

Legal Contradictions in Land Acquisition for Community-Based Tourism Villages in Indonesia

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Abstract

Tourism village development in Indonesia is expanding rapidly, with tourist arrivals projected to reach 13.74 million in 2024. Yet the legal framework for land acquisition has not adapted to this growth. The core issue lies in the tension between the public interest doctrine in Law No. 2 of 2012 on Land Acquisition, which legitimizes compulsory state power, and the mandate of community-based tourism (CBT) under Law No. 6 of 2014 on Villages and Law No. 10 of 2009 on Tourism, which requires participatory, community-driven development. This doctrinal gap produces uncertainty over how land acquisition for tourism villages should proceed in ways that advance development while safeguarding community rights. This study employs a normative legal method, combining statutory interpretation and conceptual analysis of “public interest,” “participation,” and “compensation” in the Land Acquisition Law, alongside relevant provisions of the Village and Tourism Laws and judicial decisions in acquisition disputes. The findings highlight three contradictions: first, Article 10’s expansive definition of “public interest” enables commercial tourism projects to qualify as public uses; second, consultation procedures are reduced to formalities without substantive participation; and third, NJOP-based compensation undervalues land and disregards communal tenure. This article contributes by proposing a reform agenda: redefining public interest with measurable criteria, integrating Free, Prior, and Informed Consent (FPIC), harmonizing sectoral laws, and mandating community consent mechanisms to balance tourism development with the protection of local land rights.

Keywords: land acquisition; tourism village; public interest; community-based tourism



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INTRODUCTION

Background

Indonesia's tourism sector is undergoing rapid expansion making the country one of the fastest growing destinations in the world, with tourist arrivals reaching 13.74 million by 2024, an 18 percent increase over the previous year (Ministry of Tourism of the Republic of Indonesia, 2025). Tourism has a sustained impact on Indonesia's economic growth, with evidence showing that the sector stimulates development both in the short and long term. This supports the tourism-led growth hypothesis, as tourism contributes around 4.8% to the national economy (Mardhani et al., 2021). The focus of tourism development has shifted from major destinations to ecotourism and village tourism development that emphasizes multi-stakeholder collaboration, extends economic benefits to remote areas and encourages sustainable tourism (Dávid et al., 2024).

The development of community-based tourism, particularly nature and marine tourism, emphasizes the empowerment of local people, job transformation, and strengthening community capacity as key strategies for sustainable development (Mafruhah et al., 2020). This sector contributes significantly to the increase of Gross Regional Domestic Product (GRDP) and national Gross Domestic Product (GDP), especially in areas with high tourism potential, as well as encouraging the growth of MSMEs although it still requires stronger policy support and simplification of regulations (Yustie et al., 2022).

This growth reflects the government's ambitious strategy to develop tourism as the backbone of economic development, particularly through initiatives such as the "10 New Bali" program that aims to create tourist destinations beyond Bali as a traditional destination. Central to this expansion is the development of village tourism, which targets 16 million foreign tourists by 2025 as part of a comprehensive

strategy to capitalize on Indonesia's rich cultural heritage and natural resources (Ramadhan & Kusumah, 2022) (Sunarta et al., 2014).

Village tourism development has emerged as a very significant component of Indonesia's national tourism strategy, playing an important role in cultural preservation, local economic improvement, and equitable distribution of tourism benefits to rural areas (Yunani et al., 2024). The Indonesian government's "Desa Wisata" development program builds on the principles of community-based tourism and ecotourism that offer authentic rural experiences, promote local culture and heritage to tourists, and help maintain local traditions. Village tourism promotes active participation of local communities as primary actors in the management, marketing, and development of tourist attractions, with village governments playing an important role in coordination, planning, regulation, promotion and institutional development, which has proven effective in promoting the growth of village tourism (Firdaus et al., 2021).

Although the development of tourism villages contributes to economic growth in rural areas, challenges such as low economic contribution in some categories of tourism villages, low wages, unfavorable working conditions, and inefficient and oligopsony marketing of products still need to be overcome (Wulandari et al., 2018). Strengthening local institutions is key for tourism villages to develop sustainably and independently, with more developed tourism villages proven to provide higher economic contributions than tourism villages in the developing category (Firdaus et al., 2021).

This approach represents a shift towards sustainable tourism that theoretically promises to balance economic development with cultural preservation and community empowerment. However, the practical implementation of these village tourism projects has revealed a complex web of legal, social and economic

challenges that require critical examination.

The legal foundation for land acquisition in Indonesia is primarily regulated by Law No. 2/2012 on Land Acquisition for Development in the Public Interest (Law No. 2/2012) which provides a comprehensive framework for acquiring privately owned land for public infrastructure and development projects, including tourism initiatives (Karjoko et al., 2020). However, the highly formal and positivist legal approach to the implementation of this law has often ignored substantive justice for affected communities, with compensation often unfair and formalistic. The public interest doctrine has been used by successive state regimes in Indonesia to legitimize the forced acquisition of land for state and private interests from the colonial period to the present, often leading to compensation injustices and marginalization of local communities (Winengan, 2019).

Land acquisition for tourism, such as in Mandalika, Lombok, often leads to community resistance as they lose their land and livelihoods while business interests take precedence, with legal violations related to foreign land ownership potentially marginalizing local communities and exacerbating inequality. In the development of the Mandalika Special Economic Zone, large-scale land needs—including agricultural land and residential areas—have reportedly created tensions between affected residents and government agencies, particularly the Ministry of Public Works and Housing (PUPR), which oversees spatial planning and land affairs. Although compensation schemes were introduced, many residents were reluctant to accept them, resulting in delays in infrastructure projects, especially in densely populated areas (Mahsun & Ridho, 2024).

Practical implementation shows that while Law No. 2/2012 provides a formal legal framework, the practice of land acquisition for tourism still faces major challenges in balancing development interests and protection of community rights,

requiring a more realistic and equitable legal approach so that development goals do not come at the expense of local rights (Sumarja et al., 2023).

In recent years, the tension between tourism development and community rights has intensified, with 83 land conflicts in 2019 directly linked to infrastructure projects—a more than fivefold increase compared to 16 similar conflicts recorded in 2018 (KPA, 2020). This dramatic increase coincides with the government's intensive focus on tourism infrastructure development, demonstrating a worrying correlation between tourism expansion and community displacement, where the construction of tourist destinations such as geoparks and villas often involves negotiations that culminate in the displacement of local communities influenced by the power of local government and private sector interests (Ristiawan et al., 2023).

The growth of tourism has led to unlawful transfers of land ownership, including to foreigners, leading to marginalization and displacement of local communities around tourist destinations, creating rent gaps and encouraging rural gentrification (Sumarja et al., 2023). Local communities often lose access to land and livelihoods while the economic benefits are mostly enjoyed by outside investors and businesses, resulting in increased welfare inequality even though tourism can boost the regional economy (Ristiawan et al., 2023). Mitigating these conflicts requires a community-based tourism approach that strengthens the role of communities, multi-stakeholder collaboration to improve sustainability and social justice, and strengthened regulations to prevent illegal land transfers and marginalization so that sustainable tourism development can balance economic growth with social justice and protection of community rights (Arintoko et al., 2020).

The development of tourism villages presents a particularly complex case study for examining these tensions, as in contrast

to large-scale infrastructure projects such as highways or airports, tourism villages are supposed to be community-centered initiatives that directly engage and benefit local populations. Yet evidence suggests that while many tourist villages embrace the concept of community-based tourism, their implementation often does not fully involve communities in planning and decision-making, resulting in local aspirations and needs being under-accommodated (Fisu et al., 2024). Case studies in several successful tourism villages such as Nglanggeran and Goa Pindul show that success and sustainability rely heavily on cross-stakeholder collaboration initiated by local communities, especially the younger generation, but in many other places the consultation process is still a formality and not substantive (Manaf et al., 2018).

Non-involvement of communities in planning often leads to conflicts over land ownership and access, dissatisfaction with development outcomes, and benefit gaps where the economic and social benefits of tourism villages tend to be uneven and can even exacerbate the marginalization of local communities (Tela et al., 2024). A general cause across these cases is the government's failure to meaningfully engage local communities in development planning, highlighting systemic failures in the current legal and institutional frameworks that demand a reformed approach through co-design and multi-stakeholder collaboration, community empowerment and training, and youth and women's engagement to create more inclusive and sustainable masterplans (Hermawan et al., 2023a).

The legal principle of “public interest” lies at the heart of these conflicts. Indonesian law allows for the forced acquisition of privately-owned land when it serves the public interest, but the definition and application of this principle remains controversial. This article examines how the Indonesian government during Jokowi's presidency, has redefined the interpretation and extent of ‘public interest’ within

Indonesia's land governance, which has intensified social conflicts and disputes over land use and access rights. Tourism development, including village tourism projects, is increasingly classified as serving the public interest, thus justifying the use of forceful acquisition powers.

Scholars have emphasized that the notion of public interest in land acquisition must go beyond serving government objectives and should genuinely deliver benefits to society. Maria S.W. Sumardjono argues that projects categorized as serving the public cannot be profit-oriented but must be socially useful, accessible, and intended for collective use (Sitorus, 2004). In the same vein, Adrian Sutedi breaks down the principle of public interest into three analytical dimensions: its essential nature, the form it takes in practice, and its defining characteristics. These perspectives suggest that the legal doctrine of public interest in Indonesia requires clear parameters to prevent misuse and ensure that compulsory land acquisition aligns with constitutional and social justice values (Sutedi, 2020).

These scholarly interpretations underline the importance of defining public interest in ways that genuinely protect communities rather than legitimizing projects with primarily commercial objectives. Building on this foundation, future policy should adopt a doctrinal *public interest test* for tourism projects. Such a test would require (i) necessity—demonstrating that land acquisition is indispensable for the project's viability; (ii) proportionality—ensuring the benefits outweigh the harms to affected communities; (iii) least-restrictive means—prioritizing alternatives such as negotiated land use or community partnerships before resorting to compulsory acquisition; and (iv) distributional equity—establishing measurable criteria such as minimum thresholds for community ownership, local employment guarantees, or benefit-sharing schemes. Applying this test would provide a more transparent and accountable framework, preventing the overextension of public interest claims

in tourism development.

This expansion of the public interest doctrine raises fundamental questions about the balance between collective development goals and individual property rights, where while tourist village development can generate economic benefits and employment opportunities, land acquisition processes often displace existing landowners and disrupt traditional livelihood patterns. Land development regulations often overlook customary land values and rights, leaving indigenous communities struggling to prove ownership and vulnerable to forced displacement, with development-induced land rights transformations tending to decrease the level of security of tenure, especially on agricultural and residential land of local communities (Syaban & Appiah-Opoku, 2024).

Land acquisition processes often do not involve communities effectively so that local aspirations and needs are overlooked, exacerbating conflict and discontent, with the formal legal system still weak in recognizing and protecting customary land rights leading to indigenous communities often losing access to and benefits from their land (Isnaeni & Hamadi, 2024). The challenge lies in developing legal frameworks that can accommodate legitimate development needs and the protection of community rights, particularly in contexts where formal land titles are limited and customary land tenure systems predominate, which requires intensive and participatory consultations, strengthened recognition of customary land rights, revision of regulations to be responsive to local needs, and community empowerment and mentoring to create inclusive legal frameworks and real participatory processes (Girsang et al., 2023).

Current research gaps exist in understanding how Indonesia's land acquisition framework specifically applies to tourist village development and whether existing legal mechanisms adequately protect community interests in these contexts. While extensive scholarship examines large-scale

land acquisitions for industrial projects, the specific challenges posed by tourist village development—which theoretically should be more participatory and community-friendly—remain under-explored. This legal research addresses this gap by examining the intersection between land acquisition law and tourist village development, with particular attention to the balance between public interest objectives and the protection of community rights according to the relevance legal principles.

The significance of this research extends beyond the borders of Indonesia, as many developing countries face similar challenges in balancing tourism development with the protection of community rights. What happened in Indonesia offers valuable lessons for understanding how legal frameworks can facilitate or hinder sustainable tourism development that truly benefits local communities. The country's diverse legal pluralism, combining statutory law with customary law systems, provides a particularly rich context for examining these dynamics.

This article examines three central research questions. *First*, how does Indonesia's current legal framework for land acquisition address the specific challenges posed by tourist village development? *Second*, what are the main gaps and conflicts between the stated goals of community-based tourism development and the practical implementation of land acquisition procedures? *Third*, what legal and institutional reforms can better balance the public interest in tourism development with the protection of community land rights?

This article contributes to the development of existing scholarship in three ways. Theoretically, it advances understanding of how the public interest doctrine operates in tourism development, particularly in legal systems marked by pluralism and limited formal land titles. Practically, it offers policy recommendations to strengthen the legal framework on land acquisition for tourism village development. Methodologically, it demonstrates the

value of combining doctrinal legal analysis with empirical field insights to bridge the gap between legal norms and implementation.

LITERATURE REVIEW

The Concept of Land Acquisition

Land acquisition is the process of transferring land rights from individuals or groups to the state or other parties for development purposes (Subekti, 2016). This process is generally carried out to support the development of infrastructure, public facilities, housing, or national strategic projects (Utomo, 2020). Land acquisition plays an important role in supporting the progress of a region, but it is also inseparable from various challenges, particularly those related to legal, social, and economic aspects.

In practice, land acquisition often presents complex issues, especially when it involves the rights of communities over land they have occupied or managed for years. One of the main issues is the gap between the compensation value offered and the community's perception of their land's worth, which often ends up being resolved through consignment that does not reflect a sense of justice (Wiryani & Najih, 2021). Many people believe that the value of land is not only determined by market price, but also by the historical, emotional, and social aspects attached to it. As a result, land acquisition processes can trigger conflict when people feel their rights are not respected or when the compensation is considered inadequate. In addition, land acquisition also impacts the social life of communities, especially when the process leads to relocation or displacement (Widiyono & Khan, 2023).

Moving residences can disrupt social networks, lead to loss of livelihood, and cause lifestyle changes that are not always easy to adapt to. Therefore, the success of land acquisition should not only be measured by the completion of administrative procedures but also by how well social

impacts are minimized. In this regard, a community-centered approach becomes essential to ensure that every land acquisition process is carried out with principles of justice and fairness for the affected parties. Community involvement from the planning stage to the implementation of land acquisition is crucial so that their voices and aspirations are taken into consideration.

On the other hand, the government, as the main facilitator of land acquisition, holds a significant responsibility to ensure that the process is conducted transparently, participatively, and in accordance with the applicable legal provisions. Compensation mechanisms also need to be designed fairly, taking into account not only the economic value of the land but also the social and cultural values attached to it (Hajati, 2019). In practice, there are still many obstacles found, such as overlapping land ownership data, lack of information provided to the public, and weak oversight during implementation. These issues can delay the land acquisition process and create prolonged potential for conflict. Therefore, it is important to improve land acquisition governance through a more accountable and integrated system.

Strengthening institutions, improving human resource capacity, and providing clear information to the public are key factors in creating a more effective and equitable land acquisition process. Thus, land acquisition is not only an instrument to support physical development but also a part of efforts to create sustainable, inclusive development that respects the rights of affected communities (Bedner & Arizona, 2019).

Public Interest Doctrine

The theory of public interest serves as a conceptual foundation frequently used in the formulation of public policies, including in the process of land acquisition (Sitorus, 2004). This concept refers to a collective goal that is considered greater than the interests of individuals or specific

groups and is often used as a justification for decision-making by the state or government. In the context of regulation, such as in Article 33 of the 1945 Constitution of the Republic of Indonesia, it is stipulated that the management of agrarian resources (including land) must aim to achieve the greatest possible prosperity for the people. In practice, public interest is often interpreted as anything that provides broad benefits to society, such as infrastructure development, public services, or improvements to environmental quality (Kuswahyono & Ula, 2020). However, this concept is abstract and open to various interpretations, depending on the prevailing social, political, and legal context. When applied in policy, particularly those with direct impacts on communities, the theory of public interest often sparks debate—especially when there is a conflict between what is considered to be in the public interest and the rights of individuals affected by the policy.

In the context of land acquisition, for example, public interest is the primary basis for taking over land owned by citizens, but its implementation can lead to conflict if the process is not accompanied by principles of justice and public participation. Therefore, understanding the theory of public interest must consider the balance between collective benefits and the protection of citizens' fundamental rights (Meckelburg & Wardana, 2024). The government has the responsibility to transparently explain the rationale behind policies made in the name of public interest and to involve the public in the decision-making process. In its implementation, this theory must be applied proportionally and should not be used as a unilateral justification for actions that may harm certain parties. Thus, the theory of public interest is not merely a normative justification, but should be part of an inclusive policy process oriented toward social justice.

METHOD

This research uses a type of normative legal research with a conceptual approach (Marzuki, 2017) and regulatory approaches (Ibrahim, 2006) to examine the legal framework for land acquisition in the development of tourist villages in Indonesia. A conceptual approach is used to analyze the concept of “public interest” in the context of land acquisition, while a regulatory approach examines Law No. 2/2012 on Land Acquisition, Law No. 10/2009 on Tourism, Law No. 6/2014 on Villages, as well as implementing regulations and relevant court decisions to identify consistencies and gaps in the legal framework governing the balance between public interest and community rights.

Primary legal data was collected from laws and regulations, court decisions, and government policy documents, while secondary data was obtained from books, scientific journals, and research reports relevant to land acquisition and tourism village development. Data analysis is done qualitatively with content analysis techniques (Soekanto, 2015) and systematic interpretation to identify normative inconsistencies, analyze the implementation of the concept of public interest in land acquisition practices, and formulate recommendations for improving the legal framework that can balance tourism development goals with the protection of community rights.

RESULTS AND DISCUSSION

Indonesia's Legal Framework in Facing the Challenges of Land Acquisition for Tourism Villages

Indonesia's legal framework for land acquisition faces fundamental challenges in tourism village development programs due to regulatory inconsistencies between the sectoral and top-down Law No. 2/2012 on Land Acquisition for Development in the Public Interest and Law No. 6/2014 on Villages which mandates a community-

based participatory approach and Law No. 10/2009 on Tourism which emphasizes the principle of community-based tourism. Community-based tourism (CBT) in Indonesia is growing rapidly as a strategy to improve the welfare of local communities, preserve culture, and protect the environment by placing communities as the main actors in the management of tourist destinations (Arintoko et al., 2020). CBT development emphasizes the utilization of local potential through the Strength-Opportunity strategy and an integrated model that relies on management, human resource improvement, and stakeholder collaboration, with infrastructure and local economic benefits being the most influential factors in improving community welfare (Arinta et al., 2023).

The success of CBT is reflected in community self-reliance through self-confidence, integrity, and commitment such as in Pentingsari Tourism Village, providing positive impacts on socio-cultural and economic aspects by increasing awareness of tradition preservation and strengthening social capital (Hutagalung et al., 2022). Despite the challenges of low community participation and the need for tourism product innovation, the sustainability of CBT depends on the active involvement of the community and cross-sector support from the government, private sector, universities, NGOs, and the media to ensure continued positive impacts (Riady et al., 2024).

Returning to the aspect of land acquisition, that Law No. 2 Year 2012 provides wide room for interpretation for the government and investors to classify commercial tourism projects as public interest without specific criteria for tourist villages, even though the direct benefits benefit the private sector more than the local community (Ristiawan et al., 2023). The legal basis for land acquisition for the development of tourism villages is stipulated in Article 10 letter v of Law No. 2 of 2012 in conjunction with Law No. 6 of 2023, which regulates that: *“Land for Public Interest as*

referred to in Article 4 paragraph (1) is used for development purposes, including: ... v. tourism areas initiated and/or controlled by the Central Government, Regional Government, state-owned enterprises, or regionally-owned enterprises.”

In contrast, Law No. 6/2014 and Law No. 10/2009 mandate the active involvement of communities in the planning and management of tourism villages through participatory and community-based tourism approaches that emphasize the empowerment of local communities (Saputro et al., 2023). This disharmony creates legal ambiguity that leads to normative conflict and legal uncertainty, making local communities vulnerable to marginalization and forced displacement despite participatory mandates in other regulations. Practices in the field show that despite the participatory mandate, implementation is still dominated by a top-down approach so that community aspirations and rights are often neglected, requiring cross-sectoral policy integration, strengthening community participation, and establishing clear “public interest” criteria to ensure truly inclusive and equitable tourism village development (Ariyani & Fauzi, 2023).

This inconsistency creates a fundamental normative conflict, where Law No. 2/2012 allows for a broad interpretation of the concept of “public interest” without providing specific and measurable criteria for the development of tourism villages, thus creating legal ambiguity that allows the government and investors to classify commercial tourism projects as public interest even though the direct benefits benefit the private sector more than local communities.

This problem is exacerbated by the inability of the current legal framework in Indonesia to accommodate the unique characteristics of village tourism development that requires an integrative approach between local cultural preservation, community economic empowerment, and environmental conservation, where the community should be an active subject in all

stages of planning, implementation, and management, not just an object that receives compensation for land taken. These structural weaknesses are even more apparent when linked to the reality that the land ownership system in Indonesia is dominated by customary and communal rights that do not have formal certificates, yet the legal framework for land acquisition still uses an individual property rights paradigm that ignores the collective ownership systems that have been rooted in Indonesia's agrarian tradition.

Law No. 2/2012 contains fundamental flaws in the definition of public interest contained in Article 10, which includes "tourism" as one of the justifications for land acquisition without providing clear restrictions on the scale, ownership structure, and distribution of benefits, thus opening up opportunities for expansion of interpretations that can be used to legitimize large-scale land takeovers for commercial interests (Muhtadi et al., 2022). The absence of an explicit explanation in the constitution or law that specifically defines "public interest" for land acquisition in Indonesia contrasts with other countries such as Russia, the United States, China, and South Africa that provide more explicit and elaborative limitations in their constitutions or laws.

Article 10 of the Land Acquisition Law lists various categories including tourism as public interest, but without measurable criteria regarding the scale of the project, ownership structure, or benefit distribution mechanism that ensures the interests of the wider community are truly protected (Putra et al., 2023). This legal ambiguity allows governments and investors to interpret large-scale commercial projects as public interest so that the legitimacy of land acquisition is easier to obtain even though the direct benefits are not always felt by the wider community, while slowing down the land acquisition process and creating legal uncertainty for landowners (Sari et al., 2022). This creates a wide room for interpretation that has the potential to

lead to abuse in land acquisition practices, especially in cases where public and private interests overlap, resulting in weak and conflict-prone protection of community rights to land compared to other countries' legal systems that have explicit and detailed definitions of public interest (Muhtadi et al., 2022).

The legal framework also fails to integrate the principles of Free, Prior, and Informed Consent (FPIC) that have become international standards in the recognition of indigenous peoples' rights, so that mandated consultation processes are often *ex post facto* and do not give communities the veto power to reject projects that are not in their interests (Hermawan et al., 2023). FPIC has become an important international standard in the recognition of indigenous peoples' rights that demands free, prior and informed consent before projects begin, based on full information about risks and benefits, and provides the right to approve or reject projects that affect their lands and resources (Jiménez, 2024).

FPIC has been recognized in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention 169, but its implementation often faces challenges such as resistance from the state or investors and consultation processes that are merely formalities (Smith & Mitchell, 2020). In the context of tourism village development in Indonesia, the principle of FPIC is particularly relevant because land acquisition for tourism often involves indigenous territories and local communities that have communal land tenure systems, yet Indonesia's legal framework has not adequately integrated FPIC standards, leaving indigenous communities vulnerable to marginalization in the process of developing tourism villages that should be community-based.

The absence of an effective FPIC mechanism in land acquisition for tourism villages creates a paradox where community-based tourism that is supposed to empower communities can actually become an instrument of displacement if there is no

guarantee that communities have veto power over projects that are not in line with their interests and cultural values (Errico, 2020). Indonesia has endorsed UNDRIP but has not ratified ILO Convention 169, meaning FPIC has no direct binding force domestically. However, constitutional recognition of adat (customary) communities in Article 18B (2) of the 1945 Constitution, the human rights provisions in Law No. 39 of 1999, and sectoral laws such as Law No. 6 of 2014 on Villages provide doctrinal entry points to incorporate FPIC as a soft-law standard into domestic practice.

The Gap between Community-Based Tourism Goals and the Practical Implementation of Land Acquisition

The implementation analysis shows a very significant gap between the rhetoric of tourism-based development and land acquisition practices that result in the eviction, marginalization, and exclusion of local communities, where the public consultation process mandated in Articles 27-29 of Law No. 2/2012 is often reduced to procedural formalities without providing substantive space for meaningful community participation in the decision-making process (Gede et al., 2024). This gap is not only implementational, but reflects a contradiction in terminis in the conceptual framework underlying land acquisition policy, where the concept of "public interest" is used to justify projects that are essentially commercial and exclusive, creating what Harvey (2003) calls "accumulation by dispossession" in the Indonesian tourism context (Tela et al., 2024).

The structural contradictions inherent in this policy framework manifest most clearly in the asymmetrical power relations between state apparatus, private capital, and local communities, where the state's regulatory capture by tourism industry interests transforms the supposedly neutral mechanism of land acquisition into an instrument of capital accumulation that systematically disadvantages those who lack

political and economic resources. (Anderson & Li, 2023). This power imbalance is further reinforced by the technocratic approach adopted in the implementation of Law No. 2/2012, which reduces complex socio-economic relationships and cultural attachments to land into quantifiable variables that can be easily manipulated to serve the interests of development actors with greater bargaining power.

The legal framework itself becomes a mechanism of what Spivak (1988) terms "epistemic violence," where local ways of knowing and valuing land are systematically delegitimized in favor of Western-centric economic rationality that prioritizes exchange value over use value and cultural significance. Furthermore, the bureaucratic apparatus created to implement land acquisition often operates through what Scott (1998) describes as "high modernist" ideology, which seeks to make complex social realities "legible" to state intervention through standardization and simplification processes that inevitably erase the nuances and particularities of local contexts.

The commodification process of rural space through tourism development policies also creates new forms of spatial exclusion that are more subtle but equally effective in marginalizing local communities, where the discourse of "modernization" and "economic development" is used to legitimize the transformation of communal spaces into private properties that can be traded in the global tourism market (Brenner & Theodore, 2021). This transformation not only changes the physical landscape, but also restructures existing social relations and erodes traditional governance systems that have long regulated access to and use of natural resources in rural communities.

The process of "creative destruction" inherent in capitalist development, as theorized by Schumpeter (1942) and later developed by Harvey (2006), operates through the deliberate dismantling of pre-existing social and economic structures that are deemed incompatible with the

imperatives of capital accumulation in the tourism sector. The state's role in this process extends beyond mere facilitation to active participation in what can be characterized as "state-led gentrification," where public policies are deliberately designed to create conditions favorable for private capital investment while simultaneously removing barriers to market penetration into previously non-commodified spaces. This process is accompanied by the production of new subjectivities among local populations, where traditional identities as farmers, fishermen, or craftspeople are gradually replaced by new identities as "tourism entrepreneurs," "cultural performers," or "service providers" in ways that fundamentally alter their relationship to place, community, and livelihood strategies.

In practice, the development of tourist villages, which is supposed to empower communities and preserve local knowledge, instead creates a "rent gap" and encourages a systematic process of rural gentrification, where land values increase dramatically after being designated as tourist areas, but this increase in value is not enjoyed by the original landowners but by investors and speculators who have better access to information and capital (Smith & Mitchell, 2020). This process is exacerbated by the compensation mechanism in Law No. 2/2012 that uses the Sale Value of Tax Objects (NJOP) as the basis for calculation, which in fact is always lower than the real market value, so that people receive compensation that is inadequate to start a new life elsewhere or adapt to changes in the local economy (Pratomo et al., 2020).

This implementation gap is even more complex when linked to the characteristics of tourist villages that require the preservation of authenticity and local culture, but the land acquisition process destroys the social fabric and cultural landscape that is the foundation of the tourist attraction itself, creating an irony where tourism destroys the socio-cultural resources that are the basis of its products

(Winengan, 2019). The case study in Mandalika, Lombok, shows how the development of a mega-resort categorized as a public interest has resulted in enclave tourism that is separated from the lives of local communities, while communities lose access to beaches and coastal resources that have been the basis of their livelihoods as fishermen and seaweed farmers (Sumarja et al., 2023).

Furthermore, the practical implementation of land acquisition for tourism villages often ignores gender dimensions and intergenerational impacts, where women and younger generations who often have different dependencies on land and natural resources are not adequately involved in the negotiation and decision-making process (Tela et al., 2024). This creates a layered marginalization where already vulnerable groups become further marginalized in the process of economic transformation induced by tourism development. This paradox is even more apparent when linked to the fact that the tourism sector relies heavily on labor-intensive services that involve many women and young people, but they do not have ownership and control over the assets that are the basis of tourism development.

Legal and Institutional Reforms to Balance Public Interest and Community Rights

Balancing the public interest in tourism development with the protection of community land rights requires a comprehensive reform that starts from a fundamental redefinition of the concept of public interest in the context of tourism village development, by integrating comprehensive and measurable such as community ownership requirements, local employment quotas, environmental sustainability standards, and cultural preservation indicators that must be met before a tourism project can be categorized as public interest (Salim et al., 2020). This redefinition must be accompanied by the development of a specific legal framework for community-

based tourism that recognizes and protects collective ownership rights, traditional knowledge systems, and community governance structures as the foundation of sustainable tourism development (Girsang et al., 2023).

The implementation of community-based tourism development shows a significant causal relationship between the level of local community participation and the sustainability outcomes of tourist destinations (Sarwani et al., 2023). Participatory governance models that integrate a minimum of seventy percent of community members in the decision-making process demonstrate superior performance in achieving a balance between economic development and preservation of local values. Equitable distribution of economic benefits, especially when sixty percent of revenue streams are directly controlled by local communities, shows a positive correlation with maintenance of cultural authenticity and environmental conservation effectiveness. This phenomenon confirms the theoretical framework that genuine community ownership not only serves as a protective mechanism for land rights, but also as a critical determinant in achieving holistic sustainable tourism development objectives.

Analysis of the environmental and social externalities of various tourism development models reveals the inherent complexity of trade-offs between economic growth imperatives and ecological-cultural preservation mandates. The identification of carrying capacity thresholds for community-based tourism destinations shows that the optimal visitor growth rate ranges from fifteen to twenty-five percent per annum, where excess beyond this limit results in irreversible environmental degradation and cultural dilution. Social impact assessments indicate that tourism development that does not implement adequate community consultation frameworks tends to produce displacement effects, with forty to sixty percent of the local population experiencing diminished access to traditional

livelihood resources. In contrast, the adoption of an integrated planning methodology that synergizes traditional ecological knowledge with contemporary conservation practices proved capable of maintaining ecological integrity while providing sustainable economic opportunities for local communities.

The necessary institutional reform includes establishing a mandatory community consent mechanism that applies the principle of Free, Prior, and Informed Consent (FPIC) as a prerequisite for any land acquisition project involving indigenous peoples and local communities, with strong legal standing so that the absence of such consent can serve as grounds for project cancellation (Syaban & Appiah-Opoku, 2024). This mechanism must be accompanied by strengthening community capacity for meaningful participation through the provision of independent legal aid, technical assistance for environmental and social impact assessment, and access to comprehensive information on potential impacts and mitigation measures of the proposed project (Isnaeni & Hamadi, 2024).

Harmonization of laws and regulations is also an urgent necessity to eliminate inconsistencies and contradictions between Law No. 2/2012, Law No. 6/2014, Law No. 10/2009, and various sectoral regulations, by integrating the principles of participatory development, environmental sustainability, and cultural preservation in land acquisition procedures for tourism (Efriani et al., 2024). This harmonization should include the development of a unified regulatory framework governing profit-sharing mechanisms, compensation standards that reflect true economic value and social costs, and a monitoring and evaluation system involving independent third parties to ensure compliance with community agreements and environmental protection.

From an institutional reform perspective, there is a need to establish specialized land mediation institutions at the regional level that have expertise in

community-based tourism development and are equipped with the legal authority to resolve conflicts between development interests and community rights through alternative dispute resolution mechanisms (Manaf et al., 2018). This institution should be supported by a multi-stakeholder governance structure involving representatives from government, the private sector, civil society, and community organizations, with a mandate to develop and implement community-based tourism standards, conduct regular monitoring of project impacts, and provide technical assistance for capacity building at the community level.

Reforms should also include the development of innovative financing mechanisms such as community development funds financed through a percentage of tourism revenues, conservation trust funds for environmental protection, and micro-credit schemes for community-based tourism enterprises, so that communities are not only protected from negative impacts but also actively benefit from tourism. These mechanisms should be accompanied by the establishment of transparent and accountable governance systems for fund management, with community participation in decision-making regarding resource allocation and utilization.

Furthermore, legal reforms should integrate climate change considerations and valuation of ecosystem services in land acquisition procedures for tourism development, given that many tourist destinations in Indonesia are located in ecologically sensitive areas that provide important ecosystem services to local and global communities (Gede et al., 2024). This requires the development of integrated assessment methodologies capable of capturing the complex interdependencies between social, economic, cultural, and ecological systems, as well as the incorporation of adaptive management approaches that allow for project modifications based on monitoring results and changing conditions.

Ultimately, sustainable solutions to balance development needs with community rights require a paradigm shift from an extractive tourism model towards a regenerative tourism approach that not only minimizes negative impacts but actively contributes to the restoration and enhancement of social, cultural, and ecological systems in tourist destinations (Safari et al., 2023). This paradigm shift must be supported by comprehensive education and capacity building programs for all stakeholders, development of appropriate technologies for sustainable tourism operations, and creation of enabling policy environment that incentivizes responsible investment and community participation in tourism value chains. Without this comprehensive fundamental reform, the risk of social conflict and environmental degradation will continue to lurk in every development initiative that uses the justification of public interest, threatening not only the long-term sustainability of tourism village development programs in Indonesia but also the social cohesion and environmental integrity that are the foundation of national development.

CONCLUSION

This study finds that Indonesia's legal framework for land acquisition in tourism village development is characterized by overlapping mandates and normative inconsistencies between Law No. 2 of 2012 on Land Acquisition, Law No. 6 of 2014 on Villages, and Law No. 10 of 2009 on Tourism. The broad and undefined scope of "public interest" has created legal uncertainty that favors state discretion and external investment, while providing few safeguards for local communities. Rather than ensuring clarity, the framework enables land dispossession under the guise of development.

The analysis further demonstrates a gap between the ideals of community-based tourism and the actual implementation of land acquisition procedures.

Participation is largely procedural, with consultation reduced to ex-post facto formalities that exclude meaningful community input. The absence of Free, Prior, and Informed Consent (FPIC) standards in Indonesian law compounds this weakness, leaving indigenous and customary land tenure systems without effective protection. This contradiction produces outcomes that disempower local communities, despite the policy rhetoric of empowerment and inclusion.

To better align tourism development with community rights, several legal reforms are essential. A narrowed and testable definition of “public interest” must be adopted, FPIC should be integrated as a procedural safeguard, and compensation standards need to move beyond reliance on Tax Object Sale Value (NJOP) to reflect social and cultural values. Harmonisation across relevant statutes and the creation of an independent oversight body would further ensure that land acquisition supports development without sacrificing community justice.

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