

Compensation Assessment in Land Procurement for Public Interest in Providing Justice

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ABSTRACT

Land procurement for public interest is an important action for the development of public infrastructure that often leads to conflicts between landowners and the government regarding the compensation received by landowners. Therefore, fair and transparent compensation assessment is crucial in providing justice for landowners affected by land procurement. This research aims to analyze and evaluate the mechanisms, issues, and solutions for compensation assessment in land procurement for public interest in Indonesia. Based on literature studies, this research shows that the compensation assessment mechanisms applied by the government in Indonesia have not fully provided justice for landowners. Several factors affecting the compensation assessment mechanisms, such as non-objective land prices, differences in perceptions between landowners and the government regarding land values, and differences in views regarding the concept of fair compensation, are obstacles in providing justice in land procurement for public interest. Therefore, reforms in compensation assessment mechanisms are necessary to make them more transparent and fair for landowners. The government needs to consult with landowners and local communities to obtain a joint agreement regarding land procurement for public interest, so that justice can be upheld in land procurement for public interest.

Keywords: Evaluation, General, Justice, Land.

Published Online: June 13, 2023

ISSN: 2796-1176

DOI: 10.24018/ejpolitics.2023.2.3.99

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I. INTRODUCTION

Development for public interest is development carried out by the government or private institutions to meet the needs of the community in general (Indriasti Wardani, 2021). This development is carried out with the aim of improving community welfare, improving quality of life, increasing accessibility and mobility, and enhancing the competitiveness of a region (Andreoni & Miola, 2016). Some examples of development for public interest include the construction of toll roads, airports, seaports, power grids, telecommunications networks, public buildings, healthcare facilities, and educational facilities.

However, development for public interest often leads to conflicts with communities that own land or assets in the area to be developed (Nulhaqim *et al.*, 2020). The government must ensure that the compensation given to the affected communities is fair and in line with market value (Hoogendam & Boelens, 2019; Yıldız, 2020).

One of the five priority programs during the leadership of President Joko Widodo and Vice President Ma'ruf Amin in 2019-2024 is the construction of several strategic infrastructures in Indonesia. New infrastructure development requires significant funding and vast land, and the selected areas for infrastructure development are often residential areas or lands already owned by residents. However, landowners often refuse to give up their land for infrastructure development, and protests from landowners become the first problem in land procurement for infrastructure development (Harjono, 2023).

One recent example in Indonesia regarding the assessment of compensation in land acquisition for public interest is the Jakarta-Cikampek II Elevated toll road construction project. In this project, several landowners experienced difficulties in obtaining fair compensation because the value of the land offered by the government was considered too low by the landowners. Didin Muhidin revealed that residents had not agreed on the amount of compensation given. The replacement amount was around IDR 660,000 per meter on the roadside. If it is inside, it is around IDR 200,000 to IDR 300,000. This amount, according to Didin Muhidin, is far below the market price. Currently, the price of land in the Tamansari area, located on the roadside, is IDR 2,000,000 per meter (Azzam, 2023).

Responding to this issue, the Ministry of Public Works and Housing (PUPR) ensured that the compensation assessment mechanism carried out was in accordance with applicable regulations and standards. However, the Ministry of PUPR also stated its readiness to make improvements in the compensation assessment mechanism if necessary (Azzam, 2023).

However, if we look at the essence of human rights directly related to fair and reasonable compensation, this can be interpreted in the context of protecting the right to land ownership, which should not be taken arbitrarily as guaranteed by Article 34 paragraph (4) of the 1945 Constitution. In addition, Article 33 paragraph (3) of the 1945 Constitution also forms the basis for the establishment of national agrarian law oriented towards community welfare. Similarly, Law No. 39 of 1999 concerning Human Rights has regulated the protection of ownership rights, including compensation.

In practice, the problem is related to compensation assessments that do not align with agreements, as well as difficulties in conducting compensation negotiations due to differing positions of the parties involved, which can lead to coercion, and local residents are asked to accept what the committee wants. Therefore, for successful outcomes, the community must be given maximum freedom and equal positions when conducting negotiations (Abdurrahman, 1991).

Compensation assessments must comply with the provisions of Articles 31-34 of Law No. 2 of 2012 and Articles 67-70 of Government Regulation No. 19 of 2021. Likewise, compensation negotiations must be conducted in accordance with Articles 37-39 of Law No. 2 of 2012 and Articles 71-75 of Government Regulation No. 19 of 2021.

This case shows that there are still different perceptions between landowners and the government regarding the value of land and the concept of fair compensation in land acquisition for public purposes. Therefore, good cooperation and negotiations between the government, landowners, and local communities are necessary to ensure transparent and fair compensation assessments in land acquisition for public purposes.

Based on the above explanation, the research focuses on justice, compensation, public interest, and land acquisition. In order to identify the problem, the research focuses on two things. First, how can the mechanism for compensation assessment in land acquisition for public purposes provide justice in accordance with Law No. 2 of 2012 and Government Regulation No. 19 of 2021? Second, what are the problems that arise in compensation assessment in land acquisition for public purposes that affect justice according to Law No. 2 of 2012 and Government Regulation No. 19 of 2021, and how can they be addressed?

The purpose of this research is to analyze and evaluate the mechanism, problems, and solutions for compensation assessment in land acquisition for public purposes to ensure justice in accordance with Law No. 2 of 2012 and Government Regulation No. 19 of 2021.

II. METHOD

The appropriate research method is normative and empirical legal research. Normative legal research is conducted by analyzing the legislation related to compensation assessment in land procurement for public purposes. Empirical legal research is conducted by analyzing data and information from the field, such as data on land procurement for public purposes, land procurement policies, and data on previous compensation assessments. By using both methods, the research can produce a better understanding of how compensation assessment mechanisms can be carried out fairly, as well as problems and ways to overcome them to achieve justice.

III. RESULTS AND DISCUSSION

A. Compensation Assessment Mechanisms in Land Acquisition for Public Interests Can Provide Justice in Accordance with Law No. 2 of 2012 and Government Regulation no. 19 Year 2021

A fair and accurate mechanism for assessing compensation is crucial in land acquisition for public purposes. In this regard, comprehensive and accurate assessments are necessary. Inaccurate assessments can cause affected parties to feel unfair and dissatisfied with the compensation they receive. Therefore, the assessment mechanism should consider factors such as location, land area, and economic potential.

The location of the land greatly affects the compensation value given. Land located in strategic areas such as in the city center or along the main highway usually has a higher value. In addition, land area should also be carefully considered, as larger land areas will have a higher value. The economic potential of the land should also be taken into account, such as its ability to be used for commercial or business activities.

A comprehensive and accurate assessment mechanism can be carried out by involving independent appraisers who have expertise in property assessment (Susilowati *et al.*, 2021). Appraisers should have sufficient knowledge about the local property market and factors that affect property values, and should be free from the influence of parties related to land acquisition.

In the Law No. 2 of 2012 and Government Regulation No. 19 of 2021, principles that must be adhered to in assessing compensation have been regulated, including the principles of fairness, certainty, openness, agreement, and balance between landowners' rights and public interests.

By considering these principles and conducting comprehensive and accurate assessments, it is hoped that compensation assessments can provide justice to affected parties.

Government Regulation No. 19 of 2021 also stipulates that the mechanism for assessing compensation must be carried out by an independent appraisal team that has qualifications and certifications in accordance with applicable regulations. This is to ensure that the assessment mechanism is carried out professionally and objectively. This is crucial because inaccurate assessment mechanisms can cause significant harm to communities affected by land acquisition.

The appointed independent appraiser should have adequate knowledge of land values, including factors such as location, land size, and economic potential that can affect the value of the land. In addition, they should also consider the social and economic factors of the affected communities in the land acquisition process. The social and economic impacts that may occur in the surrounding communities include:

1. Loss of livelihoods: Communities that rely on agriculture, plantations, or small businesses in the area where the project will be developed may lose their source of income after their land is used for public purposes. This can affect their ability to meet daily needs and increase the risk of poverty.
2. Changes in social environment: Land acquisition for public purposes can result in changes in the social environment in the surrounding area, such as relocation of residents or changes in their habits and way of life. This can cause discomfort, emotional instability, and decreased quality of life for the community.
3. Loss of access to natural resources: Communities may lose access to natural resources that they use on a daily basis, such as water, forests, or agricultural land. This loss of access can impact the availability of food, clean water, and other important resources for their livelihoods.
4. Changes in land and property prices: Land acquisition can result in changes in land and property prices in the surrounding area. This can affect the community's ability to buy or sell property in the region and increase rental or sale prices.
5. Psychological impacts: Land acquisition can also impact the mental health of the surrounding community, such as stress, anxiety, and depression. This can occur due to uncertainty and significant changes in their lives as a result of land acquisition.

All of these impacts can affect the welfare of the surrounding community and should be considered in the mechanism for assessing compensation to ensure that the community receives fair and appropriate compensation for their losses.

In carrying out their duties, independent assessment teams must adhere to principles of professionalism and ethics, as well as maintain their independence from the influence of certain parties. Some principles to be considered include (Prambowo, 2020):

1. Independence: Assessment teams must be independent from the influence of certain parties that may affect the assessment results. They must be able to maintain their independence and not be tied to specific interests, such as those of the government or developers.
2. Competence: Assessment teams must have adequate qualifications and certifications in accordance with applicable regulations. Assessment teams must also have sufficient knowledge and experience in conducting compensation assessments, including considering the social and economic factors of the surrounding community.
3. Objectivity: Assessments must be conducted objectively, without any preference or bias towards any particular party. Assessment teams must strive to avoid conflicts of interest and make decisions based on available facts and evidence.
4. Transparency: Assessments must be conducted transparently and openly, so that the public can understand the assessment process and results. Assessment teams must provide clear and detailed explanations of the methods and criteria used in the assessment.
5. Integrity: Assessment teams must act with integrity and not engage in actions that harm the public or other parties affected by land acquisition. They must prioritize the interests of the community in conducting assessments.

By upholding these principles of professionalism and ethics, it is hoped that assessment teams can carry out compensation assessments fairly and transparently, so that communities affected by land acquisition can receive compensation that is commensurate with their losses.

The Law No. 2 of 2012 concerning Land Procurement for Development for Public Interest regulates that compensation assessment must be carried out by an independent assessment team that has certification from the Indonesian Professional Appraiser Certification Institution or other certification institutions recognized by the government. The Government Regulation No. 19 of 2021 emphasizes that landowners must be given the opportunity to provide input and suggestions regarding the proposed compensation assessment by the independent assessment team. This indicates that landowners play an important role in the compensation assessment process and must be involved in it.

In maintaining independence and professionalism, the independent assessment team must uphold ethics and integrity in carrying out their duties. The assessment team must maintain its independence from the

influence of certain parties and prioritize the public interest over personal or group interests. In conducting the assessment, the independent assessment team must be objective, transparent, and follow good and correct assessment principles. This can help ensure that the compensation assessment is conducted in accordance with the principles of justice and transparency.

B. Problems that Arise in the Assessment of Compensation in Land Acquisition for Public Interests that Affect Justice and How to Overcome Them

Land acquisition for public interest is an important process in developing infrastructure for the benefit of the community (Kotalewala *et al.*, 2020). However, in this process, problems often arise related to the compensation received by landowners affected by the land acquisition (Rachmawan, 2016; Rahmadani, 2022). This issue concerns the fairness in the process of land acquisition for public interest under Law No. 2 of 2012 and Government Regulation No. 19 of 2021:

1. The first issue that often arises is the unfair or inadequate compensation assessment. This is caused by the ambiguity in the regulations regarding compensation assessment, such as determining land prices and which components should be considered in the assessment. In addition, the differences in land prices in various regions can also cause injustice in compensation assessment.
2. The second issue is the lack of transparency and participation in the land acquisition process. Landowners who are affected by land acquisition often do not receive sufficient information about the land acquisition process and their rights as landowners. In addition, the participation of landowners in the compensation assessment process is often not accommodated properly, resulting in an unfair land acquisition process.
3. The third issue is the differential treatment between landowners affected by land acquisition and other parties involved in the process, such as consultants or government officials. Unfair treatment can cause distrust and dissatisfaction among landowners affected by land acquisition.

To address these problems, integrated and sustained efforts are needed from various relevant parties, such as the government, businesses, and society. Firstly, the legislation regarding land acquisition for public purposes needs to be refined, especially regarding compensation assessment. Additionally, the land acquisition process needs to be more transparent and participatory, by providing sufficient information to landowners and accommodating their participation in the compensation assessment process (Zarkasih & Amelia, 2019). Moreover, mechanisms to resolve land acquisition disputes are also crucial to maintain fairness in compensation.

Regarding compensation assessment mechanisms, comprehensive and accurate assessments need to be conducted, taking into account factors such as location, land area, and economic potential. Furthermore, training for assessors is necessary to ensure the accurate and fair calculation of land value.

Another problem that arises is the lack of transparency in the compensation assessment process. Some landowners often feel that they are not given sufficient information about how the assessment is conducted and how the compensation value is determined. This can lead to a sense of unfairness and suspicion of the process.

Furthermore, another problem that often occurs is the lack of access to information and knowledge about their rights in the land acquisition process for public purposes. Many landowners are unaware that they are entitled to fair and reasonable compensation in accordance with applicable regulations.

To address these problems, better transparency is needed in the compensation assessment mechanism, including providing sufficient information to landowners about how the assessment is conducted and how the compensation value is determined. Additionally, the government and relevant institutions need to provide training and education to landowners about their rights in the land acquisition process for public purposes.

Moreover, clear mechanisms are necessary to resolve disputes related to compensation assessment. These mechanisms should be easily accessible to landowners and provide fair and reasonable decisions in resolving disputes. As outlined in Government Regulation No. 19 of 2021, clear mechanisms have been established to resolve disputes related to compensation assessment, including:

1. Musyawarah (consultation) to achieve consensus (Musrebang), in this stage, parties involved in a dispute will sit together to find a solution that benefits all parties. They will discuss and seek a mutual agreement related to the compensation assessment. If an agreement is reached, the dispute can be resolved in this stage.
2. Mediation. If an agreement is not reached in the Musrebang stage, the involved parties can attempt mediation with the help of a mediator. The mediator's role is to assist parties in reaching an agreement through dialogue and negotiation.
3. Arbitration. If mediation fails to reach an agreement, parties can opt for arbitration. Arbitration is a dispute resolution method outside of the court system that involves a neutral and independent third party. The decision made by the third party is final and binding.

4. Settlement through the court system. If the dispute cannot be resolved through the previous stages, parties can bring the dispute to court. The court's decision is final and binding for the parties involved.

With this clear mechanism, it is hoped that disputes related to compensation assessment can be resolved fairly and transparently, and produce decisions that satisfy all parties. Therefore, in order to achieve fairness in compensation assessment, the government and related institutions need to ensure that assessments are carried out comprehensively and accurately, taking into account relevant factors. In addition, transparency and better access to information must be provided to landowners, and clear and easily accessible mechanisms must be available to resolve disputes related to compensation assessment.

IV. CONCLUSION

The mechanism for assessing compensation in land acquisition for public purposes must be comprehensive and accurate, taking into account factors such as location, land area, and economic potential. Law No. 2 of 2012 and Government Regulation No. 19 of 2021 establish clear principles for assessing compensation in land acquisition for public purposes that ensure fairness for affected landowners. Additionally, clear mechanisms for resolving disputes related to compensation assessment must be enforced to ensure that such disputes can be settled fairly and effectively.

By following principles of professionalism and ethics and maintaining independence from the influence of certain parties, compensation assessment in land acquisition for public purposes can provide justice in accordance with Law No. 2 of 2012 and Government Regulation No. 19 of 2021. This will help strengthen the protection of landowners' rights and maintain fairness in the implementation of land acquisition for public purposes.

However, there are several problems in the assessment mechanism that affect fairness, such as inaccurate assessments, failure to consider social and economic factors of surrounding communities, lack of transparency, and the presence of corruption and influence from certain parties. To address these problems, concrete steps must be taken, such as improving the quality and independence of assessment teams, providing training to assessment officers, considering social and economic factors of surrounding communities, and providing opportunities for landowners to provide feedback and file objections or appeals if they are dissatisfied with the compensation assessment results.

CONFLICT OF INTEREST

Authors declare that they do not have any conflict of interest.

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