

PEMBARUAN HUKUM PENGATURAN PENGADAAN TANAH UNTUK KEPENTINGAN UMUM DALAM MEWUJUDKAN KESEIMBANGAN ANTARA PERLINDUNGAN HAK MASYARAKAT DAN PERCEPATAN PEMBANGUNAN NASIONAL

Updating the Legal Regulations on Land Acquisition for Public Interest in Achieving a Balance between the Protection of Community Rights and the Acceleration of National Development

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Abstrak

Penelitian ini bertujuan untuk menganalisis pengaturan hukum pengadaan tanah untuk kepentingan umum dalam sistem hukum Indonesia, mengidentifikasi berbagai permasalahan hukum yang menyebabkan belum terwujudnya keseimbangan antara perlindungan hak masyarakat dan percepatan pembangunan nasional, serta merumuskan konsep pembaruan hukum yang berkeadilan sebagai bentuk *ius constituendum*. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa meskipun pengaturan pengadaan tanah telah diatur melalui Undang-Undang Nomor 2 Tahun 2012 tentang Pengadaan Tanah bagi Pembangunan untuk Kepentingan Umum sebagaimana telah disesuaikan melalui Undang-Undang Nomor 6 Tahun 2023 dan Peraturan Pemerintah Nomor 19 Tahun 2021, dalam praktik masih ditemukan berbagai permasalahan berupa ketidakseimbangan posisi tawar antara pemerintah dan masyarakat, terbatasnya partisipasi masyarakat, sengketa ganti kerugian, penggunaan mekanisme konsinyasi yang berpotensi mengurangi perlindungan hak masyarakat, serta belum optimalnya perlindungan bagi kelompok rentan. Pembaruan hukum diperlukan melalui penguatan prinsip partisipasi bermakna, penyempurnaan mekanisme ganti kerugian yang mencakup kerugian fisik dan nonfisik, pembatasan penggunaan konsinyasi, serta harmonisasi antara kepentingan umum dan perlindungan hak asasi manusia guna mewujudkan sistem pengadaan tanah yang adil, berkepastian hukum, dan mendukung pembangunan nasional yang berkelanjutan.

Kata Kunci:
Pengadaan Tanah
Kepentingan Umum
Perlindungan Hak Masyarakat

Keywords:
Land Acquisition
Public Interest
Protection of Community Rights

Abstract

*This study aims to analyze the legal provisions for land acquisition for public interest in the Indonesian legal system, identify various legal problems that have resulted in the lack of balance between the protection of community rights and the acceleration of national development, and formulate a concept for equitable legal reform as a form of *ius constituendum*. The study uses a normative juridical method with a statutory and conceptual approach. The results of the study indicate that although land acquisition regulations have been regulated through Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as adjusted through Law Number 6 of 2023 and Government Regulation Number 19 of 2021, in practice, various problems are still found in the form of an imbalance in the bargaining position between the government and the community, limited community participation, compensation disputes, the use of consignment mechanisms that have the potential to reduce the protection of community rights, and suboptimal protection for vulnerable groups. Legal reform is needed through strengthening the principle of meaningful participation, refining compensation mechanisms to cover both physical and non-physical losses, limiting the use of consignment, and harmonizing the public interest and human rights protection to create a land acquisition system that is fair, legally certain, and supports sustainable national development.*

INTRODUCTION

Land holds a highly strategic position in national and state life, serving not only as a source of livelihood but also as a primary means of national development. From the perspective of constitutional law and agrarian law, land is an object with economic, social, cultural, and even spiritual value that is closely linked to human survival (Sukmawati, 2022). The Indonesian Constitution provides a strong foundation regarding land control and utilization through Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. The condition is then further elaborated in Article 2, paragraph (1) and paragraph (2) of Law Number 5 of 1960 concerning Basic Agrarian Regulations, which gives the state the authority to regulate the allocation, use, supply, and maintenance of land in order to achieve the prosperity of the people (Amir, 2019). This state authority does not constitute state ownership of land, but rather a public function that must be exercised proportionally while respecting citizens' individual land rights. Therefore, state control of land must be understood as an instrument for realizing social justice, as mandated by the fifth principle of Pancasila, and not as a justification for ignoring the rights of those who legally control or own land.

The increasing need for national development in recent decades has driven a growing demand for land for various projects categorized as of public interest. The construction of toll roads, dams, ports, airports, railways, industrial areas, educational facilities, healthcare facilities, and various National Strategic Projects requires large amounts of land spread across various regions of Indonesia (Mahadiansar, Khairul Ikhsan, I. Gede Eko Putra Sri Sentanu, 2020). These conditions make land acquisition a crucial instrument in supporting the acceleration of national development. The legal basis for land acquisition is currently regulated by Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in place of Law Number 2 of 2022 concerning Job Creation into Law, and Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest. Article 10 of Law Number 2 of 2012 explicitly regulates various types of development that fall into the public interest category (Sutedi, 2020). However, the increasingly massive development undertaken by the state also has consequences in the form of increased demand for land acquisition, which ultimately may create conflicts between development interests and the protection of community rights as land rights holders.

The development of regulations regarding land acquisition demonstrates that the state has attempted various legal reforms to create a more effective and equitable land acquisition mechanism. These regulations began with the basic framework contained in Law Number 5 of 1960 concerning Basic Agrarian Principles, then developed through Minister of Home Affairs Regulation Number 15 of 1975 concerning Provisions Concerning Land Acquisition Procedures, Presidential Decree Number 55 of 1993 concerning Land Acquisition for Development Implementation in the Public Interest, Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Development Implementation in the Public Interest, Presidential Regulation Number 65 of 2006, and finally the enactment of Law Number 2 of 2012, considered a milestone in land acquisition legal reform in Indonesia (Sahnan, M. Yazid Fathoni, 2015). These regulatory changes demonstrate the state's commitment to continuously improving the land acquisition system. Empirical evidence suggests that these regulatory changes have not eliminated the various disputes and conflicts that

arise in land acquisition practices. These regulations are primarily oriented toward accelerating development, while legal protection for the community still leaves numerous issues requiring comprehensive legal reform.

The main problem that frequently arises in land acquisition practices is the imbalance between the public interest and the protection of community rights. Land acquisition, which should be done based on the principles of humanity, justice, benefit, legal certainty, openness, agreement, participation, welfare, sustainability, and harmony, as stipulated in Article 2 of Law Number 2 of 2012, still generates various forms of community resistance in practice. Rejection of development projects often arises because communities feel they are not receiving adequate protection for their rights. Social conflict, lawsuits, disputes over land status, and the loss of community livelihoods are recurring phenomena in various development projects (Mustarin, 2020). This situation shows that development success cannot be assessed solely by the availability of land for public interest projects; it must also be evaluated based on the state's capacity to offer balanced legal protection to affected communities. The perspective of a state based on the rule of law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, requires that all government actions in land acquisition remain subject to the principles of human rights protection and substantive justice.

Another issue that has become a source of conflict is the mechanism for determining and providing compensation, which is often considered not to reflect the community's sense of justice. Article 1 point 10, and Article 36 of Law Number 2 of 2012 stipulate that compensation can be provided in the form of money, replacement land, resettlement, share ownership, or other agreed-upon forms. Compensation assessment is carried out by an independent appraiser as stipulated in Articles 31 to 34 of Law Number 2 of 2012. The reality in the field shows that the assessment often focuses only on the physical aspects of land and buildings, while non-physical losses; such as loss of livelihood, loss of social relations, reduced economic access, and the historical and cultural value of an area, have not received adequate attention. The consignment mechanism, as stipulated in Article 42 of Law Number 2 of 2012, is also often seen as an instrument that is more beneficial to the government because it allows for the deposit of compensation in court even though an agreement has not been reached with the community (Faisal, 2017). This situation gives the impression that the community's bargaining position is still relatively weak in the land acquisition process; the goal of realizing justice has not been fully achieved.

The issues of community participation and the protection of human rights demand significant attention in the reform of land acquisition laws. Article 28H, paragraph (4) of the 1945 Constitution of the Republic of Indonesia guarantees that every individual has the right to own private property, and that these property rights cannot be arbitrarily seized by anyone. A similar guarantee is found in Article 36, paragraph (2) of Law Number 39 of 1999 concerning Human Rights, which emphasizes that no one may be deprived of their property arbitrarily and unlawfully. Regulations regarding land acquisition, on the one hand, legitimize the state to acquire land for the public interest, but on the other hand, there is a constitutional obligation to provide maximum protection for community rights. The inconsistency between the spirit of development, which demands acceleration, and the principle of protecting property rights guaranteed by the constitution, demonstrates a gap between *das sollen* and *das sein* in land acquisition practices in Indonesia. The situation demonstrates the urgent need to reform land acquisition legal regulations to establish a legal system capable of striking a balance between national development interests and the protection of community rights. These legal reforms must be directed at strengthening meaningful community participation, ensuring standards of justice in the provision of compensation, protecting vulnerable groups, ensuring effective dispute resolution, and harmonizing the principles of public interest and human rights protection so that national development goals can be achieved without compromising citizens' constitutional rights.

METHOD

This study employs a normative legal research method that focuses on the examination of legal norms, legal principles, legal doctrines, and various laws and regulations pertaining to the regulation of land acquisition for public interest. The normative legal method was chosen because this study aims to analyze, evaluate, and reconstruct the legal framework governing land acquisition to achieve a balance between the protection of public rights and the acceleration of national development. The approaches employed consist of a statutory and a conceptual approach. The legislative approach is carried out by systematically reviewing various relevant laws and regulations, including the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles, Law Number 39 of 1999 concerning Human Rights, Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as adjusted by Law Number 6 of 2023, and Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest along with other implementing regulations. The conceptual approach is used to examine various legal concepts, theories, and doctrines that have developed in the legal literature related to the right to control the state, land rights, public interest, protection of human rights, justice, legal certainty, legal benefits, and the concept of community participation in the land acquisition process. The legal materials used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials obtained through literature studies. All legal materials are analyzed qualitatively using legal interpretation and legal argumentation methods to find weaknesses, inconsistencies in norms, and the need for legal reform in regulating land acquisition for public interest that is oriented towards justice, legal certainty, and protection of community rights.

RESULT AND DISCUSSION

1. Legal Regulations for Land Acquisition for Public Interest in the Indonesian Legal System

The legal framework for land acquisition for public interest in the Indonesian legal system is rooted in the concept of the welfare state, which positions the state as the entity responsible for ensuring the people's prosperity through the fair and sustainable management of agrarian resources. The constitutional basis regarding land ownership is found in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This provision forms the basis for the concept of state control, which is further regulated in Article 2, paragraphs (1) and (2) of Law No. 5 of 1960 on Basic Agrarian Principles (Tehupeiory, 2017). The state's right of sovereignty grants the state the authority to regulate and manage the allocation, use, supply, and maintenance of land, water, and airspace, including determining the legal relationship between the public and the land. This concept indicates that the state possesses public authority in the field of land affairs; however, this authority should not be interpreted as the state's ownership of all land in Indonesia. The state's sovereign right must be exercised within the constitutional framework, with the primary objective of achieving the people's prosperity and providing protection for the community's rights to land acquired lawfully under the law (Lestari, 2020).

The position of land rights in the Indonesian legal system is a right that is guaranteed by constitutional and legal protection. Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that every person has the right to own private property and that such property rights may not be taken over arbitrarily by anyone. Similar protection is regulated in Article 36 paragraph (2) of Law Number 39 of 1999 concerning Human Rights, which states that no one may have their property rights taken away arbitrarily and unlawfully. In the agrarian sector, land rights are

further regulated in Article 16 of Law Number 5 of 1960, which includes Ownership Rights, Cultivation Rights, Building Rights, Usage Rights, Lease Rights, and various other rights recognized by law (Sari, 2017). The status of land rights demonstrates that the legal relationship between individuals and land is protected by the state. Land acquisition or acquisition for the public interest is, in principle, a form of restriction on individual rights that can only be exercised under law, for legitimate purposes, through clear procedures, and accompanied by fair compensation. This principle is crucial in maintaining a balance between state interests and the protection of citizens' constitutional rights (Handayani, 2025).

Specific regulations regarding land acquisition for public purposes are currently contained in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation, and Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest. Article 1, number 2 of Law Number 2 of 2012 defines land acquisition as the activity of providing land by providing adequate and fair compensation to entitled parties. This definition shows that land acquisition is not an act of confiscation of rights, but rather a legal process that must be implemented by prioritizing the principles of justice and respect for community rights. Article 10 of Law Number 2 of 2012 regulates various forms of development that are categorized as public interest, including public roads, toll roads, reservoirs, dams, airports, ports, railway lines, defense and security facilities, educational facilities, hospitals, and various other strategic infrastructure (Prasetyo, 2018). This regulation demonstrates that the state is granted legal legitimacy to acquire land to support national development aimed at the broader public interest.

The implementation of land acquisition in the Indonesian legal system is based on several principles that serve as guidelines at each stage of its implementation. Article 2 of Law Number 2 of 2012 stipulates that land acquisition is carried out based on the principles of humanity, justice, benefit, legal certainty, openness, agreement, participation, welfare, sustainability, and harmony. These principles reflect the efforts of lawmakers to balance development needs with the protection of community rights. The stages of land acquisition are systematically regulated through planning, preparation, implementation, and handover of results, as stipulated in Article 13 of Law Number 2 of 2012. The planning stage is carried out by the agency requiring the land based on the development planning document, while the preparation stage includes notification of the development plan, initial site data collection, public consultation, and determination of the development location. The implementation stage consists of identifying entitled parties, assessing compensation, determining the form of compensation, and making the payment. The handover stage occurs after the release of land rights is completed. This legal construction shows that land acquisition is designed as a mechanism that provides space for participation and legal protection for affected communities (Salle, 2017).

The mechanism for providing compensation is one of the most important elements in land acquisition because it is directly related to the protection of community rights. Article 1, point 10 of Law No. 2 of 2012 defines compensation as fair and reasonable compensation to the entitled parties in the land acquisition process. Compensation assessments are conducted by independent appraisers as stipulated in Articles 31 through 34 of Law No. 2 of 2012. The scope of the valuation includes not only the land itself but also the airspace above the land, the subsurface, buildings, crops, objects related to the land, and other quantifiable losses. Article 36 of Law No. 2 of 2012 stipulates that compensation may be provided in the form of cash, replacement land, resettlement, equity ownership, or other forms agreed upon by the parties. This provision demonstrates that the Indonesian legal system has recognized the importance of protecting the economic interests of communities affected by development. The requirement to provide fair and just compensation

is an implementation of the principle of distributive justice, which demands that communities not bear unilateral losses resulting from development projects carried out by the state (Eric Henry Supit, Roosje Lasut, 2021).

The relationship between the public interest and the protection of citizens' constitutional rights is a fundamental aspect in regulating land acquisition in Indonesia. The public interest is essentially the basis of legitimacy for the state to acquire land to carry out development that benefits the wider community. Protection of land rights must remain a priority because these rights are part of human rights guaranteed by the constitution and various laws and regulations. Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia does allow for restrictions on citizens' rights through laws to guarantee recognition and respect for the rights of others and to fulfill demands for justice based on considerations of morality, religious values, security, and public order. These restrictions cannot be carried out arbitrarily and must comply with the principles of proportionality, legality, and justice. The regulation of land acquisition, as stipulated in Law Number 2 of 2012, is essentially an effort to balance two equally important interests, namely the needs of national development and the protection of community rights. The balance is a key indicator of the success of the land acquisition legal system, as sustainable development can only be achieved if it respects citizens' constitutional rights and ensures social justice for all Indonesians.

2. Legal Issues in Land Acquisition for Public Interest: A Balance Between Protection of Community Rights and Acceleration of National Development is Not Yet Achieved

The implementation of land acquisition for public interest in Indonesia still faces various legal issues, demonstrating the lack of balance between protecting community rights and accelerating national development. Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as amended by Law Number 6 of 2023 and Government Regulation Number 19 of 2021, was intended to create legal certainty in land acquisition. However, its implementation demonstrates that various land conflicts continue to occur in several infrastructure projects and national strategic developments. This situation demonstrates a gap between the normative objectives of the regulation and its practical implementation on the ground. The principles of humanity, justice, participation, and consensus as stipulated in Article 2 of Law Number 2 of 2012 have not been fully implemented effectively. This situation indicates that land acquisition issues are not only related to the availability of regulations, but also to the quality of legal substance, institutional structures, and the legal culture that develops in land acquisition practices.

The imbalance in bargaining power between the government or agencies requiring land and the community holding land rights is one of the most dominant problems. The government's position as the party with administrative authority, regulatory support, and access to resources often places the community in a weaker position in the negotiation process. Deliberation, which should be the instrument for reaching agreement as stipulated in Article 37 of Law Number 2 of 2012, in many cases serves more as a procedural formality than a means of substantive dialogue. These conditions often leave the community faced with limited options: accepting the stipulated compensation or facing a lengthy and complex legal process. The perspective of a state based on law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, requires that all parties have equal standing before the law. This imbalance in bargaining power indicates that the principle of equality before the law has not been fully realized in land acquisition practices, so that legal protection for the community has not been optimal.

Another issue that frequently gives rise to conflict is the determination of development locations undertaken in the public interest. Articles 19–23 of Law Number 2 of 2012 stipulate that project locations are determined by the governor after public consultations with affected communities. While this mechanism is designed to promote public involvement, the consultation process frequently offers restricted chances for communities to impact decision-making,

rendering participation mostly procedural instead of meaningful. Public objections to development locations generally result in the government approving the previously planned location. This position creates the perception that public consultation functions more as an administrative requirement than as a truly participatory mechanism. The principle of participation, one of the principles of land acquisition, ultimately loses its substantive meaning because public involvement is not always directly proportional to its influence on the decision-making process. The phenomenon demonstrates the difference between *das sollen*, which requires active community participation, and *das sein*, which demonstrates the dominance of development interests in land acquisition practices.

Compensation issues also remain a major source of disputes in land acquisition. Article 33 of Law Number 2 of 2012 stipulates that compensation assessments must be conducted by independent appraisers, taking into account the land, aboveground space, underground space, buildings, plants, objects related to the land, and other assessable losses. This regulation is normatively intended to ensure objectivity in determining compensation values. Communities often believe that the assessment results do not reflect the true economic value or social losses they experience due to land loss. Loss of livelihoods, disruption of community social ties, loss of access to economic resources, and the reduction in the historical and cultural value of an area often go uncompensated. The concept of fair and just compensation, as referred to in Article 1, point 10 of Law Number 2 of 2012, has become a relative concept and is prone to differing interpretations. The unclear parameters of fairness in the provision of compensation have led to numerous lawsuits and protracted conflicts, hindering the achievement of development goals and protecting community rights.

The consignment mechanism stipulated in Article 42 of Law Number 2 of 2012 has also been widely criticized from the perspective of community rights protection. This provision authorizes agencies requiring land to deposit compensation in court if the entitled party rejects the form or amount of compensation, their whereabouts are unknown, or the land is in dispute. Normatively, this mechanism is intended to ensure the continuity of development so that it is not hampered by protracted disputes. From a human rights perspective, this raises questions about the extent to which this mechanism is capable of guaranteeing free and fair consent from affected communities. In practice, depositing compensation in court is often understood as a form of unilateral termination of the deliberation process, thereby depriving communities of effective space to defend their rights. The position of communities that must still relinquish their land after consignment has been carried out demonstrates a tendency for development interests to dominate over the protection of individual rights. This situation indicates that the principle of procedural justice in land acquisition still faces quite serious challenges.

The conflict of norms between public interest and the protection of property rights is a fundamental issue that explains why the goals of justice, legal certainty, and utility have not been optimally achieved in land acquisition practices. Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia emphasizes that everyone has the right to own private property and that such property rights may not be arbitrarily taken over by anyone. The same guarantee is contained in Article 36, paragraph (2) of Law Number 39 of 1999 concerning Human Rights, which prohibits arbitrary and unlawful confiscation of property rights. This provision must be harmonized with Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which grants the state the authority to control agrarian resources for the greatest prosperity of the people. An imbalance in the interpretation of these two norms has the potential to create legal uncertainty when development interests are placed more dominantly than the protection of community rights. The gap between *das sollen*, which demands fair rights protection, and *das sein*, which demonstrates the persistent high levels of conflict, disputes, and public dissatisfaction, demonstrates that the current land acquisition system is not fully

capable of achieving the ideal balance between the need to accelerate national development and respect for citizens' constitutional rights.

3. Legal Reform of Land Acquisition for Public Interest that is Just and Equitable in Achieving a Balance between the Protection of Community Rights and the Acceleration of National Development

Legal reform of land acquisition for public interest must be directed at establishing a legal system capable of creating a proportional balance between the needs of national development and the protection of the rights of communities as land rights holders. The orientation of legal reform should not simply focus on accelerating land acquisition; it must also ensure the fulfillment of the principles of substantive justice, human rights protection, and community participation in every stage of decision-making. The concept of *ius constituendum* must stem from the weaknesses inherent in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as amended through Law Number 6 of 2023 and Government Regulation Number 19 of 2021. The direction of legal reform must position communities as subjects with the right to determine their social and economic future, not merely as objects impacted by development. The creation of new regulations or amendments to existing regulations must be based on the principles of the rule of law, social justice, respect for property rights, and sustainable development, as the primary goals of governance in a welfare state.

Strengthening the principle of meaningful participation must be a key agenda item in reforming land acquisition law. Current regulations still treat public consultation as an administrative procedure that has not yet significantly impacted the decision-making process. Legal reform needs to be implemented through amendments to provisions regarding public consultation, requiring the approval of a majority of affected communities before determining a development location. The public objection mechanism must also be expanded by providing a more effective opportunity to submit administrative objections and objections through independent institutions before a location determination decision is issued. The establishment of an Independent Land Acquisition Commission at the provincial level, comprised of government officials, academics, civil society organizations, and community leaders, could serve as an oversight instrument for the public consultation process. The presence of such an institution would strengthen the community's position and prevent unilateral domination by agencies requiring land. This model shares similarities with public consultation practices implemented in Japan and the Netherlands, which provide ample opportunity for communities to influence development decisions that directly impact their lives.

Improving the assessment and compensation mechanisms must also be a primary focus of legal reform. Current regulations tend to focus on the valuation of physical assets, thus failing to fully address the social, economic, cultural, and psychological losses experienced by communities. Amendments to Articles 33 and 36 of Law Number 2 of 2012 are needed to explicitly include non-physical losses as a mandatory element in compensation assessments. This assessment should include loss of livelihood, relocation costs, loss of social networks, losses due to a reduced quality of life, and the loss of historical and cultural values inherent in the land. More measurable national valuation standards need to be developed by the government, in collaboration with public appraisal associations and academics, to avoid differing interpretations in determining compensation amounts. The formation of an appraisal panel involving more than one independent appraiser should also be considered to increase the objectivity of the assessment results. This step is expected to reduce disputes from community dissatisfaction with the compensation amounts awarded.

Limiting the use of consignment mechanisms is an important step in achieving stronger protection of community rights. Article 42 of Law Number 2 of 2012 needs to be revised to make consignment a last resort (*ultimum remedium*), which can only be implemented after all mechanisms for deliberation, mediation, and administrative dispute resolution

have been fully exhausted. Legal reforms should require a decision from an independent mediation institution before an agency requiring land can submit a claim to court. This mechanism will prevent the use of consignment as a means of accelerating development that ignores the community's right to a fair resolution. The experiences of Australia and South Korea demonstrate that dispute resolution through intensive mediation and negotiation can reduce conflict and increase community acceptance of development projects. Strengthening mediation as a mandatory step before consignment will provide more balanced legal protection while ensuring the sustainability of development, which is a national necessity.

Protection of vulnerable groups must receive special attention in the concept of land acquisition law reform. Indigenous communities, small farmers, fishers, low-income communities, female heads of households, people with disabilities, and other vulnerable groups often experience greater impacts from land loss than other groups. Legal reforms need to regulate the government's obligation to conduct social impact assessments and human rights impact assessments before a development project is designated as being in the public interest. The results of these assessments should form the basis for determining the form of protection and redress provided to affected communities. Relocation programs, economic empowerment, job skills training, access to capital, and guarantees of sustainable livelihoods need to be explicitly regulated as part of the rights of communities affected by land acquisition. This approach should not only focus on providing financial compensation but also ensure the continuity of the community's social and economic life after their land is used for the public interest.

The harmonization of the principles of the public interest and the protection of human rights must serve as the cornerstone of the reform of land acquisition laws in Indonesia. Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which emphasizes the prosperity of the people, must be interpreted in a manner balanced with Article 28H, paragraph (4) and Article 28D, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantee property rights and fair legal certainty for every citizen. The ideal concept of legal reform is the enactment of a Land Acquisition Law based on the principles of restorative justice, meaningful participation, protection of human rights, and sustainable development. Such regulations must establish stronger public consent requirements, strengthen independent oversight institutions, expand compensation provisions, limit land consignment, protect vulnerable groups, and ensure swift and just dispute resolution. This model is expected to create a land acquisition system that is more responsive to national development needs while ensuring respect for the constitutional rights of the people as land rights holders. The balance between development and the protection of citizens' rights will ultimately be the primary indicator of the success of land acquisition law reform in realizing social justice for all the people of Indonesia.

CONCLUSION

The legal regulation of land acquisition for public interest in the Indonesian legal system basically has a fairly strong normative basis through Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles, Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as adjusted through Law Number 6 of 2023, and Government Regulation Number 19 of 2021. This legal construction provides legitimacy to the state to carry out land acquisition to support national development oriented towards the public interest. The reality shows that the implementation of land acquisition still faces various legal problems that prevent the balance between the protection of community rights and the acceleration of national development from being realized. The imbalance in the bargaining position between the government and the community, limited community participation in decision-making, disputes regarding the value of compensation, the use

of consignment mechanisms that tend to prioritize the acceleration of development, and weak protection of the social and economic rights of affected communities indicate a gap between *das sollen* and *das sein*. This situation demonstrates that the principles of justice, legal certainty, benefit, and protection of human rights, as mandated by the constitution and laws and regulations, have not been fully and optimally implemented in the practice of land acquisition for public purposes.

Reforms to the legal regulations for land acquisition for public purposes need to be directed at establishing a more just, participatory legal system oriented toward protecting human rights without hindering the acceleration of national development. Amendments to Law Number 2 of 2012 are necessary by strengthening the principle of meaningful participation through substantive community involvement in every stage of land acquisition, expanding the compensation component to include both physical and non-physical losses, making the consignment mechanism a last resort (*ultimum remedium*), and providing special protection to vulnerable groups affected by development. The establishment of an independent oversight body in the land acquisition process also needs to be considered to ensure transparency, accountability, and a balanced position for all parties. Harmonization between the principle of public interest as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, with the protection of property rights and human rights as stipulated in Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia and Law Number 39 of 1999 concerning Human Rights, must be the main basis in formulating future land acquisition policies. This step is expected to realize a land acquisition system that not only supports national development effectively, but also guarantees the protection of the constitutional rights of the community in a fair and sustainable manner.

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