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Legal Impact for Former Landowners After the Determination of Destroyed Land on the Semarang-Demak Expressway Project Section 1

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ABSTRACT : This study examines the legal consequences that arise for former landowners, both for the affected land plots and the remaining land plots that are not affected by the construction project of the Semarang-Demak Section 1 Freeway and its sea embankments, after the issuance of the determination of the location of the land plots indicated as destroyed land and the determination of the destroyed land itself. The phenomenon of land destruction along the coast of Sayung District, Demak Regency arose due to tidal floods and seawater abrasion that had permanently changed the physical shape of the land, thus having an impact on the removal of the community's civil rights, including Property Rights, over the land they once controlled. This study uses empirical legal research methods with ontology, epistemology, and axiology approaches, supported by primary data in the form of interviews and observations at the Demak Regency Land Office, the Regional Office of the Ministry of ATR/BPN of Central Java Province, the Commitment Making Officer for the Land Acquisition of the Freeway, and the Public Housing and Settlement Office of Central Java Province, as well as secondary data in the form of related laws and regulations. The results of the study show that the land that has been designated as land is destroyed, both inside and outside the project trajectory, losing the legal relationship between the subject and the object of his rights, so that the right to the land is abolished for the sake of law and changes the status to state land. Consequently, former landowners outside the project trajectory are no longer entitled to the Kerohiman Fund Assistance, while for those whose fields are affected by land addition projects, these rights cannot be restored either through non-litigation or state administrative litigation, considering the potential for state financial losses if compensation is still given. This study recommends the need for comprehensive policies to accommodate the social justice interests of affected coastal communities without ignoring the principles of legal certainty and state financial protection.

KEYWORDS : land destroyed, legal consequences, land rights, social funds, Semarang-Demak Hambatanl freeway.

A. INTRODUCTION

Destroyed land, especially destroyed land caused by natural disasters, is one of the land problems that have been regulated in Article 27, Article 34, and Article 40 of Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA). The three articles place destroyed land as one of the reasons for the abolition of Property Rights, Business Rights, and Building Rights. This phenomenon is factually found in many coastal areas of the North Coast of Central Java, especially Sayung District, Demak Regency, which since the 1980s has experienced flash floods whose intensity continues to increase every year.

Seawater abrasion in Sayung District has caused the erosion of the coastline to reach a distance of about 3 kilometers to the mainland, eliminating hundreds of hectares of pond land, and submerging settlements, rice fields, and public facilities. Based on Presidential Regulation Number 52 of 2022 jo. Presidential Regulation Number 27 of 2023, land that has permanently lost its physical form and function due to natural events such as abrasion, is categorized as destroyed land, which results in the removal of the rights attached to it.

The problem has become more complex with the presence of a national strategic project for the construction of the Semarang-Demak Section 1 Freeway which also functions as a sea wall to withstand the rate of flash flooding. This project, in its development, requires the addition of

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approximately 52.65 hectares of land, which is partly on a plot of land that has been designated as destroyed land. This condition raises fundamental legal questions regarding the status of the rights of former land owners, both those whose land plots are directly affected by the land addition project and those outside the project trajectory, after the issuance of the determination of the location of the land plot indicated to be destroyed and the determination of destroyed land by the Head of the Demak Regency Land Office.

Some former landowners are demanding the right to Kerohiman Fund Assistance (BDK) as stipulated in the Regulation of the Minister of ATR/Head of BPN Number 17 of 2021 concerning Procedures for Destroyed Land as amended by the Regulation of the Minister of ATR/Head of BPN Number 3 of 2024, even though their land parcels are outside the area of the land addition project. On the other hand, for residents whose land plots are actually affected by land additions after the determination of destroyed land is issued, there is also uncertainty about the right to compensation. Based on this description, this article aims to analyze the legal consequences for former land owners, both affected land plots and residual land plots that are not affected by the Semarang-Demak Section 1 Freeway project and its sea embankment, after the issuance of the determination of the location of land plots indicated to be destroyed and the determination of destroyed land.

Table 1. Chronology of Determination of Locations Relevant to the Status of Destroyed Land

Yes	Legal Basis / Decision	Determination Date	Substance
1	Decree of the Governor of Central Java No. 590/38.	22 November 2021.	Determination of Location for Land Acquisition for Residual Land for the Construction of the Semarang-Demak Toll Road.
2	Determination of Location of Land Plot Indicated as Destroyed Land & Determination of Destroyed Land.	2021-2025 (Demak Regency Kakantah process).	Determination of the status of destroyed land on land affected by the tidal flood in the sub-district. Sayung.
3	Decree of the Governor of Central Java No. 100.3.3.1/191 of 2025.	July 7, 2025.	Determination of the Location of Land Addition for the Semarang-Demak Toll Road Extension with an area of ±52.65 Ha..
4	Central Java Governor's Letter No. 500.17/000388 & 500.17/000389.	January 21, 2025.	The application for revision of the land determination was destroyed so that the former landowner could receive the Kerohiman Fund Assistance.

Source: Data processed from the Sayung-Demak Destroyed Soil Research Report (2025)

B. LITERATURE REVIEW

This paper emphasizes the conception of destroyed land and the abolition of Land Rights. The definition of Land Rights based on Article 1 number 4 of Government Regulation Number 18 of 2021 is a right born from the legal relationship between the subject of rights and its object, namely land, which also includes space above and below the surface of the land, to be owned, controlled, used, utilized, and maintained. Meanwhile, destroyed land according to Article 1 of Government Regulation Number 18 of 2021 is defined as land whose form has changed from its origin due to natural events and can no longer be identified so that it cannot be functioned, used, and utilized as it should. A similar definition is also regulated in Presidential Regulation Number 27 of 2023 and Article 2 paragraph (2) of the Regulation of the Minister of ATR/Head of BPN Number 3 of 2024, which affirms the three cumulative elements of destroyed land, namely changes in form due to natural events, the impossibility of re-identification, and the absence of a utilization function.

The juridical consequence of the determination of destroyed land is the removal of the legal relationship between the subject of the right and the object of its right, so that the land parcel changes its status to state land as referred to in Article 1 number 2 of Government Regulation Number 18 of 2021. With the removal of the legal relationship, ontologically the right to the land in question no longer exists, so that the previous right holder no longer has a legal basis to claim material rights to the land object.

The Kerohiman Fund assistance, in the case of the loss of land rights, is part of the failure of social justice instruments for the affected communities. To fulfill the value of social justice as imbued with the Fifth Precept of Pancasila and Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the government provides an instrument of Kerohiman Fund Assistance for land rights holders whose land plots are designated as destroyed land and will be used for public interest development, as stipulated in Article 15 of the Regulation of the Minister of ATR/Head of BPN Number 17 of 2021. However, the provision of the Kerohiman Fund Assistance is expressly associated with the use of destroyed land plots for reconstruction or reclamation in the context of public interest development, not solely because of the status of the destroyed land itself.

C. RESEARCH METHODS

This research uses an empirical legal research method, namely research on the effectiveness and impact of law (Soerjono Soekanto, 1984; Amiruddin and Zainal, 2003) on the phenomenon of land determination destroyed in a Case Study of the Land Addition of the Semarang-Demak Freeway and its Sea Embankment. The research began with a study of secondary data in the form of laws and regulations based on normative premises, then confirmed with primary data in the field.

The research locations include the BPN Regional Office of Central Java Province, the Demak Regency Land Office as the main locus, the Semarang City Land Office as a comparator, the Office of the Commitment Making Officer for the Land Procurement of Freeways, the Directorate of

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Freeways of the Directorate General of Highways, the Central Java Provincial Public Housing and Settlement Office, as well as direct observations in Bedono Village, Sriwulan Village, and Purwosari Village, Sayung District, Demak Regency.

Primary data was collected through interviews with authorized officials and field observations, while secondary data was sourced from laws and regulations related to land acquisition, destroyed land, and handling social impacts on the community, including UUPA, Law Number 2 of 2012, Government Regulation Number 18 and 19 of 2021, Presidential Regulation Number 52 of 2022 jo. Number 27 of 2023, as well as Regulation of the Minister of ATR/Head of BPN Number 17 of 2021 jo. Number 3 of 2024. Tertiary data was obtained from exposure materials from relevant agencies and maps of land plots that indicated that the land was destroyed. Data analysis is carried out with a philosophical approach that includes ontology, epistemology, and axiology in order to fundamentally establish the essence of the legal problem being studied, complemented by the control of legal syllogism (major premise, minor premise, and conclusion) to test the validity of the legal argumentation constructed.

D. RESULTS AND DISCUSSION

1. Abolition of Land Rights After Determination of Destroyed Land

Based on the results of the analysis of the provisions of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which underlies Article 2 of the UUPA, the Head of the Demak Regency Land Office as a representative of the Republic of Indonesia has the authority, through delegation in accordance with Law Number 30 of 2014 concerning Government Administration, to determine the location of land plots indicated as destroyed land as well as determine the status of destroyed land. This study found that ontologically, the land parcels that have been designated as land are destroyed, both inside and outside the section of the Semarang-Demak Section 1 Expressway and the sea embankment, losing the legal relationship between the subject of the right and the object of the right. Thus, the rights to the land were abolished for the sake of law and changed their status to state land.

This affirmation is in line with the construction of the legal syllogism that was constructed, namely the major premise that the Head of the Land Office on behalf of the Minister of ATR/Head of BPN has the authority to determine the status of destroyed land; a minor premise that the land parcel on the North Coast of Semarang-Demak that was submerged in flash floods, both inside and outside the trase area, had met the criteria as destroyed land; So that in conclusion, land rights in these fields were legally abolished without exception.

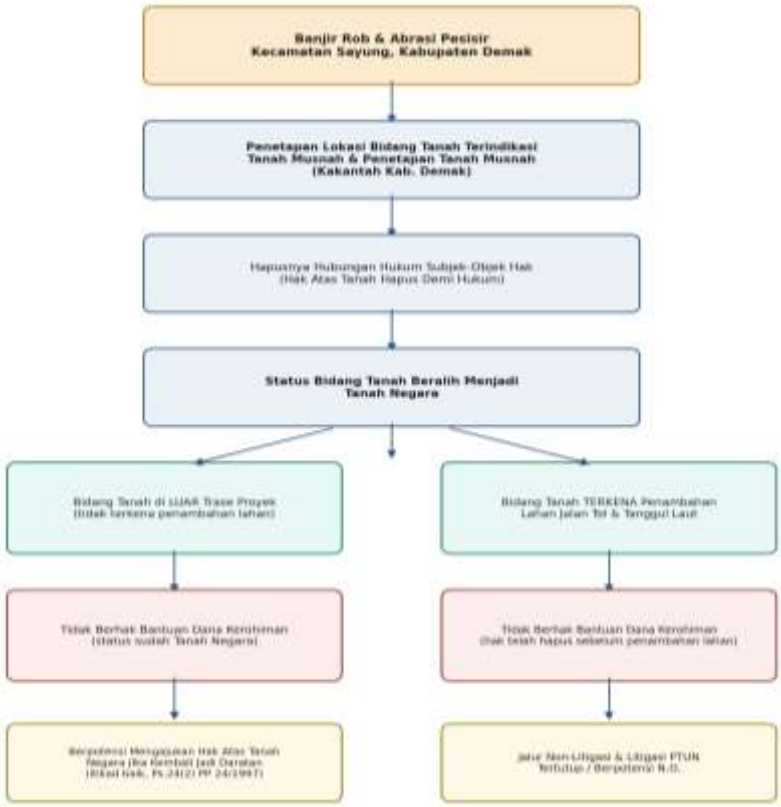


Figure 1. Flow Due to the Law of Determination of Destroyed Land for Former Landowners

2. Legal Impact for Former Landowners Outside the Project Trase

For former landowners whose land plots are outside the Semarang-Demak Section 1 Freeway and Sea Embankment sections, but have been designated as destroyed land due to permanent flooding, this study found that their land rights were also removed for the sake of law as the land plots affected by the project. Consequently, former landowners in these fields are no longer entitled to receive Kerohiman Fund Assistance, because the provision of kerohiman funds in the Regulation of the Minister of ATR/Head of BPN Number 17 of 2021 is specifically associated with the use of destroyed land for the purpose of reconstruction or reclamation in the context of development of the public interest, not to the status of destroyed land alone.

The request for a revision of the determination of destroyed land submitted so that residents outside the trase can obtain kerohiman, as once proposed by the Central Java Provincial Government, is considered difficult to grant. If the assistance is still provided, this has the potential to

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cause state financial losses that fall within the scope of corruption crimes, as confirmed through the *legal opinion* of the Attorney General's representative in this study. Thus, ontologically, epistemologically, and axiologically, efforts to revise land determination were destroyed to reopen opportunities for former landowners outside the project trajectory were declared closed.

3. Legal Impact for Former Landowners whose fields are affected by land addition projects

This study also found that the Determination of the Location of Land Plots Indicated as Destroyed Land and the Determination of Destroyed Land by the Head of the Demak Regency Land Office were carried out based on the Decree of the Governor of Central Java Number 590/38 dated November 22, 2021, which preceded the Decree of the Governor of Central Java Number 100.3.3.1/191 of 2025 dated July 7, 2025 concerning the Determination of the Location of Land Addition for the Semarang-Demak[1] Toll Road. With this time order, the addition of project land is essentially carried out on a plot of land that has previously been destroyed land.

Consequently, for residents whose land plots are affected by the addition of land for the Semarang-Demak Section 1 Freeway and the sea embankment, their land rights have also been removed first as a result of the determination of destroyed land, so they are not eligible as rights holders who are entitled to the Kerohiman Fund Assistance at the time the land addition is carried out. The revision request submitted by the Central Java Provincial Government to the Coordinating Minister for Economic Affairs and the Minister of ATR/Head of BPN RI, as well as to the Director General of Highways of the Ministry of Public Works, through a letter dated January 21, 2025, in essence aims to request that residents whose former land plots are affected by the addition of land can still receive community[2] funds. However, based on the results of the ontology, epistemology, and axiology analysis carried out, the application is considered very difficult to grant, because legally the destroyed land has become state land so that the granting of ruthlessness has the potential to harm the state's finances.

Table 2. Classification of Legal Consequences for Former Land Owners after the Determination of Destroyed Land.

Land Plot Category	Status of Land Rights	Right to Kerohiman Fund Assistance	Available Legal Remedies
Outside the trajectory of the land addition project	Abolish for the sake of law, turn it into state land	Not entitled	Application for land rights if it returns to the mainland (good faith, Ps. 24 paragraph 2 PP No. 24/1997)
Affected by the addition of freeway land and sea embankments	Delete for the sake of law before land addition is issued	Not entitled	Closed; PTUN lawsuit has the potential to be N.O. because there has been a waiver of rights
Land plots that have received previous kerohiman funds	Delete for the sake of law	Has been given according to the initial procedure	Irrelevant for resubmission

Source: Results of the researcher's analysis based on the Sayung-Demak Destroyed Soil Research Report (2025)

4. Closure of Litigation and Non-Litigation Pathways for Land Rights Recovery.

This study also examines the potential for dispute resolution through state administrative litigation based on Law Number 5 of 1986 concerning the State Administrative Court as amended by Law Number 9 of 2004 and Law Number 51 of 2009. The results of the analysis show that the state administrative lawsuit filed by the residents of the former landowners has great potential to be declared unacceptable (*niet ontvankelijke verklaard*), considering that the residents have known and signed the minutes of the determination of the destroyed land and have submitted a statement of relinquishment of their land rights. The decision of the state administrative official in question also cannot be sued civilly.

As for former landowners whose fields have the potential to return to land due to the success of sea embankments which at the same time function as a freeway to resist abrasion in the future, this study found that they have the potential to apply for state land rights, provided that physical control in the field is carried out in good faith as stipulated in Article 24 paragraph (2) of Government Regulation Number 24 of 1997. However, this right is only open as long as the land in question is not affected by the addition of freeway land and sea embankments, and still does not restore their rights to the assistance of the Kerohian funds that were previously not received.

5. Material Losses as a Result of the Absence of Welfare Funds for Residents whose Land is Used as Additional Land for Traffic.

The determination of land owned by residents whose location is on the land addition trajectory in the construction project of the Semarang-Demak Section I Freeway makes it a legal phenomenon that has an impact on the lives of the former owners of land plots in this place. These land owners, their land was also destroyed by the State and their former land was used for the public interest, but because their former land had been designated as destroyed land before the determination of the Semarang-Demak Section I Freeway project, they are not entitled to receive welfare funds as per Presidential Regulation Number 27 of 2023 concerning Amendments to Presidential Regulation Number 52 of 2022 concerning Handling Social Impacts of Communities on Land Identified As Land Destroyed in the Context of Development for the Public Interest Article 1. The owners of

[1] The term that is defined according to Law Nimor 38 of 2004 concerning Roads is a freeway, which is defined as a road without side obstacles, for which the use of which can be paid or unpaid. While toll roads (from the word *toll)* are roads that must pay a nominal amount (*toll fee*) for their use. In Indonesia, expressways are entirely or almost entirely toll roads so they are ambiguously referred to as toll roads even in road-related regulations as in this regulation.

[2] Funds/kerohiman money is a form of monetary assistance from the Government for citizens who own or control land, and the land is used for development for the public interest or the land is destroyed as a result of natural phenomena. However, the landowners received the solidarity fund because they could not receive full compensation.

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these land plots then suffered material losses in the form of loss of welfare funds from the State. This loss cannot be seen as a financial loss alone. Losing land causes residents to also lose their source of livelihood. The lands that are now destroyed, are generally used by the local community as fish ponds and agricultural land.

The existence of the kerohiman fund is a hope for former landowners, because it can be used as capital to buy land, which will be used to continue their profession as farmers or farmers, or at least to buy new land as a place to live. The loss of this assistance, therefore, has the potential to further complicate the lives of residents, who are already socially and economically under pressure as a result of the changing environmental conditions in which they live. Economically, they are depressed because of the loss of a source of livelihood, which was quite good from the previous one, especially for residents who work as farmers and need a solution in the form of land to be able to reopen their ponds. Socially, residents also experience pressure because they have lost land and property assets as a place to live, and have to look for new land as a place to live, in conditions where they also have to simultaneously find work and adapt to their new lives. The potential for problems will also increase if residents have difficulty finding new jobs and difficulty adapting to their new place of residence.

The absence of welfare funds for residents affected by the addition of this land has led to demands by residents who have been former landowners. This is a new problem and has the potential to happen again, considering that land destruction does not only occur in Sayung, and there is potential for development by the Government on top of it. This can mean that a new social crisis can be anticipated by closing the legal loophole so that the people whose land is affected are not harmed.

E. CONCLUSION

Based on the results of the research and discussion, it can be concluded that the determination of the location of the land parcel indicated as destroyed land and the determination of the destroyed land on the Semarang-Demak Section 1 Freeway Project and its sea embankment caused the legal consequences of the removal of land rights for all former land owners, both the affected land plots and the remaining land plots that are outside the project trajectory. Because the legal relationship between the subject and the object of rights has been ontological broken and the status of land parcels has turned into state land.

Consequently, former landowners whose fields are outside the project trajectory are no longer entitled to Kerohiman Fund Assistance, as well as former landowners whose fields are then affected by the addition of project land, because the determination of factually and juridically destroyed land has occurred before the determination of the location of the land addition is issued. Efforts to restore rights, both through the revision of the determination of land destroyed in a non-litigation manner and state administrative lawsuits through litigation, both face structural obstacles, considering the potential for state financial losses and the existence of a declaration of relinquishment of rights from former landowners. This study recommends that the Freeway Commitment Making Officer carefully design the project trajectory from the beginning to minimize the need for revision of land addition, and that the government formulate a more comprehensive national policy in balancing the legal certainty of the status of destroyed land with social justice for the affected coastal communities.

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