

# Between Investment and Social Justice: Legal Challenges of Land Acquisition for National Strategic Projects in Indonesia

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Land acquisition remains one of the most critical aspects of development policy in Indonesia. As the state accelerates infrastructure growth through National Strategic Projects (NSPs), the involvement of private sector actors in land acquisition for public purposes further complicates the regulatory landscape. This study critically examines land acquisition policies for the public interest, focusing on private-sector participation in NSPs from the perspective of legal certainty and regulatory compliance. Using a normative legal method with a qualitative descriptive approach, the research draws on statutory regulations and scholarly contributions published in academic databases. The findings reveal that while NSPs embody the constitutional mandate to utilize land and resources for public prosperity, their implementation exposes serious legal and social challenges. A central conflict arises between the Basic Agrarian Law's social justice and community rights orientation and the Job Creation Law's developmentalist orientation, which prioritizes investment and efficiency. This misalignment has contributed to legal implications and compliance issues, such as agrarian disputes, environmental degradation, inadequate compensation, and inconsistencies in regulatory enforcement, thereby undermining legal certainty and substantial justice. To ensure fair and sustainable NSPs, the government should harmonize regulations and strengthen legal protections to ensure fair and sustainable land acquisition. This requires transparent compensation, stronger accountability, genuine community participation, and effective cooperation between central and local government and relevant stakeholders.

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## INTRODUCTION

Every state formulates national objectives that may differ across jurisdictions. Nonetheless, a core constitutional mandate of the state is to ensure the attainment of prosperity for its people, realized in a fair, balanced, and equitable manner.<sup>[1]</sup> Furthermore, various strategies may be employed by the state to achieve the people's prosperity, one of which is development. In the Indonesian context, development is not merely a policy choice but constitutes a national ideal and a constitutional mandate as articulated in the Preamble of the 1945 Constitution. The scope of the development stated in the 1945 Constitution is quite general, with the primary aim of providing public welfare. Since the country's independence from colonialism, development has been pursued continuously and has intensified under the administration of Joko Widodo (2014-2024) with the flagship initiative known as the National Strategic Project (NSP).

The NSP's primary goal is to accelerate the development of infrastructure in Indonesia. To achieve such purpose, the government has adopted several regulations, including Government Regulation Number 42 Year 2021 on Simplification of National Strategic Projects (NSP Government Regulation) and Presidential Regulation Number 3 Year 2016 on the Acceleration of National

Strategic Projects, which has been amended by Presidential Regulation Number 58 Year 2017, Presidential Regulation Number 56 Year 2018, and Presidential Regulation Number 109 Year 2020 (NSP Presidential Regulation). In the regulations of NSP, one of the substances is land acquisition for the implementation of various projects. Procedures for land acquisition are relatively simplified for projects included in the NSP list. This provision is rooted in the Indonesian Basic Agrarian Law, which recognises the social principle of land ownership status. According to the Indonesian Basic Agrarian Law, all land rights carry a social function. This social function represents an obligation that must be adhered to by the holder of land rights. The explanation of the Indonesian Basic Agrarian Law stipulates that land rights must not be employed solely for personal interests, particularly if it harms society. Furthermore, the utilisation of land must align with its character and conditions to benefit the welfare of society and the state. The interests of society and individual interests must be balanced, and individual rights to land must remain protected. This principle justifies the government's utilisation of land for development. Problems arise when both the state and private sector engage in land acquisition for the implementation of NSPs. The core legal issue concerns the extent of legal certainty and compliance in land acquisition processes undertaken by private entities for development projects classified as NSPs. Accordingly, this study seeks to examine and evaluate these legal challenges.

Several studies have been conducted on land acquisition in the implementation of the NSP. [2] study on NSPs from the perspective of Pancasila law demonstrates that their implementation has tended to adopt a pragmatic approach, often at the expense of adherence to the established legal order [2] study on NSP from the perspective of Pancasila law was conducted, and it showed that the implementation of NSP projects tends to be pragmatic and ignores the legal order [3] conducted another research [3] who analysed one of the NSP projects, the construction of the Bener Dam in Purworejo, Central Java, from a legal geography perspective. The research revealed that the project created spatial justice problems for the community related to recognition, participation and distribution. Another study by Priyanta and Zulkarnain analysed the NSP from a sustainable infrastructure study. The research stated that conflict is an obstacle to implementing development projects that include NSP. Therefore, the development approach should be from a legal perspective and social, economic, and environmental. [4] Research from Widiyono and Khan [5] also studied NSP from the legal certainty aspect of Indonesian land law. The study revealed that legal certainty remains a challenge in the implementation of the NSP. Therefore, legal harmonisation is needed, especially concerning land rights in Indonesian law. The last study was conducted by Meckelberg and Wardana [6] who analysed the NSP from a political economy perspective. The study results show that implementing NSP projects tends not to benefit the people but instead serves the interests of business and political elites. This article departs from the aforementioned studies in three significant ways. Specifically, it centers on the issue of land acquisition carried out by the private sector for the implementation of development projects under the framework of the NSP. Our article has three significant differences from the previously described studies. This article focuses on discussing land acquisition by the private sector to implement development projects under the NSP. Unlike studied NSP from the legal certainty aspect of Indonesian land law. The study revealed that legal certainty remains a challenge in the implementation of the NSP. [5] Therefore, legal harmonisation is needed, especially concerning land rights in Indonesian law. The last study was conducted by Meckelberg and Wardana [6] who analysed the NSP from a political economy perspective. The study results show that implementing NSP projects tends not to benefit the people but instead serves the interests of business and political elites.

This article departs from the aforementioned studies in three significant ways. Specifically, it centers on the issue of land acquisition carried out by the private sector for the implementation of development projects under the framework of the NSP. Our article has three significant differences from the previously described studies. This article focuses on discussing land acquisition by the private sector to implement development projects under the NSP. Unlike another article focuses on assessing the aspects of legal certainty and regulatory compliance by the private sector construct development projects under the NSP scheme. [5] The remaining difference is that this article will also analyse the impact of NSPs on the stability and sustainability of Indonesia's national

development. Therefore, this research is essential to analyze the challenges of land acquisition by the private sector in the implementation of NSPs, particularly in relation to legal certainty and regulatory compliance. In addition, the study seeks to assess the prospective stability of Indonesia's national development projects, insofar as the NSP framework continues to be recognized within the country's land law system it is very important to conduct this research order to analyse the problems of land acquisition by the private sector in the implementation of the NSP, especially from the aspects of legal certainty and regulatory compliance. This research also aims to forecast the future stability of Indonesia's national development projects as long as NSP is still recognised in Indonesia's land law order.

In connection with the emergence of Indonesia as a nation governed by law, the role and presence of the state have certainly become important and needed by the community.<sup>[7]</sup> In the provisions of the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) of the 2002 Amendment, it is stated that the Republic of Indonesia is a country state based on law (*rechtsstaat*). In the General Explanation of the 1945 Constitution of the Republic of Indonesia before the amendment, it was emphasized that the Indonesian government system is based on the rule of law. In other words, Indonesia can be interpreted as a state governed by the rule of law rather than by the rule of power it can be interpreted that Indonesia is a country that adheres to a country based on law and not a country based on power. Referring to the opinion of Dicey as one of the initiators of the characteristics of a state of law and the rule of law, explains that there are three important elements in the state rule of law.<sup>[8]</sup> The supremacy of law dictates that requires that sanctions may only be imposed for violations expressly stipulated by law, thereby eliminating arbitrariness. This principle also affirms legal equality, ensuring that both citizens and state officials are subject to the same legal standards. Moreover, the protection of human rights is guaranteed through legislative provisions and judicial decisions punishment is warranted solely for violations of the law, hence eliminating arbitrariness. The principle of legal equality applies equally to both civilians and officials. Finally, the assured human rights are established by legislation and judicial rulings.

Thus, the argumentation of Dicey regarding the three important elements in at he rule of law in terms of land acquisition policies for development in the public interest is very relevant. In the context of land acquisition policies, from the initial planning to the implementation and completion stages of National Strategic Projects, it is imperative to uphold the supremacy of law, ensure equality before the law, and guarantee the protection of human rights. Especially when linked to the provisions of the land acquisition policy from the initial stage, the implementation stage to the completion of the NSPs development, it is very necessary to enforce the supremacy of the law, equal rights before the law, and guarantee human rights. Failure to uphold these principles risks disrupting the smooth implementation of National Strategic Projects and may even trigger conflicts. If these things are not connected, it can cause the development of NSPs to not run smoothly and even cause conflict. Land acquisition is conducted with a focus on the ideals of humanism, democracy, and justice, as outlined by the objectives of the Land Acquisition for Public Interest Law. From a global standpoint, these ideals align with international standards that prioritise the safeguarding of human rights and fair development.

Challenges arise when land usage interacts with foreign ownership or utilisation, especially in critical industries like tourism, infrastructure, and energy. In this context, Indonesia aims to equilibrate foreign investment inflows with the constitutional requirement that land primarily serves national interests and community welfare. The NSP's land purchase strategy applies not just to government-controlled enterprises but also extends to privately owned limited liability companies. Therefore, this study seeks to examine and evaluate the stipulations of land acquisition policies for public interest development, particularly concerning land purchase for National Strategic Projects executed by the private sector, focusing on legal clarity certainty and compliance. This paper aims to conduct an in-depth examination of the various issues related to the implementation, ramifications, certainty, and legal compliance of government-conducted NSPs, which constitute the relevance of this article.

This article will be presented in four sections: an introduction, research methods, results and discussion, and conclusion. The results and discussion section examines the implementation of land acquisition by private parties for NSP projects, its implications for the stability of national development, and the extent to which private actors comply with and uphold legal certainty in land acquisition regulations. In the results and discussion section, this article will discuss the implementation of land acquisition by private parties to implement NSP projects. Furthermore, it will discuss the implications of land acquisition on the stability of national development. Finally, this section will analyse private parties' legal certainty and compliance with land acquisition regulations for NSP projects.

## RESEARCH METHOD

This study employs a normative legal research approach, which primarily involves the examination of statutory regulations, legal documents, and other secondary data obtained through library research namely involving the examination of documents from libraries or secondary data [9][10] asserted that normative legal research involves identifying legal rules, principles, or doctrines to address the legal difficulties encountered [11] Research is performed on primary, secondary, and tertiary legal literature. Simultaneously, the data gathering method was carried out via literature reviews. with qualitative descriptive analysis methods, processing primary data and secondary data. Secondary legal materials were analyzed to obtain the necessary explanations related to primary legal materials, which can be in the form of various literature library materials or scientific works of legal researchers.[12] For additional information, This research was conducted using an analytical and prescriptive approach to provide comprehensive guidance on addressing various legal issues this research was carried out in an analytical and prescriptive manner in order to acquire full guidance on everything that has to be done in order to solve a variety of issues.

## RESULTS AND DISCUSSION

### **The Implementation of Private National Strategic Projects in Indonesia**

The state's authority, as the possessor of sovereign rights over water, earth, and outer space, seeks to maximise the prosperity of its populace. This signifies that the state's authority over these resources is directed towards ensuring happiness, welfare, and freedom within society, consistent with an independent, sovereign, just, and affluent Indonesian legal state. The quest for optimal wealth for the general population, within the context of a fair and thriving society, is intrinsically linked to the social role of the land.

The term NSP refers to Indonesian infrastructure projects during the administration of President Joko Widodo. The NSP Presidential Regulation defined NSP as “the Projects implemented by the Government, Local Government, and/or business entities that have a strategic nature to increase growth and equitable development to improve community welfare and regional development”. According to the Indonesian Ministry of National Development Planning NSP are crucial for the attainment of a sustainable and equitable economy, with the objective of realising Golden Indonesia 2045. Golden Indonesia 2045 embodies the nation’s long-term vision to coincide with the centennial of independence, representing Indonesia’s aspiration to achieve prosperity, equality, and global competitiveness by the year 2045. Golden Indonesia 2045 represents Indonesia's ambition for the year 2045, aligning with the centenary of its independence. Indonesia is anticipated to emerge as a significant global economic power characterised by exceptional education, equitable wealth distribution, and robust governance. This vision aims to be realised through four foundational pillars: human resource development and proficiency in scientific and technological fields, sustainable economic advancement, equitable national progress, and the enhancement of national resilience and governance.[10]

The Indonesian government expedites the fulfilment of NSPs by the national government, local

authorities, and/or commercial enterprises to fulfil fundamental demands and enhance national welfare. The NSPs have been stipulated by a Presidential Regulation since 2016 and have been amended several times. The confirmed list of NSP projects may be modified according to a study undertaken by the Committee for the Acceleration of Priority Infrastructure Provision. The foundational legal framework for NSP is the Presidential Regulation. Furthermore, in further development, the NSP obtained a more substantial legal basis following the adopting adoption of the Job Creation Law in 2020 and the NSP Government Regulation in 2021. One primary policy basis for economic development is regional development, especially infrastructure transformation [10] Moreover, the Coordinating Ministry of Economic Affairs became an in charge institution in charge to of classify classifying and categorising the projects based on several criteria prerequisites which were are categorized into basic criteria, strategic criteria, and operational criteria.[10]

The fundamental basic criteria include adherence to the National and Local Medium-Term Development Plan, the strategic plan for the infrastructure sector, and the Spatial and Regional Plan, provided that the green open space remains unaltered. The strategic criteria encompass the project's advantages for the economy, quality of life, defence, national security, connectivity, and the equitable allocation across islands. Simultaneously, the operational conditions that must be satisfied include the completion of a pre-feasibility study, an investment value above IDR 100 billion, or the project's strategic significance in fostering regional economic development.[10] The scope of NSP itself is not only focused on the development of physical infrastructure, but also ensures increased economic equality, food provision, border development, technology, and tourism to education.[10]

The land acquisition for the implementation of NSP projects is constitutionally grounded in Article 33 (4) of the 1945 Constitution of the Republic of Indonesia, which stipulates that the national economy is organised according to economic democracy, emphasising principles of solidarity, equitable efficiency, sustainability, environmental in constructing of awareness, autonomy, and the preservation of progress and national economic unity. The execution of land purchase policy rules for public interest development, particularly regarding land acquisition under the NSP scheme conducted by the private sector, has engendered dispute disputes over legal clarity and compliance. The implementation of NSP in many places has triggered agrarian conflicts.[6] The factors that cause this problem are a contributing factor to this such this problem is the absence of public interest in project development under NSP schemes, especially those implemented by private entities. The political connections between the government and the private entities that develop NSP projects are responsible for the absence of public participation and engagement.[13] The project under the NSP system affects not only the people but also the environment, including water, air, and soil pollution, threatening animal life and causing non-natural disasters such as erosion and flooding.[14] For example, the case of the food estate, NSP Bener Dam, Wadas, NSP Nickel Smelter CNI Group in Southeast Sulawesi, NSP Lau Simeme Dam, and the case of Rempang Eco City Batam should not have happened.[15]

Land acquisition policy provisions in the Indonesian Basic Agrarian Law stipulate that property rights may be rescinded for the sake of public interest, encompassing state interests and collective interests of the people, with fair compensation and according to legal procedures. Occupancy, housing, and proper land ownership are basic human rights. The Indonesian Constitution states that everyone has the right to private land, and these rights cannot be taken arbitrarily by anyone, including the state. Property rights are a form of human rights that cannot be unilaterally seized by anyone, including the Government.[16] The Basic Agrarian Law acknowledges many rights, including ownership rights, commercial use rights, construction use rights, usufruct rights, leasing rights, surface rights, and the right to harvest forest products. Land rights encompass all of these rights plus additional ones. According to the Basic Agrarian Law regulates that only Indonesian citizens can obtain ownership rights, which are the highest rights to land.

The conceptual foundations of Indonesia's Basic Agrarian Law and the Job Creation Law reveal a significant normative disagreement over land acquisition for the NSP. Indonesia's Basic Agrarian

Law, founded on agrarian populism, establishes the state's authority to regulate land for the benefit of the populace, emphasising legal certainty, the socio-functional significance of land, and the idea of acquiring consent through discourse. This system inherently safeguards individual and communal land rights from dominant entities. The Job Creation Law adheres to a utilitarian economic developmentalism framework, aimed at expediting investment through process optimisation. It enables private NSP executors to obtain land by utilising the state's eminent domain powers, so employing there by exploiting public power for private profit gain and prioritising project efficiency and speed over protective essential procedural safeguards.

This normative mismatch is evident reflect in specific legislative procedures that undermine the essence fundamental of Indonesia's Basic Agrarian Law. The implementing regulations of the Job Creation Law allow for land purchase and the revocation of rights for private-sector-led NSPs, a notion foreign to the UUPA's purpose of land acquisition for exclusively public objectives. Moreover, the new regime accelerates deadlines and consolidates authority, undermining landowners' rights to substantial discussion and effective legal redress regarding administrative compensation assessments. The Constitutional Court's 2021 ruling recognised procedural deficiencies in the law's enactment but refrained from nullifying its fundamental elements. This court deference has exacerbated the problem, shifting its resolution from constitutional review to persistent administrative litigation and social discord, where communities contest the state's accelerated property acquisition procedures.

The implementation and implications of the land acquisition policy provisions by private entities under the NSP in Indonesia faces fencounter significant challenges in terms of legal certainty and regulatory compliancechallenges from the perspective of legal certainty and compliance. Since the initiation from in 2016 until December 2019, as many as 92 NSP were developed with an investment value of IDR 467.4 trillion.<sup>[17]</sup> According to data from the Coordinating Ministry of Economic Affairs, the overall number of finished initiatives constitutes 41% of the total 223 projects. In comparison, the investment value represents 11.4% of the whole investment of IDR 4,092 trillion. This does not include investment calculations for the period January 2020 to December 2024. However, the problems arising from NSPs are that 241 conflicts occurred in 2020, 207 conflicts in 2021, and 212 conflicts also occurred in 2022. The aforementioned data indicate that conflict has become an inherent aspect of project implementation under the NSP scheme forementioned data shows that conflict is part of project implementation under the NSP scheme.

The implementation of development projects under the NSP scheme is not always conducted by government agencies such as the Ministry of Public Works or the Public Works Office. The private sector can also implement the project as long as it is stipulated by regulations. The majority of NSPs, based on the NSP Presidential Regulation, related to spatial planning require large areas of land, thus the land acquisition is needed.<sup>[18]</sup> One of the government's efforts to realize the goal of public welfare, namely by adopting the Law Number No. 2 Year 2012 on the Land Acquisition for Development in the Public Interest (Land Acquisition for Public Interest Law), which was amended by the Job Creation Law. Land acquisition for development is expected to be one of the means to achieve prosperity for all Indonesian people. The policy of adopting Land Acquisition for Public Interest Law is very beneficial for the Indonesian nation, which continues to build, especially infrastructure. Land acquisition for development in the interests of the public interest, as stipulated by law, must adhere to principles of humanism, fairness, benefit, certainty, transparency, consensus, involvement, social welfare, sustainability, and harmony. However, under the NSP policy, as regulated in the Presidential Regulation, land designated for development projects whose location has been determined by the governor cannot be transferred by the landowner to any party other than the National Land Agency since the NSP policy, where in the NSP Presidential Regulation which emphasizes that land for development project whose location has been determined by the governor, cannot be transferred by the land owner to another party other than the National Land Agency.

The public interest refers to the Job Creation Law is the interest of the nation, state, and society,

which the government must realise and utilise to the fullest extent for the well-being of the people. Consequently, the philosophical foundation of the Job Creation Law, as stated in Article 2, aligns with Article 33, paragraph (3) of the 1945 Constitution. Moreover, the execution of the land acquisition program stipulations for development in the public concern interest, particularly with land purchase in NSP conducted by the private sector, is expected to have positive implications for the stability of national development as well as the existence of legal certainty and compliance. This can only be achieved based on the land acquisition implementation stages as mandated by the Fourth Paragraph of the Preamble of the 1945 Constitution and various other laws and regulations.

Furthermore, the process of land acquisition serves as a mechanism to secure land designated for development in the public interest, as regulated under the land acquisition implementation flow is a strategy to obtain land designated for development in the public interest regulated in Article 18 of the Indonesian Basic Agrarian Law. The law stipulates that, in the benefit of the public, including national and governmental interests as well as the collective interests of the populace, land rights may be revoked, provided that enough compensation is offered and the process adheres to legal regulations. These provisions are the basis for the elaboration of land acquisition regulations in the Land Acquisition for Public Interest Law. The law regulates that land acquisition is an activity to provide by providing appropriate and fair compensation to the entitled party. Furthermore, for the implementing regulation to of the Land Acquisition for Public Interest Law, the Land Acquisition for Public Interest Presidential Regulation was adopted in and amended several times until 2015.

Based on the previous review, if seen from the perspective of development for the welfare of society, the implementation of NSPs in Indonesia should not be carried out as a pretext for development. Based on various previous descriptions, especially related to the implementation of the NSP in Indonesia, if viewed from the consideration that development for the welfare of the community should not be carried out as a pretext for development. However, in fact, this policy often makes people suffer. This policy makes the community miserable. For example, from 2012 to 2021, there were 3,537 agrarian conflicts covering an area of 9.1 million hectares in which at least 113 people were killed, 149 people were shot, 1,122 people were abused, and 2,238 people were criminalized. Conflicts in the implementation of land acquisition in Indonesia, especially for the NSP, are inevitable [19]. In the implementation of the National Strategic Project in Indonesia, the government is expected not to hand over basic aspects such as land-to-market mechanisms. In carrying out NSPs in Indonesia, the government is expected to maintain control over essential elements, particularly land-to-market processes, as these are pivotal to the integrity of the national land system. Conducting NSPs in Indonesia, the government is anticipated to retain essential elements such as land-to-market processes, which are pivotal to the framework of the national land system. According to the Indonesian Basic Agrarian Law and the Law on Land Acquisition for Public Interest (Law No. 2/2012), land is regarded not only as an economic asset but also as a social resource, aligned with the constitutional directive that "land must be controlled by the state for the greatest prosperity of the people." The land-to-market mechanism serves as the legal and institutional conduit that guarantees the transfer, use, and valuation of land are consistent with ideals of social justice. In the realm of NSPs, regulating this mechanism averts excessive commodification of land, protects community rights, and guarantees that market transactions foster equitable development instead of continuing dispossession or speculative accumulation.

Furthermore, the Ministry of Agrarian Affairs and Spatial Planning plays a very important crucial role and is expected to provide a good investment climate by providing clarity on land status for investors and entrepreneurs. The pivotal role of the Ministry of Agrarian Affairs and Spatial Planning is related to the implementation of land acquisition policy provisions for development in the public interest, and is also expected to have positive implications related to land acquisition in NSP carried out by the private sector for national development stability in Indonesia. Moreover, it is hoped that there will be certainty and legal compliance for private NSPs in Indonesia. A good agrarian and spatial planning system is important for inclusive and sustainable economic growth because it is useful for providing legal certainty and compliance, increasing productivity, sustainable growth, protecting the environment, and supporting efforts for national development

stability.

## **The Implications of Private National Strategic Projects on National Development Stability**

The concept of national stability refers to a resilient nation that is not easily destabilized or overthrown, making stability a critical prerequisite for any country embarking on the development process. The concept of national stability refers to a strong nation, not easily surrendered or overthrown so stability is very important for every nation that begins the development process.<sup>[5]</sup> National development is the cumulative impact of all citizen forces, contributing to the accumulation of physical, human beings, knowledge, and skill resources.<sup>[20]</sup> The United Nations characterises National Development as a combination of growth and transformation. The transformation, in turn, is both social and cultural, in addition to being economic, qualitative, and quantitative <sup>[21]</sup> National development is an expansive concept that embodies a comprehensive approach across all facets of national progress and its populace, striving to enhance the living standards of citizens and modernise every component of a nation, while promoting peaceful coexistence among diverse national groups.

National growth is both empirically essential and adequate for attaining a high standard of human well-being.<sup>[22]</sup> The dimensions of national development—productive economy, competent administration, and responsive state—account for the majority of across the nation variability in the Social Progress Index (SPI), a comprehensive metric derived from 58 non-economic measures of human well-being. To comprehend the concept of national development, it is essential to recognise that it encompasses multiple parameters, such as the advancement of human resources, the optimisation of industrial production, the implementation of science and technology across physical well-being, industry, textiles and clothing, and agriculture, the provision of mass education and resources for the impoverished and marginalised, and the progression through a strategically managed economy. To attain holistic and equitable national development, it is essential to consider all facets that constitute a nation, including cultural, social, political, technological, financial, and substance dimensions, while prioritising the advancement of these elements to ensure the overall growth and progress of the nation.

The emergence of NSPs is an initiative of the Indonesian government to answer the challenges in accelerating infrastructure development, trying to connect remote areas, improve connectivity with modern infrastructure, and is expected to have a broad impact on life and improve people's welfare. NSP opens up employment opportunities as widely as possible, utilizes domestic products, and is are considered capable of increasing economic growth and increasing national competitiveness, equitable development, improving people's welfare, and regional development. The NSP is disseminated across Indonesia, from Sabang to Merauke, exhibiting substantial investment potential and extensive economic ramifications. The execution of NSPs is conducted directly by the national government, regional governments, and/or business entities, and Business Institution Cooperation (KPBU), prioritizing the use of domestic components. However, the Committee for the Acceleration of Priority Infrastructure Provision revealed a series of problems that hindered the implementation of infrastructure development with the status of NSPs.

Based on the previous descriptions, the resolution of problems on the issue of NSP has the potential to provide a positive impact on the absorption and improvement of the national economy. Therefore, there needs to be good synergy and cooperation between the central government and local governments that have the authority in land acquisition. Then, the government is expected to revise and evaluate the list of NSP at the end of last year due to various considerations, one of which is land acquisition that has not been completed by considering the priority scale of projects that can be utilized by the community. Furthermore, to overcome the problems of NSP in Indonesia, the government is primarily focused on simplifying the licensing process through integrated and centralized one-stop services at the Investment Coordinating Board. This aims to accelerate the licensing and non-licensing processes, including land acquisition, by significantly reducing

processing time and utilizing government and private partnerships to attract private investment to fund large infrastructure projects as a strategy to overcome budget constraints.

Consequently, land acquisition for development is expected to be conducted through deliberation between the requesting parties and the land rights holders. Thus, land acquisition for development is expected to be carried out through deliberation between the parties requiring land and the land rights holders, as regulated in the Indonesian Agrarian Law. The law was formed to regulate the relationship between the community and land, and provide ensuring legal certainty. Article 18 of the Indonesian Agrarian Law and the Land Acquisition for Public Interest Law regulate the release of land rights by providing reasonable compensation. However, in practice, compensation problems often arise in NSP in Indonesia. The Pantai Indah Kapuk 2 (PIK 2) project exemplifies compensation challenges in land acquisition, as the taxable value of the property was diminished from Rp150,000 to Rp48,000. Consequently, the community was adversely affected by this policy. The West Java International Airport project in Kertajati faced issues regarding inadequate compensation for the local people. This project obtained 5,000 hectares of land and was classified as a PSN in 2016, which involved the expropriation of fertile property belonging by to local communities.<sup>[13]</sup> This indicates that there are obstacles to securing community rights to land affected by development. Consequently, legal certainty and adherence are essential concerning the stipulations of the land acquisition policy for public interest development, particularly for land acquisition in NSP conducted by the private sector, which should be interconnected with multiple regulations and laws on land acquisition and the Job Creation Law.

## **The Legal Certainty and Compliance of Private National Strategic Projects in Indonesia**

The 1945 Constitution mandates that the government must make policies to realize public welfare. One of the Government's efforts to realize this is through development. Every development process requires land, but from year to year, the land controlled by the state is decreasing. Therefore, land acquisition is needed to support development for the public interest that provides benefits to the wider community. Furthermore, the regulation regarding land acquisition for development for the public interest, which was originally regulated in the Land Acquisition for Public Interest Law and the Job Creation Law. Several projects in the NSP demand land acquisition, such as public infrastructure, the transportation sector, the energy sector, and the traditional market.

Referring to Appendix J of the Indonesian Local Government Law (Law 23/2014), the authority of the Local Government includes granting location permits, land acquisition for a public interest, disputes over cultivated land, granting compensation and compensation for land used for development, land clearing permits, and land utilization. Based on the Indonesian Local Government Law, the authority to acquire land for public interest lies with the Governor. The land acquisition policy provisions are adopted to regulate the implementation of land acquisition, resettlement, or rehabilitation of displaced persons or persons affected by the project.<sup>[23]</sup> The anticipated severity of negative effects is expected to be negligible owing to the characteristics of the subproject. Displaced individuals or project-affected persons denote any individual or individuals identified through fundamental census data gathered for each subproject as being impacted by circumstances such as the acquisition or possession, wholly or partially, permanently or temporarily, of any rights or interests in real estate or land (including but not limited to residential, agricultural, and grazing land) or other fixed and movable assets. Furthermore, the project's acquisition or possession of crops (both annual and perennial) and trees, whether in part or in entirety. Finally, the businesses or livelihoods that are partially or wholly affected by the project should be eligible for compensation and other assistance, project affected project-affected persons must be within the specified cut-off date.

Based on the World Bank standards, the land acquisition policy framework outlines procedures for managing land acquisition and compensating displaced persons or project-affected persons in subprojects and emphasizes minimal adverse impacts, compliance with legal guidelines, and fair

compensation to restore pre-project living conditions. Furthermore, World Bank standards emphasize community participation, the establishment of grievance mechanisms, and ongoing monitoring and evaluation processes.<sup>[23]</sup> All land acquisitions will be executed in accordance with applicable national legislation and the stipulations of the Environmental and Social Standards, while upholding fundamental due process principles, including sufficient prior notification, a substantive opportunity for lodging complaints and appeals, and the avoidance of unnecessary, disproportionate, or excessive force.

The Land Acquisition for Public Interest Law designates the government, at both central and regional levels, as the executing authority for land acquisition intended for public development, encompassing acquisitions for NSP conducted by the private sector. The Land purchase for Public Interest Law also underlined that the execution of land purchase for the public interest must pay attention to the balance between development interests and community concerns. Both the rightful landowners and the authorities managing land acquisition for public purposes are obligated to comply with applicable legal regulations. The entitled party and the party overseeing the purpose of land purchase for public benefit must adhere to legal rules. The Land Acquisition for Public Interest Law mandates that both central and regional governments ensure the provision of land and financial resources for public interest development. Furthermore, in the execution of the land purchase. The Government organises the provisions of the land acquisition policy for public interest development, coordinating plans with all guardians and stakeholders.

Both central and regional governments are responsible for regulating and guaranteeing the availability of land for public purposes, the central and regional governments must regulate and ensure the supply of land for the public good. According to the Land Acquisition for Public Interest Law, land acquisition for public interest, as stated in Article 10, must be conducted by the government, with the land subsequently controlled by the national or regional government. Moreover, the Land Acquisition for Public Interest Law stipulates that if an Agency necessitates land acquisition for public interest, as outlined in Article 10, and is a state-owned enterprise, the land is transferred to the ownership of the state-owned enterprise. Consequently, both the central and local governments in Indonesia are responsible for regulating and ensuring the availability of land for public interest, thereby facilitating development for the common good. Consequently, the central and local governments in Indonesia must regulate and ensure the availability of land for public interest. This is executed to facilitate advancement for the public good. Land acquisition for public benefit development may encompass oil and gas industrial zones, exclusive economic zones, industrial sectors, and tourism regions. The central government is accountable for land procurement for development in the public interest.

Consequently, land purchase for public interest is coordinated by both the central and local governments. assumes the role of the agency tasked with coordinating land acquisition for the public good. The Land Acquisition for Public Interest Law mandates that Development for Public Interest must be orchestrated by the government, which may collaborate with state-owned firms, local government-owned enterprises, or private companies. Therefore, the Land Acquisition for Public Interest Government Regulation allows state-owned enterprise enterprises to conduct land acquisition for NSP if they have the authority to do so. Meanwhile, the land utilization regulation is used by the government to encourage increased access to healthy food, such as by allowing farmers' markets in low-income neighborhoods. In this regard, the government is expected to develop special legal instruments to implement its authority in regulating land utilization.

Legal certainty and compliance can be interpreted as the law must be clear, precise, and unambiguous, and its legal implications can be predicted.<sup>[24]</sup> In this context, legal certainty and compliance are important and strategic issues to create national development stability. Efforts must be made to establish clear legal frameworks to ensure legal certainty. In this regard, the NSP Presidential Regulation provides specific rules governing projects, particularly those involving land acquisition. Efforts are needed to build legal propositions to realize legal certainty. Furthermore, the NSP Presidential Regulation stipulates that the projects, especially those related to land

acquisition, are regulated. The principles of legal certainty and compliance serve as foundational pillars that reinforce the implementation of land acquisition policies for NSPs in Indonesia. The concept of legal certainty and compliance is a basic pillar that functions to strengthen land acquisition policies in NSP in Indonesia. This also increases transparency, predictability, and good governance in implementing land acquisition policies by private entities in NSPs.

Applying these principles is essential to improve the ecosystem related to the provisions of land acquisition policies for development in the public interest. This is intended to ensure that decisions are grounded in a solid understanding of the legal framework and regulatory environment, particularly concerning private-sector land acquisition in NSP, with a focus on legal certainty and compliance. This aims to ensure that the right decisions are supported by a strong understanding of the legal framework and regulatory landscape, primarily related to land acquisition in NSP by the private sector from the perspective of legal certainty and compliance. Therefore, legal certainty and compliance with regulations are expected to be key factors in implementing NSPs in Indonesia as government investments, and will also have positive implications for the stability of national development.[25] state that legal certainty and compliance can create a conducive investment climate for long-term planning and strategic investment, especially related to the implementation and implications of NSPs in Indonesia.

Thus, there is a need for continuous improvement to strengthen legal certainty and compliance with the regulations of the NSP in Indonesia. This aims to protect the rights of all parties as stipulated in the 1945 Constitution. Moreover, the Indonesian Constitution is a form of the state constitution, which is the result of an agreement of all Indonesian people based on the legitimacy of people's sovereignty. Hereinafter, one of the functions of the state in the modern state system is to regulate human relations that occur in society, provide limitations or flexibility and meet the needs of society because laws and regulations are formed by the state and used to regulate social order, the state creates an extensive very broad system of rights and obligations and guarantees these rights by enforcing the implementation of obligations. Therefore, the harmonization of laws and regulations related to the provisions of land acquisition policies for development in the public interest is very important and becomes a strategic agenda. It is hoped that this will create a conducive environment for responsible and sustainable land rights acquisition in Indonesia, particularly regarding legal certainty and compliance with NSP regulations in Indonesia.

The NSP not only includes physical infrastructure, but are is also intended to ensure economic equality, sufficient food availability, and development in border areas, technology, tourism, and education.[4] The Indonesian NSP's initiative aims to establish a just and affluent society founded on Pancasila and the 1945 Constitution, by developing both tangible and intangible infrastructure that significantly contributes to economic growth.[10]

National development stability indicates that national development stability is demonstrated through several established performance metrics. [26] For instance, empirical studies reveal that infrastructure projects affected by policy shifts often incur higher costs and face delays in completion. This uncertainty not only undermines the financial stability of the nation but also erodes public confidence in the government. In such scenarios, significant efforts to advance national development are increasingly vital, especially in the face of global challenges like climate change and economic fluctuations. [27] It is crucial in this context to enhance the participation of diverse stakeholders, including the private sector and civil society, to foster an ecosystem that supports sustainable national development and stability. [28] Participation enables individuals to take ownership, make informed choices, and influence results, thus facilitating collective advancement and encouraging positive transformation. [29] Participation entails active engagement and contributions across various spheres, ranging from social interactions to community initiatives aimed at common objectives. [30] Achieving national development stability necessitates the realization of inclusiveness, transparency, accountability, and responsiveness within governance frameworks.

The law faces pressing demands for adaptation, and legal scholars and economists seek efficiency by integrating economic principles to enhance the rule of law functionality. However, there remains a need for clarification from both legal and economic perspectives to promote efficiency and progressiveness. [31] In the realm of the rule of law, [31] assert that the economic approach typically addresses two fundamental inquiries effects of legal rules on the behaviours of key actors, and these effects for socially beneficial. In legal economic analysis, the prevalent approach assumes that individual and collective behaviours are rational and future-oriented, utilizing welfare economics to evaluate social preferences. Consequently, legal certainty and compliance are essential for ensuring justice as they set clear expectations and obligations.[32] notes that the effective functioning of the law is achievable only when enforced by an authorized body that operates within legally defined boundaries. States are obligated to safeguard against human rights infringements within their territory and/or jurisdiction by other parties, especially commercial entities, through effective policies, laws, regulations, and judiciary.

## Conclusion

The 1945 Constitution emphasizes Indonesia's identity as a state governed by law, stipulating that governmental authority must operate following constitutional provisions rather than merely exercising political power. The principle of Indonesia as a state of law, where the government is organized based on the constitution, not only based on power. Furthermore, the Constitution affirms the state's authority to manage key sectors of production, including natural resources, that significantly impact the livelihoods of its citizens. Furthermore, the Constitution state that the state has the authority to control related production branches that affect the livelihoods of many people, including the natural resources. The management of these resources needs to be optimized as much as possible to be used for the greatest prosperity and welfare of the people.

The article argues that the implementation and consequences of land acquisition policy regulations for National Strategic Projects (NSPs) in Indonesia present significant challenges for both central and regional governments, particularly regarding legal certainty and prospective regulatory compliance. Article asserts that the state governs the earth, sea, and space, along with their natural resources, for the optimal benefit of the populace. The execution and ramifications of the land acquisition policy regulations for NSPs in Indonesia pose issues for both central and local governments about legal certainty and future compliance. Consequently, both the central and local governments are anticipated to persist in their roles of fostering and sustaining national development stability through the implementation of accountability and good governance principles. Furthermore, innovate and collaborate with pertinent agencies, recognising that land acquisition for public benefit is a process that progresses from upstream to downstream, encompassing the planning, preparation, execution, and delivery stages. This sequence of activities encompasses numerous agencies, including those requiring land, land acquisition executing agencies from both central and local governments, as well as other pertinent players. The execution of the land acquisition policy provisions for public interest development, particularly regarding land acquisition in NSPs conducted by the private sector, is anticipated to yield favourable outcomes for national development stability and ensure legal certainty and compliance. This can only be accomplished in accordance with the land acquisition implementation process as stipulated by the Constitution and several other laws and regulations.