



Critical Analysis of the Development of Surabaya Waterfront Coastal Area in Relation to the State's Right to Control

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ABSTRAK

Pada dasarnya konstitusi kita telah mengatur tentang Hak Menguasai Negara, hal ini tercermin pada konstitusi negara yang diberikan kewenangan untuk mengatur, mengurus, mengelola, dan mengawasi seluruh sumber daya alam atau cabang-cabang produksi yang penting bagi negara dan menguasai hajat hidup orang banyak dikuasai oleh negara. Pembebasan lahan yang dilakukan pemerintah dalam rangka pengerjaan proyek strategis nasional masih seringkali kita temui adanya penolakan dari masyarakat. Penolakan tersebut bukan tanpa dasar, akan tetapi terdapat kerugian yang dialami oleh masyarakat setempat dalam pengadaan proyek tersebut. Metode penelitian yang digunakan adalah penelitian hukum normatif yang hanya menekankan pada studi dokumen, sumber hukum yang digunakan adalah peraturan perundang-undangan, keputusan atau ketetapan pengadilan, kontrak/perjanjian/akad, teori hukum dan pendapat para sarjana. Maka solusinya adalah Pemanfaatan lahan yang dilakukan pemerintah perlu menerapkan unsur kehati-hatian. Jangan sampai terjadi kerusakan lahan yang menimbulkan bencana alam lain dikarenakan adanya pembangunan Surabaya *waterfront* ini. Pada pokoknya hak menguasai negara tidak dapat diartikan sebagai hak penuh negara dalam menguasai seluruh sumber daya alam yang ada secara individu. Akan tetapi pemaknaannya terbatas pada segala hal yang dilakukan oleh pemerintah dalam rangka pengelolaan sumber daya alam harus bertujuan untuk sebesar-besarnya kemakmuran rakyat.



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ABSTRACT

In principle, our constitution has regulated the State's Right to Control as reflected in the constitutional authority given to the state to regulate, manage, oversee, and control all natural resources or branches of production which are crucial for the state and affect the livelihoods of the people. Land acquisition by the Government for the implementation of the national strategic projects often encounters resistance from local communities. This resistance is not baseless, as there are losses suffered by local communities in the execution of these projects. The research applied normative legal research as the method, focusing solely on document studies, with sources of law including legislation, court decisions, contracts/agreements, legal theories, and opinions of legal scholars. The suggested solution is that land use by the Government must apply the principle of caution to prevent land degradation that could lead to natural disasters due to the construction of the Surabaya waterfront. Essentially, the state's right to control should not be interpreted as the state's absolute right to individually control all natural resources. Instead, its meaning is limited to actions taken by the Government in managing natural resources that must aim for the greatest welfare of the people.

1. Introduction

Our constitution has essentially regulated the State's Right to Control as provided in Article 33, paragraph (2) of the 1945 Constitution, which states that the state is given the authority to regulate, manage, oversee, and control all natural resources or branches of production that are crucial for the state and affect the livelihoods of many people.¹ In fact, there is a principle known as *lex specialis derogat legi generali*, which means that specific regulations shall override more general regulations. This principle is related to Article 33, paragraph (2) of the 1945 Constitution and its derivative regulation in Article 2, paragraph (1), point a of Law No. 5 of 1960 on Basic Agrarian Principles (hereinafter referred to as Law No. 5 of 1960), which states that:²

“The state regulates and organizes the allocation, use, supply, and maintenance of land, water, and space.”

In essence, the state only has authority over the management of resources for the greatest benefit of the people. The state's control over resources that can be managed gives rise to the authority of the state to regulate, manage, administer, and supervise their implementation. However, with this authority comes the state's right to control and manage these resources. This right does not imply that the management is solely for the individual benefit of the Government, but rather, it is based on a moral obligation that the management is aimed at the broader public interest.

In the field of land use, for example, the state has the right to regulate state land for various purposes. When the state carries out land acquisition, there is an inherent principle of balance in the process. This principle is a form of the Government's responsibility in land acquisition to avoid conflicts or losses experienced by the community.³ With this principle in place, the state must thoroughly and comprehensively consider the impact of the land acquisition. There must be continuity between the objectives of the land acquisition and the interests and rights of the community. It would be contradictory if the goal of land acquisition by the Government is for the prosperity of the people, but in the process, it causes harm or even conflict within the community.

Thus, an example of the state's right to control in relation to land acquisition is the creation of National Strategic Projects. According to Article 1, point 1 of Government Regulation No. 42 of 2021 on Facilitating National Strategic Projects (hereinafter referred to as Government Regulation No. 42

¹ Muhamad Azhar, “Hak Menguasai Negara Atas Sumur Minyak Melalui Pendirian Mini Refinery Plant Di Kabupaten Bojonegoro,” *Administrative Law and Governance Journal* 1, no. 1 (2018): 90–102, <https://ejournal2.undip.ac.id/index.php/alj/article/view/2758>.

² Martin Roestamy, “Pengadaan Tanah Dalam Perspektif Sosiologi Hukum Procurement Of Land In Legal Sociological Perspective,” *Jurnal Ilmiah Living Law* 9, no. 1 (2017): 79–90.

³ Ibid.

of 2021), a National Strategic Project is a project or program carried out by the central government, regional governments, and/or business entities that is strategic in nature for growth and equitable development in efforts to create jobs and improve public welfare. The establishment of national strategic projects is a government solution to boost regional economies and create jobs to absorb as much local labor as possible.⁴ However, the purpose of establishing national strategic projects still faces many controversies in society to this day.

Land acquisition by the Government for the implementation of national strategic projects often faces resistance from the public. This resistance is not baseless as there are losses suffered by the local community in the process of project implementation by the Government. The public also perceives that the land acquisition used for national strategic projects often does not consider the principles of justice and adequate compensation. Therefore, government's oversight is needed to assess the impact on the surrounding community during the development of national strategic projects. From the perspective of customary law, humans are highly dependent on the existence of the space and land they occupy, so the steps to implement national strategic projects must be carried out carefully to maintain social justice for all Indonesian people.⁵

One of the popular and aggressively developed national strategic projects is the waterfront city or riverside area. Waterfront city is an ambitious project undertaken by the Government in several regions of Indonesia, designed as a settlement or area built near water bodies such as rivers, seas, or lakes.⁶ The waterfront city is expected to become a source of economic development for the local area. The construction of the waterfront city national strategic project has been carried out in several regions such as Ambon, Palembang, Banten, Surabaya, and many other major cities. The development of this project mainly focuses on cities with potential water areas for the construction of waterfront settlements.

The object of study in this scientific work is the construction of the national strategic project waterfront city in the Surabaya area, commonly referred to as Surabaya waterfront city. This project is jointly undertaken by the Surabaya regional government, businesses, and investors. The land used for the construction of the Surabaya waterfront city national strategic project is quite extensive, estimated to cover an area of 500-1,000 hectares. This project has been well received and enthusiastically welcomed by the surrounding community, but there are also concerns about the welfare of fishermen who will inevitably be affected by the construction of the Surabaya waterfront city national strategic project. Other concerns also arise regarding the phenomenon of flooding in several areas of Surabaya that are close to water bodies.

It would be unfortunate if the construction of Surabaya waterfront city cannot address the community's concerns regarding all the existing problems. Considering that this area will become a tourist destination in Surabaya, which will create jobs and indirectly absorb much local labor in the area. Therefore, it is necessary to jointly study the aspects of community welfare and good city management to avoid creating new problems in the future. There are two problem formulations that will be examined in this scientific work, as follows:

1. What are the impacts of the Surabaya Waterfront development?
2. What is the perspective of the state's right to control in this context?

2. Methods

The research method used in writing this article is normative legal research, which emphasizes research using secondary materials through library research. The materials used include document studies, and the legal sources used are legislation, court decisions or rulings, contracts/agreements,

⁴ Suparjo Sujadi, "Kajian Tentang Pembangunan Proyek Strategis Nasional (PSN) Dan Keadilan Sosial (Perspektif Hukum Pancasila)," *Jurnal Hukum Lingkungan Indonesia* 4, no. 2 (2018): 1–24, doi:10.38011/jhli.v4i2.68.

⁵ Ibid.

⁶ Yongky Kurniawan et al., "KORIDOR KALIMAS RUAS JEMBATAN JAGALAN – RUAS JEMBATAN AMBENGAN : SEBUAH PROSPEK DAN TANTANGAN SPASIAL," 2017, 1–6.

legal theories, and the opinions of scholars. The approach method employed is the normative juridical approach, which will later influence primary legal materials, secondary legal materials, and tertiary legal materials.





3. Result and Discussion

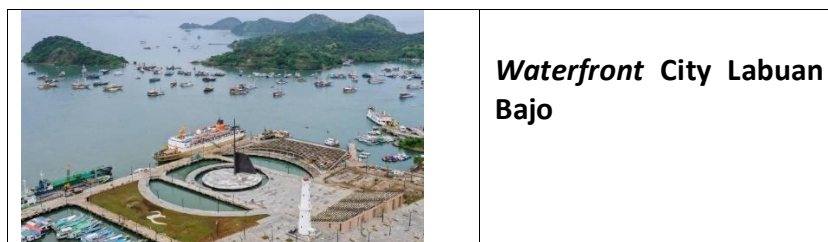
3.1 *The Impacts of Surabaya Waterfront Development*

In discussing the state’s control rights in the context of the Surabaya Waterfront national strategic project, it is necessary first to consider in detail the issues in the development process of national strategic projects, which often receive mixed responses from the public, both positive and negative. Based on the provisions of Article 2, paragraph (1) of Government Regulation No. 42 of 2021, the implementation of national strategic projects must prioritize infrastructure and economic activities with the aim of accelerating economic growth in the region. This means that the infrastructure development planned for the national strategic project must ensure it has an economic impact that can spur regional economic growth.

The waterfront city is actually a waterfront area that will be developed by the Government as a form of implementing the national strategic project. The waterfront city concept was first recognized in 1980 in the United States, precisely in San Francisco, during the revitalization of industrial areas along its coast. The waterfront city concept is also relatively new in Indonesia, with several cities that have large coastal areas being designated as waterfront cities. Examples include:

Tabel 1 Waterfront City Areas in Indonesia

	<p>Waterfront City Batam</p>
	<p>Waterfront City Balikpapan</p>
	<p>Waterfront City Pontianak</p>
	<p>Waterfront City Makassar</p>



In the development of a waterfront city, there are basic principles that the Government needs to consider to align with the objectives of the Surabaya Waterfront development. These principles serve as guidelines to ensure that the utility and benefit of the waterfront city formation can be achieved. The basic principles in question are as follows:

- a) Cooperation between various parties to enhance the development of the waterfront city.
- b) The development of the waterfront city is based on the potential for tourism as an attraction in the area where the waterfront city will be built.
- c) The attraction for tourists focuses on the development of activities in the area and enjoying activities around the waterfront city.
- d) The main activity of the waterfront city is the development of themes at the entrance of rivers, lakes, or other water areas.

Based on the type of development, waterfront cities are divided into three types that can be adjusted according to the land or area where the waterfront city will be developed. The types of waterfront city development are as follows:

- a) **Conservation** is a type of waterfront city that aims to protect the waterfront area by utilizing and preserving existing environmental components.
- b) **Development** is a type of waterfront city that aims to enhance a waterfront area to create value and function already existing in the area.
- c) **Redevelopment** is a type of waterfront city that aims to develop a waterfront area that lacks basic components, so the development and construction process starts from scratch and is adjusted to the needs of the community.

Waterfront cities are also distinguished based on the function of their development and growth. The difference in the function of a waterfront city is based on the Government's primary objective in determining the use of the area where the waterfront city will be developed. The types of waterfront cities based on development and growth functions include:

- a) **Mixed-Use Waterfront** is a type that combines various public facilities to meet the needs of the community in one or more buildings.
- b) **Recreational Waterfront** is a type that has facilities related to entertainment and recreation.
- c) **Residential Waterfront** is a type that emphasizes the development of waterfront areas for residential or housing for residents living in the area.
- d) **Working Waterfront** is a type that emphasizes development or growth objectives for business or work areas.

From the various explanations related to the waterfront city above, the Government has many options to ensure the Surabaya Waterfront development aligns with the initial goals of the national strategic project and the needs of the local community. Given the goal of the Surabaya Waterfront national strategic project, the most suitable type of waterfront development in Surabaya based on its function is the recreational waterfront. This is because the desired function is to create a tourist area that will attract visitors in order to develop the local economy.

The government's primary idea for advancing the local economy, which is currently being vigorously pursued, is to boost the economy through tourism based on environmental preservation

and local tourism.⁷ It is hoped that the unique conditions and cultural diversity in Indonesia will attract tourists to boost the local economy. Therefore, to carry out the national strategic project, the Government will undoubtedly need a large area of land. As the demand for land for the national strategic project increases, the availability of vacant land will become increasingly scarce. The only way for the Government to continue this ambitious project is by expropriating land already owned and occupied by local residents. In this case, land acquisition by the Government often becomes a contentious issue for local residents and frequently results in social unrests.⁸

Various reasons for conflict often lead to unrest among the community in resisting land acquisition, such as inadequate compensation, delays in the land acquisition process by the Government, protracted negotiations even after involving local community leaders, and sometimes residents' resistance is due to individuals trying to take advantage of the situation to obtain higher compensation for personal gain.

In accordance with to Article 1, point 10 of Government Regulation No. 71 of 2012 on the Implementation of Land Acquisition for Development in the Public Interest (hereinafter referred to as PP No. 71 of 2012), compensation is defined as the process of providing compensation that must meet the elements of fairness and equity for the parties whose rights are affected in the land acquisition process. This means that compensation can only be provided to parties who are legally entitled to receive such compensation. After identifying the parties eligible for compensation, the amount of compensation they will receive must consider the principles of fairness and equity.

Compensation that adheres to the principles of fairness and equity can be interpreted through several legal principles, such as the principles of justice, certainty, and welfare.⁹ These principles can be explained as follows:

- a. The principle of justice, according to Thomas Aquinas' theory, states that justice is something that cannot be precisely defined; therefore, Aquinas divides justice into two categories: general justice and particular justice.¹⁰ General justice is a concept of justice derived from legal interpretations that aim to create harmony in public life, thereby fulfilling public interest elements.¹¹ Meanwhile, particular justice is a concept of justice that emphasizes the need for equality among individuals or is also known as proportionality.¹² Thus, from this conclusion, it can be interpreted that the principle of justice in the compensation process emphasizes the provision of compensation that is equivalent to the asset owned by a person that will be used for public interest without exceeding or diminishing it. This ensures that the person whose asset is used for public interest by the Government can continue their daily life as before, without any disruption.¹³
- b. The principle of legal certainty can be understood as a norm that serves as a guideline for society regarding the regulation of the compensation process and its amount.¹⁴ This means that the principle of certainty emphasizes that the compensation provided by the

⁷ Putri Inayah, Amanda Kirani Fauzi, and Immanuela Yvette Aveyory, "Analisis Pembangunan Bendungan Bener Dalam Perspektif Hak Menguasai Negara Studi Kasus Putusan Nomor : 68/G/PU/21/PTUN.SMG," *Jurnal Ilmiah Wahana Pendidikan*, Juni 2023, no. 12 (2023): 397–406, <https://doi.org/10.5281/zenodo.8079138>.

⁸ Ibid.

⁹ Maria Hutapea, "Penerapan Prinsip Layak Dan Adil Dalam Pemberian Ganti Kerugian Di Indonesia (Studi Kasus Di Kota Dumai, Provinsi Riau)," *Jurnal Hukum Dan HAM Wara Sains 2*, no. 01 (2023): 96–101, doi:10.58812/jhhws.v2i01.201.

¹⁰ Muhammad Taufik, "Filsafat John Rawls Tentang Teori Keadilan," *Mukaddimah: Jurnal Studi Islam* 19, no. 1 (2013): 41–63, [http://digilib.uin-suka.ac.id/33208/1/Muhammad Taufik - Filsafat John Rawls.pdf](http://digilib.uin-suka.ac.id/33208/1/Muhammad%20Taufik%20-%20Filsafat%20John%20Rawls.pdf).

¹¹ Ibid.

¹² Ibid.

¹³ Agus Suntoro, "Penilaian Ganti Kerugian Dalam Pengadaan Tanah Untuk Kepentingan Umum: Perspektif HAM," *BHUMI: Jurnal Agraria Dan Pertanahan* 5, no. 1 (2019): 13, doi:10.31292/jb.v5i1.316.

¹⁴ Rai Mantili, "Tanggung Jawab Renteng Ganti Kerugian Immateriil Atas Perbuatan Melawan Dihadirkan Dengan Asas Kepastian Hukum," *Jurnal Bina Mulia Hukum* 4, no. 1 (2019): 88–111, doi:10.23920/jbmh.v4n1.6.

Government to the parties entitled to compensation must comply with the calculations in the applicable legislation in Indonesia.¹⁵

- c. The principle of welfare emphasizes that the welfare of the community should be a consideration in the compensation process conducted by the Government, ensuring that the compensation is not only a final settlement of responsibilities but also provides added value for the continuation of life in the future.¹⁶

Therefore, in the development of the waterfront city in Surabaya, it is important to consider the above-mentioned elements to avoid prolonged conflicts with the community. The necessity of national strategic projects to boost the regional economy in Surabaya must align with the interests of the wider community. There needs to be a special and systematic study to avoid future problems with community elements. In this case, the community elements referred to are those residing in the coastal water areas, who are likely to be affected by the waterfront city development, especially those whose livelihood is fishing.

According to data released by the Central Statistics Agency (referred to as BPS) in 2013, there were 2,293 people in Surabaya whose profession was fishing. They should be considered the most important group that the Government must take into account in the development of the waterfront city in Surabaya.¹⁷ There needs to be a concrete guarantee from the Government that the development of this national strategic project will not disrupt the livelihood of those who work as fishermen. As much as possible, fishermen in the coastal waters of Surabaya should be the primary beneficiaries of the Surabaya waterfront national strategic project.

In addition to considering the issues that may impact the community living around the Surabaya waterfront city development area, the next aspect that should be considered is the environmental aspect. There needs to be careful calculation and attention to see whether the impact of the Surabaya waterfront national strategic project could affect the surrounding environment. According to Article 10, paragraph (1) of Government Regulation No. 42 of 2021: "The Minister who manages government affairs in the fields of environment and forestry identifies the need for environmental and forestry studies required to begin the implementation of National Strategic Projects." This means that the Government will deploy an environmental analysis in the area where the national strategic project is being carried out, conducted by officials who have the interest and expertise in that field, namely the Minister of Environment and Forestry.

Regarding the environmental issues in the coastal areas of Surabaya, flooding is a problem that still requires deeper study in terms of flood mitigation. There are at least two reasons for the frequent flooding in Surabaya, namely:¹⁸

- a. Land use planning factors
- b. River conditions

Flooding caused by land use planning factors includes land-use changes, where many forests in the upstream areas of rivers in Surabaya have been reduced in size. As we know, forests are very useful as water absorption areas so that the water volume from rainfall can be absorbed by the forested areas. The impact of reducing forest areas in the upstream rivers will be significant. The

¹⁵ Shelin Nabila Wibowo, Yani Pujiwati, and Betty Rubiati, "Kepastian Hukum Ganti Kerugian Pengadaan Tanah Bagi Pembangunan Jalan Tol Cisumdawu," *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An* 4, no. 2 (2021): 191–209, doi:10.23920/acta.v4i2.480.

¹⁶ Rahayu Subekti, "Kebijakan Pemberian Ganti Kerugian Dalam Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum," *Yustisia Jurnal Hukum* 95, no. 2 (2016): 376–94, doi:10.20961/yustisia.v95i0.2816.

¹⁷ Baga Veronika Diaz, "Faktor – Faktor Yang Mempengaruhi Eksistensi Nelayan Tradisional Di," *Swara Bhumi* 4, no. 4 (2017): 91–98.

¹⁸ Eko B Santoso, "Manajemen Risiko Bencana Banjir Kali Lamong Pada Kawasan Peri Urban," *Jurnal Penataan Ruang* Volume 8, no. August (2013)

absorption function, which should be fulfilled by the forested area to prevent direct flow to the river, will be diminished. This factor causes the river to receive a volume of rainwater exceeding its capacity due to the lack of water absorption areas.

Another reason related to land use planning that causes flooding is the misuse of riverbanks, where the function has been altered from its original purpose. Many people build residential houses along riverbanks, and riverbanks are also used for constructing several industries. The phenomenon of increasingly dense residential areas along the riverbanks also contributes to the numerous flood points in Surabaya. It is not uncommon to find household or industrial waste stagnating and accumulating along the riverbanks or in the river itself. This issue becomes more complicated when the Government initiates relocation programs to regulate people who have built homes along the riverbanks, as many residents resist for personal reasons.

The next factor related to river conditions is still correlated with land use planning factors, including many rivers in Surabaya that have shallow riverbeds. This will cause the water volume capacity to be reduced, leading to flooding because the water cannot be properly contained or cannot flow freely to the open sea.¹⁹ Therefore, the Government needs to conduct simultaneous research and solutions to dredge rivers or other water areas where the Surabaya waterfront national strategic project will be developed to account for the depth of the riverbed or water area. Another issue with river conditions is the water embankments to hold back the water flow. There are still many river embankments that are no longer suitable for use. Consideration must be given to the possible narrowing of river channels that may occur due to the Surabaya waterfront development.

3.2 *The Development of Surabaya Waterfront in the Perspective of State Control Rights*

The concept of state control rights essentially begins with a theory proposed by Jean Bodin regarding state sovereignty. This theory is commonly referred to as the sovereignty theory, which states that the power of a state cannot be limited by any other power; therefore, the state's power is the highest authority.²⁰ Based on this state sovereignty, the concept of state control rights emerged, asserting that all property rights belonging to citizens depend on the discretion of the sovereign, which, in this case, is the state as the largest organization. This occurs due to the personification of the state as the people themselves, arising from the conception of the relationship between the state and land.

The theory that gives rise to the concept of state control rights is not only the sovereignty theory but is also supported by the social contract theory put forward by J.J. Rousseau. Rousseau stated that there is an agreement between the people and the state in which the people hand over their power in managing the ownership and use of natural resources contained within a country's land to the state.²¹ The purpose of the people's handover of power to the state regarding the ownership and use of natural resources is, essentially, a form of unity in maintaining and protecting collective interests related to natural resource management. This means that the state's power is not without limits. Unlike the sovereignty theory, which asserts that state control rights arise from the state's unlimited power, the social contract theory limits the state's power in natural resource management by natural law, divine law, and the constitution.

In the Perspective of State Control Rights According to Article 33 of the 1945 Constitution, The provision of land based on public interest must guarantee that the greatest possible welfare and prosperity are for the benefit of the people.²² The government's steps for the development of the Surabaya waterfront national strategic project must ensure that the rights of the community are not

¹⁹ Ibid.

²⁰ Julius Sembiring, "HAK MENGUASAI NEGARA ATAS SUMBER DAYA AGRARIA," *Bhumi* Vol. 2 No. (2016).

²¹ Ibid.

²² Inayah, Fauzi, and Aveyory, "Analisis Pembangunan Bendungan Bener Dalam Perspektif Hak Menguasai Negara Studi Kasus Putusan Nomor : 68/G/PU/21/PTUN.SMG."

compromised or harmed under the guise of this national strategic project. The large area of land prepared by the Government, amounting to 500-1,000 hectares, is expected not to disrupt the welfare of the people who may face land acquisition. The essence of state control rights is not that the state owns all the land in Indonesia. Instead, it means that the Government has the authority to manage the land across Indonesia for the greater good of the people.

According to the Constitutional Court (referred to as MK), there are at least three philosophical points that can be understood as state control rights. These points provide guidance on the boundaries within the phrase "state control rights." The three philosophical points are as follows:

- a. The state's control over vital production branches that dominate the lives of the majority of people in the country.
- b. The state's control over land, water, and the natural resources contained therein.
- c. The purpose of this control is to ensure the greatest possible prosperity for the people without exception.

The MK also stated that there are five functions of the state's right to control natural resources: policymaking, administration, regulation, management, and supervision.²³ Of these five functions that the Government must carry out, management must always come first, considering it directly relates to the benefits that the community will experience through the Government's management of natural resources. Before discussing further, it is necessary to explain the meaning of each state function in controlling natural resources according to the MK's interpretation.

The state as a policymaker means that the Government is the primary party in deciding policies to meet the community's needs for natural resources for the greatest possible prosperity of the people.²⁴ This can be evidenced by the creation of laws and regulations under the law related to national strategic projects. These laws and regulations governing national strategic projects are a form of government limitation on how to develop and control the use of natural resources to ensure they align with their purpose and positively impact the broader community's welfare. The government is obliged to take preventive and repressive measures in managing natural resources for national strategic projects, as enshrined in legislation. Here we see the Government's role as the primary policymaker.

The next function is that the Government can carry out administration, which the MK interprets as the authority to issue and revoke permits, licenses, and concessions. The MK's interpretation of administration is almost identical to the Government's supervisory function.²⁵ Issuing and revoking licenses, interpreted as an administrative function, is part of the Government's supervisory function in managing natural resources. This function emphasizes the Government's active role in managing natural resources to prevent actions that conflict with the original purpose or other legal violations.

The regulatory function is interpreted by the MK as a government function based on cooperation with the legislative body, namely the House of Representatives (DPR).²⁶ The MK states that the scope of the Government's regulatory function includes activities such as reviewing, designing, discussing, and enacting laws. Cooperation between the Government and the DPR in reviewing, designing, discussing, and enacting laws is important, according to the MK, because it serves as a basic norm that must exist in the economy, even if it is not explicitly stated in the constitution.

In the management function, the MK interprets that the Government manages through a system of shareholding and/or the involvement of State-Owned Enterprises (BUMN) or State-Owned

²³ Afifah Kusumadara, "Perkembangan Hak Negara Atas Tanah : Hak Menguasai Atau Hak," *Fakultas Hukum Brawijaya* 20, no. 2 (2013): 262–76.

²⁴ Ananda Prima Yurista, "Implikasi Penafsiran Kembali Hak Menguasai Negara Terhadap Pengelolaan Wilayah Pesisir Dan Pulau-Pulau Kecil," *Rechtsvinding* 5, no. 3 (2016): 257–75.

²⁵ Ibid.

²⁶ Ibid.

Legal Entities.²⁷ The purpose of this function for the Government is to ensure equal rights and obligations to gain access and benefits, and to accommodate the participation of the community itself so that there is no indication of a state monopoly in natural resource utilization projects. The involvement of other parties and community participation is a sign of the Government's goodwill and responsibility to ensure that natural resource management is carried out together for the greatest possible benefit of the people.

The last, equally important, function is supervision, which the MK interprets as the Government's responsibility to oversee and control the process of utilizing natural resources that affect many people's lives to ensure it truly reflects an effort to achieve the greatest possible prosperity for the people.²⁸ The government must be careful in managing natural resources, paying attention to the effectiveness of resource management, which must align with the initial goal of its formation, which is for the greatest possible prosperity of the people.

Therefore, it is stated that the state must consider the purpose of developing national strategic projects not solely based on increasing the local economy through the Surabaya waterfront tourism object. Because if the state's actions, which initially aimed to prosper the people, instead harm the rights and interests of the community during the process, such actions should not be allowed. The MK states that the relationship between the community and the state regarding state control rights cannot be interpreted as the state being higher than the community itself. Instead, the community's position should be much higher than the state. This is because the authority held by the state is a mandate from the people to regulate the allocation, availability, and use of land, as well as legal and juridical relations involving land or other natural resources contained therein.

Environmental problems occurring around the coastal areas of Surabaya, such as flooding, should be a serious consideration for the Surabaya regional government to address before the formation of the Surabaya Waterfront national strategic project. The concept of the Surabaya waterfront is for tourism purposes, but it will become a new problem if the tourism object built exacerbates flooding or fails to address the frequent floods.

4. Conclusion

The impact of the Surabaya Waterfront/Waterfront City national strategic project, which is being actively promoted by the Government, needs to be carefully reviewed and reconsidered. Although the Surabaya Waterfront is primarily intended to boost the local economy through tourism, this ambitious project will also provide employment opportunities for the surrounding community, which is one of the intended beneficiaries of the national strategic project. This project utilizes a large area of land, including not only land but also water, as the construction of this national strategic project is a form of a coastal city or waterfront city. Special attention must be given to the impact on the livelihood of people living around the coast, particularly fishermen. The welfare of fishermen must be prioritized, either by leveraging them as an attraction for the national strategic project or by providing better facilities to support their continued profession as fishermen. Besides, the frequent natural disaster of flooding in Surabaya, especially in the coastal areas, presents an additional challenge for the Government to resolve. It must be ensured that the construction of the Surabaya Waterfront does not exacerbate the flooding or hinder the Government's ability to manage the floods. The government's use of land for this national strategic project must also be carried out with caution, avoiding any land damage that could lead to other natural disasters due to the development of the Surabaya Waterfront.

From the perspective of state control rights, much has been explained in various theories about what is meant by the state's right to control. Essentially, state control rights cannot be interpreted as the state's absolute right to control all natural resources individually. The meaning is limited to the Government's actions in managing natural resources, which must be aimed at the

²⁷ Ibid.

²⁸ Ibid.

greatest possible prosperity of the people. The Constitutional Court (MK) has outlined its views on the limits of state control rights, leading to the Government having five crucial functions: policymaking, administration, regulation, management, and supervision. These functions must not only be well understood by the Government but also implemented in accordance with the MK's mandate as the Guardian of the Constitution, ensuring that all government activities in utilizing natural resources stay true to their original purpose.

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