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Deliberation Reduced: Legal Politics of Compensation in Land Acquisition under the Job Creation Law

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Abstract

Land acquisition for the public interest rests on the State's Right of Control and on the social function of land rights, with deliberation (musyawarah) as the means of balancing public need and private property. The Job Creation Law amended Law No 2 of 2012 so that the compensation value set by the Appraiser is final and binding and serves only as the basis for deciding the form of compensation. This article asks how that amendment has changed the meaning of deliberation and what legal politics it expresses. It is normative legal research using statutory, conceptual and historical approaches, tracing the rules from Presidential Decree No 55 of 1993 through Law No 2 of 2012 and its implementing regulations to the Job Creation regime, and reading them through Mahfud MD's theory of legal politics, Radbruch's values of law and Rawls's procedural justice. Deliberation has been reduced from negotiation over form and amount to a choice of the form of payment, while the unamended provisions on objection to the district court leave the amount contestable only through litigation. The change reflects an elitist and centralistic legal politics that ranks project speed and investment certainty above the bargaining position of owners. The article recommends treating the appraisal as a binding floor rather than a fixed price, through legislative amendment or constitutional review.

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Keywords

Land; Acquisition; Compensation; Deliberation; Appraisal; Justice

Introduction

Land holds a fundamental place in Indonesia's legal order, not only as an economic asset but as an expression of national sovereignty. The earth, waters and natural resources are controlled by the state and used for the greatest prosperity of the people,[1] and under this State's Right of Control (Hak Menguasai Negara, HMN) the state is an organisation of power entitled to regulate the allocation of land, but only for public welfare and social justice.[2] The Basic Agrarian Law elaborates the principle: the state's right of control authorises it to regulate the allocation, use and legal relations of land,[3] all land rights have a social function,[4] and rights may be revoked in the public interest only with proper compensation and in the manner set by statute.[5] Land may thus serve the community, but the state must also protect individual rights against arbitrary action.[6]

Infrastructure requires land, which the state obtains through land acquisition: the provision of land by giving fair and proper compensation to the entitled parties.[7] The definition implies that taking land for the public interest must rest on justice and respect for ownership, and that the compensation, its form and its amount, is the point at which those values are tested.[8]

The current rules depart from that ideal. Law No 11 of 2020 on Job Creation amended Law No 2 of 2012,[9] and after the Constitutional Court held the Job Creation Law conditionally unconstitutional on formal grounds,[10] its content was re-enacted through a Government Regulation in Lieu of Law, enacted as Law No 6 of 2023 (the Job Creation Law).[11] As amended, the amount of compensation based on the Appraiser's valuation is final and binding, it is used as the basis for determining the form of compensation, and deliberation on the form is held by the head of the Land Acquisition Implementer together with the Appraiser and the entitled parties.[12] The original text of Law No 2 of 2012 had made the appraised value the basis for deliberation on compensation as a whole.[13]

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[1] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 [1945 Constitution of the Republic of Indonesia], art 33(3).
[2] Marilang, "Ideologi Welfare State Konstitusi: Hak Menguasai Negara atas Barang Tambang" (2012) 9:2 *Jurnal Konstitusi* 259.
[3] Law No 5 of 1960 on Basic Agrarian Principles (Indonesia), art 2.
[4] *Ibid*, art 6.
[5] *Ibid*, art 18.
[6] Maria SW Sumardjono, *Tanah dalam Perspektif Hak Ekonomi, Sosial dan Budaya* (Jakarta: Kompas, 2008).
[7] Law No 2 of 2012 on Land Acquisition for Development in the Public Interest (Indonesia), art 1(2).
[8] Rahayu Subekti, "Kebijakan Pemberian Ganti Kerugian dalam Pengadaan Tanah" (2016) 5:2 *Yustisia* 376.
[9] Law No 11 of 2020 on Job Creation (Indonesia).
[10] Constitutional Court of the Republic of Indonesia, Decision No 91/PUU-XVIII/2020 (25 November 2021).
[11] Law No 6 of 2023 on the Enactment of Government Regulation in Lieu of Law No 2 of 2022 on Job Creation into Law (Indonesia).
[12] Law No 2 of 2012, *supra* note 7, arts 34(3)–(5).
[13] *Ibid*, art 34(3).

The change is clearer against earlier law. Under Presidential Decree No 55 of 1993, deliberation was a process of mutual listening, based on voluntariness, to reach agreement on the form and amount of compensation,[14] and the form and amount were to be set in deliberation.[15] That regime did not forbid unilateral action: if repeated deliberation failed, the Land Acquisition Committee decided the form and amount itself,[16] the owner could object to the Governor,[17] and if the owner still refused and the project could not be moved, the Governor could propose revocation of the land rights under the Revocation Law,[18][19] a procedure that required a decision at presidential level. Price therefore remained a matter for negotiation until a formal and politically costly decision was taken.[20] Under the Job Creation Law and Government Regulation No 19 of 2021, as amended, the amount is fixed through independent appraisal before deliberation begins,[21] and deliberation is limited to the form of compensation, such as money, replacement land, resettlement or share ownership.[22][23]

The legal effect has an empirical counterpart. An owner who does not accept the outcome may object to the district court within a short period, and compensation that is refused is consigned to the court.[24][25] The Agrarian Reform Consortium (KPA) recorded 241 agrarian conflicts in 2023, up from 212 in 2022; the plantation sector was the largest source, followed by property, mining and infrastructure.[26] Infrastructure is therefore not the main source of agrarian conflict, and the figures do not show that the finality of appraisal causes conflict. They show, however, that land disputes connected with public development remain a regular source of conflict, which is the setting in which the narrowing of deliberation must be assessed.

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[14] Presidential Decree No 55 of 1993 on Land Acquisition for the Implementation of Development in the Public Interest (Indonesia), art 1(5).
[15] *Ibid*, art 16.
[16] *Ibid*, art 19.
[17] *Ibid*, art 20.
[18] *Ibid*, art 21.
[19] Law No 20 of 1961 on the Revocation of Rights to Land and the Objects on It (Indonesia).
[20] Sri Hajati, "Application of Agreement Principles in Land Procurement for Development Public Interest" (2019) 34:2 *Yuridika* 365.
[21] Government Regulation No 19 of 2021 on the Implementation of Land Acquisition for Development in the Public Interest, as amended by Government Regulation No 39 of 2023 (Indonesia).
[22] Law No 2 of 2012, *supra* note 7, art 36.
[23] Effendry, "Penetapan Ganti Rugi Berdasarkan Undang-Undang Nomor 2 Tahun 2012 Pasal 9 Ayat 2" (2025) 11:1 *Jurnal Hukum Sasana* 1.
[24] Law No 2 of 2012, *supra* note 7, arts 38, 42.
[25] Tri Susilaningsih, "Musyawarah dalam Penentuan Ganti Kerugian bagi Pelaksanaan Pembangunan untuk Kepentingan Umum" (2018) 9:2 *Jurnal Cakrawala Hukum* 214.
[26] Konsorsium Pembaruan Agraria, *Dekade Krisis Agraria: Warisan Nawacita dan Masa Depan Reforma Agraria Pasca Perubahan Politik 2024 (Catatan Akhir Tahun 2023)* (Jakarta: KPA, 2024).

The amendment thus raises a conflict between a concrete norm, Article 34 of Law No 2 of 2012 as amended, which closes negotiation over the amount, and higher norms: the requirement that land be used for the people's greatest prosperity, and the guarantee that private property may not be taken arbitrarily.[27][28] The gap between the ideal of substantive deliberation and the reality of a fixed price is the starting point of this study.

Earlier Studies and Novelty

Several earlier studies are close to the topic. Widiyono and Khan (2022) examine the state's authority to control land under the 1945 Constitution and the Basic Agrarian Law and call for harmonised land law that balances public, economic and individual interests;[29] their analysis is at the level of principle and does not examine compensation. In a later study they find that the regulations issued under the Job Creation regime have improved the efficiency, transparency and certainty of obtaining land rights, while calling for further harmonisation.[30] Larasati and Sujadi (2021) compare the resolution of land acquisition conflicts before and after Law No 2 of 2012, conclude that compensation has not been carried out effectively in either period and recommend clearer rules on deliberation and valuation;[31] their study predates the Job Creation amendments. Harjono (2023) analyses the responsibility of public appraisers and finds unequal bargaining positions in practice and inconsistent rules,[32] and Gozali (2017) asks how consignment can be reconciled with the principle of agreement in Law No 2 of 2012.[33] Studies after the Job Creation Law have examined its legal politics for particular categories of land[34] and the principle of justice in the acquisition rules generally.[35]

None of these studies traces the meaning of deliberation over the amount of compensation across the four regulatory eras, from Presidential Decree No 55 of 1993 to the Job Creation Law, or explains the change through a theory of legal

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[27] 1945 Constitution, *supra* note 1, arts 28H(4), 33(3).

[28] Putri Lestari, "Pengadaan Tanah untuk Pembangunan demi Kepentingan Umum di Indonesia Berdasarkan Pancasila" (2020) 1:2 *SIGn Jurnal Hukum* 71.

[29] Tri Widiyono & Md Zubair Kasem Khan, "The Legal Philosophy and Justice Values in the Acquisition of Land Rights in Indonesia: A Normative Legal Research" (2022) 6:2 *International Journal of Law Reconstruction* 278, DOI: <10.26532/ijlr.v6i2.26841>.

[30] Try Widiyono & Md Zubair Kasem Khan, "Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law" (2023) 19:1 *Law Reform* 128, DOI: <10.14710/lr.v19i1.48393>.

[31] Meka Azzahra Larasati & Suparjo Sujadi, "Implications of the Law of Land Acquisition for Development in the Public Interest on Land Acquisition Conflict Resolution" (2021) 24:2 *Al-Ishlah: Jurnal Ilmiah Hukum* 281, DOI: <10.56087/aijih.v24i2.286>.

[32] Dhaniswara K Harjono, "Tanggung Jawab Penilai dalam Pengadaan Tanah bagi Pembangunan untuk Kepentingan Umum" (2023) 2:1 *Jurnal Hukum Indonesia* 14.

[33] Djoni Sumardi Gozali, "Penerapan Asas Kesepakatan dalam Pengadaan Tanah bagi Pembangunan untuk Kepentingan Umum" (2017) 32:3 *Yuridika* 393.

[34] Embun Sari et al, "Politik Hukum Pengadaan Tanah terhadap Tanah Abrasi Pasca Diberlakukan Undang-Undang Cipta Kerja" (2022) 7:1 *Jurnal Ius Constituendum* 50.

[35] Citra Solvia Hadi Meilia & Imam Suroso, "Asas Keadilan dalam Pengaturan Pengadaan Tanah untuk Kepentingan Umum" (2024) 14:1 *Dekrit: Jurnal Magister Ilmu Hukum* 17.

politics. This article does both, and it differs from Widiyono and Khan (2023) in its evaluation: where they see gains in certainty, it asks what that certainty costs in procedural justice. It asks two questions: (1) how has the meaning of the principle of deliberation in determining compensation for land acquisition in the public interest shifted under the Job Creation Law; and (2) what legal politics does that shift express? Its purpose is to show what has been lost and to propose a reformulation of Article 34 that keeps the certainty of appraisal while restoring negotiation over the amount.

Research Method

This is normative (doctrinal) legal research. It uses three approaches. The statutory approach examines the provisions on deliberation, appraisal, objection and consignment in Law No 2 of 2012 before and after amendment and in its implementing regulations. The conceptual approach tests the 'final and binding' norm against the concepts of the State's Right of Control, the social function of land rights and the welfare state. The historical approach traces legislative policy from Presidential Decree No 55 of 1993 to the present.[36]

The primary legal materials are the 1945 Constitution, the Basic Agrarian Law, Law No 2 of 2012 in its original and amended form, the Job Creation Law, Presidential Decree No 55 of 1993, Presidential Regulation No 71 of 2012, Government Regulation No 19 of 2021 as amended, the Supreme Court regulation on objections and consignment, and the Constitutional Court decisions on the Land Acquisition Law and the Job Creation Law. The secondary materials are books and journal articles on agrarian law, deliberation and legal politics, the Academic Paper of the Job Creation Bill and the annual report of the Agrarian Reform Consortium. They were collected by library research and arranged by hierarchy and by period, which is necessary because the Job Creation Law amends the Land Acquisition Law by omnibus technique.

The analysis is qualitative and deductive. The constitutional norms and the Fourth Principle of Pancasila, on democracy guided by wisdom in deliberation, form the major premise; the amended Article 34 forms the minor premise.[37] Mahfud MD's theory of legal politics, which links responsive or conservative legal products to democratic or authoritarian political configurations,[38] is used to characterise the

[36] Peter Mahmud Marzuki, *Penelitian Hukum*, 7th ed (Jakarta: Kencana Prenada Media Group, 2011).
[37] Mukti Fajar Nur Dewata & Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris*, 7th ed (Yogyakarta: Pustaka Pelajar, 2023).
[38] Moh Mahfud MD, *Politik Hukum di Indonesia*, rev ed (Jakarta: Rajawali Pers, 2010).

change, and Radbruch's values of law[39] and Rawls's account of procedural justice[40] are used to evaluate it and to frame the prescription. The study is limited by its normative character: it uses no field data on actual price negotiations, the duration of objection proceedings or the outcomes of court cases, and its findings on the effects of the amendment are therefore inferences from the rules.

Results and Discussion

From Substantive Dialogue to Administrative Formality: The Changing Meaning of Deliberation

Land acquisition is where the public interest pursued by the state meets the private interest of citizens who hold land rights. The relation rests on the State's Right of Control, an instrument of the welfare state in which the state regulates the fair distribution of resources rather than owning them absolutely,[41][42] and the state's power is limited by respect for people's rights so that it does not become etatism.[43] Under HMN the state is an organisation of the people's power that regulates the fairness of land control and use, not an owner in the sense of Western civil law.[44]

Acquisition must therefore respect justice, humanity and the balance between individual and collective interests. That balance is expressed in the social function of land rights,[45][46] which Sumardjono reads as an instrument grounded in human rights and the rule of law,[47] and Hadjon treats legal protection of the people's rights as a precondition of any government act that touches property.[48] Deliberation to reach consensus is the main pillar of the process. Notonagoro reads it as an expression of the Fourth Principle of Pancasila, decision by wisdom rather than compulsion.[49] Law No 2 of 2012 includes the principle of agreement among the principles of land acquisition,[50] and in Sumardjono's view deliberation is the

[39] Gustav Radbruch, "Legal Philosophy" in *The Legal Philosophies of Lask, Radbruch, and Dabin*, translated by Kurt Wilk (Cambridge, Mass: Harvard University Press, 1950).
[40] John Rawls, *A Theory of Justice*, rev ed (Cambridge, Mass: Belknap Press of Harvard University Press, 1999).
[41] 1945 Constitution, *supra* note 1, art 33(3).
[42] Law No 5 of 1960, *supra* note 3, art 2.
[43] AP Parlindungan, *Komentar atas Undang-Undang Pokok Agraria*, 9th ed (Bandung: Mandar Maju, 2008).
[44] Boedi Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi, dan Pelaksanaannya*, 13th ed (Jakarta: Djambatan, 2020).
[45] Law No 5 of 1960, *supra* note 3, art 6.
[46] Andrea Winda Amasta & Rekky Sean Paulus, "Penerapan Asas Fungsi Sosial Hak atas Tanah dalam Putusan Nomor 28/G/PU/2019/PTUN.PBR" (2024) 8:1 *The Juris* 17.
[47] Sumardjono, *supra* note 6.
[48] Philipus M Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia* (Surabaya: Bina Ilmu, 1987).
[49] Notonagoro, *Pancasila: Dasar Falsafah Negara* (Jakarta: Pantjuran Tudjuh, 1975).
[50] Law No 2 of 2012, *supra* note 7, art 2.

mechanism that prevents arbitrary government and gives citizens balanced bargaining power.[51]

The Job Creation Law changes this order. Once the Appraiser's value is final and binding, deliberation decides only the form of compensation and no longer the amount,[52] so that the owner faces a fixed price with little room to object. Studies of the Cisumdawu toll road examine the legal certainty of compensation in practice,[53] and Meilia and Suroso examine how far the present rules satisfy the principle of justice.[54] Administrative law explains the risk: large powers without effective oversight create imbalance between government and citizen,[55] and law that stresses procedural certainty over substantive justice moves away from its social purpose.[56]

The change alters the substance of the principle, not only its procedure. Where deliberation once aimed at an agreement on value, it now chiefly gives administrative legitimacy to a price the state has already set, and the relationship shifts from a voluntary toward a dominant one. Deliberation without real participation cannot protect people's rights,[57] and without equality between government and owner it becomes a unilateral decision.[58] The effectiveness of a rule depends also on its social acceptance,[59] and in Rawls's account a fair procedure is what makes the outcome just when no independent criterion of the right result is available,[60] which is the position of a price for land that the owner does not wish to sell. The amendment therefore replaces participatory justice with a narrow procedural certainty, and so weakens the social legitimacy of land acquisition.

Shifting Legal Politics in the Regulation of Compensation

The shift cannot be separated from the direction of state legal policy. Making the value final and binding is not a technical matter but a policy choice oriented to development efficiency and investment certainty,[61] and in Mahfud MD's theory a change of norm is rooted in the political configuration that produced it: law made in a democratic configuration tends to be responsive and participatory, while law

[51] Sumardjono, *supra* note 6.
[52] Law No 2 of 2012, *supra* note 7, arts 34(3)–(5).
[53] Shelin Nabila Wibowo, Yani Pujiwati & Betty Rubiati, "Kepastian Hukum Ganti Kerugian Pengadaan Tanah bagi Pembangunan Jalan Tol Cisumdawu" (2021) 4:2 *Acta Diurnal: Jurnal Ilmu Hukum Kenotariatan dan ke-PPAT-an* 191.
[54] Meilia & Suroso, *supra* note 35.
[55] SF Marbun, *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia* (Yogyakarta: Liberty, 1997).
[56] Satjipto Rahardjo, *Penegakan Hukum Progresif* (Jakarta: Kompas, 2010).
[57] Sumardjono, *supra* note 6.
[58] Philipus M Hadjon et al, *Pengantar Hukum Administrasi Indonesia: Introduction to the Indonesian Administrative Law*, 13th ed (Yogyakarta: Gadjah Mada University Press, 2019).
[59] Soerjono Soekanto, *Sosiologi Hukum: Suatu Pengantar*, 48th ed (Jakarta: Rajawali Pers, 2017).
[60] Rawls, *supra* note 40.
[61] Sari et al, *supra* note 34.

made in an elitist, centralistic configuration tends to be conservative and formalistic, with little public involvement.[62]

Table 1 sets out the object of deliberation across the four regulatory eras.

Table 1. Object of deliberation on compensation in successive land acquisition regulations

Regulation	Provision	Content (summarised)	Object of deliberation
Presidential Decree No 55 of 1993	Arts 1(5), 16	Deliberation is a voluntary process to reach agreement on the form and amount of compensation, which are set in deliberation	Form and amount
	Arts 19–21	If no agreement: Committee decides; objection to the Governor; proposal to revoke rights under Law No 20 of 1961	Unilateral decision only after failed deliberation and with a high-level procedure
Law No 2 of 2012 (original)	Arts 34(3), 37(1), 38	Appraised value is the basis for deliberation; deliberation determines the form and/or amount; objection to the district court	Form and amount, bounded by the appraisal
Presidential Regulation No 71 of 2012	Art 66	Appraisal result handed to the head of the Implementer with an official record	Amount anchored to the appraisal in practice
Law No 2 of 2012 as amended by the Job Creation Law	Arts 34(3)–(5), 36	Appraised amount is final and binding and is the basis for determining the form; deliberation on the form	Form only
Government Regulation No 19 of 2021, as amended	—	Implements the amended procedure for appraisal, deliberation and consignment	Form only

Source: compiled from the regulations cited.[63][64][65][66][67]

Read historically, the policy began as participatory. Presidential Decree No 55 of 1993 made deliberation the main instrument and defined it as a process of reaching agreement on both form and amount,[68] so that the value remained negotiable, and the state could impose a value only after deliberation had failed and through a procedure that ended in revocation at presidential level.[69] This matches Harsono's view that under HMN the state regulates, does not own, and must secure justice in all land control,[70] although the decree, as an executive instrument of the New Order, also shows that participation on paper did not by itself prevent coercion in practice.

The direction begins to shift with Law No 2 of 2012. The appraisal by an independent Appraiser became the basis of deliberation,[71] but deliberation still served to determine the form and/or amount of compensation,[72] so that the amount remained formally negotiable within the range the appraisal allowed. In its

[62] Mahfud MD, *supra* note 38.
[63] Presidential Decree No 55 of 1993, *supra* note 14.
[64] Law No 2 of 2012, *supra* note 7.
[65] Presidential Regulation No 71 of 2012 on the Implementation of Land Acquisition for Development in the Public Interest (Indonesia).
[66] Law No 6 of 2023, *supra* note 11.
[67] Government Regulation No 19 of 2021, *supra* note 21.
[68] Presidential Decree No 55 of 1993, *supra* note 14, arts 1(5), 16.
[69] *Ibid*, arts 19–21.
[70] Harsono, *supra* note 44.
[71] Law No 2 of 2012, *supra* note 7, art 34(3).
[72] *Ibid*, art 37(1).

implementing regulation the appraisal result was handed to the head of the Implementer with an official record,[73] and in practice deliberation came to centre on the appraised figure.[74] The statute thus began a transition from treating owners as full partners in dialogue to a technocratic approach in which the appraiser, not the parties, sets the terms.

The tendency reaches its peak with the Job Creation Law. Its Academic Paper places the acceleration of investment and job creation at the centre of the reform,[75] and in that frame deliberation over price appears as a potential brake on projects. The amendment makes the appraised amount final and binding and confines deliberation to the form of payment.[76] The finality is meant to cut bureaucracy and avoid prolonged negotiation, but the efficiency gained is paid for with the owner's right to take part in setting the price.

In Radbruch's terms the balance among the values of law is upset: legal certainty (Rechtssicherheit) and purposiveness (Zweckmäßigkeit) dominate, and justice (Gerechtigkeit) is set aside.[77] In Mahfud MD's terms the legal politics of the omnibus era is elitist and centralistic, using law as an administrative tool of economic development rather than as protection of the people's rights.[78] Economic development in a state under the rule of law cannot ignore social justice,[79] and in the development paradigm law is often used as a tool of efficiency rather than justice.[80]

Assessment and Reformulation

The strongest argument for the current rule is certainty and speed: a final appraisal prevents endless bargaining and protects public projects, and Widiyono and Khan (2023) rely on gains of this kind.[81] The argument has two weaknesses. First, the statute itself does not deliver the finality it announces. The provisions on deliberation and objection were not amended: deliberation is still said to determine the form and/or amount,[82] and an owner who does not agree on the form and/or amount may object to the district court within 14 working days, with a further

[73] Presidential Regulation No 71 of 2012, *supra* note 65, art 66(3).
[74] Gozali, *supra* note 33.
[75] Kementerian Hukum dan Hak Asasi Manusia, *Naskah Akademik Rancangan Undang-Undang tentang Cipta Kerja* (Jakarta, 2020).
[76] Law No 2 of 2012, *supra* note 7, arts 34(3)–(5).
[77] Radbruch, *supra* note 39.
[78] Mahfud MD, *supra* note 38.
[79] Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Kompas, 2006).
[80] Soetandyo Wignjosoebroto, *Hukum Pembangunan: Antara Hukum dan Keadilan* (Jakarta: Pustaka Sinar Harapan, 1995).
[81] Widiyono & Khan, "Legal Certainty", *supra* note 30.
[82] Law No 2 of 2012, *supra* note 7, art 37(1).

appeal to the Supreme Court, each court deciding within 30 working days.[83] The objection procedure is regulated by the Supreme Court,[84] and compensation that is refused is consigned to the court.[85] The amount is therefore final in deliberation but not in law: the negotiation that the amendment removes from the table reappears as litigation, which is slower and costlier for both sides and in which the owner contests a figure he could not discuss. Second, finality attaches to an appraisal whose method and independence the owner cannot test in deliberation, so procedural fairness depends entirely on the quality of the appraisal, a point on which the literature already records unequal bargaining positions.[86]

The transformation of the legal politics of land acquisition therefore reflects a change in the basic value of the relationship between state and citizen, from a dialogical paradigm to an administrative one. Under Article 33(3) the paradox is plain: development is meant for the people's prosperity, but if it ignores participation and substantive justice, its benefit no longer reflects the social justice on which Indonesian land law rests. The reformulation proposed here keeps what is sound in the current rule. The appraisal should be binding as a floor, so that the state cannot offer less than the independent value, but not as a ceiling, so that the owner may present evidence and negotiate upward in deliberation, with the reasons for the final figure recorded. Disputes that remain would go to the district court as now, but on a record that shows what was argued and why.

Comparison with Earlier Research

The findings agree with Larasati and Sujadi that deliberation and valuation are the weak points of compensation and need clearer rules,[87] and they extend that conclusion to the period after the Job Creation Law, when the rules were made clearer by closing negotiation rather than by improving it. They support Harjono's finding of unequal bargaining positions,[88] and locate its source in the legal status of the appraisal rather than only in appraisal practice. They depart from Widiyono and Khan (2023), who assess the new regime as more efficient and certain:[89] on the analysis here the certainty is partly illusory, because the unamended objection procedure keeps the amount open in court. Gozali's question how consignment can

[83] *Ibid*, art 38.
[84] Supreme Court Regulation No 3 of 2016 on Procedures for Filing Objections and Consigning Compensation to the District Court in Land Acquisition for Development in the Public Interest, as amended by Supreme Court Regulation No 2 of 2021 (Indonesia).
[85] Law No 2 of 2012, *supra* note 7, art 42.
[86] Harjono, *supra* note 32.
[87] Larasati & Sujadi, *supra* note 31.
[88] Harjono, *supra* note 32.
[89] Widiyono & Khan, "Legal Certainty", *supra* note 30.

be reconciled with the principle of agreement[90] becomes sharper after the amendment, since the owner can now neither negotiate the amount nor refuse it without litigation. What this study adds is the historical sequence in Table 1 and its explanation as a move from responsive to elitist legal politics.

Conclusion

On the first question, the Job Creation Law has reduced the principle of deliberation from negotiation over the form and amount of compensation to a choice of the form of payment from a value already fixed by the Appraiser. The narrowing began with Law No 2 of 2012, which made the appraisal the basis of deliberation, and was completed when the amended Article 34 made the amount final and binding; yet the unamended provisions on objection still allow the amount to be contested in court, so negotiation has been moved from the deliberation table to litigation rather than removed. On the second question, the change expresses an elitist and centralistic legal politics in which the legislator ranks project speed and investment certainty above justice and the bargaining position of owners.

Two corrections are recommended. First, the legislator should amend Article 34 so that the appraised value is a binding minimum and the basis for negotiation over the amount, align it with Articles 37 and 38, and require the Implementer to record the owner's evidence and the reasons for the final figure. Second, until that is done, the phrase 'final and binding' may be challenged before the Constitutional Court, which has upheld Law No 2 of 2012 in its original form[91] and declared a later petition against the Law inadmissible,[92] but, as far as this study could establish, has not ruled on the phrase as amended. A petition could rest on the guarantee that private property may not be taken arbitrarily, the right to protection of property, the right to fair legal certainty and the purpose of land control for the people's prosperity, and could ask that the phrase be declared conditionally constitutional only if it is read as a minimum that does not close negotiation.[93] The study is normative and does not measure how long objection proceedings take or how courts have treated appraised values; empirical research on those questions is needed to test its inferences.

Ethics and Data Availability

[90] Gozali, *supra* note 33.
[91] Constitutional Court of the Republic of Indonesia, Decision No 50/PUU-X/2012 (13 February 2013).
[92] Constitutional Court of the Republic of Indonesia, Decision No 137/PUU-XXI/2023 (29 November 2023).
[93] 1945 Constitution, *supra* note 1, arts 28D(1), 28G(1), 28H(4), 33(3).

This normative legal research did not involve human participants or personal data, so ethical approval was not required. All legal materials used are publicly available and are listed in the References.

Use of Generative AI

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