

# Juridical Analysis of Compensation Procurement in Land Procurement for Development for Public Interest According to Law No. 2 of 2012 (Semarang - Demak Toll Road)

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**Abstract.** The relationship between man and land is one of eternal nature. Meanwhile, in current developments, both central and regional governments continue to promote the development of the public good. Securing land availability is conducted by some activities to obtain land by compensating for the removal of land, buildings, plants, and materials. The implementation of land procurement for the sake of common good continues to present an issue regarding incomes in the form of restitution, where disagreements between the landowners and the governments that need land are carried out. For instance, the toll on the Semarang-Demak project remains to be seen, especially regarding the cost of the farm's owners from the Semarang coastal areas to Demak Regency. This article was intended to identify and analyze how the compensable process of land made up for the common good in constructing the Semarang-Demak toll. Moreover, the objective is to find out and analyze obstacles and provide solutions in the process of compensable losses for the Semarang-Demak toll road. The approach methods used in this study are empirical juridical research methods, as well as identifying directly through research in the field. The results revealed some interesting findings in relation to compensation procurement in the public works.

**Keywords:** Land Procurement, Compensation, Community, Juridical Analysis.

## 1 Introduction

Land is something that is a basic need in human life, living, growing and developing on the ground, earning a living to meet the necessities of life being on the ground, and making the land and its contents as assets passed down from generation to generation and of very high value, religiously or economically. The land and the objects on its surface, as well as the natural resources contained therein, are the common property of the Indonesian people and should or must be protected and defended by the Indonesian people in various ways [1].

The bond between humans and the land is eternal. Therefore, land, water, space and natural resources contained therein, which are in the territory of Indonesia, are one unit of the Indonesian nation that cannot be separated from one another. Therefore, the bond between humans and the earth, water and natural resources contained therein within the territory of the unitary state of Indonesia is individual-collective.

It means that the earth, water and natural resources contained therein are the common property of the Indonesian people, which must be protected, appropriately managed, and

defended from disturbances by other nations, individually and collectively [2]. Therefore, the subject of the right of control over agrarian resources is the Indonesian people, individually and in groups. In this case, land has economic, social, cultural and political dimensions [3].

The state has the task of realizing a just and prosperous society, which must be carried out in every implementation of development, or the implementation of physical development always requires land [4]. It is done by holding the implementation of national development activities. In the implementation of development in physical form is very necessary Physical form in the form of land, in the process of certain developments, a very large land or land is needed (such as housing, industrial companies, plantation companies), the availability of land is a factor that determines whether the planned business will be carried out or not [5].

Law No. 5 of 1960 concerning the Basic Agrarian Law (BAL hereinafter referred to as BAL) which means land, namely the surface of the earth. Article 4 paragraph (1) states that "On the basis of the state's right of control as referred to in Article 2, it is determined that there are various types of rights to the earth's surface, which are called land, which can be given to and owned by people, either alone or together with other people and entities -legal entity." The article explains that the juridical definition of land is the surface of the earth. Therefore, the definition of the earth's surface is the part that comes from the land that can be judged for each person or every legal entity. Therefore, the rights that appear on the earth's surface are contained in the buildings or objects on it, which is a legal matter.

According to Harsono [5], land in Indonesia is divided into state land and private land. State land is land that has not been attached to any rights at all. Therefore, its control is directly carried out by the state. Meanwhile, land rights are land controlled by the state but not directly controlled because an individual right has attached it, and control is carried out directly by each individual who holds land rights.

In addition, in Law No. 5 of 1960 concerning the Basic Agrarian Law (BAL), what is meant by the right to control from the state as referred to in Article 4 paragraph (1), which is referred to in Article 2, stipulates that there are various types of rights over the earth's surface, which is called soil. It is explained in Article 4 paragraph (2) that, "The rights to land as referred to in paragraph (1) of this article give the authority to use the land in question as well as the body of the earth and water and the space above it, only necessary for direct interests related to the use of the land within limits according to this Law, and other higher legal regulations."

In connection with the above, Article 6 of Law No. 5 of 1960 concerning the Basic Agrarian Law (BAL), states that all land rights have a social function. It means that property rights and all land rights have a social function, and whatever land rights are in a person. It cannot be justified that the land will be used (or not used) solely for individual needs, especially if it causes harm to the people. Land use must be adjusted to the conditions and the nature of the rights so that it is useful for both the welfare and happiness of those who own it and also benefit the community and the state [3].

On the other hand, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia clearly states that the earth, water and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. In the contents of the article it is very clear that it contains a fundamental constitutional mandate, namely that the use and use of land must be able to bring the greatest prosperity to all Indonesian people.

Furthermore, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia clarifies how non-renewable resources are controlled, and the Indonesian people regulate development. The state has power over land, which means that the state has the

authority to regulate all legal relations related to land rights in various dimensions so that all community needs (individually and communally) can be met equally and fairly.

The explanation of land in Indonesia in recent years has experienced a rapid increase in technological developments regarding land and in improving the economy, especially in the land sector [6]. In addition, the government continues to improve facilities focused on facilitating access from one place to another due to the government continuing to accelerate the construction of toll roads in Indonesia. In this development, it is necessary to have a lot of land and support to accelerate the structure of the toll road.

Such conditions have grave consequences for the pattern of the relationship between land and humans and the relationship between humans and humans with the object of land [2]. In the implementation of the development, there will be no problems if there is still a lot of land or land. However, the problem is that land or land, a natural resource, is limited and cannot be expanded, and state land is already minimal. Currently, the availability of land or state land that is free or not owned or occupied by people or interested parties is increasingly limited [7, 8]. In addition, land use for public purposes for various kinds of development is increasing in each region. Meanwhile, Soimin [9] states that the available state land to meet these needs is very limited or no longer exists.

In the context of this study, Article 18 of BAL provides a legal basis for taking land rights by stipulating that "For the public interest, including the interests of the nation and state as well as the common interests of the people, land rights can be revoked, by providing appropriate compensation according to the method regulated by law." Thus, the charge can form the basis for land acquisition for the public interest.

The term land acquisition is contained in Article 1 paragraph 2 of Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest, namely the activity of providing land by providing appropriate and fair compensation to the entitled party. And it is also contained in the Government Regulation of the Republic of Indonesia No. 19 of 2021 concerning Land Procurement for Development in the Public Interest. In addition, Article 1 paragraph 7, "Public interest is the interest of the nation, state and society which must be realized by the central government or regional government and used as much as possible for the prosperity of the people."

Land acquisition activities carried out by the government for the public interest in Indonesia recently have increased as the government continues to carry out projects to

facilitate community mobility. Therefore, the government has made various efforts and processes to accelerate the development of some of these projects. However, regarding the consequences of living in a state and society, if you have an individual property right, dealing with the public interest, then the public interest must take precedence [10].

The implementation of land acquisition used for the public interest must have clear and complete legal certainty, so there are no misunderstandings regarding national land acquisition. So, based on Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest and Government Regulation of the Republic of Indonesia No. 19 of 2021 concerning Procurement of Land Procurement for Development in the Public Interest, this rule is made in the context of when the state needs land for national projects or in the public interest, and no one is harmed in the land acquisition process carried out by the state.

The procurement of land for public interest causes the release of land rights. Article 1 paragraph 9 of Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest explains the meaning of relinquishing or waiving the activity rights of terminating legal relations from the entitled party to the state through the land agency. Regarding the process of relinquishing land rights, this can only be done by way of approval

and agreement from various parties holding the rights, both technically in its implementation and regarding the amount and form of compensation that will be given to the land. In the process of relinquishing this right, it is an activation process in land acquisition which strongly applies the principle of respect for a ground.

The process of improving and developing the Semarang-Demak Toll Road infrastructure is part of the Trans Java Toll Road, a National Strategic Project (*Proyek Strategis Nasional/PSN*) to facilitate mobility and shorten travel time. Projects or programs carried out by the central government, regional governments, and/or business entities that have a strategic nature to increase growth and equitable development in the context of increasing community welfare and regional development. The Semarang-Demak toll road stretches for 26.7 KM and passes through several sub-districts and villages. What is certain is that there are many residents whose residential land or agricultural land is affected by the Semarang-Demak toll road project. Therefore, the government is obliged to compensate for the land or houses of residents affected by the Semarang-Demak toll road project [11].

Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest and Government Regulation of the Republic of Indonesia No. 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest provide legal basis for land acquisition which is carried out by the government. In addition, Government Regulation of the Republic of Indonesia No. 19 of 2021 stated regarding compensation for land acquisition for the public interest. Regarding land acquisition for the public interest, it is also based on several principles considered good enough so that there is no misunderstanding between the government and the people affected by the land for the Semarang-Demak Toll Road. Land Procurement for Public Interest is carried out based on humanity, justice, benefit, certainty, openness, agreement, participation, welfare, sustainability, and harmony.

Compensation for land affected by land acquisition for the public interest that occurred in the implementation of the Semarang-Demak Toll Road project is the responsibility of the project implementer. It is done by providing compensation following the nominal that does not harm the various parties involved in the Semarang-Demak toll road project. In this regard, the National Land Agency and the people affected by the Semarang-Demak Toll Road project negotiated and held deliberations to seek clear certainty regarding the issue of compensation for land acquisition for the public interest. It is important to avoid misunderstandings or losses between all parties involved in the land acquisition process. Compensation from the state to parties who have relinquished their rights can be in the form of a sum of money, a plot of land as a substitute or a residential area.

## **2 Research Method**

The approach method used in this research is an empirical juridical approach that uses empirical legal case studies in the form of community legal behaviour. The empirical juridical approach mainly identifies and conceptualizes law as an institution in a real and functional social form in a patterned life system [12, 13]. The approach method used in this research is an empirical juridical approach, in which empirical juridical research is legal research whose object of study covers the provisions of the Act (*in abstracto*) and is applied to legal events (*in concreto*) [14]. In addition, the source of the empirical juridical research data is not based on positive written law but the results of observations at the research location [15].

Data analysis techniques use qualitative methods where this research focuses on the general principles that underlie the manifestation of the units of symptoms that exist in human

life or the patterns that are analyzed by socio-cultural phenomena of the community concerned to obtain an overview of the prevailing patterns [16].

### 3 Results and Discussion

Semarang City is located between 6° 50' - 7° 10' South Latitude and 109° 35' - 110° 50' East Longitude. To the west, it is bordered by Kendal Regency, to the east by Demak Regency, to the south by Semarang Regency and to the north by the Java Sea with a coastline length of 13.6 Km. The altitude of Semarang City is between 0.75 to 348.00 above the coastline. Meanwhile, Demak Regency is an administrative division in Central Java which is located at 6°43'26" - 7°09'43" South Latitude and 110°27'58" - 110°48'47" East Longitude and is located about 25 km east of Semarang City [17].

Demak Regency has an area of ± 1,149.07 km<sup>2</sup>, consisting of a land area of ± 897.43 km<sup>2</sup>, and an ocean area of ± 252.34 km<sup>2</sup>. Demak Regency has a beach of 34.1 km long, spanning 13 villages, namely Sriwulan, Bedono, Timbulsloko and Surodadi villages (Sayung District), then Tambakbulusan Village, Karangtengah District, Morodemak Village, Purworejo and Betahwalang Village (Bonang District) then Wedung Village, Berahankulon, Berahanwetan, Wedung and Babalan (Wedung District). Along the coast of Demak, mangrove vegetation covers an area of about 476 hectares [18].

The Semarang-Demak Toll Road, which stretches from West to East, is part of the National Strategic Project (PSN), where the Toll Road connects Semarang City and Demak Regency. This toll road has a length of 26.7 km. The toll gate is located in Semarang City, Genuk sub-district and ends at Demak Kota.

The land acquisition for the Semarang-Demak toll road project passes through several villages and sub-districts. In Semarang City, the toll road will pass through three sub-districts in Genuk District. In the Demak Regency area, the toll road passes through 17 villages and one urban village in four sub-districts. The construction of the Semarang-Demak Toll Road consists of two sections. Session I in the Semarang area is 3.5 kilometres long, and section II in the Demak area is 22.5 kilometres long, using an area of 1,897.00 square meters.

A number of areas to be traversed by the Semarang-Demak Toll Road are Terboyo Wetan Village, Terboyo Kulon, and Trimulyo, Genuk District, Semarang City. Meanwhile, in the Demak Regency area, the toll roads will be traversed by the Sriwulan, Bedono, Purwosari, Sidogemah, Sayung, Loireng, and Tambakroto villages, Sayung District, Batu Village, Wonokerto, Kedunguter, Dukun, Karang Sari, Pulosari, and Grogol, Karangtengah District, Karangrejo Village, Wonosalam and Kendaldoyong, Wonosalam District, and Kadilangu Village, Demak City District.

The Semarang-Demak Toll Road project was created, which will be used multi-functionally. In addition to improving connectivity, it also functions as tidal flood control, considering that every rainy season comes. The main coastal area of Semarang City often floods, which causes the main north coast road to be affected and causes impossible traffic jams. The presence of the Semarang-Demak Toll Road makes a solution that is considered sufficient to overcome tidal flooding that has occurred for a long time in the northern coastal area of Semarang City. Moreover, the existence of the Semarang-Demak Toll Road makes the economy smoother and faster, which is more easily accessible by land transportation that crosses the north side of the Semarang City area to the Demak Regency.

The process of compensation for land acquisition for the public interest of the Semarang-Demak Toll Road project is carried out in four stages. Each stage follows applicable regulations and is related to the process of implementing compensation.

### **3.1. Inventory and Identification**

This inventory and identification stage is carried out related to the physical and juridical plots of land affected by the Semarang-Demak Toll road construction project. This activity is not only carried out by ATR/BPN as a party in implementing land acquisition but also involves village and sub-district officials, the Public Works Service (DPU). The involvement of various parties in carrying out the inventory and identification is expected to help complete these activities in the allotted time. In this inventory and identification stage, carrying out activities in the form of measuring land or land and calculating objects on land belonging to the community affected by the implementation of the Semarang-Demak Toll Road project [11].

Measurement and mapping of land or land are carried out per the regulations of land registration. After the measurements and mapping have been carried out, the results of the inventory and identification of measurements as well as mapping of the perimeter of the location and the measurement and mapping of land parcels are poured in the form of a map of the land parcel and signed by the head of the task force where the map image of the land parcel is used for the process of determining the value of compensation and registration of rights.

Article 61 paragraph 1 Government Regulation of the Republic of Indonesia No. 19 of 2021 concerning the implementation of land acquisition for development in the public interest. The task force in charge of inventory and identification collects data on the entitled parties and the object of land acquisition.

In this inventory and identification stage, the principle of land acquisition is applied, namely the principle of equality. This principle is intended to place the position of the party who needs the land and the affected party equally in the entire land acquisition process. The chairman of the task force will submit the results of the inventory and identification above to the chief executive of land acquisition by attaching an official report on the results of the inventory and identification. This inventory and identification stage have been completed, then proceed to the stage of determining the assessment [11].

### **3.2. Assessment Determination**

In the stage of determining this assessment, it is carried out by a public appraisal service office, which is a business entity that obtains a business license from the minister as a forum for public appraisers in providing their services. In this stage of determining the compensation assessment for the Semarang-Demak Toll Road, an appraisal team was formed to conduct assessment activities based on physical losses. This appraisal team is independently formed. At this stage, the appraisal team assesses compensation, including the form of land or land, a building, the environment, and others that can be assessed [19, 20]. When the appraisal team has carried out the activities of determining the physical form assessment, the appraisal team will determine the non-physical form assessment [11].

Furthermore, it was explained by the appraisal team that this assessment was determined in the physical form of land, and a building in the form of a residence was built. Here the appraisal team was obliged to assess the occupants' residence period, and there was an additional 30 per cent compensation. However, if the land is without a building on it, the appraisal team also determines the loss assessment in non-physical form. The stages of

determining this assessment form the basis for carrying out the next stage; the stage of deliberation to determine the form of compensation, which in the stage of determining this assessment is the result of the assessment team assessing the amount of compensation to be given by the parties affected by the Semarang-Demak Toll Road project. Determination of this assessment is a calculation effort carried out by a team that has been appointed to determine the amount of compensation that will be issued by the agency that requires land or land to carry out the Semarang-Demak Toll Project. Based on the contents of Article 68 paragraph (1) Government Regulation no. 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest stipulates that the appraiser acts to carry out an assessment of the amount of compensation for each parcel of land, including:

- a. Soil
- b. Above ground and underground space
- c. Building
- d. Plant
- e. Objects related to land
- f. Other losses that can be assessed

Furthermore, the compensation amount based on the assessment stage results is final and binding. In addition, the amount of the compensation value is used to conduct deliberation in determining the form of compensation. Therefore, after the team has completed the assessment stage, it will proceed to the stage of deliberation to determine the form of compensation.

### **3.3. Deliberation in Determining the Form of Compensation**

The stage of deliberation to determine the form of compensation is carried out to realize the principle of deliberation and respect for the rights of the holder of a right to land and all objects located on it. The deliberation stage to determine the form of compensation is carried out based on 4 (four) principles of land acquisition, namely the first principle of openness, where the principle of openness is in the procurement process, the affected community has the right to know information regarding planning, implementation and supervision of land acquisition and resettlement. As well as the second principle of justice is that, on the one hand, the affected communities are given compensation that can restore their socio-economic conditions to at least equal to the situation before the procurement. On the other hand, parties who take land can also obtain land according to the plan and obtain legal protection. Furthermore, the third principle, namely the principle of the agreement for all land acquisition activities, the acquisition of land, including compensation, resettlement and income recovery, is carried out based on an agreement between the party who needs the land and the holder of land rights. Physical development activities can only be carried out if an agreement has been reached between the parties and compensation has been given. Moreover, fourthly namely the principle of participation, where the active participation of all parties involved in the land acquisition process will create a sense of ownership and can minimize the possibility of rejection of land acquisition activities. Affected communities as project beneficiaries, NGOs and communities in resettlement sites were involved in the stages of data collection, resettlement planning and project implementation. Communication and consultation with related parties are carried out intensively and continuously to provide each other with the necessary input.

In the deliberation stage for the determination of compensation, this is carried out directly to decide the form of compensation according to the results of the compensation assessment as

well. During the implementation of this deliberation stage, it is accompanied by an appraiser or public appraiser as well as agencies requiring land with the rightful party at the latest thirty days when the results of the appraisal from the appraiser are received by the head of the Land Procurement Executor [11].

In implementing land acquisition, submitting the amount of compensation resulting from the assessment is the stage of determining the appraiser. In the deliberation, the implementing party for land acquisition invites the party entitled to hold deliberations to determine the form of compensation and determine the form of compensation in the deliberation stage. It is led by the chief executive of land acquisition or an appointed official. At the stage of deliberation to determine the form of compensation, if the entitled party is unable to attend the deliberation as stated in Article 71 of Government Regulation No. 19 of 2021, the entitled party can grant his rights to:

- a. A person in a blood relationship up, down or sideways to the second degree or husband/wife for the party is entitled to individual status;
- b. A person appointed following the provisions of the articles of association for the party is entitled to the status of a legal entity, or;
- c. Other entitled parties.

The results of the agreement in the deliberation are the basis for providing compensation to the entitled party, which is stated in the minutes of the agreement.

However, in this case, the project-affected community usually asks for compensation in the form of cash. In contrast, cash compensation is an easier and more effective way to resolve compensation problems [11]. And the rights holders affected by the Semarang-Demak Toll Road agreed to get compensation in the form of cash whose nominal value has been agreed between the rights holders or land or land affected by the Semarang-Demak Toll Project. The matter that makes the legal basis for determining compensation for land acquisition is Presidential Regulation no. 148 of 2015, where compensation must be carried out based on deliberation. The results of the deliberation agreement form the basis for the provision of compensation to the entitled parties as outlined in the minutes of the agreement. Moreover, the minutes of agreement contains:

- a. The rightful party present or their proxies, who agree along with the agreed form of compensation.
- b. Eligible parties present or their proxies which do not agree and
- c. Eligible parties who are not present and do not give power of attorney.

The minutes in question are signed by the executor of land acquisition and the entitled parties present or their proxies. If the stage of deliberation to determine the form of compensation has been carried out, proceed to the stage of giving compensation.

### **3.4. Provision of Compensation**

This stage is the last stage in the implementation of the compensation process, where the stage of providing compensation is the most important element in land acquisition activities for development for the benefit of this loss given directly to the government or agencies that need land to build public interest infrastructure facilities. The compensation can be given in the form of:

- a. Cash
- b. Substitute land
- c. Resettlement

- d. Shareholding
- e. Other forms agreed by both parties

However, in the Semarang-Demak Toll Road project, the land acquisition operator prioritizes the provision of compensation in the form of cash. As well as people affected by the Semarang-Demak toll road also receive non-physical compensation in the form of costs for moving goods or others whose houses are affected by the acquisition of the Semarang-Demak toll road, and the government provides compensation for the fishpond business owned by several communities in coastal areas that have been affected by the Semarang-Demak toll road project, in which the fishpond business is one of the livelihoods of the people on the north coast of Semarang City. In the process of implementing this compensation, the agency has agreed that it needs the land or land with the community holding the right, the stages of paying this compensation. Next, the land acquisition committee submits compensation in the form of cash that has been agreed upon to the right holder, and all administrative matters relating to the delivery of compensation have been completed. Finally, the land acquisition committee carries out the process of relinquishing rights.

### **3.5. Release of Land Rights**

This stage is the last stage where the stage of relinquishment of rights is the release of a right where the rights holders no longer have rights to land or land anymore, where the relinquishment of land rights is an activity of releasing a legal bond between the holder of the right to land and the land under his control by providing compensation based on deliberation (Presidential Regulation No. 36 of 2005). Regarding the release of rights, it is a land acquisition activity that applies the principle of respect for a land right if the payment stages of compensation have been carried out and are in accordance with what was mutually agreed.

The provision of compensation has been carried out by the State Asset Management Institute (*Lembaga Manajemen Aset Negara/LMAN*), in the first stage, the payment of a sum of money in the amount of 66 billion, on October 15, 2019, the payment of compensation for the first stage includes 96 parcels of land and seven non-land parcels which building form. The compensation payment is carried out directly to the people affected by the Semarang-Demak toll road project. And in the second stage, the State Asset Management Institute (LMAN) made compensation payments to communities affected by the Semarang-Demak Toll Road project with a compensation amount of 300 billion in 2020.

Based on data mining and analysis, the process of compensation activities for the Semarang-Demak Toll road project follows Law No. 2 of 2012 and Government Regulation No. 19 of 2021. Furthermore, the implementation of the stages regarding the process of implementing this compensation has also involved agencies that need land for the Semarang-Demak toll road project and parties with land rights or land affected by the Semarang-Demak toll road project. Therefore, in these four stages, there are no obstacles that arise. And the amount of this compensation has been determined by the appraisal team, which has made an assessment based on physical losses first. And the appraisal team is obliged to provide the value of the residence period of the residents whose land or land is affected by the Semarang-Demak Toll Road.

Regarding the compensation offered, it is not in the form of physical compensation that is lost but also calculates compensation in non-physical forms, such as restoring the socio-economic condition of the people who are moved to a new place. The provision of compensation shouldn't have a detrimental impact on the holder of a land right who has lost their rights, and also has a positive impact on a better standard of living than before or at least

the same as before being affected by project development activities. In addition, there is no rejection of this compensation where the community, as the right holder, agrees with the results of the five stages.

### **3.6. Obstacle**

The obstacle to the Semarang-Demak toll road project comes from the community, who, in the construction of the Semarang-Demak toll road project, crosses several fish ponds, for which the community asks for compensation because they feel they are still productive for people's ponds by cultivating fish, shrimp and shellfish. And other things also happened related to the status of residents' land drowned by seawater or in the category of destroyed land due to natural factors.

This obstacle occurred on the Terboyo (Semarang)-Sayung (Demak) segment regarding the acquisition of a 200-hectare land that will become a sea wall because between the land owners and the acquisition committee, there are still differences of opinion regarding the status of the land that has been submerged in seawater, considering that the cause occurs due to natural conditions, this is included in the soil or is destroyed or lost, the problem cannot be compensated. Based on Article 27 BAL letter b concerning the abolition of land rights. Destroying land means the land is erased; therefore, the loss of land due to natural factors, such as abrasion, cannot be held accountable to the state unless it is proven that the government has not taken proper preventive measures. It makes the land owned by the state or re-managed by the state.

And based on the ATR BPN Ministerial Regulation No. 17 of 2021 concerning Destroyed Land in article 2 paragraph 1, which explains that Management Rights and/or Land Rights are abolished because the land is destroyed. In this case, the management rights or land rights have been abolished because the land owned by the people affected by the Semarang-Demak toll road no longer exists due to seawater abrasion on the north coast of Semarang City to the border of Demak Regency. As well as in Article 2 paragraph 2 explains what is meant in Article 2 Paragraph 1, wherein the destroyed land includes fields that have changed from their original form due to natural events, cannot be identified anymore, and the Head of the Land Office determines the land is destroyed and confirms the cancellation of management rights and/or rights, land rights and record the cancellation of management rights and/or land rights.

It is called destroyed land because the management rights and/or land rights are abolished. After all, the land is destroyed. Destroyed land means land that has changed from its original form due to natural events can no longer be identified and cannot be properly functioned, used, and utilized. The Head of the Land Office determines the destroyed land, confirms the abolition of Management Rights and/or Land Rights, and records the cancellation of Management Rights and/or Land Rights. The method of determining destroyed land is carried out by stages of activities including location determination, formation of a Destroyed Land Research Team, socialization, identification, inventory and assessment, announcement, implementation of reconstruction or reclamation if the land owner declares that he will carry out reconstruction and/or reclamation, and/or issuance of a decision on determination destroyed land [21].

This explanation is clear that the land caused by seawater abrasion or natural factors is real and is part of the land destroyed. As a result, the implementation of the National Strategic Project (PSN) of the toll road, which is also a barrier to sea abrasion, is hampered. Furthermore, it causes the Semarang-Demak toll road project to be hampered due to the lack of public awareness to play an active role in the development and a lack of understanding of the public interest and the social function of land rights. It resulted in a lack of understanding

of the government's plans and the objectives of the government's development, for which the land acquisition committee carried out explanations and counselling.

Furthermore, there are also differences of opinion between the community and the government and the desire to determine the amount of compensation between the government and the affected community, where the rights holder, namely the community, tends to prioritize personal interests or the economic value of the pond. This has hampered the committee's work in implementing the provision of compensation because, until now, there has not been an agreement in each implementation of the deliberation [11].

Another obstacle that is very influential in implementing the Semarang-Demak Toll Road project is the absence of a Presidential Regulation that regulates the destruction of land so far [11]. The Presidential Regulation aims to serve as a legal umbrella for the implementation process, especially regarding the destroyed land that occurred in the implementation of the Semarang-Demak Toll Road project.

## **4 Conclusion**

In this compensation process, there are several stages, in each of these stages are carried out and applied directly between agencies that require land for the implementation of development projects for the public interest and involve the community as owners and holders of rights to the land, including a). The first stage is inventory and identification; b). The second stage is the determination of the appraiser; c). The third stage is deliberation to determine the form of compensation; d). The fourth stage is the payment of compensation. At the implementation stage of the Semarang-Demak toll road project, several obstacles came from the community itself; where the community demanded compensation for their pond land affected by the Semarang-Demak toll road project, the community felt that the pond was still productive for fish, shrimp and shellfish cultivation, as well as other obstacles, also arise related to the status of residents' land that has sunk due to natural factors. This is the category of destroyed land caused by natural factors. And there are other obstacles where the Presidential Regulation has not yet been issued regarding the management of destroyed land and the amount of compensation that will be given to the affected people.

Obstacles in implementing the Semarang-Demak Toll Road project originating from the community include a). Lack of awareness as an Indonesian citizen who understands and participates in national development makes the toll road implementation process; b). Differences of opinion, especially regarding the amount of compensation, where the community is still concerned with individual interests; c). The lack of public understanding that all land rights have a social function. Meanwhile, the obstacle from the government is that the Presidential Regulation on destroyed land has not yet been issued; the project implementation process has been implemented, and the Presidential Regulation regarding destroyed land has not yet been issued.

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