

Legal Protection for Land Rights Holders in Determining Fair Compensation under Article 9 of Law Number 2 of 2012: A Case Study of Land Acquisition for the Jakarta–Bandung High-Speed Rail Project

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Abstract

This study examines the implementation of the principle of justice in determining fair compensation under Article 9 of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. It focuses on the Jakarta–Bandung High-Speed Rail Project as a National Strategic Project (PSN) and analyzes the legal protection available to land rights holders who object to the compensation determined by the government. A comparative analysis with the Pantai Indah Kapuk 2 (PIK 2) National Strategic Project is conducted to provide a broader perspective on the application of justice in large-scale land acquisition. This research employs a normative legal research method using statutory, case, conceptual, and comparative approaches. Primary legal materials include the 1945 Constitution, the Basic Agrarian Law (Law No. 5 of 1960), Law No. 2 of 2012, implementing regulations, relevant court decisions, and official documents related to both projects. The data were analyzed qualitatively using the theories of legal protection, distributive justice, legal certainty, and the social function of property rights. The findings reveal that the implementation of Article 9 of Law No. 2 of 2012 has not fully achieved substantive justice. The deliberation process primarily fulfilled procedural requirements while providing limited opportunities for meaningful negotiation. Although compensation disputes in the Jakarta–Bandung High-Speed Rail Project were ultimately resolved through legal mechanisms, the process exposed weaknesses in transparency, appraisal independence, and access to effective legal remedies. By contrast, the PIK 2 project involved allegations of coercion, compensation below market value, environmental impacts, and restrictions on local livelihoods, leading to the revocation of its PSN status. The study recommends strengthening counter-appraisal mechanisms, improving valuation transparency, reformulating deliberation procedures, and enhancing legal assistance to ensure fair compensation and effective legal protection.

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1. INTRODUCTION

Land acquisition for public interest development constitutes an important legal instrument for supporting national infrastructure development while ensuring the protection of individual property rights. In Indonesia, the legal framework governing land acquisition is primarily regulated by Law Number 2 of 2012, which requires that the acquisition process

be conducted through fair procedures and accompanied by appropriate compensation. The law seeks to balance the state's authority to pursue public development with the constitutional rights of landowners, thereby promoting legal certainty and justice in the implementation of development policies (Ismail, 2012).

The principle of fair compensation is inseparable from the constitutional protection of land rights. Agrarian law recognizes that ownership rights possess both individual and social dimensions, requiring the state to respect private property while exercising its authority for the public interest. Consequently, compensation should not merely replace the economic value of land but also reflect justice, proportionality, and the protection of citizens' rights affected by development projects (Arizona, 2016).

From a theoretical perspective, legal protection is closely related to equal access to justice. In legal disputes, parties possessing stronger institutional and economic resources often enjoy greater advantages than ordinary citizens. This imbalance may reduce the effectiveness of legal remedies available to landowners challenging compensation decisions, making legal protection an essential element in achieving substantive justice (Galanter, 1974).

Previous studies have emphasized various aspects of land acquisition for public purposes. Legal protection for landowners has been identified as a fundamental requirement to prevent arbitrary state action and to ensure that compensation reflects the principles of justice established by law. These studies demonstrate that compensation should be determined through transparent procedures and supported by effective legal safeguards for affected communities (Bakri, 2012).

Research on agrarian reform has further highlighted that land acquisition policies should be implemented consistently with the objectives of social justice and equitable development. Agrarian reform principles require that land acquisition mechanisms respect the rights of affected communities while maintaining legal certainty for infrastructure development, thereby minimizing conflicts between the government and landowners. Similar conclusions were reached in studies examining the implementation of land acquisition under Law Number 2 of 2012, which emphasize the importance of balancing public interests with the legal rights of affected landowners (Nurlinda, 2017; Nurtjahjo, 2016).

Critical discussions concerning compensation under Law Number 2 of 2012 indicate that the implementation of fair compensation remains problematic. Existing regulations provide a legal basis for compensation; however, procedural limitations, unequal bargaining positions, and limited public participation frequently prevent the realization of substantive justice during compensation determination (Salim, 2019).

Studies focusing on the Jakarta–Bandung High-Speed Rail Project reveal that compensation disputes mainly arise from disagreements over valuation results and objections submitted through judicial mechanisms. Although the legal procedures have generally been followed, the dispute resolution process illustrates that formal compliance with statutory provisions does not necessarily guarantee that affected landowners perceive the compensation as fair. Research on the legal dynamics of the Jakarta–Bandung High-Speed Rail Project also demonstrates that land acquisition remains one of the most challenging legal aspects of strategic infrastructure development in Indonesia (Haryanto, 2020; Redi, 2020).

Recent studies further indicate that the implementation of land acquisition for the Jakarta–Bandung High-Speed Rail Project generally complies with statutory procedures but continues to raise questions regarding the realization of substantive justice, transparency, and the protection of landowners' rights. Comparative assessments of National Strategic

Projects similarly reveal that legal certainty should be accompanied by effective legal protection and meaningful public participation throughout the land acquisition process (Indiastuti *et al.*, 2024).

Despite these valuable contributions, previous studies have primarily examined compensation disputes, agrarian policy, or legal protection separately. Limited research has specifically analyzed the implementation of Article 9 of Law Number 2 of 2012 by integrating the principle of fair compensation with preventive and repressive legal protection through a comparative analysis of National Strategic Projects. This gap demonstrates the need for further research that provides a more comprehensive legal assessment.

The scientific novelty of this study lies in its analysis of the implementation of Article 9 of Law Number 2 of 2012 through the integration of legal protection theory, distributive justice, and comparative legal analysis between the Jakarta–Bandung High-Speed Rail Project and the Pantai Indah Kapuk 2 Project. This approach offers a broader understanding of the legal mechanisms required to ensure fair compensation in public land acquisition.

Based on the foregoing discussion, this study aims to analyze the implementation of fair compensation under Article 9 of Law Number 2 of 2012 in the Jakarta–Bandung High-Speed Rail Project and to formulate a legal protection framework capable of strengthening justice and legal certainty for land rights holders in public land acquisition.

2. METHOD

This study employed a normative legal research design to examine the implementation of fair compensation under Article 9 of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. The research focused on analyzing statutory provisions, legal principles, judicial decisions, and legal doctrines governing land acquisition and legal protection for land rights holders. Empirical information from the Jakarta–Bandung High-Speed Rail Project and the Pantai Indah Kapuk 2 (PIK 2) National Strategic Project was incorporated as supporting material to illustrate the relationship between legal norms and their implementation in practice, particularly regarding fair compensation and dispute resolution (Tim Penyusun Naskah Akademik, 2011).

The research adopted four complementary approaches: the statutory approach, the case approach, the conceptual approach, and the comparative approach. The statutory approach examined the 1945 Constitution, the Basic Agrarian Law (Law No. 5 of 1960), Law No. 2 of 2012, and related implementing regulations governing land acquisition. The case approach analyzed judicial decisions concerning compensation disputes arising from the Jakarta–Bandung High-Speed Rail Project and the PIK 2 National Strategic Project. The conceptual approach explored legal doctrines concerning legal protection, justice, and legal certainty, whereas the comparative approach evaluated similarities and differences in the implementation of compensation mechanisms between the two National Strategic Projects to identify strengths and weaknesses in the existing legal framework (Indiastuti *et al.*, 2024).

Primary legal materials consisted of legislation, implementing regulations, and judicial decisions, while secondary legal materials included peer-reviewed journal articles, academic books, official reports, and legal commentaries concerning land acquisition and compensation. Data were collected through library research and document analysis and subsequently analyzed using qualitative legal methods involving grammatical, systematic, and teleological interpretation. The research process comprised problem identification, collection and classification of legal materials, legal interpretation, comparative analysis, and formulation of conclusions and policy recommendations to evaluate whether the

implementation of Article 9 of Law Number 2 of 2012 has effectively ensured fair compensation and adequate legal protection for land rights holders (Nurtjahjo, 2016).

3. RESULTS AND DISCUSSION

a. Obstacles to the Implementation of Legal Protection for Land Rights Holders

The findings indicate that the implementation of legal protection for land rights holders in the Jakarta–Bandung High-Speed Rail Project has not fully achieved the principle of fair compensation as mandated by Article 9 of Law Number 2 of 2012. Although the statutory framework establishes that compensation must be fair and equitable, its practical application demonstrates a gap between legal norms and implementation. This gap primarily arises from the absence of measurable legal standards for determining "fair compensation," resulting in different interpretations among implementing agencies, land appraisers, and affected landowners. Consequently, legal certainty becomes difficult to achieve because compensation is frequently perceived as a procedural outcome rather than a substantive realization of justice (Salim, 2019).

Another significant finding concerns the limited transparency of compensation valuation. The confidentiality of appraisal reports and restricted public access to official land valuation information prevent landowners from independently assessing whether the compensation offered reflects the actual economic value of their property. As a result, the deliberation process tends to function merely as a formal administrative procedure instead of an effective mechanism for reaching consensus. This situation weakens preventive legal protection because affected communities are unable to participate meaningfully in evaluating the basis of compensation before legal disputes arise. Similar findings have been reported in recent studies emphasizing that the absence of transparent valuation standards frequently generates objections from affected communities and weakens public trust in land acquisition procedures (Mahendra *et al.*, 2025).

The study further reveals that institutional factors contribute substantially to the ineffectiveness of legal protection. The involvement of multiple institutions—including the National Land Agency, regional governments, project developers, and independent appraisers—creates overlapping responsibilities that often reduce administrative efficiency. Coordination among these institutions is primarily directed toward accelerating project completion rather than ensuring equal bargaining positions between the government and landowners. Consequently, land rights holders frequently encounter structural disadvantages when negotiating compensation, particularly because government institutions possess greater legal, financial, and administrative resources throughout the acquisition process. This institutional imbalance reflects the unequal bargaining position described in socio-legal scholarship, where repeat institutional actors generally possess significant advantages over individual landowners in legal disputes (Galanter, 1974).

From a socio-legal perspective, the research also identifies cultural and economic barriers affecting access to justice. Many affected landowners possess limited legal literacy regarding compensation procedures, available legal remedies, and statutory deadlines for filing objections. This condition is aggravated by the relatively high costs of litigation and limited availability of legal assistance, particularly in rural areas. As a consequence, many landowners prefer accepting compensation despite dissatisfaction because pursuing legal action requires considerable financial resources and procedural knowledge. Comparable findings have also been identified in studies concerning compensation disputes in public infrastructure development, which

conclude that insufficient legal assistance and limited community participation remain major obstacles to effective legal protection (Ardana *et al.*, 2025)

A comparison with previous studies confirms these findings. Earlier research primarily emphasized legal certainty, valuation mechanisms, or judicial dispute resolution in land acquisition. However, the present study demonstrates that the principal obstacle does not merely concern the amount of compensation but also the interaction between ambiguous legal norms, institutional imbalance, and unequal access to legal protection. This finding supports previous observations regarding weaknesses in Indonesia's land acquisition system while extending the discussion by identifying how preventive and repressive legal protection operate simultaneously in determining compensation outcomes. It also reinforces previous analyses of compensation disputes in the Jakarta–Bandung High-Speed Rail Project, which concluded that procedural compliance alone is insufficient to ensure substantive justice for land rights holders (Bakri, 2012; Haryanto, 2020).

b. Legal Remedies and the Reconstruction of Legal Protection Mechanisms

The findings demonstrate that the legal remedies currently available for land rights holders under Law Number 2 of 2012 have not fully guaranteed effective legal protection in compensation disputes. The legislation provides both judicial and non-judicial mechanisms, including objections before the District Court, administrative review, and complaints to public oversight institutions. However, these mechanisms remain predominantly procedural and place a substantial burden of proof on affected landowners. Consequently, the existing legal framework emphasizes procedural compliance rather than ensuring that compensation outcomes genuinely reflect the principle of substantive justice established under Article 9 of the Law. This finding is consistent with previous studies on compensation disputes in the Jakarta–Bandung High-Speed Rail Project, which emphasize that formal compliance with statutory procedures does not necessarily ensure substantive fairness for affected landowners (Haryanto, 2020).

The judicial mechanism, particularly objections submitted to the District Court, represents the principal avenue for challenging compensation decisions. Nevertheless, the research found that the statutory time limit for filing objections and the complexity of evidentiary requirements significantly reduce the effectiveness of this legal remedy. Landowners are expected to prepare legal arguments, obtain professional legal representation, and produce convincing evidence within a relatively short period. Such procedural requirements create unequal access to justice because government agencies and project developers generally possess greater institutional capacity and legal expertise than individual landowners. Consequently, judicial review often functions as a formal dispute settlement mechanism rather than an effective instrument for correcting inequitable compensation decisions. These findings indicate that the objectives underlying Law Number 2 of 2012 require stronger procedural safeguards to ensure that judicial review effectively protects property rights rather than merely confirming administrative compliance (Ismail, 2012).

Non-judicial remedies also reveal important limitations. Complaints submitted to institutions such as the Ombudsman of the Republic of Indonesia or the National Human Rights Commission may encourage administrative improvements and increase public accountability. However, these institutions generally issue recommendations rather than legally binding decisions. As a result, their capacity to provide direct legal protection remains limited, particularly when disputes involve disagreements concerning compensation valuation. The findings therefore indicate that existing non-litigation mechanisms contribute more to administrative oversight than to

the enforcement of landowners' substantive rights, reinforcing previous arguments that stronger preventive legal protection should accompany administrative supervision (Nurlinda, 2017).

A comparative analysis between the Jakarta–Bandung High-Speed Rail Project and the Pantai Indah Kapuk 2 National Strategic Project further demonstrates that legal disputes in large-scale infrastructure projects originate not only from disagreements over compensation value but also from deficiencies in transparency, public participation, and institutional accountability. Although both projects were implemented under different factual circumstances, they reveal similar structural weaknesses in balancing public development objectives with the protection of private property rights. These findings are consistent with recent studies highlighting that compensation disputes frequently arise because affected communities perceive valuation procedures as insufficiently transparent and participatory (Yusuf *et al.*, 2024).

Based on these findings, this study proposes several legal reforms to strengthen legal protection in future land acquisition. First, the compensation determination process should incorporate an independent counter-appraisal mechanism that enables landowners to obtain alternative professional valuations before judicial proceedings commence. Second, greater transparency should be introduced by allowing broader access to valuation data while maintaining professional appraisal standards. Third, the deliberation process should be transformed into a genuine negotiation forum where compensation values may be discussed substantively rather than merely communicated administratively. These recommendations are consistent with the legislative objectives formulated during the drafting of Law Number 2 of 2012, which emphasized balancing public development with the protection of individual property rights (Tim Penyusun Naskah Akademik, 2011).

These findings support the research objective that effective legal protection cannot be achieved solely through the existence of statutory provisions. Instead, substantive justice requires institutional reforms that integrate transparency, equal bargaining power, independent valuation, and accessible legal remedies. Such reforms would strengthen the implementation of Article 9 of Law Number 2 of 2012 while ensuring that land acquisition for public interest remains consistent with constitutional guarantees of property rights and the broader principles of the rule of law (Salim, 2019).

4. CONCLUSION

This study concludes that the implementation of Article 9 of Law Number 2 of 2012 has provided a legal framework for determining compensation in public land acquisition; however, its application in the Jakarta–Bandung High-Speed Rail Project has not consistently achieved substantive justice for land rights holders. The principal finding demonstrates that the effectiveness of legal protection is constrained not only by normative ambiguities regarding fair compensation but also by institutional imbalances, limited transparency in valuation procedures, and unequal access to legal remedies. Although judicial and non-judicial mechanisms are available, they remain insufficient to ensure equal bargaining positions between the government and affected communities. Accordingly, strengthening legal protection requires institutional and regulatory reforms through the establishment of transparent compensation standards, the adoption of independent counter-appraisal mechanisms, the enhancement of meaningful public participation during deliberation, and the expansion of accessible legal assistance. These measures are expected to improve the implementation of fair compensation while reinforcing legal certainty, justice, and the constitutional protection of property rights in future land acquisition for public interest.

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