

The Criticism of Land Procurement Law to Improve Landowners Welfare in Indonesia

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Abstract

The Indonesian Land Acquisition Law serves as a crucial legal instrument in facilitating national development. However, the implementation of this law often gives rise to criticism, particularly with regard to the welfare of landowners whose property is acquired for the public good. This article seeks to provide a critical analysis of the implementation of the Land Acquisition Law in Indonesia and its impact on the welfare of landowners. The methodology employed is a literature review that examines previous research, related legislation, and cases of land acquisition implementation. The findings indicate that, despite the law's objective of enhancing welfare through fair compensation, there are still shortcomings in its implementation that result in injustice to landowners.

Keywords: law, landowners, welfare

INTRODUCTION

The acquisition of land for the benefit of the public has become a crucial aspect of supporting infrastructure development in Indonesia. Infrastructure serves as the foundation for economic advancement, encompassing pivotal initiatives such as toll roads, railways, ports, airports, reservoirs, and facilities for healthcare and education. The absence of land would render the implementation of these projects unfeasible, underscoring the pivotal role of land acquisition in the realization of the government's development agenda.

In Indonesia, the process of land acquisition is subject to a number of legal regulations. The aim of these regulations is to achieve a balance between the interests of national development and the rights of individuals who hold land ownership rights. One of the principal legislative instruments governing this process is Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest. This legislation is intended to provide legal certainty for both the government and communities affected by land acquisition (Eltinus Omaleng & Wahid, 2022).

Nevertheless, despite the objective of Law No. 2 Year 2012 to guarantee a fair, transparent, and duly compensated land acquisition process, as well as to address the concerns of landowners, various criticisms persist. These criticisms primarily pertain to the welfare of landowners, who frequently perceive that the compensation offered does not align with the intrinsic value of the land in question. The primary factors contributing to landowners' dissatisfaction are perceived unfairness in the land

valuation process, a lack of public participation in decision-making, and limited access to information (Hutagalung et al., 2024).

RESEARCH METHOD

This article employs a literature study as its research method. Secondary data was gathered from a variety of sources, including scientific journals, books, policy reports, and pertinent legislation. The analysis was centered on regulations concerning land acquisition, complemented by case studies of policy implementation in diverse Indonesian regions. Primary data sources underwent analysis, with particular attention paid to Law No. 2/2012, Presidential Regulation No. 71/2012, and academic literature examining the impact of law implementation.

RESULT & DISCUSSION

In the government's endeavors to enhance economic competitiveness, land acquisition assumes a pivotal role in furnishing land for infrastructure projects that bolster economic growth. Robust infrastructure is a crucial component of sustained economic growth, as it enables the efficient movement of goods and services, accelerates population mobility, and stimulates the creation of new employment opportunities.

The construction of large-scale infrastructure projects, including toll roads, railways, airports, ports, and dams, is contingent upon the availability of land. It is therefore evident that the acquisition of land for infrastructure projects is a necessity, frequently entailing the transfer of land titles from private citizens or corporations to the government. It is imperative that this process be subjected to rigorous regulatory oversight to preclude the potential for conflicts between the parties involved (Napitupulu, 2024).

The primary legal framework governing the land acquisition process in Indonesia is Law No. 2 Year 2012 on Land Acquisition for Development in the Public Interest. The objective of the legislation is to provide legal clarity for both the government, which requires land for public interest projects, and the landowners whose properties are affected.

Furthermore, the objective is to guarantee that those whose interests are adversely affected receive fair and adequate compensation. The compensation may be provided in the form of financial compensation or in other forms, such as replacement land, resettlement, or even shares in the project being built. In accordance with the stipulations set forth in Law No. 2/2012, the land acquisition process encompasses four principal stages.

The initial stage of the process is the planning phase. The government identifies the necessity for the acquisition of land for the implementation of a public interest project and determines the specific location (Putri et al., 2023).

The preparation stage is concerned with the initial assessment of the land to be acquired and the holding of public consultations with affected communities. An initial assessment of the land to be acquired is conducted, and the government engages in public consultations with affected communities.

The implementation phase represents the next step in the process. The land acquisition process, determination of compensation value, and negotiation with landowners are all integral aspects of the acquisition process.

The handover of results is the final stage of the process. Once the compensation payment has been finalized, the land is transferred to the government or the relevant party. However, the implementation of this legislation has not always proceeded in a smooth manner. One of the primary criticisms of Law No. 2/2012 is that the compensation negotiation process is frequently opaque and appears to favor the government or the development company. A significant number of landowners have expressed the view that the compensation offered does not accurately reflect the true market value of their land, nor does it adequately take into account the sentimental and social value of the land in question (Ullo et al., 2024a).

A number of criticisms have been levied against Law No. 2/2012, primarily from landowners who perceive a lack of comprehensive protection for their rights throughout the land acquisition process. The most frequently cited concerns in this regard include the following:

1. **Inconsistencies Between Government Compensation Values and Market Prices for Land.** One of the most common issues is the discrepancy between the compensation value offered by the government and the market price of land in the area. In some instances, the valuation of the land set forth by the government is considerably below the actual market value. This results in discontent among landowners, particularly when they encounter difficulties in procuring substitute land at the stipulated compensation value.
2. **The legislation mandates public consultation prior to the expropriation of land by the government.** Nevertheless, this process is frequently merely a formality, with affected communities not being afforded an active role in decision-making. This absence of community involvement engenders a perception of injustice and discontent with the decisions made by the government.
3. **Insufficient Access to Information for Landowners.** A considerable proportion of landowners lack an adequate understanding of their rights in the land acquisition process. This limited access to information is frequently exploited by interested parties to propose compensation values that are not commensurate with the actual value. Those who own land but lack an adequate understanding of the law frequently lack the knowledge required to assert their rights during negotiations.
4. **Negative Social and Economic Impacts.** Those who own land and are affected by its acquisition often experience difficulties in adjusting to the loss of their property. This impact is especially pronounced for those who depend on the produce of the land, such as farmers or fishermen. The acquisition of land without adequate compensation or provision of alternative livelihoods can lead to a significant decline in their welfare (Ginting et al., 2024).

In Indonesia, the term "land acquisition" encompasses the transfer of land rights from private landowners, including both individuals and groups, to the state for the purpose of facilitating infrastructure development or other projects deemed to serve the public interest. Land acquisition entails the expropriation of land owned by private individuals or legal entities through a transparent legal process, with appropriate compensation provided to landowners in accordance with the relevant regulations.

In accordance with the stipulations set forth in Law No. 2/2012 on Land Acquisition for Development in the Public Interest, the term "land acquisition" is defined as "the activity of providing land by compensating the rightful parties for development purposes." Land acquisition entails the transfer of land rights from the proprietor to the state or a business entity designated by the government to undertake a development project.

The term "land acquisition" encompasses not only the sale or purchase of land, but also the various stages involved in the process, including planning, preparation, implementation, and the delivery of results. In practice, this process frequently intersects with a multitude of legal, economic, social, and environmental considerations, necessitating the establishment of clear regulatory frameworks to prevent injustices (Sri Karyati, 2021).

Land acquisition is undertaken with the objective of facilitating the implementation of development projects that are in the public interest. In particular, Law No. 2 of the Year 2012 explicitly indicates that the objective of land acquisition is to facilitate projects that will yield significant benefits for society and the state. The principal objectives of land acquisition are as follows:

The development of public infrastructure is a common objective of land acquisition. Infrastructure projects may include the construction of toll roads, railways, airports, ports, bridges, health facilities, schools, and dams, among others. It is anticipated that this infrastructure will enhance the quality of life for the community by facilitating greater accessibility, connectivity, and the efficient distribution of goods and services (Diyana Isnaeni, 2023).

The overarching objective of infrastructure development is to enhance the quality of life of the general public. This is achieved through the implementation of projects initiated by the state or third parties, with the financial backing of the state. For instance, the construction of toll roads allows for more expedient and efficient travel, while the establishment of adequate health facilities facilitates more convenient access to health services.

Land acquisition is frequently undertaken for the construction of energy projects, including power plants, dams, and irrigation canals, which are essential for meeting national energy demands and ensuring food security through the irrigation of agricultural land. Such projects have a direct impact on the availability of energy and the economic welfare of the community (Rokhman & Mashdurohatun, 2024).

Another objective of land acquisition is to reduce development inequality between urban and rural areas. The acquisition of land allows for the development of previously undeveloped areas, thereby enhancing the quality of life for individuals residing in remote or underdeveloped regions.

Some land acquisition projects are designed to construct facilities related to national defense and security. This encompasses the construction of military bases, security posts, and other security facilities that are necessary to safeguard national interests.

The land acquisition process outlined in Law No. 2/2012 is founded upon a set of fundamental principles that guarantee fairness for landowners and the success of development projects. These principles include:

Public Interest. Land acquisition is permitted only for projects that are demonstrably in the public interest. This signifies that the project must yield greater benefits for the broader community than the interests of a specific individual or group.

Fair and Just Compensation. Those whose property is acquired for the purposes of land acquisition are entitled to receive fair and reasonable compensation. The compensation provided to landowners includes not only the value of the land itself, but also the value of any buildings or crops on the land, as well as any losses incurred as a result of the transfer of the land. The compensation may be provided in the form of pecuniary compensation, the provision of replacement land, the relocation of the residence of the affected party, or a combination of these forms.

Legal Certainty. The land acquisition process must be conducted in accordance with applicable legislation, thereby ensuring legal certainty for landowners and those requiring access to land. It is therefore important to ensure that the legal certainty provided will avoid the potential for future land disputes.

Community Participation. It is imperative that landowners and communities affected by land acquisition be included at every stage of the process, from initial planning to the final handover. This guarantees that individuals are aware of their entitlements and that the land acquisition process is conducted in an open and transparent manner.

Despite the fact that the purpose of land acquisition is for the public interest, the process is often not free from criticism. The primary criticisms pertain to the welfare of the landowners affected, particularly with regard to the perceived inadequacy of the compensation offered. Some of the issues that have been identified include:

1. A discrepancy between the valuation and the market value of the property in question is a further issue. In addition, the compensation offered to landowners is often not proportional to the market price of the land. In some instances, landowners receive compensation that is considerably below the fair market value.
2. **Lack of Transparency in the Procurement Process.** While the law mandates public participation in the land acquisition process, many landowners perceive a lack of involvement, leading to discontent and potential discord with the government (Irawan et al., 2024).

In the context of public interest, such as infrastructure development in Indonesia, compensation represents a pivotal element of land acquisition. In accordance with the stipulations set forth in Law

No. 2/2012 on Land Acquisition for Development in the Public Interest, affected landowners are entitled to receive compensation in a manner that is consistent with the principles of fairness and equity. The objective is to guarantee that landowners are not subjected to considerable material or immaterial losses subsequent to the acquisition of their land for development purposes.

In practice, compensation is provided in a variety of forms, including cash, replacement land, resettlement, or other forms as agreed upon by the landowner and the government or company requiring the land. The determination of the compensation value is typically based on a number of factors, including the market value of the land, the value of existing structures and improvements on the land, the value of any crops or other plants growing on the land, and other potential losses that may be incurred by the landowner. Nevertheless, this calculation is frequently the subject of debate, as it is perceived to fail to reflect the true value ascribed by the landowner.

The Issue of Compensation that Does Not Reflect Market Prices. One of the most significant criticisms of the compensation process in land acquisition is that the value of the compensation provided often does not align with the market price. A number of studies and field reports indicate that the compensation determined by the government or land appraisal agencies is frequently below the prevailing market price in densely populated urban areas (Wiryani & Najih, 2021).

The land valuation process is conducted by an independent appraiser, known as Appraisal, who is tasked with calculating the value of the land based on a number of factors, including its location, intended use, and market value. Nevertheless, this mechanism is frequently deemed inadequate by landowners, who perceive the offered land price to be incongruent with its intrinsic market value. This issue is further compounded by the lack of transparency in the valuation process and the absence of community involvement in determining the true value.

For instance, in the context of toll road or airport development projects, the land value proposed by the government is frequently inferior to the price of land sold in the free market. Landowners are compelled to accept the compensation due to regulatory pressure or a lack of viable alternatives. This can give rise to a sense of discontentment and may also have an effect on the long-term wellbeing of landowners, especially those whose livelihood depends on their land (Nizwar et al., 2024).

In addition to the issue of market price, one factor that is frequently neglected in compensation calculations is the sentimental value attached to land. For many Indonesians, land is not merely an economic asset; it also possesses cultural, historical, and emotional value. To illustrate, land that has been transmitted across generations within a family unit possesses a far greater significance than a mere financial value.

When compensation is based solely on economic aspects and ignores sentimental value, landowners frequently perceive a loss that cannot be quantified in monetary terms. Such circumstances can have a direct impact on the psychological well-being of landowners, particularly in rural or traditional communities where land is an integral aspect of social and cultural identity.

Field studies indicate that inadequate compensation can have a detrimental impact on the economic well-being of landowners over time. The lack of adequate compensation has resulted in a number of adverse consequences for landowners, including:

The difficulty of locating comparable replacement land is a significant challenge for landowners who receive compensation in the form of cash. The compensation value is less than the market price, which renders them unable to purchase land in the same location or even in another location with equivalent characteristics (Rosmidah & Pebrianto, 2020).

A decline in economic well-being is a further consequence of the aforementioned factors. Many landowners are dependent on their land for their daily lives, such as farmers or ranchers. When their land is appropriated for infrastructure projects without sufficient compensation or support for economic recovery, the welfare of these individuals can decline significantly. Such circumstances have the potential to precipitate an increase in poverty levels among affected communities.

Removal of Livelihoods. In some instances, the acquisition of land results in the loss of livelihoods that are dependent on the land, such as farming, animal husbandry, or other local

businesses. In the absence of adequate compensation or effective resettlement programs, landowners encounter significant challenges in restoring or recreating lost livelihoods.

Criticisms and Challenges in the Compensation Process. In addition to the issue of inappropriate compensation values, there are several other challenges in the land compensation process (Syahriar et al., 2022).

A further issue is the lack of community participation in the land acquisition process. Despite the legal requirement for public consultation, many communities feel excluded from the decision-making process regarding land valuation and compensation. A further issue is the lack of transparency in the mechanisms used to determine land value and compensation. The valuation methods employed by the government or independent appraisers are not always readily comprehensible to landowners, which can engender a sense of injustice.

The legal process is often complex and lengthy, which presents a significant barrier for communities, particularly those lacking the resources or access to pursue legal recourse. One of the primary criticisms of Law No. 2/2012 on Land Acquisition for Development in the Public Interest is that the compensation negotiation process is frequently opaque and lacks transparency. Transparency is a crucial factor in guaranteeing fairness in land acquisition. In the absence of transparency, landowners may perceive a lack of fairness in the treatment they receive and may feel that they are not afforded the opportunity to understand or negotiate fair compensation.

The issue of transparency is of paramount importance in this context. The valuation process is conducted in a manner that is not open to public scrutiny. The determination of compensation values is typically conducted by independent land appraisers appointed by the government or relevant parties. This process frequently occurs in a confidential manner, without providing landowners with sufficient insight into the methodology utilized to ascertain the value of their land. Such a lack of access to information may give rise to feelings of suspicion and dissatisfaction.

A further issue is the lack of socialization. The socialization of valuation results and compensation-related decisions is often insufficient. It is not uncommon for landowners to be inadequately informed about the methodology used to calculate compensation values and the rationale behind decision-making processes. This lack of transparency can lead to feelings of discontent and frustration (Ullo et al., 2024b).

Another frequent criticism is access to Information and Understanding of Landowner Rights. This is landowners often lack adequate access to information and a comprehensive understanding of their rights in land acquisition processes. This is connected to the following:

1. A further issue is the lack of information available to landowners. Those who own land in remote or rural areas are frequently inadequately informed about the land acquisition process and their rights. This lack of access to information can result in landowners being unable to ascertain how to protect their rights and obtain fair compensation.
2. The provision of education and training is a crucial aspect of ensuring informed participation in the land acquisition process. A significant proportion of landowners lack the requisite training and education to effectively negotiate or claim their rights in the context of land acquisition. This deficiency of knowledge precludes their active participation in the process and effective assertion of their rights.

The third criticism is Imbalance of Power between Government and Communities. This is pertains to the power imbalance between the government and communities, which frequently results in the disadvantage of landowners. This imbalance of power may impact the fairness and efficacy of the land acquisition process. Some of the issues that arise are as follows:

1. **Dominance of the government:** In numerous instances, the government exerts considerable influence over the stipulations and conditions associated with land acquisition, including the determination of compensation values. Those who own land are frequently in a disadvantaged position and feel compelled to accept inadequate compensation.

2. Lack of Representation: Landowners, especially in less accessible or resource-constrained areas, often lack adequate representation or legal support, which leaves them unable to compete effectively with the government or those who need land.
3. Legal Disputes: When there is a dispute over compensation, the legal process can heavily favor the government or more financially powerful parties, which often makes it difficult for landowners to pursue their rights through legal channels.

CONCLUSION

The Indonesian Land Acquisition Law has laudable objectives in terms of facilitating infrastructure development for the public good. However, there is still scope for improvement in its implementation, particularly with regard to transparency, the compensation negotiation process, and the protection of landowners' interests. This study proposes amendments to the Land Acquisition Law, with a view to ensuring more equitable compensation assessments and greater community involvement in the land acquisition process.

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