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THE MINISTRY OF AGRARIAN AFFAIRS AND SPATIAL PLANNING/
THE NATIONAL LAND AGENCY
REPUBLIC OF INDONESIA

INDONESIA LAND ACQUISITION LAW: BENCHMARKING TO INTERNATIONAL SAFEGUARD STANDARDS

COUNTRY SAFEGUARD SYSTEMS
SOUTH AND SOUTHEAST ASIA SUBREGIONAL WORKSHOP
23 – 25 AUGUST 2016
CARAVELLE HOTEL, HO CHI MINH CITY, VIET NAM

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INDONESIA LAND ACQUISITION LAW: BENCHMARKING TO THE INTERNATIONAL SAFEGUARD STANDARDS

ASSIGNMENT I

ASSIGNMENT II

ASSIGNMENT III

HIGHLIGHT LESSONS

CHALLENGES &
OPPORTUNITIES

IN MANAGING THE
ENVIRONMENTAL AND
SOCIAL RISKS AND IMPACTS
OF PROJECTS THROUGH
SAFEGUARDS

IDENTIFY SPECIFIC GAPS AND
CHALLENGES IN APPLYING
COUNTRY SAFEGUARD
SYSTEMS (CSS) ACROSS THE
TWO SUBREGIONS

DETERMINE POSSIBLE
APPROACHES IN BRIDGING THESE
GAPS





INDONESIA LAND ACQUISITION LAW: BENCHMARKING TO THE INTERNATIONAL SAFEGUARD STANDARDS

THE LAW

LAW NUMBER 2 YEAR 2012 ON “LAND ACQUISITION FOR THE DEVELOPMENT OF PUBLIC INTERESTS”:

- WAS ENACTED ON 14 JANUARY 2012
- FOR ONGOING PROJECTS (THE RESTS OF UNFINISHED LAND PROCUREMENTS) WERE TAKEN FULLY INTO EFFECTS SINCE 01 JANUARY 2016

PUBLIC INTEREST IS THE NATION, THE STATE, THE PEOPLE INTERESTS THOSE ARE ACCOMPLISHED BY THE GOVERNMENT AND USED FOR THE MOST PROSPERITY OF THE PEOPLE, THE NATION, AND THE STATE



INDONESIA LAND ACQUISITION LAW: BENCHMARKING TO THE INTERNATIONAL SAFEGUARD STANDARDS

BASIC PRINCIPLES

SHALL BE IN ACCORDANCE WITH:

1. NATIONAL SPATIAL PLANNING
2. REGIONAL DEVELOPMENT PLANNING
3. INSTITUTION STRATEGIC PLAN
4. WORK PLAN OF EACH GOVERNMENT INSTITUTION

SHALL BE:

1. IN BALANCE BETWEEN THE DEVELOPMENT INTERESTS AND THE PEOPLE INTERESTS
2. FAIR AND JUSTICE IN DELIVERING THE COMPENSATIONS

4 (FOUR) PHASES OF LAND ACQUISITION:

1. PLANNING
2. PREPARATION
3. IMPLEMENTATION
4. DELIVERY



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PLANNING

Planning Document, consists of i.e. Environmental Impacts Analysis, Cost and Benefit Analysis, Numbers of Parcels and Owners and Occupants, Estimation of the Compensation Values



PREPARATION (90 – 208 days)

1. Public Consultation: All the Land Owner Must Agree
2. Site Plan Decree: by Governor or Mayor/Regent



IMPLEMENTATION (104 – 210 days)

1. Technical and Juridical Data Collection (44 days)
2. Valuation of Compensation (30 days)
3. Arrangement of Compensation Agreement (30 days)
4. Payment of Compensation



INDONESIA LAND ACQUISITION LAW: BENCHMARKING TO THE INTERNATIONAL SAFEGUARD STANDARDS



HIGHLIGHT LESSONS

Comparing to Old Regulations (Presidential Regulation No. 65 of 2006)

1. Certain Time Frames → Faster Land Procurements
2. Better Compensation Values → Among \pm 8,000 Values in 2015: Less Than 0.6 % Appeals
3. Higher Public Participations → Among 384 Public Interest Projects in 2015 Only 3 Appeals the Site Plan Decrees and Its All Won by the Government



CHALLENGES

1. High Demands for More Public Interest Infrastructures → Less Available Lands
2. Concentration of Populations in Certain Areas Like Urban, Semi Urban and Coastal Areas
3. The State Auditors and Authorities Still Have a Different Paradigm Towards the Value of the Compensations (Tax Value versus Market Value) → Have Impacts to Accountability



OPPORTUNITIES

1. de-Bureaucratic and de-Regulation of Investment and Infrastructure Projects Arrangements
2. More Investors to Come and to Join the Projects



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THE BENCHMARKING

BASIC NORMS OR STANDARDS	UN	ADB SR	IDN LAW
ENVIRONMENTAL, SOCIAL, AND ECONOMIC IMPACTS ASSESSMENT	✓	SR1	Art. 15
WIDELY PUBLISHED → OPEN PARTICIPATORY OF OWNERS, OCCUPANTS, AND STAKEHOLDERS	✓	SR2	Art. 16
PUBLIC HEARINGS → OPPORTUNITY BEING REVIEWED AND OBJECTIONED	✓	SR2	Art. 16
OPEN OPPORTUNITY TO APPEAL AGAINST THE COMPULSORY ACQUISITION	✓	SR2 SR3	Art. 20 – 23
FAIR COMPENSATION VALUES → INDEPENDENT APPRAISERS	✓	SR2	Art. 31 – 35
A LARGE VARIETY OF COMPENSATION FORMS: MONEY, SHAREHOLD, REPLACEMENT LAND, RESTTLEMENT, ETC.	✓	SR2	Art. 36
TO AVOID IMPOVERISHMENT TO THE LAND OWNERS AND OCCUPANTS	✓	SR2	Art. 3 & 9
COMPENSATION FOR <i>INFORMAL SETTLEMENT</i> AND <i>EXTRA LEGAL</i> OCCUPANTS	✓	SR2	Art. 1 & 40
ACKNOWLEDGEMENT OF INDIGENOUS PEOPLE AND VULNERABLE PEOPLE	✓	SR3	Art. 40



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GAPS & CHALLENGES

1. Juridical and Technical arrangement of Resettlement Option of the Compensation
2. Sustainability of Compensations to the ex-Land Owners (especially the *innocent* Land Owners)



BRIDGING THE GAPS

1. Further (technical) regulations
2. Further Assignments Whose Authority (ies) Responsible for Supervising, Controlling, and Facilitating in Making Wisdom Uses of the Compensations to Avoid Impoverishment



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BENCHMARKING TO THE INTERNATIONAL SAFEGUARD STANDARDS



Thank You
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