

Legal Responsibility for Residents Affected by Relocation in Development National Projects (Case Study of Kayan Hydropower Development)

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Abstract. *The construction of the Kayan Hydroelectric Power Plant (PLTA) in North Kalimantan as part of the National Strategic Project (PSN) brings great benefits to the provision of clean energy and the acceleration of development, but raises socio-legal issues related to the relocation of the Dayak Kayan and Kenyah indigenous peoples in two villages upstream of the Kayan River. Relocation has led to the loss of customary land, livelihoods, and cultural heritage, raising questions about the government's form of legal responsibility. This research uses a juridical-normative method with a statutory and conceptual approach. The results of the study show that the government's responsibility is not only in the form of financial compensation or the provision of housing, but also includes socio-economic recovery, the provision of basic access, and the guarantee of livelihood sustainability. The state's obligations are divided into three aspects: respecting, protecting, and fulfilling the rights of citizens. Without the fulfillment of these responsibilities, relocation risks causing social conflicts, structural injustice, and a decline in the legitimacy of the PSN. Therefore, it is necessary to have a governance of relocation that is based on human rights, transparent, participatory, and in accordance with the General Principles of Good Governance (AUPB), so that the construction of the Kayan hydropower plant can run fairly, sustainably, and with social justice.*

Keywords: *Kayan; Relocation; Responsibility; Sustainability.*

1. Introduction

National infrastructure development in Indonesia is a strategic agenda carried out by the government to encourage economic growth and efforts to equitably distribute development to encourage improvement in people's welfare. One of the projects designated as part of the National Strategic Project (PSN) is the Kayan hydropower plant in North Kalimantan Province. The Kayan hydropower plant is included in the list of 77 national strategic projects (PSN) that have been designated as priority programs in the RPJMN. This project is not only aimed at

supporting investment and regional economic growth, but also becomes a concrete step for Indonesia in the energy transition towards sustainable development, reducing carbon emissions, and fulfilling commitments to the global energy agenda. (Arrijal Rachman March 3, 2025)

The Kayan hydropower project is planned to be the largest hydropower plant in Southeast Asia. The purpose of the construction of the Kayan hydropower plant is to produce clean energy for Kalimantan, including the Green Industrial Estate and the Nusantara Capital (IKN). In addition, the existence of the Kayan hydropower plant is expected to encourage the development of supporting infrastructure, create jobs, and improve regional connectivity. However, behind the great benefits expected by the government in the construction of the Kayan hydropower project, it is certainly faced with various kinds of social and legal challenges. Especially for indigenous people who live along the river so that they need to be relocated for the running of the Kayan hydropower project.

There are approximately 160 heads of families from the two oldest villages who are directly affected by the construction of the Kayan national strategic project. (Rustan, 2023) The two affected villages are Long Paleban Village and Long Lejuh Village, which are located in the upper reaches of the Kayan River. Long Paleban Village covers an area of about 235,336 km² with a population of 260 people, while Long Lejuh Village has an area of 296.06 km² with a population of 415 people. These two villages are expected to be submerged for the availability of electricity with a power of 9,000 megawatts on the Kayan River. (Ahmad Dzulvikor, 2023)

The two villages certainly have a rich historical culture in an environment that is still very beautiful with the majority of the Dayak Kayan indigenous people and the Dayak Kenyah indigenous people. The livelihood of the majority of the people there is by relying on customary lands such as cultivating rice fields, fields, forests and rivers. So, with the construction of the Kayan hydropower plant which requires them to be relocated, they will lose their source of livelihood, ancestral relics, and community traditions.

After the relocation, the two villagers will certainly start life from scratch in a new place, with various new challenges such as the loss of access to agricultural land, the lack of proper housing, the loss of communal ties, and the lack of community involvement in the relocation planning process. So that conditions like this can raise fundamental questions about the status of the legal responsibility of the state and the project implementer in their efforts to provide guarantees for the protection of citizens' rights.

Regulations regarding relocation are contained in various laws, but in this case Law No. 23 of 2014 concerning Regional Government emphasizes that every citizen affected by national projects is provided with facilities in the form of providing housing. In addition, Law No. 2 of 2012 concerning Land Acquisition for Development for the Public Interest also regulates proper compensation and protection of the rights of communities affected by the development of national projects. However, in some cases in the field, it is often only focused

on the provision of houses without paying further attention to how the rights of residents are affected in the long term.

Therefore, it is important to emphasize that relocation within the framework of national strategic project development is not merely about the physical displacement of buildings from one place to another, but also concerns the sustainability of people's lives, socio-cultural integrity, and the economic rights of affected residents. The loss of land and access to natural resources signifies the loss of primary sources of livelihood that have long sustained the lives of the affected indigenous communities. Such conditions may give rise to various social problems, including unemployment, poverty, and the degradation of cultural values.

It is thus imperative that the development of national projects, especially the construction of the Kayan Hydropower Plant, be aligned with a human rights-based approach. The human rights-based development approach is a legally binding normative recognition, which emphasizes the integration of human rights principles, norms, and standards into public policy, planning, and development implementation, while establishing the rights, obligations, responsibilities, and accountability of stakeholders. (Garzon, 2002) Human rights principles are certainly inseparable and the right to a decent life must be considered in relocation policies. So as to produce a mature relocation plan supported by the full participation of related parties.

By understanding the legal aspects of the relocation of residents affected by the Kayan hydropower project, as land acquisition is the main obstacle to the development of national strategic projects, it is hoped that by examining the sustainability aspects of relocation which is part of legal responsibility from a human rights perspective, it can provide recommendations that are more equitable and have a human rights perspective. So that the development of national projects does not only focus on economic growth and equity, but also pays attention to welfare in the form of people's right to life in the long term and reflects social justice development for the entire community. (Zuhriyah, 2017)

2. Research Methods

The type of research method used is juridical-normative, namely research conducted through literature studies on secondary legal materials, with an approach that places law as a set of rules in a positive legal system. (Efendi & Ibrahim, 2016) The problem approach used is the statute *approach*, by examining and understanding the relevant positive legal norms. In this case, it regulates relocation, the rights of residents affected by national strategic projects, and government responsibilities. (Marzuki, 2017) In addition, a *conceptual approach* is also used, which is an approach to analyze legal problems based on developed legal views and doctrines. The study of views and doctrines in law allows the author to find ideas that give birth to definitions, concepts, and legal principles that have relevance to the problem being studied. In conducting this research, the primary data used are sourced from laws and regulations including, the Constitution of the Republic of Indonesia in 1945, Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles, Law No. 2 of 2012 concerning the Acquisition of Land for Development for the Public Interest. This research also uses secondary material data

including, scientific works in the field of law, books, journals, legal reports, as well as relevant print and electronic media. Meanwhile, the tertiary legal materials used include, encyclopedia and the Great Dictionary of the Indonesian Language (KBBI). The data collection technique used in this study uses Library Research Techniques, namely research techniques on literature materials over legal materials. The data analysis technique uses a qualitative normative method. The presentation of data is carried out in a descriptive analytical manner by utilizing legal interpretation methods, in order to formulate legal arguments which are then drawn into a prescriptive conclusion, which not only explains the existing conditions, but also provides normative directions and recommendations. (Muhaimin, 2020)

3. Results and Discussion

3.1. Rights of Residents Affected by the Relocation of the Kayan National Hydropower Project

The construction of the Kayan hydropower plant's national strategic project, which is has taken place with the construction of its first dam in 2022, will certainly bring big changes to residents living around the area where the national project is located. Although the construction of the Kayan hydropower plant is a large project and has no less benefits for sustainability in supporting the development of the Nusantara Capital City (IKN), the implementation of the government's national project cannot be separated from the impact that will be caused. In this case, relocation is an option taken by the government and the project implementing company to ensure the smooth construction of the Kayan national strategic project. (Nurjannah, 2021)

In principle, the use of land must be in harmony with the conditions and nature of the rights attached to it, so that its existence can provide benefits for the welfare and happiness of its owners as well as be useful for the interests of the community and the state. (Harsono, 2008) However, in addition, it is necessary to note in the context of land used for national projects that the development process must actually be in line with human rights. Especially in terms of relocation, of course, the government and implementing companies must ensure the safety, dignity, and sustainability of the lives of the people who will be relocated. This is also in line with the concept of *people-centered development*, which is divided into 3 (three) main points: (Sjahrir, Korten, & Abadi, 1993)

- a. Providing encouragement and support for the poor to be able to develop independent businesses to meet their living needs.
- b. Fostering awareness that the modern sector (development) is not the only main support for economic growth, but the traditional sector also has an important role as a source of family livelihood.
- c. Prioritizing institutional management in order to develop the potential recipients of assistance, so that they can manage it independently, productively, and based on the use of local resources.

People-centered development is understood as a concept that looks at livelihood comprehensively, is able to adapt to changes in society, and is oriented towards developing people's potential. (Izzurrahman & Nasri, 2023) In the context of the relocation of national projects, it not only focuses on economic growth but also focuses on the aspect of government accountability to affected communities by guaranteeing their rights so that there is no violation of the principles of social justice upheld in the Indonesian constitution. Guaranteeing in this context, of course, it will be closely related to the recovery and improvement of the quality of life of citizens affected by national projects as a reflection of the principle of social justice in Article 33 of the 1945 Constitution of the Republic of Indonesia which emphasizes that national development must not sacrifice the interests of the community for the sake of economic growth alone.

Relocation without adequate protection can lead to structural injustices, where affected residents are at a disadvantage. For this reason, the relocation mechanism must be carried out by upholding the principles of legal certainty, justice, utility, and respect for human rights. In addition, the government and implementing companies in relocating residents need to pay attention to several fundamental rights related to the right to life. In the context of relocation, there is a close relationship with land rights which are normatively regulated to have a social function in Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA). (Basir, 2020)

The right to life in the context of relocation is closely connected to the right to land, adequate housing, and a good and healthy living environment. In accordance with existing regulations, every citizen affected by a national strategic project is entitled to receive compensation, either in the form of monetary payment or relocation. This implies that, in the context of relocation for national development projects such as the Kayan Hydropower Plant, the government and the implementing company are obliged to provide replacement housing that meets proper standards of adequacy—both in terms of the physical quality of the buildings and accessibility to essential facilities such as clean water, electricity, education, and healthcare. Relocation that merely transfers residents without regard to the quality and livability of the new housing has the potential to violate citizens' fundamental rights.

In addition, in terms of compensation to residents, it must also be given fairly and proportionately. In this case, it shows that the government does not only have administrative obligations but also moral obligations to ensure that compensation can really restore the socio-economic conditions of citizens. In other words, compensation should not be a formality or simply comply with the rules, but should have a value comparable to the losses suffered by the community. So in this case, a good approach and communication between the government, implementing companies, and citizens is the key to creating prosperity with human rights principles.

Furthermore, relocation must consider aspects of social justice so as not to create new inequalities. Residents who previously owned land and houses with certain social values should not be moved to locations that are actually detrimental, for example far from access to

jobs, markets, or public services. Therefore, in addition to physical housing, there needs to be integrated planning that involves the community in determining the location and form of compensation appropriately. In this way, relocation is not only seen as a technical solution for development, but also as an instrument to improve the welfare of the community in a sustainable manner.

In addition to the right to decent housing, residents affected by national projects also have the right to social security and livelihood sustainability, relocation will fail if it only focuses on financial compensation without being accompanied by empowerment programs. If we only focus on financial compensation, there will be no sustainability after the process of relocating residents to new residences. Considering that people are vulnerable to experiencing a decline in living standards after relocation if they are not accompanied by new skills and access to new jobs in the environment where they are relocated.

If the people affected by the previous relocation had a livelihood that was based on farmland, farming, and relying on river flows, after they were relocated, of course they would lose their livelihood in the new place and also their access to their previous livelihood would be closed. Land ownership transfer can affect economic aspects, social status, and people's daily routines. This condition not only causes material losses, but also presents social and psychological impacts because relocation separates the community from the source of livelihood that has been managed for generations.

Relocation without economic empowerment will create life uncertainty and increase the potential for structural poverty in the community. Thus, relocation planning must pay attention to the sustainability aspect of livelihoods, not just physical relocation to a new location. Therefore, the relocation must also reflect the sustainability aspects of the lives of the people affected by the national project. By providing new employment land, providing economic assistance programs by providing educational seminars on skills training, non-agriculture, and providing access to small business capital as a form of responsibility. Livelihood sustainability is achieved when communities are able to cope with and recover from the impacts of stress and shocks, and maintain or improve their assets and capabilities, both now and in the future, without damaging their natural resource base.

If we reflect on previous cases related to the relocation of residents for the construction of the Jatigede reservoir and the polemic on Rempang Eco City, it can be seen that the relocation process that was carried out in a hurry, not transparent, and minimal active participation of the community led to prolonged social conflicts. Therefore, the government can be wiser from this experience where the development of the Kayan hydropower project must prioritize the principles of deliberation, public consultation, and independent supervision. This mechanism is important so that affected residents feel involved in decision-making, not just being the object of development policies.

The next right that is no less important is the right of community participation which must not stop at the stage of mere formality, but must be realized in the form of public consultation,

open dialogue, and citizen involvement in the preparation of compensation schemes and new settlement spatial planning. The public has the opportunity to express their vote by expressing approval or rejection. This is certainly in line with the principles of democracy reflected in the constitution of the Republic of Indonesia which affirms that sovereignty is in the hands of the people. In addition to participation, residents affected by relocation also have the right to legal protection from arbitrary actions. It is emphasized that everyone has the right to a sense of security and protection from the threat of coercion that has implications for the loss of property and livelihood.

3.2. A Form of Government Responsibility for Residents Affected by the Relocation of the Kayan National Hydropower Project

Juridically, liability is understood as a legal instrument designed to ensure the implementation of an agreement and prevent the occurrence of prohibited acts. This agreement can appear in the form of written regulations or unwritten rules that are rooted in social practices in society. In terms of the form of government responsibility for residents affected by relocation, the conception of legal responsibility is not just a normative obligation, but also relates to social justice instruments and legal certainty in the midst of the dynamics of national strategic project development. Furthermore, government responsibility can be seen as a form of a social contract between the state and its citizens. (Huda, 2015)

The government's responsibility toward residents affected by the relocation of national projects, including the Kayan Hydropower Plant, is based on the guarantee of human rights as enshrined in the 1945 Constitution of the Republic of Indonesia. The government plays an essential role as a public development organizer, obligated to oversee the entire land acquisition and relocation process in accordance with the principles of justice, transparency, and the fulfillment of citizens' rights. In practice, this obligation extends beyond administrative arrangements to include the restoration of the socio-economic conditions of affected residents through fair compensation, the provision of alternative livelihoods, and the development of basic social facilities at relocation sites.

Article 28H paragraph (1) of the Constitution of the Republic of Indonesia of 1945 states that

"Everyone has the right to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment and the right to health services."

It has meaning in terms of relocation, the government has an obligation in the form of fulfilling legal interests in providing a good and healthy environment so that it is feasible to continue life. So in this context, in order to restore the environmental damage that is the source of people's livelihoods due to the construction of the Kayan Hydropower Project, a mandate is needed that establishes the obligation to implement corporate social responsibility (CSR). (Desthabu & Hadi, 2025) The purpose of the legal interest is to manage human rights and interests, by giving the highest position to the law as a determinant of which interests should be regulated and protected. (Saly & Ekalia, 2023)

The legal framework governing land acquisition and compensation in Indonesia is regulated by Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest. Article 36 of this Law stipulates that compensation may take the form of money, replacement land, relocation of settlements, shares, or other forms mutually agreed upon by the parties. In practice, compensation is most commonly provided through monetary payments. Money is often chosen as the primary form of compensation in land acquisition because it is considered more practical and effective, with its value determined based on mutual agreement between the parties involved. But in this case, the money is not enough to redeem the land that they used as a source of livelihood for generations within the scope of the indigenous people. (Angela & Setyawati, 2022)

Relocation should function as the most appropriate option for affected residents to rebuild their lives in a new environment. As relocation represents a form of legal responsibility, the government must ensure that no long-term decline occurs in the welfare of the relocated community. This responsibility includes the provision of replacement housing or settlements that meet proper feasibility standards, as well as guaranteed access to essential public facilities such as clean water, adequate sanitation through the construction of toilet facilities, and an effective household waste management system. These measures are essential to maintain a healthy environment and to support sustainable living, thereby ensuring that the relocation process aligns with the principles of human rights protection and social justice.

In addition, equitable access to electricity must be ensured, considering that the previous residential areas were difficult to reach and had limited electricity supply. The government is also responsible for providing educational facilities, such as schools, as part of its obligation to support the development of human resources within the relocation area. Health services must likewise be guaranteed, as the government is obliged to ensure the availability of affordable and accessible basic healthcare facilities at relocation sites, including community health centers (puskesmas), integrated service posts (posyandu), and access to referral hospitals. Furthermore, adequate transportation infrastructure is essential to connect these basic services. Transportation should not only serve daily mobility needs but also function as a critical link that supports access to healthcare, education, and other regional economic centers.

The government also has an obligation to provide assistance to the recovery of livelihoods by preparing access to basic services, as well as economic reintegration programs. The relocation of residents to a new environment will certainly make a shift in the old livelihood to a new livelihood. A changing environment will have an impact on various dimensions of human life and have the potential to cause imbalances because a number of environmental components lose their function. (Ardiyanto, 2017) Many residents around the Kayan River depend on agricultural land, plantations, freshwater fisheries, and other river-based activities. If the relocation is carried out without looking at the social and economic aspects, the relocated residents will lose their source of income and are vulnerable to falling into new social vulnerabilities.

State responsibility from a human rights perspective is divided into three categories, namely the obligation to respect, the obligation to protect, and the obligation to fulfill. (Earlene & Sitabuana, 2024) In terms of respect, the government must not confiscate citizens' land, residences, or sources of livelihood without due legal process that is transparent and fair. Accordingly, any relocation must be carried out based on legitimate and transparent legal procedures. The government also bears the obligation to protect human rights by ensuring that the relocation process promotes long-term sustainability of residents' livelihoods and supports their living standards after relocation. In terms of fulfillment, the state is responsible for guaranteeing that the rights of relocated residents are fully realized.

These three aspects are fundamental in ensuring a fair relocation process, particularly through measures such as social recovery, vocational training, economic empowerment, and the provision of business land for those affected by relocation. This framework reflects that the government's responsibility extends beyond the physical or administrative dimensions of relocation to include the economic sustainability of its citizens. In the context of the Kayan Hydropower Project relocation, the government must guarantee the implementation of economic recovery programs, including the provision of access to productive land in new areas, alternative job skills training, business capital assistance, and sustainable access to relevant natural resources.

Legal responsibility in this context is not merely a matter of fulfilling legal obligations but also a manifestation of the state's social contract with its citizens to ensure their welfare within every national development agenda. Neglecting responsibility for the sustainability of livelihoods may lead to serious consequences, including the potential for social conflict, inequality, and injustice, which in turn can undermine the legitimacy of national projects. Therefore, the governance of community relocation requires careful planning, and government actions in implementing relocation must adhere to the general principles of good governance to support development harmony that upholds human rights in the long term. These actions should be guided by the principles of legality, transparency, accountability, proportionality, and the prohibition of abuse of authority.

4. Conclusion

The construction of the Kayan Hydropower Plant as a National Strategic Project brings significant benefits to the provision of clean energy and economic growth; however, the relocation of the Dayak Kayan and Kenyah indigenous peoples raises serious issues regarding the loss of customary land, livelihoods, and inherent socio-cultural rights. The government's responsibility should not be limited to providing housing or financial compensation but must also include socio-economic recovery, environmental protection, and the sustainability of citizens' right to life. The state has an obligation to respect, protect, and fulfill citizens' rights so that the relocation process aligns with the principles of social justice, human rights, and good governance. Therefore, the government needs to design a human rights based relocation scheme that ensures active community participation, guarantees the availability of basic facilities such as decent housing, sanitation, healthcare, education, transportation, and

electricity, and promotes sustainable economic recovery through the provision of productive land, vocational training, and access to business capital. In addition, independent oversight is necessary to ensure transparency, accountability, and the long-term sustainability of the relocation implementation so that the construction of the Kayan Hydropower Plant can serve as a policy model that balances national development interests with the protection of citizens' rights, thereby achieving sustainable development without sacrificing social justice.

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