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Analysis of Legal Responsibility For Environmental Impacts Due To Land Eviction In The Farm Road Construction Project In Tidore Islands City

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Abstract: The title of this research is “Analysis of Legal Responsibility for Environmental Impacts Due to Land Eviction in the Farm Road Construction Project in Tidore Islands City”. The object of this research was the impacts of land eviction to construct farm roads in Tidore Islands City as well as the government’s legal responsibility. It aims to study the environmental impacts of land eviction in the construction of farm roads and the government's legal responsibility for its environmental impacts in Tidore Islands City. This study is an empirical legal study that uses a qualitative approach with observation, interview and documentation methods. Results show that the land eviction project activities in the Ake Sahu Environment, Tosa Village, East Tidore District have a very bad impact on the environment in the form of landslides in the eviction project area, floods that bring soil and rock material to the highway so that it greatly disrupts the access activities of the surrounding community, such impacts are not only caused by the eviction of the project but also the utilization activity (C excavation) by Cv. Mafututu Indah. The government has taken action to handle floods and landslides, then gave warnings and stopped the project.

Keyword: Environment, Accountability, Land Eviction, Construction, Tidore.

INTRODUCTION

Development certainly causes changes in the structure of life, including the environmental order. Some of these changes have indeed been planned, but in every development activity, the scale of change, whether small or large, certainly has a greater effect than planned (Li, Chen, & Liu, 2016). Thus, it can be stated that problems that occur due to activities in the development sector often have an impact or negative effect on the environment. Symptoms of environmental pollution due to land clearing can accelerate the processes of environmental change and destruction, but allow for various environmental choices that were previously unimaginable and far from what was expected.

The environmental impact of land evictions, one of which is also found in Tidore Islands City, North Maluku Province, Indonesia. Based on field conditions, it was found that there was an impact of pollution due to land eviction activities as a farm road construction project in Tosa Village, East Tidore District. The eviction process has been carried out since 2023, but has not been completed until now. The eviction activities carried out have had an impact on environmental pollution as can be seen when heavy rains cause a lot of soil and rocks to be carried by the water flow onto the highway so that road activities are very disrupted and have caused several accidents. This certainly has a significant impact because the environment has been polluted and there have been victims for the community. Such problems must of course be taken seriously by the government, because the responsibility lies with the relevant regional apparatus organizations which have authority based on regulations/provisions.

Thus, the research questions are: (1) What is the Environmental Impact Due to Land Eviction in the Construction of Farm Roads in Tidore Islands City? (2) How is the Government's Legal Responsibility for the Environmental Impact of Land Evictions in Tidore Islands City?

The objectives to be obtained from this study are to determine the environmental impacts due to land evictions in the construction of farm roads in Tidore Islands City, and to determine the government's legal responsibility for the environmental impacts due to land evictions in Tidore Islands City. While the benefits of this study for the community, can be used as an understanding of the environmental aspect of the impact of pollution and for the government, can be used as a discussion material so that it can make environmental accountability efforts and compile regulations to overcome these problems.

LITERATURE REVIEW

State of the Art

This proposed research is based on the proponent's previous research which is the roadmap for this research, as follows.

Jermiah Daud, et al (2023) with the title Analysis of the Impact of Land Eviction on Business Ethics in the Jakarta Special Capital Region, this study aims to analyze the impact of land eviction on business ethics in Jakarta Special Capital Region and how land eviction affects the principles of business ethics. The results of the study show that the land eviction of Kampung Pulo, Jakarta violates business ethics such as justice, responsibility, obedience to the law, transparency, and integrity. Communities affected by the eviction experienced material losses, stigma, and psychological challenges. The government and companies involved in land evictions must be responsible for the socio-economic impacts caused. They must consider the principles of business ethics and the laws applicable to land evictions.

Overview of Environmental Law

The environment is a unity of space with all objects, power, conditions and living things, including humans and their behavior, which affect the continuity of life and the welfare of humans and other living things. While the definition of environmental management is an integrated effort to preserve the function of the environment which includes policies in the arrangement, utilization, development, maintenance, restoration, supervision and control of the environment (Hasyim, 2004).

According to Munadjat Danusaputro, the environment or living environment is all objects and forces and conditions, including humans and their actions, which are in the space where humans are and affect the survival and well-being of humans and other living organisms. Meanwhile, according to Otto Soemarwoto, the environment is defined as a space occupied by a living creature together with living and non-living things in it. Humans together with plants, animals and microorganisms occupy a certain space (Wang, Chen, & Liu, 2018). Except for

living creatures, in that space there are also non-living things, such as air which consists of various gases, water in the form of vapor, liquid and solid, soil and rocks.(Martinez et al., 2018) The space occupied by living creatures together with living and non-living things is called the environment (Akib, 2014).

Legally, the definition of the environment was first formulated in Law No. 4 of 1982 concerning Basic Provisions for Environmental Management (abbreviated as UULH-1982), which was then reformulated in Law No. 23 of 1997 and most recently in Law No. 32 of 2009 on Environmental Protection and Management. The fundamental difference in the definition of the environment according to Law No. 32 of 2009 on Environmental Protection and Management and the two previous laws is that it is not only to maintain the continuity of life and the welfare of humans and other living things, but also the continuity of nature itself (The Government of the Republic of Indonesia, 2009).

Overview of Legal Liability

Legal responsibility is closely related to the concept of rights and obligations. The concept of rights is a concept that emphasizes the concept of rights that are paired with the concept of obligations(Liu, Chen, & Li, 2014). According to Hans Kelsen in his theory of legal responsibility, it states that a person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the case of a conflicting act". A concept related to the concept of legal obligation is the concept of legal responsibility (liability). A person is said to be legally responsible for a certain act if he can be subject to sanctions in the opposite act. Normally, sanctions are imposed on the perpetrator because of his own actions which make the person responsible". Furthermore, Hans Kalsen divides the aspects of responsibility into (4), namely: Individual responsibility, Collective responsibility, Responsibility based on error, and Absolute responsibility (Ridwan, 2013).

Legal liability can be viewed in civil or criminal terms according to the object of the problem (Andleeb, 2018). Civil legal liability based on unlawful acts (onrechtmatige daad) is based on the existence of legal relationships, rights and obligations (Chen, 2016). The concept of unlawful acts in Indonesia is based on Article 1365 of the Civil Code which states "Every act that violates the law and causes loss to another person, requires the person who caused the loss due to his mistake to replace the loss". So an act is said to be an unlawful act and can be held accountable to pay compensation if it meets the following elements; elements of the act, against the law, the existence of loss and the existence of a causal relationship between the mistake and the loss (The Government of the Republic of Indonesia, 1945a). Criminal responsibility here is intended to determine whether or not a person can be held criminally responsible for the actions he has committed. Article 1 paragraph (1) of the Criminal Code states that "an act is only a criminal act if it is determined in advance in a statutory provision (Prodjodikoro, 1991)."

METHOD

Research Location

The research location is a place where researchers obtain information about the data needed from a study. Based on the proposed title, the research location that the author determined was in Tidore Islands City, precisely at the location of the farm road construction project and also at the Regional Apparatus Organization, namely the Public Works and Public Housing Service of Tidore Islands City, the Regional Disaster Management Agency, and the Village Government.

Type of research

The type of research used in this study is empirical legal research conducted by the author, namely by conducting direct research in the field. Field research is conducted in the real life arena, this type of research is essentially a method to find specifically and what reality is and will happen at some point in the community (Suteki & Galang, 2020).

Data Types and Sources

The types and sources of data used as a basis to support research results are: (1) Primary data is data obtained directly from sources, either through interviews and observations or in the form of unofficial documents which are then processed by researchers. (2) Secondary data is report data obtained from certain sources, in the form of official documents and books related to the research object (Ali, 2021).

Data Collection Technique

Data collection techniques in empirical research are through direct research in the field. Data collection in research is carried out using the following methods (Soekanto, 2012): (1) Observation is a data collection technique through direct observation of research objects. (2) Interviews are a method of data collection used to obtain information in the form of information related to the research being studied. (3) Documentation is a way for writers to obtain data in the form of written sources or literature related to the research object.

Data Analysis Techniques

The steps taken by researchers in conducting the analysis of this study are to collect information and data through the results of interviews with the government related to the Analysis of Legal Responsibility for Environmental Impacts Due to Land Management in the Farm Road Development Project in Tidore Islands City. Then analyzed qualitatively using descriptive methods related to the problem, then processed and analyzed so that answers to the problems can be obtained to be used as a conclusion.

RESULTS AND DISCUSSION

Based on the field review, it is known that the trigger for the landslide to the highway is not solely due to the eviction of the farm road but the activity (project contractor) in taking materials such as rocks and soil that are very close to the eviction of the farm road. With a sloping position, it certainly causes landslides and from the landslide, the rock and soil materials are carried by the flood to the highway. This condition has caused unrest in the community in the Tosa area itself. Therefore, in this study, the researcher will conduct a fundamental research to determine the form of impact and environmental responsibility due to the impacts caused.

The Impact of the Farm Road Project in Tosa Village, East Tidore District, Tidore Islands City

Based on direct review (researcher), at the project location, there was a significant environmental impact, before the land eviction there had never been any environmental pollution, but after the project activity was carried out, it had a significant impact on the environment itself. The impacts caused to the environment in the Ake Sahu Environment, Tosa Village include:

Landslide in Project Eviction Area

Evictions that remove part of a slope or cut a cliff perpendicularly can make the slope unstable and more susceptible to landslides. Landslides due to eviction are natural disasters

that occur when land eviction activities, such as clearing land for development or mining, cause slope instability and landslides. The landslide that occurred in RT 001, Ake Sahu Environment, Tosa Village since 2023 after the project eviction activity, this condition has certainly damaged the environment.

From the eviction activity that has caused landslides, then a protest action has been carried out by the community to the Village Government and has been followed up by stopping the project activity. With this condition, it has certainly damaged the environmental order which was originally good to be polluted/damaged due to such a project. The existence of a farm road is certainly a great hope for the community, but basic research must be carried out on the impacts that then occur. So that activities like this are certainly no longer carried out because they have a great impact on the sustainability of the environment itself.

Flood and Pile of Demolition Material

The impact of the flood at the eviction site is also very detrimental to the community because the environment is polluted and there are many piles of material carried by the water flow to the highway. This condition is certainly very disturbing, heavy rain that lasts for a long time can cause flooding. According to information from one of the residents in the Tosa area, "Mr. Dahlan Mahmud also as Babinsa Tosa, gave information that "the environmental impact conditions that occur in our environment are indeed caused by the excavation activities of the project owner who takes piles of rocks and soil by carrying out evictions so that during the long rainy season there is always flooding and the roads are always dirty (D. Mahmud, Tosa Resident, personal communication, 2025).

Reported from Media Narasi Timur, there was a direct review conducted by the Chairperson of Commission III of the Tidore Islands City DPRD, Megawati Safitri Ajwan, together with Babinsa Tosa, Bhabinkamtipmas Tosa, directly reviewing the landslide and flood location on Sunday, December 15, 2024, reviewing the landslide in the Akeshu Environment, Tosa Village, East Tidore District. At that location, the road was buried in soil and rocks so that the road could not be accessed. Regarding the landslide that closed the road in Tosa Village, the cause, said Mega, was due to a C excavation. "Because there are no water channels in the area either," she added. When we received this information, we immediately called the Tidore City Regional Disaster Management Agency and immediately responded to the report. We went down to the location that was the point of the flood and landslide, the PDI Perjuangan politician also said that the handling steps were also assisted by the local community who were involved in cleaning up the material on the road.

Judging from the case study that occurred, legally it is not in line with the legal regulations in the environmental field. Basically, the community's right to a good and healthy environment is regulated in the 1945 Constitution in Article 28 H paragraph (1), "states that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and has the right to receive health services." Furthermore, it is contrary to the legal regulations in Law Number 32 of 2009 concerning Environmental Protection and Management), the community has the right to a good and healthy environment. This right includes the right to obtain information, participate in environmental decision-making, file objections, and gain access to justice in cases related to the environment (The Government of the Republic of Indonesia, 1945b).

Such project activities must be accounted for wisely by the project owner and must be given strict sanctions. Furthermore, it can be seen to what extent the preventive and repressive steps have been taken by the Tidore Islands City Government to minimize environmental problems that occur can be seen based on the description of the project party's responsibility from the results of this study.

Environmental Monitoring and Accountability Steps for the Impact of the Farmer's Road Eviction Project in Tidore Islands City

In answering various dilemmas and concerns experienced by the community regarding an impact arising from environmental pollution, of course it must be accounted for by the parties concerned with the project in this case, the owner of the project, then of course there must be intensive supervision by the government in charge of environmental management itself. Referring to the aspect of environmental pollution that occurred in the Ake Sahu Environment, Tosa Village, East Tidore District, Tidore Islands City, it is certain that accountability must be carried out both in terms of the environment and the legal aspects that have been violated. Therefore, to see the extent of the progress of the consequences that arise, it can be seen based on the description of the results of the research interview observation data below:

Project Owner's Responsibility

Based on the impact caused by the project activity (Jalan Tani) in Tosa Village, handling steps have been taken by the project owner in this case CV. Mafututu Indah. Efforts to handle the impact, the project owner Mr. Wahab Do Iji, uses heavy equipment such as an Excavator to clean the road buried by landslides, then makes alternative gutters/drains for water access to prevent material from entering the highway. For long-term mitigation, the project activity has been stopped.

Accountability and Supervision of the Tidore Islands City Government Tosa Village Government

Interview statement of Mr. Arfa Kene as the Village Head, emphasized that we are currently tightening environmental activities, because in its activities it is not only project work but there are community members who carry out acts of selling stone and sand materials at the location. Regarding the impact of the project, we have given a verbal warning to the contractor to no longer carry out activities and be responsible for the impacts that occur. The anticipatory and handling steps taken by the village are: (a) Project Termination by Giving Verbal Warning to Project Owner CV. Mafututu Indah. (b) Proposal to Build a Bridge or Retaining Wall. (c) Carrying out impact management together with the community by cleaning up highway access.

Supervision of the Regional Disaster Management Agency of Tidore Islands City

Supervisory steps taken by the Tidore Islands City Regional Disaster Management Agency, based on the results of an interview with Mr. Mochdar A. Wahid as Secretary of Regional Disaster Management Agency, regarding the environmental impacts caused, we have indeed conducted several reviews of the affected locations, for the actions taken we immediately carried out cleaning using heavy equipment to clean up the remaining material in the form of soil and rocks on the highway, because it is the only access so that at that time it was quite disruptive to vehicle activities.

The Secretary of the National Agency for Disaster Management also appealed to the relevant agencies to immediately take action to handle and stop projects that do not comply with the criteria (Analysis of Environmental Impacts) and environmental quality standards. National Agency for Disaster Management of Tidore Islands City has coordinated with the Environmental Agency regarding the agreement on the proposal by making reforestation in the form of planting trees and making retaining walls to minimize the impact of landslides and floods.

Supervision of the Public Works and Public Housing Service of Tidore Islands City

Head of Public Works and Public Housing Office of Tidore City in this case Mr. AM. A. Husein, regarding the impact of the farm road project and the utilization of excavated land, his response was, "This project proposal is indeed a proposal from the community together with the agricultural office in the construction of farm road access, and regarding the impact, we have also coordinated with the relevant agencies by making a proposal to the Provincial government for the construction of a bridge and making a retaining wall. Because the access is on the highway, this is the provincial government's domain and we will accommodate this until it can be realized for the benefit of the community. The Head of Public Works and Public Housing in the interview session also said that regarding each project, we only carry it out according to the procedures that have been given permission for the farm road project, it is a community proposal so we will still realize it.

CONCLUSION

The provisions are very clearly stated in Article 87 of the Environmental Protection and Management Law, which regulates strict liability for business actors or activities that cause environmental damage. This means that business actors are responsible for the losses incurred, even if there is no element of intent or negligence. Compensation for losses due to environmental impacts is a form of legal responsibility that must be fulfilled by parties that cause environmental damage or pollution. Law Number 32 of 2009 concerning Environmental Protection and Management, states in Article 90 paragraph (1): Government agencies and regional governments responsible for the environment are authorized to file lawsuits for compensation and certain actions against businesses and/or activities that cause environmental pollution and/or damage that result in environmental losses.

Environmental pollution due to land clearing in Ake Sahu Environment, Tosa Village, requires repressive legal efforts in the form of effective, consistent, and consistent law enforcement against environmental pollution and damage that has occurred. However, in line with this research, the steps taken by the Tidore Islands City government regarding the impact of environmental pollution carried out by the project owner are only limited to verbal warnings and project termination. This is certainly not comparable to the mistakes made and should be given strict sanctions so as to provide awareness of a good and healthy environment for the lives of present and future generations.

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