

## The Implementation of Using of Land Rights for Industry

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**Abstract.** *This research aims to know the control over land, either by individuals, collectively or by the state, is only exercised and may only be exercised, if the aim is for the greatest prosperity and justice of the people or for the welfare of the nation and state as much as possible. The research methods was a normative juridical approach and descriptive analytical and highlighted especially in terms of technical legislation. Data collection was carried out with an emphasis on the study of documentation in the library. Field visits were more aimed at checking the application of positive law and to find problems in its implications. The result of the research indicate that there are problems related to the incomplete conceptual preparation in the planning, policy and regulatory stages, caused by the weakness of the quality of planners and legal officials. These weaknesses have caused problems of misunderstanding and inaccuracy in applying the concept, so that the regulatory policies that are drawn up and their implementation deviate a lot from what is expected and have even led to disharmony in society. The product achieved is such that it is not so good, that it will require a difficult effort and take a long time to harmonize it again. Such conditions and problems occur and are found both in the issue of 'state tenure in the National Defense Law, and in the issue of 'land tenure in industrial areas'. The novelty show that in the field of industrial development, the choice of approach is carried out by prioritizing the interests of small companies, medium-sized enterprises and cooperatives in the field of agro-business and agro-industry, without neglecting the presence and role of big entrepreneurs. And in the land acquisition program for the development of an area, a partnership approach should be developed, in such a way that the interests of the people and the good protection of people's rights to land can be paid more attention.*

*Keywords: Application; Industry; Land; Rights.*

### 1. Introduction

The research conducted is related (on the one hand) to aspects of land tenure in the National Land Law system (which is a sub-sector of legal material and in the development of the legal sector), and (on the other hand) is also related to industrial development issues (which is a strategic sector in economic development). The two aspects are integrated in a series of activities carried out through the development of industrial

estates that require planning, provision, use and utilization of land, and whose conditions and policies outline.<sup>1</sup>

Conditions and development policies related to legal aspects of land tenure in the development of industrial areas, will try to be described with the results of a search on development conditions and policies as stated in the Legislative Regulations. The development policy in the industrial sector in the past (which among other things has placed the industrial sector in a very reliable and prioritized position), with the policy on industrial development explicitly and positively, it seems that in this era of people's economic development, fundamental reforms will occur.<sup>2</sup>

First, "with a real people's economy, which should rely on the basis of natural resources and human resources, as a comparative and competitive advantage", it can be understood that the national economy will be directed towards an economy that relies more on agriculture (agro-economy).<sup>3</sup> Second, "reviving production activities, especially activities based on the people's economy and export-oriented", can be understood as prioritizing production activities in the agribusiness sector with its agro-industry. Third, "prioritizing the provision of opportunities for small, medium-sized enterprises and cooperatives as the main pillars of the national economy, without neglecting the role of large businesses and State-Owned Enterprises", we can also understand that the policy of economic development in the future.

From the description above, it can be seen that the fundamental change in national economic policy to a people's economy, is in prioritizing agricultural economic development (agribusiness) in terms of land use and land use in the production/industrial sector, will also be prioritized for agricultural purposes (agro-industry). Another fundamental change is in the treatment of economic actors. Companies<sup>4</sup> whose services must be prioritized are small and medium-scale entrepreneurs and businesses, in the form of cooperatives, and even then this is done without neglecting large-scale entrepreneurs and businesses in the form of State-Owned Enterprises (BUMN). A shift in setting priorities for handling problems is thus required in the policy of determining the scale and form of business and in the area of land use.<sup>5</sup>

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<sup>1</sup> Aga Wigana, Political Directions For Land Law On Land Property Rights For The People, *The 5<sup>th</sup> International Conference and Call for Paper* Faculty of Law 2019, Sultan Agung Islamic University

<sup>2</sup> <https://www.euredd.efi.int/publications/opportunities-for-improving-land-tenure-and-land-use-rights-in-indonesia>, accessed on March 24, 2022

<sup>3</sup> Wood, David. (1993). Forests to fields. Restoring tropical lands to agriculture. *Land use policy*. 10. 91-107. 10.1016/0264-8377(93)90001-Q, [https://www.researchgate.net/publication/11109790\\_Forests\\_to\\_fields\\_Restoring\\_tropical\\_land\\_to\\_agriculture/citation/download](https://www.researchgate.net/publication/11109790_Forests_to_fields_Restoring_tropical_land_to_agriculture/citation/download)

<sup>4</sup> Laura Notess (WRI), Peter Veit (WRI), Iliana Monterroso (WRI), Andiko (WRI), Emmanuel Sulle (WRI), Anne M. Larson (WRI), Anne-Sophie Gindroz (WRI), Julia Quaedvlieg (WRI) and Andrew Williams (WRI) - July 2018, The Scramble for Land Rights, Reducing Inequity between Communities and Companies, <https://wri-indonesia.org/en/publication/scramble-land-rights>

<sup>5</sup> Hunter, Susan & Bulirwa, Elizabeth & Kisseka, Edward. (1993). AIDS and agricultural production. *Land use policy*. 10. 241-58. 10.1016/0264-8377(93)90018-6.

Since economic development began in a planned manner, the approach used by Indonesia is actually an industrialization strategy. This strategy was chosen at least because it is based on two important considerations. First, in those years countries around the world were also working on industrialization projects in their respective countries. Second, the history of countries that have succeeded in advancing their economy has always passed the industrialization stage in the development process. Industrialization is a logical consequence of development. It is the most important part of any Third World development process. Industrialization in Indonesia is also a non-negotiable strategy for the sake of accelerating social transformation and achieving the goals of development itself. From the beginning, the existence of an industrialization strategy could not be separated from the concept of development, as an alternative for the welfare of society. According to Rajesh Candra, industrialization is considered important because it has objective advantages. is:

- Whereas the position of manufacturing products in the industrial sector on average has a higher term of trade than agricultural products.
- In fact, the income demand elasticity of industrial sector manufacturing products is much higher than that of agricultural products, especially for high-income consumers.
- The manufacturing sector has proven to be more efficient in the functioning of economic resources than other sectors. At the very least, this argument can be used as a form of justification and necessity to industrialize Indonesia's development pattern. Until now, not a single country has carried out development but rejected the concept of industrialization.<sup>6</sup>

At the level of the theoretical framework, the definition of the concept of industrialization itself has undergone many revisions. However, the revisions made are not contradictory and affirm each other. Revisions and modifications are more conducive substitutive.

## **2. Research Methods**

This research is an empirical juridical research that focuses more on document studies in libraries (Library Research) and field studies and is descriptive analytical. Descriptive, in the sense of being able to describe the object of research, clearly, thoroughly and systematically. First, an overview of Land Tenure in the National Land Law System. Second, an overview of the application of the Land Tenure Legal System in Industrial Estates. Analytically, it is intended that and a general description of the object of the research in question, can be found important elements that need to be considered for further elaboration. So from the description of the National Legal System on Land Tenure, it will be possible to describe the policy basis, the legal principles used, the formulation of the rules, the institutions tasked with managing and the processes and procedures for land tenure. Meanwhile, from the description of the application of the Legal System on Land Tenure in Industrial Estates, it can be further elaborated on the policies, legal principles, formulation of rules, and institutions concerning the regulation

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<sup>6</sup>Chandra, Rajesh. 2012. *Industrialization and Development in The Third World*. New York: Chapman And Hall

of land tenure by companies managing Industrial Estates and Industrial companies in Industrial Estates. This includes the problems encountered.

This research method is normative research supported by empirical research. To obtain data from the object of research used a data collection method in accordance with the object under study. Here the researcher uses the legal approach method, namely studying and researching the reciprocal relationship between the law and other regulations.<sup>7</sup> The legal approach method in relation to the problems in this research is to find out the implementation of the use of land rights for industry in terms of the prevailing laws and regulations and their implementation. The analysis of legal materials used in this study is qualitative data analysis, which does not use numbers (does not use mathematical formulas), but uses sentences that are the views of experts, laws and regulations, including data obtained by the author in the field in the form of results.

### **3. Result and Discussion**

#### **3.1. Legal Protection and Certainty in the Use of Land Rights for Industry**

In the most visible operationalization, there have been at least three ideas of industrialization strategies that have developed in Indonesia, in which all three have been applied separately or together.<sup>8</sup> First, the industrialization strategy that develops industries with a broad-based-industry spectrum. In fact, this strategy emphasizes the development of import-based industries (footlose industries) of other countries' industries. Examples are the electronics, textile, automotive and others industries. Second, an industrialization strategy that prioritizes high-tech industries based on imports (hi-tech industry), such as the aircraft industry, military equipment and weapons industry, ship industry, and others.<sup>9</sup>

These three ideas get equally strong legitimacy considering that there are arguments for rationality. Industrialization with a "broad-based industry" approach, Indonesia has several adequate advantages such as cheap labor and natural resources, so that developed countries are interested in investing in Indonesia. More importantly, in the long term it is hoped that Indonesia can take lessons and technology from these foreign industries. Then the strategy of "high-tech industry" that in the long term only through this approach the increase in economic growth can still be maintained because it produces relatively large added value. Meanwhile, if you rely on the primary sector, in addition to the small added value, on the other hand, it is also easy to compete with other countries. Meanwhile, the "agro-industry" strategy believes that industrialization will work if it really relies on endowments in the country concerned. Indonesia's advantage lies in the agricultural sector, therefore the industrialization that is driven must be based on that sector. Otherwise, industrialization will only cause problems of income inequality and unemployment.

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<sup>7</sup>Amirudin, 2006. *Metode Penelitian Hukum Pengantar*. Jakarta : PT. Raja Grafindo Persada, p. 104

<sup>8</sup> Sri Hartati, The Sustainable Cropland Protection In The Perspective Of Policy Implementation In Karawang Regency, *Journal of New Government Paradigm* Volume 2, 2<sup>nd</sup> Edition, 2015, p. 73

<sup>9</sup>Bungaran Saragih, 1998, *Agribisnis: Paradigma Baru Pembangunan Ekonomi Berbasis Pertanian*. Yayasan Mulia Persada Indonesia bekerjasama dengan Pusat Studi Pembangunan LP IPB, Jakarta, p. 239

Despite the debate about the industrialization pattern used, Hill said that perhaps Indonesia is the largest developing country in the world with the lowest industrialization. Manufacturing output from smaller countries, such as the Philippines and Hong Kong, has surpassed Indonesia. The "factory" sector is in dire need of input materials, especially those from abroad. Ingrid Palmer adds, in her study of the industry in this early period, she documented the small profits in the yarn spinning industry, because the industry was highly dependent on imported yarn supplies. When supplies run out, many companies simply go out of business.

Due to the backwardness of industrialization, various efforts were immediately taken to carry out industrialization in the hope that economic progress would be obtained quickly. But these efforts certainly cannot be carried out without careful thought, especially regarding the implications that will arise. In this period these choices must be based on the condition of the country which is completely limited, both in terms of capital, the quality of human resources and the lack of technology. This reality actually implies that there are few alternatives that can be chosen by policy makers to carry out industrialization, on the one hand foreign aid is highly expected and on the other hand the sector developed must refer to the potential of the domestic economy that can be done by most people.

Finally, like almost all other developing countries, Indonesia's industrialization process is supported by a large number of highly protectionist policies in trade and industry, including the use of import duties at nominal and effective percentages, even for the benefit of the consumer goods industry, which far exceeds the applicable percentage in other Southeast Asian countries, widespread use of non-tariff barriers and even total bans on imports. This method was adopted by Indonesia with a clear intention, that at a time when domestic industries were still unable to produce efficiently, foreign competition had to be avoided.

Industrialization must support regional potential, which at the same time supports the implementation of regional autonomy. Industrialization should no longer be concentrated only in Java, but must spread to areas outside Java. However, the distribution must continue to spread on the principle of "optimal location": the placement of an industry in a strategic industry with the minimum total cost, which includes the costs of transportation, information, procurement of raw materials, production, distribution, and others.

The pattern of industrialization must also be oriented towards increasing and equalizing people's income, of course without reducing the level of efficiency and productivity. This means that the development of the manufacturing industry must create job opportunities, but not solely based on the principle of full employment, but also productive employment, namely creating as many job opportunities as possible, but productively. This does not mean that all industries must be labor intensive, but there must be a selection of industries according to the intensity of use of labor and capital. There are certain types of industries (or certain parts of a production process) that simply cannot be done using labor-intensive production methods, and this does not necessarily mean that their impact on employment opportunities is minimal.

#### **a. Industry and Industrial Estate**

The social function in Indonesian society has grown from within the community itself in customary law, the principle of prioritizing the interests of the community over individual interests has developed. Therefore, with a limited space approach in the space used, the principle of social function is still considered, in order to avoid the emergence of disturbances that harm the interests of the surrounding community, both physical and psychological.

Industrial Estates in the Legal Aspects of Land that need to be considered are:

- **Changes or changes in land functions very quickly**  
Many agricultural lands have been converted to non-agricultural functions. The most prominent function shifts in the last 30 years have been for the benefit of housing, trade, and industry. Every year it is estimated that the transition from land to non-agricultural functions has reached an average of 42,000 hectares.
- **Uneven distribution**  
The distribution of industrial estates is uneven, because most industrial estate companies are located on the island of Java, the others are scattered on the island of Sumatra, on the island of Kalimantan, on the island of Sulawesi, and on the island of Irian Jaya (Papua). As a result of these incompatible and equitable conditions, the government then made a policy that "The spread of industrial locations outside Java is more encouraged to encourage regional development and industrial development, to expand employment and business opportunities as well as to utilize local natural resources while preserving the function and quality of the environment."
- **Weak planning**  
The development of industrial estates in Indonesia is generally concentrated in areas that are already quite adequate, both in terms of transportation facilities as a means of transporting raw materials or for the purpose of marketing their products, as well as means of communication. As a means for communication purposes (telephone, facsimile).

Therefore, the growth of industrial estates is developing around big cities such as DKI Jakarta and in surrounding cities (Bogor, Tangerang, Bekasi, Karawang) as well as in the city of Surabaya or the city of Bandung and the surrounding area. If you look at the development of industrial estate development in these cities, it seems that there is no integration in the concept of spatial planning. The development of industrial estates in the form of environmental or industrial zones, which have existed for a long time before the provisions of the new legislation on industrial estates, have been running independently since the beginning. The expansion of large cities (as seen in the development of the DKI area) due to population density due to urbanization is also in line with the rapid industrial development in the suburbs of Jakarta and its surroundings.<sup>10</sup>

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<sup>10</sup> E. Herguido Sevillano, J.F. Lavado Contador, S. Schnabel, M. Pulido, J. Ibáñez, Using spatial models of temporal tree dynamics to evaluate the implementation of EU afforestation policies in rangelands of SW

As a comparison, it can be seen the development of industrial estates in several neighboring countries. Developments in South Korea (eg in Seoul and in Busan) have resulted in urbanization and this has resulted in increased population density in these cities.

In contrast to South Korea, in Japan industrial development does not start from urban areas, but from rural areas. The steps taken by the Japanese government, after completing the program to change the ownership and use of land, are to start building intensive means of communication between cities and villages by building roads, railways and electronic communication facilities. The government is trying to provide cheap electricity to rural areas. After that, just invite industrial entrepreneurs to build in rural areas. Because all the necessary facilities are available, the entrepreneurs do not object to it, although the development of industrial areas in Japan spreads in the countryside, it does not mean that industrial areas in Japan only develop around the countryside. Even though its growth is slow, the concentration of population and industry also grows in urban areas, so, in fact, Japan is not free from urbanization problems. In big cities in Japan as well as in other big cities, population density is the result of urbanization; 58% of Japan's population is concentrated in Tokyo, Osaka, Nagoya and the surrounding areas up to a radius of 50 km from the perspective of urban centers."

In Indonesia, regional development has been implemented with a strategy similar to that in Korea, namely by encouraging the growth of industrial areas such as in the West, for example. Through Presidential Instruction No. 13 of 1976, the development activities of industrial areas and industrial estates are not prioritized in DKI Jakarta, but are directed to the delivery area of DKI Jakarta and spread to surrounding regencies and cities such as Bogor, Tangerang, Bekasi (BOTABEK), even to Serang, Purwakarta, and Karawang. With this strategy, it is hoped that other industrial estate developers as well as industrial entrepreneurs in the region will spread out to participate in the race to acquire land, carry out development and market their products.

Seeing Japan's successful development in developing rural areas through industrial development, it is necessary to examine the development strategy whether it is possible in the spatial planning techniques in rural areas as stated in regulation of agro-industrial development areas and maybe even in other industrial fields. However, it is also necessary to have an integrated spatial arrangement in the development of these rural areas by building electricity facilities, communication facilities including the construction of adequate roads and transportation facilities.

The development of industrial estates must be carried out in an integrated manner while taking into account the preservation of the environment, so that in any development, which may result in damage to the environment, it is necessary to pay attention to conservation and rehabilitation with handling and maintenance as well as supervision in its implementation.

The spread of industrial locations outside Java is encouraged to encourage regional development and industrial diversity, to expand employment opportunities and business

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Spain, *Journal of Public Transportation*, p. 166-175, <https://www.sciencedirect.com/journal/land-use-policy/vol/78/suppl/C>

opportunities as well as to utilize local resources while maintaining the preservation of environmental functions and quality.

Industrial development must encourage the use of domestic industrial products, the spread of industry outside the country, a balance between manufacturing, agro-industry and rural industrialization by utilizing advances in science and technology, utilizing comparative advantages and increasing competitive advantage by developing an investment and business climate that supports and maintains preservation of environmental functions.

In the Law on Industry, environmental insight is mandated in Article 9 paragraph (1) in conjunction with Article 21 of Act No. 5 of 1984, that "regulation and development of the Industrial business sector is carried out by taking into account the prevention of damage and pollution to the environment, as well as security to the balance and sustainability of natural resources".

Especially in the development of environmental management, it appears that the programs that are being prioritized by the office of the Minister of Environment are carried out in a stimulant manner from planning, organizing, implementing, monitoring to monitoring and evaluation. Such activities, saving writing, are very much in line with the demands of today's needs. And in the context of developing industrial estates that are environmentally sound, especially in the context of overcoming environmental pollution due to industrial waste (solid, liquid, and gaseous waste). Industrial estate entrepreneurs and industrial entrepreneurs in industrial estates will be involved and included in all the main programs that are being prioritized by the government.

## **b. Use of Land Rights in Industrial Estates**

In the history of the development of land provision for non-agricultural development purposes, including industrial development, especially its development in 1966, has attracted quite a lot of attention. Thanks to the implementation of economic policies through development planning and after the success of the government at that time in efforts to stabilize conditions, economic life gradually began to improve. The restructuring of the state revenue and expenditure budget at that time has gradually succeeded in setting aside the budget for the construction of facilities and infrastructure in the economic sector, then facilities and infrastructure in the government, social and cultural fields.

Land acquisition for development areas is often a problem that attracts attention because it often harms the community, especially if the land is obtained by relinquishing rights from the community who owns the original land rights. The question is related to the issue of the amount of compensation or land exchange that is felt to be disproportionate. Communities often feel disadvantaged due to the small amount of compensation or because the land exchanged turns out to be in worse condition and not commensurate with the exchange value.

For development purposes, the types of land use can be distinguished as follows:

- Use of land for services;
- Use of land for housing;



- Industrial use of land;
- The use of land for agriculture in a broad sense.

Programs to regulate land use are directed at efforts to:

- foster an understanding of the importance of using land in a planned and in accordance with the capabilities of the land,
- formulate land use plans both at the national and regional levels,
- Develop technical guidelines for the designation and use of rural and urban land including procedures for making land use plans,
- Conducting surveys as material for making land use maps, capability maps and maps of critical areas.

Land as the main capital of development should not be required to provide the maximum benefit, without being accompanied by efforts to maintain and prevent damage that may occur. However, the reality so far is that land exploitation has been carried out without any efforts to prevent land damage.

The use of land for industry in terms of the licensing system, will include the stage of submitting an application from the interested party, the stage of reviewing and granting permission from the authorized official, the stage of monitoring the implementation and the stage of evaluation. Therefore, in the author's opinion, at least in a regulation concerning the reporting of land rights for an area (plantation business, housing and settlements, industry, tourism, etc.) what minimum and maximum limits are reasonable for each type of area.

Minister of Agrarian Affairs/Ka. BPN has suggested the methods used in estimating land requirements for industrial estate development. One way that is exemplified is the number of industrial land use coefficients on the amount of investment. This coefficient figure is different for each type of industry. A study in Jambi in 1986, for example, for every 1 (one) million rupiah chemical industry investment required 12 m<sup>2</sup> means the coefficient figure is 0.0012/million rupiah.

Furthermore, related to the maximum area limit, with the instructions of the Minister of Agrarian Affairs/Ka. BPN No. 5 of 1998 concerning the Granting of Location Permits in Large-Scale Land Ownership Figures, has been ordered to all BPN regional offices and land offices so that in granting location permits to one legal entity or group of legal entities whose majority shares are controlled by a certain person, the area is not may exceed the specified maximum limit. The attachment to the instruction from the Minister of Agrarian Affairs stated that the maximum area limit for industrial estates is 400 ha.

Article 4 the instructions of the Minister of Agrarian: Agraria/Ka.BPN No.2/1999 stipulates the maximum limits of land ownership that can be obtained by a company or other companies constituting a group, for housing and settlement development business, resort-hotel area business, industrial estate business , sugarcane commodity business or other commodities for fishpond business on Java Island or outside Java Island based on

the provisions of letter b paragraph (1) Article 4 of the said Minister of State Regulation, the maximum area of land for industrial estate business is 400 ha for one province or 4,000 ha for the whole of Indonesia.

However, nowadays, regulations regarding the maximum area regarding the maximum area of an industrial area have been initiated. Even if it has not been stated in a form of government regulation or an objective criterion has not been found that needs to be used as the basis for determining the amount in question, in order to achieve the 'use of land that is really needed' for the development of an area.

Regarding land abandonment in industrial areas, the government itself has been aware of the conditions and problems of land abandonment for development areas in general, and in particular the neglect of land in residential and residential areas and in industrial areas.

In practice, it turns out that there are several other alternative answers to the slow use of the land proposed above. Among other things, reasons related to facilities and infrastructure, namely the problem of the unavailability of access roads leading to or approaching the location of the area, and the unavailability of water sources for industry, electricity, or telephones. Another reason relates to high land prices. This obstacle has caused industrial companies to choose to place their factories outside the industrial area, even in areas that are in accordance with the RTRW. There are those who choose themselves (independent), there are also those who put them in an industrial 'zone' that has long been managed by local governments where land prices are much cheaper.

Minister of Agrarian Affairs/Ka. BPN stated that in some areas industrial development developed in industrial zones, and not in industrial areas. The reasons are, among others, because it is difficult to acquire land, industrial estates are not ready to be built, deliberately slow down and not build for a specific purpose (eg for land speculation), are not good at marketing it, or the price offered is too high for industrial companies.

The task of the Ministry of Industry is to continuously encourage and lead new industrial companies, so that they remain interested in industrial areas that have received various facilities from the government. Finally, the instruction of the Minister of Agrarian Affairs/Head of BPN No. 5 of 1998 dated 27 October 1998 concerning the Granting of Location Permits in the Context of Large-Scale Land Tenure, which instructs all regional offices of BPN and Land Offices that in granting location permits, the area may not exceed the maximum limit set.

### **3.2. Ideal Land Procurement for Industrial Business Companies**

The government's obligation is to strive so that efforts in the land sector are regulated in such a way as to increase the production and prosperity of the people as referred to in Article 2 paragraph (3) and to ensure that every Indonesian citizen has a standard of living in accordance with human dignity, both for himself and for himself. as well as his family. In addition to the government not having the right to monopolize businesses in the agrarian field, especially regarding land, the government is also trying to promote social security and security, including in the labor sector, in agrarian activities (Article 13 UUPA).

To ensure legal certainty, the government holds land registration (Article 19 of the LoGA). Efforts to limit ownership, control and use of land are aimed at creating social

justice, namely a society without exploitation in a society with social justice. A society with sufficient clothing, food, housing and other economic needs and the need for justice.<sup>11</sup>

Therefore, it is easy to understand that development policies emphasize the aspect of equitable development and development outcomes for the realization of social justice. The government must be committed to pursuing development that allows the realization of social justice. The embodiment of social justice includes equal distribution and improvement in the dignity and lives of those who live below the poverty line. No matter how noble and high these ideals are, the steps to achieve them must be realized in a scope that contains different goals from different groups of people with different interests.

Equitable development must be realized in a scope with various balances, such as the balance between the center and the periphery, between cities and villages, between the various ethnic groups found in our homeland, between the consumption interests of the rich and the poor, between the interests of investment and consumption, between the exploitation of natural resources and the conservation of natural resources, between how to build from above to how to build from below, and so on.

Land as an element of space whose strategic use cannot be separated from the determination of regional space. Likewise, spatial planning which essentially includes, among others, the regulation of the supply, use, and designation of land in which it is necessary to regulate the pattern of its development to harmonize land use, water use, and the use of other resources in a harmonious and dynamic environmental unit. , and nuanced long term.

Article 33 paragraph (1) of Act No. 26 of 2007 concerning Spatial Planning mandates that the use of space refers to the function of space specified in the spatial plan to be carried out by developing land use management, water management, air management and other natural resource management, in accordance with the principle of arrangement as referred to in Article 2. Based on the provisions of Article 2 of Act No. 26 of 2007 concerning Spatial Planning, it is stated that spatial planning is carried out based on the principles:

- Cohesiveness;
- Harmony, harmony, and balance;
- Continuity;
- Usability and effectiveness;
- Openness;
- Togetherness and partnership;

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<sup>11</sup> Sri Ahyani, Land Registration As A Legal Construction Of Law In Order To Facing Asean Economic Communities, *International Journal of Nusantara Islam* Vol. 06 No. 02 2017: (198-207), DOI: 10.15575/ijni.v6i2.6227

- Protection and public interest;
- Legal certainty and justice; and
- Accountability.

In the Elucidation of Article 33 paragraph (1) of Act No. 26 of 2007 concerning Spatial Planning, it is stated that what is meant by land use, water management, air management and other natural resource management, among others are the control, use and utilization of land, water, air, and other natural resources in the form of consolidated utilization of land, water, air and other natural resources through arrangements related to the use of land, water, air, and other natural resources as a unified system for the benefit of the community in a fair manner. Thus, land use management is a government effort that contains the regulation and implementation of the allocation, supply, and use of land to realize the outlined regional spatial plan.

In this regard, land use management aims to ensure the realization of orderly land use and orderly maintenance of land and the environment, the direction of land allocation in accordance with regional spatial planning, and the direction of providing land for various needs for development activities, both by the government and the community in accordance with the Regional Spatial Plan (RTRW).

### **c. Social Justice Use of Land for Industry**

The rapid development requires a lot of land, which results in the narrowing of agricultural land, both for residential and industrial purposes. Thus the agricultural land changed its function. Not only the function of its use but also its economic function. In regulating land use, it is necessary to pay attention to the fatwa on land use, which is an objective technical assessment and one of the considerations in proposing the completion of an application for land rights and the granting of a land use permit. The purpose of the fatwa on land use is so that every designation and use of land is guaranteed to realize the principle of sustainability, balance and optimization.

The UUPA has provided a legal basis for land use in Indonesia. The foundation is stated in Article 14 and Article 15 of the LoGA. However, the implementation of the two articles has never been determined. Meanwhile, the institution or agency that handles the land use sector was born before the UUPA itself was enacted.

The LoGA turned out to be quite anticipatory in projecting the pattern of the country's economy in the future. The LoGA has described the important role of industry and mining in the future in driving the wheels of the economy in Indonesia. For this reason, the LoGA outlines the need for planning for the provision of land in order to advance various development sectors, including the industrial sector.

However, unfortunately, the planning regarding the designation, use, and provision of land for various development sectors, both in the form of national planning and the details in the special plans (regional planning) of each region has not been realized.

According to Stiglitz, it is advisable for Indonesia to focus on economic development which is the main basis of life for the majority of the population. Whatever

industrialization policy Indonesia takes, it must be related to the interests of the majority of the population. Do not rush to trade liberalization or other things, instead focus policies on growth which will definitely increase growth and further grow trade.<sup>12</sup>

Experience in many Industrially Developed Countries (NICs), such as countries in Europe, the US, and Japan, shows that they started industrialization after or at the same time as developments in the agricultural sector. For example, England experienced an industrial revolution in the 18th century after starting with the agricultural revolution that occurred through the introduction of turnip technology. Industrialization in Japan took place at the same time as the agricultural revolution that occurred through agrarian reform (Meiji restoration). Likewise, Taiwan's experience in the 1950s showed that agricultural-based industrialization through the development of small-scale industries located in rural areas was able to produce strong and equitable economic growth and a resilient economic structure.

There are several reasons why the development of a strong agricultural sector is essential in the industrialization process in a country like Indonesia, which are as follows.

- A strong agricultural sector means food security will be guaranteed. This is one of the important prerequisites so that the process of industrialization in particular and economic development in general can take place well. Food security means that there is no hunger and this ensures social and political economic stability, which in turn ensures that the development or industrialization process can take place without any disturbances;
- In terms of aggregate demand, the strong development of the agricultural sector has resulted in a high level of real per capita income in the sector. This is one source of demand for non-food goods, particularly manufacturing (consumption or income linkages). In Indonesia, where most of the population lives in rural areas and has direct and indirect sources of income from agricultural activities, it is clear that this sector is the main driver of industrialization, especially in rural areas. Apart from being linked to consumption or income, the agricultural sector also functions as a source of growth in the manufacturing industry sector through the intermediate demand effect or production linkage: the output from industry becomes the input for agriculture.
- From the supply side, the agricultural sector is one of the sources of input for the manufacturing industry sector in which Indonesia has a comparative advantage. In other words, through production linkages, productivity or output growth in the agricultural sector can be a source of output growth in the manufacturing sector. In addition, good development in the agricultural sector can generate a money surplus in the sector, and this can be a source of investment in the manufacturing industry sector, especially small-scale industries in rural areas. In other words, from the side of aggregate supply, apart from production linkages, output growth in the agricultural sector can also be a source of output growth in the manufacturing industry sector through investment linkages.

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<sup>12</sup>Joseph É Stiglitz, 2004, *Indonesia agar Fokus pada Kepentingan Jutaan Warga*, Kompas, 15 December, p. 1

### **3.3. Partnership approach**

As an application to develop an attitude of partiality to the economically weak and poor, as stated in the MPR's TAP, is a change in the attitude and approach of the Government in development activities in all fields. During the New Order government, the government's attitude was seen as too pro-investor. For the sake of attracting capital, the Government's approach always prioritizes services to prospective investors, by forgetting about the other party, namely the old land holders who are generally farmers. So that the farmers who hold land rights are always disadvantaged and then evicted from the development arena.

When the Location Permit is being processed, and extension activities for land acquisition are carried out to villages, the object of the campaign from the Government and the candidates for development (developers) is for the sake of development, or for the welfare of the people. With the aim that the people holding land rights are willing to give up their land rights, and if they are ready to relinquish their land rights and then vacate the land, the value of compensation for land and other economic values is not assessed too high.

But what about the conditions after the land acquisition process is complete? After the farmers received the compensation money, for a moment they enjoyed the results of the release of their wealth. They spend it for consumptive purposes (buying a house or two or four-wheeled vehicle), or there is also for the benefit of the pilgrimage, or buying land back in a place that is relatively far from its original place. There is no relationship between farmers who are former land owners and development activities carried out at the location of the land, be it residential & residential areas, tourism areas or industrial areas. And his level of economic life was not at all boosted by the impact of the development that took place on the location of his former land.

Total reform requires a change in attitude and approach, both from the Government, especially the Regional Government, as well as from the developer as an investor in development. Farmers who are former land rights holders must always be the object of attention, and must always have priority in obtaining business opportunities at development sites, as well as enjoying the results of their development. The development of a new area must be integrated into the development of the local area. Both in the development of natural resources in particular, especially for the construction of facilities and infrastructure (roads, bridges, clean water, electricity, telephone and so on), as well as the development of human resources in general, both efforts to improve basic education and manpower training in accordance with those required for activities in the said area. Among other things, what are the possibilities for former landowners belonging to the area to participate in regional businesses, or in businesses that support regional development? Or how is it possible for the families of the farming families to participate as company employees (after receiving training according to the needs of the area)? or businesses that support regional development? Or how is it possible for the families of the farming families to participate as company employees (after receiving training according to the needs of the area)? or businesses that support regional development? Or how is it possible for the families of the farming families to participate as company employees (after receiving training according to the needs of the area)?

### 3.4. Business partners, between area management companies and land owners

Specifically, in this paper, it is necessary to study the acquisition of land rights through voluntary agreements between industrial estate management companies and land owners. One of the efforts that have been mentioned in the settings is through input/*inbreng*. In fact, the alternative for land acquisition is already a fairly advanced idea, which will greatly benefit both parties.

For company entrepreneurs who need land, placing the land from the land-owning farmers as *inbreng* or in the form of company shares means significant savings in operating costs. Good for 'purchase' or 'compensation' items and postal fees for land title transfers. The same goes for the land owners. In addition to being able to switch functions from farmers or agricultural entrepreneurs to become business partners or shareholders of the company concerned.

Bambang W. Suharto, in a paper presented at the Panel Discussion organized by the Association of Industrial Estates (HKI), suggested efforts to bring together a balanced point of interest between land owners and land owners. He stated that alternative efforts for compensation need not only be in the form of money, but for example can be used:

- in the form of giving shares to the owner, while for the cultivator, reasonable compensation can still be given; or
- in the context of community development such as getting the opportunity to work on projects, building housing, schools, sports fields, places of worship, etc.).

There are still many obstacles, which is why this good idea has not been widely applied in the field. These barriers, either in the form of psychological barriers or socio-cultural barriers. The technical obstacle is that the farmers are not yet on the stock exchange, where they can trade shares at any time. Moreover, the amount of dividends that may be obtained, is not as big as the compensation money.<sup>13</sup>

The psychological obstacle is that the old land owners, who are generally 'farmers', have not been considered reasonable, to be able to act and carry out the role of 'business partners'. Or education barriers, because the education level of the farmers is still so low, causing the landowners to not be able to see future profits, other than the alternative of 'selling their land. The 'business partner' with the company that needs the land has not yet crossed his mind.

It is understandable, if the landowners choose the alternative of 'selling', because by selling them, a pile of compensation money is already visible in front of their eyes, which can be enjoyed immediately. This is different from the condition of the 'business partner'

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<sup>13</sup> Ambe J. Njoh, Liora Bigon, Erick O. Ananga, Richard A. Ayuk-Etang, Institutional, economic and socio-cultural factors accounting for gender-based inequalities in land title procurement in Cameroon, *Journal of Public Transportation*, p. 116-125, <https://www.sciencedirect.com/journal/land-use-policy/vol/78/suppl/C>

alternative. The profits from the '*inbrenng*' or the company's "shares" will only be felt, in the long term in the future.

Therefore, if farmers choose the alternative of giving up land as *inbrenng* or as buyers of company shares, they still need to think about providing/allowing some operational finance for 'living costs' for former farmers who own the land, for their daily needs while waiting for operation the regional company (housing, or industrial, or tourism).

Industrial estate development in people-oriented economic development in the field of agribusiness and agro-industry, and which is a strategic development area in improving the welfare of the community, must really be carried out on the basis of a mature General Spatial Plan, both for Regency/City Areas, as well as for Provincial area or for the National Region, in such a way that it will not cause too much reduction in technical agricultural area, and still be based on concern for the preservation of one another's environmental functions, using a truly integrated community development partnership approach.

The development of the conception and legal principles of land tenure in the Industrial Estate which is a very strategic development area for the present and of course later in the era of globalization, after reviewing, evaluating the industrial development policy in accordance with the Political Economy. According to current regulations, there are several options for land acquisition by Industrial Estate companies. The choice is through buying and selling, or through the release of land rights with appropriate compensation. The current arrangement has not yet opened up the opportunity for the former owner of land rights to choose another alternative, which requires the relinquishment of land rights, for example through the option of leasing the land.

#### **4. Conclusion**

In the process of land acquisition for the benefit of the Development Zone, partnership movements should be sought and developed with the old land owners, residents and/or cultivators, whose land is used as the location of the area. This includes the attitude of partnering with local government officials, who are currently developing their capacity and authority in implementing regional autonomy. And the attitude of regional entrepreneurs towards former owners or former cultivators of regional land, should not only be satisfied with a formal and rigid approach, namely as long as they vacate the location of their land and the relationship is considered completed by giving them severance pay. The former occupants or former cultivators need to be approached with a more humane approach to development, by providing information on conditions and plans for community growth in and around the area. In such a way that there is clarity to them, that the company can provide an opportunity for them to be more involved and benefit from the company's presence in their place of residence. That the company through cooperation with the Regional Government can guide and train their next generation.

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