue coordinating with agencies requiring land for compensation settlement.

5. Land Redistribution Program, as well as Compensation for Excessive Land and Absentee Land Program

Minister of Home Affairs Regulation No. 90 of 2019 regulates the land redistribution program, as well as compensation for excessive land and absentee land programs. However, Government Regulation No. 19 of 2021 only regulates compensation for excessive land programs. Therefore, based on the mandates of these two regulations, they only correlate with compensation for excessive land, where the programs for land redistribution and absentee land are not mandated in Government Regulation No. 19 of 2021 and its implementing regulations. In this regard, the land sector of regional/city governments only conducts evaluations if there is excess land exceeding 100 square meters to conduct studies and provide recommendations for compensation for the excess land.

6. Determination of Customary Land Program

The ongoing development of time, which includes the issue of increasing human population, has an impact on the availability of land in various regions globally, and especially in Indonesia itself. In order to meet the general land utilization needs for development, thorough planning and efficiency by all parties involved are required. In this case, the government plays a role as the entity that has the "power" to regulate land use in Indonesia through various means, one of which is the creation of regulations and strict oversight mechanisms to ensure legal certainty and usefulness in Indonesia. Regarding the government's efforts to manage land well, the government has the authority, such as the Law on the Release of Customary Land Rights for Public Development Purposes.

In this regard, Government Regulation No. 19 of 2021, Article 41 mandates that regional/city governments must continue to coordinate with the land sector of the regional/city government to coordinate with agencies requiring land and parties owning the land until the customary land release process. West Java itself does not have any customary land. We can see in the table below the results of the correlation analysis between Government Regulation No. 19 of 2021 on land acquisition for public interest and Ministry of Home Affairs Regulation No. 90 of 2019 on regional development planning, as follows:

CORRELATION OF PERMENDAGRI 90/2019
WITH PP NUMBER 19 OF 2021

No	Permendagri 90/2019	PP Nomor 19 Tahun 2021	Permen ATR Nomor 19 Tahun 2021
1	Location Permit Management Program	Chapter 1 General Provisions point 20	-
2	Land Acquisition Program for Public Interest	Article on Small Scale Land Acquisition Articles 126 – 127 Article on delegation of land acquisition preparation Articles 50 - 52	Article on Small Scale Land Acquisition Articles 146 - 149
			Article on delegation of land acquisition preparation Articles 78 - 79
3	Dispute Resolution Program for Cultivated Land	Article on Public Consultation for Development Plan Article 34 paragraph 3 point a	Article on Objection Review Team Articles 64 - 65
4	Compensation Resolution Program	Articles 67 - 99	Artikel 107 - 129

CORRELATION OF PERMENDAGRI 90/2019
WITH PP NUMBER 19 OF 2021

No	Permendagri 90/2019	PP Nomor 19 Tahun 2021	Permen ATR Nomor 19 Tahun 2021
5	Land Redistribution Program and Compensation for Excess Land Program	Regulates Compensation for the Excess Land Program Article 70	Mengatur tentang **Ganti Kerugian Program Tanah Kelebihan Maksimum** Pasal 99
6	Customary Land Designation Program	Regulates Coordination with Local Government Article 41	-
7	Vacant Land Management Program	-	-
8	Land Opening Permit Management Program	-	-
9	Land Use Program	-	-

CONCLUSION

After conducting an analysis to find the correlation between Minister of Home Affairs Regulation No. 90 of 2019 and Government Regulation No. 19 of 2021, the following conclusions were drawn:

1. Land acquisition for public purposes as mandated in Law Number 2 of 2012 is the interest of the nation, state, and society that must be realized by the government and used to the fullest for the prosperity of the people. However, in this regulation, the definition of public interest still raises many interpretations in society. There are no clear boundaries or characteristics regarding the criteria for public interest development regulated in the legislation.
2. The public interest in land acquisition for development under Law Number 2 of 2012 has already manifested legal benefits for society. This is supported by the implementation of the land acquisition process by the government in accordance with the procedures stipulated in the Law and the land rights holders who receive compensation, as well as the surrounding community who can feel the benefits of the development being carried out. However, there are several things that need to be considered, namely the need for harmonization between regulations related to land acquisition, especially regulations governing the authority of local governments regarding land acquisition, so that there is clarity in the implementation of land acquisition by district/city governments(Davis et al., 2023; De Maria et al., 2023). Based on the analysis conducted by the author, which seeks to find correlations between Minister of Home Affairs Regulation No. 90 of 2019 regarding the Classification, Codification, and Nomenclature of Regional Development and Financial Planning and Government Regulation Number 19 of 2021 concerning the Organization of Land Acquisition for Development for Public Purposes regarding land acquisition, which is the authority of local governments, it can be concluded that based on the correlation of these two regulations, the duties/authority of local governments, specifically the Land Sector, are as follows :

a. Coordinate land acquisition planning, starting with a request for land acquisition from institutions requiring small-scale land, which will be followed up by the mayor for the location permit as mandated in Government Regulation No. 19 of 2021 Chapter 1, General Provisions, Point 20, Articles 126-127, and reiterated in Minister of Agrarian and Spatial Planning/ National Land Agency Regulation No. 19 of 2021, implementing regulations of Government Regulation No. 19 of 2021, Articles 146-149. The Department of Land Affairs and Spatial Planning

(DPKP) also has the authority to accept requests from institutions requiring land for public purposes with an area exceeding 5 hectares, and these requests are forwarded to the Department of Housing and Settlements of West Java Province. This is mandated in Minister of Home Affairs Regulation No. 90 of 2019 concerning the Classification, Codification, and Nomenclature of Regional Development and Financial Planning, and Government Regulation No. 19 of 2021 concerning the Organization of Land Acquisition for Development for Public Purposes, Articles 50-52, and Minister of Agrarian and Spatial Planning/National Land Agency Regulation No. 19 of 2021, implementing regulations of Government Regulation No. 19 of 2021, Articles 78-79.

b. Implement the resolution of compensation and land assistance issues for development by the City Government, where for small-scale land acquisition, this is in accordance with Minister of Home Affairs Regulation No. 90 of 2019 concerning the Classification, Codification, and Nomenclature of Regional Development and Financial Planning, and Government Regulation No. 19 of 2021 concerning the Organization of Land Acquisition for Development for Public Purposes, Articles 67-99, and reinforced in Minister of Agrarian and Spatial Planning/National Land Agency Regulation No. 19 of 2021, implementing regulations(Enggartiasto et al., 2021).
c. Based on Minister of Home Affairs Regulation No. 90 of 2019 concerning the Classification, Codification, and Nomenclature of Regional Development and Financial Planning, and Government Regulation No. 19 of 2021 concerning the Organization of Land Acquisition for Development for Public Purposes, Article 34 paragraph 3 point e, and further clarified in Minister of Agrarian and Spatial Planning/National Land Agency Regulation No. 19 of 2021, implementing regulations of Government Regulation No. 19 of 2021, Articles 64-65, the Department of Land Affairs and Spatial Planning (DPKP) coordinates the resolution of land disputes, conflicts, and land matters for public purposes. In this matter, the land sector of the local government will be involved in the public consultation stage to prevent disputes and will provide recommendations to the mayor/governor based on its evaluation of objections raised by landowners affected.
d. Based on Minister of Home Affairs Regulation No. 90 of 2019 concerning the Classification, Codification, and Nomenclature of Regional Development and Financial Planning, and Government Regulation No. 19 of 2021 concerning the Organization of Land Acquisition for Development for Public Purposes, Article 41 mandates that the land sector of the local government has the authority to coordinate with indigenous communities if there are customary lands to be acquired.

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