

# The Implementation of Article 76 Paragraph (1) of Government Regulation Number 39 of 2023 in Toll Road Development in Seyegan District, Sleman Regency

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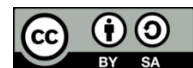
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## ABSTRACT

This article is based on an empirical legal study conducted in 2026 on compensation for the construction of the Jogja-Bawen Toll Road in Kapanewon Seyegan, Sleman Regency, Special Region of Yogyakarta. The process of land acquisition for toll road construction often gives rise to issues related to compensation. Article 76(1) of Government Regulation No. 39 of 2023 stipulates that compensation may be provided in the form of cash, replacement land, resettlement, share ownership or other forms agreed upon by both parties. This article provides options for compensation in land acquisition. The issue at hand is how Article 76(1) of the Government Regulation is applied to former landowners. This study is an empirical legal study. In the construction of Section 1 of the Yogyakarta-Bawen Toll Road, The government unilaterally determined that compensation would take the form of monetary payment. The provision of compensation for the construction of the toll road does not uphold the principles of justice, agreement, welfare, sustainability, and humanity as stipulated in Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest. It is recommended that, in determining compensation for land acquisition, the Government take into account and implement the provisions of Article 76(1) of Government Regulation No. 39 of 2023 and uphold the principles set forth in Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest.

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## 1. INTRODUCTION

Article 33, paragraph (3) of the 1945 Constitution stipulates that the land, water, and natural resources contained therein are controlled by the State and shall be utilized for the greatest possible prosperity of the people. Based on Article 33, paragraph (3) of the 1945 Constitution, Law No. 5 of 1960 concerning

Basic Agrarian Principles (UUPA) was enacted.

Article 2, paragraph (2) of the UUPA stipulates that the State's Right of Control grants the State the authority to:

- a. Regulate and manage the allocation, use, supply, and

- conservation of land, water, and outer space;
- b. determine and regulate legal relationships among individuals with respect to land, water, and airspace;
- c. determine and regulate legal relationships between individuals and legal acts concerning land, water, and airspace.

In accordance with Article 2, paragraph (2), subparagraph (a) of Law No. 5 of 1960, Article 18 of the Basic Agrarian Law (UUPA) stipulates that "For the public interest, including the interests of the nation and the state as well as the common interests of the people, land rights may be revoked by providing fair compensation and in accordance with the procedures prescribed by law." Pursuant to Article 18 of the Basic Agrarian Law (UUPA), Law No. 20 of 1961 on the Revocation of Rights to Land and Objects Thereon was enacted. Pursuant to Article 10 of Law No. 20 of 1961 on the Revocation of Rights to Land and Objects Thereon, it is stipulated that: "If, in the settlement described above, an agreement for sale, purchase, or exchange is reached, then that method of settlement shall be pursued, even if a decision revoking the rights has already been issued". Subsequently, Minister of Home Affairs Regulation No. 15 of 1975 on Provisions Concerning Procedures for Land Acquisition was issued (Soedharyo Soimin, 2008). This Ministerial Regulation was replaced by Presidential Decree No. 55 of 1993 on Land Acquisition for Development Projects in the Public Interest. That Presidential Decree was replaced by Presidential Regulation No. 36 of 2005 on Land Acquisition for Development Projects in the Public Interest, which was subsequently supplemented by Presidential Regulation No. 65 of 2006.

That Presidential Decree was subsequently replaced by Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest. Among other things, this law sets forth the principles and stages of land acquisition for the implementation of

development projects in the public interest. To support the implementation of No. 2 of 2012, several regulations were issued and subsequently amended; consequently, the currently applicable implementing regulations are Government Regulation No. 19 of 2021 on the Implementation of Land Acquisition for Development in the Public Interest and Government Regulation No. 39 of 2023 Amending Government Regulation No. 19 of 2021 on the Implementation of Land Acquisition for Development in the Public Interest. This Government Regulation represents a reform that not only aligns with the need to accelerate national development but also upholds the principles of fairness, transparency, and the protection of the rights of affected communities.

As a developing country, Indonesia needs infrastructure development to improve the welfare of its people. Every development project undertaken by the government naturally requires land on which to carry out these activities (Kosmas Bakat Subaga, 2021). When determining the amount of compensation, landowners invited to attend the consultation must engage in a dialogue regarding the compensation amount assessed by the Appraisal Team; landowners should not merely listen and then be immediately presented with the compensation amount that has been set in accordance with established regulations (Kosmas Bakat Subaga, 2021).

Central Java Province is currently constructing the 75.12-km Jogja-Bawen Toll Road. Construction of the Jogja-Bawen Toll Road will begin in March 2026 and is divided into six sections. This study was conducted on Section I of the Jogja-Bawen Toll Road construction project in Kapanewon Seyegan because several former landowners have raised questions regarding compensation.

### Research Question

The research question in this study is how Article 76(1) of Government Regulation No. 39 of 2023 is applied to former landowners in the construction of the Yogyakarta-Bawen toll road.

## 2. LITERATURE REVIEW

The construction of a toll road is one form of land acquisition for public works projects. The elements of land acquisition include the process of securing land, the provision of fair and just compensation, and the parties entitled to compensation (Urip Santoso, 2026). The research by Sri Hadjati et al. on the forms of compensation in land acquisition for toll road construction is an important topic to examine. The book titled "Indonesian Land Law Policy" states that compensation is required in land acquisition. As mentioned above, forms of compensation may include monetary compensation, replacement land, resettlement, a combination of two or more of the aforementioned forms, and other mutually agreed-upon forms. The amount of compensation is determined by an appraiser appointed by the land agency. The land agency announces the appraiser who has been appointed to conduct the appraisal of the land acquisition subject. The appointed appraiser is responsible for the appraisal that has been conducted.

The parameters for fair compensation are based on the assessed value of land and buildings (NJOP), market prices for land, an agreement between the relevant agency and the entitled party, or an appraisal by a land appraiser (Urip Santoso, 2026).

The appraiser assesses the amount of compensation on a plot-by-plot basis, covering the land, the airspace above and the subsurface, buildings, crops, objects related to the land, and/or other quantifiable losses. Given that compensation is not always in the form of money, it is advisable that during the consultation process, those affected by the land acquisition project be given the opportunity to choose and agree upon the various forms of compensation offered (Sri Hadjati dkk, 2022). Losses in land acquisition indicate that landowners have already suffered losses before their land is taken. In this case, the former landowners are victims, even though there need not be any victims in land acquisition. Therefore, the term

compensation for losses should be replaced with "compensation (Maria Hutapea, 2019).

A study by Gallantry, T., Hidayat, Y., & Wasitaatmadja, F.F., titled "The Application of the Principle of Justice in Land Acquisition for Public Interest Under National Land Law and Islamic Law," concludes two things: first, that implementing regulations must be established immediately to align with the regulatory changes set forth in Law No. 11 of 2020 on Job Creation and Government Regulation No. 19 of 2021 regarding the Implementation of Land Acquisition for Public Interest; second, that the implementation of land acquisition for public interest needs to be strengthened in the planning and execution stages, as well as in the determination of compensation, so that the principle of fairness can be achieved (Gallantry, T., Hidayat, Y., & Wasitaatmadja, F.F., 2021).

A study by Sudana et al. titled "The Principle of Justice in Land Acquisition for Development in the Public Interest" concludes that in land acquisition for the public interest, the principle of justice must provide adequate safeguards. Thus, such land acquisition for the public interest must be fair from the time of the land acquisition process through to the conclusion of the Land acquisition embodies this principle through the provision of compensation and a better quality of life following compensation (Sudana, E. H., Gozali, D. S., & Yusran, A. 2022).

A study by Claudius Mario Prasetyo titled "Implementation of Compensation for Freehold Land in the Construction of Section 1 of the Kediri-Tulungagung Toll Road" found that the determination of compensation amounts by the appraisal team for the land and any above-ground or underground structures was based solely on the guidance provided by the land acquisition team, as the compensation amounts had already been assessed. Landowners were not consulted regarding the amount of compensation for their land. The applicable provisions have already been established. Everyone must comply with the regulations and the established guidelines regarding the amount

of compensation (Claudius Mario Prasetyo, 2023).

### 3. METHODS

#### 3.1 Type of Research

This study is an empirical legal study. An empirical legal study is a legal study that examines the law as it actually exists; in other words, it investigates how the law functions in society (Muhamin, 2020). This empirical legal study focuses on the social facts related to the implementation of Article 76(1) of Government Regulation No. 39 of 2023 on the Conduct of Land Acquisition for Public Interest Development in the Construction of Section 1 of the Yogyakarta-Bawen Toll Road in Kapanewon Seyegan, Sleman Regency.

#### 3.2 Data Sources

This legal study uses primary and secondary data. Primary data is data obtained directly from respondents and informants regarding the implementation of Article 76(1) of Government Regulation No. 39 of 2023 on the Implementation of Land Acquisition for Public Interest Development in the Construction of Section 1 of the Yogyakarta-Bawen Toll Road in Kapanewon Seyegan, Sleman Regency. Secondary data consists of primary legal materials and secondary legal materials. The primary legal materials in this study are:

- a. The 1945 Constitution of the Republic of Indonesia (Article 33, paragraph 3)
- b. Law No. 5 of 1960 on Basic Agrarian Principles
- c. Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest
- d. Government Regulation No. 19 of 2021 on the Implementation of Land Acquisition for Development in the Public Interest
- e. Government Regulation No. 39 of 2023 on the Implementation of Land Acquisition for Development in the Public Interest

Secondary legal sources are legal opinions found in books and journals.

#### 3.3 Data Collection Methods

Primary data was collected through questionnaires and interviews. The questionnaire consisted of a series of questions posed to former landowners regarding the implementation of compensation payments for privately owned land and residential homes affected by land acquisition for the construction of Section I of the Yogyakarta-Bawen Toll Road in Sleman Regency. Interviews were conducted with sources involved in the compensation process for the construction of Section I of the Jogja-Bawen Toll Road in Sleman Regency.

Secondary data was collected through a literature review on compensation payments for the construction of Section I of the Jogja-Bawen Toll Road in Sleman Regency.

#### 3.4 Research Location

This study was conducted in the hamlets of Bantulan and Susukan, Margokaton Village, Seyegan Subdistrict, Sleman Regency, Special Region of Yogyakarta.

#### 3.5 Population

A population consists of all individuals from whom data were collected and to whom the findings from the sample are to be generalized (Sutrisno Hadi, 2016). In this study, the population consists of the former owners of land and residential homes whose land and homes were used for the construction of Section I of the Jogja-Bawen Toll Road in Padukuhan Bantulan and Padukuhan Susukan, Kalurahan Margokaton, Kapanewon Seyegan, Sleman Regency, totaling 10 people.

#### 3.6 Sample

A sample consists of individuals from a population who are selected to represent that population in the collection of research data (Sutrisno Hadi, 2016). The sample comprises 70% of the population and is selected at random.

### 3.7 Respondents

The respondents in this study were seven former landowners whose land and homes were affected by the construction of Section I of the Yogyakarta–Bawen Toll Road in the hamlets of Bantulan and Susukan, Margokaton Village, Seyegan Subdistrict, Sleman Regency.

### 3.8 Informants

The informants in this study were the Head of the Land Acquisition and Development Division at the ATR/BPN Office of the Special Region of Yogyakarta (Ms. Dra. Wahjoe Noer Siswati, S.H., M.H.), a Junior Land Administration Specialist in the Land Acquisition and Development Division (Mr. Syamsul Bahri, A.Ptnh., M.Hum.), the Secretary of Margokaton Village, Seyegan Subdistrict (Ms. Irdon Idayah, S.Pd), the Head of Susukan 2 Hamlet (Mr. Suparman), and the Head of Bantulan Hamlet (Ms. Rismawati).

### 3.9 Data Analysis

The data were analyzed using qualitative methods. Qualitative methods are data analysis methods based on the systematic understanding and processing of data obtained from questionnaires, interviews, and literature reviews. To draw conclusions, inductive reasoning was used—a method of reasoning that draws conclusions from the general to the specific.

## 4. RESULTS AND DISCUSSION

Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest sets forth the principles and stages of land acquisition.

Pursuant to Article 33, paragraph (3) of the 1945 Constitution, land, water, and natural resources are controlled by the state for the greatest possible prosperity of the people. The concept of “controlled by the state” does not mean that the state is the owner of the land; rather, pursuant to Article 2, paragraph (2) of the Land Acquisition Law (UUPA), the state has the authority to:

- a. to regulate and administer the allocation, use, supply, and conservation of land, water, and outer space;  
to define and regulate the legal
- b. relationships between individuals and land, water, and outer space;  
to define and regulate the legal
- c. relationships between individuals and legal acts concerning land, water, and outer space.

The term “controlled/control” in Article 2, paragraph (2) of the Basic Agrarian Law means that the state is granted the authority to regulate the utilization of land rights within the territory of the Republic of Indonesia, which means that the state has the authority to regulate, plan, and control the control and ownership of land rights (Ni Luh Ariningsih Sari, 2021).

The authority granted to the Government under Article 2, paragraph (2), subparagraph (a) of the UUPA authorizes the Government to construct toll roads. In constructing toll roads, the Government often acquires land from the people (privately owned land). This was also the case in the construction of the Yogyakarta-Bawen Toll Road. There is a gap between the standard procedures and their implementation at the research site. According to information from informants, the land acquisition process for the Jogja-Bawen Toll Road consists of four stages: the Planning Stage, the Preparation Stage, the Implementation Stage, and the Handover Stage. During the Preparation Stage, there is a requirement to conduct public outreach and consultation before proceeding to the Site Designation process. A former landowner described conditions that differed from the standard design. The project reportedly arrived suddenly, without notice or prior public outreach. The former landowners received only an invitation to accept compensation, not to discuss the development plans or negotiate the compensation terms. They were given one week after the compensation funds were disbursed to vacate their homes. This gap indicates that the principles of deliberation and participation, which are guaranteed by

procedure, have not been fully implemented at the level of the affected residents; in other words, there is a significant discrepancy between the policy design and the residents' perceptions and experiences of the process.

The principle of justice in Law No. 2 of 2012 requires not only the payment of a sum of money but also the restoration of the community's economic conditions so that they are no worse than they were before their land was acquired. Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest mandates consultation as a required step. The purpose of the consultation is to provide information, explain the appraisal results, hear the community's objections, and reach an agreement; however, in practice, the community often views the consultation as merely a formality. This is because the appraised value is difficult to negotiate, the community has difficulty understanding land boundary markers or measurement limits, the community does not understand the appraisal methods, and there are issues regarding compensation for construction noise, dust, cracked homes, and other related matters. Those who initially disagreed eventually accepted the fact that their compensation funds were held in escrow by the District Court. This situation demonstrates that procedural legal protections are indeed available, but their effectiveness still depends on the quality of the government, the courts, and the public. During the construction of the Jogja-Bawen Toll Road, former landowners have raised questions about compensation payments. In their view, there is a discrepancy in the compensation amounts between Phase 1 and Phase 2 (the Jogja-Bawen Toll Road Expansion Phase), differences in compensation amounts between locations; the amount of compensation for buildings and for productive crops; compensation that is insufficient to cover relocation costs (purchasing land to build a new home); and compensation for loss of livelihood. A former landowner noted that compensation amounts increased consistently from phase to phase. The respondent stated that the land price in Phase 1 was Rp1,000,000/m<sup>2</sup> and in Phase 2 was Rp3,000,000/m<sup>2</sup>. One source corroborated

this pattern by stating that compensation in Phase 2 could be up to three times that of Phase 1; for land near the toll road, it ranged from Rp2,500,000 to 3,000,000 per square meter, and for land in the rear area, it was around Rp1,500,000 per square meter.

One source identified a significant pattern regarding the economic impact following compensation. Former landowners with stable jobs, such as civil servants and teachers, tended to experience an improvement in their economic well-being after receiving compensation. In contrast, former landowners with unstable jobs, such as farmers, did not experience an improvement in their standard of living and even risked losing their primary source of livelihood due to the loss of rice fields that had been converted into new residential areas. These findings indicate that compensation payments of the same amount can have vastly different impacts on well-being, depending on the economic structure of the recipient households. The government should consider conducting a policy evaluation, particularly regarding the need for post-payment support for groups of farmers who have lost their livelihoods.

A landowner said that land prices had risen from the range of Rp600,000–900,000/m<sup>2</sup> to Rp1,100,000/m<sup>2</sup> in areas near the planned toll road, even before the project had actually begun. A source also noted that news of the toll road's construction had been appearing in the media since 2014. Land price speculation commonly occurs when plans for major infrastructure projects become public knowledge before the official land acquisition process begins. As a result, compensation funds are spent on purchasing land and building new homes. This phenomenon is a consequence of toll road construction. This situation warrants further analysis, particularly regarding whether the determination of compensation amounts has taken into account the possibility of market distortions caused by expectations surrounding the project.

Residual land refers to a plot of land that, after part of it has been taken over by a toll road construction project, has become too

small, lacks road access, and cannot be put to economic use. According to Government Regulation No. 19 of 2021, if residual land can no longer be used for its intended purpose, the owners of the land and residential homes should be entitled to request compensation for the entire remaining plot of land.

Failure to uphold the principles of justice, humanity, and sustainability was also observed during the construction of Section 1 of the toll road, where former landowners—whose homes were cut in half—continued to live in those homes, resulting in a distance of less than 20 meters between their residences and the toll road. In addition, there are elderly former landowners and homeowners who work as farm laborers; they used the compensation money to purchase land from Sultan Ground and built homes on that SG land, located 30 meters from Section 1 of the Yogyakarta–Bawen Toll Road.

There is an inconsistency between the regulatory provisions regarding Fair Replacement Value (FRV)—which should include non-physical elements—and the experiences of residents who feel that these elements were not included or clearly communicated as part of the compensation amount they received. One interviewee stated that compensation covers both physical and non-physical values, namely business value, taxes, and solatium (emotional value), with an additional percentage if the land has been occupied for more than 30 years, but the information provided by the respondent indicates otherwise. The respondent has occupied the land for 40 years and operated a duck and pig farm at that location, but he did not receive compensation for his business, which was forced to shut down due to the land acquisition for the toll road. Another source also explicitly stated that the compensation value depends solely on the physical condition of the property, while historical value is not taken into account.

In addition, a common problem encountered in the construction of the Yogyakarta–Bawen Toll Road is that much of the land remains uncertified. This situation gives rise to several issues, such as difficulty in proving ownership, multiple claims,

inheritance disputes, and unclear land boundaries. Legally, uncertified land is still eligible for compensation as long as ownership can be proven through other forms of evidence in accordance with applicable laws and regulations; however, the process of proving ownership is much longer than for registered land. As a result, the land acquisition process takes longer.

Land acquisition for the construction of the Yogyakarta–Bawen Toll Road essentially has a strong legal basis for exercising the state's right of eminent domain in building infrastructure for the public interest (in this case, a toll road). From the perspective of Administrative Law and Agrarian Law, the construction of the toll road meets the criteria for public interest as defined in Law No. 2 of 2012. However, the legality of a development project does not automatically guarantee that substantive justice will be achieved. The main issues actually lie in on-the-ground implementation, such as the lack of consultation and transparency in determining the form and amount of compensation, the resolution of ownership disputes, the handling of residual land, and other impacts such as noise and dust, finding land to build new homes, and finding new jobs.

From the perspective of the rule of law (*rechtstaat*), infrastructure development must not undermine the protection of land rights (in this case, property rights) as part of citizens' constitutional rights. Therefore, the government must prioritize the principles of deliberation and public participation, as well as transparency in the process of determining the amount of compensation that is truly appropriate and fair, mitigation measures during the project (road damage, dust, noise from construction equipment, cracked houses, etc.), as well as the swift and effective resolution of disputes. Thus, the construction of the Jogja–Bawen Toll Road was not only a physical success but also reflected the principles of land acquisition for public works projects.

Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest designates public consultation as a

mandatory step. The purpose of public consultation is to provide information, explain the results of the appraisal, hear objections from the community, and reach an agreement; however, in practice, the community often views public consultation as merely a formality. This is due to the fact that appraisal values are difficult to negotiate, the public has a limited understanding of land boundary markers and measurement standards, the public does not understand the valuation methods, and compensation for construction noise, dust, cracked homes, and other issues. Those who initially disagreed eventually accepted the reality that their compensation funds were held in escrow at the District Court. This situation indicates that procedural legal protections are indeed available, but their effectiveness still depends on the quality of the government, the courts, and society.

## 5. CONCLUSION

Article 76(1) of Government Regulation No. 39 of 2023 on the Implementation of Land Acquisition for Development in the Public Interest governs the forms of compensation. In the construction of the Jogja-Bawen Toll Road, the government unilaterally determined the form and amount of compensation. Thus, the principles of justice and agreement do not fulfill the principles of welfare, sustainability, and humanity.

It is recommended that, in determining compensation for land acquisition, the Government take into account and implement the provisions of Article 76(1) of Government Regulation No. 39 of 2023 and uphold the principles set forth in Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest.

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