

Inhibiting Factors Faced by the Government in Realizing Legal Protection in Land Acquisition for Public Interest

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Abstract. *Land acquisition for road construction in Indonesia is a crucial aspect in supporting the acceleration of infrastructure development and national economic growth. However, in practice, the land acquisition process often faces various complex problems, both from a legal, social, economic, and institutional perspective. This study aims to identify and analyze various problems that arise in land acquisition for road construction in Indonesia, as well as evaluate the effectiveness of applicable regulations. The method used is a normative juridical approach with an analysis of laws and regulations, specifically Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as well as literature studies from various scientific sources. The results of the study indicate that the main inhibiting factors faced by the government in land acquisition include disagreements in determining compensation, agrarian conflicts between the government and the community, weak coordination between agencies, and a lack of transparency in the land acquisition process. In addition, social impacts such as population relocation and loss of livelihoods are also important issues that require attention. Therefore, efforts are needed to improve policy implementation, increase public participation, and strengthen aspects of justice and legal certainty to minimize conflict and accelerate road infrastructure development in Indonesia.*

Keywords: *Agrarian; Compensation; Conflict; Construction; Public.*

1. Introduction

Road infrastructure development in Indonesia is a top government priority to boost economic growth, inter-regional connectivity, and equitable development. Roads, as a means of transportation, play a vital role in supporting the distribution

of goods and services and public mobility. Therefore, road construction, including toll roads and national roads, continues to be accelerated year after year.¹

However, in practice, road construction cannot be separated from the issue of land acquisition. Land acquisition is the process of providing land by providing fair and adequate compensation to entitled parties. In practice, this process often gives rise to various problems, both legal, social, and economic.²

One of the main issues is the limited availability of state land for development, forcing the government to acquire land from the community. This situation creates potential conflicts between development interests and community land ownership rights.³

Furthermore, land acquisition often triggers agrarian conflicts due to differing perceptions regarding compensation values, community dissatisfaction, and a lack of transparency in the assessment process. Determining compensation values that are perceived as unfair is a major factor hampering the acceleration of infrastructure development.

Another problem is the gap between regulations and implementation on the ground. Although the government has issued various regulations, such as Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, their implementation often encounters obstacles, such as lengthy land acquisition processes and a lack of coordination between agencies.

On the other hand, land acquisition for road construction often has social impacts, such as population relocation, loss of livelihoods, and conflict between communities and the government. In some cases, land acquisition disputes even end up in court proceedings. Land acquisition for the public interest is a crucial aspect in supporting national development, particularly in the provision of infrastructure such as roads, dams, ports, and other public facilities.

In the context of a state governed by the rule of law, land acquisition activities are not solely development-oriented but must also ensure legal protection for the community as land rights holders. This aligns with the provisions of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest,

¹Ministry of Public Works and Public Housing, Ministry of Public Works and Public Housing Strategic Plan 2020–2024, Jakarta: Ministry of Public Works and Public Housing, 2020

²Law Number 2 of 2012 concerning Land Acquisition for Public Interest

³Boedi Harsono, "Indonesian Agrarian Law." Jakarta: Djambatan, 2008.

which emphasizes the importance of balancing the public interest with individual rights.⁴

However, in practice, land acquisition often faces various obstacles that hinder the realization of this legal protection. Although existing regulations are quite comprehensive, there are still discrepancies between legal norms and implementation on the ground. One of the main obstacles is complicated bureaucracy and weak coordination between the agencies involved, which slows down the land acquisition process and creates legal uncertainty.

Furthermore, land disputes are a significant inhibiting factor. Conflicts between the government and communities often arise due to differing ownership claims and unclear legal status of land. This situation indicates that the land administration system is still not fully organized, potentially leading to prolonged agrarian conflict.⁵

Another equally important factor is the issue of compensation, which is often perceived as unfair by the public. Determining compensation amounts that do not align with landowner expectations can lead to rejection and prolong the land acquisition process. Yet, the principle of fairness in the provision of compensation is a crucial element in ensuring legal protection for affected parties.⁶

Furthermore, the lack of public participation in the land acquisition process also hinders the realization of legal protection. The lack of public outreach and consultation leads to a lack of understanding of the rights and obligations of the community, fueling distrust of the government. In some cases, this has even escalated into social conflicts involving human rights issues.

Thus, it can be concluded that obstacles to achieving legal protection in land acquisition for the public interest stem not only from regulatory aspects, but also from implementation, administration, and social factors. Therefore, comprehensive improvement efforts are needed, including streamlining bureaucracy, increasing transparency, firm law enforcement, and increasing

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⁵M. Hosen, Permono, Rosmaidah, "Principles of agreement law on land acquisition for development in the public interest", PROGRESIF: Journal of Law Volume XIII/No.2/December 2019, p. 93, <https://journal.ubb.ac.id/index.php/progresif/article/view/1437/1053>

⁶Tegar Gallantry, Yusuf Hidayat, Fokky Fuad Wasitaatmadja, "Implementation of the Principle of Justice in Land Acquisition for Public Interest According to National Land Law and Islamic Law" Master of Law Journal, Vol. VI No. 1 January 2021, p. 76, file:///C:/Users/me/Downloads/fokky,+Journal+manager,+Jurnal+5.pdf

public participation to ensure the objectives of land acquisition can be achieved fairly and sustainably.⁷

Thus, it can be concluded that land acquisition for road construction in Indonesia is a complex issue involving various aspects, ranging from legal, social, economic, and political. This complexity makes land acquisition one of the main obstacles to accelerating road infrastructure development in Indonesia.⁸

2. Research Methods

Research is essentially a systematic effort to discover and prove truth through the application of scientific methods. The scientific method itself is understood as a set of structured, logical, and accountable procedures used to obtain valid knowledge.⁹ The knowledge gained through this process then develops into science, serving as a foundation for understanding, explaining, and providing solutions to various problems faced by humanity. Zainuddin Ali explains that research serves as a tool for understanding a problem that is the object of study, whether in the social sciences, law, or other disciplines. Therefore, research is not merely an activity of obtaining data but a scientific process to discover the truth and make a real contribution to the development of science.¹⁰ Legal research can be viewed from four perspectives: its nature, form, purpose, and application. This perspective emphasizes that legal research is not merely a technical activity of collecting and managing data but also a scientific process with methodological, epistemological, and practical dimensions. In terms of its nature, legal research can be normative or empirical, and in terms of its form, it can be pure or applied research. In terms of its purpose, it can be aimed at developing knowledge or solving practical problems; while in terms of its application, legal research is directed at making a real contribution to the formation, application, and enforcement of law. Thus, through this perspective, legal research occupies a strategic position not only at the academic level but also in the practice of law enforcement in society.¹¹

Based on the description and formulation of the problem in this research, the research method used is as follows:

⁷Al Faith, Razky Fawwaz, "Land Acquisition for Public Interest in Rempang Island Reviewed from a Human Rights Perspective" *Forschungforum Law Journal* Vol.1 No. 1 January 2024, p. 35, <https://ejournal.upnvj.ac.id/flj/article/view/7196/2735>

⁸ Anto Supriadi, "Causes of Land Acquisition Disputes for Public Interest (Case Study of Land Acquisition Disputes for Public Interest in Bengkulu)" *IUS QUIA IUSTUM Law Journal*, No 1 Vol 18, 2011

⁹ Jujun S. Suriasumantri, *Philosophy of Science: A Popular Introduction*, Twelfth Edition (Jakarta: Pustaka Sinar Harapan, 1999), p. 115.

¹⁰ Zainuddin Ali, *Legal Research Methods*, First Edition (Jakarta: Sinar Grafika, 2009), p. 21.

¹¹ Soerjono Soekanto, *Introduction to Legal Research*, Third Edition (Jakarta: University of Indonesia Press, 2012), pp. 9-10.

1) Type of Research

Judging by its type, legal research can be divided into normative legal research and empirical legal research. Normative legal research is often referred to as doctrinal research, namely research that positions law as a rule or norm applicable in society, with primary sources being statutory regulations, court decisions, and legal doctrine. Empirical legal research, on the other hand, examines law in reality. (*law in action*), namely how law works in society through legal behavior and practices.

Normative legal research positions law as a written norm, so its data sources rely more on library materials or secondary data. Meanwhile, empirical legal research focuses on law as a social reality. (*law in action*), so that data is obtained through field research to determine the effectiveness and implementation of the law.¹²

Peter Mahmud Marzuki further emphasized that normative legal research views law as a system of norms, which can be analyzed through various approaches, such as legislation, conceptual approaches, case studies, historical approaches, and comparative approaches. Empirical legal research places greater emphasis on the social reality of how the law applies, is obeyed, or violated in everyday life.¹³

Johnny Ibrahim emphasized that normative legal research, often referred to as doctrinal research, aims to discover legal principles, legal doctrines, and legal systems through the study of legislation, doctrine, and comparative law. Empirical legal research, on the other hand, aims to assess the effectiveness of law by emphasizing a social science approach, allowing law to be viewed in terms of its influence on society.¹⁴

This research uses a normative juridical research method. According to Salim HS and Nurbani, empirical normative legal research is a research model that not only relies on legal materials as the primary source but also involves empirical data to observe how the law is implemented in reality. Normative juridical legal research is essentially legal research that examines the application of legal rules. (*law in action*) in society, including how the law works in practice through social interactions between legal subjects.

¹² Soerjono Soekanto, *Introduction to Legal Research* (Jakarta: UI Press, 1986), p. 52.

¹³ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2005), p. 35.

¹⁴ Johnny Ibrahim, *Normative Legal Research Theory & Methodology* (Malang: Bayumedia Publishing, 2006), p. 57.

3. Results and Discussion

3.1. Concept and Mechanism of Land Acquisition for Road Construction in Indonesia

The research results show that the concept of land acquisition for road construction in Indonesia is based on the principle of public interest, which aims to improve public welfare. Regulations regarding this matter have been accommodated in Law Number 2 of 2012, which emphasizes a balance between development interests and the protection of community land rights. In its implementation, the land acquisition mechanism is carried out through several stages: planning, preparation, implementation, and handover of results. In the planning stage, the agency requiring the land prepares a road construction plan and determines the location. The preparation stage involves public consultation to obtain community approval.¹⁵

Next, during the implementation phase, land plots are inventoried and identified, assessed by an independent appraisal, and compensation is provided. The final stage is the handover of the proceeds, which involves the release of land rights to the state for use in road construction.¹⁶ Compensation given to the community can be in the form of money, replacement land, relocation, or other forms that are mutually agreed upon.¹⁷

3.2. Problematic Factors in Land Acquisition

However, research also shows that in practice, various problems hinder the land acquisition process for road construction. These issues include legal, social, economic, administrative, and technical factors. From a legal perspective, overlapping regulations and unclear land ownership status often lead to disputes. From a social perspective, community opposition to development projects often arises from a lack of effective communication and participation.

In addition, there are differences in perception between the community and the government regarding the value of compensation which is considered not to reflect justice.¹⁸ From an economic perspective, land price speculation and a discrepancy between market values and appraisal results have emerged. Administratively, inaccurate land data and lengthy bureaucracy have slowed the land acquisition process. Meanwhile, technically, obstacles such as geographical

¹⁵Presidential Regulation Number 71 of 2012 concerning the Implementation of Land Acquisition for Development in the Public Interest.

¹⁶Arie Sukanti Hutagalung, "Land Acquisition for Public Interest", Jakarta: RajaGrafindo Persada, 2012.

¹⁷Adrian Sutedi, "Implementation of the Public Interest Principle in Land Acquisition", Jakarta: Sinar Grafika, 2014.

¹⁸Maria SW Sumardjono, "Land in the Perspective of Economic, Social and Cultural Rights", Jakarta: Kompas, 2008.

conditions, limited land, and densely populated areas also pose challenges to road construction.¹⁹

The discussion of this research's findings indicates that, from a normative perspective, the land acquisition mechanism in Indonesia has been systematically and comprehensively designed. The clear stages reflect the government's efforts to ensure transparency, accountability, and protect community rights. However, in practice, there remains a gap between legal provisions and the reality on the ground. One example is the public consultation process, which is often merely a formality and fails to fully and substantially involve the community. This demonstrates that the success of land acquisition depends not only on regulations but also on effective social approaches and communication.

Furthermore, the problems encountered in land acquisition demonstrate the multidimensional nature of this issue. Weak legal factors in land administration contribute to the high potential for disputes, while social factors reflect the importance of building public trust in the government. From an economic perspective, differences in compensation assessments indicate an imbalance between technical approaches and public perceptions. Meanwhile, administrative and technical factors demonstrate the need for increased coordination between institutions and improvements to the land data system. Therefore, land acquisition for road construction requires a holistic approach that integrates legal, social, economic, and technical aspects in a balanced manner.

Thus, it can be concluded that the concept and mechanism of land acquisition in Indonesia have a strong legal basis and clear stages, but its implementation still faces various obstacles. These problems stem from various interrelated factors that influence the effectiveness of land acquisition implementation. Therefore, continuous improvement efforts are needed, both in terms of regulations, improving the quality of land data, social approaches to the community, and transparency in determining compensation, so that road construction can proceed optimally and fairly.²⁰

Furthermore, this study also shows that the implementation of land acquisition for public interest in Indonesia has a strong legal basis through Law Number 2 of 2012. This regulation normatively regulates the stages of land acquisition from planning, preparation, implementation, to handover of results, and guarantees legal protection for entitled parties. However, in its implementation, various obstacles are still encountered that result in this legal protection not being optimally implemented. This is evident in the frequent occurrence of conflicts

¹⁹Bernhard Limbong, "Land Acquisition for Development", Jakarta: Margaretha Pustaka, 2011.

²⁰Bernhard Limbong, Land Problems in Indonesia, Jakarta: Margaretha Pustaka, 2013.

between the government and the community, which indicates a gap between legal norms and practices in the field.

One of the main inhibiting factors is bureaucracy and inter-agency coordination issues. In practice, land acquisition involves various agencies, such as local governments, the National Land Agency, and independent appraisal institutions. The lack of coordination and policy synchronization between these institutions often results in slow and inefficient processes. This situation creates legal uncertainty for the public, particularly regarding the timeline and procedures for land acquisition. Furthermore, overlapping regulations in several sectors complicate the administrative process and implementation on the ground.

Another obstacle is the high potential for land disputes. These disputes are generally caused by unclear land ownership status, a lack of accurate land administration data, and multiple claims to a single plot of land. In some cases, communities lacking formal ownership evidence still claim land rights based on hereditary ownership. This creates protracted conflicts and hinders the land acquisition process, demonstrating that the land administration system still requires serious improvement.

Furthermore, compensation issues are also a significant inhibiting factor. Many communities believe that the compensation amounts set do not reflect the economic or social value of their land. Differing perceptions between the government and the community regarding the amount of compensation often trigger rejection, even leading to lawsuits. Yet, the principles of fairness and fairness in awarding compensation are crucial elements in ensuring legal protection for affected communities. Therefore, transparency in the assessment process and community involvement are crucial.

Another contributing factor is the low level of public participation and understanding of the land acquisition process. Lack of outreach results in communities not understanding their rights and obligations, including objection mechanisms and available legal remedies. This fosters distrust of the government and has the potential to exacerbate social conflict. From a legal protection perspective, public participation is a crucial aspect that must be considered to ensure the land acquisition process is fair and transparent.

To overcome these various obstacles, the government needs to undertake several strategic efforts. First, improve inter-agency coordination by simplifying procedures and harmonizing regulations. Second, strengthen the land administration system through data digitization and accelerating land certification. Third, ensure that compensation assessments are conducted objectively, transparently, and with public involvement. Fourth, increase public awareness and education regarding the process and their rights in land

acquisition. With these steps, it is hoped that legal protection in land acquisition for the public interest can be realized more effectively and equitably.

4. Conclusion

Based on the results and discussion, it can be concluded that the concept and mechanism of land acquisition for road construction in Indonesia have a clear legal basis and systematic stages, starting from planning, preparation, implementation, and delivery of results. This regulation is essentially aimed at ensuring a balance between development interests and the protection of community rights through the provision of adequate and fair compensation. However, in practice, the implementation of this mechanism has not been optimal due to persistent gaps between normative provisions and the reality on the ground. Furthermore, the problems in land acquisition for road construction are complex and multidimensional, encompassing legal, social, economic, administrative, and technical factors. Issues such as land disputes, community resistance, discrepancies in compensation values, weak land data, and lack of coordination between institutions are major obstacles affecting the smooth progress of development. Therefore, comprehensive improvement efforts are needed through strengthening regulations, increasing transparency, improving the land administration system, and a more participatory social approach so that the land acquisition process can run effectively, fairly, and sustainably.

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