

Land Procurement for Public Utility Development in Mimika District, Papua Based on Law Number 2 of 2012 Regarding Land Procurement for Public Interest in The Autonomy Era

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ARTICLE INFO

Date received : 01 March 2022

Revision date : 10 March 2022

Date received : 23 March 2022

Keywords:

Land procurement; public utilities; public interest

ABSTRACT

The development of Papua must also be considered in developing Indonesia because it is a unity in the Bhineka Tunggal Ika series. Thus, equality and justice in striving for the welfare of the people are also important for the people of Indonesia. Pancasila is the foundation of the Indonesian nation, which explains the five principles that have strong power in developing Indonesia towards a "Gotong Royong" society. The fifth precept of justice for all Indonesian people wants to show that this idea is Soekarno's idea of how the people enjoy the justice and welfare that is felt for the community both in the formal and non-formal fields which also leads to " cooperation". Then implement it in the Jokowi era which is to build and develop marginalized areas, from Sabang to Marouke, especially in marginalized and neglected areas. Land acquisition for development is the most complicated, namely if an agreement is not reached between the landowner and the constructing party, while the construction must be carried out. However, activities to meet these demands are faced with the increasingly limited availability of land and an underdeveloped land market. This has led to an uncontrolled increase in land prices, especially in urban areas. This condition also encourages land speculators to seek profit (rent-seeking) on every land transaction. The actions of land speculators often disrupt the smooth allocation of development requiring land, making it difficult to acquire land, especially for the development of public interests and creating a high-cost economy.

INTRODUCTION

Indonesia is the largest archipelagic country in the world consisting of more than 17,000 islands. Among them are five major islands, namely: Sumatra, Kalimantan, Java, Sulawesi, and Papua, and thousands of other small islands. Each of the above islands has different regional conditions, community conditions, culture, and customs. This gives

rise to differences in interests between one region and another. Because of these differences in interests, the local government has the authority to regulate its regional affairs to achieve community welfare and services that are closer to the community than the government. The government believes that regional autonomy will be able to optimally fund its own regional

How To Cite:

Omaleng, E., & Wahid, E. (2022). Land Procurement for Public Utility Development in Mimika District, Papua Based on Law Number 2 of 2012 Regarding Land Procurement for Public Interest in The Special Autonomy Era. *Journal of Social Science* 3(2).
<https://doi.org/10.46799/jss.v3i2.322>

E-Issn:

2721-5202

Published By:

Ridwan Institut

expenditures while keeping the central government's budget to a minimum (Tanjung et al., 2021).

The rights, powers, and obligations of the autonomous regions to regulate and manage their government affairs and the interests of the local community by the laws and regulations are called regional autonomy. Regional development is the use of local resources to improve the region's or district's social welfare and improve the human development index (Susanto, 2015). The 1945 Constitution of the Republic of Indonesia, as a written source of Indonesian state law, also regulates regional autonomy. Article 18 of the 1945 Constitution states that,

1. The Unitary State of the Republic of Indonesia is divided into provincial regions and the province is divided into regencies and cities, each of which has a regional government, which is regulated by law.
2. The provincial, district and city governments regulate and manage their government affairs according to the principles of autonomy and co-administration.
3. Provincial, district and city-regional governments have Regional People's Representative Councils whose members are elected through general elections.
4. The governors, regents, and mayors respectively as heads of provincial, district, and city governments are democratically elected.
5. Regional governments carry out the widest possible autonomy, except for government affairs which are determined by law to be the affairs of the Central Government.
6. Regional governments have the right to stipulate regional regulations and other regulations to carry out autonomy and assistance tasks.
7. The structure and procedures for administering regional government are regulated by law.

Regulations regarding regional autonomy are further regulated in Law Number 23 of 2014 concerning Regional Government. Article 17 of the Regional Government Law explains that the region has the right to determine regional policies to carry out government affairs that are the authority of the region. The regional

autonomy policy is not only related to the goal of realizing community welfare by bringing services closer to the public, encouraging the process of democratization and wider public participation, strengthening regional capacities and responsibilities in solving local problems with all the potential and creativity of the regions. Moreover, often associated to maintain and even strengthen national integration.

In addition, several special regions in Indonesia are special autonomous regions. Special Autonomy is a special authority that is recognized and given to special regions, to regulate and manage the interests of the local community according to their initiative based on the aspirations and basic rights of the community. The Unitary State of the Republic of Indonesia is divided into provincial regions. The state recognizes and respects special or special regional government units that are regulated by law. What is meant by special regional government units are regions that are granted special autonomy.

The regions that are granted this special autonomy are:

1. Province of the Special Capital Region of Jakarta.
2. Special Region of Yogyakarta.
3. Aceh Province.
4. Papua and West Papua Province

In addition, regarding the Papua Province which is one of several regions that are included in regions that have special autonomy, this is also marked by the existence and issuance of a special regulation that regulates the special autonomy, regulations regarding special autonomy for Papua are regulated in Law Number 21 of 2001, it is stated in the Law that special autonomy is made by taking into account several provisions which of course in this case mainly concern basic matters for the development of a region. Then also regarding the separation which of course explained clearly that in terms of the management of special autonomy, the area on the island of Papua has been divided into several parts, including the Papua Province and West Papua Province.

Based on Government Regulation instead of Law Number 1 of 2008 concerning amendments to Law Number 21 of 2001 concerning special autonomy for Papua, it is

explained that Papua Province has 29 regencies/cities with several districts per district/city (Law No. 21 of 2001 concerning Special Autonomy for Papua, 2001). The number of regencies in Papua Province is the result of regional divisions that occur in Papua Province. One of the regencies in Papua Province is Mimika Regency. Mimika Regency, the capital of which is Timika, is located between 134°31' – 138°31' East Longitude and 4°6' – 5°18' South Latitude. It has an area of 19,592 KM² or 4.75% of the total area of Papua Province. This regency has 18 Districts / Districts. The districts are New Mimika, Agimuga, East Mimika, Far West Mimika, Middle West Mimika, Kwanika Narama, Hoya, Iwaka, Wania, Amar, Alam. Of the 18 districts in Mimika Regency, West Mimika District has the largest area of 14.87%, and Kuala Kencana District is the smallest district in its area, which is only 2.61% of the entire Mimika Regency area. Mimika Regency has highland and lowland topography. Districts with highland topography are Tembagapura, Agimuga, and Jila. Districts other than the three districts are districts that have a lowland topography. Mimika Baru, Kuala Kencana, Tembagapura and Jila districts are districts that do not have beaches. While the Districts of West Mimika, Central West Mimika, Far West Mimika, East Mimika, Middle East Mimika, Far East Mimika, Agimuga, and Jita some of their areas are bordered by the sea, so these districts have beaches. Of the 18 districts in Mimika Regency, West Mimika District has the largest area of 14.87%, and Kuala Kencana District is the smallest district in its area, which is only 2.61% of the entire Mimika Regency area. Mimika Regency has highland and lowland topography. Districts with highland topography are Tembagapura, Agimuga, and Jila. Districts other than the three districts are districts that have a lowland topography. Mimika Baru, Kuala Kencana, Tembagapura and Jila districts are districts that do not have beaches. While the Districts of West Mimika, Central West Mimika, Far West Mimika, East Mimika, Middle East Mimika, Far East Mimika, Agimuga, and Jita some of their areas are bordered by the sea, so these districts have beaches. Of the 18 districts in Mimika Regency, West Mimika District has the largest area of 14.87%, and Kuala Kencana District is the smallest district in its area, which is only

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Mimika Regency is an area dominated by Forest with an area of 2,262,901 Ha, Mixed Gardens 484,315 Ha, and Others 294,287 Ha. Land use is also the use of land and the natural environment to meet human needs and the implementation of their lives. The definition of land use is usually used to refer to present or current land use. Land cover that describes the vegetation and artificial covering the land surface. The construction is entirely visible directly from remote sensing imagery. Three general classes of data are included in land cover; physical structures built by humans, biotic phenomena such as natural vegetation, agricultural land, and animal life, and types of development. In general, the land use in Mimika Regency is dominated by primary forest with an area of 12,076,

The development of urban areas in Mimika Regency with the proposed reclamation utilizing mangrove forest land with an area of 8,377.64 Ha. The land use in Mimika Regency is by its designation, which consists of housing and residential areas, public buildings, swamps, gardens, mines, forests, agriculture, and others.

As is known, the land available in Mimika Regency is mostly the land owned by the local community or what we often call layout land. Ulayat land island with the members of the customary law community concerned. The right of control over the land of the customary law community is known as the Ulayat Rights. Customary rights are a series of authorities and obligations of a customary law community, which relate to land located within its territory. UU no. 5 of 1960 or the Basic Agrarian Law (UUPA) recognizes the existence of layout rights. The acknowledgment is accompanied by 2 (two) conditions, namely regarding its existence and its implementation. Based on article 3 of the UUPA, customary rights are recognized "as long as in reality they still exist".

Article 6 of Law Number 5 of 1960 states that all land rights have a social function. This means that not only property rights but all land rights have a social

function. This means that any land rights that exist in a person, it cannot be justified that the land will be used (or not used) solely for his interests, especially if it causes harm to the community. The use of land must be adapted to its conditions and the nature of its rights so that it is beneficial for the welfare and happiness of those who own it and for the community and the state.

In addition, the land in Mimika Regency is partly forest land, the forest lands are then converted into physical development land in Mimika Regency such as housing, roads, facilities, and other public utilities.

The conversion of forest area functions is indeed permitted by law. There are only rules. Article 19 paragraph (1), Law no. 41 of 1999 concerning Forestry, states that changes to the allocation and function of forest areas are determined by the government based on the results of integrated research. However, carrying out it cannot be done arbitrarily, because it will cause significant changes in biophysical conditions such as climate, ecosystems, and water arrangements.

Based on the explanation above, it can be observed that land acquisition for development in Mimika Regency is an important aspect in its development for the public interest and community welfare, especially when it is associated with Law no. 2 of 2012 concerning Land Procurement for Public Interest, but on the other hand, must always pay attention to environmental safety and community rights. Then in its implementation, it is possible to encounter obstacles and problems, these problems can arise from several aspects, both from community turmoil, local governments, and related regulations, so it will be interesting to study furth

METHOD

A. Research methods

This research method uses qualitative methods, namely describing facts with primary, secondary, and tertiary legal materials. Primary legal materials are legal materials that are authoritative (have authority), primary legal materials are binding legal materials in the form of norms or basic rules as contained in the legislation. The primary legal materials used for this research include the 1945

Constitution of the Republic of Indonesia, Law Number 2 of 2012 concerning Land Procurement for Public Interest, Law Number 23 of 2014 concerning Regional Government, Law Number 21 of 2001 concerning Special Autonomy for Papua, Regulations concerning the Protection of Indigenous Peoples,

Secondary legal materials are all publications on a law that are not official documents that can help analyze and understand primary legal materials in the form of research results, writings by experts in the field of law both nationally and internationally, as well as scientific journals obtained through library studies. related to the criminal justice system. Tertiary legal materials, namely legal materials that provide instructions and explanations for primary and secondary legal materials, such as legal dictionaries. or encyclopedia.

B. Types of research

The type of research used is empirical normative research. Empirical normative legal research is legal research regarding the application of normative legal provisions (codifications, laws, or contracts) in action on certain legal events that occur in society (Muhammad, 2004). Normative legal research is an approach that is carried out based on the main raw materials, examining theoretical matters concerning legal principles, legal conceptions, views, and legal doctrines, regulations, and legal systems using secondary data, including principles, rules, norms, and legal rules contained in laws and regulations and other regulations, by studying books, laws and regulations and other documents closely related to research (Soekanto & Mamudji, 2011).

Empirical legal research is carried out by examining directly in the field to see firsthand the application of legislation or legal rules related to law enforcement, as well as conducting interviews with several respondents who are considered to be able to provide information regarding the implementation of law enforcement.

C. Research Approach

The research is supported by methods of legal interpretation, legal construction, legal philosophy, legal

history, and comparative law, as well as a legal pluralism approach. The interpretation method used is systematic, authentic, and teleological interpretation. The method of systematic legal interpretation, namely the meaning of the formulation of a legal rule or the meaning of a term in it, is further determined by referring to the law as a system. The method of authentic interpretation is in the form of interpretation of words, terms, and understanding in the laws and regulations that have been previously determined by the legislators. Teleological interpretation is if the meaning of the law is determined based on social objectives.

The legal construction method is used to find the concept, scope, substance, and boundaries of the formulation of land acquisition arrangements for the public interest. The comparative law method is used to obtain legal comparisons regarding the formulation of the concept of land acquisition for the public interest that applies in other countries in the world, as well as to review its practical implementation and can be the basis for whether or not the concept is adopted in the legal system, invitation in Indonesia. Then the juridical (normative) aspect is carried out by taking an inventory of the various rules, norms, and legal principles that exist.

D. Data Collection and Processing Techniques

The data used in this journal research, namely primary and secondary data, given that the research method used is normative-empirical research, the use of primary and secondary data is the main data in this study. Meanwhile, related to the legal materials used, both primary legal materials, secondary legal materials, and tertiary legal materials are used. Primary Legal Materials collected include the order of applicable laws and regulations related to the regulation of the criminal justice system. Secondary legal materials in the form of books, research results, journals, and papers that have been made by experts, including primary documents that have been processed. Tertiary Law materials in the form of encyclopedias and laws. search with library research techniques,

Then the processing of the data that has been obtained is carried out by systematizing and structured properly to support the focus of the research and checked objectively and its validity, so that the data obtained and processed do not cause confusion and doubt about the truth obtained in the research process.

E. Data analysis technique

The data analysis technique is a method used to study, and process certain groups of data so that concrete conclusions can be drawn about the issues studied and discussed. The data in this study were analyzed objectively based on existing juridical references to obtain answers to the problems. In analyzing the data, the authors carried out the stages: data collection, data presentation, and concluding.

RESULTS AND DISCUSSION

A. Land Acquisition in the Special Autonomous Region

The term "land acquisition" was first recognized legally since the issuance of Presidential Decree No. 55 of 1993 concerning Land Procurement for the Implementation of Development in the Public Interest. Land procurement is any activity to obtain land by providing compensation to those entitled to the land. In Presidential Regulation Number 36 of 2005 instead of the Presidential Decree above, it is stated that land acquisition is any activity to obtain land by providing compensation to those who release or surrender land, buildings, plants, and objects related to land or by revocation of rights. over the ground. Then Presidential Decree No.

Authority of Government Agencies in terms of land procurement for the implementation of development in the public interest constitutionally included the concept of the right to control the state in Article 33 paragraph (3) of the 1945 Constitution which reads "Earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". From these provisions, it can be seen that the use of the earth (land), water, and natural resources contained therein by the state is used for the prosperity of the people.

Meanwhile, regarding the definition of public interest, it refers to the explanation of Article 18 of the UUPA which states that "For the public interest, including the interests of the nation and state and the common interests of the people, land rights can be revoked, by providing appropriate compensation and in a manner regulated by law." Constitution". The implementation of Article 18 is regulated in Law Number 20 of 1961 concerning the Revocation of Rights to Land and Objects on it and its operations are based on the Instruction of the President of the Republic of Indonesia Number 9 of 1973 concerning the Implementation of the Revocation of Rights to Land and Objects There's Above.

Article 1 of Law No. 20 of 1961 states that: For the public interest including the interests of the nation and state and the common interests of the people, as well as the interests of development, the President in a state of coercion after hearing the Minister of Agrarian Affairs, the Minister of Justice and the Minister concerned may revoke the rights of the people concerned. -rights to land and the objects on it. In terms of public interest, according to (John Salindheo, 1988)"Public interest includes the interests of the nation and the state and the common interests of the people, taking into account social, political, psychological, and national defense aspects based on the principles of national development by validating national resilience and insight into the archipelago" (John Salindheo, 1988).

Furthermore, land rights are rights that give authority to those who have the right to use or take advantage of the land they are entitled to. The definition of land rights is different from the definition of agrarian. Agrarian rights consist of three things, namely land rights, mortgage rights, and other agrarian rights. In the provisions of Article 2 of Law Number 32 of 2004 concerning Regional Government, it is determined that Regional Governments carry out regional rights, powers, and obligations to regulate and manage government affairs themselves according to the principle of the widest possible autonomy and assistance tasks to improve public welfare, public services,

and regional competitiveness. The state or government agency has the authority in terms of carrying out a land acquisition for the implementation of development in the public interest based on the provisions of Article 6 of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest which stipulates that "Land procurement for the public interest is carried out by the Government". Whereas in the provisions of Article 8 of Presidential Regulation Number 71 of 2012 it is explained "The Governor carries out the stages of land acquisition preparation activities after receiving the land acquisition planning document". Furthermore, in Article 47 paragraph (1) of Presidential Regulation Number 71 of 2012, it is stated "The governor can delegate the authority to carry out the preparation of land acquisition for development in the public interest to the Regent/Mayor". Based on these provisions, the Governor with the authority he has can organize land acquisition for the implementation of development in the public interest. So in the implementation of the land acquisition process for the implementation of development in the public interest as regulated in Presidential Regulation Number 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, it is the authority of the Governor as the Provincial Government. In this case, the Governor can exercise his authority in the preparation of the land acquisition or delegate it to the Regent/Mayor. So in the implementation of the land acquisition process for the implementation of development in the public interest as regulated in Presidential Regulation Number 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, it is the authority of the Governor as the Provincial Government. In this case, the Governor can exercise his authority in the preparation of the land acquisition or delegate it to the Regent/Mayor. So in the implementation of the land acquisition process for the implementation of development in the public interest as regulated in Presidential Regulation

Number 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, it is the authority of the Governor as the Provincial Government. In this case, the Governor can exercise his authority in the preparation of the land acquisition or delegate it to the Regent/Mayor.

Legal Protection for Land Rights Owners whose land is affected by land acquisition for the implementation of development in the public interest. Deliberation as the basis for implementing land acquisition for the implementation of development in the public interest Article 1 point 8 of Presidential Regulation Number 71 of 2012 explains that "public consultation is a process of dialogical communication or deliberation between interested parties to reach an understanding and agreement in planning land acquisition for development public interest." Deliberation itself is regulated in Articles 68 to 73 of Presidential Regulation Number 71 of 2012.

Provision of Form and Amount of Compensation According to Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest, compensation is a proper and fair compensation to the party entitled to the land acquisition process. The form of compensation according to Article 74 of Presidential Regulation Number 71 of 2012 can be in the form of money, replacement land, resettlement, share ownership, or other forms mutually agreed upon during deliberation. Legal Efforts as a Form of Legal Protection Article 23 of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest regulates the refusal of the party entitled to determine the location of the development where the entitled party can file a lawsuit to the State Administrative Court.

B. Land Acquisition Practices in Mimika

Law No. 2 of 2012 in Article 1 point 10 has formulated compensation as a proper and fair compensation to the rightful party in the land acquisition process. Compensation as an effort to realize respect for the rights and interests of individuals who have been sacrificed for the public interest can be called fair, if it

does not make a person richer, or vice versa becomes poorer than the original situation (Sumardjono, 2007). To feel fair for the rights holders, certain criteria should be applied objectively, with predetermined standards. In addition, the final determination of the amount of compensation must be reached by deliberation between the right holder and the agency requiring the land. For buildings, the estimated compensation should take into account the costs incurred for repairs as necessary, after the announcement of the land acquisition. Meanwhile, according to Government Regulation Number 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest, the term compensation is clearly explained in Article 1 paragraph 12 where this term has the meaning of proper and fair compensation to the Entitled Party, managers and/or users of goods in the Land Procurement process. In the PP in Article 6 paragraph 9, it is also explained about the estimated value of Compensation for land objects where this include: (Government of the Republic of Indonesia 2021)

1. Land.
2. Upper Grounds and Dungeons.
3. Building.
4. Plant.
5. objects related to land; and.
6. other losses that can be assessed.

The policy regarding the provision of compensation is not limited to replacing the value of land, buildings, and plants, but should also include an assessment of immaterial losses and losses that arise, such as business activities, due to displacement to other places, the number of customers and reduced profits (Harsono, 2004). The term compensation or compensation is usually used in the civil sector, whether it is regarding breach of promise (default), violations of law, or in the field of compensation for losses. In connection with the term above, R Setiawan, SH once said that compensation can be in the form of replacement rather than achievement, but can stand alone in addition to achievement (Setiawan, 1987). According to Article 1 point 10 of Law Number 2 of 2012 concerning Land

Procurement for Public Interest, Compensation is a proper and fair compensation to the rightful party in the land acquisition process.

A debtor has been warned firmly and has been billed for his promise if he still does not carry out his achievements, he is declared negligent or negligent and he is given sanctions, namely compensation, cancellation of the agreement and transfer of risk. Likewise, he stated that the insurance law is an agreement, wherein the insurer receives a premium with the ability to compensate for the loss of profits borne or that may be suffered as a result of certain (Subekti, 1985).

Thus, if it is seen from the opinion as mentioned above that the compensation claim can only be stated in money. And then the question arises what is meant by the definition of compensation? The term compensation usually occurs as a result of breaking promises and breaking the law. In fulfilling the obligation performance lies with the debtor so that if the debtor does not carry out the obligation, not because of coercive circumstances, then the debtor is declared negligent. There are three types of broken promises, namely;

1. Does not meet performance.
2. Late for performance.
3. Fulfilling performance is not good. (Setiawan, 1987)

In Article 15 paragraph (1a) as mentioned above, the author describes John Salindeho's opinion regarding the understanding of the basic price and local general price for land affected by land rights acquisition. Because it says the base price or NJOP, it must be the basis for determining the price of land/compensation for land. While the local general price is defined as a land price that is generally available in the context of land transactions in a place (Salindeho, 1988).

It can be said that the local general price or market price is the result of the average selling price at a certain time, while place means that an area/location within a district/city may vary according to the condition of the land, the basic price growing from and rooted in local general prices, reviewed the general price for the year. In connection with this, it is necessary that ownership rights to the required land are

released by the owner after he receives compensation from the party who made the liberation, the compensation is of course the same as the actual land price (Harsono, 2004). Thus, it is clear that the meaning of compensation money is the same as the price of land.

From this description, the substance of compensation must be based on, among others;

- a. Based on the legal product of a ruling that is regulating.
- b. Compensation can only be paid after the final decision of the deliberation is obtained.
- c. Includes plots of land, buildings, and plants calculated based on agreed benchmarks.
- d. The form of compensation: money and/or land replacement and/or resettlement, combined or other forms agreed by the parties.

Meanwhile, when referring to Government Regulation Number 19 of 2021, it is known that the Compensation assessed by the Appraiser or Public Appraiser is the value at the time of the announcement of the Determination of Development Locations for the Public Interest by considering the waiting period at the time of payment of Compensation. Then the amount of the compensation value is a single value for parcels per plot of land where in terms of the amount, in this case, the amount of compensation value is based on the results of the assessment carried out by the appraiser by the sale value of the tax object in the area wherein this case the appraisal given by the appraiser is final and binding. If the amount of Compensation is based on the results of the appraisal by the Appraiser, it is submitted to the chief executive of the Land Procurement with an official report on the submission of the results of the appraisal. Then in this case the amount of compensation is used as the basis for deliberation to determine the form of compensation. If there is a residual plot of land affected by the Land Procurement, which can no longer be functioned according to its designation and use, the Entitled Party may request a replacement for the parcel of land. If the remaining land area is not more than 100 m² (one hundred square meters) and cannot be used, compensation can be given.

The process of giving compensation in land acquisition activities is very important because, without compensation, the development will be hampered. Compensation, according to Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest (hereinafter referred to as the Land Procurement Law) ([Law on Land Procurement for Development in the Public Interest, Law no. 2 of 2012 \(Hereinafter referred to as the Land Procurement Law\), 2012](#)). is a proper and fair compensation to the rightful party in the land acquisition process. Non-physical losses include the loss of a job, line of business, source of income, and other sources of income that have an impact on a decrease in a person's level of welfare ([Sumardjono, 2007](#)). As regulated in Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Implementation of Land Procurement for Development in the Public Interest Article 13, the form of compensation can be in the form of:

1. money; and or.
2. replacement land; and or Resettlement; and or.
3. A combination of two or more forms of compensation as referred to in letter a, letter b, letter c;
4. Other forms are agreed upon by the parties concerned.

Based on the calculation as regulated in Article 15, namely;

- a. The basis for calculating the amount of compensation is based on;
 - 1) Sales Value of Tax Objects (NJOP) or Real Value by taking into account the Sales Value of Tax Objects (NJOP) for the current year based on the Assessment of the Land Price Appraisal Agency/Team appointed by the Committee;
 - 2) The selling value of the building is estimated by the regional apparatus responsible for the development sector;
 - 3) The selling value of the plant is estimated by the regional apparatus responsible for agriculture.
- b. To determine the basis for calculating compensation, the Land Price Appraisal Agency/Team shall be determined by

the Regent/Mayor or Governor for the Province of the Special Capital Region of Jakarta. Meanwhile, land procurement for public interest with an area of less than one hectare according to the Regulation of the Head of the National Land Agency Number 3 of 2007 Article 59 paragraph;

- 1) The form and/or amount of compensation for land acquisition is directly determined based on deliberation between government agencies requiring land and the owner.
- 2) The deliberation as referred to in paragraph (1) can be guided by the NJOP or the real value by taking into account the current year's NJOP in the vicinity of the location.

In Article 15 paragraph (1a) as mentioned above, the author describes John Salindeho's opinion regarding the understanding of the basic price and local general price for land affected by land rights acquisition. Because it says the base price or NJOP, it must be the basis for determining the price of land/compensation for land. While the local general price is defined as a land price that is generally available in the context of land transactions in a place ([Salindeho, 1988](#)).

It can be said that the local general price or market price is the result of the average selling price at a certain time, while place means that an area/location within a district/city may vary according to the condition of the land, the basic price growing from and rooted in local general prices. , reviewed the general price for the year. In connection with this, it is necessary that ownership rights to the required land are released by the owner after he receives compensation from the party who made the liberation, the compensation is of course the same as the actual land price ([Harsono, 2004](#)). Thus, it is clear that the meaning of compensation money is the same as the price of land.

From this description, the substance of compensation must be based on, among others;

- a. Based on the legal product of a ruling that is regulating.

- b. Compensation can only be paid after the final decision of the deliberation is obtained.
- c. Includes plots of land, buildings, and plants calculated based on agreed benchmarks.
- d. The form of compensation: money and/or land replacement and/or resettlement, combined or other forms agreed by the parties.

Meanwhile, when referring to Government Regulation Number 19 of 2021, it is known that the Compensation assessed by the Appraiser or Public Appraiser is the value at the time of the announcement of the Determination of Development Locations for the Public Interest by considering the waiting period at the time of payment of Compensation. Then the amount of the compensation value is a single value for parcels per plot of land where in terms of the amount, in this case, the amount of compensation value is based on the results of the assessment carried out by the appraiser by the sale value of the tax object in the area wherein this case the appraisal given by the appraiser is final and binding. If the amount of Compensation is based on the results of the appraisal by the Appraiser, it is submitted to the chief executive of the Land Procurement with an official report on the submission of the results of the appraisal. Then in this case the amount of compensation is used as the basis for deliberation to determine the form of compensation. If there are residual land parcels affected by the Land Procurement, which can no longer be functioned according to their designation and use, the Entitled Party may request a replacement for the parcel of land. If the remaining land area is not more than 100 m² (one hundred square meters) and cannot be used, compensation can be given.

Government responsibility is an act of the policy process to do something related to the implementation of political and economic policies with the intervention of various interests. The government's responsibility is seen from the purpose of land acquisition. Compensation is the fulfillment of the psychological needs of every indigenous people so that it answers what is a concern with the uncertainty of compensation that has not arrived, for customary lands for which

compensation has not been received for a certain period. The implementation of the expected responsibilities of the Regional Government is the implementation of Good Governance. Through good governance, it is hoped that there will be participating in the implementation of accountability and transparency in the administration of local government. Through Law No. 21 of 2001 concerning Papua's Special Autonomy ([Law No. 21 of 2001 concerning Special Autonomy for Papua, 2001](#)):

Thus, the Regional Government is obliged to respect and carry out legal allocations and protect the interests of all parties to ensure prosperity in the legal system in force in Papua. Relevant practice in terms of Land Acquisition in Papua can factually be found in several examples of activities carried out by the Mimika local government itself, which then in implementing regulations relating to land acquisition for the public interest, the activities that have been carried out in detail are:

Mimika Regency Government Acquired land of 5,000,000 M² (Five million square meters) located in Pomako Village, Mimika Timur District, Mimika Regency, Irian Jaya as stated in the Declaration Letter of Release of Customary Land Rights between the Kamaro customary law community, the sub-tribe of Pigapu Hiripau, Kaugapu and Mwapi with Drs. W Harissa (Assistant for Government Affairs of the Mimika Regency Secretariat) on October 23, 2000, for the release of these rights, the Government has provided Compensation in the amount of Rp. 240,000,000. (Two hundred and forty million rupiahs), the amount of the compensation is determined based on the decision of the Land Procurement Committee for the Implementation of Development for the public interest in Mimika Regency Number: 04/KPTS/PPT-MMK/2000 concerning the determination of the amount of land compensation. at the Pomako Seaport Location.

Mimika district government Carry out land acquisition with an area of 250,000 M² (Two hundred and fifty thousand square meters) which is located on Pomako Highway, Samudra Harbor, Bamako Village, East Mimika District, Mimika Regency, Papua with the following boundaries: north side is

bordered by a river, south is bordered by the sea, east is bordered by sea/kali In the west, it is bordered by customary land as stated in the Minutes of Land Procurement/Release of Rights to Customary Land Number: 16/BA-PPT/MMK/2008, covering an area of 250,000 M² (Two hundred and fifty thousand square meters) located on Pomako Highway Harbour Samudra village Bamako, East Mimika District, Mimika Regency, Papua with the following boundaries: in the north, it is bordered by rivers, the south is bordered by the sea. Chrysostimus Mapeko, Kostan Mipitapo, Karupukaro) Whereas for a land area of 250,000 M² (Two hundred and fifty thousand square meters) located on Pomako Highway, Samudra Harbour, Bamako Village, East Mimika District, Mimika Regency, Papua with the following boundaries: the north is bordered by the river, the south is bordered by the sea in the east bordering the Sea/Kali west bordering the customary land as referred to in point (2) above has been given compensation in the amount of Rp. 2,500,000,000,- (Two billion five hundred million rupiah) as proof of Payment receipt dated December 22, 2008. the north is bordered by the river, the south is bordered by the sea, the east is bordered by the sea / the west is bordered by customary land as referred to in point (2) above. Compensation of Rp. 2,500,000,000,- (Two billion five hundred million rupiah) as proof of Payment receipt dated December 22, 2008. the north is bordered by the river, the south is bordered by the sea, the east is bordered by the sea / the west is bordered by customary land as referred to in point (2) above. Compensation of Rp. 2,500,000,000,- (Two billion five hundred million rupiah) as proof of Payment receipt dated December 22, 2008.

Mimika Regency Government Carry out land acquisition with an area of 150,000 M² (one hundred and fifty thousand square meters) located in Pomako Village, East Mimika District, Mimika Regency, Papua. That based on the results of the Deliberative Meeting between the Land Procurement Committee with the Mimika Regency Government and Land Owners on 28 June 2011 it has been determined the amount of Compensation that must be received by the customary law community of Hiripau village, represented by Kostan Mipitapu, Hengky Hendrik HM Pakawa, Benedict Mapeko,

Bonefasius Kaonapoko, Charles Mapeko is Rp. 2,345,130,000 as stated in the official report on Land Acquisition/Release of Rights on Customary Land Number: 006/BA-PPT/MMK/2011, covering an area of 150,000 M² located on Mapura Jaya Street-Pomako, Pomako Village, East Mimika District, Mimika Regency, Papua and Statement Letter of Release of Customary Land Rights Number : 01/KMP/HRP/2011, Mimika Regency Government Acquisition of 150,000 M² (one hundred and fifty thousand square meters) located on Mapura Jaya Street, Pomako Village, East Mimika District, Mimika Regency, Papua, on Customary Land of 150,000 M² located in Pomako Village, East Mimika District, Mimika Regency, Papua has carried out the Release of Rights as stated in the Declaration Letter of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 Dated 15 May 2011, Minutes of Land Acquisition/Release of Land Rights Number: 153/BA-PPT/MMK/ 2013, the results of the Deliberation between the Mimika Regency Government and the Owners of Land Rights on December 20, 2013 have determined the amount and provided Compensation in the amount of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. 1000 M² (one hundred and fifty thousand square meters) which is located on Mapura Jaya Street, Pomako Village, Mimika Timur District, Mimika Regency, Papua, Against Customary Land covering an area of 150,000 M² located in Pomako Village, East Mimika District, Mimika Regency, Papua has the Release of Rights is carried out as stated in the Statement of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 Dated 15 May 2011, Minutes of Land Acquisition/Release of Land Rights Number: 153/BA-PPT/MMK/2013, the result of the Deliberation between The Mimika district government and the owner of land rights on December 20, 2013, have determined the amount and provided compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. 000 M² (One hundred and fifty thousand square meters) located on Mapura Jaya Street, Pomako Village, Mimika Timur District, Mimika Regency, Papua, Against Customary Land covering an area of 150,000 M² located in Pomako Village, East Mimika District, Mimika

Regency, Papua has the Release of Rights is carried out as stated in the Statement of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 Dated 15 May 2011, Minutes of Land Acquisition/Release of Land Rights Number: 153/BA-PPT/MMK/2013, the result of the Deliberation between The Mimika district government and the owner of land rights on December 20, 2013, have determined the amount and provided compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. East Mimika District, Mimika Regency, Papua, on Customary Land covering an area of 150,000 M² which is located in Pomako Village, East Mimika District, Mimika Regency, Papua, has carried out the Release of Rights as stated in the Statement of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 Dated May 15, 2011, the minutes of Land acquisition/Release of land rights Number: 153/BA-PPT/MMK/2013, the results of the Deliberation of Consensus between the Mimika Regency Government and the Owners of Land Rights on December 20, 2013, have determined the amount and provided Compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. East Mimika District, Mimika Regency, Papua, on Customary Land covering an area of 150,000 M² which is located in Pomako Village, East Mimika District, Mimika Regency, Papua, has carried out the Release of Rights as stated in the Statement of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 Dated May 15, 2011, the minutes of Land acquisition/Release of land rights Number: 153/BA-PPT/MMK/2013, the results of the Deliberation of Consensus between the Mimika Regency Government and the Owners of Land Rights on December 20, 2013, have determined the amount and provided Compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. Papua has relinquished rights as stated in the Declaration Letter of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 dated 15 May 2011, Minutes of Land Acquisition/Release of Land Rights Number: 153/BA-PPT/MMK/2013, results of Deliberation The consensus between the Mimika district government and the land

rights owners on December 20, 2013, has determined the amount and provided compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013. Papua has relinquished rights as stated in the Declaration Letter of Release of Rights on Customary Land Number: 01/KMP/HRP/2011 dated 15 May 2011, minutes of land acquisition/release of land rights Number: 153/BA-PPT/MMK/2013, the result of the Deliberation The consensus between the Mimika district government and the land rights owners on December 20, 2013, has determined the amount and provided compensation of Rp. 900,000,000,- (Nine hundred million rupiah) by the payment receipt on December 23, 2013.

In the context of realizing a just, prosperous, and prosperous society based on Pancasila and the 1954 Constitution, the Government needs to carry out development, one of which is developed for the public interest. The development for the public interest requires land whose procurement is carried out by prioritizing the principles contained in the 1945 Constitution and the national land law, including the principles of humanity, justice, benefit, certainty, openness, agreement, participation, sustainability, and harmony by values. - the values of the nation and the state.

National land law recognizes and respects community rights to land and objects related to land, as well as grants public authority to the state in the form of the authority to regulate land acquisition for development in the public interest. regional spatial plans, national/regional development plans, strategic plans, and work plans for each agency requiring land.

The implementation of land acquisition must pay attention to the balance between the interests of development and the interests of the community and is carried out by providing appropriate and fair compensation. The Government and/or Regional Government guarantees the availability of land for the public interest, including the availability of funding for the public interest, and people who have the right to receive and have received compensation money are obliged to relinquish their land rights or based on a court decision that has

permanent legal force. By Article 10 of Law No. 2 of 2012, it is stated that among others developments for the public interest include the construction of ports, airports, and terminals. Procurement of land for the public interest is carried out by the Government and the land is subsequently owned by the Government or Regional Government.

The Mimika Regency Government has organized the procurement of land covering an area of 555 Ha, for the benefit of the Pomako Port Development which aims to boost the community's economy through infrastructure for the prosperity of the Papuan people, especially Mimika Regency and improve the welfare of the community, as mandated by the 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3) which states "Earth, Water, Space, and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people".

The process of organizing land acquisition covering an area of 555 Ha, which was carried out by the Mimika Regency Regional Government for the construction of the Pomako Port until the payment of compensation was carried out based on law number 2 of 2012 concerning land acquisition for the public interest, as well as other laws and regulations related to procurement land for a public interest, Mimika Regency Spatial Plan and plans from agencies that require land.

The Mimika Regency Government has organized land acquisition to build the Mozes refinery airport based on the available documents, basically, it has been completed and there are no significant problems because the land rights for the benefit of the airport cover an area of 650,000 m² (65 ha), 550,000 m² (55 ha) have been completed and have been certified with the right Certificate of Use Rights Number: 00037 in the name of the Mimika Regency Government, which is located in Kwamki Village, Mimika Baru District, Mimika Regency, and the remaining 10 hectares are still in the payment settlement stage of a total of Rp. 16,000,000,000, - (sixteen billion rupiah), which has been paid Rp. 4,000,000,000,- (four billion rupiah) so that the remaining Rp.12,000,000,000 (twelve billion rupiah) will be paid for the 2020 fiscal year.

C. Important Stages of Land Acquisition Process in Special Autonomous Regions

1. Implementation of Land Acquisition

Based on the determination of the development location for the Public Interest, the Agency that requires land submits the implementation of Land Procurement to the Land Agency. Implementation of Land Procurement includes a. Inventory and identification of control, ownership, use, and utilization of land; b. assessment of Compensation; c. Deliberation on the determination of Compensation; d. granting Compensation; and e. release of agency land. After the determination of the development location for the Public Interest, the Entitled Party may only transfer its land rights to the Agency that requires the land through the Land Agency. The transfer of rights is carried out by providing Compensation whose value is determined at the announcement value of the location determination.

2. Compensation Assessment

The Land Agency determines the Appraiser by the provisions of the legislation. The Land Agency announces the Appraiser who has been appointed to assess the Land Procurement Object. The appointed appraiser must be responsible for the assessment that has been carried out. The value of Compensation based on the results of the Appraiser's assessment becomes the basis for deliberation on the determination of Compensation. Compensation can be given in the form of:

- a. Money.
- b. replacement land.
- c. Resettlement.
- d. shareholding; or.
- e. other forms agreed by both parties (vide Law 2/2012 Article 31, Article 32, Article 34, and Article 36).

The Land Agency shall hold deliberation with the Entitled Party within a maximum period of 30 (thirty) working days after the results of the appraisal from the Appraiser are submitted to the Land Agency to

determine the form and/or amount of compensation based on the results of the Compensation assessment. The results of the agreement in the deliberation become the basis for the provision of Compensation to the Entitled Party which is contained in the minutes of the agreement. If the Entitled Party refuses the form and/or amount of Compensation, but does not file an objection to the local District Court within 14 working days, by law the Entitled Party is deemed to have accepted the form and amount of Compensation.

3. If there is no agreement

If there is no agreement regarding the form and/or amount of Compensation, the Entitled Party - this Customary Law Community in Papua Province and West Papua Province - may file an objection to the local district court (respectively) within a maximum period of 14 (fourteen) working days after the deliberation on the determination of Compensation. The district court shall decide the form and/or amount of Compensation within a maximum period of 30 (thirty) working days from the receipt of the objection. Parties who object to the decision of the district court within a maximum period of 14 (fourteen) working days may file an appeal to the Supreme Court of the Republic of Indonesia. The Supreme Court is obliged to give a decision within 30 (thirty) working days from the receipt of the cassation request.

4. Provision of Compensation

Provision of Compensation for Land Procurement Objects is given directly to the Entitled Party based on the assessment results that have been determined and/or based on the decision of the district court/Supreme Court. At the time of granting Compensation, the Entitled Party to receive Compensation must:

- a. carry out the waiver of rights; and
- b. submit proof of control or ownership of the Land Procurement Object to the Agency that requires the land through the Land Agency. This evidence is the only legal

evidence and cannot be contested in the future. The party entitled to receive compensation is responsible for the correctness and validity of the evidence of possession or ownership submitted. Claims of other parties for the Land Procurement Object that has been submitted to the Agency requiring the land shall be the responsibility of the Entitled Party to receive Compensation. If the Entitled Party refuses the form and/or amount of compensation based on the results of deliberation and/or based on the decision of the district court/Supreme Court, the Compensation shall be deposited in the local district court.

In addition, Custody of Compensation is also carried out for:

- a. The whereabouts of the Entitled Party to receive Compensation are unknown; or
- b. Land Procurement Objects that will be awarded Compensation:
 - 1) being the object of a case in court;
 - 2) ownership is still disputed;
 - 3) confiscated by the competent authority; or
 - 4) be collateral in the bank. When the implementation of the provision of Compensation and Release of Rights has been carried out or the provision of Compensation has been deposited in the district court, the object of ownership or Land Rights of the Entitled Party is nullified and evidence of rights is declared invalid and the land becomes land that is directly controlled by the State.

D. Source of Conflict and its Resolution

Sources and forms of social conflict according to M. Mas'ud Said Special Staff of the Minister of Social Affairs ("DE JURE," n.d.) "Strengthening Social Harmony in the Context of Preventing Social Conflict" are: i modernization vs. traditional values and locality, vi. Unregulated power struggles and political tensions, vii. The envy of historical groups and fights against each other, and viii. Communication impasse and blocked aspirations.

Meanwhile, to resolve conflicts between institutions, for example between

the Corruption Eradication Commission and the National Police Headquarters some time ago, according to Dimas Wahyu Satria (Satria, n.d.) in his writing: "Defense Strategy and Conflict Resolution", lecture notes of Cohort 3 Naval Postgraduate School Monterey CA in collaboration with Master of Peace and Conflict Resolution Study Program, Indonesian Defense University, this is due to the emergence of friction between stakeholders. This can happen because of the tug-of-war between institutions. Meanwhile, according to Thomas s. Szayna, Derek Eaton, and Amy Richardson (Szayna, Eaton, & Richardson, 2007) in his book: "Preparing the Army for Stability Operations: Doctrinal and Interagency Issues", RAND Corporation, USA, tug of war of interest can occur due to the following factors, namely:

1. Structural differences among agencies (differences in structure between agencies);
2. Competing bureaucracies interests (differences in bureaucratic interests);
3. Differences in what planning is all about (planning differences in various ways);
4. Information sharing practice (exchange of information about practice);
5. Time pressures (time pressure);
6. Lack of understanding of planning by other agencies (lack of understanding of planning by other agencies).

In overcoming obstacles in inter-institutional cooperation according to Thomas S. Szayna, Derek Eaton, Amy Richardson in his book entitled: "Preparing the Army for Stability Operations: Doctrinal and Interagency Issue", several keys are needed, namely:

1. Determine common goals (define and articulate a common outcome);
2. Develop a joint strategy that can strengthen each institution (establish mutually reinforcing or joint strategies);
3. Approving the roles and responsibilities of each institution (agree on roles and responsibilities); and
4. Create policies, procedures, and other means that can be operated across agencies (establish compatible policies, procedures, and other means to operate across agency boundaries).

CONCLUSION

The land is the basic capital for human life. As an authorized capital, land has two functions: a production function and a non-production function. The need for land uses often clashes, given that there is a limited amount of land, on the other hand, there is an explosion of population growth. Countries anywhere in the world to carry out development are always related to land and need land. It often happens that in carrying out the development program there is a conflict with land that already has its rights or has been controlled by a person or legal entity. As an excuse to get the land, the government uses the term for the public interest. This research is a comparative study between Indonesia in terms of land acquisition for the public interest. The problem in this research is how to regulate the land acquisition and the concept of public interest in Indonesia. The results of the study indicate that there is a shift in the meaning of public interest in Indonesia which results in different perceptions in the community regarding land acquisition. However, land acquisition for the public interest has been stated in the legislation.

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Journal of Social Science

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