



Human Rights Aspects in Infrastructure Projects in the President Regulation Number 120 Year 2022

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Abstract

The implementation of projects under the President Regulation of the Republic of Indonesia Number 120 Year 2022 concerning Special Assignments for Expediting Infrastructure Development (President Regulation 120/2022) has the potential to promote the human rights of the Indonesian people. Nonetheless, it is critical to ensure the facilitation of human rights during project development as well as subsequent phases.

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1. Introduction

This article specifically addresses the President Regulation of the Republic of Indonesia Number 120 Year 2022 concerning Special Assignments for Expediting Infrastructure Development (President Regulation 120/2022), which was

stipulated and promulgated by President Jokowi on 27 September 2022.¹ The key focus of the discussion in this article is on Article 1 Paragraph (2) of the regulation, which deals with 21 themes of projects related to development and/or rehabilitation projects and other relevant terms.² Since the 21 themes of projects do not make reference to any specific locations, it would be reasonable to argue that more than one project could be developed under each theme.³

The article begins by describing each project theme and establishing its connection to particular human rights. The human rights under discussion link to those stipulated by the Law of the Republic of Indonesia Number 39 Year 1999 concerning Human Rights (Law 39/1999).⁴ Here, the researcher focuses on scrutinising the positive aspects of the 21 project themes from a human rights perspective based on the Law 39/1999. In addition, undesirable human rights risks against the Law 39/1999 that might be linked to the projects are also addressed. This article exclusively concentrates on the examination of human rights within the context of the Law 39/1999. Nonetheless, it should be noted that the human rights articles in the Law 39/1999 will not be fully provided exhaustively by the researcher.

2. Human Rights and Infrastructure Projects

The first project theme is related to water resources.⁵ Reliable water availability is a requirement for the right to life⁶ and the achievement of basic needs.⁷ The second theme deals with the safeguarding of coastal areas⁸, which may be connected to the protection of humans against risks associated with strong waves that might bring harm.⁹ The third theme relates to boat mooring,¹⁰ which offers the opportunity to increase a person's quality of life through the facility to safely store a boat or work in a boat mooring area.¹¹ The fourth theme focuses on water drainage.¹² Drainage systems are closely linked with the establishment of sanitary living environments.¹³ The fifth and sixth project themes are related to the construction and maintenance of roadways and bridges,¹⁴ which are important for enhancing a person's quality of life because they facilitate mobility.¹⁵ The seventh theme refers to government offices.¹⁶ Proximity to a government office facilitates direct interaction with the government.¹⁷ The eighth theme focuses on dormitories for students in higher education,¹⁸ which facilitate the implementation of higher education activities.¹⁹ The ninth refers to schools and higher education institutions²⁰ and thereby supports the right to education.²¹ The tenth project theme relates to multipurpose buildings,²² which have the potential to improve a person's right to assembly.²³

The eleventh project theme is residential,²⁴ corresponding to a person's right to an adequate place of living.²⁵ The twelfth relates to public utilities,²⁶ with the potential to improve a person's quality of life due to the fulfilment of human utility needs.²⁷ The thirteenth theme concerns sports facilities²⁸ enabling a positive impact on quality of life through the pursuit of a healthier lifestyle.²⁹ The fourteenth relates to the development of auditoriums,³⁰ enhancing a person's right to gather.³¹ The fifteenth relates to social and religious facilities³² which might also enhance individuals' freedom of assembly.³³ This theme facilitates individuals to take part in religious worship in accordance with their particular religions.³⁴ The sixteenth project theme relates to the presence of a palace,³⁵ which is expected to facilitate communication between the government and the people.³⁶ The seventeenth focuses on cultural heritage,³⁷ with the possibility of boosting an individual's quality of life by contributing to the growth of the tourism sector and thereby improving local economies.³⁸ The eighteenth project theme relates to markets,³⁹ which can improve quality of life by

fostering the growth of local commerce.⁴⁰ The nineteenth theme concerns hospital facilities,⁴¹ aiming to establish a responsive environment capable of addressing diseases.⁴² The twentieth is related to the construction of residential apartments in order to improve areas⁴³ aligned with the right to an appropriate place of residence.⁴⁴ Finally, the twenty-first project theme concerns the building of emergency hospitals⁴⁵ that can promptly respond to outbreaks of diseases that have immediate and severe consequences.⁴⁶

An undesirable consequence that needs to be addressed during the development of projects under these themes is the possible violation of the right to welfare in the form of land seizure or confiscation.⁴⁷ However, the President Regulation 120/2022 contains particular requirements for ensuring that projects are untainted by any legal issues.⁴⁸ By adopting these requirements, the confiscation or seizure of individuals' land should be prevented—although the implementation of the President Regulation 120/2022 should also involve “careful” control.⁴⁹ In addition, it is critical to assess other possible risks such as the use of improper construction procedures that could have a harmful effect on public health.⁵⁰ Therefore, it is necessary for development projects to comply with environmental regulations to avoid violations of the Law 39/1999's human rights of local residents living in the local area.

Ideally, the President of Indonesia should be one of the main figures responsible for the compliance of projects under the President Regulation 120/2022 with the Law 39/1999.⁵¹ The President must be required to prevent any offenses while making sure that projects fully uphold human rights.⁵² Regular or on-request reporting by the Minister of Public Works and Housing to the President will act as a tool to ensure the respect of human rights in the development of relevant projects.⁵³

Footnotes

¹ Peraturan Presiden Republik Indonesia Nomor 120 Tahun 2022 tentang Penugasan Khusus dalam Rangka Percepatan Pelaksanaan Pembangunan Infrastruktur (stipulated 27 September 2022, promulgated 27 September 2022), p. 6.

² Ibid., Article 1 Paragraph (2).

³ See in general: *ibid.*, all articles.

⁴ See in general: Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 tentang Hak Asasi Manusia (authorised 23 September 1999, promulgated 23 September 1999).

⁵ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter a.

⁶ Law 39/1999 (n. 4), Article 9 Paragraph (1) and Article 53 Paragraph (1).

⁷ Ibid., Article 11.

⁸ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter b.

⁹ Law 39/1999 (n. 4), Article 9 Paragraph (1) and Article 53 Paragraph (1).

¹⁰ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter c.

¹¹ Law 39/1999 (n. 4), Article 9 Paragraph (1), Article 38 Paragraphs (1)-(2), and Article 49 Paragraph (1).

¹² President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter d.

¹³ Law 39/1999 (n. 4), Article 9 Paragraph (3).

¹⁴ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letters e-f.

¹⁵ Law 39/1999 (n. 4), Article 9 Paragraph (1) and Article 53 Paragraph (1).

¹⁶ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter g.

¹⁷ Law 39/1999 (n. 4), Article 44.

¹⁸ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter h.

¹⁹ Law 39/1999 (n. 4), Articles 12-13, Article 42, Article 48, Article 54, and Article 60 Paragraph (1) and Its Explanation and Paragraph (2).

²⁰ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter i.

²¹ Law 39/1999 (n. 4), Articles 12-13, Article 42, Article 48, Article 54, and Article 60 Paragraph (1) and Its Explanation and Paragraph (2).

²² President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter j.

²³ Law 39/1999 (n. 4), Article 24 Paragraph (1).

²⁴ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter k.

²⁵ Law 39/1999 (n. 4), Article 9 Paragraph (1), Article 40.

²⁶ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter l.

²⁷ Law 39/1999 (n. 4), Article 9 Paragraph (1) and Article 53 Paragraph (1).

²⁸ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter m.

²⁹ Law 39/1999 (n. 4), Article 9 Paragraph (1).

³⁰ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter n.

³¹ Law 39/1999 (n. 4), Article 24 Paragraph (1).

³² President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter o.

³³ Law 39/1999 (n. 4), Article 24 Paragraph (1).

³⁴ Ibid., Articles 22 and 55.

³⁵ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter p.

³⁶ Law 39/1999 (n. 4), Article 44.

³⁷ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter q.

³⁸ Law 39/1999 (n. 4), Article 9 Paragraph (1), Article 38 Paragraphs (1)-(2), Article 49 Paragraph (1), and Article 53 Paragraph (1).

³⁹ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter r.

⁴⁰ Law 39/1999 (n. 4), Article 9 Paragraph (1), Article 38 Paragraphs (1)-(2), Article 49 Paragraph (1), and Article 53 Paragraph (1).

⁴¹ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter s.

⁴² Law 39/1999 (n. 4), Article 9 Paragraph (3), Article 49 Paragraph (2) and Its Explanation, and Article 62.

⁴³ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter t.

⁴⁴ Law 39/1999 (n. 4), Article 40.

⁴⁵ President Regulation 120/2022 (n. 1), Article 1 Paragraph (2) Letter u.

⁴⁶ Law 39/1999 (n. 4), Article 9 Paragraph (3) and Article 62.

⁴⁷ See: *ibid.*, Article 36 Paragraphs (1)-(2).

⁴⁸ President Regulation 120/2022 (n. 1), Article 6 Paragraph 1 Letter b and Paragraph 2.

⁴⁹“Carefulness” is one of the principles for executing projects under the President Regulation 120/2022, see: *ibid.*, Article 4 Letter a.

⁵⁰ See: Law 39/1999 (n. 4), Article 9 Paragraph (3).

⁵¹ For the government’s obligations under the Law 39/1999, see *inter alia*: *ibid.*, Article 2 and its Explanation, Articles 8, and Articles 71-72. For the functions of the Indonesian National Commission on Human Rights (Komnas HAM), see: *ibid.*, Chapter VII.

⁵² See again: *ibid.*

⁵³ See: President Regulation 120/2022 (n. 1), Article 9.

