

## Legal Status of Land Rights Affected by Natural Disasters

**Fany Rizkia Mochtar**

Universitas Islam As-Syafi'iyah, Indonesia  
[fanyrizkiam@gmail.com](mailto:fanyrizkiam@gmail.com)

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### Abstract

*National Agency for Disaster Management noted that during 2020 there were 4,650 disasters in Indonesia. The other effect of the loss of lives is the loss of property owned, including land. The physical condition of land parcels can change, shift, and even be destroyed, which can invalidate legal certainty from ownership of land rights. This paper discusses the legal status of land rights affected by natural disasters. The research method used was a normative method with a legal science approach in solving land problems related to the status of land rights created due to disasters. The legal status of land rights affected by the earthquake is not abolished. This is because the land object still exists, it is necessary to reconstruct the boundaries to restore the field boundaries. In the case of an abrasion disaster, the legal status of the land is destroyed because the land is also destroyed. The power of a mortgage certificate whose object is destroyed due to a natural disaster is null and void by law. This is because the Deed of Allowing Mortgage as the basis for the issuance of a mortgage certificate is null and void. After all, it does not meet the legal requirements of an agreement, namely a certain matter.*

Keywords: Disaster, Legal Status, Land Rights, Abolition of Rights

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## I. INTRODUCTION

Laws are present and evolving in society to protect society. The law exists to protect interests and limit the interests themselves. Legal protection itself is the protection of dignity and dignity, recognition of human rights to realize legal order so that humans can enjoy their dignity. Another opinion, legal protection is an action or effort made by the ruler to protect the public from arbitrary actions. Legal protection is an important element of the state, because in the formation of a state accompanied by governing laws. The state and its citizens have a reciprocal relationship, in the form of rights and obligations. Legal protection is a right of its citizens, therefore the state has an obligation to provide it. Legal protection is a description of the working of legal functions, legal protection is provided to the community both preventively (preventively) and repressively (coercion), both in writing and unwritten in order to

enforce legal regulations. Preventive legal protection is where the people are given the opportunity to raise objections or opinions before government decisions are formed into complete regulations.

Dedicate repressive, legal protection which is more aimed at resolving disputes. Indonesia as a state of law has an obligation to ensure protection, as well as related to land lost due to abrasion, as the elements and principles of the rule of law to protect its citizens namely by recognition, respect and protection of human rights rooted in respect for human dignity. The enactment of the principle of legal certainty, the law aims to realize legal certainty so that the dynamics of life together in society are predictable. The principles contained related to legal certainty are the principles of legality, constitutionality, and rule of law; the law establishes various sets of regulations on the manner in which the government and its officials conduct governmental actions, the principle of non-retroactive legislation; the principle of a free, independent, impartial and objective judiciary rational, fair and humane; The principle of non-liquet judges may not dismiss a case on the grounds that there are no rules. The enactment of equality, the government must not privilege certain parties, in this principle there is a guarantee of equality for all people before the law and government and the availability of mechanisms to demand equal treatment for all citizens. The principle of democracy where everyone has the right and opportunity to participate in government. The government and officials carry the mandate as public servants (Aziz, 2019).

The Disaster Management Law states that disasters are events or series of events that are threatening and disrupt the lives and livelihoods of the community caused by natural and/or non-natural and human factors that cause human casualties, environmental damage, property losses, and psychological impacts. Natural disasters are disasters caused by events or series of events caused by nature, including earthquakes, tsunamis, erupting mountains, floods, droughts, typhoons, and landslides. Meanwhile, non-natural disasters are caused by non-natural events in the form of technological failure, failed modernization, epidemics, and disease outbreaks. In addition to disasters due to natural and / or non-natural factors, there are social disasters caused by humans which include social conflicts between groups or between communities, and terror. Natural disasters are the biggest contributor to casualties. Various natural disasters ranging from floods, tornadoes, landslides, forest and land fires, tidal waves and abrasion, droughts, earthquakes, and volcanic eruptions were present in 2020 as many as 4,650 disasters as a series of events caused by nature. The

impact of the natural disaster damage included 42,762 houses and 1,542 public facilities damaged, ranging from mild to severe (BNPB, 2021).

Damage not only occurs from the side of buildings and public facilities as a shelter for living things, but also has an impact on changes in land surface. The earthquake and liquefaction in Palu, Central Sulawesi in 2018 caused the majority of land parcels to be unable to identify the boundaries of their land parcels cadastrally. The number of earthquakes is due to Indonesia being in the Pacific Ring of Fire area (ring of fire) so it will not be separated from the threat of earthquakes. Directorate of Volcanology and Geological Disaster Mitigation (DVMBG) of the Ministry of Energy and Mineral Resources (ESDM) stated that areas in Indonesia that are prone to earthquakes and tsunamis, including: Aceh, North Sumatra, West Sumatra, Bengkulu, Lampung, Banten, Central Java, Yogyakarta, East Java, Bali, West Nusa Tenggara, East Nusa Tenggara, North Sulawesi, Southeast Sulawesi, South Sulawesi, North Maluku, South Maluku, Biak, Yapen and Fak-Fak in Papua and Balikpapan (Ministry of Public Works, 2010).

The natural disaster resulted in lateral position differences with an average value of 7,016 m in Balaroa Village, an average value of 4,273 m in Petobo Village, and 3,854 m in Talise Valangguni Village (Ratode et al., 2021). The earthquake and tsunami disaster in Indonesia in Aceh on December 26, 2004 had a catastrophic impact, as follows: 1) destroying and removing the boundaries of land parcels or other objects that can be used as a reference for the existence of parcels; 2) the sinking of a number of land parcels, especially in coastal areas due to the abundance of sea water to land and land subsidence; 3) horizontal and vertical deformation of the earth's surface in the region; 4) loss of land title papers kept by the community at home, records at the land office, and certificates pledged at the bank as collateral; and 5) the death of the owners of land rights and their heirs. The condition of Indonesia, which is an archipelagic country, causes it to have many coastlines. Indonesia has a coastline of approximately 95,181 km and is the second longest coastline in the world surrounding 17,504 islands (Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia, 2019).

One of the disasters that can occur due to these conditions is abrasion. Abrasion is another form of natural disaster that can cause serious problems related to land. As a result of the erosion of land by water, especially those that occur on the edge of the coast, it can result in land rights owners losing the right to control, use, or benefit from land because the land is lost partially or completely. One of the consequences of

abrasion for 15 years in Pantai Happy Village, Muara Gembong District, Bekasi Regency is that dozens of houses were abandoned by their own residents because they were eroded by water (Susilo, 2019). Another case occurred on the north coast of Java, such as abrasion that occurred in Demak Regency, especially Sayung District over the past 20 years estimated to have been exposed to abrasion reaching 2,116.54 ha which caused the coastline to retreat along 5.1 km from the coastline since 1994 (Ondara, 2020). This makes this abrasion make this abrasion the largest not only in the north and south coasts of Java, but the largest in Indonesia (Aziz, 2019).

Changes in the boundaries of land parcels and even the destruction of the land are a serious impact of these disasters. Even though the land is used as a place to live and a place to carry out life fulfillment activities. This condition can occur due to disasters such as earthquakes and abrasion. In addition to the physical condition of the land, sometimes evidence of ownership of land rights can be damaged or even lost due to disasters if not saved. If any land is destroyed, in accordance with Article 27, Article 34, and Article 40 of the Basic Agrarian Law (UUPA) the right to the land is erased. The occurrence of disasters to experience land destruction is an event that occurs beyond human capacity and cannot be avoided. Therefore, the need for guaranteed certainty and protection of the legal status of land rights for landowners affected by a disaster event because the losses incurred due to a disaster are not small. Based on community unrest regarding the status of ownership of land rights owned, the issue raised in this writing is about the legal status of land rights affected by disasters. Parcels of land affected by disasters are considered destroyed or not. For the occurrence of the disaster, how is the legal certainty of ownership of land rights for disaster victims in several affected areas. Given the clarity of status, ownership, and location of these land parcels are needed in various ways, such as: moving back the wheel of life, starting the spatial planning process, and infrastructure development.

## **II. METHODOLOGY**

The research method used in this study is the normative juridical method, which is based on literature sources such as books and journals as well as laws and literature studies. The legal approach is used to solve land problems related to the status of land rights affected by disasters through. The legislation studied first was Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Regulations on Agrarian Principles as an initial rule which stated that one of the causes of the abolition of land

rights was the destruction of land. Then continued the derivative rules and research that had been carried out previously to analyze the condition of damage from disasters related to the status of land rights to be considered destroyed or not a land right. The scope of natural disasters chosen in this study is abrasion, earthquakes including tsunamis and liquefaction, and erupting mountains because these disasters are natural disasters that often occur in Indonesia.

Given the condition of Indonesia which has the second longest coastline in the world after Canada so that it has the potential for abrasion and Indonesia is located along the seismic path, namely the Pacific Ring of Fire so that the potential for earthquakes is very large.

### **III. RESULT AND DISCUSSION**

#### **A. Definition and Types of Land Rights**

Juridically, the definition of land is explained in article 1 paragraph (4) of the UUPA, which reads as follows: "In the sense of the earth, in addition to the surface of the earth, including the body of the earth below and under water". In the explanation of Article 1 paragraph (4) of the UUPA mentioned above, it is stated that what is meant by land is the surface of the earth is the surface of the earth. So here is distinguished about the understanding of earth and land. Understanding land according to geography is the surface layer of the earth that can be used by humans to be used as a business.

Land rights are rights to a certain part of the earth's surface that is boundary, therefore land rights not only give authority to use a certain part of the earth's surface called land, but also a part of the body of the earth below it and water and space above it with restrictions. But the body of the earth underground and the space above itself, is not an object of land rights, does not include objects that belong to the holder of land rights. Land rights in force in Indonesia today are one of the things regulated in Agrarian Law and are based on the existence of customary law. That land is a very valuable and important asset today and many problems arise and originate from land rights. To anticipate it and prevent problems that may arise, the right owner needs to register the land to which he is entitled so that there are no adverse disputes in the future. Land rights of a piece of land must be registered because by registering the right to the land we own, our ownership of the piece of land has the force of law. Land rights include all rights acquired directly from the state called primary rights and all rights derived from holders of other land rights based on collective agreements, called secondary

rights. The two rights generally have something in common, where the holder is entitled to use the land he controls for himself or to benefit from others through an agreement in which one party grants secondary rights to the other.

According to the provisions of Article 16 of the UUPA several types of land rights are known, namely: a. Property Rights; b. Right to Use; c. Right to Build; d. Right of Use; e. Leasehold; f. Forest Clearing Rights; g. Right to Collect Forest Products; h. Other rights not included in the above rights shall be established by law. Among the rights mentioned above, Hak Milik is a very special right, which not only contains the authority to use a certain piece of land that is entitled, but also contains a psychological-emotional relationship between the right holder and the land concerned. This right is specifically intended for Indonesian citizens, both for cultivated land and for the purposes of building on it. The nature of this right is not limited in duration, can be transferred due to inheritance, grant, testamentary grant and can be transferred to another qualified party. It can also be used as debt collateral by being burdened with dependent rights.

Article 20 of the UUPA states that Hak Milik is the "strongest and fullest" right to land. This means that among land rights, property rights have no time limit for land tenure and the scope of use. The granting of this property does not mean that the land is an absolute, unlimited and inviolable right. But with that limitation, all land rights have a social function, as affirmed in Article 6 of the UUPA. In the Explanatory Memory of Article 6 it is affirmed that the right to any land that belongs to a person must not be used (or not used) solely for his personal interests. The use (or non-use) of land in a way that harms or causes harm to the community, cannot be justified. This means that the land must be used according to the circumstances and nature of its rights. Only then can the use be useful, both for those who have it and for society and the country.

The social function of land rights can also mean that the land must be properly maintained by everyone concerned. The soil must be maintained in such a way that damage can be prevented and its fertility increased. Article 15 of the Law stipulates that anyone who has a legal relationship with the land concerned must maintain it, not just the owner. The existence of this social function does not mean that individual interests have no meaning at all. In the UUPA also pay attention to individual interests. As stated in the Explanatory Memory of Article 6, there must be a balance between the interests of individuals and the public interest. The two must balance each other. Thus, it is hoped that the desired ideals will be achieved, namely prosperity, justice and



happiness for all people. Unlike Property Rights, for other land rights, such as Business Use Rights (HGU), Building Use Rights (HGB), Use Rights and Management Rights, are land rights as well but the purpose of their use is only limited, for example to build buildings, so for example this right should not be used for agricultural land, plantations, fisheries and the like. The validity period of building use rights is limited to 30 years, but can be extended for 20 years, and so on as long as it gets approval from the government, can be burdened with dependent rights, inherited and sold without having to ask permission from the government.

Right of Use on state land is limited to a maximum of 20 years and can be extended for another 20 years and so on as long as it is approved by the government. Its use is clearly limited only to using and/or collecting the proceeds of its land, but this land is usually burdened with dependent rights, inherited or transferred by its rights holders to other parties with the condition that it must obtain prior approval/permission from the government. The definition of rights to lands that have not been certified refers more to the rights of someone who has benefited from land controlled by the state. In this case the land is still under state control and someone can cultivate it for cultivation.

The land can transfer ownership after first applying for its rights by registering with the local Land Office so that the land turns into freehold land. A person who is the holder of land rights cannot give away his property rights simply because these rights are his authority but what he can do is transfer or release the rights to the land he owns. By relinquishing the right to land, the land becomes state land. State land can be divided into two types, namely free state land and non-free state land. Free state land is state land directly under state control, on which there is no right owned by anyone other than the state. This free country land can be directly requested by us to the state / government by going through a certain procedure in accordance with applicable regulations. While non-free state land is state land on which it has been occupied by a right of another party, for example: state land on which there are management rights owned by Perum Perumnas.

#### **B. Legal Status of Land Rights with Land Objects Affected by Earthquakes**

Today the land problem really needs attention and handling from various parties, because in such an atmosphere it is felt that more and more people's land is involved in various economic activities, so that in connection with this matter more and more there is also a need for a guarantee of certainty of land rights. Increasing population growth results in an increasing amount of development, and an increase in the need for

land availability, even though the land area (area) in a country is very limited. The need for land today is increasing in line with the increasing population, the number of business entities, and the increasing needs related to land. Land which is a basic need for humans will be faced with various things such as limited land both in quantity and quality compared to the needs that must be met. Land on the one hand has grown as a very important economic property and has grown as a business material and an object of speculation, on the other hand it must be used and utilized for the greatest welfare of the people. Land is a gift and gift of God Almighty mandated to the nation and is wealth controlled by the state that can provide benefits to mankind and must be grateful, managed, utilized optimally and maintained sustainably for the greatest prosperity of the people as stated in the Constitution of the Republic of Indonesia Year 1945.

Article 16 Juncto Article 20 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles regulates a right to land called property rights where property rights are hereditary, strongest and fullest rights that people can have over land. One of the land rights recognized today is freehold land where the method used to obtain freehold land is currently by transferring land rights. Indonesia is located in a natural disaster-prone location where various types of natural disasters, including earthquakes and tsunamis, volcanoes, floods, landslides, droughts, forest and land fires, and other natural disasters are still very frequent. Natural disasters are extraordinary natural events that can cause tremendous suffering for those who experience them, even certain natural disasters cause many victims to be injured or die. Natural disasters also not only cause injuries or physical injuries, but also cause psychological or psychiatric impacts. The Mount Sinabung Eruption disaster has resulted in the destruction of ±30,321 hectares of land and agricultural land owned by the community. The loss of land boundaries, especially community property rights caused by changes in land surface due to natural disasters, especially caused by eruptions, earthquakes and tsunamis makes community property land unprotected. Natural disasters that occur do not necessarily eliminate community property rights, because someone who has a legal relationship with the land will certainly be protected by law. Article 28 D Paragraph (1) of the Second Amendment to the Constitution of the Republic of Indonesia Year 1945 also guarantees the importance of legal certainty, namely everyone has the right to recognition, guarantee of protection and fair legal certainty, especially for community property rights, as well as equal treatment before the law which is intended



as a means to achieve order and legal certainty in human association in society, Therefore, the Land Agency is responsible for solving land problems that arise after natural disasters.

An earthquake is an event of shaking the earth due to collisions between earth plates, fault activity, volcanic activity, or rock collapse (Yanuarto et al., 2019). Earthquakes are destructive, can occur at any time, and last for a short time so that they can destroy buildings, roads, bridges, and so on in an instant. The occurrence of earthquakes can cause secondary effects in the form of non-tectonic processes on the surface that are directly related to earthquakes. Liquefaction is one of the secondary effects of earthquakes, namely a phenomenon of soil liquefaction due to earthquake loads (cyclic loads). In September 2018, Indonesia again mourned the occurrence of this kind of earthquake in Central Sulawesi. The cause of the series of disasters is because there are tectonic movements on the Korro Hammer Fault. As a result of this disaster, in two villages, namely Balaroa Village, it is around 34.5 ha and the circumference is 2.5 km, while in Petobo Village it is around 158 ha and the circumference is 6.58 km.

The impact of earthquakes and liquefaction is deformation in the shape of land parcels that have been registered or not yet registered. The physical condition of land parcels in the earthquake and liquefaction zones that are influenced by the direction of flow (ground shift) when an earthquake and liquefaction occur in Palu, as follows: 1) fixed land parcels, namely land parcels whose position, shape, and sides of the land parcel are assumed to be unchanged and not affected by earthquakes and liquefaction; 2) the land parcel changes sides, that is, the shift of several boundary points of the land parcel which results in a change in the shape of the land parcel; 3) shifting land parcels, i.e. parcels of land that undergo complete changes or shifts; and 4) unidentified land parcels, i.e. parcels of land whose boundary points are no longer identifiable due to changes in the structure and geographical conditions of the land. Meanwhile, conditions in the earthquake zone indicate a shift in the plot of land along with the building above it which can result in the emergence of new space (fields) without owner claims or land arising (Ratode et al., 2021).

Another effect due to earthquakes is tsunamis. This is if an earthquake occurs on the seabed, resulting in large water waves. As was the case in 2004, the natural disaster of an earthquake and tsunami occurred in Aceh. One of the problems that occurred after the natural disaster was the destruction and loss of land rights certificates accompanied by the destruction of land boundaries. This has an impact on the difficulty of victims

of the Aceh tsunami natural disaster to obtain guarantees of certainty and effective legal protection of land ownership rights.

The status of land caused by earthquakes is not considered as perished land. The condition of the soil has changed the position and boundaries of the land parcel above the ground surface. Land rights holders still have rights to their land and they can exercise these rights. Forms of protection of the legal status of land rights due to the occurrence of earthquakes and liquefaction disasters include inventory of subjects and objects of ownership of affected land parcels, reconstruction of land parcel boundaries, in accordance with the provisions of PMNA Technical Directive 3/1997, organizing land acquisition activities for the construction of permanent housing for victims of liquefaction, earthquakes, and tsunamis and the need to change the spatial planning of Palu City with disaster mitigation patterns (Ellisa, 2019; Lestari, 2021; Ratode et al., 2021).

Another example is the earthquake and tsunami in Aceh which claimed many victims and the loss of land parcel boundaries. Given the clarity of the status, ownership and location of land parcels is urgently needed to move back the wheel of life, start the spatial planning process, and infrastructure development, the reconstruction of land parcel boundaries in Aceh needs to be carried out quickly, accurately, and agreed upon by the community in the area where the parcel is located. The activity was carried out by conducting a combination of information from landowners, heirs or community leaders, land certificate information from BPN, information on geometric data from the UN parcel and BPHTB, and high-resolution satellite images. The existence of post-disaster activities is a form of legal protection provided by the government to victims of the Aceh tsunami natural disaster related to legal protection of land rights after the Aceh tsunami. Another policy provided by the government related to legal protection of land rights, namely the implementation of community-based systematic re-registration through the RALAS (Reconstruction of Aceh Land Administration System) program which is carried out simultaneously covering all land registration objects in the area of a village or *kelurahan* which is the location of the tsunami disaster in Aceh (Yulianti, 2017). Land rights identification activities are carried out by the National Land Agency and the Reconstruction and Rehabilitation Agency, the granting of Inheritance and Guardianship Rights is determined by deliberation by the decision of the Sharia Court Judge. Granting Inheritance and Guardianship Rights of Minors by

filling out the Inheritance Agreement and Guardianship Agreement form with the determination of a Sharia Court Judge.

Reconstruction and rehabilitation of earthquake disasters can be associated with agrarian reform activities in order to realize the control, ownership, use, and utilization of land (P4T) and space according to spatial plans and efforts to provide land for public interest as a manifestation to improve environmental quality and maintain natural resources through the involvement of active community participation, namely Land Consolidation implemented in PMNA/Ka. BPN No. 12 of 2019. This can be mandatory as an effort in post-disaster area arrangement, conflict, slum areas and strategic programs. In this case, the disaster in question is a disaster that can result in changes in land parcel boundaries, land destruction, changes in P4T structure so that rearrangement and/or relocation is necessary.

Another example is the Palu City earthquake disaster. The earthquake disaster also made the people of Palu City lose their homes and all their possessions above the ground. Disasters preceded by earthquakes then occur soil liquefaction events to eliminate land boundaries and ownership. Some land ownership is also lost, because land collapses into the ground which turns into mud. Similarly, the boundaries of the land have become increasingly difficult to trace, especially after cleaning and repairing using heavy equipment. The land arrangement was carried out by the Palu City Government after the National Disaster Management Agency (BNPB) assessed that local governments needed to make microzoning maps related to earthquake risk and liquefaction in spatial planning in their areas. This reflects on the liquefaction phenomenon that occurred after the Palu earthquake and caused a number of villages to be 'swallowed' by the ground, so the government set the Red Zone benchmark regulated in the Regulation of the Governor of Central Sulawesi Province Number 10 of 2019 concerning Post-disaster Rehabilitation and Reconstruction Plans.

The benchmarking of disaster-prone zones is divided into three categories, namely liquefaction-prone zones with a length of 28.39 km and an area of 568.4 ha. Then for the tsunami-prone zone stretching across the coastline along 72 km, and the fault-prone zone (earthquake) which has a length of 30 km.

Complications in terms of structuring and rediscovering the identity of freehold land, due to the destruction of land boundaries, and loss of evidence of land ownership due to earthquakes. Ownership papers owned by the community were also lost because they were submerged in the land at the time of the disaster. Those who survived did not

necessarily have their land ownership certificates. In addition, relevant institutions that have copies and archives of community land tenure rights documents were also destroyed and lost because their offices were also affected by the disaster. The establishment of several areas in the city of Palu after the tsunami disaster as red zone areas causes 2 (two) conditions, namely first, guaranteed certainty or effective protection of land ownership rights and second, the principle of land registration and other laws and regulations will directly or indirectly affect land officials or employees, protect land ownership rights, which is related to registration and adjudication of providing legal certainty to individuals over landowners victims of earthquake natural disasters (Yulianti, 2017).

### **C. Legal Status of Land Rights with Land Objects Exposed to Abrasion**

Article 1 paragraph (2) of the Constitution of the Republic of Indonesia Year 1945 hereinafter referred to as the 1945 Constitution states "The State of Indonesia is a state of law", which contains meaning in the administration of government and state based on law. Similarly, the relationship between the state, society, land is based on the rule of law. Land as a gift of God Almighty is a gift that cannot be wasted, because land has a very important meaning for human life. Land is the wealth of every country including Indonesia that must be utilized for the welfare and prosperity of its citizens. Land besides being a source of livelihood, is the source of human life. Land is a place where humans depend for shelter and a source of livelihood for humans. According to Peter Butt, the soil is not only the face of the earth, but everything that is below it or above it.

Naturally humans develop and grow always with the land, meaning that living humans develop producing offspring continuously above the ground. This growth has resulted in the consequence of human needs for higher land as a place to settle and grow. But in reality the state of the soil does not increase, it decreases with the passage of time, the reduction of soil is very possible with natural processes, soil that is lost naturally or moved due to a shift in place.

Abrasion is a natural disaster that results in the owner of land rights losing the right to control, use, or benefit from land, because the land is lost partially or completely due to erosion by water. Many communities have certificates or have been registered with the government administration, but their land is lost due to abrasion. In the UUPA this is considered erasure, Article 27 of the Law regulates the abolition of property rights, namely property rights can be removed because the land falls to the state due to

revocation, voluntary surrender, the land is abandoned, and because the land is destroyed. Land rights are private rights, namely rights that authorize rights holders, both individuals, groups of people simultaneously and legal entities. To interpret this is mastering, using, and or taking advantage and benefit from the land. However, the reality is that a person, group of people or legal entity has registered their land so as to obtain a certificate, lose the right to control, use, or benefit from the land, because the land has been lost due to abrasion. When the state abolishes the legal relationship, between people and their land should be carried out properly through clear and firm legal protection institutions, so that the welfare and prosperity of the people to which they aspire to become real.

Article 27 of the UUPA specifies that the land is destroyed means the land is removed, it does not guarantee the rights of people whose land is lost due to disasters, one of which is abrasion. Abrasion is the process of eroding soil on the edge of the coast or river by the force of waves and currents that are destructive in nature. This abrasion is usually triggered by disruption of the natural balance, but it does not deny that humans are also the cause of abrasion. Article 1 point 1 of Law Number 24 of 2007 concerning Disaster Management, disasters themselves are a series of events that result in disruption of life and livelihood for the community, caused either by natural or non-natural factors, or caused by humans themselves, causing loss, damage, psychological impacts and casualties.

The holder of title to the land, cannot seek or re-manage the boundaries of the land, because the land has been lost. In the rules mentioned in Article 27, the UUPA divides into 2 classifications, namely land that falls to the State and the land is destroyed. The provisions do not mention that property rights can be removed due to abrasion. The abolition of property rights of Article 27 of the Law can be formulated:

1. The abolition of miik rights due to disenfranchisement, the main reason because there is a revocation of rights, according to the provisions of Article 18 of the UUPA, land can be disenfranchised with appropriate compensation for the public interest, including interests for the nation and the state with the people.
2. The abolition of property rights due to voluntary surrender, related to Presidential Decree No.55 of 1993 concerning Land Acquisition for the implementation of development for public interest which was further implemented with Agrarian Regulation No.1 of 1994, this decision was deliberately made in the interest of the state, which in this case was implemented by the government.

3. The abolition of property rights due to abandonment, PP No.36 of 1998 concerning the regulation and utilization of abandoned land, what is meant by abandoned land is land that is not used and maintained properly, and land that is not used in accordance with the circumstances of the nature or purpose of granting these rights.
4. The abolition of property rights because they are controlled or transferred to legal subjects who are not entitled to land, the position of ownership rights over land. Article 21 paragraph (1) of the UUPA determines that only Indonesian citizens are entitled and can obtain ownership rights over land.
5. The abolition of property rights because the land is destroyed, if we return to the basic understanding of land rights, especially property rights, then it is very clear that property rights originate from the existence of an intact piece of land. With the destruction of a piece of land, the land cannot be measured and proven to exist, so by law the right to the land is erased.

Indonesia has laid the political foundation of National Agrarian Law, as contained in the provisions of Article 33 paragraph (3) of the 1945 Constitution, namely "Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people". The word "control" in Article 33 paragraph (3) of the 1945 Constitution does not mean owned, but is at the highest level, the meaning of giving authority to the highest power organization, namely the state<sup>4</sup> "The State determines, and organizes and regulates legal relations between people and earth, water and space". As the organization of power of the Indonesian nation, the state over earth, water, and space is authorized to regulate and administer its allocation, use, supply and maintenance. In this case, Agrarian Law must be aimed at the happiness, welfare, and prosperity of Indonesian citizens based on the nation's philosophy, namely Pancasila. Based on Article 66 of Government Regulation Number 18 of 2021, it is stated that land that has changed from its original form due to natural events and cannot be identified anymore so that it cannot be functioned, used, and utilized properly, is declared as destroyed land through the determination of destroyed land with stages, namely identification, inventory, and assessment. Natural events that can cause soil to perish are abrasion. Abrasion (coastal erosion) is the process of coastal erosion by the force of ocean waves and ocean currents that are destructive. This is triggered by the disruption of the natural balance of the coastal area caused by natural and human symptoms. The vulnerability of coastal areas to environmental degradation such as habitat destruction, environmental pollution, excessive exploitation of natural



resources, conversion of protected areas into development, natural disasters, and coastal abrasion. Changes in coastlines and soil erosion are one of the impacts of this. The condition of the soil in the case of abrasion is destroyed because it has been covered by sea water. This can cause the control of the land to return to government ownership (Yulianti, 2017).

Legal protection is divided into two types, namely preventive legal protection used to prevent disputes from occurring to a problem and repressive legal protection aims to resolve disputes after a problem arises (Hadjon, 2017). Therefore, it is necessary to review the role of the government in preventing abrasion. For example, in the case of abrasion in Brebes Regency, the government tried to carry out preventive protection in the form of eliminating beach sand excavation, making media or saraba breakwaters by concrete, replanting mangrove forests, and preserving coral reefs. The government is not entirely at fault for taking preventive measures to prevent damage in the event of a disaster. The state cannot provide legal protection against the abolition of land rights because the land is destroyed. This is because according to the provisions in Article 27 of the UUPA letter b concerning the abolition of land rights, destroyed land means that the land is removed. This arrangement is clear that there is no protection regarding the land that has been lost due to natural phenomena that occur. The state has no obligation to provide protection to communities who have lost their land due to abrasion on the coast. Article 5 of Law Number 24 of 2007 says that the government and local governments must be responsible for the implementation of disaster management so that with preventive actions by the government it cannot be considered unlawful and irresponsible. The government has no obligation to be responsible if there has been a loss of land due to natural phenomena. The matters stipulated in the law only provide protection limited to preventive measures, but do not have a definite guarantee in the future if the efforts that have been made fail in their journey. Loss of soil due to natural factors, such as abrasion, cannot be held accountable to the state, unless the government is proven not to have taken preventive measures. If the community feels that these preventive measures are not appropriate in preventing abrasion, the local community can file a Class Action lawsuit through the local District Court (Adam et al., 2020).

Before the destroyed land is recorded by the administration, rights holders are given priority to carry out reconstruction or reclamation of land utilization carried out by the central and regional governments or other parties through spiritual fund assistance, then based on the socialization presented by the Directorate General of Land Rights

Determination and Registration regarding Government Regulation Number 18 of 2021, the stages of implementing the destruction land affirmation activities need to be carried out, as follows: 1) The Regent / Mayor forms a Research Team, consisting of: Assistant Regent / Mayor in charge of government and land, Head of the Land Office as Vice Chairman of Land Destruction, elements of agencies in charge of Marine Affairs and Fisheries, elements of the Geospatial Information Agency, elements of the Water Resources Center (Ministry of Public Works and Public Housing), elements of Academic Institutions, Sub-districts, Lurah/Village Heads, other agencies if necessary, and Land Office Officials appointed by the Head of the Land Office; 2) identification and inventory; 3) research and study; announcements and summons; reconstruction and reclamation (spiritual fund); affirmation of perished land; and administrating the destroyed land. Then registration is carried out in accordance with Article 52 of Government Regulation Number 24 of 1997 carried out by the Head of the Land Office by affixing a note to the land book and measuring letter and destroying the relevant title certificate, based on the data in the land book, a copy of the decision letter of the authorized official regarding the right concerned has been canceled / revoked, and a deed stating that the right concerned has been released by the right holder and if not submitted to the Head of the Land Office, recording is carried out on the land book and the relevant measuring letter (Hadjon, 2017).

In terms of ensuring the abolition of land rights because their land is destroyed, the government should immediately make new regulations that regulate and make it easier for victims who have lost their civil rights about the boundaries of their land that are lost or unknown due to abrasion. The government in this case, especially BPN, should know the lands affected by the impact, especially abrasion, to avoid losses to its citizens. The government immediately relocates or purchases the land affected by the disaster and immediately carries out disaster management as early as possible. Understanding disaster itself must also be understood by all stakeholders in the field of disaster. Because it becomes a benchmark in determining a condition or event including a disaster or non-disaster.

#### **D. Legal Status of Dependent Rights with Destroyed Land Objects**

The destruction of the object of guarantee of the rights of dependents due to force majeure or overmacht circumstances is not expressly regulated in the provisions of the Law on Rights of Dependents. The power of a certificate of liability whose object is destroyed by a natural disaster is null and void. This is because the Deed of Granting

Dependent Rights (APHT) as the basis for the issuance of a certificate of dependent rights is null and void because it does not meet the legal requirements of an agreement, namely a certain thing according to Article 1320 of the Civil Code. The objects (objects) of dependent rights in APHT have been destroyed due to natural disasters so that the binding and executory forces of dependent rights certificates whose objects were destroyed due to natural disasters are removed. Thus, the abolition of land rights results in the rights of dependents being erased or lost as well. Preventive legal protection (prevention) for creditors and debtors is carried out by insuring the object used as collateral. Repressive legal protection (post-occurrence) for creditors is by means of payment of insurance claims to creditors for the destruction of objects of liability rights that become collateral for debtors. Repressive protection for debtors is by paying the remaining claim money after deducting the debtor's credit to creditors, if the remaining claim money can be given to debtors, besides that repressive protection that can be given to debtors is by restructuring the credit facilities owned by debtors (Adam et al., 2020).

The debtor, as long as he receives the credit facility, proof of land ownership in the form of a land title certificate will be charged with the right of dependent. In this case, the problem is, if the object of the guarantee of the dependent rights disappears, due to natural events / natural disasters that cause the guaranteed land to be destroyed such as landslides, flash floods or earthquakes, this causes problems. Of course, the guaranteed land certificate, which was then issued a Certificate of Dependents, became unclear, because the object listed in the detailed explanation in the certificate had been destroyed. This problem has legal consequences. The destruction of land objects encumbered with dependent rights is not regulated in the Basic Agrarian Law or in the Law on Dependent Rights. This is a separate problem, where the position of the Right to Cover certificate becomes unclear legally, even though the Certificate of Rights of Dependents has executory legal force and is strong evidence for holders of Dependent Rights (Aziz, 2019).

The strength of the Certificate of Liability is legally difficult to prove, because the physical evidence has been destroyed. In addition, another problem arises, namely legal protection for holders of Dependent Rights certificates where the object encumbered by the Dependent Rights has been destroyed. For holders of Dependent Rights certificates, it will be difficult to get protection, because this has not been regulated in the Law on Dependent Rights, thus creating a regulatory vacuum. Of course, this is

very vital, because the legal regulations that are the basis and basis for implementation, in this case protection for holders of Dependent Rights Certificates whose objects are destroyed due to natural disasters does not yet exist. For holders of Dependent Rights Certificates, if this happens it will be detrimental. Therefore, as explained above, the Certificate of Rights of Liability clearly has executory power and is strong evidence. If the object of liability is destroyed due to a natural disaster, it becomes a serious problem (Jaya et al., 2017).

The consequences for the debtor, where it has been explained above that even though the pledged land has been destroyed due to natural disasters, the debtor still has to pay off its obligations to creditors until it is completed. This condition does not benefit the debtor because, in addition to still having to pay off his obligations, his land that was burdened with dependent rights has also been destroyed. The elimination of dependent rights does not result in the loss of the debtor's obligation to pay off its obligations to creditors. These obligations must still be settled in accordance with the credit agreement on which the dependent rights are born. In addition, unfavorable conditions are also experienced by creditors as holders of dependent rights. Where the creditor has carried out his obligations to the debtor, but the creditor has lost the object used as collateral to be charged with the liability, as well as regarding the status of the creditor. Where at the time of the birth of the dependent rights, the status of the creditor is the preferred creditor, but due to the destruction of the object of the dependent rights which results in the elimination of the certificate of dependent rights the status changes to concurrent creditors, so that creditors do not have strong security rights and legal certainty will be repaid debtors, The elimination of these dependent rights will cause legal uncertainty for the bank as a creditor, For this uncertainty, legal protection is needed for creditors. To solve the problem of the validity of the certificate of liability whose object was destroyed due to natural disasters, the method of construction of argumentum per analogiam (analogy) is used. The analogy used is to analogize the certificate of liability as an agreement. The conditions for the validity of an agreement have been regulated in Article 1320 of the Civil Code.

#### **E. Legal Protection for Certificate Holders of Dependent Rights whose Objects Are Destroyed Due to Natural Disasters**

In the case of the destruction of the object of the dependent rights, of course, it has an impact on creditors as holders of dependent rights and debtors as recipients of dependent rights. for this reason, of course, it is necessary to get legal protection from

existing provisions. Through this, the author wants to discuss legal protection for creditors as holders of dependent rights. In the banking world, there is known to be a guarantee institution. Where the term guarantee is in general the ways creditors guarantee the fulfillment of bills, in addition to the debtor's general responsibility for their goods, its main function is to minimize, reduce the risks that can be experienced by creditors or banks as credit distributors or in other words its function is as a means of protection for creditor security, namely regarding the certainty of debt repayment by debtors or debtor guarantors, certainty of debtors in carrying out all their performance obligations (Adam et al., 2020).

Where the object of study of guarantee law is divided into 2 types, namely material objects and formal objects. The material object of the law of guarantee is man. Formal object, that is, a certain point of view of its material object. So the formal object of guarantee law is how the subject of law can impose his guarantee on a banking institution or nonbank financial institution. The legal review of guarantees includes general guarantees and specific guarantees. Special guarantees are divided into two (2) types, namely individual guarantees where individual guarantee rights arise from guarantee agreements between creditors (banks) and third parties. An individual guarantee agreement is a relative right, that is, a right that can only be defended against a specific person who is bound by the agreement. Then, material security Material security is an absolute right to a certain object that is the object of collateral for a debt, which can one time be cashed for the repayment of the debtor's debt if the debtor breaks the promise. By having various advantages, namely the qualities it has, including absolute nature where everyone must respect the right, having *droit de preference*, *droit de suite*, and the principles contained therein, such as the principle of speciality and publicity has given the position and privilege to the holder of the right / creditor, so that in practice it is preferred by the creditor rather than individual guarantees. According to the law, objects can be distinguished in various ways, contained in Articles 503, 504, 505 of the Civil Code. Where in this case, what is secured by immovable objects is SHM soil. If the debtor performs its obligations properly, the role or function of the collateral will not be visible, the function of the collateral will be visible when the debtor is negligent or does not carry out its obligations / (default).

In the case of destruction of the object of Right of Dependent, there are preventive measures taken by the bank / creditor, in addition to making selections with various stages of crediting procedures to the stages of making deeds at the Notary and / or

PPAT offices to the issuance of Rights of Liability certificates by BPN. The creditor has another way, namely by proposing that the object of land encumbered with the right of liability be insured with the insurer who cooperates with the creditor. To be able to provide dependent rights, it is preceded by a debt receivable agreement in which there is a clause regarding the granting of dependent rights as collateral for debt repayment, and is stated in the deed, namely the Deed of Granting Dependent Rights (APHT) made by PPAT (Article 10 paragraph (2) of the Dependent Rights Law). In APHT it is mandatory to fulfill the Principle of Specialiteit and the Principle of Publicity. APHT is also allowed to include promises, namely insurance promises (Article 11 paragraph (2) *huruf i* UUHT). As an exercise, the creditor requests that the debtor insure the object of the insured. To insure the object of the insured, a loss coverage agreement is made contained in a deed, namely the policy. The policy legally creates obligations for the guarantor to creditors in the event of an event that can result in the destruction / damage of the object of the dependent rights as repayment of the debtor's debt.

In APHT can be included a promise to insure the object of the insured right, then as a follow-up to the holding of a loss coverage agreement. In the event of the destruction of the object of the dependent rights, the creditor can file a claim to the insurance company on behalf of the debtor, namely as a power of attorney from the debtor to receive compensation money as repayment of the debtor's debt. In the event of bad debt, the object of the insured right is destroyed if the object of the insured is insured, the creditor can ask for compensation to the insurer by filing a claim on behalf of the power of attorney of the debtor against the object of the insured insured. Meanwhile, if the object of the dependent right is not insured, to take repayment of debtor receivables, the special guarantee will turn into a general guarantee, which is subject to Article 1131 of the Civil Code. In providing credit, banks always use the precautionary principle, so to avoid the risk of bad loans by debtors, banks can include a promise for debtors to insure collateral objects as debt repayment if collateral objects are damaged or destroyed (Abidin et al., 2019).

#### **F. Status Hukum Hak Atas Tanah dengan Objek Tanah Terkena Gunung Meletus**

Land tenure, which in turn also influences the pattern of relationships between people themselves, and the problem is not the land itself but the occurrence of unequal land tenure, where some do not control, and on the other hand there are those who control in units of very large numbers. Land is something that is valuable to humans, the value



of land is related to many aspects such as economic, cultural, political, social aspects which are the place where these values grow, so that differences in time, place and space will result in differences in land values. The notion of mastery and mastery can be used in the physical sense, also in the juridical sense, also in the civil aspect and in the public aspect. Juridical control is based on rights, which are protected by law and generally give authority to the right holder to physically control the land under control, but there is also juridical control which even if it gives authority to control land that is physically entitled, in fact the physical control is carried out by other parties, for example if the land owned is leased to another party and the tenant who controls it physically or the land is physically controlled by another party without rights (Adam et al., 2020).

The landowner in this case by virtue of his juridical tenure rights, has the right to demand the physical handover of the land in question to him. Historically, the ownership of land rights underwent various changes, when the population was still small and the number of land was unlimited, then land was just a commodity that was processed and used for individual interests and was not traded or traded, but as the population increased, land began to be traded. The existence of the principle of supply and demand makes land ownership change from the concept of land as commodity to land a property. In the beginning, land rights were absolute, where land gave various rights to the owner, there was a right to cultivate and utilize the land, there was a right to enjoy the use of the land including the air above it, the right to obtain financial benefits from the land, the right to sell, grant and bequeath to others, and the right to build. This absolute right begins to be restricted, where land property rights give the right to enjoy and act freely on the land, in the public interest the right may even be revoked. Public interest is the interest of all levels of society, of course, it has an impact on the interests of the wider community, and is not limited to the government. Public interest began to demand attention, so land ownership turned into land social property. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles does not regulate the matter of land, but only about the right to the surface of the earth, so it does not include the entire earth, water and natural resources contained therein.

The Mount Sinabung Eruption disaster has resulted in the destruction of ±30,321 hectares of land and agricultural land owned by the community. The loss of land boundaries, especially community property rights caused by changes in land surface due to natural disasters, especially caused by eruptions, earthquakes and tsunamis

makes community property land unprotected. Natural disasters that occur do not necessarily eliminate community property rights, because someone who has a legal relationship with land will certainly be protected by law.<sup>5</sup> Article 28 D Paragraph (1) of the Second Amendment to the Constitution of the Republic of Indonesia of 1945 also guarantees the importance of legal certainty, namely everyone has the right to recognition, protection guarantees and fair legal certainty, especially for community property rights, and equal treatment before the law which is intended as a means to achieve order and legal certainty in human association in the community, therefore land institutions are responsible for solving land problems that arise after natural disasters (Aziz, 2019).

Basically, it does not mean that disaster victims have lost ownership rights to land that before the disaster belonged to them. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles does not recognize the abolition of property rights over land due to natural disasters in the event that the land of the affected population is not destroyed, meaning that there are still ways that may be attempted by disaster victims to regain their land. Natural disasters that occur do not necessarily eliminate land rights, where if someone has a legal relationship with the land, of course, it will be protected in safe there are several ways that may be done by survivors, families and heirs of deceased victims. The first step in relation to land ownership in the area after a natural disaster event starts from saving property rights documents at the Regional Office of the Provincial National Land Agency, the District / City National Land Agency Office, and if these documents are still in, the Regional Office of the Provincial National Land Agency then it can make it easier for the victim to rearrange his land ownership status, because each Regional Office of the Provincial National Land Agency must have papers that will be used as proof of ownership of land. The Regional Office of the Provincial National Land Agency in addition to looking at the existing certificates, will then re-make measurements, and if the Regional Office of the local Provincial National Land Agency is destroyed and the land certificate is lost or destroyed, if the land in question still exists and is still suitable for habitation, it is necessary to remap the land in question.

Victims or heirs of deceased disaster victims can also request ownership rights to their land in the former natural disaster area where someone who wants to recognize his land rights must also be supported by evidence that can be obtained from the village head or local neighbors. The completeness of these supporting data is used to avoid dual

ownership of one plot or area of land, but if there are two or more people fighting over the same land area, it can be reached through mediation. The loss of land records in formal juridical terms will weaken the power of validity in the event of a dispute because the evidentiary power depends on the warrants or records stored in the office or elsewhere that stores the records. The certificate of land rights has two different sides, namely on the one hand civilly the certificate is proof of ownership, on the other hand the certificate is a form of decision that is determined (*beschiking*).

The National Land Agency after the situation recovers, the first step that must be taken is to identify land ownership to the heirs and families of the victims. The identification carried out also includes the land use system where natural disasters occur, whether the land is used for residential homes, business land or agricultural land. Furthermore, regarding land ownership after natural disasters, the state cannot directly control the land even though the landowner has died. Land ownership should still be returned to the community, especially for areas still inhabited by indigenous peoples, because in indigenous peoples' rights it is known as a communal system where the land cannot be separated from existing indigenous peoples. The National Land Agency in this case should only play a limited role in the management of former disaster land and not transition former disaster land into state land. The first challenge that must be overcome with respect to permanent housing is the clarification of landowners, where there is often no clear trace with respect to land boundaries. A program is being developed to restore property rights using participatory approaches, where people in a village first map their community by showing estimated boundaries, damage to property, and who previously lived there before a natural disaster. The whole community then decides collectively who owns or should get a piece of land. The National Land Agency then ratifies the community's decision by drawing detailed maps of lost land and begins the process of granting legal rights to the plots.

The volcanic eruption is the largest eruption that causes many casualties and causes other losses to residents around the volcano, namely many dead livestock, damaged buildings and damaged land due to buried volcanic material that closes land and land boundaries. Based on this, the government conducts land planning arrangements, which are efforts to control land use to realize the greatest prosperity of the people, namely by consolidating land. Land consolidation is a land policy regarding the rearrangement of land tenure and use as well as land acquisition efforts for development purposes, to improve environmental quality and maintenance of natural

resources by involving active community participation, based on the Regulation of the Head of the National Land Agency Number 4 of 1991 concerning Land Consolidation (Abidin et al., 2019).

Active community participation realizes the agreement of land rights holders and/or land cultivators. States that are objects of land consolidation, which are participants in land consolidation to relinquish land rights and physical control over the lands concerned, some of which are reorganized new units to be returned to them and some are contributions for the construction of road infrastructure and other facilities and financing the implementation of consolidation. The granting of rights to new land units is carried out in accordance with applicable laws and regulations by granting certain waivers for participants in land consolidation regarding their financial obligations. Land consolidation includes restructuring land parcels including their rights so that they become necessary by involving the participation of landowners directly. The target of land consolidation is the realization of orderly and orderly control and use of land according to its capabilities and functions in the framework of land order. In general, volcanic communities in disaster-prone areas reject land consolidation policies because people still have legal attachments to the site, because most communities still have certificates of land that must be vacated. The community also still has strong customary, social and economic attachments with its residential areas that have been inhabited for decades, the community has also integrated with each other in social and cultural ties (Hadjon, 2017).

#### **G. Disaster Management Cycle**

In the disaster management cycle, there are four phases that must be carried out continuously with each other, including mitigation, preparedness, emergency response, and recovery and rebuilding phases. The recovery and reconstruction phase, is a phase in the disaster management phase that has a greater and significant opportunity to reduce disaster risk and improve adaptation to disasters. One of the steps that is often taken in the reconstruction phase is post-disaster relocation or resettlement, where settlements damaged by disasters are rebuilt in the same place or elsewhere to avoid disaster risks. Relocation that occurs because the old location is a natural disaster area is also called the relocation of disaster victims and the relocation can be done temporarily or permanently. Relocation is defined as moving a place or moving from one location to another. Relocation is an effort to move part or all of the activities along with supporting facilities and infrastructure activities from one place to another in order

to enhance the safety, feasibility, legality of utilization while still paying attention to the relationship between those moved with the natural and built environment at the destination. The main principle of relocation is the form of volunteerism of the community together to move to a new location. The definition of settlement relocation is moving to another location due to the provision of land or houses by force or unforce. Relocation is often done as an action to deal with the recovery or reconstruction phase, but temporary settlement relocation in the recovery phase will only delay and prolong the recovery phase, for that permanent settlement relocation is better than temporary if natural disasters continue to occur. Population relocation is also one of the policies commonly carried out by the government to protect the community from the threat of natural disasters, even becoming a popular solution in disaster management. Relocation in the eruption disaster itself must be carried out in eruption-prone areas with a high population density (Abidin et al., 2019).

In some cases, although relocation can reduce the risk of harm, it can also increase vulnerability, especially in terms of livelihood, social, cultural, and political. The impact on livelihood aspects that occur in post-eruption relocation programs is that settlement relocation programs often succeed in reducing the risk of disasters but do not prioritize the sustainability of the livelihoods of disaster victims. This is further exacerbated by the availability of new jobs that are lacking in new residences and the low ability and expertise of the community, in addition to the economic impact of socio-cultural impacts also occur due to relocation programs including security of asset ownership and buildings (tenure security), privacy issues and access to basic needs, increasing currency value and spending on daily needs, loss of social ties with society, and gender equality. Relocation is not only defined as the movement of individuals but includes their families, villages, and communities so that the government also needs to move all aspects of their lives, where what must be moved is not only community residences but also places of work, playgrounds, places of worship, and other places that integrate into the social life of residents (Jaya et al., 2017). Community participation in all stages of the relocation program is a challenge that must be achieved due to the failure of the relocation program, one of which is due to the weak level of community participation in decision making. Some factors that can affect the process of relocating settlements due to disasters, are as follows:

- a. Social and cultural aspects, which include social relations with neighbors, relatives, availability of gathering places and other supporting facilities such as in the old neighborhood, as well as guarantees of land and building ownership status.
- b. Economic aspects, including the distance between the location of the new neighborhood and the place of work, security for livelihoods, and replacement of land and building assets.
- c. Physical and environmental aspects, which affect the availability of environmental facilities and infrastructure as well as geographical conditions in the new environment.
- d. Aspects of building construction quality, such as building materials used to build new residences, installation systems in house buildings, selection of new residence sites, site selection, and planning new settlement designs.
- e. Aspects of the decision-making process, which involves the participation of the community and other interested stakeholders as well as a good communication process between the government and the community.

Based on the recovery policy contained in the post-eruption rehabilitation and reconstruction action plan, the recovery process will be carried out through 4 (four) stages, namely:

1. The first phase of relocation, namely 370 (three hundred and seventy) heads of families from 3 (three) villages in the red zone within a radius of 3 (three) kilometers from the crater of Sinabung Volcano was relocated (permanent housing was built) in the Siosar Other Use Area (APL) area covering an area of 250 (two hundred and fifty) hectares which has been utilized covering an area of 30 (thirty) hectares and still remaining 220 (two hundred twenty) hectares. Permanent housing is equipped with residential environmental infrastructure, public facilities and social facilities. The community is provided with agricultural land assistance covering an area of 0.5 (half) hectares per family head through a permit to borrow and use production forest areas from the Ministry of Environment covering an area of 416 (four hundred sixteen) hectares which has been utilized covering an area of 316 (three hundred sixteen) hectares and still remaining 100 (one hundred) hectares, and is being proposed to the Ministry of Finance to meet livelihood needs (social and productive economic sector assistance) through rehabilitation grants and reconstruction.



1. The second phase of relocation, relocation and construction of houses for 1,683 (one thousand six hundred and eighty-three) heads of families from 4 (four) villages namely Berastepu, Guru Kinayan, Gamber and Kuta Tonggal.
2. The third phase of relocation, the implementation of recovery for affected and non-relocated villages, a total of 25 (twenty-five) villages.
3. The fourth phase of relocation, the implementation of recovery for 648 (six hundred forty-eight) heads of families from 4 (four) villages namely Jeraya, Central Kuta, Pintu Besi and Tiga Pancur which have the potential to be relocated, but for the implementation of this last phase it still takes a long time and further consideration and recommendations from related parties to include 3 (three) additional villages for relocation, namely Mardinding, Sukanalu and Sigarang-Garang.

#### **IV. CONCLUSION**

The condition of Indonesia, which is an archipelagic country, makes Indonesia has the second longest coastline in the world, which has the potential for abrasion, and its location along the seismic path, namely the Pacific Ring of Fire, can also have a great potential for earthquakes. Many disasters often cause many casualties and material losses including certainty of the legal status of land rights. Legal certainty regarding the ownership of land rights for disaster victims in several affected areas can be differentiated according to the impact caused, as follows, the legal status of land rights affected by the earthquake is not erased. This is because the land object still exists, but it is necessary to reconstruct the boundary to restore the boundary of the land parcel. Another solution is to relocate places from disaster areas to areas that are safer from earthquakes through land consolidation carried out by the government with the help of participatory communities. The legal status of land rights affected by abrasion is destroyed because the land to which the land rights are attached is also destroyed. The state cannot provide legal protection against destroyed land. Based on the UUPA regarding the abolition of land rights, one of the causes is the destruction of land. Therefore, soil loss due to natural factors, such as abrasion cannot be requested accountability to the state, unless the government is proven not to have taken proper preventive measures. The strength of a certificate of rights of dependents whose objects are destroyed due to natural disasters is null and void because the Deed of Granting Rights of Dependents (APHT) as the basis for the issuance of certificates of rights of

dependents is null and void because it does not meet the legal requirements of an agreement, namely a certain thing.

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