

Land Grabbing, Women and The Role of IFI in Indonesia
By Solidaritas Perempuan
Juli 2012

Land Grabbing in Indonesia

In the early year of 2012, Indonesia just enacted the Law No. 2 Year 2012 on Land Acquisition for Development, as one of the important prerequisites to smooth the process of land provision for development projects. This Law is in accordance with the Master plan for Acceleration and Expansion Indonesia Economic Development (MP3EI) 2011-2025 which was launched earlier last year by the President. The law is based on the assumption that one of the constraints in development project is the difficulty to obtain land for the projects, and the existing policies are considered less adequate. While the existing policies mentioned, which are the Presidential Regulation. No. 36 year 2005 and Presidential Regulation No. 65 year 2006 on Land Acquisition for Development for the Public Interest, had been rejected by most of the civil society as it was considered as an instrument of eviction of people's lands, and does not provides protection for the affected people, including women.

The practice of land acquisition in Indonesia still left many problems until now. The Consortium of Agrarian Reform's (KPA) data shows that throughout the year 2010, there was 106 agrarian conflicts occurred in various parts of Indonesia. The disputed land area reaches 535.197 hectares, involving 517.159 household in the conflict. In the year of 2011, recorded 163 agrarian conflicts had occurred, and loss 23 of people's lives. Later in the year 2012, there were 115 cases of agrarian conflict just until July. Conflict area reached 377.159 hectares, of which the plantation sector, mining, forestry and infrastructure still dominate as the cause of agrarian conflict.

While the Problems in the practice of land acquisition, among others; forced evictions, practices of collusion related to land certificates, unilaterally inventory and identification of land, unilaterally determining compensation, no involvement of communities affected in the determination of the object of land acquisition. Meanwhile, human rights violation that often occurs in the practice of land acquisition includes intimidation, beatings, shootings, even the people arrest that led to the criminalization, with the involvement of the state apparatus. Data from National Commission on the Elimination of Violence against Women 2010 showed that there were 395 women victims of eviction. That recorded data can be a representative of the women victims which are not recorded in other eviction process. Up until now, there are no disaggregated data recorded on the victims of eviction. And just this July 2012, there are women victims of criminalization and shooting by the state apparatus in the agrarian conflict in Ogan Ilir district in South Sumatera against government's company, namely PT Perkebunan Nusantara VII Cinta Manis Unit.

The majority of the public lands in Indonesia only a few that have complete legal documents. In 2004, from 85 million parcels of land (not including lands in forest areas and areas dominated by indigenous peoples), only 26 millions or 30 percent that were already certified. In the year 2005-2008 there were added 13 million certificates, so by 2008, there were still 60 percent that has not been certified. Meanwhile, the base of compensation is proof of certification. This situation will clearly sharpen the potential of agrarian conflicts. Furthermore, the Law only recognize communal land with no further protection and there is no intrinsic recognition of indigenous rights and customary land. In addition, the law does not include provision related to the protection of productive land, whereas Indonesia is an agrarian country. In the absence of this provision, the law have the potential to convert or rules out productive agricultural lands owned by the people or small

farmers on the pretext of development for the public interest. This means that the law does not consider the historical-sociological analysis that Indonesia is an agricultural country where the people live from agriculture lands.

The Law is part of Indonesia infrastructure development regulation reform package to foster private investment and push for market based oriented in the development projects. The Law is like arguing as if the project is on behalf of the public interest, even though the project is no more than for private interests, such as infrastructure projects that are fully financed, owned, managed and intended for private interests, even foreign parties. Among other things, highway projects, dams, ports, airports, telecommunication facilities and infrastructure, transportation, drinking water, to the large-scale agriculture such as the Food Estate, which have been open to private and foreign companies. The Law becomes a tool to support the investments on behalf of development, through the exploitation of natural resources and industrialization by the private sector. Which is inversely proportional to the spirit of addressing the climate change, because it affects the acceleration of global warming due to land use and industrialization. This policy is also intended to facilitate foreign investors to easily control strategic sectors through infrastructure development in Indonesia. This policy is not protecting the community that would become vulnerable to eviction and target of criminalization. In fact, the academic text of the Law stated that 'the public objection for acquisition of land for a project is classified as an obstacle or hindrance '. It is very clear that this Law is more accommodating the interest of private sector.

The involvement of ADB in the Land Acquisition Law

Originally, the Law was pushed by the Asian Development Bank and World Bank since 2005. The agency has long engagement in the funding for infrastructure development and technical assistance to regulatory changes in energy, roads, communications, airports, water, and harbor. Through the scheme the debt for Infrastructure Sector Reform Development Program, the government was being encouraged to perform a variety of policy reforms to strengthen the role of private sector through Public Private Partnership scheme (PPP) and the liberalization policy.

Then this Law was also getting financial support from the Asian Development Bank (ADB), through a Technical Assistance (TA) called "Republic of Indonesia: Enhancing the Legal and Administrative Framework for Land Project" , TA project number - 37 304, with the amount of funds USD 600,000. Results of Technical Assistance (TA), the ADB's view that Indonesia needs a national policy for the settlement and development. The project was approved to assist Indonesia to the establishment of legal and administrative framework for land acquisition and resettlement. However, the ADB as an international financial institution claiming to have a high standard of protection that did not follow the principle of meaningful consultation in the process of providing technical assistance to the affected communities, especially women.

ADB to support The Law through its technical assistance can be said to be a grant, but the projects will be executed by accommodated by this Law has the potential to increase the debt, either by private sector or government. Government in infrastructure development clearly requires great cost and often the government will seek sources of financing through loan. ADB's country partnership strategy with Indonesia has allocated loans to Indonesia amounting to USD 2.64 billion for the year 2011-2013, including the development of infrastructure. Meanwhile, financing in the form of loan provided by ADB to the private sector to finance private projects, must be secured from the Government of Indonesia and if private companies can not pay it will be borne by the Government of Indonesia. Meanwhile, the increasing national debt will have implications for the

reduction in welfare. Because the repayment of debt principal and interest payments on debt taken from the state budget, which would have implications for the reduction in the amount of subsidies and basic services for the community.

ADB's Infrastructure Project in Indonesia

On December 2007, Asian Development Bank (ADB) received a proposal from Indonesian government entitled "Regional Road Project "Number 38479, which will build the road infrastructures in Java and Kalimantan. The project planned to operate the MFF (Multi-tranche Financial Facilities) in amount of USD 500 million, covers 1,273.5 km. In addition, ADB has approved to fund the technical assistance in amount of USD 1, 3 million. Due to some problems related to the project, the fund has been change from MFF to single loan with the amount of USD 180 million, covers 476 km. Although the road project was rejected by local community groups in Indonesia, and was found not to have complied with ADB's Public Communications Policy and Gender and Development Policy, it was still approved by the ADB Board of Directors. The changes were a result of a long advocacy from civil society, among other was Solidaritas Perempuan, which shown the problems in the project.

The approval of the Regional Road Development Project by the ADB Board of Directors was a solid proof that its set of policies were merely lip-service. Other concerns raised against the project were the non-recognition of indigenous community's rights, meaningless consultation, lack of information on social, economic and cultural status of women, and unavailability of translated documents for affected communities. Furthermore, ADB is currently preparing for the provision of funds for tehcnical assistance (TA) Phase II valued at USD 1.5 million. This technical assistance plan will be approved on 14 September 2012.

The road project is potentially caused in people's eviction, and productive soil and paddy fields as the sources of occupation for people. This thing will also impacted in people's economic sector, particularly for woman who rely their live on land cultivation. As a domino effect, woman has to seek for alternative occupation in informal sectors vulnerable upon worker's exploitation and sexual abuse. The road development project planned to utilize ADB's loan will faster the feminization of poverty in Indonesia. It somehow against the main objectives of ADB, that is to foster people's economic sectors in developing countries.

Furthermore, Asian Development Bank gave a grant of 500 thousand U.S. dollars to boost the development of infrastructure projects in Indonesia. The funds provided through the Japanese funds for poverty reduction (Japan Fund for Poverty Reduction / JPFR). This technical assistance will increase the capacity of governments to develop, implement and monitor the government's joint project to increase the number and value of projects, which are commercially attractive and sustainable for the private sector. The project is a public-private partnership (PPP) held by National Development Planning Agency (Bappenas) as the agency responsible for technical assistance and PT Sarana Multi Infrastructure as the implementing agency.

The Impact to Women

Eviction is one of the very complex issues in Indonesia to date, both the eviction of residential land and livelihoods, both in urban and rural areas. Complex problems related to the eviction because the majority of the public ownership of land, which until now is uncertified. This situation clearly affects the occurrence of land conflict or land grabbing and even people. The impact of evictions of land tenure and livelihoods clearly had an effect on the loss of women's rights that led

to the impoverishment of women, particularly indigenous women. For women, the land is not only has a monetary or economic value. Moreover, land for women have philosophical value and social value, as something that inherited from generation to generation that will bequeathed to the sustainability of future generations. They are very close to the land and natural resources management. Therefore, women are almost always in the forefront to defend their land. Tallo, woman from the village of Loli Oge, Donggala, Central Sulawesi reveal "*When women defend their land, it is done not for the benefit of herself. But also think about how the lives of children and the community if the land was forcibly taken from them*".

But the system made by state and the patriarchal culture does not provide an opportunity for women to gain access and control over land. They always being excluded from the decision making process related to Land. They are not involved in the project approval process. Even the ownership of land is mostly under the name of man. And, in the negotiation process for compensation, women not usually be part of and when the money spend unwisely by man, they can only suffer more from trying to provide the needs of the family. The Land Acquisition for Development Law will strengthened the problem situation from evictions of poor people both in urban and rural. This condition will also increase injustice and impoverishment of women due to misguided development. The gender roles of women makes women not having access to land, communally and individually. Eviction cases up until now are still leaves a variety of cases and raises new issues for women, because. This will also implicates women's survival, because women will lose homes and livelihoods.

Land conflicts caused by development policies within the present exploitative social relations that are subordinate to women so that women experience oppression layered situation. Women's experience shows that land conflicts in Indonesia military and police use in making land in the community. This is not a little to make women and children as victims, such as Alas Tlogo events of 2008 and other agrarian conflict as it happened and Riau and Jambi. Not a few women also experienced due to the criminalization of their actions to defend their land. Women experiencing intimidation, physical violence, psychological, sexual, not even a little of casualties. Women who lost her husband a result of land conflicts, increase women's double burden of having to make a living at the same time harder to manage her household. All of the above situation of women, proving that the development of increasingly exploitative perpetuate, even exacerbate gender inequalities created. So far, cases of which occur, often resulted on the violation of the rights - the rights of women, even using a brute force approach, psychic and physical, even to the level of criminalization or shootings conducted by the state / military or corporate. Evictions that occur often do not notice the situation and condition of women, for example in the case of pregnant women, elderly, and children. Most evictees end up with a prolonged trauma. Therefore, if there is no safeguard against the situation and condition of women, the oppression and gender inequality is increasing.

Often the process of eviction is carried out by companies or governments, do not care about the relocation or resettlement, even the government does not provide land for the relocation of people who experience eviction. The Government considers the compensation given to affected communities is considered to have completed, so the government does not prepare the land or territory which will be space for the relocation of affected communities. It is also commonly experienced by local communities, as well as indigenous peoples, where they demolished residential areas for oil palm plantation expansion, without the certainty of the relocation and replacement of land. Problems in the practice of land acquisition and the human rights violation that often occurs in the practice of land acquisition, are significantly affected to the loss of livelihoods, and the threat to

the survival of society, particularly women, who later have to think about the sustainability of household, family and children, the shelter, provision of food, clean water and other household needs. The sustainability of such practices will further impoverish the people of Indonesia. Therefore, it is essential to take attention of people's social-historical situation, especially women, and also the injustice situation faced by women due to their gender role in the social construction in the society. Before all of these problems is being settled, state should not enacted such law in land acquisition.