

ORIGINAL ARTICLE



Compensation Payments for Land Rights in the Construction of the Krueng Baroe Bridge in South Aceh

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Abstract

The development of infrastructure for public interest requires land acquisition based on the principles of justice, legal certainty, and utility as stipulated in Article 2 of Law Number 2 of 2012 concerning Land Acquisition for Public Interest Development, which includes the principles of humanity, justice, utility, certainty, openness, agreement, participation, welfare, sustainability, and harmony. However, in practice, the implementation of compensation still poses problems, especially regarding the discrepancy between the compensation value and the real market conditions. This is evident in the construction of the Krueng Baro Bridge in South Aceh, where there are discrepancies in land value and public dissatisfaction with the determined value. The purpose of this research is to analyze the implementation of compensation payments for land rights in the construction of the Krueng Baroe Bridge in South Aceh. The research method used is empirical juridical with a sociological legal approach, data obtained thru interviews with the Commitment-Making Officer, the National Land Agency, the Public Appraisal Service Office, as well as the affected community, and reinforced with literature study. The research results show that formally, the implementation of compensation has followed legal procedures, but the execution has not fully reflected substantive justice, as public consultations were not conducted and non-physical losses were not accommodated in the determination of compensation value. The obstacles that arise are multidimensional, including limited land data, weak institutional integration, and low transparency. The resolution efforts that have been undertaken include deliberations and renegotiations between the implementing parties, KJPP, and the community that rejects the compensation.

1. Introduction

Land as a natural resource plays a very important role in infrastructure development. This is emphasized in Article 33 paragraph (3) of the 1945 Constitution, which states that "the earth, water, and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people." This provision became the basis for the enactment of Law Number 5 of 1960 on the Basic Agrarian Law (UUPA), which emphasizes the principle of state control. Article 6 of the UUPA states that "All land rights have a social function," which means that the interests of individual landowners must yield if their land is needed for the public interest for the greater good of society [1].

As a follow-up, the government specifically regulates the land acquisition mechanism thru Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. Article 2 of the law emphasizes that land acquisition must be carried out based on the principles of humanity, justice, utility, certainty, openness, agreement, participation, welfare, sustainability, and harmony [2]. This regulation is clarified by Government Regulation Number 19 of 2021 as

amended by Government Regulation Number 39 of 2023. These principles emphasize that although development is a national necessity, the rights of the community as landowners must also be protected.

One of the infrastructure development projects that has garnered attention is the construction of the Krueng Baro Bridge in South Aceh Regency, which is a vital access point connecting South Aceh Regency and Southwest Aceh Regency. Based on initial observations, in the land acquisition for the construction of the Krueng Baro Bridge in South Aceh, there are differences in appraisal values for adjacent plots of land. Ratna Safriani's land was appraised at Rp610,000/m², Dedi Maulidin's land at Rp550,000/m², and Teuku Arman Lias's land at Rp600,000/m². In addition, there are reports from residents stating that the compensation for houses and plants also varies, with some being valued at only Rp59 million, whereas according to their estimates, the value reaches Rp190 million. Then there is another case where the loss is estimated to be more than Rp250 million, but the compensation received is far below that amount. This difference in perception of the compensation value has caused dissatisfaction; some members of the community accept the compensation, while others reject it or have not yet received any compensation.

The difference in the perception of the compensation value not only causes dissatisfaction among the community but also impacts the legal certainty aspect in the land acquisition process. Compensation payments that are not accompanied by a clear agreement and adequate legal understanding have the potential to cause disputes in the future, both between the community and the land acquisition committee and with the implementing agency. This condition shows that the issue of compensation is not merely technical and economic, but also closely related to legal aspects, especially at the stage of land rights release. In addition to the differences in compensation values, in the practice of land acquisition for the construction of the Krueng Baro bridge duplication, it was also found that the compensation payment process does not always proceed quickly and uniformly. This condition is partly influenced by the diversity of land ownership status affected, whether it is certified land or inherited land that has not yet had a formal division of rights. This diversity of ownership status has the potential to affect the smoothness of the land release process and create legal certainty issues for landowners. In the context of land acquisition for public development, compensation payments cannot be separated from the process of land rights release, which must be carried out legally and provide legal certainty for the parties involved. At this stage, the Land Deed Official (PPAT) plays a strategic role as a public official authorized to create authentic deeds related to the release or transfer of land rights. The deed of release created by the PPAT becomes an important legal instrument to ensure that compensation payments are based on a legitimate agreement, free from coercion, and meet the principles of justice and legal certainty [3].

The issue of compensation in the construction of the Krueng Baro Bridge in South Aceh is an important topic to research, both from normative and empirical aspects, in order to ensure the implementation of infrastructure development that provides legal certainty and fair protection for land rights holders. From a legal perspective, this situation indicates a gap between norms and field practices. Normatively, the principles of justice, humanity, and agreement have been emphasized in Article 2 of Law No. 2 of 2012 on Land Acquisition for Public Interest Development [4–7]. However, empirically, the community still feels injustice due to the imbalance in compensation values. From a social perspective, this dissatisfaction can trigger conflicts, which ultimately hinder the bridge construction process.

Based on the foregoing, it is evident that the issue of compensation in the construction of the Krueng Baro Bridge in South Aceh constitutes an important subject of inquiry. Theoretically, this research is expected to enrich the literature on agrarian law and administrative law concerning the implementation of land acquisition. Practically, the study may provide input to the Government, the Ministry of Public Works and Housing (PUPR), the National Land Agency

(BPN), and other relevant stakeholders so that compensation payments are carried out more fairly, transparently, and in accordance with legal principles, thereby ensuring that development proceeds smoothly without sacrificing community rights. This research examines the following question: How is the implementation of compensation payments for land rights conducted in the construction of the Krueng Baro Bridge in South Aceh?

2. Methods

This research is an empirical legal study, also known as an empirical/sociological juridical legal study [8]. In empirical legal research, law is understood as a social phenomenon whose applicability is greatly influenced by social, economic, and cultural factors, as well as the attitudes and behaviors of law enforcement officials and society as legal subjects [9]. The research approach used in this study is the sociological approach to law [10]. The sociological approach to law is an approach that aims to "examine law in a social context." The desired outcome is to explain and connect, test, and also critique the functioning of formal law in society [11–13]. The data sources for this research are based on primary and secondary data. This research was conducted in South Aceh Regency, Aceh Province, specifically in the areas affected by the construction of the Krueng Baro Bridge. Data were collected using interview techniques and literature review [14]. This research collected primary data through data collection methods. In-depth interviews were conducted with five key informants, namely: the Commitment-Making Officer (PPK) of the Ministry of Public Works and Housing (Directorate General of Highways) as the implementing authority of the Krueng Baro Bridge construction project in South Aceh; the Head of the National Land Agency (BPN); the Public Appraisal Office (KJPP) responsible for assessing the compensation value of land and buildings; as well as five community members or landowners affected by the construction of the Krueng Baro Bridge in South Aceh. The data obtained in this study were analyzed using a descriptive qualitative analysis method [15].

3. Results and Discussion

3.1 Implementation of Compensation for Land Rights in Land Acquisition The role of institutions and related parties in the implementation of compensation

Sudikno Mertokusumo's theory on the three pillars of law enforcement legal certainty, utility, and justice—can be concretely operationalized thru the role of institutions in the implementation of compensation payments for land rights [16]. First, legal certainty is reflected in the normative and administrative functions of the institution, particularly the National Land Agency (BPN), which is responsible for ensuring the validity of land subjects and objects, as well as the conformity of procedures with laws and regulations. Second, justice is actualized thru the role of the Public Appraisal Service Office (KJPP) as an independent institution that assesses the amount of compensation. An objective, professional assessment that includes both physical and non-physical losses is the main instrument to achieve substantive justice as intended by Sudikno. Third, the benefits are achieved thru the synergy between the BPN Agency, KJPP, local government, and implementing agencies in ensuring the process runs effectively, efficiently, and is accepted by the community.

The implementation of compensation payments for land rights in the construction of the Krueng Baro Bridge in South Aceh is a process that involves various institutions and parties with different authorities and functions. In this context, the Ministry of Public Works and Public Housing (PUPR) thru the Commitment Making Officer (PPK) 2.4 of the National Road Implementation Work Unit (Satker PJN) II of Aceh Province, as the party responsible for land acquisition activities for road and bridge construction, plays a role as the agency requiring land as well as the executor of the Krueng Baro Bridge construction. Normatively, the National Land Agency (BPN) thru the Land Office has a very strategic role in the implementation of land acquisition. The authority of BPN includes technical land aspects, such as inventory and identification of land subjects and objects, mapping, verification of land rights status, in addition

to forming a land acquisition implementation team tasked with carrying out all stages of land acquisition, including facilitating compensation deliberations until the completion of land administration. Within the legal framework of land acquisition, the presence of the National Land Agency (BPN) serves as an institution that guarantees the validity of land data and provides administrative legitimacy at every stage of land acquisition [17,18]. Therefore, theoretically, the involvement of BPN is one of the main instruments in ensuring legal certainty and preventing disputes in the future.

Based on empirical findings in the field, the implementation of land acquisition for the construction of the Krueng Baro Bridge shows conditions that differ from the normative construction. The National Land Agency was not involved in the land acquisition process carried out by the Ministry of Public Works and Public Housing. This fact is reinforced by an interview with Maulana Akmal Zikri, the Acting Head of the Land Acquisition and Development Section at the South Aceh Land Office, who stated that the land acquisition was conducted thru a direct procurement mechanism, thus not involving the BPN in its implementation.

Based on a juridical-empirical perspective, the non-involvement of BPN indicates an issue in the aspect of optimizing institutional roles. The absence of an institution that normatively has technical authority in the field of land affairs implies the lack of a comprehensive administrative verification mechanism for land subject and object data. This condition has the potential to cause data inaccuracies, whether related to ownership status, land boundaries, or the legality of land rights that are the subject of acquisition. The absence of BPN's involvement also affects the weakening of the administrative control function in the land acquisition process. On the other hand, the implementation of land acquisition still involves independent appraisers thru Public Appraisal Service Offices (KJPP). The involvement of KJPP is part of a normative mechanism aimed at ensuring objectivity and professionalism in determining the amount of compensation. In this context, the existence of KJPP provides technical legitimacy to the determined compensation value. The effectiveness of the KJPP's role in ensuring justice cannot be separated from the quality and validity of the data used in the assessment process. In the case where land data is not optimally verified by the authorized institution, such as BPN, the assessment results produced by KJPP have the potential to not fully reflect the real conditions on the ground. Thus, there is a close relationship between the roles of BPN and KJPP in forming an accountable and just land acquisition system.

In addition to the involvement of KJPP, the implementation of land acquisition in the construction of the Krueng Baro Bridge is also related to the role of the Land Deed Official (PPAT) as the authorized officer to create authentic deeds of land rights transfer as regulated in Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Position of PPAT. However, based on research results at the Krueng Baro Bridge construction site, it was found that the payment of compensation to the entitled parties did not involve the PPAT. The payment process was carried out thru a deliberation and direct agreement mechanism between the land acquisition implementers and the community, which was then documented in an administrative document in the form of a deed of release of rights.

In land acquisition practices facing public objections to compensation values, as seen in the construction of the Krueng Baro bridge in South Aceh, PPAT also has the potential to perform a preventive function by providing legal explanations to landowners before the signing of the deed of release of rights. The involvement of PPAT is not only administrative but also contributes to supporting the implementation of fair, transparent compensation payments in line with development goals for the public interest [19].

Analysis of the role of institutions in the land acquisition process for the construction of the Krueng Baro Bridge in South Aceh shows a gap between normative construction and empirical

reality on the ground. Normatively, the direct procurement mechanism used can be justified within the framework of applicable law. However, empirically, the non-involvement of the BPN as the technical land agency indicates suboptimal coordination and institutional integration in the land acquisition process. Thus, the research findings emphasize that the role of institutions in compensation payments has not yet been fully integrated into a single institutional system capable of harmonizing legal certainty, justice, and utility as proposed by Sudikno Mertokusumo. The optimization of the roles of BPN, KJPP, PPAT, and implementing agencies is an important prerequisite so that the implementation of compensation does not stop at formal legality, but also provides legal protection and substantive justice for the affected community.

3.2 The Stages of implementing compensation payments for land rights

The legal basis for land acquisition for public development in the Indonesian legal system is structured hierarchically and complementarily. The main regulation is found in Law Number 2 of 2012, which serves as the basic norm (*lex generalis*) in the implementation of land acquisition. This law emphasizes that land acquisition must be carried out by prioritizing the principles of humanity, justice, utility, legal certainty, openness, agreement, participation, welfare, sustainability, and harmony as normative foundations at every stage [20].

Furthermore, Article 13 of Law Number 2 of 2012 regulates that land acquisition is carried out thru the stages of planning, preparation, implementation, and handover of results. Along with the development of national policies, the provisions in Law Number 2 of 2012 have been adjusted thru Law Number 6 of 2023, which strengthens the aspect of accelerating development, including in the implementation of land procurement. Further operational regulations are governed by Government Regulation Number 19 of 2021 as implementing rules that detail the technical mechanisms for each stage of land acquisition. At a more technical-administrative level, the regulation regarding the implementation of land acquisition, including small-scale land acquisition and direct mechanisms, is governed by the Minister of ATR/BPN Regulation Number 19 of 2021. With the existence of this legal basis, the implementation of compensation in the construction of the Krueng Baro Bridge in South Aceh has normatively had a clear foundation. This legal basis also serves as a parameter in assessing whether the practice of providing compensation in the field has complied with the applicable legal provisions or deviated from the principles established by the legislation.

According to Law Number 2 of 2012 in conjunction with Law Number 6 of 2023, land acquisition for public interest consists of four stages: Planning; Preparation; Implementation; and Handover [21]. The implementation of land acquisition for the construction of the Krueng Baro Bridge in South Aceh did not fully follow the formal stages as regulated in Law Number 2 of 2012, but instead used a direct procurement mechanism with simplified stages. In the land acquisition legal system in Indonesia, two implementation mechanisms are recognized: land acquisition thru the mechanism of the land acquisition committee and direct land acquisition. The land acquisition committee mechanism is carried out comprehensively based on Law Number 2 of 2012 with complete stages and involves the National Land Agency (BPN) as the technical executor. Meanwhile, direct land acquisition is a mechanism carried out by agencies requiring land thru direct transactions with the rights holders, which is permitted for land acquisition with an area of less than 5 (five) hectares (Small Scale). This mechanism is simpler and does not require all the formal stages as in large-scale land acquisition, although it must still adhere to the principles of justice, transparency, and agreement.

In the normative framework of land acquisition, the initial stage that must be undertaken is the determination of the construction location. In the context of the construction of the Krueng Baro Bridge in South Aceh, this stage has been carried out by the South Aceh Regent thru a location determination decision as the legal basis for land acquisition implementation. However, after the location determination, it should normatively be followed by the announcement of the

development plan and the implementation of public consultations with the affected communities. However, based on empirical findings in the field, the stages of announcement and public consultation were not optimally carried out by the land acquisition implementers. The next stage is the data collection and inventory of the subjects and objects of land acquisition. This stage is carried out by the Satker as the agency requiring the land, by identifying the land rights holders, land area, possession status, and other objects attached to the land such as buildings, plants, and items related to the land. In practice, before the valuation process by KJPP, data related to the area and status of the land is first confirmed with the BPN to ensure consistency with the certificate data. The accuracy and precision of the data at this stage are crucial factors in determining the fairness of compensation, as data errors have the potential to cause disputes in the future. The next stage is the assessment of the amount of compensation by an independent appraiser thru the Public Appraisal Service Office (KJPP). The assessment is conducted based on data provided by the Satker, which is then verified thru field surveys. In this process, KJPP does not compile initial data, but rather verifies and analyzes the data that is already available. The assessment includes physical losses such as land, buildings, and crops, as well as non-physical losses like business loss and duration of residence, using an adjusted market value approach thru various adjustment factors.

The next stage is the deliberation on the determination of compensation, which normatively manifests the principles of agreement and justice in land acquisition. At this stage, the land acquisition executor presents the assessment results to the land rights holder for further discussion on the form and amount of compensation. However, in the implementation of land acquisition for the construction of the Krueng Baro Bridge in South Aceh, the deliberation stage actually became the point where problems arose. Based on the research findings, after the assessment was conducted by the Public Appraisal Service Office (KJPP), there was a misunderstanding among the community regarding the amount of compensation determined. This condition indicates that the function of deliberation as a space for reaching an agreement is not functioning optimally. The main issue lies in the difference in compensation values for land that is within a single plot (contiguous land). In addition, the community also considers that the amount of compensation offered is relatively low and does not reflect the economic value of the land in the field. Thus, the conflict that occurs during the deliberation stage is not solely caused by differences in compensation values, but also by the lack of transparency and adequate understanding of the basis for the assessment. This indicates that the principles of agreement and transparency as regulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest have not been optimally fulfilled.

After an agreement is reached, compensation payments are made, followed by the release of land rights by the entitled parties. This stage is a crucial point in the entire land acquisition process, as it is at this moment that the transfer of rights from the community to the state for the purpose of development occurs. Normatively, compensation payments must be carried out in a timely, transparent manner, and in accordance with the value agreed upon in the deliberations, in order to ensure the fulfillment of the principle of legal certainty and protection of community rights as regulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. However, in the implementation of the construction of the Krueng Baro Bridge in South Aceh, the compensation payment stage shows a deficit in the legitimacy of the deliberation. Based on research data, out of a total of 28 plots of land that are the subject of procurement, there are 7 plots of land whose owners reject the amount of compensation determined. This fact shows that not all deliberation processes resulted in agreements as normatively expected.

As a result, the implementation of compensation payments does not fully proceed comprehensively and simultaneously, because there are still parties who are not willing to relinquish their land rights. On the other hand, there are also members of the community who

continue to accept the payment even tho the amount received is considered not to reflect a sense of justice, with pragmatic considerations to avoid conflict or uncertainty in the future. These conditions indicate that although the compensation payment has been formally carried out, there are still substantive weaknesses in fulfilling the principles of agreement and justice. Thus, the relinquishment of land rights in practice does not fully reflect a free agreement, but in some cases is influenced by the pressures of the social and economic conditions of the affected communities.

Thus, it can be asserted that the issues in the implementation of compensation for the construction of the Krueng Baro Bridge in South Aceh do not lie in the absence of norms, but rather in the failure to consistently and fully implement these norms. The direct procurement mechanism chosen is indeed normatively valid, but in practice, it has been implemented without meeting adequate procedural prerequisites, particularly in terms of participation and transparency. As a result, the implementation of compensation only meets the dimension of legal certainty in a formal sense, but has not yet achieved substantive justice and effective legal protection for the affected community. In such conditions, the law loses its corrective function and tends to operate as an instrument of administrative legitimacy for development policies, rather than as a mechanism for protecting rights. Therefore, future improvements should not only focus on the technical aspects of assessment but should also target strengthening the initial stages of land acquisition, enhancing process transparency, and reconstructing institutional roles to be more accountable and participatory.

4. Conclusions

In conclusion, the implementation of compensation in the construction of the Krueng Baro Bridge was carried out thru a simpler direct procurement mechanism without the formation of a land acquisition committee. In determining the fair value, the implementer uses the services of KJPP, although the KJPP assessment has been conducted professionally, the results do not fully determine the final value because they depend on the implementer's decision, especially regarding non-physical losses. As a result, compensation tends to focus on physical aspects and has not yet reflected substantive justice. Moreover, the lack of public consultation and the exclusion of the Land Office (BPN) indicate weaknesses in participation and administrative verification.

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