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LEGAL PROTECTION OF LAND RIGHTS FOR SITUBONDO RESIDENTS AFFECTED BY THE NATIONAL TOLL ROAD PROJECT



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Abstract

Land acquisition, according to Article 1, paragraph (2), of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, is the process of providing land by providing fair and appropriate compensation. Land acquisition for the public interest is an effort by the government to improve community welfare. However, its implementation often causes problems, especially related to the determination of compensation values that are considered unfair by affected communities, such as the case of land acquisition in Situbondo for the National Strategic Project (PSN) for the construction of the Probolinggo–Banyuwangi Toll Road. This study used a normative research method using a statutory approach and a conceptual approach. The results of the study showed that the stages of land acquisition based on Law No. 12 of 2012 concerning Land Acquisition include planning, preparation, implementation, and submission of results. Situbondo residents affected by land acquisition rejected land acquisition for the construction of the Probolinggo–Banyuwangi Toll Road. They regretted that the compensation value for their land was too small and even far from the market price. The Situbondo community has a legal remedy guaranteed in Article 38 of Law No. 2 of 2012 to be able to submit an application to the district court. If there are still objections to the district court's decision, an appeal can be submitted to the Supreme Court. A decision that has permanent legal force is the basis for payment of compensation to the objecting party.

Abstrak

Akuisisi tanah, menurut Pasal 1 ayat (2) Undang-Undang No. 2 Tahun 2012 tentang Akuisisi Tanah untuk Pembangunan Kepentingan Umum, adalah proses penyediaan tanah dengan memberikan kompensasi yang adil dan sesuai. Akuisisi tanah untuk kepentingan umum merupakan upaya pemerintah untuk meningkatkan kesejahteraan masyarakat. Namun, pelaksanaannya sering menimbulkan masalah, terutama terkait dengan penentuan nilai kompensasi yang dianggap tidak adil oleh masyarakat yang terdampak, seperti halnya kasus akuisisi tanah di Situbondo untuk Proyek Strategis Nasional (PSN) pembangunan Jalan Tol Probolinggo-Banyuwangi. Penelitian ini menggunakan metode penelitian normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa tahapan akuisisi tanah berdasarkan Undang-Undang No. 12 Tahun 2012 tentang Akuisisi Tanah meliputi perencanaan, persiapan, pelaksanaan, dan penyerahan hasil. Masyarakat Situbondo yang terdampak akuisisi menolak akuisisi tanah untuk pembangunan Jalan Tol Probolinggo-Banyuwangi. Mereka menyesalkan bahwa nilai kompensasi untuk tanah mereka terlalu kecil dan bahkan jauh dari harga pasar. Masyarakat Situbondo memiliki upaya hukum yang dijamin dalam Pasal 38 Undang-Undang No. 2 Tahun 2012 untuk dapat mengajukan permohonan ke pengadilan negeri. Apabila masih ada keberatan terhadap putusan pengadilan negeri, banding dapat diajukan ke Mahkamah Agung. Putusan yang telah memiliki kekuatan hukum tetap menjadi dasar pembayaran kompensasi kepada pihak yang keberatan.



INTRODUCTION

Land acquisition according to Article 1 paragraph (2) of Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest is the process of providing land by giving fair and reasonable compensation to the entitled partie (Amajihono, 2018). Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia stipulates that control over land, water, and natural resources contained therein is in the hands of the state and shall be utilized to the fullest extent for the prosperity of the people. The provisions in this article form the basis for the idea that land, water, and natural resources must be controlled by the state because these elements are the main foundation for realizing the welfare of the people. Therefore, the acquisition of land for public purposes is an effort by the government to carry out its duties to improve the welfare of the community (K. Harjono, 2023).

Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA) states that the state's right to control land gives the state the authority to regulate and organize the planning, allocation, utilization, and maintenance of land, water, and airspace. In meeting the need for land for various purposes of the community and the state, the government has the authority to revoke land rights while still providing adequate compensation in accordance with the procedures stipulated in the legislation (Wahanisa, 2019). Land acquisition carried out through a deliberative process will be accepted and complied with by the community. Thus, the potential for disputes can be minimized (Kotalewala *et al.*, 2020).

However, in reality, land acquisition for public purposes can cause conflicts between the government and landowners. The deliberation process in land acquisition is basically carried out only for formality, because the amount of compensation has been determined by the government (Harahap, 2023). In the deliberations, the form and amount of compensation were determined by the Land Acquisition Committee based on provisions established by the government, while the opinions and wishes of the landowners were not taken into account (Mogi *et al.*, 2021). As in the case of land acquisition in Situbondo for the construction of the Probolinggo-Banyuwangi Toll Road, many Situbondo residents have complained that the compensation is inadequate and far below the market price of land in the area. As of March 2025, progress on land acquisition for the Probolinggo-Banyuwangi Toll Road project remains chaotic. According to the latest report, only 64 plots of land have been paid for, while hundreds (170 plots) of others are still in a state of unclear negotiations that tend to be detrimental to residents (Hanafi, 2025). Therefore, efforts and strategies are needed to realize this development through land acquisition mechanisms (Wardana & Darmawardana, 2024).

Legal protection is an appropriate measure to ensure justice by implementing appropriate regulations to provide legal protection and certainty. Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that it is the

duty of the government to protect, supervise, promote, and realize human rights. Land legislation is designed to create a sense of justice and legal certainty (Apriani & Bur, 2020). Therefore, the law must be able to create prosperity for all members of society. In other words, the law should not only regulate the granting of land use rights, but also guarantee the prosperity of the people (Fauzi, 2022).

This research is important because the issue of land acquisition for the Probolinggo-Banyuwangi Toll Road National Strategic Project in Situbondo is not only related to technical aspects of construction, but also concerns the protection of the constitutional rights of the community to land and their welfare. The low compensation offered by the government demonstrates an imbalance in the relationship between the state and the people, which has the potential to cause public distrust and hinder development. Therefore, this study aims to analyze the implementation of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest in the practice of land acquisition. Thus, this study will discuss the conceptualization of the Land Acquisition mechanism for National Strategic Projects, obstacles to the implementation of Land Acquisition in Situbondo for the Probolinggo-Banyuwangi Toll Road National Strategic Project, and legal efforts to restore the land rights of the Situbondo community affected by the National Strategic Project. The novelty of this research lies in its focus on the dynamics of legal protection for the Situbondo community affected by the Probolinggo-Banyuwangi Toll Road National Strategic Project (PSN) as a concrete case study that is rarely raised, while also offering a critical perspective on the gap between ideal legal norms and field practices.

METHODS

This study uses a normative legal research method, which focuses on legal norms contained in legislation and the opinions of legal experts (Sahibu *et al.*, 2023). According to Peter Mahmud Marzuki, normative legal research is a process that aims to discover legal rules, legal principles, and relevant doctrines in order to answer legal issues that are currently being faced. Normative research is literally an activity that analyzes the values contained in positive law in order to resolve issues or problems within it (Benuf *et al.*, 2020). The legal materials used in this study include primary legal materials, namely Law No. 2 of 2012 concerning Land Acquisition for Development for Public Interest, and secondary legal materials, including literature, scientific journals, mass media articles, documents, and other relevant scientific materials (Prasdhana & Huda, 2024).

The approaches used are the statute approach and the conceptual approach (Rakhmatullah *et al.*, 2023). According to Peter Machmud, the statute approach is a method of approaching an issue by comprehensively examining all laws and regulations that are directly relevant to the legal issue under review (Aryani, 2021).

Meanwhile, according to Johnny Ibrahim, the conceptual approach is an approach that arises from perspectives and principles developed in legal science. Thus, this approach produces an understanding of law and legal principles that are relevant to the issues being studied, while also utilizing the views and ideas of experts on the concept of the rule of law (Sari, 2021).

RESULT AND DISCUSSION

Conceptualization of Land Acquisition Mechanisms for National Strategic Projects

Land acquisition for public purposes can be carried out using two methods, namely through compulsory revocation of rights or through a deliberative process involving the consent of the land rights holders (Mulyadi, 2019). Land acquisition for public purposes through the mechanism of revocation of rights is the exclusive authority of the President and cannot be delegated to other officials (Sufriadi, 2011). Revocation of rights is, in principle, a measure that should be avoided and only resorted to in urgent circumstances, namely when efforts to acquire land for public purposes through deliberation with the consent of the owner do not reach the expected agreement (Jarwadi, 2018).

The decision to revoke rights is made through a Presidential Decree, after first considering input from the Minister of Agrarian Affairs, the Minister of Justice, and other relevant ministers who require the land. Therefore, the revocation of rights is positioned as a last resort in order to obtain land and/or other objects needed for the public interest (Sahibu *et al.*, 2023). The revocation of land rights must be carried out in accordance with the provisions stipulated in the Law and must take into account the interests of the landowner by providing appropriate and fair compensation (Amajihono, 2018). Appropriate compensation is based on the real value of the land or related objects so that the value is not too low (Rongiyati, 2012). Compensation for land acquisition is provided for rights to land, buildings, crops, and related objects. Compensation may take the form of money, replacement land, resettlement, a combination of these forms, or other forms agreed upon by the parties concerned (Anggraini *et al.*, 2022).

The assessment of compensation objects is regulated in Article 33 of Law Number 2 of 2012 in conjunction with Article 6 paragraph (9) of Government Regulation Number 39 of 2023, which covers: a) Land; b) Space above and below the ground; c) Buildings; d) Plants; e) Objects related to land; and f) Other losses that can be assessed (Rombot & Tindangen, 2018). According to Article 87 paragraph (1) of Government Regulation No. 19 of 2021, in special circumstances where the rights holder requires immediate compensation for urgent needs, as evidenced by a letter of certification from the village/subdistrict head, compensation of up to 25% of the compensation value calculated based on the taxable value of the object, land value zone, or estimated compensation value for the current year may be granted. Such

urgent needs include natural disasters, education costs, worship, medical treatment, debt payments, or other urgent needs (Alim, 2024).

After the compensation value is determined by the appraiser, that value becomes the basis for determining compensation. The process of determining the compensation value begins with deliberations on the compensation value. Article 37 paragraph (1) of Law No. 2 of 2012 concerning Land Acquisition for Development for Public Interest stipulates that within a maximum of 30 working days after the appraisal results are submitted by the appraiser to the land agency, the agency will hold a consultation with the rights holders to determine the form and/or amount of compensation based on the appraisal results (Ngangi & Memah, 2018).

Article 71 of Government Regulation Number 39 of 2023 concerning the Implementation of Land Acquisition for Development for Public Interest explains that in the implementation of land acquisition, deliberations between public appraisers or government appraisers, agencies requiring land, and rights holders must be conducted under the guidance of appraisers. This consultation must be carried out within a maximum period of 30 days from the date the appraisal results are received by the head of the land acquisition implementation team (Alim, 2024). Consultations must be conducted immediately to determine the amount of compensation based on the assessment results. During these consultations, the land acquisition committee must disclose the amount of losses assessed by appraisers, both public and government appraisers. These consultations can be divided into several groups, depending on the number of eligible parties, as well as the time and place determined to determine the form of compensation (Berliani et al., 2024).

The release of land acquisition objects for public purposes controlled by the state is carried out in accordance with the provisions of the applicable laws and regulations. If the release of the land object is not completed within a maximum period of 60 working days from the date the location of the public interest development is officially determined, the land will be declared deleted, change status, and become the full property of the state administrator, which can be directly utilized for the purposes of public development (Alim, 2024).

Comprehensive land acquisition stages based on Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest:

First, the Planning stage: Agencies requiring land shall prepare a land acquisition plan for public purposes in accordance with the provisions of the law, which shall be set forth in a planning document containing: The purpose and objectives of the development plan, its compatibility with regional spatial plans and national and regional development plans, the location of the land, the area of land required, an overview of the status of the land, the estimated time frame for land acquisition, the estimated time frame for development, the estimated value of the land, and the budget plan (Ian Edward Hamonangan Butar Butar et al., 2023).

Second, the Preparation stage: The agency requiring the land, together with the provincial government, shall carry out notifications, initial data collection, and public consultations regarding the development plan based on the land acquisition planning document. If there are parties who object to the location of the development, the government is required to conduct a public consultation with the objecting parties within a maximum period of 30 working days. If there are still objections after the determination of the development location, the objecting parties may file a lawsuit with the local Administrative Court no later than 30 working days from the issuance of the location determination (Rahman & Tjoneng, 2023).

Third, Land Acquisition: Based on the determination of the location of development for public purposes, the agency requiring the land submits a request for land acquisition to the Land Agency. Land acquisition includes: inventory and identification of control, ownership, use, and utilization of land; assessment of compensation, deliberation on the determination of compensation, provision of compensation, and release of agency land (Tenong *et al.*, 2021).

Four, Submission of Results: The Land Agency shall submit the results of land acquisition to the agencies requiring the land after: Compensation has been paid to the entitled parties and rights have been released, as stipulated in Article 41 paragraph (2) letter a; and/or Compensation has been deposited with the district court, as stipulated in Article 42 paragraph (1) (Rahmi *et al.*, 2024).

Problems in Land Acquisition in Situbondo for the Probolinggo-Banyuwangi Toll Road National Strategic Project

The land acquisition process for the construction of national strategic projects faces obstacles if no agreement is reached between landowners and the parties requiring the land. This situation has been observed in Situbondo Regency, where some residents have rejected the land acquisition for the Probolinggo-Banyuwangi Toll Road National Strategic Project (PSN). The rejection is based on residents' dissatisfaction with the compensation amount, which they consider too low and not commensurate with the market price of land in the area. Meanwhile, the Ministry of Public Works and Public Housing (PUPR) has begun the first phase of construction of the Probolinggo-Banyuwangi Toll Road, which connects Probolinggo to Besuki and spans 49.68 kilometers. This toll road section is the final phase of the Trans Java Toll Road, which previously connected Banten Province in West Java to Probolinggo in East Java with a total length of 175.4 kilometers (Husni & Oktavianti, 2024).

The community in Besuki Subdistrict, Situbondo Regency, affected by the Probolinggo-Banyuwangi Toll Road National Strategic Project, expressed their collective disapproval by putting up banners rejecting the land acquisition process. The main objection raised by residents was related to the gap between the compensation offered by the government and the market price of land in the area.

According to one resident, the compensation offered is only around Rp 280,000 per square meter, while the actual market price of land around the location has exceeded Rp 1,000,000 per square meter. In fact, within a radius of approximately 500 meters from the project location, the price of land in residential areas reaches Rp 2,000,000 per square meter. This situation has led to demands from the community that the mechanism for determining compensation take into account the actual market value and not set a uniform price at a level that is considered unfair (Widarsha, 2023).

In another area of Situbondo Regency, specifically in Banyuglugur District, there has also been resistance to the land acquisition process for the construction of the Probolinggo-Banyuwangi Toll Road. The community in Kalianget Village has raised objections because they believe there are inconsistencies and ambiguities in the determination of compensation values. Residents feel that the price offered for their land is not comparable to prices in neighboring villages or surrounding areas. In Kalianget Village, the land value is estimated at between Rp181,000 and Rp220,000 per square meter, while in Banyuglugur Village it reaches around Rp300,000 per square meter, and even up to Rp400,000 per square meter in the Probolinggo Regency area. Based on data obtained from the Head of Kalianget Village, out of a total of 109 plots of land owned by 89 residents, only 35 owners have agreed to relinquish their land rights. This is due to economic pressures, while the other 54 owners still object. This community objection is reasonable and indicates the involvement of third parties or intermediaries (brokers) who are trying to influence land prices. Therefore, the government needs to prioritize the principles of transparency, fairness, and accountability in every stage of the land acquisition process (Husdinariyanto, 2020).

The implementation of land acquisition policies in the Probolinggo-Banyuwangi Toll Road Development Project should ideally be oriented towards the interests of the people so that its implementation does not cause harm to the affected communities. However, in reality, the compensation amounts determined by the authorities often do not meet the expectations of the community. This discrepancy triggers prolonged conflicts and hinders the implementation of land acquisition policies, resulting in delays in project completion according to the planned schedule (deadlock). Although these problems can generally be resolved through deliberation mechanisms, the process takes a long time, and in some cases, no agreement can be reached (Nugraha *et al.*, 2022). The rejection by Situbondo residents shows a crisis of trust in the government. The perceived injustice will give rise to conflict and resistance, so that the rule of law is no longer seen as an instrument of justice, but rather as a tool for imposing the will of the state (Suwardi & Boediningsih, 2023).

The implementation of compensation payments must consider the interests of those affected by land acquisition, particularly the communities impacted. While the public interest sought by the government must remain a priority, the rights of affected individuals must also be taken into account. Thus, the state's goal of creating public

facilities that can improve the welfare of the people can be achieved without causing disappointment among the community (Prasetya & Subekti, 2022). Therefore, mediation is considered an effective way to resolve problems without having to go through the courts (Adriansa et al., 2020).

Analysis of issues and legal solutions to restore land rights for the Situbondo community affected by national strategic projects.

According to Satjipto Rahardjo, legal protection is an effort to protect human rights that may be threatened or harmed by other parties. This protection aims to ensure that the community can enjoy the rights that have been recognized and granted by law (Dinda & Sudarwanto, 2022). According to Phillipus M. Hadjon, repressive and preventive measures are two forms of legal protection. Preventive legal protection involves giving the public the opportunity to voice their complaints or opinions before the government's decision is final. Thus, preventive protection can be understood as measures taken to prevent conflict. Meanwhile, repressive legal protection is an effort to resolve disputes that have already occurred (Rahman & Tjoneng, 2023). According to Article 9 paragraph (2) of Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest in land acquisition by the state, the procedure for providing compensation must be carried out in a proper and fair manner, so that the entitled parties can have the opportunity to improve their lives. Therefore, proper and fair compensation is required, taking into account the balance between development interests and social interests.

Based on Article 18 of the UUPA, the release of land rights for the purpose of land acquisition must always be accompanied by fair, reasonable, and proportional compensation for all losses incurred. This legal process must also be carried out transparently in accordance with the detailed procedures stipulated in the applicable laws and regulations (Sahibu et al., 2023). If there is no agreement on compensation based on Article 28 of Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest, landowners may take legal action in the following ways:

First, Compensation recipients who object may immediately submit a written request to the local district court within a maximum period of 14 (fourteen) working days from the official receipt of a copy of the compensation decision. Second, the competent district court must immediately decide on the form, type, and amount of compensation within a maximum period of 30 (thirty) working days from the official receipt of the request for approval (Shofi et al., 2022). Three parties who object to the decision of the local District Court may formally file an appeal directly with the Supreme Court within a maximum period of 14 (fourteen) working days from the date of the decision by the District Court. Four, the competent Supreme Court of the Republic of Indonesia must immediately decide fairly within a maximum period of 30

(thirty) working days after officially receiving and examining the appeal. Five, the decision of the District Court or the Supreme Court that has obtained and has permanent legal force shall become the legal basis for the payment of compensation to the party filing the objection (Taufik *et al.*, 2022).

Basically, land acquisition must go through deliberation between the parties who need the land and the holders of the rights to the land required for development. During the deliberation, the amount of compensation to be paid will be determined, with mutual agreement between the parties who need the land and the landowners through the deliberation process (Alim, 2024). The implementation of compensation deliberations in land acquisition must ensure legal protection and justice, including providing fair prices, fulfilling citizens' rights, and paying attention to humanity in the release of land rights. However, in practice, there is still injustice for affected landowners. Land rights holders are not given the opportunity to negotiate an agreement regarding the compensation value determined by the Land Appraisal Team. In compensation negotiations, parties who have not reached an agreement are only given the opportunity to file an objection with the District Court within a maximum period of 14 days. This provision makes land rights holders reluctant to file objections, due to a lack of knowledge, costs, and time required. Thus, the implementation of compensation deliberations from a legal perspective tends to be a procedural formality that does not provide fair legal protection to rights holders (Rakhmatullah *et al.*, 2023).

Although there are already mechanisms for dispute resolution through the District Court and the Supreme Court, in practice, people with limited economic means still face various obstacles in accessing the judicial system. These obstacles are caused by high legal costs, lengthy resolution processes, and low levels of legal literacy among the public regarding judicial procedures. This situation has resulted in suboptimal efforts by the judiciary to protect the rights of communities affected by national strategic projects. Therefore, it is necessary to strengthen alternative dispute resolution mechanisms outside the courts that are faster, more efficient, and more accessible to the public. The alternatives referred to include the implementation of community-based mediation, the provision of structural legal assistance by legal aid institutions, and the optimization of the role of independent institutions, such as the Ombudsman of the Republic of Indonesia, to ensure the fair and proper protection of the rights of communities affected by land acquisition. (Nayoltama *et al.*, 2025)

CONCLUSION

Land acquisition for the Probolinggo-Banyuwangi Toll Road National Strategic Project (PSN) is strictly regulated by law to ensure a balance between national development interests and the protection of community rights. In practice, the ideal

land acquisition mechanism should prioritize deliberation and the provision of fair and equitable compensation. However, the reality on the ground shows that there are imbalances, where deliberation is merely a formality, and the compensation offered is considered by the community to not reflect the market price or the true value of the land. The case in Situbondo shows that residents rejected land acquisition because they were dissatisfied with the compensation value, which they considered too low and non-transparent, and was exacerbated by price differences between villages. This rejection by residents shows an imbalance in the relationship between the state and the community in the land acquisition process, as well as weak legal protection of the rights of affected communities. Available legal remedies, such as filing objections with the District Court and appeals to the Supreme Court, are not optimally utilized by residents due to technical and economic constraints and a lack of legal literacy. This results in the deliberation process losing its substance of fairness and tending to become merely an administrative procedure that does not guarantee substantive protection of rights.

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CONFLICT OF INTEREST

The author declares that in writing the scientific paper entitled "Legal Protection of Land Rights of the Situbondo Community Affected by the Probolinggo-Banyuwangi Toll Road National Strategic Project," there is no conflict of interest with any party. The entire research and writing process was conducted independently, objectively, and solely for academic purposes.

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