

## Legal Protection and Substantive Justice in Land Acquisition for Public Interest: An Indonesian Perspective

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**Abstract:** This study aims to analyze the formulation of legal protection for the community in the acquisition of land rights for public interest. The research method used is normative legal research, with a legislative, case, conceptual, and comparative approach. Research data were obtained from primary, secondary, and tertiary legal materials, which were analyzed qualitatively to identify a legal construction that balances the interests of national development with the protection of community rights. The results of the study indicate that legal protection in the acquisition of land rights cannot rest solely on formal legality and administrative procedures; it must also address substantive protection that restores the conditions of affected communities. Ideal legal protection should include transparency in information, meaningful public consultation, accurate data collection on land subjects and objects, independent and transparent compensation assessments, equal deliberation, legal assistance, effective objection mechanisms, protection of vulnerable groups, and socio-economic recovery after land acquisition. A just formulation of land rights acquisition must position communities not as objects of development, but as legal subjects with rights to land, housing, employment, a decent living, participation, and fair treatment. Therefore, the public interest should not be interpreted as the basis for state domination, but rather must be tested through the principles of legality, tangible public benefit, proportionality, participation, accountability, and social justice.

**Keywords:** Substantive Justice, Land Rights Acquisition, National Development, Legal Protection

### Introduction

Land and development are inseparable. Land has a social function, meaning that land owned by an individual serves not only the rights holder but also the Indonesian nation as a whole (Suartining & Djaja, 2023). Consequently, land use is not only guided by the interests of the rights holder but must also consider the interests of the community. Therefore, it can be said that land has a dual function, namely as a social asset and a capital asset (Swyngedouw & Ward, 2022). For communities whose land is to be developed, relinquishing land rights to the government has economic and social consequences, especially if the land is their sole residence and source of livelihood. Therefore, land acquisition for public development purposes must be carried out in accordance with the principles of humanity, justice, benefit, certainty, openness, agreement, participation, welfare, sustainability, and harmony (Yasim et al., 2025).

The Rempang Eco City land acquisition conflict, as well as compensation disputes on toll road projects in various regions, indicate the tension between national development interests and the fair protection of community land rights, or vice versa, the community creates the conflict by wrapping up a sense of justice that is not obtained by the community. The Rempang

Eco City project conflict is an agrarian and social dispute that emerged sharply on Rempang Island, Batam City, Riau Islands, in September 2023. This conflict involves residents (Malay indigenous people), the government (BP Batam and Batam City Government), and the private sector (PT Makmur Elok Graha/MEG) regarding the planned development of an industrial and tourism area.

In some of the cases mentioned above, we can see how the public has raised serious concerns about the deliberation mechanism, the perceived disproportionate compensation, and the procedural approach, which is considered insufficient to guarantee substantive justice. This phenomenon demonstrates that, although Law Number 2 of 2012 normatively prioritizes the principle of justice, its implementation still leaves fundamental problems regarding rights protection and social justice. This situation indicates a lack of synchronization between the normative construction of land acquisition and its legal implementation, raising fundamental questions about how a just legal construction can be implemented in land acquisition for the public interest in Indonesia.

The land acquisition process has not been easy. However, it has been a long process involving several complex stages, including location determination, counseling, negotiation, identification, inventory, land price assessment by an appraisal institution, compensation payment decision, and the release of rights. Before the enactment of Law Number 2 of 2012, the legal basis for land acquisition was based on Presidential Regulation Number 36 of 2005 which was later amended to Presidential Regulation Number 65 of 2006 concerning Land Acquisition for the Implementation of Development for Public Interest, but also did not reflect the form of fair compensation in the community, especially the community affected by compensation for land or land used by the state for national interests.

Based on the above problems, the State has regulated in the regulations that the author has conveyed, but in fact, every time there is a land or land acquisition for public interest there is always a conflict of the same problem and justice is always the sacrifice, so this study aims to analyze the concept of releasing land rights for public interest with the title Formulation of Release of Community Land Rights for Public Interest and National Development in a Just Legal State in Indonesia. This study focuses on the legal consequences of the implementation of land acquisition for public interest and for national development, with justice by the government with land owners, and what fair methods are carried out by the government in implementing land acquisition for public interest and national development, and how to construct just principles so that a sense of true justice is created in society.

## **Method**

This study employs qualitative analysis using both a statute-based and a case-based approach. This study examines concrete cases that reflect the dynamics of land acquisition for public purposes, particularly those that raise debates over issues of justice and the protection of community rights. This study focuses on land acquisition conflicts in the Rempang Eco City project in Batam, Riau Islands. Furthermore, the empirical approach is research that focuses on formulating land acquisition rights in the public interest.

## **Result and discussion**

### **Land Rights Acquisition in the Rempang Eco-City Project**

The Rempang Eco-City issue is a concrete example of how national development projects can create tensions between investment interests, state interests, and the protection of community land rights. Rempang Eco-City is an industrial, trade, tourism, and investment development project located on Rempang Island, Batam City, Riau Islands Province (Jatmika et al., 2025). This project was later included in the National Strategic Project framework, thus receiving accelerated policy support from the government. However, at the implementation

level, the project gave rise to quite sharp social conflict because the community that had long lived on Rempang Island felt threatened by the loss of living space, cultivated land, social identity, and the historical continuity of the old Malay villages that existed long before the investment project was planned (Puspita et al., 2024).

From a land law perspective, the Rempang Eco-City conflict cannot be understood simply as an administrative issue of relocating residents from one location to another. It is more appropriate to view the issue as a matter of freeing up community land rights, which touches on constitutional, historical, social, economic, and human rights dimensions. For the Rempang community, land is not merely an economic object valued in money, but rather a living space that shapes social relationships, livelihoods, family history, Malay cultural identity, and community sustainability. Therefore, when the state or area management agency encourages relocation in the name of development, what must be tested is not only the formal legality of the project, but also whether the process has met the principles of substantive justice, meaningful participation, transparency, proportionality, and the restoration of the lives of affected communities (Cernea, 2007).

Based on a review of various news reports, human rights organizations' reports, and civil society responses, several key issues emerged in the Rempang Eco-City case. First, the community questioned the lack of community involvement in the initial project planning process. Residents felt that decisions regarding area development and relocation plans were made before they received adequate information. In the context of land acquisition, this situation demonstrates a weak application of the principle of meaningful participation. In land acquisition for the public interest, affected communities should not be treated as administrative objects, but as legal subjects with the right to know, express opinions, reject, file objections, and receive protection from the legal and social consequences of development projects.

The Rempang Eco-City issue relates to the community's land tenure status. Some Rempang residents live in ancient villages with historical ties to the land, but not all have formal evidence of ownership required by modern land registration systems. This issue highlights the weaknesses of the agrarian legal system when dealing with communities with hereditary, historical, and communal land tenure, which are often not documented in land title certificates (Gold & Zuckerman, 2014). In practice, uncertified land is often considered lower risk than formally registered land (Obeng-Odoom & Haila, 2024). The principles of a just rule of law should not only protect land certificate holders but also recognize the physical ownership, historical occupancy, social relationships, and rights

of local communities who have long lived on the land (Stilz, 2013).

The Rempang Eco-City conflict highlights the challenges of relocation, which cannot be resolved solely by providing replacement housing. Relocating people from their original villages to new locations has the potential to cause extensive losses, including loss of access to livelihoods, disruption of social relationships, changes in economic patterns, loss of access to the sea or gardens, and the severance of community ties to ancestral graves, historical sites, and symbols of village identity (Nikuze et al., 2019; Piggott-McKellar et al., 2020). Therefore, compensation in cases like Rempang cannot be measured solely by the physical value of the land or buildings; it must also encompass non-physical losses, social losses, loss of livelihoods, adaptation costs, and ensuring the sustainability of life after relocation.

The Rempang Eco-City issue also highlights the tension between investment-based and social-justice-based development approaches (Mayor, 2025). From the government's perspective, the project is seen as an instrument to boost economic growth, attract investment, create jobs, and strengthen Batam's position as a strategic region. However, from the perspective of affected communities, such development has the potential to displace them and destroy their homes and livelihoods. This demonstrates a difference in perspective between the state and the community. The state tends to view land as a space for development and investment, while the community views land as a living space (Cotula, 2013). This difference in perspective is often the root of conflict in land acquisition for public-interest and national-strategic projects.

The clash between authorities and the community in September 2023 demonstrated that resolving land conflicts cannot be achieved solely through a security approach. The use of authorities in the process of clearing, measuring, or securing projects can cause social trauma and increase public distrust of the state. In a democratic, rule-of-law state, repressive approaches should be a last resort, not the primary instrument for resolving community objections (Davenport, 2007). If communities reject or question a project, the state should prioritize dialogue, mediation, data verification, social audits, and an open, accountable mechanism for objections (Courville, 2003). When linked to Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, the Rempang Eco-City case demonstrates a problem in the meaning of public interest. Normatively, public interest must entail benefits for the wider community, grounded in the principles of humanity, justice, utility, certainty, openness, agreement, participation, welfare, sustainability, and harmony (Raya,

2015). However, if a development project is predominantly oriented towards private investment, industrial areas, or commercial interests, it needs to be critically examined to determine whether it truly serves the public interest or is closer to certain economic interests legitimized by state policy. In this context, the Rempang case is important for testing the boundaries between public interest, national development interests, and investment interests.

The Rempang issue also demonstrates that land acquisition cannot simply be understood as a process of providing land for development projects. Land acquisition must be viewed as a legal process that directly impacts citizens' constitutional rights (Angela & Setyawati, 2022). Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia affirms that everyone has the right to private property and that no one may arbitrarily take over such property rights. Furthermore, Article 28D paragraph (1) of the 1945 Constitution guarantees everyone's right to recognition, guarantees, protection, and fair legal certainty. Therefore, any state action resulting in the loss of land, homes, and livelihoods must be tested against the principles of legality, justice, proportionality, and respect for human dignity (Damanik, 2025).

From a human rights perspective, the Rempang community has the right to adequate housing, security, information, participation in decision-making, employment, and a decent livelihood, and the right not to be forcibly relocated without due legal process. These principles align with Law Number 39 of 1999 concerning Human Rights, which protects property rights, welfare, security, and the right to justice. Therefore, the relocation of the Rempang community must be placed within the framework of human rights protection, not merely as a technical spatial planning or investment policy (Manullang et al., 2026).

From a theoretical perspective on legal protection, the Rempang case demonstrates the weakness of preventive and repressive legal protection (Azizah et al., 2025). Preventive legal protection should be present before conflict occurs, namely through the provision of clear information, public consultation, data collection on affected communities, social risk mapping, recognition of the community's historical rights, and the development of a mutually agreed compensation and livelihood restoration scheme. Furthermore, repressive legal protection should be available when the public feels aggrieved, including through administrative objection mechanisms, state administrative lawsuits, independent mediation, complaints to human rights institutions, and access to legal aid (Kurniawan et al., 2024). In the Rempang case, the weakness of these two forms of protection led to the conflict escalating into widespread social tension.

Based on a synthesis of interviews with affected communities, it can be concluded that residents' primary objections are not solely due to their rejection of development. Their objections are more related to a sense of exclusion, fear of losing their village, uncertainty about the future after relocation, and concerns that the village's historical value and identity are not accounted for in the compensation scheme. In the field narrative, residents state that their land and homes are not just places to live, but also a family inheritance, a place for their children to grow, a source of livelihood, and part of the long history of the Malay community in Rempang. Therefore, when relocation is carried out without clear guarantees of restitution, the community feels that development is erasing their existence as a legal and social community.

From the government's perspective, the argument that can be read into the Rempang Eco-City development policy is that the project is necessary to increase regional competitiveness, create job opportunities, strengthen investment, and stimulate economic growth in Batam and the Riau Islands. This argument cannot be ignored, as national development requires space, investment, and infrastructure. However, in a just state governed by the rule of law, development goals must not ignore community rights. Administratively legitimate development is not necessarily substantively just if the process results in marginalization, fear, loss of livelihood, or forced relocation without adequate redress.

The Rempang Eco-City case highlights that the primary problem with land rights acquisition in Indonesia lies not only in the availability of regulations, but also in the quality of their implementation (Paramyta et al., 2024). Indonesia already has the Basic Agrarian Law (BAL), the Land Acquisition Law, the Human Rights Law, the State Administration Law, and various implementing regulations. However, conflicts persist when legal norms are not translated into participatory, transparent, and community-based practices. In other words, the Rempang issue demonstrates the gap between written law and perceived justice.

**Table 1** Mapping of Rempang Eco-City Problems from the Perspective of Land Rights Acquisition

| Problem Aspects       | Form of Problem                                                                                | Legal Implications                                                                                 | Required Protection Formulation                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Community land status | Some communities have historical and hereditary control, but not all have formal certificates. | Community rights have the potential to not be fully recognized in the land administration process. | Verification of land ownership history, recognition of historical rights, participatory data collection, and protection of old village communities |

| Problem Aspects            | Form of Problem                                                                                                  | Legal Implications                                                                          | Required Protection Formulation                                                                                        |
|----------------------------|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Community participation    | Residents felt they were not adequately involved from the early planning stages.                                 | Weakening the principles of openness, participation and deliberation                        | Provision of written information, equal deliberation forums, and the right to raise objections                         |
| Relocation                 | Relocation of residents risks eliminating living space, livelihoods and social identity.                         | Relocation can turn into forced displacement if it is not based on consent and restitution. | Agreement-based relocation, guarantee of adequate housing, economic recovery, protection of vulnerable groups          |
| Compensation               | Non-physical, historical, social and economic losses are often not adequately quantified.                        | There is a risk that compensation will not fulfill the principles of justice and welfare    | Comprehensive assessment of land, buildings, businesses, lost income, transition costs, and social losses              |
| Security approach          | Clashes between authorities and the community cause social trauma                                                | Potentially violates the principles of proportionality, human rights protection, and AUPB   | Dialogic resolution, independent mediation, restrictions on the use of apparatus, and audits of administrative actions |
| Meaning of public interest | Investment-based projects raise questions about the boundaries between public interest and commercial interests. | It is necessary to test whether the project actually fulfills real public benefits          | Public interest test, proportionality test, transparency of benefits, and policy accountability                        |

Based on the table above, Rempang Eco-City is an important case study for this research because it clearly demonstrates that granting land rights for national development must be grounded in a balance among legality, social legitimacy, and substantive justice. Legality is necessary for government actions to have a legal basis. Social legitimacy is necessary for policies to be accepted by the community. Furthermore, substantive justice is needed to prevent the community from becoming victims of development that should be aimed at the people's welfare. Therefore, the formulation of equitable land rights acquisition in cases like Rempang Eco-City must include several principles. First, the state is obliged to ensure that affected communities receive accurate, complete, and easily understood information from the early stages of project planning (Linders, 2013). Second, communities must be involved in the decision-making process, not only informed after the decision has been made (Decker et al., 2025). Third, the community's land tenure status must be substantively assessed, including the history of ownership, hereditary occupancy, the land's social function, and the community's ties to the village (Octavia et al.,

2025). Fourth, relocation can only be carried out if there is a guarantee of restoring a decent standard of living and does not cause the community to become poorer (Syahputra, 2025). Fifth, compensation does not cover physical and non-physical losses (Wahyuni et al., 2025). Sixth, conflict resolution must prioritize dialogue, mediation, and fair legal mechanisms, rather than repressive approaches (Boli & Hidayat, 2025).

Thus, the Rempang Eco-City issue teaches us that national development should not be measured solely by investment value, land area, or economic growth targets. Development must be assessed by its ability to maintain human dignity, protect community rights, and prevent structural impoverishment resulting from land acquisition. In a just state governed by the rule of law, community land should not be viewed as an obstacle to development, but rather as a constitutional right that must be respected. Therefore, Rempang Eco-City serves as an important reflection that the formulation of land acquisition for the public interest must be directed toward a development model that is participatory, transparent, proportional, humane, and oriented toward social justice.

## Conclusion

The formulation of legal protection for the release of community land rights for the public interest in a just state based on the rule of law in Indonesia must be constructed as protection that is not only formal-procedural, but also substantive and restorative. Indonesian positive law has essentially provided a basis for protection through the 1945 Constitution, the Basic Agrarian Law, the Land Acquisition Law, implementing regulations, and the objection mechanism through the courts. However, this protection needs to be constructed more strongly so that the community is not merely positioned as an object of development, but as a legal subject with constitutional rights to land, housing, employment, a decent livelihood, information, participation, and fair treatment. Ideal legal protection should include transparency in information, meaningful public consultation, accurate data collection on land subjects and objects, independent compensation assessment, equal deliberation, protection of vulnerable groups, legal assistance, effective access to objections, and the restoration of the lives of affected communities. The formulation of the release of community land rights for the public interest in a just state based on the rule of law must be balanced between the needs of national development and respect for community rights. The public interest should not be interpreted as a basis for domination by the state or project implementers, but rather must be tested based on legality, tangible public benefits, proportionality, community participation, and social justice. Therefore, ideal land acquisition must meet the principles of legality, legal certainty, substantive justice, transparency of information, participation, meaningful deliberation, fair and equitable compensation, public official accountability, access to justice, and community socio-economic recovery. This formulation

emphasizes that the success of land acquisition is not only measured by the availability of land for development, but also by the extent to which the rights, dignity, and sustainability of affected communities remain protected after the land is released.

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