

RESEARCH ON LAND EXPROPRIATION RISK OF CHINA HIGH SPEED RAIL OVERSEAS CONSTRUCTION PROJECT* - A CASE STUDY OF JAKARTA - BANDUNG HIGH - SPEED RAIL

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Abstract: As a large complex project, how to complete the land acquisition of high-speed railway in the specified time and cost effectively plays an important role on the success of this project under the difficult situation of land acquisition investment environment abroad. This paper take the Jakarta-Bandung High-Speed Rail Project in Indonesia as an example, analyzed the risk characteristics of the Jakarta to Bandung high iron land acquisition in depth, and put forward "enterprise as the leading, government support, the project is foothold" three level land acquisition risk management structure, constructed the "national-enterprise-project" three-level risk management linkage mechanism about land acquisition, provided a certain degree of basis for the Jakarta to Bandung high iron land acquisition risk management.

Key words: Jakarta-Bandung high-speed rail; risk of land acquisition; countermeasures and suggestions.

I. INTRODUCTION

Along with the implementation of the "One Belt One Road" strategy and the "Go globally" strategy, the number of Chinese companies investing abroad is increasing. In 2015, a total of 6,532 overseas enterprises in 155 countries / regions were non-financial directly invested by Chinese investors, with an accumulative investment of \$ 118.02 billion. Among them, the scale of investment of the countries along the "One Belt One Road" is \$ 148.2 billion^[1]. Land acquisition is one of the important prerequisites for enterprises to invest in infrastructure construction. The land expropriation will not only affect the success or failure of the project, but also affect the personal and group interests of the host country, and even intensify social contradictions and trigger social conflicts, such as the Saudi project which suffered huge losses as a result of land acquisition^[2], the Nicaraguan Canal Project which was endangered by local farmers^[3], and the Myanmar Chinese-funded Copper Project which caused land conflicts^[4]. Therefore, how to solve the cross-border land acquisition is one of the most important issues for

*: Jointly funded by China - ASEAN Collaborative Innovation Center for Regional Development Research Project, Ministry of Education Changjiang Scholars and Innovation Team Development Program. (Contract No. CW201509).

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Chinese enterprises to enter the international investment market.

Indonesia is the largest economy in Southeast Asia, and is also one of the important cooperative countries of China to implement the strategy of "One Belt One Road". Indonesia has 3.166 million square kilometers of the ocean area, and its transport mode is mainly maritime. The other transport facilities such as railways, highways are long behind and greatly affect the economic development of Indonesia. Therefore, the Indonesian government urgently needs to drive the domestic investment and development through the infrastructure construction. Railway, as one of the important infrastructure of social development, plays a huge supporting role in the economic development of all countries. China's high-speed rail will become an important booster of the implementation of the "One Belt One Road" strategy of the country, with its technology, capital, cost and building capacity highlighting its unique advantages. In the high iron supply demand environment of China and Indonesia, the Chinese consortium led by China Railway Corporation signed the joint venture agreement with Indonesian Consortium, which consists of PT Wijaya Karya, PT Kereta Api, PT Jasa Marga and PT Perkebunan Nasional ^[5]. And China successfully won the bid for Jakarta-Bandung high-speed rail. Well, the project is a sign of China's high-speed rail into the international high-speed rail market, with a clear lead and exemplary role. And especially the mode of cooperation and output is a major innovation. However, the economic, social, technological and political factors of Indonesia will have a significant impact on whether Jakarta-Bandung high-speed rail will complete the construction within the specified time, meeting the high standards and high quality standards set by the contract.

Different from the general construction projects, high-speed rail is a typical linear project, usually across multiple administrative area, involving a number of land ownership units, with the need to collect large amounts of land. For example, the total length of China's West Ring high-speed rail in the territory of Lin Gao is only 30.86 km. But it covers 2603 mu of Land acquisition area, 1257 mu of temporary land and involves the demolition of housing area of 6353 square meters ^[6]. As a prerequisite for the smooth operation of high-speed rail, the land acquisition will not only affect the normal implementation of the project, and may even lead to land disputes and conflicts. According to a survey conducted by the Islamic Development Bank in 2009, investors found that one of the most difficult reasons for infrastructure development in Indonesia was land expropriation ^[7]. For instance, Citra Marga Nusaphala Persada (CMNP) is the first private toll road operator in Indonesia, but the cost of land continues to rise as a result of land expropriation, disrupting the normal operation of the project. Jakarta-Bandung high-speed rail connections to the Indonesian capital Jakarta and Bandung. Cerro Sumarzan ^[8] describes the process of land reform after Indonesia's independence. It focuses on analyzing "the Basic Land Act" and "the Law on Contracts for the Distribution of Grain". Wang Zhengli ^[9] regarded the land acquisition regulations approved by the Indonesian Congress in 2011 as the object, analyzed the legal basis and the expropriation process of land requisition, and provided the legal basis for the real land acquisition project in Indonesia. Shan Yongqi and Zhang Yu ^[10] analyzed the difficulties of land acquisition for foreign capital enterprises in the process of

investment and construction in Indonesia, sorted out the basic procedures of land acquisition in Indonesia and made some recommendations for Chinese enterprises into Indonesia.

These studies have focused on legal studies of land acquisition in Indonesia, while ignoring the process risk of land acquisition in Indonesia. Especially, The "Indonesian high-speed rail was halted" ^[11], which was caused by the fact that a construction permit or a concession agreement had not yet been issued on January 29, 2016, was proved to be untrue ^[12], but have to cause the joint venture company to pay attention to how to effectively manage the land expropriation risk. Therefore, in this paper, the problem of land acquisition in Jakarta-Bandung high-speed rail is taken as the research object. The process of land acquisition in Indonesia is analyzed and compared, and the difficulties and risks in the land expropriation are analyzed emphatically. Suggestions and countermeasures are put forward for the risk control.

II. THE CHARACTERISTICS OF LAND ACQUISITION IN JAKARTA-BANDUNG HIGH-SPEED RAIL

1. A wide range of demolition and complex external environment

Jakarta-Bandung high-speed rail length of 140 km, connecting Jakarta and Bandung, is a linear project with clear characteristics of ribbon, strip and so on. Different from the general project, the Jakarta-Bandung High Speed Rail Project needs to span a number of areas, not only involving the collection of state-owned land, but also the collection of 240 hectares of agricultural land, and the relocation of 728 rural households ^[13]. In addition, according to the relevant reports that the land acquisition of Jakarta-Bandung high-speed rail mainly concentrated in West Java province, the province contains a number of volcanoes such as capsizing. At the same time, because Indonesia is in the Pacific Volcanic earthquake zone, it is vulnerable to volcanoes, earthquakes, floods and other natural disasters. And for high-speed rail such as complex projects, it increases the project preparatory work while increasing the difficulty of project construction.

2. Difficult planning and design and more temporary land use

Jakarta-Bandung high-speed rail through the plateau, basin and other types of areas, because of volcanoes, earthquakes and other geological factors, the line planning and design of the project is more difficult. At the same time, according to Indonesia's land expropriation of the relevant laws and regulations, the planning and design of the project needs to adapt to national and regional planning. Besides, joint ventures not only need planning, construction, operation and management of high-speed rail, but also commercial development along the high-speed rail, which requires joint ventures to have high-speed rail resources distribution, population mobility, and other factors to conduct detailed research, rational planning of lines and sites. High-speed rail as a complex large-scale projects, in addition to line land, but also involves a large number of temporary land, such as beam prefabricated field, laying base, mixing field. These temporary land need to be completed after the completion of the project for its reclamation, because of its

great impact on local residents living environment.

3. Involving many agencies and land acquisition procedures are complex

During the process of land acquisition in China, many land acquisition enterprises sometimes adopt the mode of "design, construction, demolition and relocation" when the relevant land acquisition procedures are not completed. However, the land expropriation procedure is expressly stipulated in Indonesian law. The model is clearly not feasible in Indonesia's national conditions. Indonesia's land acquisition process includes planning, preparation, implementation and delivery phases, the work of the various stages shown in figure 1. At various stages, the public can put forward corresponding opinions on the land acquisition of the project, or bring the lawsuit to the law within the stipulated time. In addition, before land acquisition commences, joint ventures are required to obtain multiple permits, which relate to various government agencies, such as the Ministry of Forestry, the Ministry of Transport, the Ministry of Public Works. Therefore the efficiency of various government agencies and the inter - Coordination will directly affect the start time of the Jakarta-Bandung high-speed rail. However, the issue of licenses has always been one of the problems affecting foreign investment in Indonesia. According to the World Bank's ranking of operators' environment, China ranked 84th, while Indonesia ranked 109th^[14], so it is hard for the joint venture to obtain relevant documents and procedures as soon as possible.

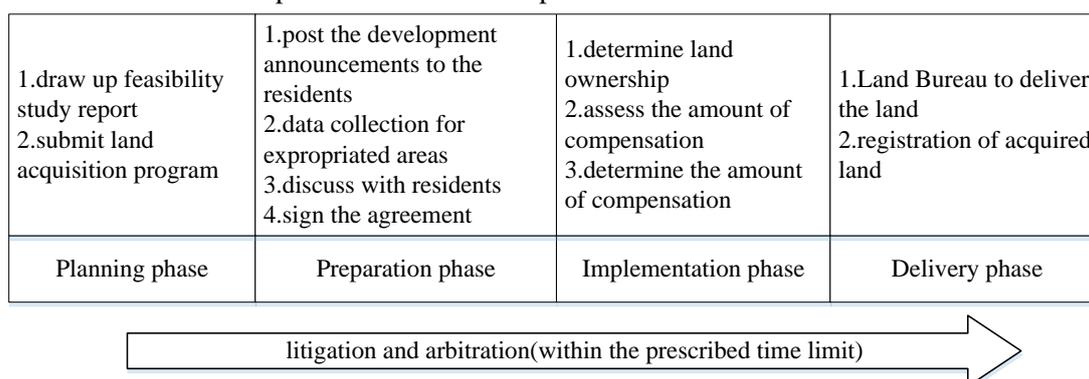


Figure 1. Land Acquisition Procedures and Content in Indonesia

4. Relevant subjects too much and it is difficult to harmonize

Different from the general project, high-speed rail project has long construction period, large-scale investment, involving too much subjects and another features. From the preparation stage of the project to the completion of the project phase, the various subjects need to harmonize and communicate with each other to varying degrees. In addition, the behavior and efficiency of the construction unit, design unit, the land acquisition unit and the host institution will affect the progress of the land acquisition process in the land acquisition process of the Jakarta-Bandung High Speed Rail Project, not only affected by the joint venture company. The concrete results are shown in figure 2.

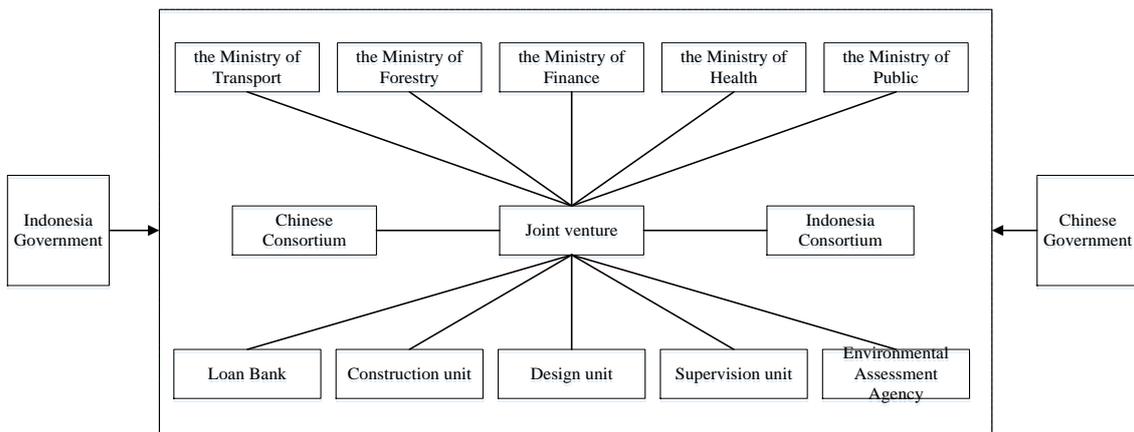


Figure 2. *Relevant Subjects of Land Acquisition in Indonesia*

As can be seen in figure 2, for Chinese enterprises, it is not only necessary to coordinate the cooperation and communication with relevant organizations and enterprises in Indonesia, but also to coordinate with other enterprises involved in the process of land acquisition. At the same time, maximizing the arrangement of the land acquisition process of human, material and financial resources to make Jakarta-Bandung high-speed rail project completed successfully and efficiently in the required time, within a reasonable budget. At the same time, they need to maximize the arrangement of the land acquisition process of human, material and financial resources, making Jakarta-Bandung High Speed Rail Project completed successfully and efficiently in the required time and within a reasonable budget. From this, there is no doubt that this will be a great challenge.

5. Affected by the land acquisition greatly

China is the implementation of the land of socialist public ownership, while Indonesia is the implementation of land private ownership system. In other words, in the process of land acquisition in Indonesia, joint ventures can carry out a transaction with the landlord directly. And there is a game relationship between the two. Although the Indonesian government has made it clear that how to deal with these projects for the purpose of achieving the public interest, land expropriation will still be influenced by different degrees of local levy. For example, since some of the private land in Indonesia is not registered with the land administration, there is an unknown boundary and unclear ownership. It is not only difficult to specify the area of land requisitioned and the amount to be compensated, but also increased the difficulty of land acquisition and land acquisition disputes, the possibility of conflict, as well as land acquisition time. In addition, with the increase in land acquisition in Indonesia, Indonesia landlords gradually realized the importance of land acquisition for project construction. In turn, the possibility of bidding up the price and hindering the construction and so on affects the cost and progress of land expropriation.

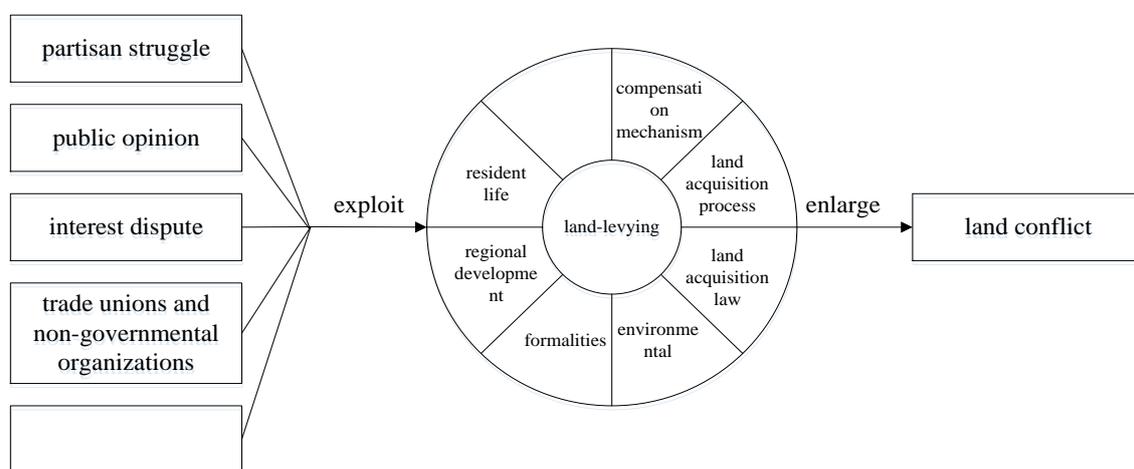
6. Long time to resolve land dispute with complex procedures

As the land expropriation directly related to the interests of relevant personnel, so often there will be disputes and conflict, due to uneven distribution of benefits, insufficient compensation and other causes. According to the Indonesian Land Reform Association (KPA) data ^[15], only in 2013, Indonesia caused 22 people to death as a result of violent conflict because of land acquisition, involving 140,000 households. Indonesia PT Bhimasena Electric Power

Company, which is responsible for the construction and operation of the Batang Power Plant project, delayed for many years because of land disputes ^[16]. Identically, Foxconn canceled the plan to invest and build factories in Indonesia because of land acquisition ^[17]. The new land acquisition law provides for the land acquisition process of arbitration, but the litigation process is still more complex and lasts longer. Therefore, in the event of land dispute litigation cases, it is undoubtedly a risk for Jakarta-Bandung high-speed rail to complete within 3 years. At the same time, due to the private ownership of the land, the ownership of some land is unknown and the compensation requirements of interest parties are different. The Government of Indonesia has not formulated a clear solution to such land acquisition problems, which is difficult for arbitration to achieve reconciliation between joint ventures and landowners within a limited time and difficult to guarantee an efficient settlement of conflicts and disputes too.

7. Without the Indonesian government guarantee, the risk increases

The scope of government's guarantee in the construction of infrastructure projects mainly includes such aspects as operation, return on investment and environment ^[18], among which the environment includes land supply and conflict resolution mechanism. Under the environment where the land acquisition is difficult in Indonesia, joint ventures need to bear the risk of land acquisition independently, because the Indonesian government does not guarantee the supply of land. So in the absence of a negotiated inconsistency or land conflict, in the case of an effective conflict resolution mechanism, the Jakarta-Bandung high-speed rail project's progress will inevitably be blocked and risk cost of the project will be increased. In addition, there are partisan factions, party rotations, public opinion and other multiple risks in Indonesia, some people may enlarge the land acquisition conflict (shown in figure 3) and further aggravate the land acquisition risk, by using the land acquisition problem of Jakarta-Bandung high-speed rail.



external causes

internal causes

Figure 3. The Relationship between Internal and External Causes of Land Acquisition Conflict

III. SUGGESTIONS ON LAND ACQUISITION RISK MANAGEMENT OF JAKARTA-BANDUNG HIGH-SPEED RAIL

Jakarta-Bandung high-speed rail is China's high-speed rail all-round overall out of the first

single, but also China's "The Belt and Road" initiative demonstration project, which is very important for promoting China's high-speed rail to the international market. So more important is the strategic significance of the Jakarta-Bandung high-speed rail at the national level. Based on the characteristics of Jakarta-Bandung high-speed rail land acquisition, "enterprise as the leading, government support, the project is foothold" three-level land acquisition risk management structure is established, the risk management mechanism of land acquisition at all levels is improved and a holistic and systematic risk management system of land acquisition is formed, so as to ensure the smooth progress of Jakarta-Bandung high-speed rail land acquisition work.

1. Risk Management of Land Requisition in State Level

The issue of land acquisition by Jakarta-Bandung high-speed rail has attracted wide attention. The success of land acquisition will directly affect the cost and progress of the project. Chinese government should start from the following aspects. (1) To build a good cooperation atmosphere for the land acquisition from the national level; to strengthen the bilateral cooperation in trade, security energy and investment; to establish a profound relationship of mutual trust and create a good external environment for the China's high-speed rail. (2) To communicate the problem exist in process of land acquisition with Indonesian government; to urge the Indonesian government to adopt corresponding safeguard policies, and especially try to negotiate with the Indonesian government on the handling procedures of land acquisition formalities if circumstances permit to speed up the formalities for the efficiency, thereby speeding up land acquisition. (3) To carry out targeted diplomatic work to enable the objectives of Indonesia Government in the Jakarta-Bandung High-Speed Rail Project in the consistency, unity of thinking and action on a high degree of cooperation so that both sides can clearly understand the responsibility and obligation in the construction process of the Jakarta-Bandung High-Speed Rail Project, and construct the situation of benefit sharing and risk sharing.

2. Risk Management of Land Expropriation in Enterprise Level

(1) Strengthen the coordination between the relevant units

As a result of the Sino-Indonesian joint venture model adopted by Jakarta-Bandung high-speed rail (including several Chinese and Indonesian enterprises), the consortium of the two parties will inevitably have differences in culture and management in the construction of the project. These problems will have an impact on the project construction, business management and other aspects. Strengthening the coordination between the relevant units not only requires the relevant units in the land acquisition goals to maintain a high degree of consistency, but also need to smooth the flow of information so that all relevant enterprises understand their own tasks and responsibilities in all phases of land acquisition, to exert the greatest value of oneself, speed up the efficiency of land acquisition and ensure the effect of land acquisition.

(2) Control the funds in and out to establish a strict audit mechanism

The land acquisition process of high-speed rail involves many links and complicated

processes, which are directly linked to economic interests. Especially in the situation of corruption in Indonesia, a rigorous auditing system should be established to prevent the occurrence of violating disciplinary violations. According to the Land appraisal institution' determination on the land compensation price, establish a special fund and earmark for special purpose. Around the "preparation, planning, implementation, delivery" four land acquisition stage, strengthen the source, process, clearing of land compensation these three core links monitoring.

Through the introduction of comprehensive cost management and meticulous management concept (shown in figure 4), identify the potential risk of land acquisition in advance and formulate the corresponding response measures to ensure the implementation of funds to the land acquisition.

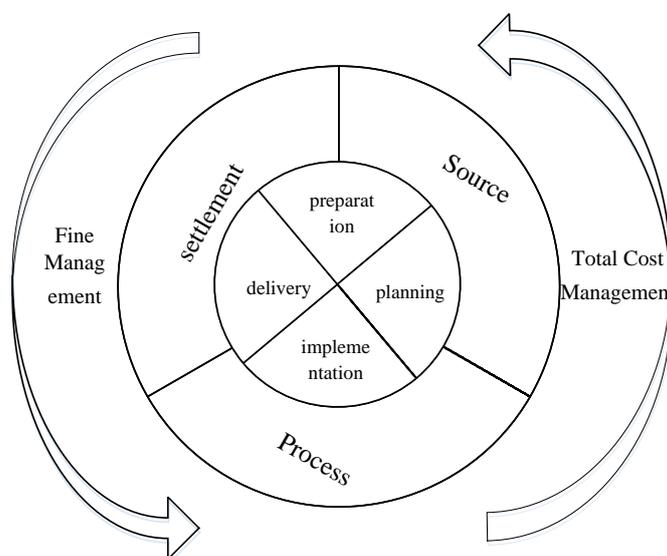


Figure 4. Investment Management System

(3) Establish a variety of reasonable compensation mechanism

Jakarta-Bandung high-speed rail has the dual attributes of commercial and public interest, which is the essence of improving the quality of the living standards of Indonesian residents while realizing the profitability of the enterprise. Land acquisition is partly able to obtain a sum of money from the expropriated. However, in the long run, there are still problems. For farmers with high dependence on land, even if they receive the corresponding compensation, but because of the lack of skills necessary for employment, it is difficult to obtain a long-term source of income. Therefore, the joint venture should establish a variety of reasonable compensation methods for land acquisition (shown in figure 5), with full respect for the wishes of local residents. For instance, for farmers with high dependence on land, should obtain land by way of land replacement. As for the young labor force, should establish employment funds, carry out the appropriate employment training to improving the knowledge and skills, and provide personnel reserve for the commercial development of the Jakarta-Bandung high-speed rail along. In addition, the community transformation, social security funds ^[19-21] and venture

capital funds and other means should be obtained to improve the living standards of field personnel and to achieve regional sustainable development.

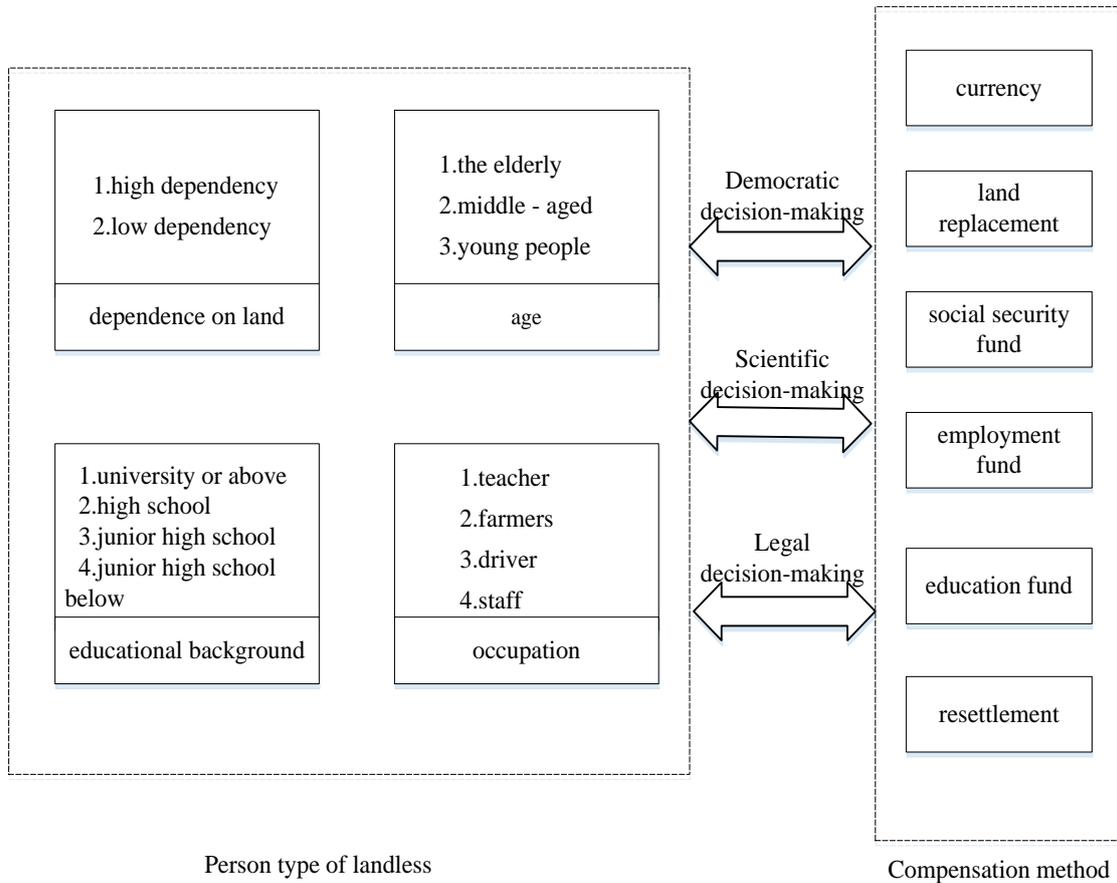


Figure 5. Compensation Mechanism

(4) Establish early Warning and Emergency Mechanism of Land Acquisition Risk

The problem of land acquisition in Indonesia is a long-standing problem, which is undoubtedly a great risk for large and complex projects such as Jakarta-Bandung high-speed rail land acquisition.

Therefore, it is necessary to expand and optimize the traditional risk management process (risk identification - analysis - evaluation - response -), change from ex-ante to early-warning and form the risk management system, which combine traditional "risk identification - risk assessment - risk response - risk monitoring" with "early prediction - preliminary judgment - early intervention - advance to resolve ", and use PDCA method to optimize management process continuously too. In addition, it is need to strengthen the participation of relevant units and personnel in land acquisition risk management, establish risk management system of whole process, and form.

A harmonious orderly three-level linkage mechanism of "national-enterprise-project" (shown in figure 6) to ensure orderly land acquisition work.

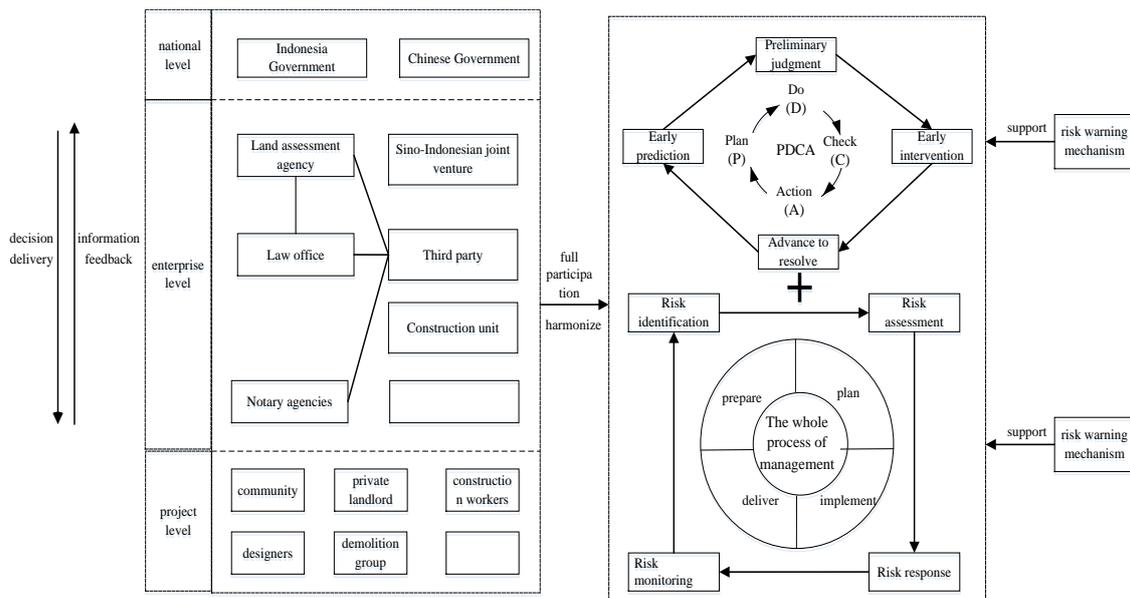


Figure 6. The Design of Three-Level Linkage Mechanism

3. Strengthen the Risk management of Project Land Acquisition in Project Level

(1) Introduce third-party authority actively

Due to the fact that some of the land in Indonesia does not match the landlord information and the land ownership is unclear, and so on, the joint venture will inevitably have problems in the land survey. In particular, when the land levied at the same time belongs to multiple owners, it will not only lead to the cost increase, but also result in disputes arising from the measurement area, the amount of compensation. Therefore, the joint venture company should obtain the relevant information of the land and its owner in advance, entrust the professional organizations to conduct on-site exploration and survey, consult the relevant local governments and landlords on the land in doubt to ensure the compensation to the actual owners. At the same time, it should introduce the notary transaction process to carry out the notarization and clarify that the land transaction conformed to the relevant laws and regulations of Indonesia, and reduce the land dispute as far as possible. In addition, it is necessary to make effective use of local legal institutions and hire professional lawyers to form a special legal department which is responsible for legal advice, legal advisers, disputes and other related work to ensure the legitimacy of land acquisition procedures, procedures, relevant information.

(2) Take "hardness to easiness and on the face of difficulty" land acquisition strategy

In general, the land transaction is not easy, need to go through a certain negotiation process. For the Jakarta-Bandung linear engineering, once the line on a certain land acquisition failure will affect the construction of the entire project. Therefore, the joint venture should be targeted at some "stubborn elements" to take a targeted strategy, and develop different solutions in the full understanding of the interests of landowners demands and their views on land acquisition work. At the same time, the joint venture should seek the understanding and support of landowners actively and overcome difficulties to fully resolve the contradictions and conflicts in land acquisition process through seminars, face-to-face communication and other means. Besides, the joint venture should establish a good relationship of mutual trust with local

governments, and take the way such as the introduction of incentive mechanism design, sharing of benefits, risk-sharing, so that local governments give full play in coordination and communication role in land acquisition.

(3) Establish transparent land acquisition procedures

One of the main causes of land acquisition conflict is land acquisition procedures and information opacity^[22-25]. Due to the differences in the society and culture between Indonesia and China, the landowners in Indonesia are cautious and skeptical about the land acquisition. In addition, some Indonesian officials have raised objections to the environmental impact and urban planning of Jakarta-Bandung high-speed rail, so that the land expropriation of it faced more difficulties. Therefore, in order to avoid the contradiction because of information asymmetry and non-smooth communication, joint ventures should make use of the media such as TV, official network platform, newspapers (Jakarta Post, International Daily, etc.) to publicize the details of land acquisition and make information transparent. What's more, it is helpful to establish a good corporate image through depth publicity that Jakarta-Bandung high-speed rail is beneficial to Indonesia's national, social and regional development.

IV. CONCLUSION

With the gradual increase of investment and construction of Chinese enterprises in Indonesia, the problem of land requisition always affects the progress of the project. Especially for the large-scale and complex projects with long construction period, large investment scale and many subjects involved, the land acquisition problem is undoubtedly a huge challenge for the Jakarta-Bandung high-speed rail which construction period is 3 years. Based on the analysis of the internal and external characteristics of the land acquisition process of Jakarta-Bandung high-speed rail, this paper analyzes the risk points of Jakarta-Bandung high-speed rail in the process of land expropriation, puts forward the "enterprise as the leading, government support, the project is foothold" three-level land acquisition risk management structure, and build a "national - enterprise - project" three-level land risk management linkage mechanism to strengthen the full participation and the whole process of management philosophy, which provides a certain degree of basis for the Jakarta to Bandung high iron land acquisition risk management. There are many factors involved in the success of the Jakarta-Bandung High-Speed Rail Project. And land acquisition is only one aspect of the project construction. To ensure the success of the project, it is necessary to consider the project from the overall perspective. Therefore, we need to do further research for the project management, operational standards, emergency plans and other aspects in future.

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