

Implementation of Community Land Rights Acquisition for Public Interest and National Development within a Just Legal Framework in Indonesia

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Abstract

This study analyzes the implementation of land acquisition for public interest and national development within a justice-based legal framework in Indonesia. Using normative legal research with statutory and case approaches, this study finds that although legal regulations formally accommodate principles of justice, implementation gaps remain evident. Key issues include compensation mechanisms, limited public participation, and weak legal protection. The study concludes that a responsive and integrative legal framework is required to balance development interests and community rights while strengthening long-term legitimacy of land governance.

Keywords

Land Acquisition, Justice, Legal Protection, Development



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INTRODUCTION

National development is a fundamental pillar in achieving public welfare, in which land plays an irreplaceable strategic role. In the context of developing countries such as Indonesia, land is not only an economic asset as a factor of production but also possesses social, cultural, and even spiritual dimensions deeply embedded in the lives of the people (Devos, 2014). Therefore, policies on land acquisition for public purposes are always positioned within a complex framework, as they must balance national development interests with the protection of affected community rights. In practice, agrarian conflicts have become a recurring phenomenon, indicating that land resource governance still faces significant structural challenges (Hall, Hirsch, & Li, 2011).

Constitutionally, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia provides the legal basis for the state to control land, water, and natural resources for the greatest benefit of the people. However, the concept of

“state control” often leads to broad interpretations in its implementation, particularly when it intersects with community land rights. In many cases, the state tends to prioritize development interests, while the protection of community rights has not been optimally accommodated (World Bank, 2019). This condition reflects a tension between development objectives and the principle of social justice that should underpin public policy.

The phenomenon of agrarian conflicts in Indonesia reflects a gap between legal norms (law in books) and their implementation (law in action). Regulations such as Law Number 2 of 2012 concerning Land Acquisition for Public Interest Development normatively incorporate principles of justice, transparency, and public participation. However, in practice, these principles are often not effectively implemented. Cases such as the conflicts in Wadas Village and Rempang Eco City illustrate how non-participatory and non-transparent land acquisition processes can trigger public resistance and exacerbate social conflict (Li, 2014). This indicates that the existence of regulations alone is insufficient; effective implementation mechanisms are required to ensure substantive justice. From the perspective of law and development theory, agrarian conflicts are not solely caused by legal factors but are also influenced by economic, political, and institutional dimensions. Sikor and Lund (2009) argue that land control is closely linked to power relations, where the state and economic actors often hold dominant positions compared to local communities. This imbalance leads to inequality in decision-making processes, particularly in large-scale development projects. Furthermore, weak coordination among government institutions exacerbates policy implementation problems (OECD, 2022).

From an institutional economics perspective, the success of a policy largely depends on the quality of the institutions that implement it. North (1990) emphasizes that strong and consistent institutions create legal certainty and enhance public trust. In the context of land acquisition, weak institutions can lead to legal uncertainty, which ultimately undermines policy legitimacy. This is reinforced by recent studies indicating that low public trust in government can hinder the success of development projects, even when policies are normatively sound (Feld & Frey, 2007). Furthermore, from the perspective of legal compliance theory, policy legitimacy is strongly influenced by the public’s perception of justice. Tyler (2006) argues that compliance with the law is not solely determined by sanctions but also by the extent to which people perceive policies as fair. When individuals feel that they are treated unfairly, their level of compliance decreases, which in turn can hinder policy

effectiveness. In the context of land acquisition, perceptions of injustice often arise due to compensation mechanisms that are considered disproportionate and the lack of meaningful public participation in decision-making processes (Luttmer & Singhal, 2014).

Moreover, the concept of justice in modern law is no longer limited to formal justice but extends to substantive justice. Rawls (1971) emphasizes that justice should provide the greatest benefit to the least advantaged members of society. However, in land acquisition practices, local communities often become the most disadvantaged group as a result of development projects. This reflects a discrepancy between the principles of justice embedded in legal norms and their practical implementation. Recent research also indicates that inequality in the distribution of development benefits can increase the potential for social conflict and weaken social cohesion (Acemoglu & Robinson, 2019).

In the global context, land acquisition for development has become a widely discussed issue, particularly in relation to good governance and sustainable development. OECD (2023) highlights the importance of transparency, accountability, and public participation in natural resource governance. Meanwhile, the World Bank (2020) emphasizes that the success of development projects largely depends on the extent to which communities are involved in planning and implementation processes. A participatory approach not only enhances policy legitimacy but also reduces conflict and improves sustainability. In Indonesia, efforts to improve the land acquisition system have been undertaken through various policy reforms. However, implementation challenges remain a major issue. This indicates that land acquisition problems are not only normative but also structural and cultural in nature. Therefore, a more comprehensive approach is required, one that does not solely focus on legal aspects but also incorporates social and institutional dimensions.

Based on the above discussion, this study is important to examine in depth the legal construction of land acquisition in Indonesia and to evaluate the extent to which the principle of justice has been implemented in practice. This study also aims to identify the factors influencing the success of land acquisition policies and to formulate recommendations for creating a more just, transparent, and sustainable system. Thus, it is expected that this research will contribute both theoretically and practically to the development of agrarian law in Indonesia.

METHODS

This study employs a normative legal research method, which is an approach

that positions law as a system of norms analyzed through statutory regulations, legal doctrines, and legal principles. This method is relevant because the study aims to examine the conformity between legal norms governing land acquisition and their implementation in practice. In the development of modern legal methodology, normative research remains a primary approach as it is capable of testing the consistency, legal certainty, and legitimacy of law within a system (Hutchinson & Duncan, 2020).

The approaches used in this study include the statute approach and the case approach. The statute approach is carried out by analyzing the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law of 1960, and Law Number 2 of 2012 on Land Acquisition. This approach is important to understand the normative structure and legal principles governing land acquisition, particularly in relation to justice and legal certainty (McConville & Wing Hong Chui, 2017). Furthermore, the case approach is used to examine the implementation of law through case studies of agrarian conflicts such as Wadas and Rempang. This approach enables the researcher to identify the gap between legal norms and their practical application. In recent literature, the case approach is considered essential for understanding how law operates within dynamic social and political contexts (Banakar & Travers, 2021).

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include statutory regulations and official government policies, while secondary legal materials include international journals and reports from institutions such as the OECD, IMF, and the World Bank. The use of secondary sources is important to provide a comparative perspective and strengthen the theoretical analysis (OECD, 2022; World Bank, 2020). The analysis is conducted using a qualitative-descriptive method by describing and interpreting legal norms and comparing them with their practical implementation. This approach is combined with a theoretical framework, including the theory of justice (Rawls), deterrence theory (Becker, 1968), and compliance theory (Alm, 2019; Torgler, 2007). This multidisciplinary approach is essential because the effectiveness of law is determined not only by legal norms but also by societal behavior and perceptions of justice (Braithwaite, 2019).

FINDINGS AND DISCUSSION

Legal Construction of Land Acquisition in Indonesia

The legal framework governing land acquisition in Indonesia is comprehensively regulated under Law Number 2 of 2012 concerning Land Acquisition for Public Interest Development. This law emphasizes three main

principles: justice, transparency, and legal certainty. Normatively, these principles reflect the state's commitment to balancing development interests with the protection of community rights. The principle of justice requires that affected communities receive fair compensation, the principle of transparency ensures openness in the land acquisition process, and legal certainty guarantees that all procedures are carried out based on clear and consistent regulations. However, in practice, the implementation of these principles has not been fully effective. Various studies indicate that the effectiveness of law largely depends on the capacity of the institutions that implement it. The OECD (2022) highlights that institutional weaknesses, such as poor inter-agency coordination and limited administrative capacity, are key factors hindering policy implementation. In Indonesia, this is reflected in the frequent occurrence of agrarian conflicts, indicating that law has not yet functioned effectively as an instrument for conflict resolution.

From the perspective of the rule of law, the state has an obligation to ensure a balance between public interests and individual rights. Becker (1968) emphasizes that law must create fair incentives and disincentives to encourage compliance. However, in the practice of land acquisition in Indonesia, development-oriented approaches often dominate over the protection of community rights. This suggests that law tends to function as a tool for legitimizing development rather than as an instrument for safeguarding rights. Furthermore, the concepts of law in books and law in action are relevant in explaining this phenomenon. While land acquisition regulations are normatively well designed, their implementation is often distorted by political, economic, and social factors (Banakar & Travers, 2021). This indicates that the success of a policy depends not only on the quality of regulations but also on the surrounding social and institutional context.

Justice Issues in Land Acquisition

Justice-related issues in land acquisition remain a central concern in many studies. One of the primary problems is the discrepancy in compensation values. Many affected communities perceive that the compensation provided does not adequately reflect the economic, social, and cultural value of their land. The World Bank (2019) notes that failure to determine fair compensation is a major trigger of agrarian conflicts. In addition, low levels of public participation in the land acquisition process constitute a significant issue. Feld and Frey (2007) argue that policy legitimacy depends heavily on the level of public participation. When communities are excluded from decision-making processes, policies are often perceived as unjust and lack legitimacy. In Indonesia, public consultations are often

conducted as a formality, without providing meaningful opportunities for communities to express their views.

Another issue is the use of repressive approaches in resolving agrarian conflicts. In many cases, security forces are deployed to safeguard development projects, which often exacerbates tensions rather than resolving conflicts. This indicates that current approaches remain power-oriented rather than dialogue-oriented. From the perspective of horizontal justice, these conditions reflect unequal treatment between the state and the community. Torgler (2007) emphasizes that perceptions of injustice can reduce public compliance with the law, demonstrating that justice is not merely a normative value but also has practical implications for policy effectiveness.

Legal Protection and Justice Theory Analysis

The analysis of legal protection in land acquisition indicates that although regulatory mechanisms exist, their implementation remains suboptimal. According to Rawls' theory of justice, public policies should provide the greatest benefit to the least advantaged members of society. However, in practice, local communities often become the most disadvantaged group in development projects. From the perspective of deterrence theory, Becker (1968) argues that legal compliance is influenced by the probability of enforcement and the severity of sanctions. However, more recent studies suggest that trust and legitimacy play a more significant role in fostering compliance (Alm, 2019). This implies that sanction-based approaches alone are insufficient to ensure sustainable compliance.

The concept of tax morale, developed by Luttmer and Singhal (2014), is also relevant in this context. It highlights that compliance is influenced by perceptions of fairness and trust in government. When individuals feel that they are treated fairly, they are more likely to comply voluntarily. Thus, legal protection in land acquisition must go beyond formal mechanisms and aim to foster a sense of justice and trust among the public. This requires a more holistic approach that integrates legal, social, and economic dimensions.

Comparative Perspective and Policy Evolution

From a global perspective, land acquisition for development is a common issue faced by many countries. The OECD (2023) emphasizes the importance of transparency and data governance in enhancing public accountability. Similarly, the IMF (2022) highlights that administrative reform is essential for improving policy effectiveness, including in land acquisition. The World Bank (2019) underscores the importance of public participation in decision-making processes. Participatory

approaches not only enhance policy legitimacy but also reduce conflict and improve sustainability. Countries that successfully manage land acquisition typically have transparent, participatory systems supported by strong institutions.

In Indonesia, although various policy reforms have been implemented, challenges in execution remain significant. This indicates that land acquisition issues are not only normative but also structural. Therefore, a more comprehensive approach is required, focusing not only on regulatory frameworks but also on institutional strengthening and increased public participation.

Ideal Legal Framework for Justice-Based Land Acquisition

To establish a just land acquisition system, a legal framework must integrate legal, social, and institutional dimensions. First, transparency throughout the land acquisition process must be enhanced to ensure accountability and prevent abuse of power. Second, public participation should be strengthened through meaningful consultation mechanisms rather than merely procedural formalities. Third, compensation mechanisms should be based on principles of social justice, taking into account the economic, social, and cultural value of land. Fourth, strengthening supervisory institutions is essential to ensure that all processes comply with applicable legal principles.

The concept of responsive regulation, as proposed by Braithwaite (2007), offers a viable solution for improving policy effectiveness. This approach emphasizes flexibility in enforcement, where governments rely not only on sanctions but also on building trust-based relationships with the public. Therefore, land acquisition reform in Indonesia should aim to create a system that is not only administratively effective but also substantively just. This is crucial to ensure that national development can proceed sustainably without compromising community rights.

CONCLUSION

Based on the results of the analysis conducted, it can be concluded that land acquisition policy in Indonesia has, normatively, a relatively strong and comprehensive legal framework. This is reflected in the clear regulations contained in various laws and regulations, particularly Law Number 2 of 2012, which emphasizes the principles of justice, transparency, and legal certainty. Conceptually, this legal framework seeks to accommodate a balance between national development interests and the protection of community rights. However, in practice, there remain various challenges that indicate a gap between legal norms and realities in the field. The main issues in the implementation of land acquisition lie in aspects of justice, legal certainty, and community protection. From the perspective of justice,

compensation mechanisms often fail to fully reflect the economic, social, and cultural value of land, thereby creating perceptions of unfairness among affected communities. In terms of legal certainty, inconsistencies in policy implementation persist due to weak coordination among institutions and differing interpretations of applicable regulations. Meanwhile, from the perspective of community protection, vulnerable groups are often in a disadvantaged position in the land acquisition process, both in terms of access to information and participation in decision-making.

Furthermore, a development approach that tends to be top-down and insufficiently participatory exacerbates the situation, as communities are not provided with adequate space to actively engage in the land acquisition process. This results in low policy legitimacy and an increased potential for agrarian conflicts. In this context, it can be understood that the success of land acquisition policies is not determined solely by the quality of regulations, but also by how these policies are implemented in a fair, transparent, and participatory manner. Therefore, strengthening land acquisition policies in the future must focus on creating a balance between development interests and social justice. This can be achieved through enhancing transparency, strengthening community participation, improving fair compensation mechanisms, and reinforcing supervisory institutions to ensure accountability. In this way, land acquisition policy is expected not only to serve as an instrument of development but also to guarantee the protection of community rights and promote sustainable justice.

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