

## LEGAL ANALYSIS OF DELAY IN COMPENSATION PAYMENT FOR COMMUNITY LAND FOR THE NATIONAL STRATEGIC PROJECTS DEVELOPMENT

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### Abstract

*This study discusses the priority development projects of the Government to improve Infrastructure, which is expected to benefit the community. In the process there are problems that arise, including delays in payment of compensation for land acquisition for public interest for development. This research method uses an empirical legal approach, data obtained from field research and library research will be analyzed qualitatively to answer the problems in the payment research, there are 3 factors, namely the absence of an accurate budget estimate, incomplete payment files, and there is land in a forest area. Delays in payment of compensation will have economic and social impacts on the community and of course hinder project development for the community. Therefore, to fulfill a sense of justice, legal certainty is needed in the form of clarity regarding compensation for the community.*

*Keywords: Compensation; Land acquisition; Community justice.*

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### Abstrak

Penelitian ini membahas tentang prioritas proyek pembangunan Pemerintah untuk perbaikan Infrastruktur yang diharapkan dapat memberikan manfaat bagi masyarakat. Dalam prosesnya muncul permasalahan yang muncul antara lain keterlambatan pembayaran ganti rugi pembebasan lahan untuk kepentingan umum untuk pembangunan. Metode penelitian ini menggunakan pendekatan hukum empiris, data yang diperoleh dari penelitian lapangan dan penelitian pustaka akan dianalisis secara kualitatif untuk menjawab permasalahan dalam penelitian pembayaran tersebut, terdapat 3 faktor yaitu tidak adanya estimasi anggaran yang akurat, berkas pembayaran yang tidak lengkap, dan adanya lahan di kawasan hutan. Keterlambatan pembayaran santunan akan berdampak ekonomi dan sosial bagi masyarakat dan tentunya menghambat pembangunan proyek bagi masyarakat. Oleh karena itu, demi mewujudkan rasa keadilan diperlukan kepastian hukum berupa kejelasan mengenai ganti rugi bagi masyarakat.

*Kata Kunci: Kompensasi; Pembebasan lahan; Keadilan masyarakat.*

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## INTRODUCTION

The government's priority project programs such as Toll Roads, Dams, Reservoirs, Airports and so on, were conveyed by President Joko Widodo with the implementation of Presidential Regulation Number 3 of 2016 concerning the Acceleration of the Implementation of National Strategic Projects.<sup>1</sup>The regulation is a list of various national projects that are greatly needed by the community to improve their welfare and Presidential Regulation Number 3 of 2016 is a regulation that contains the mechanism for accelerating the development of national projects included in the list of National Strategic Projects. The number of Lists of National Strategic Projects has undergone several changes with the latest changes contained in the Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Changes to the List of National Strategic Projects<sup>2</sup>. This regulation has categorized several infrastructure developments that are development priorities, including the following.

**Table 1. List of National Strategic Projects**

In accordance with the Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 in Indonesia

Infrastructure Project Name	Number of Projects
Toll Roads and Bridges	56 Projects
Harbor	16 Projects
airport	8 Projects
Railway Sector	16 Projects
Regional Sector	19 Projects
Housing Sector	2 Projects
Dams and Irrigation	57 Projects
Clean water and sanitation	12 Projects
Coastal Embankment	1 Project
Energy Sector	15 Projects
Technology Sector	5 Projects
Education Sector	1 Project

In accordance with the list of National Strategic projects above, it can be explained that dam and irrigation construction projects are the most numerous projects with a total of 57 projects, then toll road and bridge projects with 56 projects, the Regional sector with 19 projects, the Railway and energy sector with 16 projects each, the port and railway sector with 16 projects each, Clean water and sanitation, 12 projects, Airports with 8 projects, Technology sector with 5 projects, Housing sector with 2 projects,

<sup>1</sup>Baiq Wahyu Regina, I Dewa Gede Haya, Anid Supriyadi, Analysis of the Influence of Changes in the Water Level of the Pandanduri Dam on the Groundwater Level (Wells) of Residents in the Downstream Area, *Mataram Journal*, 2019, p. 55

<sup>2</sup>Ricky Fernando, Implementation of Government Policy in the Poverty Alleviation Empowerment Program in Bitung City, *Journal of the Department of Government Science*, Vol.1(1) 2018, p.2339

Coastal embankments and Education sector with 1 project each.<sup>3</sup> One of the projects that is being pushed by the government is a project that has an important role as a supporter of the agricultural sector. Dams and irrigation are very much needed by farmers in Indonesia to work on their agricultural land in order to obtain maximum results. This is because to supply water needs in the management of more productive harvests and have good harvests so that the agricultural infrastructure of dams and irrigation is realized to be built immediately so that food self-sufficiency in Indonesia can be realized.<sup>4</sup>

The agricultural sector has a very strategic role in Indonesia, not only increasing non-oil and gas foreign exchange sources but also increasing employment opportunities, especially in rural areas by increasing the income of rural communities involved in the agricultural ecosystem.<sup>5</sup>In accordance with the Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Amendments to the National Strategic Project Number 7 of 2021 concerning Amendments to the priority dam construction project, one of which is Central Java Province, this can be seen from the five construction projects, namely the Jragung Dam, Bener Dam, Pidekso Dam, Randu Gunting Dam, and Jlantah Dam. The largest of these dams is the Jragung Dam which is located in Candirejo Village, Pringapus District, Semarang Regency. This dam is a multi-purpose dam with a total area of approximately 624 hectares (Ha), with a flood area of around 500 hectares (Ha) and aims to control flooding in two areas, namely Semarang City and Demak Regency and can irrigate thousands of hectares of rice fields including in Semarang Regency. This dam also has a water capacity of 103 million cubic meters during normal times and 135.43 million cubic meters during floods, raw water with a capacity of 2,000 liters per second.

So that the Jragung Dam requires land acquisition from land owned by residents and owned by Perhutani to build the dam. Therefore, land acquisition stages are needed for development in the public interest. The stages of land acquisition for development in the public interest have been clearly regulated in laws and regulations, where the milestone for the start of the new regulation is Law Number 2 of 2012 concerning land acquisition for development in the public interest and Government Regulation Number 19 of 2021 concerning land acquisition for development in the public interest as well as regulations for technical instructions for implementing Land Acquisition.<sup>6</sup>

The stages of land acquisition in accordance with the provisions above are broadly divided into 4 stages, namely:

1. Planning Stage
2. Preparation Stage
3. Implementation Stage

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<sup>3</sup> <https://nasional.kompas.com/read/2022/02/16/04000021/register-project-strategis-nasional-2020-2024>, accessed on October 16, 2024

<sup>4</sup>Kamarudin, L, Anwardan, and Sading, The Impact of Different Land Functions on the Social and Economic Life of the Community in East Bungku District, Morowali Regency, *Katalogis Journal*, Vol.4(12), pp. 47-48

<sup>5</sup>Manggala, Basic Environmental Analysis to Determine Company Strategy, Faculty of Economics and Business, Brawijaya University, *Malang Journal*, 2018

<sup>6</sup>Ante, E, Benu, Moniaga, V, Economic and Social Impact of Conversion of Horticultural Agricultural Land into Rurukan Hill Tourism Friend in East Tomohan District, *Socio Economic Unsrat*, 12 September, pp. 114-115

#### 4. Results Submission Stage

It is undeniable that the infrastructure development process by the state has experienced several obstacles in each stage, especially related to the land acquisition process. The issue of land acquisition is still the main factor inhibiting development for the public interest, contributing 30 percent of the total problems for development for the public interest. Land acquisition issues are often found in various infrastructure projects in Indonesia. If the land acquisition process is constrained, the next process for the development stage cannot be implemented. In general, the problems in land acquisition are, compensation value, insufficient fund allocation and a fairly long land acquisition process.<sup>7</sup>

The Jragung Dam as explained above requires land to be acquired, consisting of land owned by residents and land owned by Perhutani. In 2021, one of the stages of implementation began, namely the Assessment of Compensation Value by a Public Appraiser for land owned by affected residents, then a deliberation was held to determine the form of compensation with the result that the affected residents agreed to the Compensation Value carried out by the Public Appraiser. In 2022, problems arose, including the delay in payment of compensation to some residents affected by land acquisition who had agreed to the Compensation Value so that some of the community felt disadvantaged by the delay in payment of compensation. Several parties from the affected community elements felt it was unfair because some residents had received compensation but some had not received compensation.

#### **METHOD**

Research methods are carried out to achieve goals by obtaining the desired data scientifically or scientifically. According to Jujun S. Suriasumantri (1987), the scientific method is a combination of something logical (rational) with empirical studies. Rational means something coherent and logical and Empirical is an action to ensure a truth.<sup>8</sup>

This study uses Empirical Jurisprudence, namely looking at the problem using an analysis of the application of applicable laws and regulations by starting to use secondary data using legal materials (laws and regulations) journals, books and articles and then confirming this with interviews in the field with the relevant parties (Primary Data). This method is not solely based on the norms of laws and regulations but confirms the application of these regulations to what has happened in society. Community behavior also needs to be considered in the application of laws and regulations, there are many factors in society that can affect the smoothness of the land acquisition process for development in the public interest both in terms of norms, economy, culture and social.<sup>9</sup>

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<sup>7</sup>Ahmad, FS, Impact of Trans Java Toll Road Construction on Economic Growth in Central Java, *Journal of Economics and Development Policy*, Vol.11(1), pp. 4-6

<sup>8</sup>Fuad Masykur, *Methods in Seeking Knowledge: An Empirical Rationalism Approach and Scientific Method*, TARBAWI, Vol.1(2) 2019, p. 57

<sup>9</sup>Jujun S. Sursyasumatri, *Philosophy of Science, A Popular Introduction*, Jakarta: Pustaka Sinar Harapan, 2000, p. 30

## RESULT AND DISCUSSION

### 1. Compensation Payment Process for Land Acquisition for Public Interest on Land Owned by Residents

The Land Acquisition Process for Development in the Public Interest consists of 4 Stages, namely Planning, Preparation, Implementation and Submission of Results. Identification of Land Owned by Residents affected by the Jragung Dam Land Acquisition begins from the beginning of the Planning process to the Submission of Results Stage. The following is a Chart of Identification of Land Owned by Residents affected by the Jragung Dam Land Acquisition in each Stage of the Land Acquisition process for development in the Public Interest.<sup>10</sup>

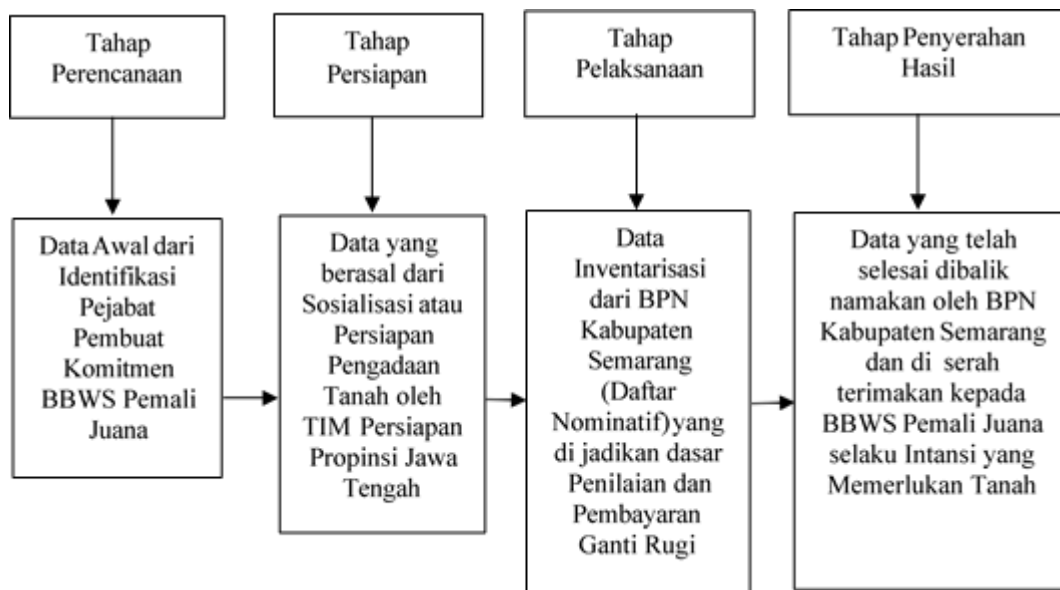


Figure 1. Identification of Land Owned by Residents Affected by the Jragung Dam Land Acquisition in Each Stage of the Land Acquisition Process

Source: Government Regulation Number 19 of 2021 (processed)

#### a. Planning Stage

Identification Data on Land Affected in Procurement for Development for Public Interest, including affected land owned by residents, is one of the important variables that must be included in the Land Acquisition Planning Document. In accordance with Government Regulation Number 19 of 2021, Article 6, which states that the Land Acquisition Planning Document must contain at least:<sup>11</sup>

- 1) The purpose and objectives of the development plan
- 2) Suitability of space utilization activities

<sup>10</sup>Intanni, YS, The Impact of the Construction of the Surabaya-Mojokerto Toll Road on the Economic Conditions of the Community in Jetis District, Mojokerto Regency, Student Journal of Surabaya State University, Vol.1(9), 2016, p. 12

<sup>11</sup>Silvia, Nurudin, Tiyas. W, Renewal of Land Acquisition Regulations for Public Interest in the Concept of Profit and Loss, Pacasakti Law Journal, Vol.2(1), 2014, pp.48-49

- 3) National/regional development priorities
- 4) Land location
- 5) Land area required
- 6) Land status overview
- 7) Estimated time period for land acquisition implementation
- 8) Estimated construction timeframe
- 9) Estimated land value
- 10) Preference for form of Compensation

From the description of Government Regulation number 19 of 2021 above, article 6 states that at least the Land Acquisition Development Planning Document contains the location of the land, the required Land Area and a general description of the land status. Therefore, these 3 things explain that the agency that requires land in this case the Pemali Juana BBWS in carrying out the Jragung Dam Land Acquisition needs to prepare a Land Planning Document containing a general description of the identification data of the lands that will be affected, including if any, land owned by residents. The Pemali Juana BBWS needs to identify the location of the land, the required Land Area and a general description of the land status.

In accordance with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 20 of 2020 concerning Procedures for the Preparation of Land Acquisition Planning Documents, Article 3 states that agencies that require land can synergize and cooperate with related institutions and professionals according to their fields of expertise in preparing Land Acquisition Planning Documents. In this case, BBWS Pemali Juana as an agency that requires land has prepared the Jragung Dam Land Acquisition Document in 2019.<sup>12</sup>In the document, BBWS Pemali Juana has carried out one of the things, namely identifying land owned by residents and the forestry department affected by land acquisition for the construction of the Jragung Dam.

The location of the planned land acquisition for the Jragung Dam is located in Candirejo Village and Jatirunggo Village, Pringapus District, Semarang Regency. The area of the planned land acquisition for the Jragung Dam is  $\pm$  624.1 hectares consisting of 14.39 hectares of community land and 609.71 hectares of Perhutani land.

#### b. Preparation Stage

In accordance with Government Regulation Number 19 of 2021 concerning Land Acquisition for Development in the Public Interest, Articles 9, 10 and 11 state that the implementer of land acquisition preparation is the Governor by forming a Preparation Team for the Regent/Mayor, the relevant provincial government apparatus, agencies that require land and government agencies that organize land affairs and if deemed necessary can involve other agencies.<sup>13</sup>In the end, the preparation team

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<sup>12</sup>Boedi Harsono, *Indonesian Agrarian Law, National Land Law*, Jakarta, Djambatan, Vol.1, 2002

<sup>13</sup>Erika, *Criticism and Solutions to the Compensation System in Land Acquisition for Investment Interests in Indonesia*, *Jurnal Indonesia*, Vol.4(1), 2014, p. 44

issued Location Determination Number 590/46 of 2020 concerning Land Acquisition for the Jragung Dam, Semarang Regency with the identification of the location in Candi Rejo Village, Pringapus District, Semarang Regency, covering an area of approximately 624.1 hectares. When the Location Determination was determined in 2020, the extension of the Location Determination still used the basis of Presidential Regulation Number 71 of 2012, namely that the Location Determination is valid for 2 years and can be extended for 1 year. Therefore, the Determination of the Location for Land Acquisition for the Jragung Dam, Semarang Regency has been extended with Number 590/31 of 2022 concerning the Extension of the Determination of the Procurement Location

Land for the Construction of the Jragung Dam in Semarang Regency and extended again with Number 590/43/2023 concerning the Extension of the Determination of the Location of Land Acquisition for the Construction of the Jragung Dam in Semarang Regency.

Identification of data on ownership of residents affected by the Jragung Dam land acquisition is contained in point 2 above, the preparation team in carrying out its duties obtains the Land Acquisition Planning Document from the Agency that requires the land then carries out verification and field data collection so that if there are changes or incomplete data in the Jragung Dam Land Acquisition Planning Document, it can be corrected by the affected residents or the preparation team. Data in the identification in the planning stage is data that has been verified and socialized to the affected community.<sup>14</sup>

### c. Implementation Stage

The Implementation Stage of Land Acquisition for Development in the Public Interest in accordance with Government Regulation Number 19 of 2021 concerning Land Acquisition for Development in the Public Interest in Articles 53 to 68, the essence of which is that the Implementation Stages of Land Acquisition are Led by the Chief Procurement Officer, namely the Head of the National Land Agency Regional Office or can be delegated to the local Land Office with several members consisting of Officials in charge of land acquisition affairs within the Land Office, district/city regional apparatus officials, local sub-district heads and village heads. The Chief Executive of the task force in charge of inventory and identification of land acquisition objects consisting of Task Forces (Satgas) A and B, each of which has the following duties.<sup>15</sup>

Task Force A's duties include collecting Physical Data on Land Acquisition Objects, which consists of:

- 1) Measurement and mapping of the perimeter of the location
- 2) Measurement and mapping of areas by area

Task Force B's duties include collecting legal data on land acquisition objects, consisting of:

- a) Name, Occupation and address of the authorized party
- b) Self identity

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<sup>14</sup>Prabandari, Luh Nyoman Diah, Compensation for Land Acquisition by the Government for Public Interest, *Journal of Legal Analogy*, Vol. 3(2), 2021, p. 72

<sup>15</sup>Aminudin Salle, *Law on Land Acquisition for Public Interest*, Yogyakarta: Kreasi Total Media, 2007, p. 99

- c) Proof of control/ownership of land, buildings, plants
- d) Land location, area and plot identification number
- e) Land status
- f) Use and utilization
- g) Encumbrance of Land Rights
- h) Upper and lower ground

Identification of data affected by land acquisition in the Implementation Phase is final data and data refinement of existing data in the planning and preparation stages. Especially data on the basis of ownership rights and land area that are directly inventoried by the authorized party, namely the National Land Agency. The inventory data is called a nominative list. The chief executive in this case the BPN forms Task Forces A and B to conduct an inventory of the affected land plots. Then the Nominative List Data is announced by the Land Acquisition Committee at the Sub-district or Village Office, the affected community has 14 days to file an objection if there is nominative list data that is not in accordance. After the objection period is complete, the data can be given to the Assessor for the Assessment. The following is a chart of identification data affected by land acquisition in the Implementation Phase.<sup>16</sup>

#### d. Results Submission Stage

The handover stage is the final stage carried out by the National Land Agency (BPN) as the head of the implementation of land acquisition to the Agency that requires land. The data which essentially contains files both softcopy and hardcopy related to the implementation of land acquisition, especially the certificate of change of name to the government, namely BBWS Pemali Juana.<sup>17</sup>For all areas that have been paid by LMAN to residents affected by the Jragung Dam Land Acquisition, the results of the land acquisition have been handed over by the Semarang Regency Land Office as the Chief Executive to the Pemali Juana BBWS as the Agency requiring the Land with Minutes of Handover of Results Number 1898/BA-33.22/VII/2023 on July 11, 2023 with the submission of the original and copy of the land plot map, nominative list and overall administrative data located in Candirejo Village, Pringapus District, Semarang Regency, Central Java Province, covering an area of 93,804 m<sup>2</sup>.

## 2. *Causes and Impacts of Delays in Compensation Payments for Land Acquisition Owned by Residents*

The process of land acquisition stages starting from the planning, preparation, implementation and submission of results are stages to carry out the land acquisition process for development in the public interest which are made to meet the principles or principles desired by all stakeholders involved, especially the community affected by land acquisition. One of the principles that is desired to be realized in the land acquisition stage is the principle of justice. According to Hans Kelsen, justice is an absolute thing as God's Will, the nature of man or is the nature of nature that is born from an object or all of that

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<sup>16</sup>Maria, SW, Sumardjono, *Land in the Perspective of Economic, Social and Cultural Rights*, Jakarta: Kompas Book Publisher, p. 290

<sup>17</sup>Jarot Widya, *Easy Way to Understand Land for Development Through the 3in1 Concept in The Land Acquisition*, *Journal of Legal Regulation*, Vol.1(2), 2018, p. 165



is often termed as natural law. This stigma is because it is the nature of nature, so it is something that is higher and completely valid and fair as a regularity of human relations.<sup>18</sup>The implementation stages and up to the stage of delivering optimal results that will have an impact on the justice felt by all stakeholders, especially the community, can be realized if the planning and preparation process is carried out properly and correctly.

In principle, the Planning and Preparation Stages are the key to the success of the implementation of land acquisition for development in the public interest. One reflection of the success of achieving the implementation of land acquisition is the achievement of the target completion of the results of the schedule that has been set at the planning stage.<sup>19</sup>Obstacles that will be faced in the implementation process should be anticipated in the planning and preparation process, so that the implementation can be carried out smoothly and provide a fair effect for all stakeholders involved. Problems that arise that cannot be anticipated properly in the planning and preparation process will result in delayed implementation until the handover of the land acquisition results. One of the impacts that can be felt by the community affected by land acquisition is the delay in payment of compensation.<sup>20</sup>

The preparation stages carried out by the Governor's Team are the stages of preparing the validity of the nominative list data collection of affected residents and the stages of socialization and public consultation carried out to the community. Therefore, the community is given an open explanation of the technical implementation and schedule of the implementation stages, so that the community has its own hopes, especially related to the certainty of the time of compensation payment.

In the Land Acquisition Process for the Jeragung Dam, there were several problems which caused delays in payment of compensation for the procurement of the Jeragung Dam Land because...

- a. The results of the Compensation Assessment are greater than the Compensation Money budget in the Land Acquisition Planning for the Jragung Dam,

From the data of the Jragung Dam Land Acquisition Planning Document above, it is explained that the plan to create a function for the inundation area and Green Belt in Kedung Glatik Hamlet from the initial planning data is 85 plots with an area of 5.54 hectares with a budget value of 10,244,000,000. Finalization of the implementation of land acquisition for the function of the inundation area and Green Belt in Kedung Glatik Hamlet which has been assessed by the Public Appraisal Services Office (KJPP) Andi Tiffani and Partners, there are 2 assessments, namely according to Contract KU.02.03 / SPK-APPRAISAL / X / 2021/01 dated October 27, 2021, as many as 47 plots with a total area of 12,165 m<sup>2</sup> with a Total Assessment Value of 8,937,424,090 and Contract number KU.02.03 / SPK-APPRAISAL-15 / XII / 2022 dated December 5, 2022, as many as 7 plots with a total area of 4,740 m<sup>2</sup> with a Total Assessment Value of 8,937,424,090

The assessment is 2,588,088,500 so that for the Assessment of the Function of the Inundation Area and Green Belt in Kedung Glatik Hamlet which has been carried out by KJPP Andi Tiffani and Partners with 2 Assessment Contracts, the total number of fields is 54 fields with a total area of 16,905 m<sup>2</sup> and a compensation value of 11,525,512,590.

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<sup>18</sup>Imam Koeswahyono, Tracing the Constitutional Basis for Land Acquisition for Development Interests in the Public Interest, *Constitutional Journal*, Vol.1(1), p.40

<sup>19</sup>Arie, Hutagalung, Application of the *Rechtsverweking* Institution to Overcome the Weaknesses of the Negative Publication System in Land Registration, *Journal of Law and Development*, Vol.4(8), 2000, p. 15

<sup>20</sup>Elvira, Mega.A, Evita.,J, Laili.B, Ayu Amelia, Land Acquisition Flow in the Urgency of Infrastructure Development, *NOTITIA JURNAL*, Vol.1(1), 2023, p. 11

In the author's opinion, the postponement of partial payment of compensation for land owned by residents was due to a difference in the Compensation Assessment Results which were greater than the Compensation Money budget in the Jragung Dam Land Acquisition Planning. This caused the agency that needed the land, namely the Commitment Making Officer (PPK) of the Pemali Juana River Basin Center (BBWS) of Central Java Province through the Minister/Head to re-submit changes to the Land Acquisition Funding Needs Planning to the State Asset Management Agency (LMAN) in accordance with Article 25 of the Regulation of the Minister of Finance of the Republic of Indonesia Number 139/PMK.06/2020 Concerning Procedures for Land Acquisition Funding for National Strategic Projects by the State Asset Management Agency (LMAN). The postponement of Land Acquisition Compensation Payments caused by the results of the KJPP Andi Tiffani and Partners Assessment was greater than the budget available in the Planning Document.<sup>21</sup>

b. Incompleteness of application files for payment of compensation for land acquisition for Jragung dam

Regulation of the Minister of Finance of the Republic of Indonesia Number 139/PMK.06/2020 Concerning Procedures for Funding Land Acquisition for National Strategic Projects by the State Asset Management Agency (LMAN) Articles 44 to 52 concerning the application for direct land acquisition compensation payments to the entitled parties. In the event that the affected community has agreed to the value set by the Public Appraisal Services Office (KJPP), the next stage is for the Land Acquisition Implementation Committee to validate the files of the entitled parties which are then submitted to the State Asset Management Agency (LMAN) for compensation payments. LMAN has the authority to check these files so that the payment process is administratively complete in accordance with existing provisions.

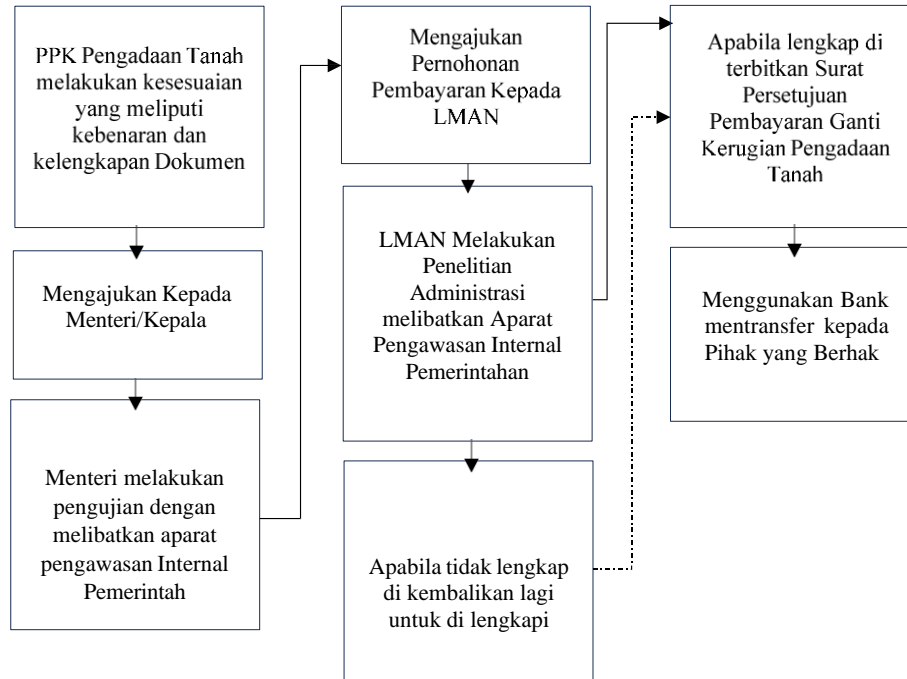
The flow of payment submission to LMAN is in accordance with the Regulation of the Minister of Finance of the Republic of Indonesia Regulation of the Minister of Finance of the Republic of Indonesia Number 139/PMK.06/2020 concerning Procedures for Funding Land Acquisition for National Strategic Projects by the State Asset Management Institution (LMAN) Articles 44 to 52 concerning applications for direct land acquisition compensation payments to the entitled party.<sup>22</sup>

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<sup>21</sup>Ferry Firawab, Ahmad., Diah Setyati, Implementation of Green Construction in the Kragung Dam Construction Project, Semarang, *Civil Engineering Journal*, Vol.19(2), 2023, p. 295

<sup>22</sup>Robiah.A, Taupiqqurahman, Problems of Funding for Land Acquisition for National Strategic Projects Through District Court Consignment, *Journal of Religious and Community Science*, Vol.17(6), 2023, p. 32

**Bagan 9. Tahapan Pengajuan Permohonan  
Pembayaran Pengadaan Tanah Bendungan Jragung Kepada LMAN**



In accordance with Article 78 paragraph 5 of Government Regulation Number 19 of 2021 concerning Land Acquisition for Development in the Public Interest, which states that compensation must be provided no later than 17 (seventeen) days after the submission of the validation results by the Head of the Land Acquisition Implementation.<sup>23</sup> After the community affected by the land acquisition has agreed to the value set by the Public appraiser, the land acquisition committee and the Commitment Making Officer validate the data submitted for payment of compensation. The process of submitting compensation payments to LMAN as explained in the graph above explains that there are several things that need to be examined by the committee and LMAN before making payments to the community, namely the administration of the completeness of the data required according to the provisions.<sup>24</sup>

The author has an opinion that in the implementation of the inventory and identification stage of residents' assets affected by land acquisition by task forces A and B, the completeness of the data needed, including the need for files for applications for compensation payments as explained above, should have been inventoried and obtained by the Land Acquisition Committee so that when the announcement of the nominative list is made, the data has been obtained from the community.<sup>25</sup> If the data is obtained before the assessment and agreement of the form of loss deliberation, there will be no delay in payment

<sup>23</sup>Ali Bastanta, Tundjung Herning, Fulfillment of the Principle of Justice in Providing Compensation to Land Owners Due to Land Acquisition for Development in the Public Interest, *UNES LAW REVIEW*, Vol.6(3), 2024, p. 24

<sup>24</sup>Stefanus Febrianto, Effectiveness of Legal Protection for Land Rights Holders Regarding Land Acquisition for Public Interest in the City of Surabaya (Case Study of the Eastern Outer Ring Road), *SAPIENTIA ET VIRTUS*, Vol.7(1), 2022, p. 60

<sup>25</sup>Anshor Akbar, Implementation of Head of Land Agency Regulation No. 1 of 2010, Concerning Service Standards and Land Regulations at the Pontianak City Land Office, *Gloria Yuris Law Journal*, Vol. 3(1), 2014, p. 44

of compensation. Certainty of implementation of laws and regulations related to the land acquisition of Jragung Dam is very necessary for the community so that things do not happen that could have an impact on the losses of the community affected by the procurement. Often the land acquisition committee intends to run simultaneously between the land acquisition implementation process in the form of assessment and deliberation with the collection of complete payment files, with the hope that the land acquisition process can be completed quickly in this simultaneous manner.<sup>26</sup>

The author also analyzes that the lack of understanding of the community affected by land acquisition actually causes the delay in compensation payments for the Jragung Dam land acquisition and is not effective enough. Therefore, the completeness of the files should be completed first before the assessment and deliberation process is carried out by the Land Acquisition Committee and Public Appraiser. This is considered very important considering that the community will understand that the speed of the land acquisition compensation payment process depends on the readiness of the files and data from the community itself, so that the process of delaying payments that are considered unfair by the community does not occur and does not cause the community to experience negative impacts due to the delay in compensation payments.

c. There is land belonging to the community within the Forest Area.

In the process, there is some land owned by residents whose plots are located above forest areas, including several pieces of land owned by residents that have certificates, several buildings owned by residents and several plants owned by residents.<sup>27</sup> Therefore, for the assets owned by the residents, the land acquisition process is still being postponed. The land acquisition committee is still consulting with several related stakeholders such as Perhutani, the Ministry of Environment and Forestry and other agencies to resolve the problem. So based on the Letter of the Head of the ATR/BPN Regional Office of Central Java Province Number: AT.02.01/5406-33/X/2023 which states that the assets identified as being in the Forest area are not included in the Land Acquisition but are included in the Handling of Social Impacts so that the Settlement will be handed over to the Central Java Province Integrated Team in accordance with Presidential Regulation Number 62 of 2018 concerning Handling of Social Impacts in the Framework of Land Provision for National Development.

This certainly makes the land, buildings, plants and social facilities owned by residents until now still cannot be paid because they are still waiting for the completion of the integrated TEAM of the Central Java Provincial Government. For the community, the completion schedule is not in accordance with what has been socialized by the Jragung Dam Land Acquisition Preparation Committee. The following is a Map of the Identification Results by the Ministry of Environment and Forestry of the Republic of Indonesia.

The description above has generally resulted in the delay in payment of compensation to communities who own land, buildings and plants located above forest areas from the schedule that has been socialized by the preparatory committee to communities affected by land acquisition, so that the community needs certainty regarding the resolution of this problem.

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<sup>26</sup>Tine Suartina, Legal Analysis of Land Acquisition Policy for Public Interest in Indonesia, *Journal of Society & Culture*, Vol.10(1), 2008, p. 152

<sup>27</sup>Elvianan Sagala, Legal Protection for Holders of Land Title Certificates Entering Forest Areas Due to the Issuance of the Decree of the Minister of Forestry Number SK44/MENHUT-II/2005 Concerning the Designation of Forest Areas in North Sumatra Province, *Jurnal Ilmiah Advocacy*, Vol.1(1), 2013, p. 120

According to the author's analysis, the process of resolving the problems of the affected community's lands that border the forest area should be resolved at the Preparation stage or before the location is determined by the Governor in accordance with Government Regulation Number 19 of 2021 concerning Land Acquisition Article 40 paragraph 1 which states that if there is a land acquisition object that has the status of a forest area, the agency that requires land through the governor can coordinate with the ministry that handles forestry affairs and in accordance with Article 43 which states that the process of resolving the problem is up to the determination of the location of the preparation stage. The problems that occurred in the land acquisition of the Jragung Dam were only resolved at the implementation stage or after the Location Determination.

This is considered by some residents who experienced the problem, feeling that they were treated unfairly considering that this was not in accordance with the socialization carried out by the preparatory committee regarding the certainty of resolving the problem and the certainty of payment of compensation for land assets belonging to the affected residents.

In the opinion that by looking at the problem in the future, it is better for land problems that have problems related to forest areas to be resolved in accordance with Government Regulation Number 19 of 2021 concerning Land Acquisition for development in the public interest Articles 40 and 43, namely so that it can be resolved at the preparation stage until the Location Determination is issued, so that if this is done before the location determination and socialization, the community will better understand the real conditions of the settlement and feel that they are being treated fairly because there has been no socialization of the schedule for the completion of the implementation and payment of compensation. If the problem is resolved before the location determination, the preparatory committee can conduct socialization of the schedule for the completion of the implementation and payment of compensation according to the schedule that has been submitted so that the community does not feel disadvantaged and does not experience delays in payment of compensation.

Regarding the land of residents located in the Forest area that has proof of ownership such as a Certificate of Ownership and Letter C, in the author's opinion, it should be compensated and the settlement cannot be resolved by using social impact handling in the form of spiritual money. This is in accordance with Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration which emphasizes that land certificates are a tool to guarantee legal certainty for those who hold land rights.<sup>28</sup>

In general, the impact of postponing compensation payments for the Jragung Dam Land Acquisition is divided into 2 things, namely economic impacts and social impacts.<sup>29</sup>

a. Economic Impact

Based on an interview with Slamet Riyadi as a resident affected by land acquisition, information was obtained that there was a delay in payment of compensation for land acquisition, the community experienced economic losses because there was no certainty when the compensation would be paid. As is the case, there was one community that canceled assets that had been Down Payment (DP) considering that clarity was demanded from prospective sellers. Therefore, the community must look

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<sup>28</sup>Noor Atikah, The Position of Land Certificates as Proof of Ownership of Land Rights in the Indonesian Land Law System, Notary Law Journal, Vol.1(3), 2022, p. 222

<sup>29</sup>Queenisia Emanuela, Runtukahu, Hendrik.P, Harly, S., Provision of Compensation for Land Acquisition for Road Construction Based on Law Number 38 of 2004 Concerning Roads, Lex Administratum, Vol.10(1), 2022 pp. 80-81

for land that will be purchased later if the payment for the acquisition of their land has been paid by the government.

b. Social Impact

The social impact felt by the community is by remaining on their lands and also resulting in less than optimal daily activities of residents. On average, most residents use two-wheeled motorized vehicles and have difficulty passing through the road so that residents have to pass by being on the side of the road that is being paved by the physical contractor for the construction of the Jragung Dam. In addition, with the road construction activity, there is dust and material that disturbs the comfort of residents who still live in the location who have not received compensation.

According to the analysis of the Author of the Pemali Juana River Basin Center (BBWS), it is better to anticipate so that there is no delay in payment of Compensation for Land Owned by residents affected by the Jragung Dam Procurement so that the community does not experience losses due to the social impact of the construction of the road. If this cannot be avoided, the Pemali Juana River Basin Center (BBWS) can request or synergize with the contractor Business Entities that built the Jragung Dam to provide Corporate Social Responsive (CSR) to residents who are still in the location who have not received compensation, either in the form of material or community empowerment involvement in the Jragung Dam Construction Project. This is done to fulfill the Principle of Justice in accordance with the Principles in Land Acquisition for Development in the Public Interest as stated in Article 2 of Law Number 2 of 2012 that the "Principle of Justice" is to provide a guarantee of proper compensation to the Entitled Party in the Land Acquisition process so that they get the opportunity to be able to live a better life.

## CONCLUSION

1. The Land Acquisition Process for Development consists of 4 very important stages, namely:
  - a. Planning Stage, this includes documents relating to land acquisition development planning such as land location, land area required and a general description of land status.
  - b. Preparation Stage, in accordance with Articles 9, 10, and 11, the implementation of land acquisition preparation is through the Governor by forming a Preparation Team for the Regent/Mayor, the relevant provincial government apparatus, agencies that require land and government agencies that organize land affairs and other agencies that are deemed necessary.
  - c. Implementation Stage, regulated in Articles 53 – 68, the essence of which is that the Implementation of Land Acquisition is led by the Chief Procurement Officer, namely the Head of the Regional Office of the National Land Agency or can be delegated to the head of the local Land Office with several members consisting of Officials in charge of land acquisition affairs within the Land Office.
  - d. Handing over the results stage, this stage is carried out by the National Land Agency as the head of the implementation of land procurement to agencies that need land.
2. Settlement of the Postponement of Compensation Payment for Land Acquisition for the construction of the Jragung Dam consists of 3 things, namely:
  - a. The results of the Compensation assessment are greater than the Compensation Money budget in the Bandungan Jragung Land Acquisition Planning
  - b. Incomplete application files for compensation payments for Land Acquisition

- c. There is land, buildings and plantations located above the Forest Area

Meanwhile, the form of delay in payment of compensation for land owned by residents affected by Land Acquisition for development in the public interest for the community is the increase in land value from time to time, around the assets affected by land acquisition, which are planned to be purchased by the community for housing and the difficulty of access to new housing due to road construction by the River Basin Center (BBWS) and high pollution from road construction, which disrupts the comfort of the community.

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