

Land Procurement for Public Interest by Mining Andesite for the Construction of the Bener Dam



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ABSTRACT: Land procurement for public purposes carried out by the government is regulated in statutory regulations, and the existence of these statutory regulations is intended to provide legal certainty regarding land ownership. In reality, land procurement for public purposes in Wadas village has caused conflict and there is no certainty in resolving it. The problem is efforts to resolve disputes between the government and the residents of Wadas village. The research method used is descriptive-normative with a qualitative model. The results of the research explain that conflicts over land procurement for the public interest are complicated and never subside due to regulatory weaknesses and errors in the application of land law so that in implementation the interests of land rights holders are not protected with certainty. Apart from that, the lack of political stability and very high government authority also causes land issues to be neglected.

KEYWORDS: Land Procurement, Public Interest, Conflict, Rule of Law.

I. INTRODUCTION

Land procurement is a legal act carried out by the government to obtain land for the public interest by providing compensation in the form of compensation to land rights owners (both individuals and legal entities) according to procedures and at a certain price (Sihombing 2004). Juridically, land procurement was first known since the issuance of Presidential Decree Number 55 of 1993 concerning Land Procurement for the Implementation of Development in the Public Interest. The purpose of land procurement according to the Presidential Decree is any activity to obtain land by providing compensation to those entitled to the land. Furthermore, Presidential Decree no. 55 of 1993 has been replaced several times, namely by Presidential Regulation Number 36 of 2005 concerning Land Procurement for the Implementation of Development in the Public Interest, Presidential Regulation Number 65 of 2006 concerning Land Procurement for the Implementation of Development in the Public Interest, Law 2 of 2012 concerning Land Procurement for Development in the Public Interest, and Law Number 11 of 2020 concerning Job Creation and finally Government Regulation Number 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest.

Some of these juridical provisions provide the meaning that land procurement is any activity to obtain land by providing compensation to residents who want to release or hand over land, buildings, plants and objects related to land. The activity of providing land by providing adequate and fair compensation to the entitled parties (Suntoro 2019). The objects in land procurement are land, above ground and underground space, buildings, plants, other things related to the land itself or other things that can be valued in money. Land procurement is carried out by providing compensation to parties entitled to land using a mechanism for revoking land rights in an appropriate and fair manner (Djanggih Hardianto and Salle 2017).

One of the cases of land procurement for public purposes that occurred in the Wadas community was due to the Bener dam project and andesite mining in Wadas village (Adriansa, Adhim, and Silvia 2020). In this project, agrarian conflict-based violence occurred by the police against the Wadas village community in Bener sub-district, Purworejo district, Central Java province. The main source of agrarian conflict is the granting of permits and concessions to corporations, both by the central and regional governments, which ignore the rights of customary law communities in forest areas, involving security forces (police) as security for these corporations. The problem of agrarian conflict-based violence against groups of poor rural farmers is perceived more from the perspective of human rights, security, indigenous peoples, diversion of national political issues, and violations of other state laws (Musyaffa and Romadlan 2023).

Agrarian conflicts that occur as a result of land procurement for infrastructure development are mainly related to compensation for losses, which is a very complicated issue. The issue of compensation and assessment is carried out without paying attention to and considering the feasibility of ensuring the survival of affected communities or communities whose land is used for infrastructure development for the public interest (Shofi, Subekti, and Raharjo 2022). In the case of land procurement, it is difficult

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for people to obtain land with the same area and fertility level as the site affected by land procurement. Apart from this, the determination of compensation is considered less transparent and the process of paying compensation to the community takes a long time even though the land has been used for infrastructure development.

The problems faced by the government in implementing development include the implementation of providing land for development, because land control by the state is limited or it could be said that almost no land is controlled directly by the state anymore, so in this situation the only way that can be used is namely by releasing land belonging to the people, whether controlled by customary law, or other rights attached to it (Soimin, 2000).

The agrarian conflict in Wadas village occurred because of the interests between the state which would mine andesite stone as building material for the Bener dam and the community in Wadas village who refused to mine andesite stone in their plantation area. Construction of the Bener dam began in 2013 with the environmental impact analysis process starting. It is hoped that the Bener Dam will be operational in 2021 and this dam will be part of a national strategic project under President Jokowi's administration at a cost of up to IDR 3 trillion (SDA 2023). The height of the dam reaches 169 meters and is the highest in Indonesia. The dam area is 400 hectares and the Bener dam is expected to be useful for generating hydroelectric power which produces 6 megawatts of power (SDA 2023). The Bener dam has an important function and role in the agricultural irrigation sector to irrigate 15,519 hectares of agricultural land and additional new irrigation areas of 1,940 hectares (SDA 2023). Apart from that, the Bener dam will also be a water supplier for household, municipal and industrial needs in the Purworejo, Kebumen, Wonosobo and Kulonprogo areas. Raw water from the Bener dam will flow and be distributed to ten sub-districts in Purworejo, three sub-districts in Kebumen and two sub-districts in Kulonprogo, another function is also to reduce flooding (Nuswantoro 2022b).

The problem with land procurement for development in the public interest is that there are repressive actions carried out by security forces against the community. Actions involving armed forces vary, for example in the process of paying compensation so that the deliberation and compensation process can be carried out quickly and criminalizing citizens who oppose infrastructure development projects, and other acts of violence in securing infrastructure development. Therefore, what are the efforts to resolve disputes over agrarian conflicts due to land procurement for the public interest?

II. RESEARCH METHODS

The research method used is descriptive-normative with a qualitative model. The nature of this normative descriptive research is to present data regarding the results of mapping and efforts to resolve disputes resulting from land acquisition for public purposes carried out by the government. Legal data was obtained from books, statutory regulations, documents, both printed and electronic documents as well as various previous research results discussing issues related to the law of land acquisition for development or public interests. The approach used is a conceptual approach. Researchers try to find concepts that are appropriate in legal settings including dispute resolution. The data is analyzed juridically and then compared with data in the form of the content of land acquisition legal regulations.

III. RESULTS AND DISCUSSION

Land Procurement by Mining Andesite Stone in Wadas Village

Geographically, Wadas village borders the villages of Kaliurip, Kaliwader, Kedungloteng, Bleber, Pe Kacang, Cacabankidul, and Cacabanlor, Bener sub-district, Purworejo Regency, Central Java province. Wadas Village is located on a hilly and valley plain with an altitude of around 213-258 meters above sea level (Meidinata 2022). Wadas village has an area of 405,820 hectares, with details of 381,820 hectares being dry land and the remaining 24,000 hectares being rice fields. The Wadas village area is divided by a river called the Juweh river and the residential areas are spread out along the river flow (Meidinata 2022). Wadas village is known as one of the villages with good community management, as the first village to pay off Land and Building Tax in 2017 (Diva Lufiana Putri 2022).

Some commodities from Wadas village include sugar palm, banana, coconut, mahogany, acacia, teak rubber, cloves and others. Wadas village, which is considered to have various benefits for life, really supports the topography of Wadas village which is in the highlands and is an area prone to landslides. These plantation commodities have fulfilled the living needs and welfare of the Wadas village community and become the local community's highest income from sugar palm plantations, which are harvested every morning and evening which can become the community's daily income. The high value of plantation products and good environmental management includes plant diversity for environmental sustainability (Efendi, et al. 2022).

Initially, the legal basis for implementing land procurement for public purposes was based on Law 2 of 2012, namely through the stages of planning, preparation, implementation and delivery of results. At the planning stage, land acquisition in Wadas village is based on the results of public consultations which determine whether the planned location can be executed or whether the agency that needs the land must determine another location. In the planning stage related to land procurement in Wadas village, the following stages have gone through: (1) The agency that requires land makes a land procurement plan which is structured in the form of a land procurement planning document; (2) Land procurement planning for development is based on the Regional Spatial Plan and development priorities listed in the Medium Term Development Plan, Strategic Plan and Work Plan of the Agency

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requiring land; (3) Public consultation regarding the land procurement plan is carried out to obtain agreement on the location of the development plan from the parties entitled to the land. Public consultation involves Wadas village residents or through representatives with a power of attorney from the party who has land rights (Nurrahman, 2022).

Public consultation regarding the land procurement plan is carried out for 60 working days, and if during the 60 days there are parties who object to the land procurement plan for the public interest, then another public consultation is held with the objecting party for 30 working days. If an agreement occurs, it is stated in the minutes of the agreement, and based on the agreement, the agency that needs the land submits a request for location determination to the governor (Adriansa et al. 2020).

At the public consultation stage regarding the land procurement plan in Wadas village, no agreement was reached, so the residents of Wadas village as a whole rejected their village area being designated as an area for land procurement, because the location of the land affected by land procurement in Wadas village was productive land. This productive land is a source of daily needs such as land for vegetables, for livestock such as chickens, ducks, cows and goats. In the end, the residents of Wadas village rejected the plan for a land procurement location in Wadas village as a land procurement site by mining andesite aid for the construction of the Bener dam (Sejarot and Hariri, 2023). Furthermore, the Study Team rejected the objections of Wadas village residents regarding the planned location for land procurement in Wadas village. Governor Ganjar then made a policy by making a governor's decree to determine the location of Wadas village as an object for land procurement by mining andesite rock for the construction of the Bener dam in Purworejo district (Wardana 2022).

In the end, the implementation of land procurement in Wadas village was carried out with the Decree of the Governor of Central Java Number 590/41/2018 concerning Permits for Determining the Location of the Bener dam and the Decree of the Governor of Central Java Number 660.1/20 of 2018 concerning Environmental Permits for the Bener Development Plan. Land procurement for the construction of the Bener dam in Purworejo Regency was carried out by the Land Procurement Committee which includes the Land Agency which in its implementation involved or coordinated with the Central Java provincial government or the Purworejo district government (Adriansa, et al. 2020). The Wadas village community rejects andesite mining, because andesite stone is an environmental component that can support the daily needs of Wadas village residents as farmers. If andesite rocks are mined, they will change their profession from farming to factory workers, and this will be difficult because they are used to working as farmers. They hope that the land they own can still be a source of daily life, which can be passed on to their children and grandchildren and not sell it to anyone. Apart from the economic problems of the Wadas village residents, there are also 22 springs which are sources of water used by the village community. Around 200 families will be threatened with water sources if andesite mining is carried out (Nuswantoro 2022a).

Conflict between Security Forces and Wadas Village Residents Due to Andesite Mining

Land procurement by mining andesite rock in Wadas village has been rejected by Wadas village residents. This rejection did not only occur during public consultations, but also during street demonstrations, resulting in prolonged conflict. The demonstration during the construction of the Bener dam required andesite stone as a dam construction material (Adriansa et al. 2020). During the land procurement process in Wadas village, the Wadas village community rejected the planned andesite mining activity. This rejection was carried out in the form of a series of protests which ended in clashes with heavily armed officers. The arrival of police officers to Wadas village on Tuesday 8 February 2022 in the morning began to oversee land measurement activities for mining activities in Wadas village (Mardiastuti 2022).

Based on information from Wadas residents, the police carried out forest measurement activities in the area where andesite mining activities were planned for the Bener dam project, however a number of police officers reportedly carried out a sweep in Wadas village and took down banners regarding the residents' rejection of andesite mining. Police officers also chased several residents of Wadas village and made arrests and surrounded a number of residents' houses and mosques (Indonesia 2022). The Wadas Village Nature Concern Community Movement (GEMPADEWA) released a chronology of the siege by the authorities on Wadas village, starting on Monday 7 February 2022 at noon, thousands of police officers tried to enter Wadas village and set up tents in the Kaliboto field which is located behind the Bener Sector Police Station. In the evening there was a power outage in Wadas village and the power outage occurred only in Wadas village, while there was no power outage in other villages (Ulum 2022).

The next case of violence committed by police officers was on Tuesday 8 February 2022 at 07.00 WIB, a Wadas resident and his wife were going to the city of Purworejo to take the time to see the condition of the Kaliboto field and suddenly the police came to both of them and took them to the Bener Sector Police. The wife managed to escape and return to Wadas village while the husband was still being detained by the police. An hour later, troops from the police fully armed with sniffer dogs carried out a roll call in the Kaliboto field and at 09.00 WIB the measuring team from the Purworejo land office entered Wadas village (Suryana 2022). Furthermore, at 09.30 WIB, the entrance to Wadas village around the Bener Police Station was filled with police. At around 10.00 WIB, several police cars were seen entering Wadas village with officers removing banners containing residents' rejection of mining in Wadas village, at 10.48 WIB, police officers entered Wadas Village using motorbikes, four-wheeled vehicles and on foot and at midday the police officers surrounded and detained Wadas residents who were carrying out Mujahaddah activities at the Wadas village mosque while the measurement process carried out in the forest continued (Suryana 2022).

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Of the 64 residents in Wadas village who were arrested by the police, 10 were minors and during the arrest process some experienced acts of violence and were not treated humanely during the arrest process. According to the Deputy Chief of Central Java Regional Police, Brigadier General Abiyoso Seno Aji, the residents who were arrested were suspected of being provocateurs and carrying sharp weapons when the police entered Wadas village, Bener District, Purworejo Regency (Kompas.com 2022). In this case of violence based on agrarian conflict, security forces arrested 64 residents of Wadas village. This incident started with land measurements for an andesite mining project on a plot of land used as a mining location. Previously, on February 7 2022, a power outage occurred in Wadas village, while in other villages, namely around Wadas village, the lights were on, several tents were installed in the Kaliboto field, Bener district, the location of the Kaliboto field is a two minute walk to the Bener Police office and fifteen minutes. drive to the land measurement location in Wadas village (Kompas.com 2022).

The National Human Rights Commission condemned the repressive actions carried out by the police against residents and legal representatives of Wadas residents. According to the National Human Rights Commission, the repressive actions in the agrarian conflict on January 20 2022 saw the National Human Rights Commission carry out mediation. Residents reject mining in Wadas village and ask for direct dialogue with the governor. Dialogue with the governor has not yet taken place, however land measurements by the National Land Agency continue with arrests of residents and legal representatives of Wadas residents. Based on data from the National Human Rights Commission, of 617 residents who have rights to land in Wadas village which will become a mining area, of that number, 346 residents approved the mining process (Arumingtyas and Nuswantoro, 2022).

Settlement of Land Procurement Disputes for Public Interest

This prolonged conflict, in the end the Wadas village residents who were part of the Wadas Village Nature Care Community Movement (GEMPADEWA) filed a lawsuit with the Semarang State Administrative Court in case Number: 68/G/PU/2021.SMG (Rilis 2022). The residents of Wadas village sued the Governor of Central Java, namely Ganjar Pranowo, who made a policy that was very detrimental to the residents of Wadas by issuing the Decree of the Governor of Central Java Number 590/20 of 2021 concerning Updates on the Determination of Land Procurement Locations for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, which dated June 7 2021. The governor's policy in the form of a Location Determination Permit (IPL) listed Wadas village as an andesite mining area, but then the Wadas village residents rejected it, but the Central Java governor, Ganjar Pranowo, rejected the Wadas residents' request (Rilis 2022).

The dispute that occurred in the Semarang State Administrative Court Decision Number: 68/G/PU/2021/PTUN.SMG is a dispute related to State Administrative Decisions between State Administrative bodies or officials and the community or civil legal entities, namely between the Wadas village community, Bener sub-district, Purworejo district with the Governor of Central Java. This dispute is related to a decision issued by the Governor of Central Java, which is considered inappropriate in issuing a decision, so it must be resolved in court, especially the State Administrative Court which is its authority (Febriati, 2023). The decision issued by the Governor of Central Java containing the plan for Wadas village to be used as an andesite mining area for the construction of the Bener dam is considered an arbitrary action, contrary to the provisions of applicable laws and the General Principles of Good Government (Febriati, 2023).

The public considers that based on the provisions of Article 71 paragraph (1) of Law Number 30 of 2014 concerning Government Administration: "Decisions and/or actions can be canceled if: a. there is a procedural error; or b. there is a substantive error. The explanation of Article 71 paragraph (1) letter a, states that what is meant by "procedural error" is an error in the case of procedures for making decisions that are not in accordance with the requirements and procedures stipulated in the provisions of statutory regulations and/or standard operating procedures. Explanation of Article 71 paragraph (1) letter b, that what is meant by "substantial error" is an error in the event that the desired material does not match the formulation in the decision made, for example there is a conflict of interest, a juridical defect, it was made with physical or psychological coercion, or was made with deception. These legal provisions explain that the plaintiff will describe the procedural and substantive errors as follows (PTUN, 2021): before the plaintiffs explain the defendant's mistakes in terms of procedures for determining the issuance of the dispute object, the plaintiffs will first explain the procedures for determining the dispute object in accordance with the provisions of statutory regulations and/or standard operating procedures which refer to Law Number 2 of 2012 concerning Land Acquisition for Public Use; Law Number 11 of 2020 concerning Job Creation; and Government Regulation Number 19 of 2021 concerning Management of Land for Public Use, as well as Law Number 30 of 2014 concerning Government Administration and other laws and regulations related to the case. Based on this, the plaintiffs explained the procedural errors made by the defendant in issuing the dispute object as follows: (1) the dispute object issued by the defendant was procedurally flawed because the defendant did not understand the legal consequences of the expiration of the location determination permit, permission to extend the location determination and the reprocessing before the issuance of a new location determination permit; (2) the dispute object issued by the defendant was procedurally flawed because it did not re-process the remaining land whose procurement had not been completed (PTUN, 2021).

Wadas village, which was used as an andesite mining area for Bener dam material, was included with a Location Determination Permit in the Decree of the Governor of Central Java Number 590/41 of 2018 concerning Approval of Location Determination for Land Acquisition for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central

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Java Province. Furthermore, Central Java Governor's Decree Number 539/29 of 2020 was issued regarding the Extension of the Determination of Land Procurement Locations for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central Java Province. The governor's policy was also continued with the Decree of the Governor of Central Java Number 590/20 of 2021 concerning Updates on Determining Locations for Land Procurement for the Construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central Java Province (Boediningsih & Tandiono, 2022).

All mining activities or activities involving andesite mining must refer to Law Number 4 of 2009 concerning Mineral and Coal Mining and Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and regulations. others, not Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest. Wadas village being used as an andesite mining area in the Permit for Determining the Location of Land Procurement for the Construction of the Bener Dam is an arbitrary action carried out by the governor because it is not based on the provisions of the applicable legislation in accordance with andesite mining (Tandiono, et al, 2022).

According to these provisions, it can be seen that in Wadas village, Bener subdistrict, Purworejo district, in the regional spatial plan prepared by the government there are no plans for andesite mining. Bener sub-district is not intended for andesite mining, so in this case andesite mining in Wadas village, Bener sub-district is not appropriate and is in conflict with the spatial planning provisions of Purworejo district. Wadas village being designated as an andesite mining location based on provisions on land procurement for development in the public interest is something that cannot be justified and must be declared null and void by law, thus clearly and clearly the defendant in publishing the disputed object has violated statutory regulations.

Ganjar Pranowo as Governor of Central Java does not pay attention to the rights of Wadas residents so that it is in conflict with the 1945 Constitution, Law Number 30 of 2014 concerning Government Administration, Law Number 39 of 1999 concerning Human Rights, and Law Number 11 of 2005 Ratification of the International Covenant on Economic, Social and Cultural Rights. Thus, the governor as the defendant in publishing the object of the dispute has violated the statutory regulations in question (PTUN, 2021). If the andesite mining plan in Wadas village is implemented, this will threaten the survival of the Wadas village residents, because the Wadas village residents will lose access to the natural resources in their village. Therefore, to fulfill a sense of justice for the residents of Wadas village, the governor as the defendant must return the wishes of the residents of Wadas village. Residents in Wadas village who work as farmers will definitely be affected by the andesite mining plan, but the defendant ignored this and this is a form of impoverishment carried out by the governor towards residents in Wadas village (PTUN, 2021).

The statement above can be understood because for residents, the benefits of land are not for their own benefit, but in protecting the environment which functions to provide benefits to people who do not own land, and also provides benefits for flora and fauna, all of which are dependent on land and healthy environment. For Wadas residents, protecting nature is the same as worshiping, especially in the Islamic religion, that protecting nature is obligatory and as ordered in the Al-Qur'an: QS Al A'raf verse 56. Wadas residents state that land and nature are not just commodities for buying and selling, but theologically, Wadas residents view land or nature more broadly as a manifestation of God's form on earth. Land provides people with life, as a source of income to meet their daily needs, a place to worship Allah SWT, and so on (PTUN, 2021).

In case decision number: 68/G/PU/2021.SMG, the lawsuit of Wadas village residents regarding the Location Determination Permit (IPL) for determining the location for land acquisition for the construction of the Bener dam, the Semarang State Administrative Court rejected the community's lawsuit. If we look at the results of the court's decision, it can be clearly seen that the government cannot be sued. The government has the right to control the state to manage the state in the public interest, but the government must also not turn a blind eye to the rights of individuals whose rights are threatened. The government is only given the right to control the country for the purpose of public interest. Therefore, government policies issued in managing natural resources must be based on the public interest for the welfare of society (Inayah, et al. 2023).

Furthermore, the Wadas village community filed an appeal to the Supreme Court with Number 482 K/TUN/2021. The panel of judges at the Supreme Court also rejected the appeal of the Wadas village residents, and the panel of judges confirmed what had been decided by the Semarang State Administrative Court. So, the decision of the Semarang State Administrative Court No.68/G/PU/2021/PTUN.SMG which was strengthened by the Supreme Court Decision No. 482 K/TUN/2021 which also approved/strengthened the decision of the State Administrative Court, stating that Presidential Regulation no. 58 of 2017 concerning the Acceleration of Implementation of National Strategic Projects is still in effect. The judge stated that if what the governor had done was correct and the *judex factie* decision did not conflict with the law and/or statute, the cassation request was therefore rejected (Boediningsih & Tandiono, 2022).

Another reason the panel of judges at the Supreme Court rejected the appeal of the Wadas village residents included Article 10 of Government Regulation Number 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest which was used as the basis for the formation of the Decree of the Governor of Central Java Number 590/20 of 2021, that does not contain a mining clause and is only a dam so mining cannot be classified as a public interest. Even though the aim of mining is to build the Bener dam, these two types of activities are different from each other. This means that mining does not include land acquisition aimed at the public interest. Land procurement for public purposes as intended in Law Number 11 of 2020 concerning Job Creation regarding amendments to Article 10 of Law Number 2 of 2012 concerning Land Procurement for

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Development in the Public Interest, there are 20 types of activities/businesses, but there are still no there is a statement that mining is part of the public interest. This is included in Government Regulation Number 19 of 2021 which does not include mining as an activity in the public interest (Boediningsih & Tandiono, 2022).

Dispute resolution carried out through judicial institutions does not provide significant resolution efforts, because the two judicial institutions do not provide access to justice for the residents of Wadas village, because the judicial institutions win decisions or policies made by the government in mining andesite stone which is a component of the living environment of Wadas village. The two judicial institutions rejecting the Wadas village residents means that resolving disputes through judicial institutions does not provide a good and complete resolution.

IV. CONCLUSION

The issue of land procurement for development in the public interest is the task of all parties, because land procurement for the public interest is often accompanied by conflict. Land conflicts have become a national issue because of their high number and the many obstacles in resolving them. Today's complicated and unabated land conflicts are caused by regulatory weaknesses and errors in the application of land law so that in practice the interests of land rights holders are not protected with certainty. Apart from that, the lack of political stability and very high government authority also causes land issues to be neglected. The procurement case in Wadas village also resulted in a prolonged conflict which then resulted in repressive actions carried out by security forces (police) against the community as holders of land rights. Efforts to resolve the issue by paying compensation and a deliberation process between the government and the residents of Wadas village did not reach an agreement. Likewise, resolving disputes through the judiciary does not achieve peace, because the judiciary wins the policies made by the government. Therefore, land acquisition for public use by exploiting andesite stone has not been resolved properly, and there have even been repressive actions by security forces (police) and other acts of violence which have resulted in human rights violations.

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