

Evaluating the Justice Framework in Land Acquisition: Legal and Policy Review of Government Regulation No. 39/2023 in Indonesia

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ABSTRACT

Land acquisition for public interest is a strategic instrument in Indonesia's national development agenda, yet it continues to generate legal, social, and human rights controversies. Previous studies tend to focus on procedural or administrative aspects, often overlooking normative justice, institutional coherence, and comparative legal perspectives. This study seeks to fill that gap by critically analyzing Government Regulation No. 39 of 2023 as a revision of Government Regulation No. 19 of 2021, focusing on its consistency with the principles of justice, the constitutional hierarchy of laws, and the broader goals of agrarian reform. Using a qualitative-descriptive method based on normative legal research, this article examines key legal instruments such as Law No. 2 of 2012, the Job Creation Law (Law No. 6 of 2023), and the Basic Agrarian Law (Law No. 5 of 1960). It integrates normative, institutional, and comparative frameworks to evaluate the role of the Land Bank Institution, the transparency of compensation mechanisms, and the degree of public participation. The article also assesses whether Government Regulation 39/2023 aligns with the redistributive spirit of agrarian reform and safeguards against potential human rights violations. Findings suggest that while the regulation introduces improvements in procedural structure and institutional roles, it remains limited in addressing structural injustices, particularly in relation to forced displacement, customary land claims, and access to legal remedies. This article offers a novel contribution by bridging doctrinal analysis with critical human rights perspectives and international comparisons, emphasizing the need for a justice-oriented reform in land acquisition policy.

Keywords: Land acquisition, public interest, social justice, Land Bank, agrarian regulation.

ABSTRAK

Pengadaan tanah untuk kepentingan umum merupakan instrumen strategis dalam agenda pembangunan nasional di Indonesia, namun kerap menimbulkan persoalan hukum, sosial, dan pelanggaran hak asasi manusia. Kajian-kajian sebelumnya cenderung berfokus pada aspek administratif dan prosedural, dengan sedikit perhatian terhadap keadilan normatif, konsistensi hukum, dan perspektif perbandingan lintas negara. Artikel ini berupaya mengisi kekosongan tersebut dengan menganalisis secara kritis Peraturan Pemerintah Nomor 39 Tahun 2023 sebagai revisi atas Government Regulation No. 19 Tahun 2021, khususnya dalam kaitannya dengan prinsip keadilan, hierarki peraturan perundang-undangan, dan arah reforma agraria. Dengan menggunakan pendekatan kualitatif-deskriptif berbasis studi kepustakaan hukum normatif, artikel ini mengkaji instrumen hukum utama seperti Undang-Undang Nomor 2 Tahun 2012, Undang-Undang Cipta Kerja (UU No. 6 Tahun 2023), dan Undang-Undang Pokok Agraria (UU No. 5 Tahun 1960). Kajian ini mengintegrasikan pendekatan normatif, kelembagaan, dan komparatif untuk menilai peran Lembaga Bank Tanah, mekanisme kompensasi, dan keterlibatan masyarakat terdampak. Analisis juga mencakup sejauh mana Government Regulation 39/2023 selaras dengan semangat redistribusi agraria serta menjawab risiko pelanggaran hak asasi manusia. Temuan menunjukkan bahwa meskipun regulasi ini menghadirkan perbaikan struktural pada aspek prosedural dan koordinasi kelembagaan, sejumlah persoalan mendasar tetap belum teratasi—terutama terkait pengusuran paksa, klaim tanah adat, dan akses terhadap keadilan. Artikel ini menawarkan kontribusi baru melalui pendekatan kritis yang menggabungkan analisis doktrinal, perspektif HAM, dan perbandingan internasional untuk mendorong reformasi hukum pengadaan tanah yang berorientasi pada keadilan.

Kata Kunci: Pengadaan tanah, kepentingan umum, keadilan sosial, Bank Tanah, regulasi agraria

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INTRODUCTION

Land acquisition for public interest is a fundamental issue that involves not only the technical aspects of transferring land rights but also reflects how the state balances development priorities with the protection of citizens' rights (Ginting et al., 2024; Permadi et al., 2024). Land required for national strategic projects is often occupied by communities that have lived there for generations or falls under uncertain legal status, such as customary land, cultivated land, or unregistered land. These conditions present serious challenges in ensuring legal certainty and achieving social justice in the acquisition process (Roestamy, 2017; Tehupeiori et al., 2023).

The lack of community involvement in decision-making and the absence of transparency in compensation mechanisms frequently trigger conflict and may even hinder project implementation (Hajati, 2019; Musmuliadin et al., 2024; Sunarno, 2019). In response to these issues, the government has taken steps to develop a more equitable, transparent, and participatory land acquisition system through policies such as Government Regulation No. 39 of 2023. This regulation provides a clearer structure for the land acquisition process, from planning to the final handover, and highlights the importance of public consultation as a democratic instrument in development, these consultations are intended to create an open dialogue, facilitate the expression of community aspirations, and help formulate mutually beneficial solutions.

Land acquisition should not be viewed solely as an administrative procedure. It is a socio-political process that requires sensitivity to local contexts and a strong commitment to the principles of justice. The success of this process largely depends on the state's ability to build public trust, ensure equal treatment of all stakeholders, and embed justice in every stage of decision-making (Fathurrahim & Djauhari, 2017; Tehupeiori et al., 2024).

One of the persistent structural challenges is overlapping land ownership claims and discrepancies between physical and legal land data. It is common for a single land parcel to be claimed by multiple parties, sometimes with conflicting ownership documents or without documentation altogether. Inconsistencies between data managed by central and regional authorities further complicate the situation and increase the risk of both horizontal and vertical conflicts (Ginting, 2023; Nizwar et al., 2024). Updating and digitizing the land information system is therefore essential to achieve accurate and integrated data.

Disputes over compensation, especially when perceived as unfair, further damage the relationship between the government and affected communities. Differences in land value assessments between independent appraisers and local residents often lead to a sense of injustice, particularly when the compensation does not reflect the land's economic potential or its historical and cultural significance. This highlights the need for a more inclusive and objective valuation system that takes into account the sustainability of community livelihoods after acquisition (Budiastanti et al., 2022; Juliandi & Muda, 2018; Pamungkas et al., 2024).

The limited space for community participation in the planning phase also reinforces the perception that development is unilateral and neglects public voices. Active community involvement from the outset is a critical prerequisite for an inclusive and democratic process. In this context, the state must act not only as a policy maker but also as a facilitator capable of bridging development interests with the protection of fundamental rights (Erwiningsih, 2023; Wiryani et al., 2024).

To address these complex challenges, the government issued Government Regulation No. 39 of 2023 as an improvement over the previous regulation, Government Regulation No. 19 of 2021. This new regulation incorporates stronger principles of justice, accountability, and transparency. Its formulation

considers not only the technical needs of development but also integrates social, legal, and economic dimensions to ensure a more responsive policy framework.

The regulation also seeks to harmonize the vertical legal framework, especially between Law No. 2 of 2012 on Land Acquisition and Law No. 6 of 2023, which ratified the Job Creation Law. This legal harmonization aims to strengthen legal certainty and prevent regulatory overlap, enabling land acquisition processes to proceed in a consistent, efficient, and dispute-minimized manner. With a more solid legal foundation, land acquisition is expected to support the timely and fair implementation of national strategic projects.

Government Regulation No. 39 of 2023 introduces a new approach that places community participation at the center of every stage of land acquisition. The requirement for public consultations from the planning phase, along with the designation of preparation teams under the authority of regional heads, are strategic steps to enhance direct community engagement and ensure that processes align with local contexts. This institutional arrangement reflects a shift toward a more participatory policy model and signals the state's evolving role as a mediator between public interest and the protection of community rights. This regulatory framework underscores the orientation toward inclusive, adaptive, and just land governance (Meckelburg & Wardana, 2024).

Land acquisition for public interest has become a pivotal issue in Indonesia's national development agenda. As the government accelerates infrastructure projects across the archipelago—from toll roads and airports to dams and industrial zones—the demand for land inevitably increases. This process intersects directly with citizens' constitutional rights, particularly the right to land ownership and adequate living space, as enshrined in Article 28H and Article 33 of the 1945 Constitution. Ensuring a fair balance between state development goals and the protection of individual rights is therefore not only a legal concern but a fundamental constitutional mandate.

Substantive changes in the regulation also include the reinforcement of efficiency, accountability, and procedural clarity. While accelerating the implementation of national strategic projects, the regulation also guarantees the protection of the rights of affected citizens. All stages, from planning to handover, are to be conducted based on principles of participation and respect for land rights. This approach represents the state's consistent effort to balance development objectives with legal justice and constitutional protection of land ownership (Warsito, 2025; ZHANG, 2024).

The Indonesian agrarian concept is rooted in a philosophical foundation that views land as a public resource with a social function. Land is not merely an economic asset but a divine trust that must be managed for the collective welfare. The Basic Agrarian Law (UUPA) No. 5 of 1960 explicitly mandates the state to regulate the allocation, use, and control of land while upholding the rights of the people. The state's role in land acquisition is therefore grounded in the principle of social responsibility, requiring substantive justice in every policy decision (Artaji et al., 2024; Hermawan et al., 2024; Mohamed-Katerere, 2022).

The implementation of land acquisition often faces complex challenges, particularly related to the undocumented legal status of land. Unclear ownership, overlapping land certificates, and land control based on customary law present multiple layers of difficulty in the processes of legalization and compensation. These issues tend to invite coercive approaches, which in turn escalate the potential for conflict, especially when community rights are not formally recognized. Therefore, land acquisition must be approached through dialogue, respect for local realities, and the provision of fair and dignified compensation (Ramli et al., 2024; Tumisah & Mashdurohatun, 2024).

The social dimension of land acquisition has impacts that extend far beyond the physical realm. Displacement of residents, changes in livelihood patterns, and disruptions to communal social networks

are common consequences that are often inadequately addressed. A lack of sensitivity to these aspects may result in social tensions and ultimately lead to public resistance against development projects. The provisions in Government Regulation No. 39 of 2023 were designed to respond to these dynamics by reinforcing principles of social protection and equitable recovery for affected communities (Hanum & Zaman, 2024; Permadi et al., 2025; Sulaiman & Satriawan, 2021).

Ambitious national development projections require a land acquisition system that is not only efficient but also provides legal certainty and fairness for all stakeholders. Large-scale infrastructure projects demand timely land availability, yet agrarian constraints remain a major obstacle. Evaluating the effectiveness of Government Regulation No. 39 of 2023 is essential to ensure that the policy is truly capable of addressing long-standing structural issues within the national land administration system (Hamzah Arhan et al., 2021).

The enactment of Government Regulation No. 39 of 2023, which revises and refines the provisions of Government Regulation No. 19 of 2021, marks a crucial shift in the legal landscape of land acquisition in Indonesia. This regulation is not only a technical adjustment, but also reflects the government's response to ongoing criticisms regarding procedural justice, compensation mechanisms, and public participation in land acquisition processes. Its issuance enhances the legal clarity and strengthens the institutional framework for balancing national development needs with the protection of citizens' land rights. This makes the regulation particularly relevant for legal scholars and policymakers seeking to evaluate the evolving normative structure of land governance in Indonesia.

This study aims to evaluate the implementation of Government Regulation No. 39 of 2023 in the context of land acquisition for public interest. The primary focus is directed at analyzing the principles of justice, participation, and legal certainty as articulated in the regulation, and how these principles are realized in practice. The study also identifies structural and procedural barriers encountered during implementation, and explores the extent to which the new regulation addresses the persistent challenges that have hindered the smooth progress of national development. Emphasis is placed not only on the legal dimensions but also on the social and administrative aspects that are integral to the dynamics of land acquisition (Adrianto et al., 2023; Nurnaningsih & Sihombing, 2024).

This article adopts a dual-focus approach that integrates both normative and institutional analyses. Normatively, it examines the legal conception of justice in land acquisition—particularly in terms of proportionality, compensation, and protection of citizens' rights. Institutionally, the study evaluates how mechanisms such as the Land Bank Institution, public participation procedures, and transparency frameworks are implemented under the latest regulatory framework. This structure allows for a holistic understanding of the challenges and potential gaps between legal ideals and administrative practice.

This article employs a dual theoretical framework that combines distributive justice and procedural justice to assess the fairness of land acquisition for public interest in Indonesia. The concept of distributive justice, notably advanced by John Rawls, emphasizes the equitable allocation of benefits and burdens among citizens. In land acquisition, this relates to the fairness of compensation, the distribution of development gains, and the socio-economic impact borne by affected landowners and communities. Rawls's "difference principle" is particularly relevant, as it requires that any inequalities resulting from state action must benefit the least advantaged. Thus, a distributive justice lens helps interrogate whether compensation mechanisms and land value assessments are just, especially for vulnerable populations.

The article also applies the theory of procedural justice, which focuses on the fairness, inclusiveness, and transparency of the legal and administrative processes involved. This includes the extent to which landowners are informed, consulted, and given meaningful opportunity to object or negotiate; the role of

public participation mechanisms; and the institutional integrity of bodies like the Land Bank Institution. Drawing from principles articulated by legal theorists such as Tom Tyler, procedural justice argues that fair procedures enhance legitimacy and compliance, even when substantive outcomes are contested. The combination of both paradigms offers a comprehensive normative-institutional lens through which the current regulatory framework, particularly Government Regulation No. 39 of 2023, can be critically evaluated.

The pursuit of sustainable development positions social justice as a non-negotiable component of any public policy, including land acquisition. Practices that disregard community rights will only widen the gap of inequality and erode public trust in the state. The national legal system must ensure that development respects human dignity and strengthens the capacity of communities as active agents of development (Fahmi et al., 2023; Roestamy et al., 2022).

The significance of this study lies in its effort to build a more comprehensive understanding of the effectiveness of land acquisition policy following the enactment of the new regulation. The findings are expected to contribute both conceptually and practically to the formulation of policy recommendations that are more responsive, adaptive, and aligned with the principles of justice, and in the long term, improved understanding of this regulation may serve as a foundation for drafting more robust derivative policies, both normatively and in terms of implementation.

RESEARCH METHOD

This research employs a normative–empirical approach within a qualitative framework, integrating doctrinal legal analysis, legal hermeneutics, and elements of socio-legal studies. The primary objective is to examine the consistency of land acquisition regulations with principles of justice, legal hierarchy, and human rights protection. The doctrinal component focuses on the analysis of key legal instruments governing land acquisition in Indonesia. A total of 12 primary legal texts were reviewed, including Law No. 2 of 2012, the Job Creation Law (Law No. 6 of 2023), Government Regulations No. 19 of 2021 and No. 39 of 2023, and the Basic Agrarian Law (Law No. 5 of 1960). Secondary legal materials—comprising 20 scholarly articles, 6 constitutional court and supreme court decisions, and official documents from 3 relevant institutions (BPN, Ministry of ATR, and the Land Bank Agency)—were selected through purposive sampling based on their relevance to normative justice, public participation, and implementation mechanisms.

The legal hermeneutics approach is applied to interpret the normative content of regulations in light of constitutional principles and agrarian reform ideals. In parallel, the socio-legal perspective supports the analysis of institutional practices and implementation challenges, drawing on documented case studies involving land disputes and acquisition conflicts. Legal comparison is also employed to position Indonesia's regulatory model within a broader international context. The data analysis follows a deductive–qualitative model, employing content analysis to identify legal inconsistencies, normative gaps, and implementation barriers. Each regulation is examined not only for its textual substance but also for its impact on the rights of affected communities and its alignment with broader legal and ethical standards.

RESULTS AND DISCUSSION

Regulatory Analysis

Land acquisition in the context of strategic infrastructure development is not merely a technical administrative matter. It involves the relationship between the state and its citizens within the broader framework of land rights and equitable access to living space. Law No. 2 of 2012, which serves as the main legal foundation for land acquisition for public purposes, stipulates that each process must be based on respect for land rights, procedural clarity, and fair compensation. This regulation offers a legal framework that not only prioritizes development effectiveness but also incorporates substantive justice through guarantees of access to information, participation, and protection for affected communities.

The normative provisions of Law No. 2 of 2012 represent progress in the recognition of individual rights, particularly by establishing public consultation as a mandatory stage before land rights can be relinquished. This mechanism is intended to create a space for dialogue between communities and government authorities, ideally preventing coercive land acquisition practices. Public consultations are often affected by structural biases, especially in the context of national strategic projects that operate under political pressure and tight deadlines. Frequently, the principle of free, prior, and informed consent is applied only in a formalistic manner, without ensuring that communities truly understand the process, give their consent, or are provided with meaningful alternatives.

The principle of justice in land acquisition is generally reflected in standards such as voluntary land acquisition, informed consent, and equitable compensation, as outlined in the World Bank Environmental and Social Framework and the International Finance Corporation (IFC) Performance Standards. These approaches view communities as rights-holders with the authority to refuse or negotiate land release independently from state or market pressures. Such international comparisons reveal that while Indonesian regulations have partially adopted procedural justice principles, their implementation still falls short of global standards—particularly in ensuring freedom of participation and access to justice for vulnerable groups.

The revisions introduced in Government Regulation No. 39 of 2023 broaden the scope of actors involved in land acquisition, including state-owned enterprises and institutions such as the Land Bank. This expansion reflects a more pragmatic approach to implementing strategic projects but also raises concerns about neutrality and accountability in land valuation and compensation processes. The increasing role of corporate entities risks widening the information gap between landowners and project implementers, especially if transparency and accountability mechanisms are not strengthened.

Although the latest regulation reaffirms justice as a core principle, its implementation often depends on local capacity, the independence of loss assessors, and the effectiveness of dispute resolution bodies. In the absence of strong corrective mechanisms—such as neutral and accessible mediation—affected communities remain in a subordinate position relative to project decisions. According to international legal doctrine, justice is not measured solely by financial compensation but also by the assurance of participatory and cultural rights, particularly in relation to land as a source of identity and livelihood (Tampubolon et al., 2024; Wiryani & Najih, 2021).

The policy direction in Government Regulation No. 39 of 2023 reflects an intention to harmonize economic development with social protection. A full paradigm shift from “land appropriation” to “the management of social justice in spatial governance” still requires institutional reform and the reinforcement of accountability frameworks. The state is expected to fulfill a dual function: to ensure the

smooth implementation of development projects while also guaranteeing that the process does not violate the principles of justice enshrined in both national and international legal frameworks.

Principles of Justice and Public Interest

Land acquisition allocated for large-scale national development projects plays a strategic role in realizing collective welfare. Within Indonesia's legal system, the concept of "public interest" does not solely reflect state needs; it also encompasses the aspirations of the people, which must be addressed to ensure shared prosperity. This principle forms the legal foundation for the implementation of various National Strategic Projects (Proyek Strategis Nasional/PSN), which aim to accelerate economic growth, enhance regional connectivity, and expand access to public services across different areas. While the legal framework provides legitimacy for land acquisition in the context of development, its implementation requires the integration of social justice values to prevent the emergence of new forms of inequality.

The state's responsibility in conducting land acquisition carries both moral and constitutional obligations to protect the rights of affected individuals. One of the key instruments for ensuring justice is the provision of fair and proportional compensation to landowners or other rights holders. Law No. 2 of 2012 explicitly emphasizes the importance of compensation mechanisms as part of legal protection for citizens. These provisions do not merely address administrative procedures; they also represent state recognition of the economic and social rights of communities facing the impact of large-scale development projects.

Compensation assessments are not conducted unilaterally. Instead, they involve Independent Appraisers who are certified by authorized institutions. This professional role has both technical and ethical dimensions, as appraisers are required to act objectively when evaluating various components such as land value, buildings, crops, and other non-material elements closely tied to community livelihoods. Active public participation in this process is essential to ensure transparency and legitimacy in valuation outcomes, helping to prevent resistance and dissatisfaction that could escalate into conflict.

The compensation alternatives provided in the regulations allow for more contextual and responsive approaches tailored to local conditions. Beyond cash payments, communities may receive replacement land, relocation programs, or other compensation forms determined through deliberation (Wibowo et al., 2025; Widiyono & Khan, 2023). This model offers opportunities to design compensation schemes that are more adaptive to the real needs of affected populations, particularly in areas with strong social and cultural ties to land.

Land acquisition activities also demand a high level of accountability from the institutions involved, including ministries, state-owned enterprises (BUMN), and regionally owned enterprises (BUMD). Adherence to legal principles and respect for community rights are critical indicators of policy implementation success. If the process lacks procedural clarity or disregards public participation rights, both horizontal and vertical conflicts become difficult to avoid. Transparency must be embedded in every phase of the land acquisition cycle—from planning and implementation to dispute resolution.

The involvement of civil society and independent oversight institutions holds strategic value. Their presence enables more objective evaluations of how justice principles are applied and whether constitutional rights are upheld. When both substantive and procedural justice principles are implemented consistently, land acquisition becomes more than just a tool for physical development—it becomes a symbol of the state's commitment to social justice. This transformation is essential to ensure that national development is not only growth-oriented but also inclusive and sustainable.

While Government Regulation No. 39 of 2023 refines the procedural aspects of land acquisition, its normative alignment with higher legal instruments deserves closer scrutiny. Based on the principle of *lex superior derogat legi inferiori*, any implementing regulation must not contradict provisions enshrined in laws or the Constitution. In this context, certain provisions in Government Regulation 39/2023—particularly those related to land valuation mechanisms and the discretionary powers of the Land Bank Institution—raise concerns about potential inconsistencies with constitutional guarantees under Article 28H of the 1945 Constitution, which protects the right to adequate living and fair treatment.

When examined through the lens of *lex posterior derogat legi priori*, the issuance of Government Regulation 39/2023 must also be seen as a legal update that modifies aspects of previous regulations, including Government Regulation 19/2021. However, this update must still conform to the overarching legal structure established by Law No. 2 of 2012 and the Job Creation Law. Normative clarity becomes essential here, especially when interpreting whether the Job Creation Law, as an omnibus law, alters the fundamental rights originally protected under the 2012 framework. Critics have argued that certain omnibus provisions prioritize economic acceleration over procedural fairness, thereby undermining the normative spirit of land acquisition laws that are supposed to balance state interests with individual rights. The lack of explicit safeguards for community consent and the weakening of public participation mechanisms, particularly in strategic national projects, may also be viewed as a deviation from constitutional principles, this raises the question of whether the regulatory framework fulfills the constitutional mandate to protect both development interests and the rights of citizens in a proportionate and just manner.

The Role of Land Banks and Agrarian Reform

The Land Bank emerges as a new entity within Indonesia's national land system, marking a significant shift in land governance. Established as a public legal entity with a *sui generis* character, this institution holds broad authority to manage, allocate, and provide land in a planned manner to support equitable and just development. Under the framework of Government Regulation No. 39 of 2023, the Land Bank occupies a central role in land provision—both for national infrastructure projects and the implementation of agrarian reform.

The Strategic Role of the Land Bank in Land Management

As the manager of state-owned land, the Land Bank acts as a bridge between institutional land demands and the availability of legally verified, dispute-free land. The sources of land it manages include ownerless state land, abandoned land, released rights, and redistributions. This institution helps overcome common barriers in development, such as project delays due to land disputes. With a more organized land provision system, public projects like toll roads, airports, ports, and social facilities can be realized without being hindered by complex administrative problems.

The Land Bank supports the development of strategic private sectors such as industrial zones, public housing, and special economic areas. The availability of legally verified land is crucial for attracting investment and accelerating regional growth. The institution operates in alignment with the national spatial planning framework, ensuring that land management is not limited to sectoral interests but synchronized with long-term development visions.

The Land Bank also plays a role in maintaining social balance by controlling speculative land practices. Unproductive land or land used solely for short-term commercial gain often exacerbates

inequality. Through monitoring mechanisms, the Land Bank ensures that land is utilized according to its designated purpose and prevents the emergence of new disparities in land ownership structures.

Its role becomes even more significant within agrarian reform. Regulations mandate that at least 30 percent of the Land Bank's Land Use Rights (HPL) must be allocated for redistribution. This land is distributed to eligible community groups, such as small farmers, Indigenous peoples, and landless residents. The identification and verification of beneficiaries are carried out by the Agrarian Reform Task Force (GTRA), chaired by local government leaders and involving various relevant agencies.

The Land Bank's Function in Agrarian Reform

The Land Bank provides legally cleared land to be transferred to the GTRA for lawful redistribution. This approach minimizes land status-related conflicts and enables more efficient redistribution processes. Beneficiaries not only gain legal land ownership but also access to financing and post-redistribution productivity support. The ultimate goal is to ensure that land serves to enhance livelihoods—not merely function as passive formal assets.

The Land Bank's ability to manage previously neglected land or land with overlapping claims enables comprehensive land tenure restructuring. Supported by an integrated spatial database, the institution promotes a modern, responsive land management model. Its presence addresses both technical land acquisition challenges and reflects the state's commitment to building an inclusive, transparent, and sustainable land system.

Addressing Land Disputes and Speculation

Land issues in Indonesia often stem from overlapping ownership claims, weak legal certainty, and rampant speculative land control. Unclear land status and fragmented registration systems exacerbate the situation—hindering development and triggering horizontal and vertical conflicts. Within this context, the Land Bank introduces a new model for restructuring and resolving land problems that have long lacked systemic solutions.

Armed with a robust spatial database and geospatial information systems, the Land Bank can identify problematic or idle lands. Through the acquisition of abandoned state lands, expired concession lands (ex-HGU), or ownerless parcels, the Land Bank consolidates land assets legally for equitable and efficient utilization. In resolving existing disputes, it acts not as a vested interest party but as a state-appointed manager. This role enables land allocation based on public interest and established spatial planning, transforming former conflict areas into strategic programs or distributing them to eligible beneficiaries without generating new disputes.

Speculative behavior is curbed by increasing the supply of ready-to-use, legally secure land. As availability increases and distribution becomes more equitable, hoarding land for short-term gain loses appeal. The Land Bank's oversight role enables market intervention, especially in areas vulnerable to inflated prices due to speculative activity. This strengthens the state's position in stabilizing the land market while ensuring that land is used according to its designated social and economic functions. Ultimately, the Land Bank serves as a key instrument in building a fair, functional, and manipulation-free land system—advancing agrarian justice through integrated mechanisms.

Mechanisms of Land Management and Distribution

To realize the goal of sustainable and targeted land provision, the Land Bank implements a series of mechanisms, beginning with planning and ending with distribution. All processes are structured and

data-driven, ensuring optimal and equitable use of state-controlled land. The initial step is formulating a Master Plan for Land Use (RIPT), based on national development policy maps and aligned with spatial planning and long-term land demand projections. This plan maps out strategic locations and prioritizes land use for infrastructure, housing, agriculture, and public facilities.

Next is the acquisition phase, which may involve direct purchase, land swaps, relinquishment of rights, or designation of abandoned and ownerless land. These processes are guided by accountability and fairness principles for those relinquishing land rights. Objective assessments are conducted and followed by fair compensation. Once acquired, the land undergoes safeguarding, maintenance, and re-documentation. This includes digital mapping and re-registration in the national land information system. With the help of technology and solid data integration, the Land Bank ensures that land assets are not misused or illegally appropriated.

The Land Bank may collaborate with various parties to promote productive land use. This includes granting building use rights (HGB) on its Land Use Rights (HPL) for housing, industrial zones, or other public infrastructure. This model ensures public control over state land while contributing to non-tax state revenue. The final stage is distribution. Legally and technically ready land is allocated for various needs—from agrarian reform and social facilities to regional economic development and small business plots. The involvement of local stakeholders and beneficiary data verification is crucial to ensuring transparency and effectiveness. This distribution model enables land to be directly and productively utilized by those in need, while preventing future conflicts.

Challenges and Future Prospects

Despite its strategic role, the Land Bank faces several challenges in implementation. One major concern is ensuring transparency and accountability throughout the land management process. Coordination with local governments, communities, and the private sector is also critical to achieving its objectives. The application of information technology in the land information system is another key aspect for enhancing efficiency and transparency.

Looking ahead, with effective and integrity-driven governance, the Land Bank holds the potential to resolve Indonesia’s land issues, promote economic equity, and support sustainable development. Active involvement of all stakeholders and stringent oversight will ensure that the Land Bank fulfills its intended purpose, enhancing the well-being of the Indonesian people.

In order to gain a comprehensive understanding of land acquisition policies in Indonesia, it is useful to compare them with legal practices in other countries. Each country adopts distinct approaches regarding the legal basis for land acquisition, valuation principles for compensation, the extent of public participation, and mechanisms for dispute resolution. Such a comparative perspective provides valuable insights into how Indonesia’s regulatory framework aligns with principles of fairness, transparency, and efficiency. Table 1 presents a comparison of land acquisition legal practices in five countries: Indonesia, India, the United Kingdom, Japan, and South Korea, focusing on their legal frameworks, valuation principles, public involvement, and mechanisms for resolving disputes.

Table 1. Comparative Legal Practices in Land Acquisition

Country	Legal Basis for Land Acquisition	Valuation Principle	Public Participation	Dispute Resolution Mechanism
Indonesia	Law Number 2 of 2012, Government Regulation Number 39 of 2023	Fair and Reasonable Value	Consultation and Announcement	Non-Litigative (LAPS), Court

India	Right to Fair Compensation Act, 2013	Market Value + Solatium	Social Impact Assessment	Land Acquisition, Rehabilitation and Resettlement Authority
UK	Land Compensation Act 1961	Market Value + Disturbance	Public Inquiry	Upper Tribunal (Lands Chamber)
Japan	Land Expropriation Law	Full Market Compensation	Limited; mostly administrative	Prefectural Expropriation Committee
South Korea	Land Expropriation Act	Market Price + Allowance	Government Hearings	Administrative Litigation

Source: data proceed

Indonesia through Government Regulation Number 39 of 2023 has attempted to strengthen the principles of justice and accountability in land acquisition. When compared to India, which explicitly regulates additional compensation in the form of solatium and requires a social impact study, or the UK, which accommodates non-economic disturbances through "disturbance" compensation, Indonesia is still in the stage of strengthening institutions and data integration. Public participation mechanisms in Japan and South Korea tend to be administrative, while Indonesia and India have opened up wider consultation space. Dispute resolution in Indonesia still faces challenges in effectiveness, unlike the UK, which has a special court for land cases.

Public Consultation and Transparency

Government Regulation Number 39 of 2023 emphasizes the importance of public consultation as a key instrument to ensure transparency, accountability, and social justice in the land acquisition process for development purposes. Through this mechanism, the community is not merely treated as an object but recognized as an active subject participating in shaping development that directly affects their lives.

The process begins with the establishment of a Land Acquisition Preparation Team, formed by the regional head according to their jurisdiction. This team plays a strategic role as a bridge between the government and the community, tasked with presenting development plans, conducting preliminary data collection, and organizing substantive public consultations. This function requires a socially sensitive approach and strong, open, and accommodating communication skills.

During the consultation stage, communities are given space to thoroughly understand the proposed project, including its benefits and potential impacts. Socialization is conducted through accessible media—both offline and online—to ensure that all societal groups receive the information. The land acquisition location data is collected through a participatory approach to validate land status and ensure fair compensation distribution in later stages. Deliberations with affected residents serve as a forum for consensus-building regarding compensation or relocation mechanisms, strengthening the social legitimacy of the development.

Although the regulations are normatively clear, practical implementation faces complex challenges. Social and cultural diversity necessitates a contextual approach to prevent resistance during consultations. Information asymmetry remains a major obstacle, especially when communication uses technocratic language that is difficult for the general public to understand. Weak inter-agency coordination also hampers the process, particularly when there are data discrepancies or delays in administrative follow-up (Marchello et al., 2023; Sihombing & Hamid, 2023).

To address these issues, several strategic steps are required. Enhancing the capacity of the Preparation Team is essential, particularly in social understanding, facilitation skills, and public service ethics. Providing transparent and communicative information through media tailored to the characteristics of the community is also crucial. Communication strategies that combine face-to-face interaction with digital platforms will broaden outreach and improve message effectiveness. Furthermore, the consultation process must include a comprehensive and ongoing evaluation mechanism, including the involvement of independent institutions to ensure objectivity.

Public consultation in land acquisition is not merely an administrative requirement; it is an ethical and social foundation that strengthens the legitimacy of development. If conducted inclusively and fairly, this process can serve as a strategic tool for building public trust and preventing protracted social conflict.

Despite its regulatory advancements, land acquisition in Indonesia remains closely associated with human rights concerns. Forced displacement, inadequate compensation, and the erosion of local livelihoods are not uncommon, particularly in areas designated for large-scale infrastructure or extractive projects. These issues implicate core human rights principles, including the right to property, the right to adequate housing, and the right to livelihood, all of which are protected under the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Indonesia is a party. Government Regulation No. 39 of 2023, while more refined in procedure, does not substantially strengthen safeguards against these violations. Its limited emphasis on consent and participation in strategic projects risks undermining the substantive protections required under both constitutional and international human rights standards.

The absence of judicial review or analysis of case law further weakens the normative grounding of the regulation. A notable example is the Kendeng community case in Central Java, where land acquisition for a cement factory led to prolonged legal disputes, protests, and allegations of procedural injustice. Despite legal challenges reaching the Supreme Court, state-backed land acquisition continued, revealing a gap between legal remedies and administrative practice. Another case is the Batu Licin coal mining conflict in South Kalimantan, where indigenous Dayak communities were displaced without adequate consultation, raising serious questions about the application of FPIC (Free, Prior and Informed Consent) principles in land governance. Such jurisprudence demonstrates how principles of justice, while legally articulated, may be inconsistently applied.

The article briefly mentions the spirit of agrarian reform but does not assess whether Government Regulation 39/2023 supports or contradicts that agenda. Genuine agrarian reform, as envisioned in the Basic Agrarian Law (UUPA 1960), emphasizes land redistribution, recognition of customary land rights, and correction of historical land inequality. Government Regulation 39/2023 is primarily oriented toward facilitating land availability for state-backed development and investment, with limited emphasis on redistribution or restitution. The central role given to the Land Bank Institution may even centralize land control further, distancing state policy from the participatory, redistributive spirit of agrarian reform, this raises normative questions about whether land acquisition policy serves social justice or merely economic acceleration.

Implementation Challenges

Government Regulation Number 39 of 2023 has strengthened the legal framework for land acquisition in the context of development for the public interest. The implementation of this policy across various regions continues to face complex and layered fundamental issues, these challenges include structural problems, administrative obstacles, social concerns, and unresolved technical barriers. Although the regulation is designed to accelerate development while ensuring justice and legal certainty,

in practice, implementation often encounters delays due to overlapping authorities, weak inter-agency coordination, and poor integration of data systems. These factors indicate that policy success relies not only on normative strength but also on the effectiveness of governance and the quality of local-level policy execution.

One of the most pressing issues is the irregularity in land ownership status. Many land parcels lack formal legal documentation or are subject to multiple, overlapping certificates. This phenomenon is common in areas inhabited by indigenous peoples or local communities who have held land traditionally without formal administrative records. During the identification and verification stages, data inaccuracy becomes a significant obstacle that hinders the acquisition process. There are often considerable discrepancies between data from the National Land Agency (BPN) and local government records, including boundary definitions, legal status, and land use. This problem is further compounded by the uneven implementation of the Complete Systematic Land Registration (PTSL) program throughout Indonesia, resulting in slow and dispute-prone data reconciliation.

Human resource capacity also presents a distinct challenge, and the number of licensed Public Appraisers is still insufficient to meet the growing demand for strategic projects. This gap is particularly evident in remote areas, where expert availability is nearly nonexistent, and compensation assessments are often carried out by unqualified officials, leading to inaccurate valuations and potential injustice. The lack of continuous training and the absence of standardized procedures contribute to disparities in quality across different regions, fair and objective compensation is a foundational pillar in maintaining the legitimacy of land acquisition policies.

Community resistance to development projects is another factor that cannot be ignored. The public outreach and consultation requirements mandated by regulation are often poorly implemented. Many communities feel inadequately involved in decision-making processes, leading to rejection rooted in perceived injustice. Fears of losing livelihoods, emotional ties to ancestral lands, and negative past experiences reinforce public skepticism toward government projects. When the benefits of a project are not clearly communicated—or when communication fails to account for cultural and emotional dimensions—social conflict becomes more likely. Under such conditions, building public trust in the land acquisition process becomes extremely difficult, ultimately hampering the progress of development.

Weak oversight creates opportunities for misconduct during implementation. Certain individuals may exploit the land acquisition process for personal gain—ranging from falsifying ownership records and manipulating boundaries to setting non-transparent compensation values. When internal controls are ineffective and reporting mechanisms are either unavailable or distrusted, the potential for abuse of power increases, especially when project acceleration is prioritized over ethical, social, and legal considerations.

To overcome these complexities, land acquisition must be positioned as part of a broader governance reform. Cross-sectoral coordination and inter-agency collaboration are essential prerequisites. Active involvement from BPN, the Ministry of Agrarian Affairs and Spatial Planning (ATR), local governments, land valuation bodies, and the judiciary must be integrated. Establishing dedicated task forces at both the national and regional levels could provide a concrete solution for expediting the process and ensuring accountability. These teams should be equipped with electronic reporting systems that allow for regular evaluation and public participation in monitoring efforts.

The use of digital technologies, such as Geographic Information Systems (GIS) and Land Value Zones (ZNT), is critical for improving efficiency and transparency. GIS offers precise spatial data that can be used to map land ownership, legal status, and socio-economic relationships. ZNT provides objective guidelines for determining land values based on regional characteristics and market dynamics. When both systems

are integrated into a publicly accessible national database, trust in the land acquisition process can be significantly enhanced.

Technology alone is not sufficient without capable field implementers. Village officials, local government staff, and land acquisition team members must be equipped with adequate digital literacy. Technical training and infrastructure support should be prioritized in institutional development agendas. The central government plays a key role in ensuring the availability of budgets, training curricula, and technological systems that are scalable and sustainable. Strengthening oversight based on public participation is also a critical part of the solution (Khanif, 2024; Zein et al., 2023). Citizens must have access to safe and easy-to-use reporting channels to file complaints about suspected violations in the land acquisition process. Independent watchdogs—such as the Ombudsman, the Komisi Nasional Hak Asasi Manusia (Komnas HAM), as well as civil society organizations and universities—are essential for safeguarding transparency and accountability at every stage.

Environmental sustainability and spatial planning considerations must also be central to every land acquisition policy. Every decision must be based on Rencana Tata Ruang Wilayah (RTRW). This step is crucial to prevent ecological degradation and spatial conflicts that could hinder long-term development. Land should not be viewed solely as a physical asset, but as an integral part of the social and cultural ecosystem embedded in people's lives.

Indonesia's experience with land acquisition reflects a broader challenge shared by many countries—how to pursue development without compromising citizens' rights to land and livelihood. In India, a significant shift came with the enactment of the 2013 Land Acquisition Act, which replaced the colonial-era framework. This law introduced stricter requirements for public consultation, social impact assessments, and more equitable compensation. Unlike Indonesia, which centralizes land provisioning through the Land Bank Institution, India delegates authority to state governments. While this decentralization allows for contextual flexibility, it also creates inconsistencies in implementation across regions.

Malaysia takes a more administrative route. Under the Land Acquisition Act of 1960, state authorities hold broad discretion to acquire land for public purposes. Compensation is legally required, but avenues for meaningful public participation remain narrow. Objections are typically confined to valuation matters, and decision-making tends to occur behind closed doors. Compared to Indonesia's more recent efforts—particularly with Government Regulation No. 39 of 2023, which aims to enhance transparency—Malaysia's system highlights a continuing gap in procedural justice.

South Africa offers a markedly different approach, shaped by its post-apartheid commitment to land reform and historical redress. The country's Expropriation Bill seeks not only to provide compensation but to do so in a way that is just and equitable, even if this means departing from market-based valuations. This broader interpretation of justice considers the social and historical context of land ownership, especially for marginalized communities and indigenous peoples. These comparative insights underscore that while Indonesia has made progress in legal and institutional reform, further attention is needed to strengthen participatory mechanisms and acknowledge the deeper socio-historical dimensions of land justice. Learning from other jurisdictions may help Indonesia move toward a more inclusive and balanced land acquisition system.

Regulatory reinforcement through Government Regulation No. 39 of 2023 is not sufficient on its own to ensure the success of land acquisition in Indonesia. The complexity of on-the-ground challenges calls for a more holistic approach—anchored in effective governance, modern technological support, and active community participation, collaborative

steps grounded in social justice can national development move forward without disregarding the rights and dignity of affected communities only through systematic.

CONCLUSION

Land acquisition for public interest is a fundamental pillar in realizing sustainable, inclusive, and equitable national development. Government Regulation Number 39 of 2023 is present as a concrete step in strengthening the legal basis for land acquisition by emphasizing the importance of the role of institutions such as the Land Bank, strengthening public participation, and improving governance. Its implementation is still faced with a number of structural, technical, and social challenges, such as inaccurate land data, limited human resource capacity, and community resistance due to minimal legal literacy and meaningful participation. An integrated approach is needed through synergy between sectors, utilization of information technology such as GIS and ZNT, and participatory supervision by civil society and independent institutions to answer this problem. The success of land acquisition is not only determined by the completeness of regulations, but also by a commitment to transparent, accountable implementation and upholding the constitutional rights of citizens. Land acquisition must be positioned not merely as an administrative instrument, but as a transformational strategy that ensures that national development truly sides with the people and is able to answer the challenges of social justice in real terms.

This study is limited primarily by its normative-legal focus and reliance on secondary sources. While it provides a critical analysis of legal texts and selected jurisprudence, it does not engage in extensive fieldwork or empirical data collection from affected communities. As such, the practical implementation of Government Regulation No. 39 of 2023—particularly in diverse geographic and socio-political contexts—remains beyond the current scope.

Future research should explore the lived experiences of affected landowners and communities, especially in the context of national strategic projects. Empirical studies examining how compensation is calculated and whether procedural justice is perceived by stakeholders will enrich the discourse. Moreover, comparative studies across different provinces or between countries with similar legal systems can provide deeper insight into institutional performance, resistance dynamics, and the realization of agrarian justice on the ground.

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