



# Legal Protection For The Tapan Dolok Community Against The Negative Impact Of The Construction Of The Tebing Tinggi-Sinaksak Toll Road Section

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**Abstract:** In order to realize equitable national development, the government is aggressively building infrastructure in Indonesia. One of the infrastructure developments is the construction of toll roads. The purpose of this research is to provide legal protection for the Tapan Dolok community against the negative impact of the Tebing Tinggi-Sinaksak toll road construction. This research is a type of qualitative research that uses an empirical juridical legal approach. Data sources were obtained by interviewing several sources and analyzed with existing legal regulations. The results showed that there were many positive impacts that could be felt from the construction of this toll road. However, there were also people who experienced negative impacts from the construction of this toll road such as clogging of waterways resulting in flooding, some road structures were damaged due to large vehicles transporting toll road construction needs such as; building raw materials and building construction tools. Then, some MSME traders lost buyers.

**Keywords:** Legal Protection, Toll Road, Negative Impact

## 1. Introduction

A way to improve equality, justice, prosperity of the Indonesian people and state administrators in accordance with the norms in Pancasila which also aims to have an impact on progress is by carrying out national development. (Bapedda, 2016)

In the plan to realize equitable national development, the government is determined to build infrastructure to all corners of Indonesia. The construction of toll roads is the government's plan to improve national development. Until now, 2816 km of toll roads have been declared practiced in the country itself. Toll roads are considered a facility provided by the state in order to facilitate travel to the destination. In Law No. 38 of 2004 concerning highways, it is stated in Article 1 paragraph (7) that toll roads are public roads that are part of the road network and are also part of a system whose users are required to pay for these facilities. (UU No 38 Tahun 2004 Tentang Jalan, 2004)

Toll road development can make a significant contribution to equitable national development and improving the welfare of the people in Indonesia through several mechanisms, namely reducing travel time, opening remote areas, regional economic development, improving quality of life, equitable development, and increasing productivity.

The development of Trans Java and Trans Sumatra has shown positive impacts in connecting major cities with their surrounding areas, accelerating local economic growth, and improving the welfare of local communities. Overall, toll roads are not just physical infrastructure, but also an important instrument in the national development strategy that aims to achieve inclusive and sustainable economic growth in Indonesia.

The construction of this toll road greatly affects the views of other countries towards Indonesia. Because the economic development of a country can be seen and assessed through the construction of toll road infrastructure. Then, the toll road industry can also be a real proof of the civilization of a country that is instantaneous and smooth in carrying out all its activities. (Sumaryoto, 2020)

However, we cannot avoid that the construction of this toll road plays a very important and strategic role because it is one of the developments that very quickly encourages economic growth, changes social views from conservative to modern and also

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fosters local cultural diversity that can be passed by way of more open inter-regional interactions. Although there are now many advantages to the construction of this toll road, of course there will also be comparable disadvantages, especially in the country of Indonesia itself.

North Sumatra is a province of the island of Sumatra, Indonesia. The capital city of North Sumatra is Medan. The province of North Sumatra also has a lot of cultural backgrounds and ethnic diversity that is very unique, the wealth and natural resources in this province are also many, one of which includes oil palm, natural gas and petroleum. North Sumatra itself also has many very attractive ecotourism destinations including Lake Toba, volcanoes and tropical forests. The construction of toll roads in North Sumatra can open up several potentials in order to invite more investors to invest their capital, increase the number of tourists visiting destinations such as Lake Toba and its surroundings, make logistics costs more efficient and can also expand competitiveness between regions that create jobs with as many quotas as possible. (Admin, 2023)

The construction of the Tebing Tinggi-Sinaksak toll road is a continued toll road construction from the Parapat toll road. The Tebing Tinggi-Sinaksak toll road includes a segment of the Kuala Tanjung-Tebing Tinggi-Parapat (Kutepat) Toll Road totaling 143.25 km. With the operation of this toll road, it will make the trip from Medan to Pematangsiantar only take approximately 2-3 hours. (Detik Sumut, 2024)

Regional Regulation No. 10 of 2013 concerning the 2013-2033 Regional Spatial Plan of North Sumatra Province regulates regional spatial planning, including the development of toll road infrastructure. In this regulation, toll road development is integrated with regional development plans and regional economic growth. The 2018-2023 RPJMD (Regional Medium-Term Development Plan) of North Sumatra Province includes strategies and priorities for infrastructure development, including toll roads, as part of efforts to improve connectivity and drive economic growth in North Sumatra.

In the construction of the Tebing Tinggi-Sinaksak toll road from the construction stage to the operation of the toll road, the community experienced different impacts. Some positive impacts are unraveling congestion and cutting travel time to be shorter. But on the other hand, there are also some of the local residents who experience negative consequences from the construction of the Tebing Tinggi-Sinaksak toll road section. (Ryandika, 2022)

Law No. 38 of 2004 on Roads has provided protection for the rights of local communities affected by toll road development through several mechanisms. Article 3 states that road development must be carried out by taking into account the harmony and balance between national and regional development, as well as the welfare of the community. Article 4 states that the implementation of roads must prioritize the public interest by paying attention to safety, security, and community rights.

Articles 9, 10, 11, 12, 15 of Law No. 2/2012 on Land Acquisition for Development in the Public Interest state: "Stipulates that land acquisition for the public interest must be based on the principles of justice, welfare, and sustainability. Stipulates procedures and mechanisms for land acquisition that must be transparent and involve the participation of affected communities. Requires the provision of adequate and fair compensation to communities whose land is affected by development."

Article 2-3 of Presidential Regulation No. 71/2012 on the Implementation of Land Acquisition for Development in the Public Interest states that every land acquisition must be carried out through clear stages, starting from planning, preparation, implementation, to delivery of results.

While the existing legal framework provides protection, implementation on the ground often faces challenges such as cumbersome bureaucracy, lack of socialization, and potential conflicts of interest. Therefore, close supervision and active participation of communities and NGOs (non-governmental organizations) are essential to ensure that the rights of local communities are properly protected.

From the background of these observations, the researchers want to further analyze the legal arrangements regarding the construction of toll roads, what are the negative

impacts of the construction of the Tebing Tinggi-Sinaksak toll road on the Tapian Dolok community and how the relevant communities obtain legal protection from the negative impacts of the construction of the Tebing Tinggi-Sinaksak toll road section.

## 2. Materials and Methods

The research that the researcher wants to examine is classified as a type of qualitative research that uses an empirical juridical approach. Empirical legal research is a form of research that reviews directly to the research location. The purpose of this research is to collectively discuss the impact of toll road construction and existing legal protection, as well as solutions proposed by the community and then relate them to several available legal theories such as applicable laws and regulations. The empirical approach discussed is also referred to as a sociological approach that is carried out directly to the research location. (Arikunto, 2012)

The data sources available in this research consist of primary data from interviews with several respondents, namely the affected Tapian Dolok community group, community leaders and traditional leaders, representatives from NGOs or civil society organizations that focus on community rights. And secondary data includes the 1945 Constitution of the Republic of Indonesia, Government Regulation No. 15 of 2005, Law No. 02 of 2012 concerning Land Acquisition, Law No. 38 of 2004, and local regulations, as well as books and journals containing discussions of legal protection, toll road construction, compensation, and others.

The data collected above, which came from primary data and secondary data, were analyzed using qualitative analysis methods. The first step taken to analyze both data is to group the data based on themes that emerged from the interviews, then identify patterns and relationships between various themes to understand legal protection and its impact, compare findings from various sources of data interviews, scientific journals, and legal arrangements) to ensure the consistency and validity of this research. The results of this study are expected to provide useful recommendations to improve the legal protection and welfare of communities affected by toll road construction.

## 3. Results and Discussion

### 3.1. Legal Arrangements Related to Toll Road Development

Toll road development in Indonesia has a lot of history, especially when it comes to the laws that govern it. The early history of the toll road itself began in 1978 which was marked by the construction of the Jagorawi toll road which has a section of 59 km. This Jagorawi toll road serves to connect Jakarta, Bogor and Ciawi. The funds used to build this toll road were taken from the government budget and loans to other countries submitted by PT Jasa Marga buka (Persero) Tbk. Then continued in 1987, private companies began to help a lot in investing toll roads by approving and letters from PKP concession power agreements that were jointly held by PT Jasa Marga. From 2007, 553 km of toll roads have been declared ready to operate in Indonesia. (BPJT, 2023)

In Indonesia, toll road construction was also halted due to the monetary crisis from 1995 to 1997. After that the president issued decree number 39/1997 which marked that the government had to postpone the program to build this toll road. Ofcourse this makes the toll road construction program in Indonesia become hampered. Until 2022, Presidential Decree No. 15/2002 was issued discussing the continuation of the toll road construction project. Until 2004 the government had finished building a toll road along 41.80 km of toll roads in Indonesia. In this year, the government has also issued Law No. 38/2004 which discusses toll roads as an opening in forming BPJT replaced by PT Jasa Marga which has a regulatory role.

The toll road regulatory agency (BPJT) has been established from June 28, 2005 which functions as a regulator of toll roads in Indonesia. The process of building toll roads has now re-entered its acceleration phase after continuing construction on 19 toll road projects was postponed in 1977. Hopefully in the future the government has a plan to finance toll road construction through a three-stage approach, namely the private

sector as full financing of the private public partnership (PPP) program as well as financing in building this country through private sector operation and maintenance.(BPJT, 2023)

Toll roads are currently one of the developments that are being prioritized by the government. From 2013 to 2021 it was recorded that currently only 1700 km of new toll roads are in active operation. Meanwhile, the government is also targeting that by 2025 there should be more than 6,000 km of toll roads in operation. Johan Silas (2002) also stated that toll roads are one of the effective infrastructure provided by the government that can make the economy grow rapidly. In addition to having a goal for a floating economy, in other countries toll roads have a purpose as a means that serves to level the development or development of a region. Therefore, reviewing the importance of toll roads, the government has created an agenda that aims to make the economy grow with one of the programs for toll road construction.(Faber, 2013)

In terms of benefits, toll roads have many benefits for people who have an interest. It is proven that if motorists use toll roads, it can save time to drive up to 35% and also serves to increase cargo volume. Other benefits such as in the manufacturing industry, toll roads can increase value added and can also make gross regional domestic product (GRDP) increase by 2.51% and are also very influential in increasing employment. The same thing with the opinion of Sembiring and Anas (2019) which suggests that one of the benefits in the manufacturing industry is because it is more efficient if connected by toll roads.(Arumandani & Zen, 2023)

Article 1 paragraph (2) of PP No. 15 of 2005 explains that a toll road is an infrastructure provided by the state in the form of a highway included in a part of a road network from a national road which requires users to pay for the toll road facility. Article 2 (1) explains that toll roads are organized with the aim of creating equity for development and its results from a balance to develop the region with attention to justice, which can be obtained by building a road network from road user funds.(Peraturan Pemerintah (PP) No. 15 Tentang Jalan Tol, 2005)

It is expected that with this national development, the Indonesian people must be more rigorous in guarding, monitoring and maintaining toll roads. In this case, other developing countries also expect the same thing, namely being able to maintain the infrastructure that has been built properly. In fact, there are still many other developing countries that do not pay attention to this, resulting in damage to the toll road project and making maintenance costs more expensive.(Suprayitno, 2012)

### *3.2. Negative Impacts of the Tebing Tinggi-Sinaksak Toll Road Construction*

The construction of this toll road has a relatively urgent contribution to regional development, especially in remote areas. This toll road is also a highway to a continuous economy. The toll road section itself must present a fair and balanced regional development.(Alfayyad Ryandika, 2022)

The Tebing Tinggi-Sinaksak Toll Road construction is a continuation of the Medan-Parapat Toll Road construction. The construction of this toll road will improve access to Lake Toba and provide tourists with various transportation options by air, sea or land. The existence of a toll road from Medan has the potential to revitalize the economy of the community to Parapat. The construction of this toll road is expected to not only facilitate access to Lake Toba, but also encourage economic growth in North Sumatra, including the business and tourism sectors. With the construction of the Kuala Tanjung-Tebing Tinggi-Parapat Toll Road, Medan's access to Lake Toba tourist attraction, North Sumatra's Top Priority Tourism Object (DPSP), increased from the original 3.5 hours to only one hour's drive. (BeritaUmum, 2019)

The overall impact of toll road management can be categorized into positive impacts and negative impacts. The positive consequences of the construction of this toll road can be described as follows:(Alfayyad Ryandika, 2022)

a. Reducing distance and travel time.

With the construction of this toll road, it will make the trip shorter and faster. Because the essence of the toll road is "freeway". Many people want a short and fast trip to their destination. Then this toll road is the solution.

b. Comfort and Safety

The accommodation of the Trans Sumatra Toll Road is appropriate as a guarantee for the comfort of the driver. And the absence of dividers on this toll road makes traffic flow more smoothly. The excellent quality of the toll road, the track is straight and mostly flat, providing convenience, safety and comfort for road users. Road user safety is an important factor in expressway transportation. Therefore, society has many traffic rules that must be obeyed, and society is seen as a single public institution that always prioritizes the comfort of its users.

c. Growth of economic activities

The presence of the Trans Sumatra Toll Road can be considered as something that attracts the economy. The construction of toll roads facilitates the flow of goods, reduces obstacles, and creates jobs so as to reduce unemployment. The existence of toll roads can also generate new economic activities.

Land acquisition for the Tebingtinggi-Sinaksak toll road left a positive impression on residents whose land was taken for toll road construction. The compensation provided by the city government can be used to increase income and fund the purchase of new land or housing elsewhere. (Hadiyanti, 2019)

In addition to positive consequences, the existence of this toll road also causes several problems behind its positive side. The negative consequences that occur from the existence of this toll road are:

a. Causes flooding

One of the causes of flooding can occur due to clogged drains. Drains are channels designed to drain excess water from areas such as settlements, cities, and highways. In every city, housing is required to have drains that are useful for channeling water towards water disposal such as rivers, and others.

Since the construction of the toll road, the water channels in the Beringin area, Sinaksak District have experienced overflow, causing flooding in the residential area of Beringin residents. Residents of the Beringin housing complex in Sinaksak Village, Tapian Dolok Sub-district, Simalungun Province, are always afraid and worried when it rains. They said that the area has been flooded many times since the toll road was built. (Mistar, 2021)

One resident of Beringin Indah Housing, Sinaksak, said that this was the first time such flooding had occurred in his area in the last 15 years. Many residents of the Beringin area suspect that the cause of the flooding is the construction of the toll road which has blocked the flow of water, which results in rain falling on the houses of Beringin residents.

The community has many demands for this project which is considered to have made many mistakes to cause negligence and natural disasters from this toll road. Some of the demands from the disaster that occurred from this negligence are: (a) The water channel leading to the Beringin Indah housing estate should be enlarged. (b) The toll road construction party must repair the water channel that hampers the daily activities of local residents. (c) The government must immediately repair and take responsibility for damage to residents' homes as a result of flooding. (d) Provide compensation to residents who have damage as a result of this toll road construction project. (e) The government must stop the entire flow. But now it is still being passed through from the Beringin Indah water flow or Sinaksak intersection.

Until now, due to the negligence of the toll road, one of the residents has represented the local residents who have been harmed by emphasizing that he will take the legal realm if the demands are not firmly fulfilled. (Berita Simalungun, 2020).

b. Some road structures are damaged

As for this toll road construction project, it definitely requires a lot of building raw materials in the form of heavy equipment. In this case, the raw building materials that will be used to build the toll road are transported using large vehicles. These large vehicles often cross residential roads. Most roads in the Tapian Dolok Sub-district area have not yet been paved, so that when passed by large loads of vehicles it will change the structure of the soil into holes. Especially if coupled with rain, the soil structure on the road will be even worse.

The implementer of the Tebing Tinggi-Sinaksak toll road has promised to repair the road damaged by the construction of the toll road. But often, the repair of the road is delayed. The people in Tapian Dolok Sub-district hope that the damaged road can be repaired soon. So that activities in and out of the village are not disrupted.

c. Impact of toll road construction on MSMEs

Tapian Dolok Sub-district is a sub-district located near the North Sumatra crossing road which is busy being crossed by various vehicles, both private and public vehicles. Often, local residents take the golden opportunity to open several shops, grocery stores and coffee shops on the side of the road to become a stopover for private vehicles and tourist buses.

There is a large mosque on the side of the North Sumatra crossing road which has a large parking lot and is quite relevant for local residents to open stalls, grocery stores and coffee shops. So that makes the area very suitable to be used as a stopover for road users. They can perform worship at the mosque, buy some souvenirs, or eat and drink.

However, with the Tebing Tinggi-Sinaksak toll road facility, the busy MSME area is no longer crossed by many vehicles. Many of them choose to use the toll road on their journey. The existence of several stalls, grocery stores, and coffee shops in the area still exists today. However, if there are fewer motorists passing by, there will be fewer who stop there. This can reduce the income of some residents who trade there.

### *3.3. Legal Protection for the Community Against the Negative Impact of the Construction of the Tebing Tinggi-Sinaksak Toll Road Section*

Law enforcement is a task carried out by law enforcement officials. This is because this task as said by Kant is an absolute obligation. And here does not recognize the term with conditions. Duty is an obligation that must be carried out as a state of law. And the principles described earlier should be upheld as the basis for creating a good law. The law must be enforced with strength so that it can become a basis for creating better living conditions for the community in the future. The peace of life in society must be far from all forms of chaos intimidation and arbitrariness, therefore the strength of the law must apply as it should.

For a country based on law like Indonesia, this must be the center point in realizing good relations between the government and the community based on the principle of harmony. So from this principle, a functional bond will be formed in the form of a proportion of state power, while the problems that arise should be quickly resolved by deliberation so that from this solution a court will be created which can make a means of final settlement. (Dr. Oksidelfa Yanto., S.H., n.d.)

Human rights that are violated by anyone will be protected by law. This protection protects all people and allows them to enjoy all the guaranteed rights of the law. Fitzgerald's theory says that Salmond's legal protection states that in interest transactions, no particular interest is protected unless other interests are protected, and the law must be integrity and coordination for the interests of all Indonesian people. (Harahap, 2019)

In carrying out a national development, the principle of legal expediency needs to be considered because everyone expects benefits in the implementation of law enforcement. Do not let law enforcement actually cause public unrest. Because when we talk about law we tend to only look at the laws and regulations, which sometimes the rules are not perfect and not aspirational to people's lives. In accordance with the principle mentioned above, in the statement of Prof. Satjipto Rahado, who stated that: justice is indeed one of the main values, but still in addition to others, such as usefulness (utility, *doelmatigheid*). Therefore, in law enforcement, the ratio between benefits and sacrifices must be proportional. (Palsari, 2021)

When implementing toll road infrastructure development throughout Indonesia, of course, there are many impacts that will be felt by the community. Because the construction of this toll road is in the middle of the community, they are the ones who feel the most impact. To overcome this, the government has designed so that toll road construction does not seize the rights of the people affected by the toll road.

In building this toll road, it is also considered as a right to protect these human rights, especially in the issue of land ownership, it is also explained that the consideration of Law No. 2 of 2012 concerning land acquisition. This regulation stipulates to ensure that land has community rights carried out with the principles of justice, democracy, and humanity in accordance with the principles of community protection in development. (Surono, 2017)

Law No. 2/2012, Article 1 Number 2 states that: "the acquisition of land is an activity to pay land both fairly and equally to land lovers. The intended public interest is such as a square or public place that benefits the state or the people". (Surono, 2017)

Law No. 32 of 2009 on Environmental Protection and Management Articles 26-28 stipulate the obligation to conduct an Environmental Impact Assessment (AMDAL) prior to the implementation of toll road construction projects to ensure that negative impacts on the environment and communities are minimized. Article 33 Stipulates that the public has the right to obtain information and participate in the decision-making process related to EIA.

The government has made every effort to minimize the negative impacts of toll road construction. However, in its operation there are still those that do not run in accordance with the Law. Therefore, strict supervision is needed so that the community does not suffer losses.

The next form of legal protection carried out by the government is to determine compensation for residents whose land is used for toll road construction. In determining compensation for land taken by the state, it must follow the regulations. Article 33 of Law No. 2/2012 regarding land acquisition is specifically regulated through compensation assessments by experts in the field of soil conservation, such as above and below ground land, building structures, productive plants, as well as other land use-related items and other potential losses. (UU No 2 Tahun 2012 Tentang Pengadaan Tanah, 2012)

The compensation set by the expert during the announcement of the construction site of a public project varies depending on the results of the assessment which will be published in the land forum and become the basis for setting the appropriate level of compensation (Muhammad Alfayyad Ryandika, 2022).

From the two forms of legal protection carried out by the government above, the Tapan Dolok community has received their rights fairly and accordingly. Although there is one factory owner who feels that the compensation provided by the government is not appropriate, the problem has been resolved and an agreement has been reached between the two parties.

Regarding the negative impacts mentioned above, the Tapan Dolok Regional Government has made efforts to minimize these negative impacts. For flooding issues, discussions have been held with toll road implementers. Water channels will be diverted to other places so as not to cause flooding in residential areas. However, to realize this, it is necessary to periodically supervise the toll road implementer so that this is immediately implemented.

#### 4. Conclusions

The construction of the Tebing Tinggi-Sinaksak Toll Road is a continuation of the construction of the Medan-Parapat Toll Road. The construction of this toll road will improve access to Lake Toba and provide tourists with various air, sea and land transportation options. The construction of the Tebing Tinggi-Sinaksak toll road will have positive impacts such as economic growth, safety and comfort of road users, job creation and reduction in travel distance.

However, building this toll road also causes several negative consequences such as clogging of waterways to cause flooding, some road structures are damaged due to large vehicles that transport toll road construction needs such as; building raw materials and building construction tools. Then, some MSME traders lost buyers. The form of legal protection carried out by the government to communities affected by toll roads is compensation and trying to minimize existing negative impacts.

Access to respondents and information may be a challenge, especially if the community or local government is reluctant to share information or participate in research. It is difficult to collect accurate and representative data on the views and experiences of the Tapian Dolok community on the impacts of toll road development. Limited resources such as time, funds and access to information may affect the depth and scope of the research. Identifying and addressing these limitations will help to improve the quality and validity of similar research in the future.

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