

Inventory Of Land Destruction Arrangements

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Abstract

Perished land is land that has changed its original form due to natural events, so that it can no longer be utilized, functioned and identified. A land right can be extinguished if the land falls to the state, because it is voluntary, because it is abandoned, and the land is destroyed. Several plots of land in Sriwulan Village, Bedono Village, and Purwosari Village, Sayung Subdistrict were declared destroyed due to natural events, so that they were utilized as a form of land acquisition for the public interest in the construction of the Semarang-Demak Toll Road. This research uses empirical juridical methods with a qualitative approach based on field research by examining statutory provisions and interviews in the field in order to obtain the facts. The results obtained from this research are (1) The regulation of the destroyed land is regulated in Permen ATR / BPN No. 3 of 2024 on the amendment of Permen No. 17 of 2021 concerning Procedures for Determining Destruction Land, and Presidential Regulation No. 27 of 2023 on the amendment of Presidential Regulation No. 52 of 2022 concerning Handling Social Impacts on Land Identified as Destruction Land in the context of Development for the public interest. (2) The legal protection provided by the state is compensation in the form of a Compensation Fund.

KEYWORDS

Legal Protection, Land Rights, Land Destruction.



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Introduction

Indonesia is a unitary state in the form of a republic, as confirmed by Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Indonesia is a political unit consisting of various regions, governed by the central government and adheres to the principle of the rule of law. This form of rule of law in Indonesia can regulate the relationship between a state, society and land. Land is a natural resource and a gift from God Almighty that is the foundation for human survival. Because of its versatility, land is continuously needed by humans. For the Indonesian state, land is an asset that must be preserved and optimized for its use in order to ensure the life of the community. This land also has 4 main values, namely cultural, religious, economic and social. The cultural and religious aspects are illustrated by the emergence and development of human culture and religious practices that are determined by the existence of land; the economic aspect of a land comes from the utilization and use of a land that has an impact on economic activities, including agrarian to investment, and the social aspect provides additional social value in the form of pride and honor in social life.

Based on this statement, it is not surprising that land conflicts are increasing all the time because human needs for land are increasing and not proportional to the supply or area of land that is controlled by the state. Therefore, Article 33 paragraph (3) of the 1945 Constitution states that "The land, water and outer space as well as the natural resources contained therein belong to the state with the aim of prospering the people of Indonesia". This article means that we can ensure and maintain the management of natural resources carried out in good faith and for the greatest benefit of the people.

Basically, land is a complex issue. Indonesia's Basic Agrarian Law, also known as the Basic Agrarian Law (UUPA) of 1960, which replaced the previous Dutch Agrarian Law, *Agrarische Wet* (1870), is needed to answer various land issues. Law No. 5/1960 on Basic Agrarian Principles is used to regulate and better manage Indonesia's natural resources including land for the welfare of the Indonesian people. The regulation is expected to unify Indonesia's land ownership structure, which consists of state rights over agrarian resources, customary land rights, and individual ownership.

The definition of Space according to Law Number 24 of 2007 is; "Space is a container that includes land space, sea space and air space as a unitary area, where

humans and other creatures live and carry out activities and live their lives.”. The constituent elements consisting of various characters are one of the triggers for this to happen. Humans as individuals or communities are key actors in the pattern of life of an area. Each individual has different characters and needs. To fulfill this kind of thing requires an activity known as interaction. Activities that occur indoors.

The existence of soil is closely related to human life. Over time, human growth has increased with a limited amount of land that can be controlled by humans, causing various land conflicts to arise. One of them is due to natural disasters.

A natural disaster is an event or occurrence that occurs suddenly and unexpectedly, caused by natural forces or processes that can cause damage or negative impacts on humans, environmental animals and property. In Law Number 24 of 2007 concerning Disaster Management, disaster is defined as follows: “Disaster is an event or series of events and disrupts people's lives and livelihoods caused, either by natural factors and/or non-natural factors as well as human life factors, environmental damage, property loss and psychological impact.”

In Indonesia, disasters can be categorized into three categories: first, natural disasters are disasters that are caused by natural processes and cannot be avoided, such as earthquakes, tsunamis, floods etc. Second, non-natural disasters that are not caused by natural phenomena such as epidemics and failed modernization. Third, social disasters caused by human activities or factors such as forest and land fires, environmental pollution and social conflicts.

Indonesia is an archipelago located on the equator between two continents and two oceans and makes Indonesia rich in marine resources, but also has a high frequency of natural disasters. Indonesia has approximately 95,181 km and is the second longest coastline in the world with 17,504 islands. Each region of Indonesia has different problems and potential for natural disasters, ranging from big cities, small towns, coastal areas to highlands. For example, the northern part of Java Island has the potential for flooding, abrasion and tidal disasters. This is because Java Island has a sloping topography.

Demak Regency is a regency located on the north coast of Central Java and directly adjacent to the Java Sea. Demak Regency is located in Central Java

province. Geographically, Demak Regency is bordered to the north by Jepara Regency and the Java Sea, to the east by Kudus Regency and Grobongan Regency, to the south by Semarang Regency and Grobongan Regency and to the west by Semarang Municipality. Demak Regency is located in the strategic area circle of Central Java which is in the eastern part of the Central Java Provincial government center, namely Semarang City, which is incorporated in Kedungsepur.

The areas that comprise Kedungsepur are Kendal, Demak, Ungaran, Salatiga and Purwodadi with Semarang City as the core city.

With the incorporation of Demak Regency as the Kedungsepur region, it has a strategic role in economic growth in the capital city of Central Java. It also creates many problems in fulfilling the development of this modern era. The problem of regencies located on the north coast of the Java Sea is the erosion of land by sea water or commonly called Abrasion. Such is the case in Demak Regency, Central Java, where the area is already threatened with sinking if it is not resolved within the next 10-20 years. In Demak district, the erosion of land due to sea waves or known as abrasion is already very severe. If seen over the past 20 years, the condition of the coastline changes is very alarming, precisely in Sayung District, Demak Regency.⁴

Sayung sub-district is geographically located directly adjacent to Semarang City. The reclamation of the marina beach and the development of industrial estates in the city of Semarang is one of the impacts of abrasion, which has pushed sea water onto the coastal land of Sayung Sub-district. However, environmental degradation is the real cause of the sinking of Bedono Village and other villages in Sayung Sub- district.

According to the Department of Marine Affairs and Fisheries of the Central Java Provincial Government, Demak is currently the second worst district affected by abrasion and 2,218 hectares of coastal areas in 2019 in Demak have been lost due to sea currents. Based on the data collected, it is known that villages affected by tidal floods in Sayung Sub- district such as Sriwulan Village, Bedono Village, Surodadi Village and Timbulsloko Village reached a height of 0.25m.

Bedono Village is one of the most severely affected areas by abrasion. This is marked by the sinking of two hamlets in Bedono Village, Tambaksari and Rejosari (Senik), which have now merged with the sea. The loss of these two hamlets made the Bedono community choose to move out of the village. The impact

of abrasion from Bedono village is also felt by the villages directly below it, namely Purwosari and Sidogemah villages.

The efforts of the residents since the last few years are to raise their houses in order to prevent tidal floods from entering the house. However, during the rainy season or when the tidal floods come, these efforts remain futile to prevent water from entering the house. Some residents also still survive by using boats to move locations. This made the majority of residents begin to realize the importance of protecting their environment. Over time, the community finally tried to save their village from the threat of abrasion. Little by little, they planted mangroves until the waters became green again. The presence of mangroves in this coastal area increases the community's ability to cope with the impacts of climate change and the resulting disasters.

Abrasion is also one of the major forms of land-related problems. Abrasion can cause landowners to lose their ability to manage, utilize, or benefit from their land when it is wholly or partially eroded by the water created by these shores. Other impacts of abrasion include damage to groundwater salinity, damage to residential buildings and farmland, damage to vehicles or work equipment, and loss of land.⁵

The problem caused by abrasion is a serious problem related to land issues. In fact, land functions as a place to live and a place of survival. When water causes the erosion of land on the beach, landowners are said to have lost their rights to manage, utilize, or benefit from the land because the land has been lost either partially or completely. The occurrence of this natural disaster is, of course, beyond human control and cannot be avoided.

Land erosion events result in the loss of land or the erosion of the land. Currently, several villages in Sayung Sub-district are being used for the construction of the Semarang-Demak toll road so that the owners are forced to leave the place. This condition causes the owner of legal land rights to be unable to use and utilize his land as it should be.

Article 27 of Basic Agrarian Law (UUPA) No. 5/1960 states that "The right of ownership can be nullified if the land falls to the State either due to revocation of rights based on Article 18, due to voluntary surrender by the owner, due to abandonment, due to the provisions of Articles 21 paragraph (3) and 26 paragraph (2), and the land is destroyed". From 1960 until now, the Basic Agrarian Law is

believed to be a guideline in providing legal certainty regarding land rights and land management, because its formulation changed the previous regulatory order. However, the regulation related to land destruction is not explained in detail in the Basic Agrarian Law. Finally, in 2021, the Ministry of Agrarian Affairs and Spatial Planning/Head of the Land Agency of the Republic of Indonesia issued Regulation No. 17 of 2021 on the Procedure for Determining Land Destruction.

Article 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 17 of 2021 states that; Land can be called destroyed if the land parcel has changed from its original form due to natural events, which can no longer be functioned, identified again and utilized again as it should. Therefore, it is important to guarantee the protection of legal certainty of land rights for landowners whose land is affected by natural disasters so that the land is destroyed.

The emergence of public unrest due to this causes the author to be encouraged to raise issues regarding the form of regulation and legal protection for people affected by land destruction. Therefore, a research is proposed with the title **“Inventory of land destruction arrangements”**.

Methods

Methods are written descriptively and should provide a statement about the research methodology. The method should provide the reader with an overview of the methods used. Both Research and Review Articles should describe the methods used. For research articles, a clear method should explain the research location, data collection methods, and how the data was analyzed. Meanwhile, in the Review Article, the method is written descriptively about the topic being analyzed, what theories and laws are used to analyze the topic and the limitations of the research. This research uses a qualitative approach. Defines that Qualitative research is defined as research conducted using a variety of current methods in a natural context with the aim of interpreting events that occur. The purpose of qualitative research is to interpret phenomena by collecting data in natural settings with researchers acting as key instruments. Purposive and snowball sampling of data sources is used, along with combined triangulation collection techniques, inductive and qualitative data analysis, and the results of qualitative research results

emphasize meaning rather than generalization.⁶ By using a qualitative approach, this research describes the data in the field by analyzing and linking it with related laws and regulations. Researchers hope this research can produce descriptions and descriptions descriptively.

This research was conducted using empirical juridical research methods. This empirical juridical research is legal research derived from actions on legal events that occur in the community.⁷ In addition, this form of research examines the applicable law with facts that occur in society. The reason for choosing to use empirical juridical research is to understand how the law is applied in the real world and how people respond to it. In addition, it can also help in the development of better policies or provide new insights into legal development.

The intended research focus is an outline of the research observation, or a limiter so that the observation and analysis of the research results are more directed. Based on the formulation of the problem and the focus of the research, the focus of the research is:

1. The regulation of land rights identified as Land Destruction.
2. Legal protection for holders of land rights identified as destroyed.

The place where research is conducted is called the research location. The location in question can be an area or an institution. Here the author chooses a place that can conduct studies related to regulations and legal protection of land rights. The locations in question are:

1. Regional Office of ATR / BPN of Central Java Province which is located at Jalan Mangunsarkoro No. 34 C, Karangkidul, Central Semarang District, Semarang City, Central Java 50241.
2. Land Office of Demak Regency which is located at Jalan Bhayangkara Baru No. 1, Kauman, Bintaro, Demak District, Demak Regency, Central Java 59515.
3. Purwosari Village Office located at Jalan Raya Semarang-Demak Km. 10 Sayung Subdistrict, Demak Regency 59563.
4. Bedono Village Office which is located at Jalan Morosari - Bedono, Sayung Subdistrict, Demak District 59563.
5. Sriwulan Village Office, which is located at Jalan Sunan Kalijaga Raya 1 A, Sayung Subdistrict, Demak District 59563.

Because it uses the empirical juridical method, this research obtained data sources through direct interviews at the research location. In addition to interviews, this problem can be supported by legal documents in the form of applicable laws and regulations as well as legal journals/books.

The form of this data source is in the form of primary and secondary data. This primary data source is obtained from researchers through field research, observation, interviews, or questionnaires in accordance with applicable regulations and also documents. Meanwhile, secondary data sources consist of the results of previous research and analysis, relevant literature in accordance with applicable regulations, and documentation available from various sources such as legal journals covering the topics under discussion to support the validity of this research.

In this study the authors used data collection techniques with Field Research and Library Research. This field research can be done in several ways, namely: (interviews, observation and documentation). Meanwhile, library research is a form of data acquisition by examining some literature and other readings both through documents, photographs, images, and electronic documents that can support the research process.⁸ Supported by legal sources, photographs or academic papers will ensure the credibility of the research. Studies that the author can use are in the form of library materials related to the research.

In this study, the triangulation technique was used to test the data. Triangulation is used in data validation checking techniques that use something other than data to check or compare with data. Data analysis is used to facilitate the collection of the main points of information and data that have been collected in a study, which is used in this study is descriptive analysis. The analysis used is a process of searching for data and facts in an appropriate interpretation, which studies problems and phenomena, as well as guidelines used in the general public.

Result and Discussion

This section is the most important section of your article. The analysis or results of the research should be clear and concise. The results should summarize (scientific) findings rather than providing data in great detail.

Please highlight differences between your results or findings and the previous publications by other researchers.

Regulation on Land Rights that are Indicated as Destruction Land

Article 1(2) of the 1945 Constitution of the Republic of Indonesia states: “The State of Indonesia is a state of law”, which means that the administration of government and the state is based on law. The State of Indonesia is a unitary territory of the homeland whose entire people are united as the Indonesian Nation; The relationship between the law and the Indonesian nation and the earth, water and space is an eternal relationship.¹⁰

Land as a gift of God Almighty is a gift that cannot be wasted, because land has a very important meaning for human life. Land is one of the country's wealth that must be utilized properly with the aim of achieving the welfare and prosperity of its citizens. Not only as a source of livelihood, land is a source of human life.¹¹

Land rights are the authority granted by the state, so that land can be used and utilized properly as long as it does not conflict with laws and regulations and the public interest. Although the authority has been given by the state to the National Land Agency (BPN), it does not rule out the possibility of the right being revoked by the state.

Basic Agrarian Law No. 5/1960 was issued based on Article 33 paragraph (3) that “The earth, water and natural resources contained therein are controlled by the State and used to the greatest extent for the prosperity of the people”. The UUPA was issued against the background that the structure of Indonesian society is still agrarian; the earth, water and space as a gift from God have a very important function in order to build a just and prosperous society. In addition, another purpose for the issuance of the UUPA was because the agrarian law at that time was still influenced by the colonial government so that some of them were contrary

to the interests of the people and the State in completing the national revolution and universal development. Another reason is because agrarian law has a dualistic nature, with the enactment of customary law in addition to agrarian law based on western law and colonial agrarian law cannot guarantee the legal certainty of the people.

Law No. 5 of 1960 also mandates the implementation of land registration. In order to organize its registration, Government Regulation (PP) Number 10 of 1961 was issued. However, this Government Regulation was deemed no longer able to fully support the achievement of more tangible results in national development, so there was a need for improvement. Finally, Government Regulation Number 24 of 1997 on Land Registration was issued.

Over time, the Job Creation Law or Law Number 11 of 2020 concerning Job Creation or also known as the Ciptaker Law / CK Law which was passed on October 5, 2020 by the House of Representatives (DPR) of the Republic of Indonesia and on November 2, 2020 was promulgated with the intention of creating jobs and increasing domestic and foreign foreign investment by reducing regulatory requirements for business licenses and land acquisition.¹²

Law Number 11 of 2020 on Job Creation has many flaws. For the first time since its establishment, the Constitutional Court (MK) has partially granted a formal test application. In Decision Number 91/PUU-XVIII/2020, the Panel of Constitutional Judges confirmed that Law Number 11 of 2020 concerning Job Creation is formally flawed. Therefore, the Constitutional Court declared the Ciptaker Law conditionally unconstitutional.

Chairman of the Constitutional Court Anwar Usman in the verdict hearing on Thursday (25/11/2021); "Stating that the establishment of the Job Creation Law is contrary to the 1945 Constitution and does not have conditional binding legal force as long as it is not interpreted as 'no

improvement has been made within 2 (two) years of this decision being pronounced'. Stating that the Job Creation Law is still in effect until it is revised in accordance with the grace period as specified in this decision".

The statement from the verdict session was realized in the establishment of Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 on Job Creation. The scope of this Government Regulation in Lieu of Law on Job Creation includes:

- a. improvement of investment ecosystem and business activities;
- b. employment
- c. ease, protection, and empowerment of Cooperatives and MSEs;
- d. ease of doing business
- e. research and innovation support
- f. land acquisition
- g. economic zones;
- h. Central Government investment and acceleration of national strategic projects;
- i. implementation of government administration; and
- j. imposition of sanctions.

The purpose of this regulation, among others, is to create and increase employment by providing convenience, protection and empowerment of national industry and national trade, including national industry and national trade including the defense industry, and increasing investment as one of the keys to economic growth. This regulation is expected to provide legal certainty, including for business actors in the field of explosives.

Before the official replacement of Law Number 11 of 2020 on Job Creation, in Articles 142 and 185 letter b of the Ciptaker Law, it is necessary to stipulate Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flat Housing Units, and Land Registration. This PP unifies (omnibus law), harmonizes, synchronizes, updates, and revokes irrelevant provisions based on Law Number 11 of 2020 on Job Creation, including Government Regulation Number 40 of 1996 concerning Business Use Rights, Building Use Rights and Land Use Rights,

Government Regulation Number 24 of 1997 concerning Land Registration, and Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Houses by Foreigners Residing in Indonesia, as well as several regulations regarding strengthening Management Rights, and updating the provisions of Government Regulation Number 8 of 1953 concerning Control of State Lands. In addition, this PP also regulates new policies related to the granting of rights in the Aboveground Space and Underground Space.¹³

The purpose of the issuance of PP Number 18 of 2021 is to control and control the function and utilization of land. The government hopes to prioritize the principles of public interest, economic development and social development that are needed today. In its implementation, PP Number 18 of 2021 must rely on the 3Rs (Right, Restriction & Responsibility). Through this regulation, the government can provide convenience and strict supervision.

Furthermore, to implement the provisions in Article 99 of Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flat Units and Land Registration, it is necessary to stipulate the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency on the Third Amendment to Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration.

Basically, Land Destruction occurs due to several factors and one of them is a natural event. Regulations related to Land Destruction have also been stated in Government Regulation Article 66 Number 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units, and Land Registration. The regulation states that land that has changed from its original form due to natural disasters, so that it is difficult to know clearly and cannot be used, utilized or functioned properly can be said to

be Land Destruction and Management Rights and/or Land Rights are declared null and void.

Furthermore, that in order to implement the provisions in Article 66 paragraph (5), Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units, and Land Registration, it is necessary to issue Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 17 of 2021 concerning Procedures for Determining Land Destruction.

Article 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 17 of 2021 on Procedures for Determining Land Destruction explains that land destruction is when management rights and/or land rights are erased and have changed from their original form due to a natural event; cannot be identified anymore; cannot be functioned; used and utilized as it should be.

As for the procedure for determining the destruction of land, it is contained in article 3. There are 7 stages starting from location determination or blocking; formation of the Land Destruction Research Team; socialization; identification, inventory and submission; announcement; implementation of reconstruction or reclamation if the landowner states that he/she will carry out reconstruction and/or reclamation; and/or issuance of a decision on the determination of land destruction. These stages become the main basis in determining a land parcel that is indicated to be destroyed.

As we know, the land parcels identified as Land of Destruction in Sayung Subdistrict, Demak Regency, apart from their changed form, will also be destroyed by reason of land acquisition for the public interest. As a form of optimizing the implementation of this development, the Presidential Regulation of the Republic of Indonesia Number 52 of 2022

concerning Handling Social Community Impacts on Land Identified as Destruction Land in Development for the Public Interest was enacted. The regulation is expected to optimize the implementation of development for the public interest in order to accelerate national development, create jobs, and restore and improve the national economy.

The Presidential Regulation was officially issued on April 6, 2022 and contains the following: scope of Community Social Impact Handling; criteria for parties entitled to receive compensation assistance; implementation of Community Social Impact Handling; funding for the implementation of Community Social Impact Handling; and monitoring and evaluation of the implementation of Community Social Impact Handling.

Over time, this Presidential Regulation has undergone refinements related to the calculation of compensation funds stipulated in the Amendment to Presidential Regulation Number 52 of 2022 concerning Community Social Impact Handling of Land Identified as Destruction Land in the Framework of Development for the Public Interest. The regulation has added several provisions in Article 1 and amended several provisions in Article 4 and Article 13.

Article 1 has added several provisions regarding the definitions of Public Appraiser, Land Appraiser, and Indonesian Appraisal Standard. Meanwhile, in article 4, the process of Handling Social Community Impacts is carried out by the process of Identifying Land as Destruction Land that will be used as a development site for the public interest. The form of handling is the provision of kerohiman funds to parties who are entitled to them.

Some of the criteria for parties who are entitled to receive Cohesion Fund Assistance based on Article 4 are:

- a. Land Rights Holders who do not use their priority rights to reconstruct/reclaim their land because it will be used for development

in the public interest.

- b. In the event that the subject is an individual, he/she must have an identity of residence certificate legalized by the local sub-district or authorized agency.
- c. In the event that the subject is a legal entity, it must have a deed of establishment of the legal entity authorized by the Ministry of Law and Human Rights; and
- d. Have proof of control, ownership, use, and/or utilization of the land parcel whether registered or unregistered.

With this, Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 is expected to run optimally and can accelerate the development of public interests and the implementation of social handling of destroyed land.

Legal protection for holders of land rights that are indicated to be destroyed

Law is present and develops in society in order to protect society. The presence of law is also believed to be a form of protecting interests and limiting the interests themselves. Legal protection is a legal effort made by the parties in order to fulfill the welfare of society, and in essence is to protect society. Another opinion, legal protection is an action or effort taken by the authorities to protect the public from arbitrary actions Indonesia as a state of law has an obligation to ensure legal protection. The state's efforts in realizing the ideals of the nation are contained in the Preamble of the 1945 Constitution in Paragraph 4, namely; "to protect the entire Indonesian nation and the entire Indonesian homeland, promote public welfare, educate the nation's life, and participate in implementing world order based on independence, eternal peace and social justice". Advancing public welfare is the purpose for which the state was formed and the people as citizens have the right to it. The elements and principles of the rule of law to protect its citizens are:

1. Recognition, respect and protection of human rights which are based on respect for human dignity.
2. The principle of legal certainty, the purpose of law is to realize legal certainty, this right makes the dynamics of life together in society predictable. The principle of legal certainty also contains the principle of legality, the principle of constitutionality, and the principle of the supremacy of law; laws stipulated in various sets of rules regarding the procedures of the government and its officials in acting as a government, the principle of non-retroactive legislation; the principle of judicial burden, independence, impartial, and objectively rational, fair and humane; the principle of non liquet judges may not reject a case on the grounds of the absence of regulations.
3. Equality, meaning that the government must not discriminate or privilege a particular party. This principle also implies the guarantee of equality for all people before the law and government and the availability of procedures to demand equal treatment for all citizens.
4. The principle of democracy means that all people have the right and opportunity to participate in government.
5. The government is an official who carries out the mandate as a public servant.

Basically, land is something very important and related to human life. Land is needed by everyone, not only while he lives in the world, but also as a final resting place after death. Land also has significant economic value, hence everyone is obliged and responsible to maintain and defend their land ownership rights. Besides being economically valuable, land also plays an important role in development. Therefore, it is not surprising that land conflicts have increased over time.

The state, as the holder of all natural resources contained therein, has a role and full authority to control and use as much as possible for the prosperity of the people in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution. The state's efforts in prospering

and welfare of the community based on its authority are to issue various policy programs and carry out development by promoting the interests and balance of the basic rights of the Indonesian people. The development is fully aimed at the welfare and prosperity of the people carried out by the government.¹⁶

The coastal area of Demak, located in the northern part of Java Island, developed into a city and residential area with the establishment of the Islamic Kingdom of Demak in 1479. It was known as the center of trade and culture at the time, and has grown significantly since the establishment of the Demak Kingdom. In Demak Regency, Sayung Sub-district is located on the coast of Demak, directly adjacent to the western part of Semarang City. This region is well known as one of the industrial centers on the island of Java, and stretches along the north coast of Java.

In addition to its long history as one of the civilization centers of Java, the Sayung area has long been hit by severe tidal flooding or abrasion, resulting in severe community and environmental problems.¹⁷

According to the data, in 1997 and 2015 Demak Regency was flooded with an area of 2116.54 hectares with a shift in the coastline reaching 5.1 km inwards, with a period of 20 years due to abrasion. In addition, Demak Regency has been claimed to have experienced a rise in sea level of 5 mm per year, which has led to an increase in the rate of abrasion at that location. It was also said that around the same time period, there were two villages in Sayung Sub-district that had been wiped out by abrasion, namely Tambaksari and Rejosari. Prior to the flooding, this area was famous as an agricultural area. As a source of income, farmers cultivated rice fields and ponds. Before the abrasion, the tide only reached the highest mangrove areas, and only a few agricultural areas were damaged by the tide.¹⁸

Based on an interview with Aslor, he said that the tidal flooding started in 1990. The village where he grew up as a child used to be fertile

and prosperous. In 1994, mangrove planting began in the pond area. In 1999, Bedono Village was relocated to one hamlet because it was no longer possible to live there. In 2006, another relocation was carried out for one hamlet. The abrasion that hit Bedono Village, Sayung Subdistrict, continued to increase, so in 2023 another relocation was carried out for one hamlet, so the total number of hamlets that have been relocated in the village is 3 hamlets. Some residents who still choose to live in this village, every 8 years have to raise their houses, so that they are not inundated by tidal floods. Aslor himself stated that his house has been elevated by at least 2 meters.

Figure 4.19 House conditions that are not elevated



Source: Personal Documentation

Over time, and the increasing size of the area affected by abrasion or rob has caused people to lose their land because it has sunk and even merged into sea water. The agrarian case that occurred in Demak Regency was abrasion which made several plots of land disappear. The land that drowned due to abrasion will later have its land rights returned to the state

to be utilized as a form of land acquisition for the public interest, namely in the form of the construction of the Semarang-Demak Toll Road. This toll road is a form of state infrastructure improvement carried out by the state for the prosperity of the people of Indonesia. Therefore, legal certainty and protection are needed in this case, especially for affected communities.

Land rights are rights that authorize the right holder to use and or benefit from a parcel of land. The word "use" implies that the land rights can be used for various purposes and interests, not only to build buildings but also for agriculture, plantations, livestock, and fisheries. With the increasing need for land, the state is obliged to provide regulation and accommodation in the land sector, including to resolve conflicts that arise.²⁰ Juridically, the right of authority originating from the state is regulated in the UUPA, starting from the right to make regulations relating to the use and/or allotment of land, to the regulation of relations between humans and legal acts on land. Furthermore, the transitional provisions of Article 53 paragraph (1) of the UUPA also contain the temporary nature of land rights, and the grouping of land rights into absolute land rights and land rights that are uncertain in nature.²¹

Anyone who has the right to get a form of recognition, guarantee, certainty and also legal protection. The importance of land in human life means that it must be protected by all Indonesians. Even land in Demak Regency that has lost its ownership rights due to natural disasters such as tidal floods and abrasion, and causes the status of its ownership rights to be destroyed. Therefore, the government plays an important role in the responsibility for the welfare of its people by providing guarantees for the destroyed land rights in accordance with Article 28 D and Article 33 paragraph (3) that the basis for guarantees and protection of the lands in question is the protection of the government.

To achieve the legal certainty and protection in question, land

registration activities are needed in order to provide concrete legal certainty to holders of land rights, where the right to control land legally can be given through definite legal procedures in society. In the right to a plot of land, the holder whose name appears on the title is entitled to legal protection. The strongest characteristic of land ownership rights is that they are not easily erased and are easily defended from interference from other parties, with an unlimited period of time. Based on this context, the presence of law that develops in the community acts as a means of providing protection for common interests and at the same time as a limitation for individual interests. In addition, the law has its main function in this case, namely protecting honor, dignity, and also recognizing human rights with the aim of creating legal order so that people can enjoy their rights fairly and securely.²²

In the process of land acquisition, Maria S.W Sumardjono expressed her opinion that legal protection in land acquisition for the public interest is: "Legal protection in land acquisition for the public interest, broadly speaking, can be interpreted as respect for individual rights to land. This is related to the consequences of the State's recognition of a person's land or a customary law community, so the state is obliged to guarantee legal certainty of land rights so that it is easier for a person to defend his rights against interference from other parties."²³

As we know, according to Permen ATR / BPN No.17 of 2021 concerning Procedures for Determining Destruction Land, classifies that land plots that can be said to be destroyed land are those that have changed their original form due to natural events, can no longer be identified, and cannot be functioned, used and utilized properly. The procedures for determining the destroyed land are:

1. Determination of location
2. Establishment of Land Destruction Research Team
3. Socialization
4. Identification, Inventory and assessment
5. Announcement

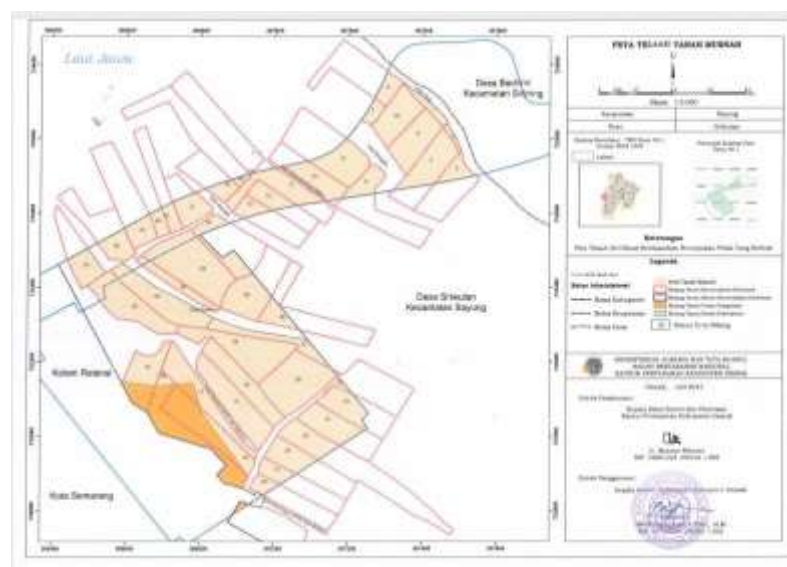
6. Implementation of reconstruction and reclamation if the owner declares

7. Issuance of decree

Based on the Decree of the Head of the Demak District Land Office No. 600/SK-33.21.HP.01.04/VIII/2021 concerning the Determination of the Location of Land Parcels Indicated as Demolished, it states that there are several locations that have been indicated as demolished, namely Sriwulan Village, Bedono Village, and Purwosari Village with a total area of 273 parcels.

The results of the interview with Iskak, as the Finance Coordinator of Sriwulan Village, stated that the village was indicated to have lost 46 parcels of land that were previously used as ponds by its residents. Iskak also stated that the condition of Sriwulan village when the water rises or the tide can cover the road. So that the road is flooded by water and disturbs the residents. Therefore, residents in the village took the initiative to raise the road so that it would not be inundated by water. This village has also provided a form of compensation funds, but there are still 2 fields that use priority rights, so the form of compensation has not been given.²⁴

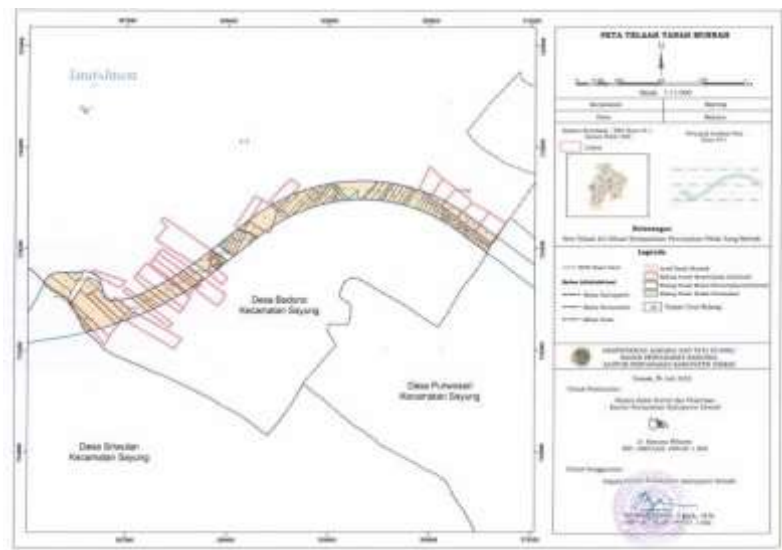
Figure 4.20 Land Destruction Study Map of Sriwulan Village



Source: Normative list and review map of destroyed land of Demak District

Furthermore, in an interview with the Head of Bedono Village, H. Agus Salim, he stated that the land indicated as destroyed in the village was partly used as ponds and partly as settlements. A total of 108 parcels of land are indicated to be destroyed in this village. Bedono Village is one of the worst affected villages by abrasion. In addition, of the three villages, this village has the most identified land loss. In the interview, Agus also said that the community there jointly carried out environmental improvement by reforestation and planting mangroves in the pond area. They even collaborated with government and private elements. The people in this village also strongly support the construction of the Semarang-Demak Toll Road, hoping that the construction can prevent Rob, which always haunts the community.²⁵

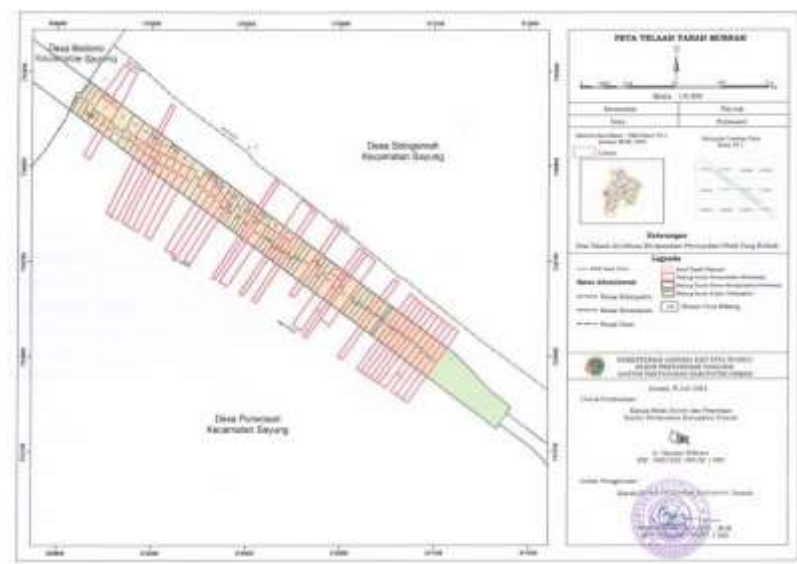
Gambar 4.15 Land Destruction Study Map of Bedono Village



Source: Normative list and review map of destroyed land of Demak District

Later interviews with Muhammad Mukhlis, the Head of Sub-Village of Purwosari Village, responded that in the village there were a total of 102 fields that were destroyed based on the decree. The average community in this village still uses their priority rights because they feel that the amount of kerohiman obtained is not in accordance with the expectations of the residents. The land was originally also used for the residents' livelihoods, namely ponds.²⁶

Gambar 4.16 Land Destruction Study Map of Purwosari Village



Source: Normative list and review map of destroyed land of Demak District

Based on the provisions in Article 18 of the UUPA, a land right that is revoked in the context of public interest can be compensated in accordance with applicable laws and regulations, including the interests of the nation, state and all Indonesian people. The government promises a

form of compensation as a form of legal protection for the land rights.

In Article 15 of Permen ATR/BPN No. 17 of 2021 concerning Procedures for Determining Land Destruction, it is also stated that holders of management rights and/or Land Rights whose land is used in the context of development for the public interest will be given a form of Compensation Fund in accordance with applicable regulations. Further explanation related to the Permen is conveyed in Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Community Social Impacts on Land Identified as Destruction Land in the Framework of Development for the Public Interest.

It is stated in Article 1 that the form of handling social problems on land destroyed in the development of public interests is the provision of assistance from the Kerohiman Fund. It is also intended as a form of legal protection for the destroyed land. This Community Social Impact Handling is carried out when a land parcel has been identified as Land Destruction which will later become the location of public interest development.

Also conveyed by Hadi Prayitno, S.ST as the First Land Planner in the field of Land Acquisition and Development of the ATR / BPN Regional Office of Central Java Province that the form of compensation for land affected by natural disasters, actually does not exist. However, because the land is used for land acquisition for the public interest. So that those entitled to compensation are the owners of land rights that are utilized as public interest development, such as in the case of the construction of the Semarang-Demak toll road. The form of legal protection for destroyed land is certainly related to public interests and rights that are still recognized by the state, later kerohiman will be given with different amounts.

It was also explained by Muhammad Aulia Ilman, S.Si as the Coordinator of Substance Procurement, Assessment, and Land Reserves

of Demak Regency, that the amount of kerohiman must be different, according to the land area. As regulated in Presidential Regulation 52 of 2022, calculating the amount of kerohiman funds is based on land area x 25% of NJOP (Tax Object Selling Value). And at this time, the kerohiman funds have been distributed around 80% in the three villages, Bedono, Purwosari and Sriwulan.²⁸

Then, the author also had the opportunity to interview the recipients of the kerohiman fund assistance, namely Aslor and Mashuri. Aslor stated that previously the land that had been considered destroyed was used as a pond with an area of around 800m². And now, the status of ownership rights to the land has been released because the compensation funds have been distributed. Meanwhile, Mashuri's land used to be waterlogged with an area of around 240m², and there is also still productive land of around 800m². Because of the different physical forms, Mashuri received the compensation funds in 2 stages or 2 times. At this time, each of them has received the form of compensation, and it is appropriate and has far exceeded the expectations of the community.

Conclusion

1. Land Destruction according to the provisions of Permen ATR / BPN No. 17 of 2021 is a land plot that has changed from its original form due to natural events; cannot be identified anymore; and cannot be functioned, used, and utilized properly. Based on the Decree of the Head of the Demak District Land Office Regarding the Determination of the Location of Land Parcels Indicated as Land Destruction, located in Sriwulan Village, Bedono Village, and Purwosari Village, Sayung Subdistrict, Demak Regency, there are 273 parcels with a total area of 160.457 hectares. The land parcels were destroyed due to abrasion damage, tidal flooding or erosion. In addition, the land was also converted for public use in the construction of the Semarang-Demak Toll Road. This resulted in the land rights being declared lost based on Article 27 of the UUPA. Furthermore, Article 2 of the UUPA states that the state has the right to

regulate land that is destroyed to protect its citizens. The procedure in removing land rights and at the same time determining the land destroyed is contained in Government Regulation No. 18 of 2021 and Ministerial Regulation No. 17 of 2021. Meanwhile, the procedure for granting kerohiman funds and also the amount is explained in Presidential Regulation No. 27 of 2023 on the amendment to Presidential Regulation 52 of 2022.

2. Forms of legal protection for holders of land rights that are destroyed in the public interest can be given compensation for lost land rights based on Article 18 of the UUPA. Furthermore, it is stated in Permen ATR / BPN No. 17 of 2021 that the form of compensation is also called the Mercy Fund. Those entitled to receive the Concession Fund are holders of land rights whose names are legally listed and who have stated that they choose their priority rights to carry out reconstruction / reclamation of their land because it will be utilized as a public interest development. The amount of the Concession Fund is regulated in Presidential Regulation No. 27 of 2023 on the amendment of Presidential Regulation No. 52 of 2022 concerning Handling Social and Community Impacts, with the calculation of Land Area x 25% of the Tax Object Selling Value (NJOP). In this case, the 3 affected villages have received their compensation funds with a percentage of around 80%. The provision of this compensation fund is stated to have reached the expectations of the affected community.

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DECLARATION OF CONFLICTING INTERESTS

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