

Legal Certainty for Land Destroyed by Development Demak - Semarang Toll Road

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Abstract. *This study aims to analyze: 1) Regulation of the determination of destroyed land affected by the acquisition of the Demak-Semarang toll road. 2) Legal certainty regarding the regulation of destroyed land affected by the construction of the Demak-Semarang toll road. This type of research is included in the scope of empirical legal research. The approach method in this study is an interdisciplinary approach and an economic analysis of law approach. The types and sources of data in this study are primary and secondary data obtained through interviews and literature studies. The analysis in this study is prescriptive. The results of the study concluded: 1) Regulation of the determination of destroyed land affected by the acquisition of the Demak-Semarang toll road. The initial process of determining destroyed land begins with identification by the National Land Agency (BPN). The assessment team conducts a field inspection to determine whether the land meets the criteria as destroyed land. After the determination, the landowner is given information about the status of their land, as well as the procedure for obtaining compensation or spiritual funds. Based on the Regulation of the Minister of ATR/BPN No. 17/2021, land designated as destroyed land previously only received compensation of 25% of the Taxable Object Sale Value (NJOP). However, with the change in regulations, namely Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land, land affected by tidal flooding in the Demak-Semarang toll road project can now receive full compensation based on a fairer market value assessment by the appraisal team. 2) Legal certainty regarding the regulation of destroyed land affected by the construction of the Demak-Semarang toll road can be guaranteed by Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022. The existence of legal certainty regarding land status through the determination of land areas affected by tidal flooding that are designated*

as destroyed land or not, can provide legal certainty to the rights holders of the land concerned. This regulation also provides stronger legal certainty regarding the provision of compensation or spiritual funds for land identified as destroyed land. Land affected by tidal flooding in the Demak-Semarang Toll Road project is now entitled to full compensation based on the market value assessed by the appraisal team. This improves on the previous provision, where compensation was only 25% of the NJOP, thus ensuring the protection of landowners' rights and increasing social justice in the land acquisition process.

Keywords: Certainty; Destroyed; Land; Toll.

1. Introduction

The entire territory of Indonesia is a unified homeland of all Indonesian people, who are united as the Indonesian Nation; The legal relationship between the Indonesian Nation and the earth, water, and space is an eternal relationship.¹ Land in the legal sense can be interpreted as the surface of the earth. Land has a very high economic value so that it is the obligation of every person to maintain and maintain its existence as an object of economic value because land is also useful for the implementation of development but land also often causes various problems for humans so that its use needs to be controlled as well as possible so as not to cause problems in society.²

Land is one of the most basic human needs, so land is one of the most important aspects of human life. Land is needed for a place to live or work and a means to support the economic development of the Indonesian people.³ The Nation's Right to Common Land in the framework of the Nation's Right there is the Individual Ownership Right to Land. The task of authority to regulate the control and lead the use of common land is delegated to the state.⁴ In its implementation, the authority given to the state can be delegated to the Regional Government and customary law communities, as long as this is necessary and does not conflict with national interests, as a task of assistance, not autonomy.⁵

¹Muchsin. Imam Koeswahyono. (2010). Indonesian Agrarian Law: Historical Perspective. Refika Aditama. Bandung. p. 40

²Bunga Desyana P. Rindiana Larasari & Sri Rat. Iqbal Kamalludin. (2021). Legal Status of Destroyed Land Based on ATR/BPN Regulation No. 17. Officium Notarium Vol 1 No 2. p. 3

³Boedi Harsono. (2008). Indonesian Agrarian Law. History of the Formation of the Basic Agrarian Law. Contents and Implementation. Volume 1 National Land Law. Twelfth printing. Djambatan Jakarta. p. 266.

⁴Tiara Dwi Rahayu. Yani Pujiwat & Betty Rubiati. (2023). Legal Certainty of Land Ownership Rights after Land Liquefaction. Litra: Journal of Environmental Law, Spatial Planning and Agrarian. Vol 2 No 2. p. 37

⁵Bagus Rahmanda. (2019). Legal Protection for Land Owners Due to Land Destruction by Natural Disasters and Its Relation to Third Parties. Gema Keadlian Journal. Vol 6 Issue 1. p. 5

Problems can occur when the land is destroyed, such as due to certain conditions, namely natural conditions. Article 27 of the UUPA regulates the elimination of ownership rights, namely that ownership rights can be eliminated because the land falls to the State due to revocation, voluntary surrender, the land is abandoned, and because the land is destroyed. According to the provisions of Article 27 of the UUPA, it is determined that if the land is destroyed, the land is removed, this does not guarantee the rights of the community whose land is lost due to natural conditions. This results in land rights being revoked, especially when there is a public interest.⁶

Article 1 number 6 of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, the definition of public interest is the interests of the nation, state, and society realized by the government and used for the greatest prosperity of the people. The concept of "public interest" in this regulation is defined by classifying public interest into three categories (interests of the nation, state and society) and emphasizing the element of public prosperity as the purpose of land acquisition. Activities classified as public interest are further described in Article 2 of Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest. Infrastructure development in the form of toll roads is very much needed, especially in areas with a fairly high level of development. This aims to reduce congestion on main roads and accelerate the distribution of goods and services. According to Article 44 paragraph (1) of Law No. 38 of 2004 concerning Roads, as last amended by Law No. 2 of 2022 concerning the Second Amendment to Law No. 38 of 2004 concerning Roads, toll roads are part of the public road network system that functions as an alternative route. Based on Article 1 number 2 of Government Regulation Number 15 of 2005 concerning Toll Roads, as last amended by Government Regulation of the Republic of Indonesia Number 17 of 2021 concerning the Fourth Amendment to Government Regulation Number 15 of 2005 concerning Toll Roads, the definition of "toll road" is part of the road network system, which has the status of a national road, and users of the road are required to pay a number of fees called tolls.

The phenomenon of destroyed land in the Semarang-Demak 27 Km Toll Road project in Central Java is one of the obstacles to land acquisition. This phenomenon is a problem because it is an obstacle in the construction of the Semarang-Demak Toll Road due to the land acquisition of the destroyed land. In Semarang, the affected destroyed land is in three sub-districts, namely Trimulyo Sub-district, Terboyo Wetan Sub-district, and Terboyo Kulon Sub-district. Destroyed land is land that has changed from its original form due to natural events and can no longer be identified so that it cannot be used, used, and utilized properly. The mechanism for determining land as Destroyed Land refers to the

⁶Catherina Amanda Putri. and Tjempaka. (2023). Legal Status of Land Ownership Rights Whose Land Has Been Lost Due to the Earthquake in Cianjur. *Al-Manhaj: Journal of Islamic Law and Social Institutions*. Vol 5 No 2. p.7

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency Number 17 of 2021 concerning Procedures for Determining Destroyed Land. The problem with destroyed land in the Semarang-Demak 27 Km Toll Road project in Central Java is that regional officials do not dare to release such land because in substance it is intangible, but legally there is still a certificate holder for the land.

This made the president issue regulations to facilitate the implementation of the release of the destroyed land in Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land in the Framework of Development for the Public Interest. The Presidential Regulation was issued to clarify the legal status of the destroyed land and to be able to release the destroyed land so that the toll road project can proceed.

2. Research Methods

This type of research is included in the scope of empirical legal research. The approach method in this research is an interdisciplinary approach and an economic analysis of law approach. The types and sources of data in this research are primary and secondary data obtained through interviews and literature studies. The analysis in this research is prescriptive.

3. Results and Discussion

3.1. Arrangement for Determination of Destroyed Land Affected by the Acquisition of the Demak-Semarang Toll Road

Land acquisition for toll road infrastructure projects often raises legal and social issues, especially if the land is destroyed by the project. One real example is the construction of the Demak-Semarang Toll Road which involves land acquisition along the route. Land acquisition for the Demak-Semarang Toll Road project began several years ago and is still ongoing. Land acquisition has encountered various obstacles, especially because most of the land is affected by tidal flooding or seawater flooding which is considered as lost land and residents are reluctant to hand over their land that has been covered by seawater. The government is trying to find solutions through various mechanisms to resolve this problem and ensure that the land acquisition process can be completed immediately.⁷

The provision of compensation can be termed as the provision of compensation, due to the rights to the land including objects related to the land and also assumed the parties of the land owners who surrender their land rights to the state for the public interest. In addition, the term compensation can also be interpreted as an amount of money obtained by the land owner after releasing his rights or land is equivalent to the open market value plus other losses due to the release of land

⁷<https://www.antaranews.com/> accessed on September 1, 2024. at 20.00 WIB

rights. In addition to the land taken, losses suffered as a result of the acquisition must also be considered in the amount of compensation payments.⁸

Government Regulation Number 39 of 2023 regulates the mechanisms and procedures for land acquisition for the development of important infrastructure, including the determination and compensation for land that is considered destroyed. This regulation provides a clear legal framework for the implementation of major projects such as the Demak-Semarang Toll Road. A plot of land is determined to be in the category of destroyed land, based on Article 3 of the ATR/KBPN Regulation Number 17 of 2021 by going through several stages, namely:

1. Location Determination
2. Socialization
3. Identification, Inventory and Assessment
4. Announcement
5. Implementation of Reconstruction or Reclamation If the Land Owner States That He Will Implement Reconstruction and/or Reclamation

If the rights holder is willing to carry out reconstruction or reclamation, then a period of 1 year is given to carry it out. If the period ends and the holder of the Management Rights and/or Land Rights does not carry out reconstruction or reclamation, then the Land Area is determined as destroyed land. For land that is determined to be destroyed, the holder of the management rights or land rights will be given spiritual assistance.

Holders of Management Rights and/or Land Rights are required to submit a certificate of Management Rights and/or Land Rights to record the deletion of rights. Recording the deletion of Management Rights and/or Land Rights due to the destruction of the land is carried out based on the Decree of the Head of the Land Office concerning the Determination of Destroyed Land. Recording the deletion of rights as referred to in is carried out by the Head of the Land Office in the land book, certificate, measurement letter, name list and/or other general lists.

Article 42A of Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest explains that in the event that the Land Acquisition Object for the Public Interest is located on a land plot that is indicated as destroyed land, its implementation is carried out in accordance with the provisions of laws and regulations. Article 43 of

⁸Sumardjono. Maria SW. (2007). Land Policy between Regulation and Implementation. Revised Edition. Kompas Book. Jakarta. p. 103

Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest explains that the process of resolving changes in the status of Land Acquisition Objects with forest area status or permits for the transfer of status of use/release of assets for village treasury land, waqf land, customary land, land indicated as destroyed land, and/or land assets of the Central Government, Regional Government, state-owned enterprises/regional-owned enterprises, or village-owned enterprises as referred to in Article 40, Article 41, Article 42, and Article 42A must be carried out up to the Determination of the location.

Destroyed land will have its land rights erased and if the destroyed land becomes the object of land acquisition, no compensation will be given but will be given in the form of spiritual assistance. Based on Article 1 paragraph (7) of Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land in the Framework of Development for the Public Interest, the party entitled to receive spiritual assistance is the holder of land rights, both registered and unregistered, for land designated as Destroyed Land which will be used and/or reconstructed or reclaimed by the central government/regional government or other parties in the framework of development for the public interest. Furthermore, Article 1 paragraph (8) explains that spiritual funds are compensation funds given to parties entitled to receive spiritual assistance. The criteria for parties entitled to receive spiritual assistance according to Article 4 are as follows:

1. Land Rights Holders who do not use their priority rights to carry out reconstruction or reclamation of their land because it will be used for development in the public interest.
2. In the case where the subject is an individual, they must have an identity or population information that has been validated by the local sub-district or authorized agency.
3. In the case where the subject is a legal entity, it must have a deed of establishment of the legal entity which has been approved by the ministry that handles government affairs in the field of law and human rights.
4. Have proof of control, ownership, use, and/or ownership of land, whether registered or unregistered.

The amount of the spiritual fund is regulated in Article 13 of Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land, namely:

1. Calculation of the Fund assistance is carried out by the Assessor.

2. In the event that there is no Appraiser, the calculation of the Spiritual Fund assistance as referred to in paragraph (I) will be carried out by a Public Appraiser.
3. Calculation of Spiritual Fund assistance by Appraisers or Public Appraisers is carried out based on Indonesian Appraisal Standards.
4. Procurement of the services of an Appraiser or Public Appraiser as referred to in paragraph (3) is carried out by the Agency Requiring Land in accordance with the provisions of laws and regulations in the field of Government procurement of goods/services, at the request of the Integrated Team.
5. The Appraiser or Public Appraiser calculates the Spiritual Fund assistance after receiving a copy of the Social Impact Handling Plan document and the Minutes of the Destroyed Land Research Team which contains a study map and a list of nominees from the Agencies requiring the Land,
6. The area of land shown on the survey map and nomination list as referred to in paragraph (5) is obtained based on the appointment by the Party Entitled to Receive Spiritual Fund Assistance or his/her attorney accompanied by proof of control, ownership, use and/or utilization of the land area, whether registered or not.

Roscoe Pound's Law as a Tool of Social Engineering theory views law as an instrument to change and direct society towards desired social goals.⁹In the context of the Demak-Semarang Toll Road, Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest and Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land serve as tools to encourage infrastructure development that improves connectivity and the regional economy. By regulating the land acquisition process and compensation or spiritual funds for destroyed land, the government uses the law to ensure that toll road construction runs smoothly without sacrificing the rights of landowners. This is a concrete example of how the law is used to achieve larger social goals, namely infrastructure development and improving community welfare. The application of the Law as a Tool of Social Engineering theory in this context can be seen in government policies that encourage infrastructure development through land acquisition. Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning Implementation of Land Acquisition for Development in the Public Interest and

⁹Roscoe Pound. (1922). *An Introduction to the Philosophy of Law*. Yale University Press. New Haven. p.30

Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land are used as tools to regulate the land acquisition process, including the determination of destroyed land, so that broader national development goals can be achieved.

Gustav Radbruch in his theory of justice emphasizes that the law must reflect the values of justice. In the context of determining land destroyed due to a toll road project, justice is reflected in the way the government handles compensation and protection of landowners' rights. Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest and Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land, regulates that landowners whose land is destroyed are entitled to fair and appropriate compensation or spiritual funds. The process of assessing destroyed land must be transparent and involve the participation of the affected community to ensure that the compensation given is in accordance with the value of the land before the damage occurred.

The theory of legal certainty by Gustav Radbruch emphasizes that the law must provide certainty and clarity for the community. Government Regulation (PP) Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest and Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land provide a clear and detailed legal framework regarding the procedures for determining destroyed land and its compensation. This regulation ensures that all parties involved in the land acquisition process have clear and predictable guidelines. This legal certainty is important to reduce uncertainty and potential conflicts that may arise during the land acquisition and compensation process for destroyed land. strictly followed to provide certainty to all parties involved.

3.2. Legal Certainty Regarding the Arrangement of Destroyed Land Affected by the Construction of the Demak-Semarang Toll Road

Providing legal certainty for landowners' rights is very important. Legal certainty of land ownership begins with a legal product in the form of a land ownership certificate issued by the National Land Agency. Land registration is carried out to protect the rights of the community to their land ownership.¹⁰The function and role of land for human life is so important that there needs to be a legal basis that can serve as a guideline and as a form of guarantee of legal certainty in the

¹⁰Putri. CA. Gunarto. (2018). Effectiveness of Certificate Checking on Land Dispute Prevention in the Land Rights Transfer Process. Jurnal Akta. Vol. 5. Number (1) p.268.

implementation and resolution of land issues, especially in the issue of procuring land rights for the public interest.¹¹

The problem of land acquisition is very vulnerable in its handling, because it concerns the livelihood of many people, when viewed from the government's need for land for development purposes, it can be understood that the available state land is very limited, therefore the only way that can be taken is to free land owned by the community, both those that have been controlled with rights based on Customary Law and other rights according to the UUPA.¹²

Tidal flooding is a flood caused by rising sea levels that inundate land, especially in coastal areas. In East Semarang, especially the Kaligawe-Sayung area, the tidal flood phenomenon is quite severe and causes some land to become unsuitable for use. Land in this area is often submerged in water for a long period of time, which eventually damages the soil structure and results in the land no longer being able to be used for economic activities or other infrastructure development. In the Demak-Semarang Toll Road project, tidal flooding has become a significant challenge that slows down the development process. Land that is submerged and damaged by tidal flooding is finally designated as destroyed land, which must then be regulated and receive compensation or spiritual funds in accordance with applicable provisions.

Based on Article 1 paragraph (3) of Presidential Regulation of the Republic of Indonesia Number 27 of 2023 Amendment to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land in the Framework of Development for the Public Interest, destroyed land is land that has changed from its original form due to natural events so that it cannot be used, utilized, and utilized properly, which is determined as destroyed land in accordance with the provisions of laws and regulations regarding the procedures and determination of destroyed land.

Legal certainty in determining the land destroyed due to the construction of the Demak-Semarang Toll Road is very important to protect the rights of the affected landowners. The existence of legal certainty regarding the status of the land through the determination of the land area affected by the tidal flood which is determined as destroyed land or not, can provide legal certainty to the holders of the rights to the land concerned. If a land area is categorized as destroyed land, it includes the elimination of the rights to the land. This is emphasized in Article 27 of the UUPA that destroyed land means that the ownership rights to the land are lost. Land that is determined as destroyed land, then the owner of the rights will be given compensation or spiritual funds.

¹¹Mochamad Elmo. Amin Purnawan. (2018). The Role of Notaries in Land Acquisition Transactions for the Construction Location of the Sekadau Regency Government Office Complex. Jurnal Akta. Vol 5 No 1. p. 234

¹²Ibid.

Prior to the enactment of Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land, land designated as destroyed land only received compensation of 25% of the Taxable Object Sales Value (NJOP). This compensation was considered unfair by many parties, especially landowners who felt disadvantaged. Therefore, this new Presidential Regulation changes the compensation rules to be fairer by providing full compensation based on the market value assessment carried out by an independent appraisal team.

Gustav Radbruch places justice as the most fundamental value in law. In situations where there is a conflict between justice and other values such as legal certainty, Radbruch argues that justice must be prioritized. Justice is an act that lies between giving too much and too little which can be interpreted as giving something to everyone according to what is their right. Justice comes from the word "fair" which means not biased, not taking sides (taking sides with what is right), adhering to the truth (properly), and not arbitrary.¹³In essence, justice is an attitude to treat someone according to their rights. And what is the right of every person is to be recognized and treated according to their dignity and status, which is equal in rank, which has the same rights and obligations, without distinguishing between ethnicity, descent, religion, and class. Justice is the main virtue in social institutions, as is truth in the system of thought. The principle of the conception of justice is to show basic rights and obligations and determine proper mapping, this affects the problems of efficiency, coordination, and stability. Justice has a certain priority to be the main virtue of the institution.¹⁴

Based on Presidential Regulation Number 27 of 2023, this justice can be seen from how the regulation regulates fair compensation or spiritual funds for landowners affected by the construction of the Demak-Semarang Toll Road. This regulation ensures that the rights of landowners whose land is identified as destroyed land are protected fairly, and the compensation or spiritual funds provided are in accordance with the losses they have experienced. If this regulation is implemented in an unfair manner, for example by providing compensation that is too low or does not correspond to the actual value of the land, then according to Radbruch, the law cannot be considered a good law, even though it provides legal certainty.

On the other hand, Gustav Radbruch also emphasized the importance of legal certainty, which means that the law must be clear, consistent, and reliable. Legal

¹³Rizka Maulinda. Dahlan & M. Nur Rasyid. (2016). Legal Protection for Fixed-Term Contract Workers in Employment Agreements at PT. IU Kanun Journal of Legal Science. Volume 18. Number 3. p. 337

¹⁴John Rawls. (2006). Theory of Justice Basics of Political Philosophy to Realize Social Welfare in the State "A Theory of Justice". Translated by Uzair Fauzan and Heru Prasetyo. First printing. Pustaka Pelajar. Yogyakarta. p. 3

certainty provides firm guidance for individuals and society in acting, so that they know what to expect and how they are protected under the law.

Based on Presidential Regulation Number 27 of 2023, this legal certainty can be seen from the clear regulations regarding the identification process of destroyed land, compensation mechanisms, and dispute resolution procedures. The legal certainty provided by this presidential regulation is very important to ensure that the process of handling social impacts due to destroyed land runs smoothly, without causing confusion or uncertainty among the affected communities.

Legal certainty and welfare are two important aspects that must be considered in providing compensation for destroyed land affected by the construction of the Demak-Semarang Toll Road. *Maslahah* is a form of *masdar* (adverb) from the verb *salaha*. Thus, it is seen that the word *maslahah* and the word *manfaat* which also come from Arabic have the same meaning. According to Imam Al-Ghazali (450-505H.), that basically (in terms of language or 'urf), the word *al-maslahah* refers to the meaning of gaining benefits or avoiding harm (danger).¹⁵

Compensation for destroyed land affected by the construction of the Demak-Semarang Toll Road in order to achieve public welfare, must be designed to ensure that the benefits generated from the project are not only enjoyed by the community in general but also by individuals who lose their land. Fair, transparent compensation that takes into account the long-term welfare of landowners will create a harmonious balance between public interests and individual rights, so that the benefits expected from this development can be achieved optimally.

4. Conclusion

Regulations for determining destroyed land affected by the acquisition of the Demak-Semarang toll road. The initial process for determining destroyed land begins with identification by the National Land Agency (BPN). The assessment team conducts a field inspection to determine whether the land meets the criteria for destroyed land. After determination, landowners are given information about the status of their land, as well as the procedures for obtaining compensation or spiritual funds. Based on the Regulation of the Minister of ATR/BPN No. 17/2021, land that was previously determined as destroyed land only received compensation of 25% of the Taxable Object Sales Value (NJOP). However, with the change in regulations, namely Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling of Social Impacts on Land Identified as Destroyed Land, land affected by tidal flooding in the Demak-Semarang toll road project can now receive full compensation based on a fairer market value assessment by the appraisal team. This regulation for determining destroyed land aims to provide

¹⁵The wording is "am ma mashlahatu fi 'ibaratini fil ashl 'an jalb manfaat au dafi". Abu Hamid Muhammad Ibn Muhammad Al-Ghazali. No year. *Mustasfa min 'ilmi al ushul*. Juz I. Al-Kutub Al-Ilmiyah. Beirut. p. 286.

justice for communities affected by large infrastructure projects. Legal certainty regarding the regulation of destroyed land affected by the construction of the Demak-Semarang toll road can be guaranteed by Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022. The existence of legal certainty regarding land status through the determination of land areas affected by tidal floods which are designated as destroyed land or not, can provide legal certainty to the holders of rights to the land concerned. This regulation also provides stronger legal certainty regarding the provision of compensation or spiritual funds for land identified as destroyed land. Land affected by tidal floods in the Demak-Semarang Toll Road project is now entitled to full compensation based on the market value assessed by the appraisal team. This improves the previous provision, where compensation was only 25% of the NJOP, thus ensuring the protection of landowners' rights and increasing social justice in the land acquisition process. Thus, legal certainty provides a solid foundation for the compensation process, while the welfare ensures that the final result truly provides maximum benefits for all parties involved, especially the affected landowners. The combination of these two principles is important to achieve fair results, not only from a legal but also social and economic perspective, in the land acquisition process for the construction of the Demak-Semarang Toll Road.

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