



Research Paper

## The Factors Affecting Social Function of Property Rights Land on Maminasata Route, Maros Regency

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**ABSTRACT:** This study uses primary data as the main source supported by secondary data as a complement. The population is 304 respondents with the purposive sampling technique; the number of samples is 40. The research specification used is descriptive of the type of empirical legal research. Based on the study results, the most dominant factor influencing the social function of land ownership rights in the Maminasata Line is the factor of religious belief and legal awareness, which have a close relationship. In contrast, other dominant factors that influence are income, education, and culture, all of which do not have a close relationship.

**KEYWORDS:** Affect, Social Function, Land Ownership

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### I. INTRODUCTION

Article 6 of the Basic Agrarian Law (UUPA) states that all land rights have a social function. This means that any land rights that exist in a person cannot be justified, that the land will be used or not used solely for his interests, especially if it causes harm to the community. Any land rights in Indonesia must be based on social functions under the Basic Agrarian Law. In the social function of land ownership rights, it can be carried out by relinquishing or surrendering land rights by considering the provisions of Article 1 paragraph (2) of Law Number 2 of 2012 that land acquisition is an activity to provide land by providing appropriate and fair compensation to the entitled party<sup>1</sup>. The above provisions indicate that land acquisition, if necessary for the public interest, must be compensated for since land in Indonesia has dual functions; it may be used for personal and public interests. If necessary for the public interest, the owner must relinquish his property rights by compensation.

The release of land ownership rights for the social function of land ownership rights has a long tail because of irregularities in the payment of compensation. We refer to Salahuddin's opinion as the Head of the Legal Information Section of the West Sulawesi District Attorney's Office revealed that these five new suspects disguised residents who were land cultivators. As well as residents with land certificates to get compensation, there is an inflated land compensation from IDR 186 billion to IDR 520 billion in 2015. The price of land at that location is relatively low at IDR 200,000/meters, with a total land acquisition of 60 hectares (<http://trialiefmedia.com>, accessed on January 20, 2016). The above case shows that the realization of the social function of land ownership rights is hampered by inflating funds in the form of release due to speculation by certain parties seeking more profits. Therefore, in the Mamminasata route, several factors influence it; to facilitate the realization of the social function of property rights on land, several variables influence it.

### II. LITERATURE REVIEW

#### a. Concept of Social Function

The social function of land rights means that the land must be used following the condition of the land and the nature of the rights. It is impossible to justify the use of detrimental land and contrary to the interests of

<sup>1</sup> Undang-Undang Nomor 2 Tahun 2012, Penerbit Kementerian Sekretariat Negara RI, Tahun 2012, hlm 6.

the community<sup>2</sup>. The social function of land rights should be fulfilled following the plans set by the government; namely, the public interest must take precedence over individual interests but still pay attention to the balance between individual interests and the public interest. If the public interest presses individual interests, compensation is carried out. Therefore, land ownership rights have a social function that obliges the holders of land rights to use the land following the circumstances, namely the condition of the land and the nature and purpose of granting the rights. If these obligations are ignored, it will result in the cancellation or cancellation of the rights in question. Regarding these social functions, land should not be used solely as an object of investment; land that is used as an object of speculation and as a business object is contrary to social functions because it will increase difficulties in carrying out development for the public interest<sup>3</sup>.

The social function of property rights on land is the existence of individual land rights. It is necessary to reduce individual freedom by incorporating elements of togetherness so that the land has a social function with the elements of individual rights and collective rights. The social function is to prioritize the public interest over individual interests. The concept of the social function of land ownership rights according to customary law by Holleman<sup>4</sup> states that the communal nature owned by the Indonesian people is that public interests always balance individual interests. They value the collective nature of society rather than individualism; therefore, the mentality of all judgments, decisions, and pressures in the laws used lies in the power of the authorities and the existing society.

Therefore, the way of thinking practiced by customary law communities is a distinctive aspect or style of a society that still lives very remotely or in its daily life is still very dependent on land or nature in general; indigenous peoples always prioritize the community as a whole, namely prioritize the public interest over individual interests. Suroyo Wignyodipuro<sup>5</sup> stated that the implementation of the social functions of land ownership rights in customary law is:

- a) If a villager has a house with a large yard, it is obligatory to allow his neighbors to walk through his yard.
- b) If members of the village community have rice fields or fields, they must allow other residents to graze their livestock in their fields or fields as long as the fields or fields have not been planted.
- c) Village officials have the authority to take land belonging to a citizen for the benefit of the village for a certain period.

From the views stated above, it can be concluded that in the life of traditional indigenous peoples in Indonesia, it is clear that land ownership rights, a person should not be controlled or owned only for himself to be used personally but also need to be used by others so that its use for the rights possessed by individuals can function socially. The concept of the social function of land rights in national agrarian law is based on customary law, which is part of the original mind of the Indonesian people, namely that Indonesian humans are individual beings, social beings, and creatures created by God Almighty (monopluralis), who strive for the realization, balance, and justice. Harmony and harmony between individual interests and common interests, as well as the community's interests. The inclusion of social functions in the national agrarian legislation affirms the nature of customary land law in Indonesia.

## **b. Some Concepts of Land Ownership**

### **1. Ownership of Land According to Liberal Teachings**

Ownership rights to land are the perfect rights for material rights. Because the holder of the property right to the land is given the freedom and acts completely free of his material rights following the rights he has, this implies that the holder of land ownership rights can control a land absolutely without being inviolable by other people, including even the rulers<sup>6</sup>. In the view of liberalism, all property rights to land owned by a person are absolute rights for him based on the view of individual freedom as the implementation of the concept of human rights (HAM). The absolute freedom of individuals over their land gave birth to a problem, namely, losing the orientation of the meaning of life for humans as individuals and as a society. John Locke<sup>7</sup> stated that property rights to land existed long before the state existed, were free from state regulation, and were natural.

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<sup>2</sup> Mustafa, *Hukum Agraria Dalam Perspektif*, Penerbit Remaja Karya Bandung, Tahun 2000, hlm .53

<sup>3</sup> Benhard Limbong, *Reformasi Agraria*, Penerbit Pustaka Margaretha, Tahun 2012, hlm 285

<sup>4</sup> Muhammad Rustan, *The Essence of Social Funtion of Property Right of The Land in Perspective Justice and Utality*, Quest Journals, Year 2014, hlm 15.

<sup>5</sup> Surojo Wignyodipuro, *Pengantar dan Azas-Azas Hukum Adat*, Penerbit Alumni Bandung, Tahun 2010, hlm 64.

<sup>6</sup> Soebekti, *Pokok-Pokok Hukum Perdata*, Penerbit PT Intermedia, Tahun 2006, hlm.69.

<sup>7</sup> Ridwan, *Hak Milik Perspektif Islam, Kapitalis dan Sosialis*, Penerbit STAIN Press Purwokerto Tahun 2011, hlm 89

Thus the concept of property rights to land in liberal teachings is to place individuals have full freedom of ownership rights to their land; therefore, the land is attached personally to the owner so that it applies absolutely. Therefore, the absolute right of land ownership gives birth to the assumption that violation of property rights to land is contrary to human rights (HAM).

## **2. Ownership of Land According to Islamic Teachings.**

In Islamic jurisprudence, it is interpreted that *al-milkiah* or *al-milku* is a relationship between humans and property recognized by the Shari'a and made special for them or humans. *al-milku* can be interpreted as ownership, and this is more general than the word *al-maal* (wealth); according to the school of Abu Hanifah *al-milku* is a private right to goods and services that prevent other people from being in it and allows the owner to use goods and services unless there are shari'a obstacles. A person has property rights in a way that is following the Shari'a then it becomes his property, and it is possible to use it<sup>8</sup>. In essence, property rights to land are only temporary to be owned by humans; absolute property rights to land are from Allah SWT in His word: "To Allah belongs the kingdom of the heavens and the earth and what is in them, and He has power over all things". (Qur'an Surah Al-Maidah verse 120)<sup>9</sup>.

Islamic teachings do not recognize absolute property rights, so scholars believe about land ownership rights, such as Syed Nawab Heider Naqvi, Abu A'la al-Maududi, Yusuf kamal, Kamil Musa, and Afzalur Rahman<sup>10</sup>, agree that the concept of land ownership is a middle way. Between the concept of individualism and the concept of socialism. Individual ownership rights to land are not absolute, and collective property rights are not absolute. The concept in Islam is a balance between individual property rights and collective property rights, based on the teachings of monotheism as a particle principle in Islamic teachings (*hablum minallah*) and horizontal principles (*hablum minannas*), that all the contents of this universe belong to Allah SWT absolutely and humanity can have it to take advantage of it for a while that is as long as the earth is still around. Therefore, land ownership rights are not absolute; when it is needed for the public interest, the owner must release it with compensation.

## **3. Ownership of Land according to the Basic Agrarian Law (UUPA).**

Land ownership rights regulated in Article 20 paragraph (1) of the UUPA are hereditary, strongest, and fullest rights that people on land can own by keeping in mind the provisions in Article 6<sup>11</sup>. Hereditary means that ownership rights to land can continue as long as the owner is still alive, and if the owner has died, the ownership rights can be continued by the heirs as long as the property rights are fulfilled. Strongest means that land ownership rights are stronger when compared to other land rights, do not have a certain time limit, are easily defended from interference from other parties, and are not easily erased. Fulfilled means that land ownership rights give the owner the broadest authority compared to other land rights, can be the parent with other land rights, and are not parental to other land rights, and the use of land is wider when compared to land rights, another land<sup>12</sup>.

As stipulated in Article 21 and Article 49 paragraph (1) of the UUPA, in principle, only Indonesian citizens can have ownership rights to land, alone or together with other people. In addition, certain legal entities that are established and those appointed by the government are engaged in social and religious<sup>13</sup>, fields as legal entities that can have ownership rights to land as long as the land is used directly in the social and religious fields. Therefore, foreigners and foreign legal entities are prohibited from owning land ownership rights in Indonesia.

### **III. RESULTS AND DISCUSSION**

#### **a. Description of Compensation for Property Rights on Land**

The research carried out is on the Maminasata route, Maros Regency which is ± 20 km long, as for the area traversed by 5 sub-districts, and 8 kelurahan/villages, which compensation has been realized, which is about ± 13.7 km in length, with details of the funds in the table below

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<sup>8</sup> Wahab Dzahilia, Fiqih Sunnah Islamiah, Penerbit darul Fikri Kairo Mesir, Tahun 2004, hlm 4547

<sup>9</sup> T M Hasbi Asidiq, Al-Qur'an dan Terjemahan, Penerbit Yayasan Penterjemah Tafsir Al-Qur'an, Tahun 1971 hlm 184

<sup>10</sup> Muhammad Rustan, *ibid*, Quest Journals, year 2014, page 16

<sup>11</sup> Boedi Harsono, Himpunan Peraturan Hukum Agraria, Penerbit Djambatan, Edisi 2008, hlm 16

<sup>12</sup> Muhammad Rustan, Community Legal Compliance with the Certification of Proprietary Rights Over Land in Takalar Regency, South Sulawesi, Indonesia, IOSR Journal of Humanities And Social Science, Voleume 21 Issue 10, year 2016, page 14 – 22.

<sup>13</sup> Rachmadi Usman, Hukum Kebendaan, Penerbit Sinar Grafika Jakarta, Tahun 2011, hlm 222

Table 1. Regions of Received Compensation of Property Rights To Land On The Maminasata Route

No.	Village	Field	Compensation Value
1	Boribellea	2	IDR 514,252,380,-
2	Pettuadae	15	IDR 2,372,857,325,-
3	Allepolea	42	IDR 14,168,596,948,-
4	Raya	23	IDR 5,677,156,956,-
5	Damai	45	IDR 9,352,295,269,-
6	Taroadada	62	IDR 15,532,456,754,-
7	Bontomatene	79	IDR 15,922,981,787,-
8	Kurusumange	36	IDR 8,270,900,977,-
<b>Total</b>		<b>304</b>	<b>IDR 71,811,487,496,-</b>

Source: Maros National Land Agency Office 2016

The planned land compensation is 548 plots for the first phase with the length of the road being released  $\pm$  13.7 km with a road width of 44 meters, 304 parcels of which have been paid for, 244 parcels of compensation that have not been paid, and the plan of the local government of Maros Regency. It will be implemented as soon as possible. The second phase will continue in Monconloe Village with a road width of 60 meters, the length of the road for which compensation will be paid for the second phase of 6.3 km, and the road is planned to be completed in 2019<sup>14</sup>.

#### b. Factors Affecting the Social Function of Property Rights on Land in the Maminasata Maros Line

##### 1). Awareness of Religious Beliefs.

Awareness of religious beliefs can function if there is an internal (inherent) conviction in the form of the sincerity possessed by a person. The sincerity will make it easier for someone to carry out something that has been programmed. Therefore, the emergence of an awareness of religious beliefs for people who receive compensation has an element of religious influence (Islam) which they believe so that their land can function socially, and this can be seen in the table below:

Table 2. The Influence of Religious Awareness In Social Functions Of Land Proprietary Rights

No	Description	Amount	Percent
1.	Very agree	13	32,50
2.	Agree	25	62,50
3.	Hesitate	1	2,50
4.	Disagree	1	2,50
5.	Very disagree	0	0
<b>Total</b>		<b>40</b>	<b>100</b>

Source : data processed in 2016

The table shows that the owners of their land rights perform a social function by receiving compensation. very agree with 13 respondents (32.50 %), agree with 25 respondents (62.50 %), hesitate to answer one respondent (2.50% ), less agree with one respondent (2.50%), and do not agree there is none.

It can be seen that the people in the Maminasata Line whose land was acquired for the public interest generally agree because of the awareness factor of their religious beliefs. In the religion he believes in (Islam), it is known that relinquishing property rights to land for the public interest is an act of charity so that the treatment of the community is considered a belief for them as a norm of Islamic religious law. Even in a hadith, the Prophet Muhammad SAW said that "when the son of Adam dies, his deeds are cut off except for three things, namely sadaqah jariyah, the knowledge that is taken advantage of, and praying for his parents" (H.R Muslim)<sup>15</sup>.

This hadith can be explained (analog) that for the norms of Islamic religious law, they believe that giving up land ownership rights for the public interest is a charity obtained for those who relinquish ownership rights to their land. Therefore, for Muslims who obey the norms of their religious law is not too difficult to give up their land for the public interest.

According to Badaruddin Amin in his fatwa that surrendering his land for the public interest, every rare person who passes by and animals that pass by, even though there is compensation for the loss, will get the charity in it.

<sup>14</sup> Wawancara Kepala Seksi Pengaturan Tanah Kantor BPN Maros, Hamka,S.H.,M.H. Selasa tanggal 26 Jan 2016

<sup>15</sup> S. Hendra, Shahih Bukhari Muslim, Penerbit Al Bayam Jabal Bandung, Tahun 2008, hlm 474.

Islam regulates the problem of the social function of property rights on land, which is closely related or correlated with Article 6 of the Basic Agrarian Law that all land rights have a social function<sup>16</sup>.

This means that any land rights in a person cannot be justified that the land will be used (or not used) solely for his interests; moreover, it causes harm to the community. The use of land must be adjusted to the circumstances or the nature of the rights. Thus the norms of Islamic law regarding the social function of property rights on land are in line with Article 6 of the Basic Agrarian Law as positive law; therefore, people who are Muslim have the principle of surrendering their land rights for the public interest even though the compensation is still valuable. Charity, if you are sincere in handing it over.

## 2). Legal Awareness

Legal awareness is essentially a belief in the values contained in humans about the laws that have existed, exist, and will exist (legal ideals). In addition, the fabric of values in humans reflects the consequences of a continuous and dynamic process of social interaction in social life. In a concrete situation, legal awareness will manifest in obedience or obedience to the applicable law. Some people obey the law because they are afraid of punishment, some obey the law because of the pleasures of living together, some follow the ideals of the law, and some because of interests. However, in the end, if the legal awareness is already owned, people only have two choices to accept or reject what is regulated by law.

Community legal awareness usually appears and thrives in society if the law is not contrary to other norms; therefore, it is a good law if it does not contradict the norms adopted by the community, such as religious norms, decency, decency, and social norms. It does not conflict with the legal principles that exist in a country. Therefore, legal awareness of the community is very much needed in developing the public interest to realize the social function of land ownership rights, which can be seen in the table below.

Table 3. The Influence of Community Legal Awareness in Regulating the Social Functions of Property Rights on Land

No	Description	Amount	Percent
1.	Very agree	13	32,50
2.	Agree	25	62,50
3.	Hesitate	1	2,50
4.	Disagree	1	2,50
5.	Very disagree	0	0
<b>Total</b>		<b>40</b>	<b>100</b>

Source: data processed in 2016

The table shows that the land rights owners expect legal awareness to regulate the development of the public interest so that their land rights can function socially. Those who received compensation strongly agreed with 13 respondents (32.50 %), agreed with 25 respondents (62.50 %), hesitated to answer one respondent (2.50), disagreed with one respondent (2.50%), and disagreed with nothing. It can be seen that people who receive compensation for the development of the public interest are more likely to agree with law enforcement on the implementation of the social function of property rights on the land. This means that the public knows how Article 6 of the UUPA can be enforced as positive law in Indonesia. This means that the ownership rights to the land are compensated with a range of around Rp. 180,000 to Rp. 210,000 are well received. Unless there is 1 (one) respondent who does not agree, the lack of agreement is because they want the compensation price to be higher than that; however, after a family approach by way of deliberation and consensus as a characteristic of the Indonesian people, they finally accepted it.

Suppose it is associated with Article 9 paragraph (2) of Law No. 2 of 2012. In that case, it stipulates that land acquisition for the development of public interests is carried out by providing appropriate and fair compensation. With this article, the application in the field is feasible, and the compensation is fair because the Tax Object Sales Value (NJOP) is Rp. 10,000/meters, and the price of land before the Maminasata Line was built was only around Rp. 50,000/meters based on a survey by Andi Darmawan<sup>17</sup>, as the head of the Maros Regency Government Section, so it is already above the average general market price. Therefore, the compensation given is essentially profit compensation, which means there is a shift in the interpretation of the social function of property rights on land, which previously compensated only for the Tax Object Sales Value (NJOP) and a reasonable price (general market price) as regulated in the Articles of Association. Presidential

<sup>16</sup> Muhammad Rustan, *Esensi Fungsi Sosial Hak Milik Atas Tanah dalam Perspektif Keadilan dan Kemanfaatan*, Tahun 2013, hlm 257.

<sup>17</sup> Hasil Wawancara Kepala Bagian Pemerintahan Kabupaten Maros, hari Selasa, tanggal 2 Februari 2016.

Regulation Number 65 of 2006. With the acceptance of compensation on the Maminasata Line by the community, it means that legal awareness affects the social function of property rights on land; therefore, what is contained in Article 6 of the UUPA can be enforced and obeyed by the community as positive law so that it can bind the community.

3). Income Level.

The level of community income is decisive in motivating the community in terms of the social function of property rights to the land because the level of income is a benchmark for determining the flexibility of the community to receive compensation for property rights on the land. To prove this, it can be seen that the average monthly income of the community for landowners who receive compensation can be classified into 4 (four) levels. The first level, IDR 2,000,000,- > IDR 3,000,000-the second level is more IDR 3,000,000,- > IDR 4,000,000-the third level is more IDR 4,000,000,- > IDR 5,000,000,- and the fourth level is more than IDR 5,000,000,- and above. For more details, see the table below.

Table 4. The Influence of Income Level on Function Social Proprietary Rights to Land (IDR 000,000,-)

No	Description	Monthly Income				Amount	Percent
		2 > 3	3 > 4	4 > 5	>5		
1.	Very agree	2	1	5	1	9	22,50
2.	Agree	7	8	15	0	30	75
3.	Hesitate	0	0	0	0	0	0
4.	Disagree	0	0	1	0	1	2,50
5.	Very disagree	0	0	0	0	0	0
<b>Total</b>		<b>9</b>	<b>10</b>	<b>28</b>	<b>1</b>	<b>40</b>	<b>100</b>

Source: data processed in 2016

The table shows that the average monthly income level is 9 respondents (22.50%) who strongly agree, 30 respondents (75%) agree, and 1 (one) respondent disagrees (2.50%) with a monthly income level of around IDR 4,000,000,- > IDR 5,000,000,- . This shows that the higher the income level, the higher the motivation to receive compensation from the government.

The existence of such a thing shows that the community has very high participation in the development of the public interest for the Maminasata Line if it is associated with Article 1 paragraph (2) of Law Number 2 of 2012, which stipulates that activities provide land by providing appropriate compensation and fair to those who deserve it. The article above is a reasonable price (general market price) for compensation (see page 10).

Therefore, in terms of corrective justice, it is appropriate, meaning how much is the general standard in order to recover the consequences of government action, because the government's action in paying above the average price is the result of consensus deliberation between the government and the community, as stipulated in the law. National land law. Although in terms of commutative justice, it is far from expectations because commutative justice is justice equal to how much the average standard price is worth (general price), then the compensation payment should also be.

4). Education.

A person's Education is related to a person's behavior; even a high level of Education can reflect the community, nation, and country. An educated person can influence society if supported by a level of faith, meaning that Education must be parallel to one's faith.

The level of Education certainly greatly determines a person's behavior so that they can build both physically and psychologically with it. Therefore, whether a person's Education affects the social function of land ownership rights, for details, it can be seen in the table below.

Table 5. The Effect of Education Level in Social Functions of Land Proprietary Rights

No	Description	Education Level				Amount	Percent
		Bachelor	SMA/SMK	SMP	SD		
1.	Very agree	1	5	1	0	7	17,50
2.	Agree	2	7	2	21	32	80
3.	Hesitate	0	0	0	0	0	0
4.	Disagree	0	0	1	0	1	2,50
5.	Very disagree	0	0	0	0	0	0
<b>Total</b>		<b>3</b>	<b>12</b>	<b>3</b>	<b>21</b>	<b>40</b>	<b>100</b>

Source: data processed in 2016

The table shows that those who strongly agree are 7 (seven) respondents (17.50 %), who agree with 32 (thirty-two) respondents (80 %), there is no doubt, 1 (one) respondent does not agree (2.50 %), and none disagrees. This shows that the influence of the community's education level affects the social function of property rights on the land. This means that the more educated a person is, the more real his level of awareness to carry out development for the public interest to realize the social function of property rights to land is more real.

This is in line with Temi Setia Budi's opinion that education functions to make social change in order to advance national development<sup>18</sup>. Article 1 paragraph (2) of Law No. 20 of 2003 concerning the National Education System stipulates that national education is rooted in religious and cultural values and responsive to change.

Education can advance development and be responsive to change; this means that education owned by the community can advance development in the public interest and can be responsive to changes. Article 6 of the UUPA stipulates that all land rights have a social function. The social function of property rights on land is proven by the existence of compensation that has been accepted by the community for all educated elements starting from the lower level (Elementary School) to the upper level (Bachelor's).

#### 5). Culture.

Culture is formed from various elements, including the religious system, customs, language, politics, and community habits. Culture cannot be separated from humans. Therefore Culture can determine whether or not a human civilization is advanced. Culture will bring a legal system because one of the sources of law in Indonesia is the Culture that exists in society.

Therefore, how the Culture of the community will affect the implementation of the land law system, especially Article 6 of the UUPA, so that land has a social function. This can be seen in the table below.

Table 6. The Cultural Influence on Implementation Social Functions of Land Proprietary Rights

No	Description	Amount	Percent
1.	Very agree	9	22,50
2.	Agree	6	15
3.	Hesitate	5	12,50
4.	Disagree	12	30
5.	Very disagree	8	20
<b>Total</b>		<b>40</b>	<b>100</b>

Data source: data processed in 2016

The table shows that there are always 9 (nine) respondents (22.50 %), who often said 6 (six) respondents (15 %), who stated doubtful, 5 (five) respondents (12.50 %), which sometimes said 12 (twelve) respondents (30% ), and those who stated never were 8 respondents (20 %). The respondents' answers indicate that culture affects the social function of property rights on the land. This means that the culture in the community still has an influence; although people's opinions have no influence, it is a small amount.

This culture is rooted in society from generation to generation, especially in land law in Indonesia, Terhaar Bzn<sup>19</sup> in the balloon theory states that the relationship between partnership rights and individual rights is inseparable; the greater the partnership rights, the smaller the individual rights, on the contrary, the smaller the partnership rights, the smaller the partnership rights. The greater the individual rights, the relationship between the two is inflated. The community still practices the theory; if the public interest is more urgent, their land rights will be released with proper and fair compensation. This is related to Article 1 paragraph (2) of Law no. 2 of 2012 stipulates that land acquisition is an activity to provide land by providing appropriate and fair compensation to the entitled party.

The provision of compensation is a principle of balance between individual interests and the public interest. The principle of this balance is the character of the Indonesian people, who are more concerned with the public interest than their interests. This is an answer for holders of land ownership rights that land does not have absolute ownership, but ownership must have a social function which is a philosophy of society that has been entrenched from generation to generation since the existence of the Indonesian nation on earth 8,000 years BC, even this culture was embraced and made into a culture. as customary law in Indonesia, which animates and underlies the enactment of the Basic Agrarian Law (UUPA) as national land law (positive law).

<sup>18</sup> Google, <http://scout 1993. Blogspot.com.2012.>, diakses 15 Januari 2016

<sup>19</sup> Terhaar Bzn, *Asasa-Asas dan Susunan Hukum Adat*, Penerbit Paradnya Pramita Jakarta, Tahun 2010 hlm 71

#### IV. CONCLUSION

Factors that influence the occurrence of the social function of land ownership rights, which are very dominant, are supported by elements of religious belief (Islam) and legal awareness of the community, while other dominant factors are income, education, and culture. Religious belief and legal awareness are dominant due to religious belief in giving up ownership rights to land for the public interest, a charity whose target is for the social function of land ownership rights, while community legal awareness is proven by relinquishing ownership rights to land for the public interest. Has a social function as regulated in Article 6 of the UUPA, both which religious belief (Islamic religion) and legal awareness have a close relationship because the ideals of Islamic religious law are the same as the positive law contained in the UUPA. Other factors, namely income, education, and culture, affect the social function of land ownership, which is not dominant, and the three are unrelated.

In order to realize the social function of land ownership rights in development for the public interest on the Maminasata Line, a sociological, juridical, religious, and cultural approach is needed. This approach is carried out by utilizing various figures in the community, such as religious leaders, traditional leaders, political leaders, youth leaders, and so on, and these community leaders are expected to provide suggestions to motivate the social function of land ownership rights to be realized.

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