

Handling of Land Acquisition Conflict for Inner Toll Roads Socio-Legal Perspective (Case Study on Land Acquisition Conflict for Toll Road Section 1 Package 1.1 Surakarta-Klaten Section)

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Abstract

This research aims to analyze the land acquisition conflict and find a balanced model for handling land acquisition conflicts for toll roads through a socio-legal approach to be the focus of this research design. The method in this research with analysis techniques for primary data is carried out using the Strauss and J Corbin type where data analysis has been carried out since the beginning when researchers are in the field. That is why researchers use interactive analysis by making field notes consisting of descriptions and reflections on data ". The results showed that the conflict over land acquisition for the section 1 toll road, package 1.1 of the Surakarta-Klaten section, was caused by differences in the calculation of compensation and differences of opinion regarding the value of compensation. This research also confirms that several cases show community objections to the results of the appraisal calculation. This is because many land and buildings are classified as agricultural land and therefore have a lower value. In addition, from the community perspective, land acquisition does not provide access to price negotiations for objects attached to the land, such as buildings, trees, wells, and small structures. This research also shows that another problem that becomes an obstacle in land acquisition for toll roads is the rejection of court decisions. As in the provisions of Law No. 2/2012 on Land Acquisition for Development for the Public Interest, after there is a decision that has permanent legal force, the compensation will be consigned (deposited) in the district court.

Keywords: *Conflict, Land Acquisition, Toll Road, Socio-Legal, Handling.*

Introduction

This is an effort to accelerate and increase competitiveness since 2015 through the RPJMN 2015-2019 . Indonesia has set infrastructure development as one of the main development agendas. To increase the mobility of goods and people, various types of infrastructure are being worked on, one of which is a toll road. A toll road is a public road that is part of the road network system, and its users are required to pay for its operations. Law No. 38 of 2004 concerning roads states that in article 43, toll roads are organized for: a. Facilitate traffic in developed areas, b. Increase the efficiency and effectiveness of goods and services distribution services to support increased economic growth, c. Lighten the burden of government funds through road user participation, d. Increase the distribution of development results and justice.

One of the toll road projects that is part of the national strategic project is the Solo-Yogyakarta-NYIA Kulon Progo Toll Road Section I Package 1.1 Solo-Klaten. This toll road section is part of the Java Island toll road network system (Trans Java Toll Road). This corridor has a very strategic role in the Java Island toll road network system. It is expected that this toll road section will be able to support national economic growth through smoother mobility of people and goods that are more efficient.

The project was carried out through the decree of the Minister of Public Works number: 280/KPTS/M/2006 dated July 24, 2006, concerning amendments to the decree of the Minister of Public Works Number: 369/KPTS/M/2005 dated August 18, 2005, concerning the General Plan of the National

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Road Network. As a follow-up to this, the signing of the PPJT (Toll Road Business Agreement) Number 02 was carried out on September 9, 2020, between the Government (Toll Road Regulatory Agency - Ministry of Public Works) and PT. Jogjasolo Marga Makmur.

The implementation of the construction of Toll Road Section 1 has various obstacles, one of which is related to land acquisition. At Stationing (STA) 22 Klaten, there are 13 plots of land whose acquisition process is experiencing conflict. The conflict is caused because there is no common ground in the compensation mechanism between the community and the government. According to the government, the amount of compensation has been calculated based on the appraisal calculation. However, according to the community, the appraisal calculation is wrong because many classify land and buildings as agricultural land. In addition, the conflict occurred because the community could not negotiate the price of the land they wanted, such as buildings, trees, wells, and small buildings owned by residents .

In this regard, Maria SW Sumardjono stated that the main problem in land acquisition for national development purposes is achieving a "balance" between the interests of individuals and the public interest. The balance in land acquisition must include the interests of the community as the owner of the acquired land and the interests of the government as the user of the land , where the government must carry out development to improve the welfare of the community or for the benefit of the state as a form of equitable development, then on the other hand the community as the party providing the means to carry out development because the community has the land needed for development and in their lives the community needs land or land as a source of livelihood.

The difference in interests then to realize the "balance" can be said to be quite difficult even in practice land acquisition for public interest development in Indonesia still presents several highlighted problems. For example, the difficulty of determining the agreement on the compensation value, the down payment of the property acquisition budget that is not discussed thoroughly so that the owner seems forced to accept the compensation set by the procurement committee, the owner sets the compensation price outside the reasonable price. The principle of balance that is not realized risks injustice and inefficiency in development.

The conflict resolution process until now still prioritizes the formalistic procedural side through official state institutions. This leaves problems in the form of risks of injustice and benefits. Socio-cultural touches and local wisdom are interesting things to offer along with the legal process. The application of both is expected to be a meeting point of interest in the process of handling land acquisition conflicts. How the land acquisition conflict occurred and finding a balanced model for handling land acquisition conflicts for toll roads through a socio-legal approach is the focus of this research design. Based on the background of the problem as described above, the problematic construction raised in this study is as follows:

What are the things that cause land acquisition conflicts for the Section 1 Package 1.1 Surakarta-Klaten toll road?

How is the resolution of the land acquisition conflict for Section 1 Package 1.1? Was the Surakarta-Klaten toll road carried out based on the principle of balance?

This study uses a quantitative research type with an analytical descriptive approach. Descriptive research aims to describe systematically and accurately the facts and characteristics of a particular population or field. Descriptive research also tries to describe a situation or event. In general, quantitative research Has the following characteristics: Relationship between researcher and subject: distant. Research aims to test theories or hypotheses, supporting or rejecting them. Theory. Research must be generalizable, thus requiring representative samples from the entire population, operationalization of concepts, and valid and reliable measuring instruments. Rational–empirical research procedures, meaning that research must start from the concepts or theories that underlie it.

Methods

This research uses a type of quantitative research with an analytical descriptive approach. Descriptive research aims to systematically and accurately present facts and characteristics about a particular population or field. Descriptive research also seeks to describe situations or events also seeks to describe situations or events. In general, quantitative research. In general, quantitative research has the following characteristics :

The relationship between the researcher and the subject: distant. The relationship between the researcher and the subject is distant.

Research aims to test a theory or hypothesis and support or reject it.

Research must be generalizable, thus demanding samples that are representative of the entire population, operationalization of concepts, as well as measuring instruments that are representative of the entire population, operationalization of concepts, as well as valid and reliable measuring instruments. Valid and reliable.

Rational research procedures - empirical, meaning that research must depart from empirical concepts, meaning that research must depart from concepts or theories or theories that underlie it. Theories that underlie it .

The type of data used in the type of research data will be largely determined based on the chosen research tradition. By the type of qualitative research, the form of research tradition data is chosen. By the type of qualitative research, the form of research data is not the research data is not the numbers needed in quantitative analysis which are needed in quantitative analysis, the type of data referred to here is in the form of information in the form of words, the type of data referred to here is in the form of information in the form of words called as words called as qualitative which provides an understanding of social phenomena or symptoms, qualitative society which provides an understanding of social phenomena or symptoms, society as a subject. In contrast to data as a subject. In contrast, the data in quantitative research is more like quantitative research, which is more like explaining) society as an object. With explanation (explaining) society as an object. By paying attention to these things, the type of data in this study is in the form of primary data, the type of data in this study is in the form of primary data and secondary data. And secondary data.

Sources of Data In Research

The sources of data in the study are primary data and secondary data. Data sources are primary data and secondary data. The main primary data sources are the relevant stakeholders who in this study are referred to as the main primary are the relevant stakeholders who in this study are referred to as informants. Further informants were determined by snowball. Secondary data in informants. The informants are then determined by snowball. Secondary data in this study are in the form of study documents and policies that are relevant to the research or policies that are relevant to the research to be conducted. Primary data collection is done through observation and interviews that will be conducted. Primary data collection is done through observation, in-depth interviews, and focus group discussions. As for in-depth (indepth interview) and focus group discussion (focus group discussion). Meanwhile, secondary data was collected through library research and document studies. Data processing uses an interactive analysis model adapted from Mathew B. Data processing uses an interactive analysis model adapted from Mathew B. Miles and A. Michel Huberman.

Data Analysis Techniques and Data Narratives: Analysis in this study was conducted on two data, namely primary data and secondary data. The analysis technique for primary data was carried out using the Strauss and J Corbin types where data analysis had been carried out since the beginning when the researcher was in the field (Field). That is why the researcher used interactive analysis by making field notes consisting of descriptions and data reflections. For secondary data, the analysis to obtain general truth is carried out deductively, especially during the initial analysis (use of theories), but it is possible to carry out analysis using inductive logic on handling cases of sexual violence that have been documented in the form of study results, records or research results" After being analysed, evaluated and the validity of the data, the data will be presented in a certain style. The presentation style chosen in this study is the narrative of self style . Narratives in text form will dominate this dissertation, but it does not rule out the possibility of presenting data in the form of statistical tables, charts, or figures as supporting material.

Results

Overview of Toll Road Section 1 Package 1.1 Surakarta-Klaten Section

To support National Economic Development (PEN) and especially the development and improvement of economic activities in Java Island, the Central Government has offered investment in toll road construction to the private sector. One of them is the Construction of the Solo-Yogyakarta-NYIA Kulon Progo Toll Road Section I Package 1.1 Solo – Klaten. This toll road section is part of the Java Island toll road network system (Trans Java Toll Road). This corridor has a very strategic role in

the Java Island toll road network system. The very close economic relationship between the west and east sides of Java Island needs a transportation system that can provide better service. The construction plan for the Solo-Yogyakarta-NYIA Kulon Progo Toll Road Section I Package 1.1 Solo - Klaten. It began in Solo City, Central Java Province, and is a continuation of the Solo - Ngawi Toll Road, which is part of the Trans Java Toll Road series. The Solo-Yogyakarta-Nyia Kulon Progo Toll Road Development Plan Section I Package 1.1 Solo - Klaten, is A continuation of the program that was delayed due to the 1997 monetary crisis and is also a government program to build 1600 km of toll roads for the period 2005 - 2009 and by the decree of the Minister of Public Works number: 280 / KPTS / M / 2006 dated July 24, 2006, concerning amendments to the decree of the Minister of Public Works Number: 369 / KPTS / M / 2005 dated August 18, 2005, concerning the General Plan of the National Road Network. As a follow-up to this, the signing of the PPJT (Toll Road Business Agreement) Number 02 was carried out on September 9, 2020, between the Government (Toll Road Regulatory Agency - Ministry of Public Works) and PT. Jogjasolo Marga Makmur.

There are 3 three) main objectives in the construction of this toll road, namely: 1. Realizing quality infrastructure by laws and regulations, to meet the expectations and satisfaction of the community. 2. Shortening travel time. 3. Facilitating access for the community. The construction of the Solo-Yogyakarta-NYIA Kulon Progo Toll Road Section I Package 1.1 Solo-Klaten is located between Boyolali Regency and Klaten Regency, Central Java Province.

The construction of the Solo-Yogyakarta-NYIA Kulon Progo Toll RoAd Section I Package 1.1 Solo-Klaten is beset by various obstacles, one of which is related to land acquisition. Land acquisition constraints in particular occur due to differences of opinion both in calculating land values between the government and the community, as well as the amount of compensation for land acquisition.

The differences in interests and views between the government and the community regarding toll roads give rise to conflicts, which, in practice, are resolved through mediation and litigation (courts).

Land acquisition for public interest, including toll roads, is prone to conflict. The difference in interests between the government as the authority over land acquisition and the community as the land owner is evident from planning, project socialization, calculation of compensation value, and payment to the handover process.

From the model, it can be described that the crucial points of conflict are generally related to the determination of the normative list, determination of the field map, assessment and assessment committee, amount of compensation, and the process of transferring rights.

Referring to the description above, the fundamental problem in land acquisition is usually not in the procedures and mechanisms of land acquisition, but conflicts can arise due to differences of opinion between the community as the owner of land rights that are the object of land acquisition, thus becoming an obstacle for the government as the official organizing land acquisition. In general, these conflicts can include: 1. Conflicts as a result of differences in price estimates within community groups. 2. Conflicts as a result of dualism in land ownership. 3. Conflicts as a result of differences in government treatment between one community and another, thus giving rise to social jealousy.

Referring to Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest , Article 1 number 2 states that "Land Acquisition is an activity to provide land by providing fair and equitable compensation to the entitled party." According to Maria SW Sumardjono in Anisah Rosiana and Supriadin (2020), it is explained that land acquisition cannot be carried out without going through a deliberation process with the affected parties, starting from determining the location to determining the amount of compensation. To ensure that the deliberation takes place freely and voluntarily, several requirements must be met, namely: (1) the availability of clear and comprehensive information regarding land acquisition activities, (2) the creation of an atmosphere that supports the implementation of deliberation, representation of all interested parties, (4) the ability of the parties to negotiate, and (5) a guarantee that the deliberation process is free from fraud, coercion, or violence .

The results of the study indicate that the land acquisition conflict for the Toll Road Section 1 Package 1.1 Surakarta-Klaten Section is caused by differences in compensation calculations and differences of opinion related to the compensation value. This study also confirms that several cases show public objections to the results of the appraisal calculations. This is because many lands and buildings are classified as agricultural land and, therefore, have lower value. In addition, from the perspective of the community, land acquisition provides less access to price negotiations for objects attached to the land, such as buildings, trees, wells, and small buildings. This study also shows that another problem that is

an obstacle to land acquisition for toll roads is the rejection of court decisions. As stipulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, after a decision has permanent legal force, the compensation will be consigned (deposited) in the district court. The mechanism for taking community land through consignment refers to the deposit of compensation money in the District Court. Consignment is applied when the community affected by land acquisition rejects the amount of compensation agreed upon in the deliberation and does not file an objection to the local District Court, but the consignment mechanism also has obstacles if the community is still reluctant to take their compensation money. This makes the conflict prolonged and raises the risk of more repressive actions from the government based on court decisions.

Problems related to consignment, where compensation money has not been taken by the entitled party, arise. There are no efforts to resolve the matter from compensation money that has been deposited in the District Court. The application of related agencies or other related parties to encourage the entitled party to take the consignment as a conflict resolution in land acquisition has the potential to give rise to arbitrary actions by the government, such as eviction or forced eviction. The last step that should be taken is to file a request for revocation of land rights based on law No. 20 of 1961, not only by depositing compensation money in the district court and considering the obligation to release the land as complete, then continuing development on the land without further approval. Several factors that can be mapped as causes of conflict consist of internal factors from society; external factors and government factors. The three are described as follows:

Internal Factors Of Society

This study shows that internal factors in the community as the subject of land rights to be released have their problems. This is for example related to unclear rights subjects; the objects of loss requested by the community do not include land but only plants and buildings or some plants and buildings are not counted as subjects of compensation; the amount of compensation received is different which is interpreted as unfair and causes jealousy; the nature of the community is relatively undisciplined and temperamental so that it makes the deliberation process difficult. This lack of discipline is shown, for example, by the fluctuating level of attendance.

Government and External Factors

This study shows that there are external factors that influence the emergence of land acquisition conflicts. These factors include: the ability of the government through different negotiation and mediation teams. Sometimes, the team that is deployed does not have the experience and patience, so that it becomes an obstacle in approaching the community persuasively. This weakness is shown, for example, through a lack of understanding of the community's culture, especially related to the customs and traditions contained in customary land rights, sultan ground, and pakualaman ground. Related to land acquisition related to customary or customary land, flexible recognition should be used and by the agreement. There is a unilateral determination of compensation and it is considered not transparent. The community also considers that there is a problem in the appraisal team that considers the calculation of compensation to be unfair. There is a problem that the first offer was made by the government and was not a desire collected from the community. This is what has an impact on the impression of unilateral price determination.

While external factors are influenced by people who deliberately "fish in troubled waters" and take advantage of the situation for personal gain. Normatively, this third party is not easy to detect but has an impact. One of the things done by this third party is provoking the price and value of the land so that it has an impact on the difficulty of reaching an agreement.

Legal Factors

This study shows that there are no legal provisions governing price determination, which is considered by land acquisition organizers to be too long because the negotiation process must be carried out continuously. However, on the other hand, there is already a single price determination, so even though negotiations and mediation are carried out continuously, the price does not change. What happens if it continues to arise conflict is through litigation. At this stage, the land procurement organizer usually wins with a single price offered. The payment mechanism is carried out by consignment, and in certain cases the consignment money is not taken by the community.

Conflict Resolution in Land Acquisition for Toll Road Section 1 Package 1.1 Surakarta Klaten Section

The process of conflict resolution involves systematic and comprehensive steps. Therefore, according to Alidinar Nurdin, there needs to be a clear and detailed conflict mapping so that: 1. It is easier to understand the conflict well; 2. See the relationship between the various parties clearly; 3. Explain where the power lies; 4. Check the balance of each activity or reaction; 5. Identify the start of intervention and action; 6. Evaluate what the various parties are doing. To achieve good quality conflict resolution, Sinon Fisher emphasized the importance of dialogue efforts between the parties in an equal and meaningful manner so that a fair and beneficial solution is obtained.

As explained previously, theoretically, conflict resolution is a process to achieve a resolution of a conflict by using a certain method. The conflict resolution method is a conflict management approach used to produce the final result in a conflict situation. This method can be divided into two categories, namely, self-regulation by the parties involved in the conflict (self-regulation) or intervention by a third party (third-party intervention). Conflict resolution through self-regulation occurs when the parties involved try to resolve the conflict directly. Meanwhile, third-party intervention includes settlement through the courts, administrative processes, and alternative dispute resolution.

Self -Regulation

The main principle in land acquisition is deliberation to reach an agreement on the amount of compensation, with deliberation as the first step to find a mutually acceptable solution. However, the possibility of disagreement in this process remains. In the self-regulation-based conflict resolution method, the parties involved in the conflict formulate a specific strategy to achieve the goal. The parties involved in the conflict approach and negotiate with each other to resolve the conflict and obtain the desired results. The pattern of interaction in the conflict depends on the expected outcome, the potential for conflict, the opposing party, and the situation surrounding the conflict. No pattern of interaction applies universally to every goal or conflict situation. Conflict resolution through self-regulation can be done through two approaches: non-violent and violent.

Third-Party Intervention

The parties involved in the conflict cannot resolve the long-standing dispute, even though they have spent a lot of resources and made great sacrifices. Both parties are reluctant to give in. In such a situation, third-party intervention is needed. A third party, called an intervener, can help facilitate conflict resolution. Third party intervention tends to be more effective when both parties to the conflict are unable to resolve their problems. The third party can be a government agency, an arbitration institution regulated by law, a mediation institution, or a third party formed based on an agreement between the parties to the conflict. According to Wirawan (2006) in Eko Sudarmanto et al. (2021), conflict resolution with parties is divided into three alternative methods, namely:

Court Process

In conflict resolution through civil courts, one or both disputing parties submit the conflict resolution to the district court through a lawsuit filed by the plaintiff against the defendant.

Administrative Process

Conflict resolution through administrative processes involves resolution by state institutions that are authorized (not judicial institutions) by law or government regulations to handle disputes in a particular field, such as business between entrepreneurs. c. Alternative Dispute Resolution

In addition, there is alternative dispute resolution (ADR), which involves non-judicial and non-administrative third parties, such as mediation and arbitration, which are organized by institutions outside the courts or government. In the concept and socio-legal approach, efforts to end the conflict must be carried out comprehensively. The interests of society and the interests of the state must be placed through the principle of balance. Socio-cultural, socio-economic, and socio-political aspects must not be separated from the legal process.

Technically, the socio-legal approach to conflict resolution regarding land acquisition for toll road interests can use two approaches, namely the social management approach and the law enforcement approach. These two approaches are Manifestation to balance interests, rights, and power in the basic concept of land acquisition. There are two interests, namely the community and the government, there

are community rights that must also be considered, and there is power (authority) whose implementation must be guaranteed fairly and beneficially.

Through the social management approach, self-regulation that emphasizes persuasive efforts is put forward. Dialogue becomes a means that can be optimized with meaningful community involvement. If there are differences of opinion, mediation efforts will be carried out based on the spirit of collaboration to find common ground and mutual agreement. Through a spirit of collaboration oriented towards common interests and carried out through meaningful involvement, a conducive and constructive atmosphere will be created in decision-making deliberations.

The second approach from the Socio-legal is the existence of legal settlement efforts. This legal settlement can be in the form of an in-court settlement or an out-of-court settlement. Through in court settlement means that the process is resolved through a judicial mechanism in court. This mechanism should be the last resort (*ultimum remedium*) in the conflict resolution process. Placing conflict resolution efforts through the courts is essentially bringing together two conflicts through a conflict process, where the result is a decision of win and lose. Therefore, this step can be the last legal step if, socially, the resolution efforts do not reach a meeting point and are attributed to achieving legal certainty and broader legal benefits. In general, land acquisition for toll road construction can be resolved through deliberation/negotiation until an agreement is reached between the landowner and the government, but if the landowner rejects the compensation offer provided, the government will provide an effort for the landowner to file a lawsuit, this has been regulated in Article 38 of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, which states that "(1) If there is no agreement regarding the form and/ or amount of Compensation, the Entitled Party may file an objection to the local district court within a maximum of 14 (fourteen) working days after the deliberation to determine Compensation as referred to in Article 37 paragraph. (2) The district court shall decide on the form and/ or amount of Compensation within a maximum of 30 (thirty) working days from the receipt of the objection. (3) A party who objects to the decision of the district court as referred to in paragraph (2) may file an appeal to the Supreme Court of the Republic of Indonesia within a maximum of 14 (fourteen) working days. (4) The Supreme Court is required to issue a decision within a maximum of 30 (thirty) working days from the receipt of the cassation application. (5) The decision of the district court/ Supreme Court which has obtained permanent legal force shall be the basis for payment of Compensation to the party filing the objection." The legal settlement approach throughout court settlement is taken through more flexible and administrative steps. This is possible because this step does not go through a face-to-face process in court. Technically, this can be done through an administrative process or an alternative dispute resolution process.

Although in some experiences, this step is quite time-consuming, it can be used as a second alternative after the social management approach fails. Through administrative mechanisms, there will be a role given to the institution to make laws (open legal policy) which can be used as an administrative instrument in resolving conflicts. These institutions can consist of government institutions, communities, civil society groups, and other stakeholders.

In addition, there is an alternative dispute resolution (ADR) involving non-judicial and non-administrative third parties, such as mediation and arbitration, which are organized by institutions outside the court or government. Alternative dispute resolution is a legal mechanism outside the court that can be taken to produce effective conflict resolution.

Based on the things that have been described, then in the perspective and approach of socio-legal conflict resolution is not only a contextual effort that will determine procedural wins and losses, but a comprehensive effort that involves the role of society and government meaningfully so that a process and results of conflict resolution are obtained that are substantially fair. Implementation in handling land acquisition conflicts for toll road interests can be done through balanced social management steps and legal efforts. Through this process, it is hoped that the conflict can not only be resolved but also better prevention efforts can be made.

Conclusion

Based on the research results and discussions as described, the following conclusions can be drawn: Land acquisition conflicts for toll road construction are related to factors that are internal to the community, government, external parties, and legal problems. These factors ultimately trigger conflicts in land acquisition for toll roads, especially for the construction of toll road section 1 package 1.1 Surakarta-Klaten Section due to differences in compensation calculations and differences of opinion related to the compensation value. This study also confirms that several cases show public objections

to the results of appraisal calculations. This is because many lands and buildings are classified as agricultural land so that they have a lower value. In addition, from the perspective of the community, land acquisition does not provide access to price negotiations for objects attached to the land, such as buildings, trees, wells, and small buildings. Problems also arise in terms of compensation consignments that are not taken by the community. Conflict resolution over land acquisition for toll roads has been carried out through two approaches, namely, persuasive and repressive. Persuasionaly, the conflict is resolved through deliberation and mediation. While repressively, the resolution process is carried out through litigation steps. The socio-legal approach can be an alternative conflict resolution that combines the interests of the community and the government. This can be done in a balanced and comprehensive manner through two approaches. Namely the social management approach and legal efforts, both in court settlement and out court settlement.

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