

Designation of Land for Expropriation and Compensation for Property Rights in the Construction of the Semarang-Demak Toll Road

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Abstract

This study aims to analyze the parameters for designating land as expropriated and the mechanisms for providing compensation for community property rights in the construction of the Semarang-Demak Toll Road. The main issue arises when land that still holds economic value for residents is designated as expropriated, resulting in compensation shifting from conventional compensation to a Goodwill Fund, which is considered to offer insufficient legal certainty. The research method employed is a legal-empirical approach using a case study methodology. Primary data was collected through field interviews, while secondary data includes primary, secondary, and tertiary legal materials analyzed using descriptive qualitative methods. The findings indicate that the designation of land as “expropriated” is based on cumulative parameters: changes in physical form, the loss of land boundaries, and the total loss of the land’s economic function. The regulatory transformation from Presidential Regulation No. 52 of 2022 to Presidential Regulation No. 27 of 2023 marks a significant paradigm shift, wherein the assessment of the Compensatory Fund is now professionally conducted by the Public Appraisal Services Office (KJPP) using the income capitalization method. Although land rights are legally and formally extinguished under the UUPA, the provision of the Redress Fund continues to be implemented as a social policy instrument reflecting the principle of distributive justice for affected groups. In conclusion, the effectiveness of this policy requires inter-agency collaboration through an



Integrated Team as well as a more comprehensive legal reformulation to ensure that the protection of citizens' economic rights remains safeguarded within National Strategic Projects.

KEYWORDS

Land Acquisition, Compensation, Goodwill Fund, Semarang-Demak Toll Road.

Introduction

In Indonesia's agrarian legal system, land regulations are based on Law No. 5 of 1960 on the Basic Provisions of Agrarian Law (UUPA). The UUPA stipulates that the earth, water, and airspace are under state control and must be utilized to the greatest extent possible for the prosperity of the people. Land rights under the UUPA are not absolute but have a social function, so their utilization must take into account the interests of the broader public.¹ This concept of the social function of the state serves as the basis for the state's legitimacy to regulate, restrict, or even revoke land rights in the public interest, provided that such actions are carried out in accordance with the law and ensure the protection of landowners' rights.

In line with the growing need for national infrastructure development, the state has been granted the authority to acquire land for development in the public interest. This authority is specifically regulated under Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest.² This law stipulates that all land acquisitions must be carried out in accordance with the principles of humanity, justice, legal certainty, transparency, and public welfare, and must be accompanied by the provision of fair and

¹ Boedi Harsono, "Hukum Agraria Indonesia," *Buku Dosen-2014*, 2015.

² Zalfa Dhea Fairuz Shofi, Rahayu Subekti, and Purwono Sungkowo Raharjo, "Aspek Hukum Ganti Rugi Dalam Pengadaan Tanah Untuk Kepentingan Umum," *Jurnal Komunitas Yustisia* 5, no. 1 (2022): 290–99.

adequate compensation to the rightful parties prior to the transfer of land rights.³

However, in practice, the implementation of land acquisition often gives rise to various legal issues and social conflicts. The problems that arise are not only related to the amount of compensation but also concern the process of determining who is entitled to receive compensation, the consultation mechanism, and procedural ambiguities that directly impact the well-being of landowners. Land acquisition conflicts are often triggered by a lack of transparency in land valuation, differing perceptions between landowners and the appraisal team, and weak dialogue mechanisms between the government and affected communities.⁴ This situation indicates that although a normative framework is in place, its implementation on the ground still faces serious challenges.

In recent developments in land law, the designation of extinct land has emerged as a new legal category with significant implications for land ownership rights. This phenomenon has gained an administrative basis through Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 17 of 2021 on Procedures for the Designation of Abandoned Land. In this regulation, abandoned land is defined as land that has undergone physical changes due to natural events or other causes, rendering its boundaries unidentifiable and preventing its proper utilization.⁵

ATR/BPN Regulation No. 17 of 2021 also establishes a mechanism for granting landowners the opportunity to carry out reconstruction or reclamation within a specified period before the land is designated as abandoned land. If the landowner is unable to carry out reconstruction or the government takes over the process for the sake of a development project,

³ Muwahid Muwahid, "Hukum Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum" (Duta Media Pamekasan Madura, 2020).

⁴ Adrian Sutedi, *Implementasi Prinsip Kepentingan Umum Di Dalam Pengadaan Tanah Untuk Pembangunan* (Sinar Grafika (Bumi Aksara), 2020).

⁵ Bunga Desyana Pratami et al., "Status Hukum Tanah Musnah Berdasarkan Permen ATR/BPN No. 17 Tahun 2021," *Officium Notarium* 1, no. 2 (2021): 218–29.

the land is declared abandoned and the land rights are deemed extinguished.⁶ The legal consequence of this ruling is that landowners do not receive compensation as provided for in the Land Acquisition Act, but instead receive only voluntary goodwill payments that do not fully reflect the economic value of the land. It is this fundamental difference between the concepts of compensation and goodwill payments that has given rise to legal debates and legal uncertainty.⁷

This legal phenomenon becomes increasingly relevant when applied to large-scale development projects, one of which is the Semarang Toll Road Project. This project is part of a National Strategic Project aimed at improving regional connectivity while also serving as a seawall to mitigate tidal flooding in the coastal areas of Central Java.⁸ In its implementation, the construction of this toll road requires the acquisition of large tracts of land, including land owned by local communities located in areas prone to flooding and coastal erosion. These geographical conditions cause some of the land to undergo physical changes, potentially leading to its designation as land subject to expropriation.⁹

Problems arise when land that had been administratively designated as a planned development site several years prior is subsequently declared as land to be cleared, resulting in landowners receiving only compensation for hardship rather than full compensation for losses. This situation raises serious questions regarding fairness and legal certainty in land acquisition. In practice, a significant number of plots categorized as “land to be cleared” are still utilized by the community for economic activities, such as fish ponds and fisheries, indicating that these lands still possess practical utility and

⁶ Pratami et al.

⁷ Satriya Parama Putra Wibawa, Priyo Katon Prasetyo, and Sudibyanung Sudibyanung, “Kelayakan Nilai Ganti Kerugian Tanah Musnah Sebagai Penanganan Dampak Sosial Pada Pengadaan Tanah,” *Widya Bhumi* 3, no. 2 (2023): 152–72.

⁸ Maylia Sita Aifadianis, “Analysis Of The Effectiveness Of Destroyed Land Management In National Strategic Projects (Case Study : Semarang-Demak Toll Road) Analisis Efektivitas Penanganan Tanah Musnah Dalam Proyek Strategis Nasional” 5, no. 1 (2025): 360–88.

⁹ Raflinov Quraisy, “Dampak Terhambatnya Pembangunan Jalan Tol Semarang-Demak Akibat Kepemilikan Tanah Musnah Masyarakat,” *Jurnal Globalisasi Hukum* 1, no. 2 (2024): 219–35.

economic value.¹⁰ This highlights a discrepancy between normative regulations and the physical reality of the land.

The issue of declaring land forfeited is not merely a matter of law; it also has significant social and economic implications. When land rights are revoked without the provision of adequate compensation, landowners risk losing their livelihoods and their means of security.¹¹ This situation runs counter to the primary objective of land acquisition for public interest, which is to improve the overall well-being of the community.¹²

In addition to normative and legal aspects, the issue of land acquisition for the construction of the Semarang Toll Road also highlights institutional and governance challenges in the land sector. The decision-making process, which involves various agencies ranging from the central government and local governments to the National Land Agency (BPN) has, in practice, not yet been fully coordinated, transparent, or participatory.¹³ Consequently, public distrust has emerged regarding the land policies implemented in the toll road construction project, which ultimately has the potential to trigger horizontal and vertical conflicts between the public and the government.

From the perspective of justice theory, as articulated by John Rawls, public policy should provide fair protection for the most disadvantaged groups.¹⁴ However, in the practice of land expropriation, landowners are actually in a vulnerable position because they lose their property rights without receiving adequate compensation. This indicates that such policies

¹⁰ Maylia Sita Aifadianis, "Analysis Of The Effectiveness Of Destroyed Land Management In National Strategic Projects (Case Study: Semarang-Demak Toll Road)," *Semarang State University Undergraduate Law and Society Review* 5, no. 1 (2025): 360–88.

¹¹ Sri Wahyuni, Teguh Prasetyo, and Umar Ma'ruf, "Legal Reconstruction of Indigenous Land Registration Regulations Based on Dignified Justice," *Scholars International Journal of Law, Crime and Justice* 6, no. 02 (2023): 101–7.

¹² Quraisy, "Dampak Terhambatnya Pembangunan Jalan Tol Semarang-Demak Akibat Kepemilikan Tanah Musnah Masyarakat."

¹³ Aifadianis, "Analysis Of The Effectiveness Of Destroyed Land Management In National Strategic Projects (Case Study: Semarang-Demak Toll Road)."

¹⁴ Fauzi, "Social Justice: The Basis for Implementing Compensation in Land Acquisition for the National Strategic Projects in Indonesia."

do not yet fully reflect the principle of substantive justice, even though they have a formal legal basis administratively.

The legal uncertainty arising from the designation of land for public use also has the potential to exacerbate agrarian conflicts. Landowners who feel economically and legally aggrieved often lack effective mechanisms to defend their rights. Prolonged land disputes can hinder the implementation of development projects, generate social resistance, and erode public trust in the government.¹⁵

Normatively, agrarian law and the Land Acquisition Act guarantee the protection of land rights through the provision of fair and adequate compensation. However, in practice, the designation of land as “destroyed” has the potential to nullify ownership rights without commensurate compensation. This situation calls for an in-depth and systematic legal analysis to assess the legal basis, legal considerations, and practical implications of designating land as “extinct” in the context of toll road development.¹⁶

This study aims not only to analyze the considerations underlying the designation of land as “destroyed” in relation to land ownership rights, but also to assess the compliance of compensation payments with applicable laws and regulations. By examining the interaction between Law No. 2 of 2012 and Ministerial Regulation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency No. 17 of 2021, this study is expected to provide a comprehensive overview of legal protection for landowners in the construction of the Semarang toll road.

¹⁵ Embun Sari, “Reformulasi Kompensasi Tanah Abrasi Dalam Penyelenggaraan Pengadaan Tanah Yang Berkeadilan Di Indonesia (Studi Di Kota Semarang Dan Kabupaten Demak)” (Universitas Sumatera Utara, 2023).

¹⁶ Wibawa, Prasetyo, and Sudibyanung, “Kelayakan Nilai Ganti Kerugian Tanah Musnah Sebagai Penanganan Dampak Sosial Pada Pengadaan Tanah.”

Methods

This study employs an empirical-legal approach that views law as a social phenomenon observable in the practical realities of social life, or law in action. This approach links legal norms in legislation with empirical facts on the ground to avoid speculative reasoning and emphasize objective reality. Additionally, this study utilizes a case-based approach. The research focuses on analyzing the alignment between the legal basis, legal considerations, and the mechanisms for determining land for public use with the principles of legal certainty and justice in agrarian law. This type of empirical legal research examines law as social behavior observed through the actions of government officials, relevant institutions, and public responses. The data sources used include primary data obtained directly through interviews with informants in the field, as well as secondary data consisting of primary legal materials in the form of laws and regulations, secondary legal materials such as journals and textbooks, and tertiary legal materials such as legal dictionaries. Data collection techniques were conducted through a combination of field research and library research. All collected data were then analyzed using qualitative descriptive methods to provide a comprehensive overview.

Result and Discussion

1. Criteria for Determining the Extinction of Land Rights and the Priority Rights of Landowners

National agrarian law fully adopts this principle, as reflected in the provisions of Articles 27, 34, and 40 of the Agrarian Law. These provisions conclusively state that ownership rights, rights of use for business purposes, and rights of use for buildings may terminate or be extinguished

automatically.¹⁷ This legal framework is rooted in the simple logic that a legal entity can no longer exercise its authority to control, use, or enjoy the fruits of a parcel of land if the physical form of that land has been lost due to natural phenomena such as erosion, liquefaction, or volcanic eruption.

Based on the formulation in Article 1(12) of Government Regulation No. 18 of 2021 in conjunction with Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 17 of 2021, the criteria for designating a parcel of land as “destroyed land” are cumulative and based on geological and functional evaluations. The first requirement is the occurrence of a fundamental change in the land’s original form caused by natural events, not by intentional human actions. The second requirement stipulates that the spatial and physical boundaries of the land parcel can no longer be identified in the field. The third requirement, which is the most crucial parameter in determining economic value, is the loss of the land’s capability such that it cannot be utilized, used, or exploited at all in accordance with its original intended purpose.

The application of these three cumulative parameters in the empirical realm often gives rise to disparities between legal texts (*de jure*) and socio-ecological realities (*de facto*), which lead to complex agrarian disputes. In the implementation of the Semarang-Demak Toll Road National Strategic Project mwhich is also designed to function as a massive sea wall to protect against coastal erosion coastal areas of Demak Regency, such as the villages of Bedono and Purwosari, have become the epicenter of this parametric ambiguity.¹⁸ This region is experiencing extreme land subsidence combined with rising sea levels, causing hundreds of residents’ plots of land to be permanently flooded.

¹⁷ Zela Ony Zulfida and Edi Pranoto, “Perlindungan Hukum Terhadap Pemilik Hak Atas Tanah Atas Tanah Yang Musnah,” *Repository Universitas 17 Agustus 1945 Semarang*, 2024.

¹⁸ Cornelia Sekar Anggita, Ana Silviana, and Mira Novana Ardani, “PEMBERIAN GANTI KERUGIAN TERHADAP WARGA TERDAMPAK PENGADAAN TANAH UNTUK PEMBANGUNAN JALAN TOL KARENA TANAHNYA MUSNAH,” *Diponegoro Law Journal* 14, no. 3 (2025).

Administratively, these lands have met the first and second parameters of Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 17 of 2021. However, the evaluation of the third parameter the inability to be utilized or put to use has sparked academic debate and social resistance. In fact, coastal communities in the affected areas have adapted socio-ecologically by transforming the former rice fields or yards flooded by tidal surges into traditional aquaculture ecosystems, such as ponds for raising milkfish and shrimp.

The land's ability to produce these fishery commodities demonstrates that, despite having lost its terrestrial form, it still possesses vital use value and exchange value for family economies. Therefore, the application of "land loss" parameters without rigidly distinguishing between temporary inundation caused by tides and permanent structural subsidence which eliminates all forms of life has the potential to undermine the essence of the human right to a decent livelihood.¹⁹ This situation demands that the competent authorities conduct a more holistic and transdisciplinary analysis, not merely relying on hydrological parameters, but also integrating variables for the valuation of alternative economic productivity in determining the unfitness of a plot of land.

The revocation of rights to private property by state instruments due to force majeure must not be enforced without providing opportunities for mitigation for the affected legal entities. In response to this principle of justice, the post-UUPA land law framework, specifically through Government Regulation No. 18 of 2021 and ATR/BPN Ministerial Regulation No. 17 of 2021, introduces a protective mechanism known as "priority rights." This priority right is designed as a legal safety valve for holders of Management Rights, Ownership Rights, Business Use Rights, or

¹⁹ Dwi Ari Wiranto, "TINJAUAN YURIDIS GANTI RUGI TERHADAP TANAH MUSNAH DALAM PENGADAAN TANAH TERHADAP KEPENTINGAN UMUM (STUDI KASUS GANTI RUGI TANAH DALAM PROYEK JALAN TOL SEMARANG-DEMAK)" (Universitas Islam Sultan Agung Semarang, 2025).

Building Use Rights whose land is strongly indicated to have been destroyed due to natural disasters.

Priority rights are defined as an exclusive prerogative granted by the state to legitimate landowners to undertake remedial efforts through reconstruction or reclamation mechanisms. Through these reclamation efforts, it is hoped that land that has been submerged or eroded can be restored to its original physical form, thereby allowing cadastral boundaries to be re-identified and the economic functions of the land to operate normally. Procedurally, after the Land Destruction Investigation Committee issues a notice of potential destruction, landowners are granted a one-year grace period to declare their willingness in writing and actually carry out the restoration process.²⁰ If the landowner has the financial capacity and technology to reclaim their land before the deadline expires, the threat of revocation of rights under Article 27 of the Land Law becomes legally null and void, and the validity of their land title certificate is fully restored.

However, the implementation of this priority right faces a highly asymmetrical socio-economic reality. Reclaiming coastal land submerged several meters deep due to tidal flooding requires massive geotechnical engineering interventions a prerequisite that logically far exceeds the financial capacity of traditional fish pond farmers or fishermen. Conclusions from various empirical studies indicate that granting priority rights to individuals in cases of large-scale coastal erosion is merely a legal illusion, as it is extremely rare to find residents with the actual capacity to restore severely damaged natural environments.²¹

This dilemma regarding the enforcement of priority rights reaches a critical point when the lost land overlaps with National Strategic Projects

²⁰ Zulfida and Pranoto, "Perlindungan Hukum Terhadap Pemilik Hak Atas Tanah Atas Tanah Yang Musnah."

²¹ Anggita, Silviana, and Ardani, "PEMBERIAN GANTI KERUGIAN TERHADAP WARGA TERDAMPAK PENGADAAN TANAH UNTUK PEMBANGUNAN JALAN TOL KARENA TANAHNYA MUSNAH."

(PSN) controlled by the central government. In the context of macro-scale spatial planning, coastal defense infrastructure such as the Semarang-Demak Toll Road which serves a dual function as a seawall cannot be built in piecemeal fashion or wait for residents' partial capacity to reclaim their respective lands. The speed and connectivity of infrastructure are essential to saving a broader region from the threat of submersion.

To resolve this impasse between individual rights and national urgency, the government has implemented a legal policy of expropriation. This policy was first legitimized through Presidential Regulation No. 52 of 2022, which was subsequently refined and amended by Presidential Regulation No. 27 of 2023 on the Management of Social and Community Impacts on Land Identified as Lost Land in the Context of Development for the Public Interest. This Presidential Regulation contains a fundamental exception: if the land indicated as subject to expropriation falls within a development site for the public interest or a Strategic National Project (PSN), then reconstruction and reclamation efforts must absolutely be taken over and carried out by the Central Government, the Regional Government, or the requesting institution.

The most significant legal consequence of this takeover is that the landowner's "priority right" to independently reclaim the land is officially "set aside" (disregarded) by the force of state law. When this priority right is set aside, the designation of the land as "land subject to expropriation" becomes final and binding, resulting in the legal termination of ownership under state administrative law. As compensation for the willingness of residents whose priority rights are reduced for the sake of national development, the law shifts the instrument of protection from what was originally "physical land restoration" to "financial compensation" in the form of an administrative mechanism known as the Compassion Fund.

2. Subject Validation and Legal Implications Following the Designation of Land as Abandoned

In carrying out its mandate, the National Land Agency (BPN) is structurally bound by the paradigm of administrative law enforcement, which places strong emphasis on the “principle of prudence.” BPN officials face the threat of severe criminal and civil penalties if they are found to have acted recklessly or negligently in issuing a Decision Letter that results in the loss of an individual’s property rights, or if the data validation process causes financial losses to the state.²² Therefore, the BPN’s considerations are always centered on absolute certainty regarding administrative and legal completeness, with no room for compromise.

The BPN’s cautious, often conservative approach frequently clashes head-on with the fast-paced work ethic of the agency requesting the land namely, the Ministry of Public Works and Housing (PUPR). As the budget holder and implementer of the Semarang-Demak Toll Road National Strategic Project (PSN), the Ministry of PUPR is racing against political deadlines and the threat of project cost overruns triggered by delays in land acquisition. The tug-of-war between the BPN’s administrative certainty and the PUPR’s push for accelerated development reflects the classic phenomenon of bureaucratic inertia in Indonesia. At a more critical juncture, local governments find themselves caught between the demands of national development completion and the anger of their constituents, who are pressing for the accelerated disbursement of funds so they can promptly relocate their living spaces.

To eliminate this structural deadlock, the land acquisition policy mandates the formation of a cross-agency instrument called the “Integrated Team.” This Integrated Team is chaired directly by a local government official and brings together representatives from the BPN, PUPR, the

²² Riska Novelia, “PERLINDUNGAN DAN STATUS HUKUM KEPEMILIKAN TANAH YANG MUSNAH DITINJAU BERDASARKAN PERMEN AGRARIA DAN TATA RUANG,” *Kertha Semaya: Journal Ilmu Hukum* 13, no. 11 (2025): 2662–75.

prosecutor's office, and district officials. This team possesses deliberative authority to analyze discrepancies in metrics and projection maps; they conduct reconciliation meetings to synchronize BPN data, PUPR's highway engineering design plans, and local population databases. The existence of the Integrated Team demonstrates that state institutions are capable of restructuring their operational models to be responsive, so that the BPN's prudential considerations no longer act as a bottleneck but are integrated as a credible internal verification function in safeguarding the country's fiscal governance.

The technical challenges faced by the BPN team in the field do not lie in geomorphological aspects, but rather in the administrative validity of legal subject documentation. Massive-scale natural disasters of the slow-onset type, such as coastal erosion, not only gradually erase the existence of land but simultaneously obliterate the legal traces of the community's civilization in a literal sense.

In many coastal settlements that have now become open sea, residents were forced to act in haste without having time to save essential documents. Original land title certificates were damaged by floodwaters; the "Buku Leter C" or "Buku Desa" archives which documented land lineage history dating back to the era of independence were eroded by tidal surges that struck the villages; and the administrative chain of inheritance was drastically severed when first-generation owners passed away without having the chance to transfer the title deeds to their heirs.²³

Under land registration law, as codified in Government Regulation No. 24 of 1997, a land certificate supported by a Land Register at the National Land Agency (BPN) constitutes the definitive proof of ownership. If the state insists on applying this dogmatic and rigid approach in the context of handling lost land in disaster-affected areas, then the majority of residents affected by coastal erosion will automatically be excluded from the list of

²³ Asyer Andawari, "Revitalisasi Hak Atas Tanah Yang Hilang Akibat Abrasi Menurut Undang-Undang Nomor 5 Tahun 1960," *Lex Administratum* 5, no. 2 (2017): 18–19.

recipients of compensation funds.²⁴ This will inevitably result in double victimization for these residents: they have lost their living space due to an ecological disaster, and then lost the state's protection due to the rigidity of the law.

Mitigation measures in the form of public announcements of inventory results are an essential manifestation of the principle of administrative transparency. This principle provides a democratic avenue for the general public to file objections in the event of fictitious land claims by speculators. Meanwhile, the policy requiring compensation to be distributed through a cashless transfer mechanism directly from the state treasury to bank accounts in the names of verified heirs serves as a highly effective anti-corruption shield to block opportunities for unauthorized deductions by corrupt intermediaries within the bureaucracy. This structured discretionary system enables the accelerated disbursement of compensation funds without compromising legal accountability in public financial management.

In the dispute over the designation of land for expropriation in the Semarang-Demak Toll Road Project, the greatest obstacle hindering the deliberation process no longer stems from structural capacity deficiencies at the National Land Agency (BPN) or the substance of Presidential Regulation No. 27/2023, but rather from the thick wall of the legal culture of the coastal community. The legal culture of the local community in the North Coast region places land on a very high sociological level. Land is not merely a piece of real estate whose value can be easily converted into currency; land is a space for communal relations, a marker of historical identity, an ancestral inheritance, and a cultural agrarian livelihood in the form of traditional fish ponds sustained across generations.²⁵

²⁴ Amirsyah Amirsyah, Felicitas Sri Marniati, and Basuki Basuki, "Perlindungan Hukum Bagi Para Pihak Yang Dirugikan Dalam Bidang Pertanahan Akibat Peristiwa Bencana Alam Terkait Bergesernya Batas Tanah," *Jurnal Ilmiah Global Education* 4, no. 1 (2023): 1–11.

²⁵ Izzy Al Kautsar and Danang Wahyu Muhammad, "Sistem Hukum Modern Lawrence M. Friedman," *Jurnal Sapientia Et Virtus* 7, no. 2 (2022): 84–99.

This paradigm shift has, in practice, given rise to significant social resistance. Distrust regarding the motives behind government policies has intensified, sparking collective refusal to sign the minutes of the KJPP assessment. In the face of this complexity, the solutions offered must no longer rely on state instruments (such as forced eviction) or purely litigation-based traps (such as court-ordered consignment), but rather demand a socioculturally grounded, dialogic intervention. A humanistic approach is needed through collaboration between the National Land Agency (BPN), religious leaders, community figures, and village governments to provide a comprehensive understanding that the shift from the NJOP calculation (Presidential Regulation 52/2022) to the professional KJPP method (Presidential Regulation 27/2023) represents the state's genuine intent to restore the economic dignity of its citizens.

Following the conclusion of the public consultation process, the delegation of authority to KJPP, and the completion of the disbursement of compensation funds to verified heirs, the national land registration system requires the updating of accurate geospatial data to restore legal certainty (*rechtszekerheid*) regarding territorial space.

The Ministerial Decree (SK) regarding the designation of extinguished land, issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), serves a dual function as both a land acquisition document and the legal basis for the administrative revocation of rights. Through this SK, the BPN is legally obligated to execute the "Closure of Land Records." Certificates of Ownership, Right to Build, or Right of Use previously registered in residents' names are *de jure* nullified and permanently removed from the national land registry. Physical certificate documents that residents may still hold onto emotionally are, in material terms, no longer deemed to possess any civil evidentiary value before the law. The logical consequence of the termination of these civil rights is the restoration of full control; the former coastal/tidal flat land is reclaimed by state sovereignty and its status is absolutely transformed into

“State Land.”

However, this “State Land” status is not intended to remain in a static or vacuum-like state (*status quo*). Since the initial motivation for the acquisition of this reclaimed land was to accommodate the construction of the state-funded Semarang-Demak Toll Road, the administrative process does not end with the revocation. The Ministry of Public Works and Public Housing (PUPR), in its capacity as the technical institution spearheading infrastructure development, immediately submitted an institutional request to obtain administrative legal control over the expanse of State Land formerly comprising the expropriated land.

Pursuant to Government Regulation No. 18 of 2021 governing land rights, this State Land was converted and re-registered by the National Land Agency (BPN) in the form of a “Right of Management” (HPL), with the certificate issued in the name of the relevant government agency (the Ministry of Public Works and Public Housing or the designated Toll Road Business Entity). The issuance of this HPL status holds immeasurable strategic value for the state’s asset defense system. First, it legally legitimizes the physical construction of concrete toll roads and seawalls to shield them from potential lawsuits regarding spatial mismanagement. Second, the HPL serves as a crucial legal shield to ward off any form of overlapping claims, encroachment by illegal settlements, or land mafia maneuvers that may in the future attempt to exploit reclaimed water areas transformed into capital-intensive commercial land. This sequence reflects the perfection of the cycle of agrarian governance, in which the collapse of ecological space that disrupts land order is ultimately restored by state legal instruments for the sake of a far broader public benefit.

3. The Compatibility of Compensatory Payments with the Principle of Justice

Any discussion of the appropriateness of compensatory payments cannot be separated from the philosophical discourse on the meaning of

justice. Justice is a cornerstone of policy formulation regarding land acquisition and compensation.²⁶ Justice, in an objective sense, means acting impartially and not arbitrarily based on applicable norms. Aristotle, in his classical thought, divided justice into two main categories highly relevant to land acquisition: distributive justice and corrective justice.²⁷

In the context of land acquisition, distributive justice demands that the community making the contribution (in this case, relinquishing their land for the public good) receive a fair share or benefit from the development's outcomes. Meanwhile, corrective justice aims to restore the balance disrupted by a legal action, in this case through the provision of fair compensation.²⁸

Furthermore, John Rawls's theory of justice provides a more progressive framework through the concept of "Justice as Fairness." Rawls proposes two main principles: first, the principle of equal liberty for all, and second, the difference principle. The difference principle states that social and economic inequalities must be arranged in such a way as to provide the greatest benefit to the least advantaged.²⁹ In the context of land loss, landowners who have lost their assets due to natural disasters constitute the least advantaged group; therefore, compensation policies must be designed to provide maximum protection for their economic position.

Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest is the primary legal instrument ensuring that all land acquisitions

²⁶ M Yazid Fathoni, "Konsep Keadilan Dalam Pengelolaan Dan Pemanfaatan Sumber Daya Alam Menurut Undang-Undang Pokok Agraria Tahun 1960," *Jurnal IUS: Kajian Hukum Dan Keadilan* 1, no. 1 (2013): 44–59.

²⁷ Noor Rohmat, "Rekonstruksi Kebijakan Pengadaan Tanah Serta Ganti Kerugian Kepemilikan Tanah Untuk Kepentingan Umum Yang Berbasis Nilai Keadilan" (Universitas Islam Sultan Agung, 2021).

²⁸ Dinda Putri Indrawan, Lego Karjoko, and Rosita Candrakirana, "Prinsip Keadilan Kompensatoris Dan Keadilan Distributif Dalam Pelaksanaan Pengadaan Tanah Untuk Pembangunan Jalur Kereta Api Bandara Soekarno-Hatta," *YUSTISI* 11, no. 1 (2024): 81–93.

²⁹ Samuel Frans Boris Situmorang et al., "Teori Keadilan Sebagai Fairness Karya John Rawls Dikaitkan Dengan Bank Tanah Di Indonesia," *Innovative: Journal Of Social Science Research* 3, no. 2 (2023): 1562–78.

are carried out in accordance with the principles of humanity, justice, and legal certainty. This law mandates the provision of “fair and just” compensation prior to the relinquishment of land rights.³⁰ The value of such compensation is assessed by an independent team that considers various components, ranging from the physical value of the land to non-physical values such as loss of employment or emotional distress (*solatium*).

A crucial legal issue arises when land designated for development is classified as “land to be expropriated” under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 17 of 2021.³¹ Wasteland is defined as land whose physical form has been altered by natural events, rendering its boundaries unidentifiable and preventing its proper use. The legal consequence of this designation is the loss of the landowner’s rights; thus, from a formal legal standpoint, the government is no longer obligated to pay “compensation” as stipulated in Law No. 2 of 2012.

The regulatory transition from Presidential Regulation (Perpres) No. 52 of 2022 to Perpres No. 27 of 2023 marks a fundamental shift in determining the value of compensation funds for communities affected by development. This latest policy definitively eliminates the valuation approach based on a percentage of the Taxable Property Value (NJOP) and replaces it with a professional valuation mechanism conducted by Public Appraisal Service Offices (KJPP). During the period when Presidential Regulation No. 52 of 2022 was in effect, the calculation of compensation funds was often limited to a certain percentage of the NJOP, typically around 25%. This approach

³⁰ D Daud, “Tinjauan Yuridis Pemberian Ganti Rugi Dalam Pengadaan Tanah Untuk Kepentingan Umum,” *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 6 (2025).

³¹ Pratami et al., “Status Hukum Tanah Musnah Berdasarkan Permen ATR/BPN No. 17 Tahun 2021.”

was deemed unfair because the NJOP is often not updated regularly and does not reflect the actual market value.³²

This change is not merely a numerical adjustment, but a paradigm shift in how community rights are viewed. Through the KJPP assessment, the state seeks to provide more proportional compensation for the loss of citizens' assets and resources, even though the legal status of those land rights has been extinguished.³³ From an economic valuation perspective, the KJPP applies parameters that differ from conventional business appraisal standards, where the opportunity cost component or the loss of future income is not fully accounted for. Nevertheless, the appraisal team still considers variables such as land productivity, estimated average income prior to erosion, and reconciliation with current market land values as factors for determining an objective value. This is done while maintaining the appraiser's independence from intervention by relevant authorities, ensuring that the appraisal results are legally and administratively accountable.³⁴

The valuation mechanism under the current compensation fund scheme prioritizes the principle of independence by engaging Public Appraisal Service Offices (KJPP) as professional appraisal entities accredited by the Ministry of Finance. An initial identification process is conducted to map the subjects and objects administratively, which is then followed up with on-site factual verification by the KJPP team to objectively assess the physical condition and characteristics of the land.

³² SATRIYA PARAMA PUTRA WIBAWA, "KAJIAN KELAYAKAN NILAI DANA KEROHIMAN SEBAGAI PENANGANAN DAMPAK SOSIAL TANAH MUSNAH PADA PENGADAAN TANAH UNTUK PEMBANGUNAN JALAN TOL SEMARANG–DEMAK" (Sekolah Tinggi Pertanahan NASional, 2024).

³³ Ferian Fajar, Fatih, and Ilmi, "Implikasi Hukum Pengaturan Kompensasi Tanah Abrasi Dalam Pengadaan Tanah Yang Berkeadilan Di Indonesia."

³⁴ Alya Maulina Theodorus Sendjaja, "This Work Is Licensed under a Creative Commons Attribution- This Work Is Licensed under a Creative Commons Attribution- ShareAlike 4 . 0 International License .," *Jurnal Multidisiplin Saintek* 45, no. 1 (2023): 1–17, <https://jurnalpengabdianmasyarakatbangsa.com/index.php/jpmba/index>.

In determining the nominal amount, there is a methodological distinction between the humanitarian fund and conventional compensation, particularly regarding the calculation of opportunity cost. Unlike pure business appraisals that comprehensively calculate the loss of future income potential, compensation funds apply more limited valuation parameters. Nevertheless, KJPP still integrates land productivity variables, estimates of average income prior to erosion impact, and reconciliation of current land market values as a basis for consideration.

Appraisals conducted by KJPP must adhere to the Indonesian Valuation Standards (SPI). The resulting value is referred to as the Fair Replacement Value (NPW), which ideally should be higher than or at least equal to the market value of the land.³⁵ In the context of flooded land, appraisers use the income capitalization method to determine the economic value of land that remains productive. This method allows appraisers to assign a more realistic value than relying solely on the Official Land Value (NJOP), thereby reflecting a sense of fairness for communities whose agricultural land has been flooded but still yields economic returns.

From a legal perspective, there is a fundamental distinction between the compensation mechanism under Law No. 2 of 2012 and the goodwill fund scheme in the context of handling submerged land.³⁶ Legally, land rights are deemed to have been extinguished if the land has been destroyed by natural phenomena, meaning the government has no obligation to provide compensation for the expropriation of property rights. Therefore, goodwill funds are classified as a social policy instrument and do not constitute pure

³⁵ Galuh Ajeng Eko Putri et al., "Tinjauan Terkait Penilaian Barang Milik Negara Maupun Tujuan Lainnya," *Jurnal Acitya Ardana* 3, no. 1 (2023): 1–16.

³⁶ Anda Setiawati et al., "Akibat Hukum Penetapan Tanah Musnah: Ganti Rugi Atau Dana Kerohiman?," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 14, no. 1 (2025): 87, <https://doi.org/10.24843/jmhu.2025.v14.i01.p05>.

economic compensation equivalent to fair and just compensation for conventional land.³⁷

Although categorized as a social policy instrument, the implementation of this policy is fundamentally grounded in the principle of distributive justice, whereby the state has an obligation to allocate the burdens and benefits of public policy proportionally, particularly for the most affected segments of society.³⁸ Through this approach, the state seeks to mitigate the socioeconomic impacts on affected residents while ensuring the sustainability of the acceleration of National Strategic Projects (PSN) so that infrastructure development, such as toll roads, can proceed in accordance with established targets.³⁹

The concept of “compensation” or “goodwill funds” has historically been frequently used to resolve land disputes involving unauthorized occupation of private land or state-owned land.⁴⁰ However, in the context of a National Strategic Project like the Semarang-Demak Toll Road, the use of compensation funds for legitimate landowners (whose land has been destroyed) constitutes a policy discretion. These funds serve as assistance that acknowledges the willingness of residents to forgo their priority reclamation rights for the sake of national development.

Distributive justice in the provision of compensation funds must ensure equality of rights and provide the maximum reasonable benefit for

³⁷ Sari, “Reformulasi Kompensasi Tanah Abrasi Dalam Penyelenggaraan Pengadaan Tanah Yang Berkeadilan Di Indonesia (Studi Di Kota Semarang Dan Kabupaten Demak).”

³⁸ Adrian Fernando Simangunsong, “Pengadaan Tanah Untuk Pembangunan Ibu Kota Nusantara : Catatan Menurut Teori Keadilan Sosial John Rawls Land Procurement for the Development of Nusantara Capital City : A Note According To the John Rawls ’ Theory of Social Justic,” *Jurnal Pertahanan* 13, no. 1 (2023): 67–84, <https://jurnalpertanahan.id/index.php/jp/article/download/195/60>.

³⁹ Indrawan, Karjoko, and Candrakirana, “Prinsip Keadilan Kompensatoris Dan Keadilan Distributif Dalam Pelaksanaan Pengadaan Tanah Untuk Pembangunan Jalur Kereta Api Bandara Soekarno-Hatta.”

⁴⁰ Ana Silviana and Farah Rana Yunita, “Uang Kerohiman Sebagai Bentuk Ganti Rugi Untuk Penggarap Tanah Tanpa Ijin Pemiliknya,” *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 336–63, <https://doi.org/10.14710/jphi.v4i2.336-363>.

everyone, especially for the vulnerable.⁴¹ Without an adequate compensation fund mechanism, infrastructure development risks causing horizontal and vertical conflicts that will actually hinder national economic progress.⁴²

In the case of the Semarang-Demak Toll Road, the challenge of distributive justice is particularly acute because this project is integrated with the construction of a seawall. This construction aims to protect a wider area from the threat of tidal flooding, but at the same time directly results in residents losing physical access to their land. One of the main pillars of Presidential Regulation No. 27 of 2023 is the guarantee of appraisers' independence. The involvement of the KJPP is intended to maintain a distance from intervention by government authorities requiring land, so that appraisal results are objective and legally accountable.

Accountability in public financial management requires that every expenditure of public funds, including compensation funds, be based on a strong and transparent calculation. With the existence of an official appraisal report from the KJPP that is final and binding, government agencies requiring land have a secure administrative basis for disbursing funds.⁴³

However, the appraiser's independence also carries legal risks. Appraisers bear full responsibility for the results of their appraisals and may face administrative or even criminal sanctions if found to have violated the Indonesian Appraiser Code of Ethics (KEPI) or the SPI.⁴⁴ Therefore, the

⁴¹ Simangunsong, "Pengadaan Tanah Untuk Pembangunan Ibu Kota Nusantara : Catatan Menurut Teori Keadilan Sosial John Rawls Land Procurement for the Development of Nusantara Capital City : A Note According To the John Rawls ' Theory of Social Justic."

⁴² WIBAWA, "KAJIAN KELAYAKAN NILAI DANA KEROHIMAN SEBAGAI PENANGANAN DAMPAK SOSIAL TANAH MUSNAH PADA PENGADAAN TANAH UNTUK PEMBANGUNAN JALAN TOL SEMARANG-DEMAK."

⁴³ Effendry, "Penetapan Ganti Rugi Berdasarkan Undang-Undang Nomor 2 Tahun 2012 Pasal 9 Ayat 2," *Jurnal Hukum Sasana* 11, no. 1 (2025): 1–13, <https://doi.org/10.31599/sasana.v11i1.2975>.

⁴⁴ Dahnir et al., "Peranan Kantor Jasa Penilai Publik (KJPP) Dalam Kegiatan Pengadaan Tanah Untuk Kepentingan Umum (Antara Profesionalisme Dan Perbuatan Melawan Hukum/Tindak

integrity of KJPP in conducting on-site factual verification is key to achieving true distributive justice.

Moving forward, a more comprehensive reformulation of land acquisition laws is needed to anticipate the phenomena of climate change and rising sea levels. The status of “land lost to the sea” should not automatically extinguish property rights entirely, but rather provide options for compensation based on the remaining economic value or priority rights in the use of land resulting from government reclamation.⁴⁵ Additionally, coordination among agencies (BPN, Local Governments) must be continuously improved to minimize administrative barriers in the validation process of beneficiaries of compensation funds.

Overall, the shift from the NJOP methodology to professional appraisals by KJPP within the humanitarian fund scheme represents a concrete step by the state in respecting the dignity and economic rights of its citizens. This policy reflects a synthesis between the need to accelerate national development (PSN) and the state’s moral obligation to uphold distributive justice for communities affected by natural disasters. By maintaining the independence of appraisers and the transparency of the process, the relief fund is no longer merely a token compensation but an accountable social policy instrument oriented toward fair and civilized humanity.

4. Institutional Dynamics and Regulatory Effectiveness as a National Model

To assess whether Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 17 of 2021 and Presidential Regulation No. 27 of 2023 can function effectively in practice, sociologist

Pidana Korupsi),” *IURIS STUDIA: Jurnal Kajian Hukum* 3, no. 3 (2022): 255–63, <http://jurnal.bundamedia grup.co.id/index.php/iuris>.

⁴⁵ Pratami et al., “Status Hukum Tanah Musnah Berdasarkan Permen ATR/BPN No. 17 Tahun 2021.”

Soerjono Soekanto's theory of legal effectiveness becomes crucial. Soekanto posits that the success or effectiveness of enforcing a legal norm does not depend solely on the quality of the legal text itself, but is influenced by five main pillars: (1) The legal factors themselves; (2) Law enforcement factors; (3) Infrastructure and facilities; (4) Societal factors; and (5) Cultural factors.⁴⁶ Ineffectiveness occurs when legal instruments fail to respond to real-world conditions; for example, if regulations rigidly define "wasted land" without considering the remaining economic productivity of residents' existing pond plots.⁴⁷

The process of designating land as abandoned is a bureaucratic process involving complex inter-agency coordination with highly specific role divisions. At the heart of this process, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) acts as the sole technical and legal authority fully responsible for verifying both physical and legal data, ultimately determining a plot's final status based on spatial and geological analysis.⁴⁸

In contrast to this verification function, the Ministry of Public Works (PU) serves as the requesting agency (requiring agency) that requires the land for the development of National Strategic Projects (PSN). Completing this ecosystem, the Local Government (Pemda) serves as a social facilitator bridging the interests of the central government with the community, while ensuring that land acquisition aligns with population administration data and the applicable Regional Spatial Plan (RTRW).⁴⁹

⁴⁶ Wahyuni, Prasetyo, and Ma'ruf, "Legal Reconstruction of Indigenous Land Registration Regulations Based on Dignified Justice."

⁴⁷ Brian Pramana Nuari Putra, "EFEKTIVITAS PENERAPAN ASAS CONTRADICTOIRE DELIMITATIE DALAM PENETAPAN BATAS BIDANG TANAH (Studi Di Kantor Pertanahan Kota Madiun)" (Universitas Muhammadiyah Malang, 2025).

⁴⁸ H La Ode Husen et al., "Legal Dialogica Efektivitas Pelaksanaan Penyelenggaraan Pengadaan Tanah Untuk Pembangunan Jalan Alternatif" 1, no. 1 (2023): 1–17.

⁴⁹ Kariaman Sinaga, "Dinamika Kebijakan Publik Dalam Mewujudkan Pengembangan Wilayah Yang Berkelanjutan," *Publik Reform* 10, no. 2 (2023): 64–71, <https://doi.org/10.46576/jpr.v10i2.4244>.

On-the-ground coordination often faces challenges stemming from sectoral egos and differing legal interpretations arising from the disparity in Key Performance Indicators (KPIs) among agencies. The National Land Agency (BPN) has a strong tendency to apply the prudence principle very strictly from both administrative and legal perspectives. Conversely, the Ministry of Public Works is focused on accelerating the progress of physical projects to align with the PSN completion timelines mandated by the national leadership. Meanwhile, local governments are often under intense socio-political pressure from their constituents. Local leaders are pressured to immediately disburse compensation funds to quell social unrest, while simultaneously maintaining regional stability to ensure that investment and social cohesion are not disrupted.⁵⁰

To overcome these sectoral barriers, an inter-agency Integrated Team was formed, representing a concrete application of collaborative governance. This Integrated Team holds regular technical meetings to synchronize map data between the National Land Agency (BPN), the Ministry of Public Works, and regional spatial plans. This forum for dialogue minimizes administrative deadlocks that were previously impossible for a single institution to resolve unilaterally.

The mechanism for disbursing funds in the designation of land for public use demands a high degree of precision not merely in the physical identification of the land, but specifically in the precise identification of the legal subjects or heirs. Given that the majority of coastal assets are often uncertified and classified as inherited property, government officials, as validators, are obligated to conduct strict selection procedures to ensure legal certainty while safeguarding state finances from potential

⁵⁰ Aka Kurniawan et al., "Model Tata Kelola Kolaboratif Dalam Implementasi Proyek Strategis Nasional Di Kabupaten Musi Banyuasin," *Strukturasi: Jurnal Ilmiah Magister Administrasi Publik* 7, no. 2 (2025): 105–15, <https://doi.org/10.31289/strukturasi.v7i2.6607>.

misallocation.⁵¹ This includes verifying the Deceased's Death Certificate as legal proof of civil succession, as well as the Heir Certification Letter validated by the village government and relevant agencies to ensure the legitimate share of inheritance rights. Additionally, identity documents such as ID cards (KTP) and Family Cards (Kartu Keluarga) from all eligible heirs serve as the final instrument to ensure that fund disbursement is made to the legally entitled parties.

If this administrative process or disbursement is delegated to a third party, regulations require even stricter procedures. The authorized representative must submit a special power of attorney with a revenue stamp, signed collectively by all grantors (without exception) and the authorized representative. As the highest control mechanism, the National Land Agency (BPN) and procurement agencies require factual verification of the physical presence of the compassion fund recipient at the time of signing the minutes of the meeting.⁵² All of these bureaucratic procedures are fundamentally designed to prevent maladministration, document forgery, and irresponsible third-party intervention (such as speculators or land mafias), who often exploit citizens' lack of legal literacy.

In the acquisition of land designated for clearance, the principle of transparency is implemented through the widespread public announcement of a nominative list of field data inventory results. This announcement mechanism is an inherent part of the principle of publicity, which provides a democratic space for citizens to file administrative objections before the Land Status Decision (SK) is finalized and becomes binding. If there are objections supported by arguments and preliminary evidence, the relevant agency is obligated to conduct a comprehensive review. This obligation to

⁵¹ Yosi Muhaemin, "Membangun Perspektif Baru Administrasi Publik : Teori, Konsep, Dan Implikasinya Dalam Kepemimpinan Desa," *Dinamika Publik: Jurnal Manajemen Dan Administrasi Bisnis* 3, no. 4 (2025): 01–11, <https://doi.org/10.59061/dinamikapublik.v3i4.1213>.

⁵² Diana Komena et al., "Optimalisasi Penerapan Hukum Administrasi Negara Dalam Mewujudkan Kepastian Dan Stabilitas Hukum Nasional," *Journal of Innovative and Creativity* 5, no. 2 (2025): 13846–52.

review serves as a form of preventive legal protection for the public to ensure their civil rights are not arbitrarily stripped away by the state. To ensure accountability in the management of state finances and to facilitate audits by independent audit institutions (such as the Supreme Audit Agency/BPK), the mechanism for disbursing humanitarian funds must be conducted on a cashless basis.

The National Land Agency (BPN) and relevant agencies proactively give special attention to legal protection for vulnerable groups. These groups include heirs who lack full legal capacity (such as minors requiring guardianship) or elderly individuals who are vulnerable to manipulation.⁵³ This is done to ensure that the disbursement of compensation funds is conducted transparently and reaches the intended recipients, thereby preventing exploitation and harmful interference by irresponsible third parties. This form of state intervention through affirmative protection is fully aligned with the concept of Justice as Fairness proposed by John Rawls.⁵⁴

If residents object to the designation of land as abandoned or to the amount of compensation proposed, Indonesian law provides two primary avenues for resolution. Residents who feel aggrieved may file a written objection with the Land Office or the Regional Office (Kanwil) of the National Land Agency (BPN) to request a review through on-site data verification. The non-litigation approach is considered far more effective in reaching substantive agreements, saving time and state resources, and serves as the primary strategy to avoid prolonged social conflicts that could potentially undermine the legitimacy of the development project.

⁵³ Zihan Tasha, Maharani Fauzi, and Dwi Suryahartati, "Perlindungan Hukum Bagi Pemilik Hak Atas Tanah Dalam Penetapan Ganti Rugi Terkait Dengan Pengadaan Tanah Pembangunan Jalan Tol" 5, no. 2 (2026): 1927–39.

⁵⁴ Atas Tanah and Stefanus Febrianto Sutanto, "Efektifitas Perlindungan Hukum Bagi Pemegang Hak" 7, no. 1 (2022): 60–83, <https://www.hukumonline.com/berita/baca/lt5c138e6c4afc0/mengurai-benang-kusut->.

If administrative efforts and mediation reach a deadlock, citizens have a constitutional right to pursue litigation, including through the Administrative Court (PTUN). In this context, citizens may challenge the validity of the Decision Letter (SK) designating land for expropriation by scrutinizing procedural aspects, the legality of the issuing official's authority, and the substance of the assessment to ensure the decision is not logically flawed or violates the general principles of good governance.⁵⁵

The regulatory shift from Presidential Regulation No. 52 of 2022 to Presidential Regulation No. 27 of 2023, in conjunction with Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 17 of 2021, demonstrates the government's commitment to streamlining compensation. An evaluation of the effectiveness of current legal instruments reveals various advancements as well as a number of weaknesses. The current compassionate fund scheme offers a tactical advantage in terms of accelerating budget disbursement compared to conventional compensation mechanisms through time-consuming civil litigation processes. Furthermore, the most transformative change is the involvement of the Public Appraisal Service Office (KJPP) as an independent appraiser. The KJPP replaces the old method, which relied on a percentage of the Taxable Property Value (NJOP) that often did not reflect the actual market value.

The KJPP significantly enhances the legitimacy of land valuation by employing scientific methodologies, such as the "Income Capitalization Approach." This method calculates the projected economic loss resulting from the loss of aquaculture land productivity, thereby mitigating potential disputes regarding compensation amounts that were previously considered

⁵⁵ Komana et al., "Optimalisasi Penerapan Hukum Administrasi Negara Dalam Mewujudkan Kepastian Dan Stabilitas Hukum Nasional."

unfair.⁵⁶ However, analysis indicates that while the procedures have improved, existing regulations still require structural refinement.

There is an urgent need to simplify and strengthen regulations by addressing three critical aspects. First, more explicit operational definitions must be established to fill the regulatory gaps regarding the physical categorization of land.⁵⁷ Second, regulations must shift the paradigm of relief funds from merely providing immediate relief to establishing standards for sustainable economic recovery. This requires the establishment of binding mechanisms involving cross-sectoral ministries to ensure that the well-being of affected communities does not deteriorate following the designation of land as lost. Finally, strengthening litigation and mediation mechanisms is essential through the standardization of formal consignment or mediation procedures in coastal agrarian disputes.⁵⁸

The implementation of regulations regarding land declared as lost, as stipulated in Presidential Regulation No. 27 of 2023, has the potential to be applied in other coastal regions of Indonesia. However, it is important to note that the generalization of this policy must be conducted contextually, taking into account the specific characteristics and geomorphological constraints of each region. Drawing lessons from the case study of disputes in the Semarang-Demak region, the primary challenges in declaring land as lost often stem not only from compensation values but also from the lack of preparedness in administrative and historical legal aspects. The verification and validation process must be able to mitigate legal risks arising from cultural issues, such as the loss of land documents (Letter C) damaged by

⁵⁶ Wibawa, Prasetyo, and Sudibyanung, "Kelayakan Nilai Ganti Kerugian Tanah Musnah Sebagai Penanganan Dampak Sosial Pada Pengadaan Tanah."

⁵⁷ Riska Novelia and Gunawan Djajaputra, "Perlindungan Dan Status Hukum Ruang," *Jurnal IJCCS* 13, no. 11 (2025): 2662–75.

⁵⁸ Rizky Amalia Putri et al., "Kesenjangan Administratif Dan Peluang Replikasi Kebijakan," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 2, no. 4 (2025): 182–96, <https://doi.org/10.62383/demokrasi.v2i4.1412>.

flooding, the prevalence of informal land transactions without notaries or PPATs, and the ambiguity of cross-generational heir status.

Therefore, as lessons learned toward a national model, it is necessary to formulate a draft Standard Operating Procedure (SOP) that is more rigid, measurable, and transparent to address these classic challenges in other regions, so that field officials do not hesitate to make decisions based on material evidence. The evaluation of this model must also include a clear distinction between land temporarily flooded and land suffering permanent destruction, as this difference in hydrological status directly impacts the legal treatment and compensation schemes that are rightfully provided.

To ensure distributive justice in the massive disbursement of relief funds in the future, a standardized and consistent appraisal mechanism is required across all jurisdictional areas. The valuation components assessed by independent appraisers from the KJPP must adhere to a single institutionalized standard to avoid disparities in compensation values between neighboring regions. Although strictly regulated, this instrument must still allow for adjustments to local land conditions.

On the other hand, social protection for vulnerable groups and the certainty of dispute resolution mechanisms must be an integral part of the national standard operating procedures. In the transition toward successful implementation, decentralization demands a vital role for local governments (Pemda). Local governments must not merely act as passive document providers but must actively provide intensive assistance to residents, resolve conflicts in a humane manner, and conduct analytical reviews of the effectiveness of mediation and the speed of fund disbursement from the central government. It is hoped that strengthening this holistic inter-agency coordination structure will prevent protracted social conflicts during the implementation of National Strategic Projects, while upholding dignified agrarian justice.

Conclusion

The designation of land as “destroyed” in the construction of the Semarang-Demak Toll Road is based on cumulative criteria, including physical changes resulting from natural disasters, the inability to identify property boundaries, and the total loss of the land’s economic function. Legally, this designation results in the termination of ownership rights in accordance with the Basic Agrarian Law (UUPA), thereby shifting the compensation mechanism from conventional damages to the provision of a Goodwill Fund. The regulatory change from Presidential Regulation No. 52 of 2022 to Presidential Regulation No. 27 of 2023 marks a significant paradigm shift, where the valuation of the Goodwill Fund is now professionally conducted by the Public Appraisal Services Office (KJPP) using scientific methodologies such as income capitalization, replacing the NJOP percentage approach, which has long been deemed unrepresentative of actual market value.

In its implementation, the effectiveness of this policy heavily depends on inter-agency collaboration through an Integrated Task Force to address administrative barriers and sectoral interests among the National Land Agency (BPN), the Ministry of Public Works and Housing (PUPR), and local governments. Although the government has no legal-formal obligation to provide compensation for land that has been destroyed, the provision of compensation funds continues to be implemented as a social policy instrument reflecting the principle of distributive justice to provide maximum protection for residents who have lost their assets and livelihoods. Moving forward, a more comprehensive legal reformulation is needed, including the development of more structured Standard Operating Procedures (SOPs) to address administrative challenges such as documents damaged by disasters, to ensure that the economic rights of citizens remain protected in every National Strategic Project.

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