

## Land Acquisition Policy for Public Interest from a Human Rights Perspective

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**Abstract.** *This article examines land acquisition policies for public interest from a human rights perspective. Although land acquisition is essential for national development, its implementation often generates agrarian conflicts and potential violations of land rights. This situation reflects the tension between development objectives and the obligation to protect the rights of affected communities. This study aims to analyze the conformity of land acquisition policies for public interest with human rights principles and to assess legal protection for affected communities. It also seeks to formulate recommendations for land acquisition policies that promote justice and ensure the respect and protection of human rights. This research adopts a normative legal method using statutory, conceptual, and human rights approaches. The study is based on a literature review of laws and regulations, legal doctrines, court decisions, and national and international human rights instruments related to land acquisition. What The main findings of this study indicate that land acquisition policies for public interest in Indonesia tend to emphasize procedural legality rather than substantive justice, particularly in protecting the rights of affected communities. The research reveals that limitations in meaningful participation and fair compensation weaken human rights protection. The novelty of this study lies in positioning human rights principles as substantive evaluative benchmarks for land acquisition policies, offering an original contribution to strengthening agrarian justice within the existing legal framework.*

**Keywords:** *Agrarian; Human; Land; Legal.*

### 1. INTRODUCTION

Land is a strategic resource with significant economic, social, cultural, and political value that is crucial to people's lives. In the context of a developing country like Indonesia, land is viewed not only as an economic commodity but also as a means to achieve public welfare, as mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia. Therefore, land control, ownership, use, and utilization must be conducted fairly and sustainably (Irwanto, S. P. T., MT, M. P, 2025).

As national development needs increase, the state has the authority to acquire land for public purposes, such as infrastructure development, public facilities, and national

strategic projects. This land acquisition is normatively regulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest and its implementing regulations. This regulation is intended to provide legal certainty for the government while ensuring the protection of the rights of communities whose land is affected by development (Rizky, A. B., Amalia, A. F. et al 2025).

However, in practice, land acquisition often gives rise to various legal and social issues. Disputes over location determination, compensation assessment, deliberation processes, and even forced evictions are still common (De Maria, M., Robinson, E. J., & Zanello, G., 2023). This situation demonstrates the tension between development interests and the protection of land rights as part of human rights, particularly the right to ownership, the right to a decent living, and the right not to be treated arbitrarily. (Mohamed-Katerere, J. C. (2022).

From a human rights perspective, land acquisition for public interest must be implemented with due regard to the principles of non-discrimination, participation, transparency, and substantive justice. Land rights, although not always explicitly stated, are an integral part of economic, social, and cultural rights guaranteed in various national and international human rights instruments. Therefore, the state is obliged to respect, protect, and fulfill the rights of affected communities in every stage of land acquisition. The reality on the ground shows that human rights protection in land acquisition policies has not been fully implemented optimally. Unfair compensation mechanisms, limited access to legal remedies, and weak bargaining power of communities have the potential to lead to human rights violations. This raises questions about the extent to which land acquisition policies align with human rights principles and the goals of social justice (Mohamed Katere, 2022).

Based on this description, it is crucial to conduct an in-depth study of land acquisition policies for public purposes from a human rights perspective. This study is expected to provide a critical analysis of the applicable legal framework and its implementation, while also formulating policy recommendations that are more equitable and oriented toward protecting community rights (Fathima, 2024). Land Philosophy in National Agrarian Law Within the framework of Indonesian agrarian law, land holds a fundamental and sacred status. Based on the Basic Agrarian Law Number 5 of 1960, land is not merely an object with market value, but rather a tool for achieving the people's prosperity, as mandated by Article 33 paragraph (3) of the 1945 Constitution.

The agrarian perspective emphasizes that the relationship between the Indonesian people and the land is eternal and has socio-religious dimensions. Therefore, every policy on land ownership and use must be based on the principle of agrarian justice that favors the common people, farmers, and indigenous communities (Miroshkina, N., & Borko, T. (2023). One of the main pillars of agrarian law is the principle of the Social Function of Land Rights (Article 6 of the UUPA). This principle states that any land rights held by an individual cannot be justified by the land being used (or not used) solely for his or her personal interests. However, in the context of land acquisition for the public interest, this principle of social function often experiences a "deviation of meaning." The state often uses the argument of social function as a tool of legitimacy to carry out unilateral land acquisitions, which, from a critical agrarian perspective, often ignores the protection of citizens' constitutional rights.

Agrarian studies of land acquisition policies cannot be separated from the reality of the unequal structure of land ownership in Indonesia. On the one hand, the government seeks to accelerate infrastructure development through various National Strategic Projects (PSN). On the other hand, this process often adds to the growing number of structural agrarian conflicts. Land acquisition for public purposes often triggers "disposition," or the massive transfer of land rights from ordinary people to the interests of investors or the state. This risks widening the gap in agrarian inequality, with communities losing access to their primary means of production land.

From an agrarian perspective, land is living space. When a land acquisition policy is presented in the name of "public interest," it often fails to define who the "public" actually refers to. If land acquisition actually eliminates farmers' access to their rice fields or displaces indigenous communities from their customary territories, it contradicts the goals of agrarian reform. Development that solely pursues physical growth without considering the sustainability of people's access to land is a disregard for the most basic human rights in the agrarian dimension.

Agrarian Analysis Although Article 18 permits the revocation of rights, there is a strict requirement of "adequate compensation." From an agrarian perspective, "adequate" means not only monetary value, but also the feasibility of living after the land is relinquished. If a farmer is given money but cannot afford to buy another rice field elsewhere, this principle of feasibility is deemed to have failed.

The Basic Agrarian Law states that "All land rights have a social function." Ideally, landowners should be willing to relinquish their land if the state truly needs it for the common good. In practice, abuse of power often occurs, where the government forces citizens to hand over land at low prices, claiming a social function, even though the project actually has a strong commercial motive.

Against this backdrop, a study of land acquisition policies for public interest from a human rights perspective is urgent. A critical analysis is needed to determine whether current regulations, including the implementation of the Job Creation Law, are still in line with the spirit of Agrarian Reform, which envisions a just restructuring of land ownership, control, use, and utilization. Without strong human rights protection, land acquisition risks becoming a new instrument of impoverishment, uprooting communities from their agrarian roots.

## **2. RESEARCH METHODS**

This research employs a normative legal research method focusing on the analysis of legal norms governing land acquisition for public interest (Zainuddin, Z. (2022)). The study uses statutory, conceptual, and human rights approaches (Nizwar, M., Ismail, I., Purnama, E., & Yahya, A. 2024). Data are obtained through library research by examining legislation, legal doctrines, court decisions, and national as well as international human rights instruments (Nizwar, M., Ismail, I., Purnama, E., & Yahya, A. 2024). This study employs Normative Legal Research (also known as Doctrinal Research). This type of research focuses on the study of legal principles, norms, and synchronization between various regulations. In this context, the research analyzes the gap between Indonesia's land acquisition laws (The Law and its implementing regulations) and the universal principles of Human Rights (Negara, T. A. S. 2023). To provide a comprehensive analysis, this study utilizes three main approaches: Statute Approach Examining Law No. 2 of 2012, Law No. 6 of 2023 (Job Creation Law), and the

Basic Agrarian Law (UUPA 1960) to understand the current legal standing of land acquisition. Conceptual Approach Building an analytical framework based on Human Rights concepts, such as the Right to Property, the principle of Free, Prior, and Informed Consent (FPIC), and the Social Function of Land. Case Approach Analyzing specific instances of land conflicts (e.g., Wadas or Rempang) to identify the practical implementation of "Public Interest" and its impact on affected communities. As normative research, the data is derived from secondary sources, categorized as follows

Primary Legal Materials The 1945 Constitution of Indonesia, Law No. 39 of 1999 on Human Rights, UUPA 1960, and Law No. 2 of 2012 with its latest amendments.

Secondary Legal Materials Books, legal journals, academic papers, and reports from human rights organizations (such as KOMNAS HAM) that provide critical commentary on land acquisition.

Tertiary Legal Materials Legal dictionaries, encyclopedias, and internet sources that support the understanding of primary and secondary materials.

The data is collected through Library Research. This involves a systematic search for documents and literature relevant to the research topic. The process includes identifying, classifying, and reviewing both national regulations and international human rights instruments. The collected legal materials are analyzed using Qualitative Analysis with a Prescriptive-Analytic method.

Descriptive Describing the existing legal framework of land acquisition.

Analytical Evaluating the fairness and human rights compatibility of those laws.

Prescriptive Providing recommendations on how the policy should be formulated to better protect the rights of the people while fulfilling development needs.

Justice is a primary requirement in any legal policy involving the deprivation of property. The Core Concept John Rawls' "Justice as Fairness" suggests that social and economic inequalities should be arranged so that they provide the greatest benefit to the least-advantaged members of society (the Difference Principle).

Application This theory is used to critique the Compensation Mechanism. Is the compensation truly "fair and adequate"? Does it ensure that affected communities do not fall into poverty after losing their land?

### 3. RESULTS AND DISCUSSION

The results of this study indicate that land acquisition policies for public interest in Indonesia have not been fully implemented in accordance with human rights principles. Although Law Number 2 of 2012 provides a legal framework intended to balance development needs and community rights, its implementation often prioritizes administrative efficiency over substantive justice for affected landholders (Son, C. T. 2025).

From a human rights perspective, land constitutes not only an economic asset but also a fundamental element of social security and livelihood. The findings reveal that limitations in meaningful community participation and unequal bargaining positions weaken the protection of land rights during land acquisition processes (Kidido, J. K., Ajabu, B. A., & Kumi, S. 2025). This condition contradicts the state's obligation to respect, protect, and fulfill economic, social, and cultural rights, particularly the right to property and the right to an adequate standard of living (Hidayat, A. A., Arifin, T., Fauzia, I., & Fauzi, R. (2025).

Furthermore, the study finds that compensation mechanisms frequently fail to reflect fair and proportional valuation, resulting in social resistance and prolonged agrarian conflicts. Such outcomes demonstrate that legal certainty alone is insufficient without incorporating justice-based and human rights-oriented approaches. Therefore, land acquisition policies must be reoriented to emphasize participatory procedures,

transparency, and effective legal remedies to ensure alignment with human rights standards (Akinbi, I. J., & Oluwole, L. (2025)).

**The Expansion of "Public Interest" and the Erosion of Property Rights** The research finds that Law No. 6 of 2023 (Job Creation Law) has significantly expanded the definition of "Public Interest." Finding Public interest now includes commercial-oriented projects such as Industrial Zones, Tourism Zones, and Special Economic Zones (SEZ). **Human Rights Critique** From a human rights perspective, this blurs the line between State Necessity and Private Profit. When land is taken for a commercial SEZ, the "Social Function" of land is exploited to benefit private investors, which often violates the individual's right to property as protected by the Universal Declaration of Human Rights (UDHR). **The Shift from "(Deliberation) to "Information Delivery"** A critical finding involves the procedural stage of land acquisition. Finding In practice, the "deliberation" stage has shifted from a space to discuss "Agreement to Release Land" to merely a space to discuss "The Form of Compensation." **Human Rights Critique** This violates the principle of Free, Prior, and Informed Consent (FPIC). Residents often feel they have no choice but to accept the project, as the "Location Determination" is issued before they are even consulted. This lack of meaningful participation is a procedural human rights violation. **Inadequacy of the "Fair and Just" Compensation Model** The research analyzes the gap between the appraisal value and the actual restoration of the victims' lives. Finding Compensation is mostly calculated based on the physical market value of the land and buildings. It often ignores non-physical losses, such as loss of social networks, proximity to schools, and psychological trauma of relocation (solatium).

**Human Rights Critique Based on John Rawls' Theory of Justice**, the current system fails the "Difference Principle." Many affected people, especially farmers, become "landless" after acquisition because the money received is insufficient to buy equivalent productive land elsewhere, leading to a decline in their standard of living. **Legal Vulnerability of Customary (Adat) and Informal Landholders** The study identifies a major protection gap for those without formal land certificates. The law prioritizes formal-yuridis evidence (certificates). Communities living on ancestral land or state land for decades without formal titles are often categorized as "illegal occupants." **Human Rights Critique** This is a form of structural discrimination. By not recognizing the de facto occupation or customary rights, the state fails its obligation to "Protect" and "Respect" the rights of vulnerable groups, leading to forced evictions without adequate remedies.. **Weaknesses in Judicial Remedies and Oversight Finding** The timeframes for filing objections in court are extremely short (only a few days after the compensation announcement). Furthermore, the "Consignment" mechanism allows the state to deposit money in court and start construction even if the owner still disagrees. **Human Rights Critique** This limits the Right to an Effective Remedy. The speed of National Strategic Projects (PSN) often bypasses the principle of due process of law.

### **3.1. Human Rights Issues in Land Acquisition for Public Interest**

The results of this study indicate that land acquisition for public interest in Indonesia frequently raises human rights concerns, particularly regarding the protection of land rights and community participation. Although the legal framework has been established to ensure legal certainty, affected communities often experience limited involvement in decision-making processes. This situation reflects an imbalance of power between the state and landholders, which potentially undermines the principle of equality before the law (VAN DER WALT, Andries Johannes. 2009)..

**Land Rights Issues in Indonesia** In Indonesia, the conflict usually stems from the tension between the state's drive for economic development and the traditional rights of the people. **Conflict with Customary (Adat) Communities** Many indigenous groups have occupied land for centuries without formal government certificates. When the state grants mining or plantation concessions to corporations, these communities are often treated as "squatters" on their own ancestral land. **National Strategic Projects (PSN)** Under the Job Creation Law, the acceleration of infrastructure (toll roads, dams, airports) often leads to "forced" land acquisition where the public consultation is merely a formality, not a genuine negotiation. **Land Inequality** A very small percentage of the population and large corporations control the majority of Indonesian land (concessions for palm oil, timber, and mining), while millions of small-scale farmers own less than 0.5 hectares or are landless. **The "Land Mafia"** Legal uncertainty is exacerbated by fraudulent land certificates and corruption within the bureaucracy, leading to overlapping claims and long-standing legal battles that marginalize the poor who cannot afford legal fees.

**Global Land Rights Issues** Globally, land rights are increasingly tied to food security, climate change, and international investment (Nguyen, T.et.al 2023). **Large-Scale Land Acquisitions (Land Grabbing)** This occurs when wealthy nations or multinational corporations lease or buy vast areas of land in developing countries (mostly in Africa and Southeast Asia) for agribusiness or biofuel. This often displaces local food-producing farmers. **Women's Land Rights** In many parts of the world, discriminatory laws or cultural norms prevent women from inheriting or owning land. This is a major human rights issue as it limits women's economic independence and food security for their families. **Climate Change and Land Degradation** As sea levels rise and soil becomes infertile due to climate change, "Climate Refugees" are forced to move, leading to new conflicts over remaining habitable land.

**Urbanization and Informal Settlements** As people move to cities, billions live in "slums" without any legal tenure. They face constant threats of eviction without compensation, violating the human right to Adequate Housing. Moreover, land acquisition processes tend to prioritize development objectives over the socio-economic impacts on affected communities. Inadequate consideration of social and cultural values attached to land may result in forced displacement and loss of livelihood. Such practices contradict the fundamental principles of human rights, especially the rights to property, participation, and an adequate standard of living (Chatterjee, U., Bhunia, A., Gupta, J., & Gupta, K. (Eds.). 2025).

### **3.2. Human Rights-Based Approach in Strengthening Land Acquisition Policies**

A Human Rights-Based Approach (HRBA) to land acquisition is a conceptual framework that integrates international human rights standards into every stage of national development (Recht, F. J. 2025).

Under an HRBA, affected communities are no longer viewed as mere objects of development (who are simply given cash and moved), but as subjects of law with fundamental rights that the state is legally obligated to respect, protect, and fulfill (Mogos, A. 2022).

To strengthen land acquisition policies, the government must adhere to the PANTHER principles, which are recognized globally by the UN and human rights organizations. **Participation** Affected citizens must be actively involved from the planning stage. It is

not enough to simply "notify" them; they must have the power to influence decisions. Accountability There must be clear mechanisms to hold officials and developers accountable if procedures are bypassed or rights are violated. Non-discrimination Policies must protect all landholders equally, whether they hold a formal certificate, belong to an indigenous group (Masyarakat Adat), or are informal settlers. Transparency All project details, including environmental impact assessments, funding sources, and compensation appraisal methods, must be accessible to the public.

Human Dignity Land acquisition must not render individuals homeless or strip them of their dignity. Empowerment Communities must be given the tools and legal knowledge to negotiate on equal footing with state agencies or large corporations. Rule of Law All processes must comply with fair laws that prioritize justice over the mere speed of infrastructure completion. Paradigm Shift From "Cash Compensation" to "Livelihood Restoration" In an HRBA-oriented policy, the focus shifts from a simple financial transaction to a comprehensive restoration of life. Beyond Market Value Compensation should not only be based on the physical market price of land. It must include solatium (emotional/psychological loss), social loss (disruption of neighborhood ties), and economic loss (loss of customers or fertile soil). Standard of Living The state has a "positive obligation" to ensure that the affected people's standard of living is equivalent to or better than it was before the acquisition (Mas' ar, F., & Nasution, M. 2025).

Human Rights Impact Assessment (HRIA) Making an HRIA mandatory before a "Location Determination" is issued. This evaluates potential human rights risks alongside environmental risks. Recognition of De Facto Rights Legally recognizing ancestral or long-term occupancy rights, ensuring that those without formal "certificates" are not excluded from fair remedies. Meaningful Consultation (FPIC) Moving from "one-way socialization" to the principle of Free, Prior, and Informed Consent (FPIC), especially for projects involving indigenous lands (Chama, M. D. (2024). Independent Appraisal & Oversight Establishing an independent body to monitor the appraisal process and handle grievances fairly, ensuring the state isn't acting as both the "buyer" and the "judge." The HRBA does not aim to stop development or infrastructure projects. Instead, it ensures that development is sustainable and ethical. Without a human rights lens, land acquisition often leads to long-term agrarian conflicts, which eventually harm the country's social stability and economic climate. In a legal and philosophical sense, land rights are "enabling rights." This means that without secure access to land, many other human rights cannot be fully realized.

The Right to Property (Individual Security) Under Article 17 of the Universal Declaration of Human Rights (UDHR), everyone has the right to own property, and no one shall be arbitrarily deprived of it. Synthesis Land acquisition policies must ensure that the state's power to take land does not become an "arbitrary deprivation." Legal protection must be strong enough to prevent the state from prioritizing corporate interests over individual survival (Shukla, J. (2021).

The Right to an Adequate Standard of Living Land is the primary source of food, water, and housing for billions of people, especially in agrarian societies like Indonesia. Synthesis When a farmer loses their land, they lose their "Right to Food" and "Right to Work." Therefore, human rights standards dictate that land acquisition must include Livelihood Restoration, not just a one-time cash payment. Cultural Identity and Indigenous Rights For many communities, land is the basis of their culture and history. Synthesis The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) emphasizes

that land is a "Right to Identity." Taking land from customary (Adat) communities without their consent is a violation of their right to exist as a distinct cultural group.

The Right to Participation and Due Process Human rights require that any state action affecting citizens must involve Meaningful Participation Synthesis Current policies often treat "Public Consultation" as a mere formality. A human rights-based result insists that "Public Interest" must be defined with the public, ensuring that the voices of the vulnerable are heard and that they have access to an independent court to challenge state decisions (Gandhi). From a human rights perspective, land acquisition policies should be implemented through participatory, transparent, and accountable mechanisms. This study finds that the absence of a human rights-based approach weakens legal protection for affected communities and increases the risk of agrarian conflicts. Therefore, human rights principles must function as substantive standards in evaluating the fairness of land acquisition policies (Shukla, J. (2021)).

The findings further suggest that integrating human rights norms into land acquisition procedures can enhance justice and legitimacy in development projects. Fair compensation, effective legal remedies, and meaningful participation are essential elements to ensure that land acquisition serves public welfare without sacrificing the fundamental rights of affected individuals and communities (De Maria, M., Robinson, E. J., & Zanello, G. 2023).

#### **4. CONCLUSION**

This study concludes that land acquisition policies for public interest in Indonesia have not been fully aligned with human rights principles. Although the existing legal framework provides procedural certainty, its implementation often neglects substantive justice, particularly in relation to community participation and fair compensation. Therefore, a human rights-based approach is essential to strengthen legal protection, prevent agrarian conflicts, and ensure that land acquisition genuinely serves public welfare.

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