



Analysis of Unlawful Acts in the Installation of Electricity Poles on Private Land without the Consent of the Landowner

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Abstract

Background. The research stems from a discrepancy between legal regulations regarding land use for the public interest and the practices observed on the ground. In some cases, the installation of electricity poles is still carried out without the consent of the landowner, even without adequate guarantees. This condition raises questions about whether such actions can be classified as unlawful.

Aims. This research aims to examine these matters while analyzing how the conflict between public interests and individual rights is understood through Ronald Dworkin's perspective

Methods. A juridical normative approach to examine laws and regulations, as well as a philosophical approach.

Result. The outcome of this exploration also reveals that the installation of electricity poles without consent fulfills the elements of an unlawful act, starting from the existence of the action, the unlawful nature, error, loss, and a causal relationship.

Conclusion. In Dworkin's framework, individual rights cannot simply be overridden by the public interest, especially if accompanied by a clear legal basis and fair compensation.

Keywords: Unlawful Acts, Land Rights, Public Interest, Ronald Dworkin



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INTRODUCTION

The control and use of land that takes place in Indonesia is closely related to social, economic, and legal aspects in people's lives, so that its position becomes very strategic. Land is not only an economic object, but also a means of fulfilling basic needs as well as part of the legal identity of individuals. Therefore, land regulations are always placed within the

framework of national interests and community welfare.¹ The state is given the primary role in regulating the relationship between land, people, and the public interest. This role requires that the protection of citizens' rights with state authority be balanced.

Land also functions as a means to meet public needs while supporting the development of public facilities that support community welfare. Infrastructure such as electricity networks, roads, and public service facilities require the availability of land so that the benefits can be felt widely.² In this case, the state has the authority to take care of land use both for the public and collective interests in order to ensure access to public services and support national economic growth.

The state obtained a constitutional mandate in the national agrarian legal system aimed at managing agrarian resources to achieve the prosperity of the people. The mandate is realized through the authority to regulate, manage, and supervise land use throughout the country³. This authority is public and is not intended to nullify or remove the civil law relationship between individuals and their land. The state plays the role of a responsible manager, not as a private owner, so the implementation of agrarian authority must always be based on the principles of welfare and justice.

The position of agrarian law, on the other hand, also provides recognition and protection related to the continuity of individual rights regarding land obtained through legal mechanisms. Land ownership provides the full authority for the owner to use and enjoy the land related to security and certainty⁴. Protection of property rights is part of the guarantee of legal certainty as well as a form of respect for human rights. Referring to related matters, landowners are placed as legal subjects who cannot be given arbitrary treatment. The relationship between the state and the landowner is essentially correlative, not absolute.

The development of public infrastructure development, especially in the electricity sector, has created the need for the use of space and land on an increasingly wide scale. This need often intersects directly with community-owned land, especially in densely populated

¹ Muhammad Fakhurrozi, et al., *Constitutional Law Studies on the Protection of Land Rights in the Context of Law No. 5 of 1960*, Morality: Journal of Legal Science, Volume 11 Number 1, 2025, pages 148-157.

² Vina Maria Ompusunggu, *The Impact of Road Infrastructure Development on Community Economic Growth*, Journal of Economic Education (Jupeko), Volume 3 Number 2, 2018, pages 18-26.

³ Andi Bustamin Daeng Kunu, *The Position of the Right to Control the State Over Land*, Fiat Justitia Journal of Legal Science, Volume 6 Number 1, 2012, pages 1-10. Tina Marlina et al. explained that the role of the state in the land sector is at the level of public authority to regulate and organize agrarian law relations, not on direct ownership of land. The state acts as the bearer of the constitutional mandate of the Nation's Rights to establish policies, allocation, use, and utilization of land for the national interest and people's welfare (see *Agrarian Law Textbook*, Yogyakarta: Deepublish, 2023, page 12).

⁴ Muwahid, *Principles of Agrarian Law in Indonesia*, (Surabaya: UIN Sunan Ampel, 2016), page 70.

areas with limited land.⁵ This condition requires caution in the implementation of state authority so as not to cause legal losses for the community. The use of land for public facilities must be carried out through legal principles that demand clarity, transparency, and justice⁶. Without this mechanism, development has the potential to cause conflicts and legal uncertainty.

One example of a case occurred in a residential area in Subulussalam City, where an electricity pole belonging to PLN stood in the terrace area of the house at a very close distance from the entrance. The homeowner's request to move the pole was actually responded to with a request for residents to provide a replacement location as well as take care of the permit. This situation has caused public attention because it shows an imbalance between the authority of electricity service providers and the protection of citizens' rights to private space. For reasons of public service interests, the use of private land is often carried out without clear procedures and without adequate respect for the rights of landowners.⁷

Although land has a social function, it does not eliminate the character of property as a right protected by law. The social function does require that land be used for the benefit of the community,⁸ but it must still be accompanied by respect for the rights of its holders. Neglect of consent, legal procedures, and the provision of appropriate compensation has the potential to cause violations of civil rights. In such conditions, actions that are initially justified as the exercise of public authority can turn into actions that are detrimental to individuals.⁹ This shift then raises legal issues related to the limits of state responsibility.

In addition, there are also cases where PLN charges the cost of moving poles to the aggrieved landowners, which ultimately creates injustice and obscures legal responsibility for the installation of infrastructure without rights (*illegal encroachment*). Legally, all costs

⁵ Gusti Yosi Andri, et al. *Utilization of Corporate Social Responsibility Funds in Designated Open Green Space Development*, Proceedings of Cirebon Annual Multidisciplinary Conference 2024, UGJ Cirebon, pages 119-124.

⁶ Citra Solvia Hadi Meilia, et al., *The Principle of Justice in the Regulation of Land Acquisition for the Public Interest*, Volume 14 Number 1, 2024, pages 17-36.

⁷ Strateginews, 'Electricity Poles Almost Dominate the Terraces of Residents' Houses, PLN Reasons for Running Out of Land Residents' Rights Ignored?', <https://Strateginews.Id/2025/12/03/Tiang-Listrik-Nyaris-Kuasai-Teras-Rumah-Warga-Pln-Alasan-Kehabisan-Lahan/>, p. 1522. Accessed on December 09, 2025, at 15.22 WIB.

⁸ Nur Sulistyaningsih, Abdusyahid Naufal Fathullah, and Megafury Apriandhini, 'The Implementation of Public Trust Doctrine in Regional and Central Policymaking: Challenges and Opportunities in Indonesia', 5.2 (2023), 70-85.

⁹ The installation of electrical infrastructure by PT. PLN (Persero) on land owned by an individual without the explicit permission of the owner is a violation of the fundamental right of ownership (*eigendomsrecht*). The Supreme Court's cassation decision imperatively stipulates that the action is classified as an Unlawful Act (Article 1365 of the Civil Code) and requires the operator (PLN) to stop the violation of this right by dismantling and moving the installation (power pole) as a restoration of the situation (see <https://dandapala.com/article/detail/kasasi-ditolak-ma-pln-harus-cabut-tiang-listrik-ilegal-di-tanah-warga>, accessed December 16, 2025, at 13.35 WIB).

necessary to restore the situation as it was should be the responsibility of PLN, not charged to the aggrieved party, as stipulated in Article 27 paragraph (1) juncto, Article 30 of Law No. 30/2009 concerning Electricity¹⁰.

State action through PT PLN (Persero) is the Right to Control the State, but it is carried out by violating individual property rights over land, which can be qualified as an unlawful action even though it is carried out on the basis of public interest. This happens because the Right to Control the State as contained in Article 2 of the UUPA is a measure of limited public authority and must be carried out while still respecting property rights as civil rights that are protected by the constitution¹¹. The implementation of state authority that ignores proper procedures, approvals, and compensation is a deviation from the purpose of the Right to Control the State to realize social justice, as well as to meet the elements of unlawful actions as contained in the Civil Code, precisely Article 1365.

To clarify the juridical limits in the use of state authority related to the procurement of electricity infrastructure so that it does not shift into arbitrary actions, this study uses Ronald Dworkin's theoretical approach which places individual rights as a moral as well as juridical limits on state policies through the concept of *rights as trumps*. Through the framework of *fit and justification*, this approach limits the expansion of state authority that cannot be justified legally or justly, so that government actions that ignore individual property rights are classified as unlawful actions.

Previous research has generally analyzed the implementation of compensation regulations, including legal protection for the continuity of land rights affected by the construction of the power grid, but is still limited to transmission networks with voltages above 35 kilovolts. This led to a gap in more detailed regulation related to compensation in the medium voltage network¹². Other research also emphasizes that the state's public authority through PLN is not an absolute right, but must still be subject to the protection of private rights by providing compensation as stipulated in Article 30 of the Electricity Law¹³. The novelty of

¹⁰ <https://imcnews.id/read/2024/01/15/23032/tak-pernah-izin-atau-sewa-bangun-tiang-listrik-di-lahan-orang-minta-dipindahkan-malah-disuruh-bayar/#:~:text=Cak%20Sholeh%20bertanya%2C%20apakah%20PLN,tersebut%20ditancapkan%20sudah%20sekian%20tahun>, accessed on December 16, 2025, at 13.50 WIB.

¹¹ Nasrudin, et al., *Understanding the Status of Land in Indonesia: Between Property Rights and the Right to Control the State*, Journal of Law: Qanuniya, Volume 2 Number 2, 2025, pages 61-75.

¹² Muhammad Agung Ainman Nur Islami, et al., *Legal Protection of Compensation for Land Ownership Due to the Establishment of Electricity Poles by PT. PLN (Persero)*, Journal of Dialogica, Volume 1 Number 1, 2025, pages 1-14.

¹³ Mufidah Eka Widiyanti and others, 2025, 'Juridical Review of the Installation of Electricity Poles Without Permission from the Landowner', 1.2 234–36 <<https://doi.org/https://doi.org/10.71417/jchi.v1i2.25>>.

this study is in the form of an analysis of the clash between the public interest and individual rights using the perspective of Ronald Dworkin's theory, as well as examining the potential for unlawful acts when procedures, consent, and compensation are ignored.

LITERATURE REVIEW

The Right to Dominate the State

A principle that places the state as the holder of the highest authority in regulating the use of space, water, earth, and all natural resources found in it is called the right to control by the state. Based on Article 2 of the UUPA, the scope of the right to control the state is in the form of the authority to manage and carry out the designation, use, preparation, and management of land, which includes establishing the legal correlation that takes place between land and humans. The basis of this authority refers to the 1945 Constitution, precisely Article 33 paragraph (3) emphasizes that state control needs to take place for the full prosperity of the people¹⁴. Referring to related matters, land use is limited by the rules contained in the 1945 Constitution and the UUPA.

The following are the rules that contain protection and recognition for the continuity of individual rights applied in Indonesia.

1. **The 1945 Constitution**, especially Article 28 H paragraph (4), which states: Personal property is the right of every individual, which no one may deprive carelessly.
2. The recognition and protection of individual property rights regarding an object, in this context including land, is discussed in the rules contained in Article 36 of **Law No. 39 of 1999 concerning "Human Rights"** which outlines
 - (1) Each individual has property, either personally or with other individuals, for the betterment of himself, the nation, and society as long as he does not oppose the law.
 - (2) No one shall be allowed to take the property of another person arbitrarily or against the law.
 - (3) Social function of property rights

The fundamental rights that bind each individual by nature and are eternal and universal in nature, where they need to be defended, respected, and protected, and should not be ignored, deprived, or diminished by anyone, are called human rights. This means that individuals are obliged to uphold the human rights of others. The government and the state also have an

¹⁴ Faculty of Law, Muhamadiyah University, and South Jakarta, 'State Authorization on Utilization of Natural Resources in Outer Space According to the 1945 Constitution of the State of the Republic of Indonesia', 16.3 (2019).

obligation to recognize, guarantee, protect, respect, and defend these rights without discrimination.¹⁵

Public Interest

Referring to the UUPA in Article 18, for the public interest in this case, including the common interests of the community, the state, and the nation, the revocation of land rights can be carried out through criteria in the form of providing compensation that is appropriate and in line with legal rules. In addition, Article 1, number 6 in Law No. 2 of 2012, the definition of public interest is the interests of the community, state, and nation that must be created by the government and realized for the full prosperity of the people.

The general description of the discussion in Law No. 2 of 2012 explains the steps to create a society with a prosperous, just, and prosperous atmosphere based on the 1945 Constitution and Pancasila, and then the government is obliged to carry out development. Development for the public interest is a part of development aimed at the scale of national development. This is because the social function is found in the right to land as contained in Article 6, where all rights to land contain related functions.

Article 6 of the Constitution outlines the right to land contained in a person, which cannot be justified, as the land will next be used or limited to his personal needs, especially if this triggers losses for the community. The social function in the UUPA requires that the public and individual interests are aligned and balanced. Thus, the use of land for the public interest is expected to be able to provide benefits for the entire community.¹⁶

Ronald Dworkin's Theory

Referring to Dworkin's idea in *Law's Empire* (1986), it is related to the legal structure not only containing a number of written rules, but also containing equality and justice as part of moral principles. Therefore, when receiving *hard cases*, in this case, the judge does not only apply the legal text from the literal side, but is also able to apply considerations from the moral aspects of the legal system.

¹⁵ Muhammad Bakri, 'ADLN - Airlangga University Library Dissertation Restriction of Land Tenure Rights by the State ... Muhammad Bakri', 2016 <<http://repository.unair.ac.id/id/eprint/32675>>.

¹⁶ Journal of Law and others, 'Journal of Law of Mimbar Justitia, Faculty of Law, Suryakencana University: The Concept of Public Interest in Land Acquisition Linked to Legal Certainty', *THE CONCEPT OF PUBLIC INTEREST IN LAND ACQUISITION IS LINKED TO LEGAL CERTAINTY*, 6.1 (2020).

Tetuko Trie Wicaksana

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Individual rights are affirmed by Dworkin to be at the core of justice and are forbidden to be granted in fulfilling the common interest. He proposed an idea in the form of "*rights as trump*" as a fundamental right of individuals that must be a priority in the formation of legal decisions, especially when it is contrary to public opinion or state policies. There are two steps of the method developed by Dworkin to interpret law, and they are described in detail.

1. *Fit*, i.e., adapting the interpretation along with the available legal framework (precedents and rules)
2. *Justification*, which is to establish the best interpretation that represents the principles of justice and morality.

Referring to Dworkin's perspective, the role of the judge is like being the next writer in a novel or "Judge Hercules," where it is necessary to continue the story or series of laws with value and coherence, rather than creating an opposite or stagnant narrative.¹⁷

Unlawful Acts (PMH)

Referring to the Civil Code, namely Article 1365 regarding PMH, it is an action that is contrary to legal norms or legal laws. Through this action, the individual as the perpetrator needs to be responsible for the implications of losses arising from their actions. This action has great implications for the correlation that takes place between individuals in the scope of society, further requiring a comprehensive understanding of the basis of the law, a number of theories that underlie it, and the relationship with legal philosophy. The term "act" from a special perspective in the context of unlawful actions can be described as follows.

1. Nonfeasance, which is not carrying out actions through the wrong steps, even though they have the authority.
2. Misfeasance, which is carrying out actions through wrong steps, even though they have the authority.
3. Malfeasance, which is carrying out an action without the right to do so.

The definition of unlawful acts refers to legal theory as an act of violation of legal norms and has implications for losses received by individuals or other parties. Here are a number of elements that must be present in categorizing actions that are considered against the law.

1. The existence of actions, namely, concrete actions or helplessness taken by individuals
2. There is a cause-and-effect correlation between losses and actions taken

¹⁷ Muhamad Ibra and others, 'Dworkin and the Common Law Tradition: Philosophical and Practical Implications', 2025, 1–13 <<https://doi.org/10.11111/nusantara.xxxxxxx>>. Tetuko Trie Wicaksana
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3. Triggering losses received by other parties or individuals in a non-material or material form
4. Related actions are contrary to the legal rule of law.¹⁸

Previous Research

An unusual event in one of the residential areas in Subulussalam City, where an electric pole belonging to the State Electricity Company stood in the terrace area of the house in a position very close to the entrance. The homeowner's request to move the pole was responded to by asking residents to provide their own alternative location and take care of the permit. This condition has caused concern among the community because it shows the discovery of an ongoing inconsistency between the authority of electricity service providers and the protection of citizens' rights to private space. Under the pretext of public service interests, the use of private land is often carried out without clear procedures and without adequate respect for the rights of landowners.¹⁹

My research discusses the application of compensation regulations and legal protection for the continuity of land ownership rights owned by communities affected by the construction of power poles with a voltage above 35 kilovolts. As a result, there are no detailed arrangements regarding compensation for medium-voltage networks.²⁰

METHODS

Types of Research

Normative jurisprudence is a type of study that is applied by referring to the legal concept of law about rules (law in books). The main focus of this research lies in the norm system, which basically studies legal rules or provisions as the main object.²¹

¹⁸ Gisni Halipah and others, 'Juridical Review of the Concept of Unlawful Acts in the Context of Civil Law', *Journal of Legal Porch*, 16.01 (2023), 138–43.

¹⁹ Strateginews. Strateginews, 'Electricity Poles Almost Dominate Residents' Terraces, PLN Reasons for Running Out of Land Residents' Rights Ignored?', *Https://Strateginews.Id/2025/12/03/Tiang-Listrik-Nyaris-Kuasai-Teras-Rumah-Warga-Pln-Alasan-Kehabisan-Lahan/*,

²⁰ Darma Budi Setiawan and others, 'LEGAL PROTECTION FOR LANDOWNERS TO GET COMPENSATION FOR THE ESTABLISHMENT OF ELECTRICITY TRANSMISSION FACILITIES IN DENPASAR', *Journal of Legal Construction*, 4 (2023) <<https://doi.org/10.55637/jkh.4.3.8055.335-341>>.

²¹ Ranuhandoko, *Legal Terminology*, (Jakarta: Grafika, 2003), page 419. Law is no longer understood as a mere ideal, but as a system that has been institutionalized and concretely manifested in various applicable legal norms, principles, and institutions (see Saefullah Wiradipradja, *Practical Guide to Research Methods and Writing of Legal Scientific Papers*, Bandung: Keni Media, 2015, page 5).

By using the normative juridical method, this study is expected to be able to present certainty in analyzing unlawful acts related to the installation of electric poles on privately owned trees without the consent of the landowner.

Research Approach

There are seven approaches to normative juridical studies referring to the ideas of Peter Mahmud Marzuki, namely case, legislative, philosophical, conceptual, comparative, analytical, and historical approaches.²² Philosophy and legislation are the approaches applied in this study.

Laws and regulations were chosen to examine positive legal rules that correlate with the installation of power poles, so that researchers can examine regulations that regulate illegal fighting. Meanwhile, a philosophical approach is used to analyze research problems from the perspective of human rights protection, legal certainty, and a number of justice values. This approach is due to the fact that the installation of electric poles is closely related to the conflict between individual rights to land and the public interest.

Source of Legal Materials

According to Suteki, in normative studies, the reality is not popular with the term data, but applies to legal materials.²³ This is because normative research only applies secondary data or literature studies that contain tertiary, secondary, and primary legal materials²⁴.

Through the use of primary legal materials, provisions that regulate the installation of electric poles on private land without the consent of the owner can be traced and then analyzed to determine whether they have presented justice and legal certainty. Among the applicable laws, such as the 1945 Constitution of the Republic of Indonesia, especially Article 33 paragraph (3) and Article 28H paragraph (4), Law No. 39 of 1999 concerning Human Rights, UUPA or regulations that discuss the Basic Regulations of Agrarian Principles, namely Law No. 5 of 1960, Law No. 2 of 2012 concerning land acquisition for development for the public

²² Peter Mahmud Marzuki, *Legal Research*, 5th edition, (Jakarta: Prenada Media Group, 2009), page 93. According to Johnny Ibrahim, the approach in normative legal research can be divided into seven types. These approaches include legislative, conceptual, analytical, comparative, historical, philosophical, and case approaches (see Johnny Ibrahim, *Theory and Methods of Normative Legal Research*, Malang: Bayumedia, 2005, page 300).

²³ Galang Suteki, Taufani, *Legal Research Methodology: Philosophy, Theory and Practice / Suteki*, 1st edn (Depok: Rajawali Press, 2020).page 266.

²⁴ Soerjono Soekanto and Sri Mamudji, *Normative Law Research: A Brief Review*, 17th edition, (Jakarta: RajaGrafindo Persada, 2015), page 13.

interest, Law No. 30 of 2009 concerning electricity, as well as the Civil Code or the Civil Code, precisely Article 1365 which discusses Unlawful Acts.

Secondary legal materials serve as a support in building arguments and analytical frameworks with interpretive steps on existing regulations. This material is sourced from legal literature and scientific publications. Meanwhile, tertiary legal materials play a role in providing contextual information and helping to validate terms, so that the understanding of applied legal materials becomes more comprehensive.²⁵, for example, a legal encyclopedia or a legal dictionary.

Legal Material Analysis

The analysis in normative law studies takes place by examining the legal materials obtained. Next, the data produced is in the form of normative text, not numerical or statistical data, so that the analysis method used is qualitative²⁶. Therefore, a systematic interpretation analysis technique is used to examine the integration and consistency of the entire legal system, particularly regarding HMN in the public interest, the protection of individual rights, and the provisions of Article 1365 of the Civil Code.

DISCUSSION

The act of installing electric poles in the public interest without the permission of the landowner can be categorized as PMH

Elements of Deeds

The element of deeds includes the existence of active actions that are carried out consciously by a person or the body. The installation of electric poles by PT PLN as an energy service provider is a tangible form of this action, which involves the deployment of labor and the use of materials that are directly carried out on community-owned land. In the doctrine of law, any physical action that causes a change in an object can be categorized as an unlawful act.²⁷ Judges usually identify this element through field facts that show the existence of permanent infrastructure development.

In addition to being active, elements of actions can also appear in a passive form, namely, neglect of legal obligations that should be carried out. The act of applying for a permit to the

²⁵ Bambang Sunggono, *Legal Research Methods* (Jakarta: Raja Grafindo Persada, 1998). page 117.

²⁶ Soerjono Soekanto and Sri Mamuji, *op.cit*, page 12.

²⁷ Halipah and others.

Tetuko Trie Wicaksana

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landowner before installation is a form of significant passive act, because the perpetrator is considered to have violated the obligation of the owner to make a notification and deliberation in accordance with the provisions of land acquisition. Non-compliance with such administrative procedures is qualified as an act in the context of a civil lawsuit.²⁸ The absence of consent from the owner of the land further emphasizes that this action is a form of unilateral intervention.

In law, unlawful acts are classified into several technical forms, such as *malfeasance* and *misfeasance*.²⁹

The installation of electric poles on private land without a valid right basis can be classified as *malfeasance*, which is an action carried out without rights. Meanwhile, if the action is carried out with the wrong procedure despite the authority, then it falls under the category of *misfeasance*. These two forms show that any action that interferes with the property of another person still fulfills the element of the deed. The unilateral placement of electric poles is clear evidence of interference with the subjective rights of landowners.

Law No. 30 of 2009 concerning Electricity does provide authority for business license holders to utilize community-owned land. Article 27, paragraph (1), letter d stipulates that PLN may cross or use privately owned land for the public interest. However, the implementation of relevant authorities is still mandatory through a legitimate and transparent legal mechanism. The fact that the installation of the poles is carried out without the consent of the landowner indicates a deviation from the provision.³⁰ Thus, physical actions in the field are the main basis for proving the fulfillment of the elements of action.

The existence of physical electric poles in the yard or land owned by residents is concrete evidence of the existence of an act. Judges generally see this action as the starting point for the emergence of losses, both material and immaterial.³¹ The act is real and direct, so it does not require complex interpretations to prove it. The electricity service provider also cannot deny

²⁸ Anita Kamilah, 'THE VALIDITY OF FIDUCIARY GUARANTEE CERTIFICATES FOR UNLAWFULLY PLEDGED THIRD PARTY PROPERTY', *Junal Hukum Mimbar Justitia*, 4.1 (2018), 22–42.

²⁹ Dewi Hendrawati Rini Dameria, Achmad Burso, 'UNLAWFUL ACTS IN MEDICAL ACTIONS AND SETTLEMENTS IN THE SUPREME COURT', *Diponegoro Law Journal*, 6.1 (2017), 1–20
<<https://doi.org/https://doi.org/10.14710/dlj.2017.15542>>.

³⁰ Glenn Kevin Caill Argya Attallah Apriyano Adam Ramadhan, 'Juridical Review of Unlawful Acts on Land Disputes through the Principles of Justice and Legal Certainty', *SAKOLA - Journal of Cooperative Learning and Law Science*, 2.1 (2025), 736–44.

³¹ Mendy Cevitra and Gunawan Djajaputra, 'Unlawful Acts (Onrechtmatige Daad) According to Article 1365 of the Civil Code and its Development', *UNAS LAW REVIEW*, 6.1 (2023), 2722–31
<<https://doi.org/https://doi.org/10.31933/unesrev.v6i1>>.

the existence of its actions if the infrastructure has been established at the disputed location. Thus, the element of active action can be said to have been fulfilled perfectly.³²

The principle of participation requires deliberation before physical action is carried out in infrastructure development. The lack of involvement of the landowner in the process indicates that the installation was carried out unilaterally. The perpetrator can be considered to have ignored the legal stages that have been regulated in the land acquisition mechanism. The absence of minutes of the agreement is evidence that the action was carried out without an adequate basis for legitimacy. Therefore, any installation of an electric pole without an official permit directly fulfills the element of the act.

Based on this analysis, the elements of the act in the unlawful act can be declared fulfilled through the act of installing electric poles. This activity is a form of active action that changes the physical condition of other people's land. In addition, the neglect of the legal obligation to coordinate also reflects acts in a passive form. Other elements of unlawful acts will depend on preliminary evidence of the existence of this act. Thus, the installation of electric poles without a permit is sufficient for the elements of acts or actions as contained in Article 1365 of the Civil Code.

Unlawful Elements

Assessment of this element involves analyzing the conformity of the act with objective legal norms and the subjective rights of others.³³ The installation of electric poles without the consent of the landowner automatically enters the realm of violation of the subjective rights of individuals. Such a claim injures the Eigendomsrecht or property rights that are fundamentally protected by contributions and laws.³⁴

The right to vote on land is the fullest, strongest, and hereditary right that can be owned by a subject of law. Physical intervention in the form of installation of infrastructure without a permit is a form of occupation without rights that violates the authority of the land owner. Juridically, the act meets the criteria for violating the rights of others in the category of onrechtmatige daad. Energy service providers and state-owned entities are not justified in ignoring the private sovereignty of landowners.³⁵ Any physical interference with lawful land tenure is categorized as an unlawful act for ignoring evidence of official ownership.

³² Halipah and others.

³³ Sari. *Loc.Cit*

³⁴ Ramadan. *Loc.Cit*

³⁵ Halipah and others. *Loc.Cit*

Tetuko Trie Wicaksana

DOI 10.62885/legisci.v4i2.1225

The unlawful element is also fulfilled through the violation of legal obligations that are binding on the perpetrator of the act.³⁶ Law No. 30/2009 on Electricity requires permit holders to comply with all licensing and land use procedures. The obligation to provide fair and decent compensation is an imperative legal mandate for any infrastructure development.³⁷ This neglect of administrative obligations and deliberation procedures makes the act illegal. The perpetrator is considered to have violated his own legal obligation to respect the property rights of citizens that have been guaranteed by the state.³⁸

Norms of decency and propriety in community relations are also the main benchmarks in determining elements against the law.³⁹ Unilateral installation of infrastructure without a coordination process is contrary to the principles of ethics and prudence or *zorgvuldigheid*.⁴⁰ The community has a legal expectation that every private land use must be socially appropriate, which hurts the sense of substantive justice that grows in people's lives.⁴¹ Judges often identify these operational improprieties as a form of arbitrary action that is against the law.

Legal references related to land acquisition for the public interest require consensus through a transparent deliberation mechanism. The absence of the minutes of the agreement proves that the installation of the electric pole does not have a valid legal basis.⁴² Actions carried out without a legitimate basis of rights are classified as *malfeasance* in the doctrine of civil law.⁴³ The public interest cannot be used as a justification for illegal property grabbing. Thus, juridically, all the criteria for declaring the fulfillment of the unlawful element in the case of the installation of an unlicensed power pole have been perfectly proven.⁴⁴

Elements of Error

Actions in the form of intentional inconsistencies (mistakes) or *dolus* can be proven when the perpetrator is aware of the losses that can be caused. Then, from the side of the electricity service provider, it has been analyzed that they have made a deliberate mistake because they continue to install poles even though they have been installed by other individuals. The perpetrator knowingly committed a mistake to violate other subjective rights so that the

³⁶ Sari. *Loc.Cit*

³⁷ Halipah and others. *Loc.Cit*

³⁸ Sari. *Loc.Cit*

³⁹ Cevitra and Djajaputra.

⁴⁰ Sari. *Loc.Cit*

⁴¹ Rini Dameria, Achmad Burso.

⁴² Halipah and others. *Loc.Cit*

⁴³ Sari. *Loc.Cit*

⁴⁴ Halipah and others. *Loc.Cit*

Tetuko Trie Wicaksana

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perpetrator was declared not to comply with the licensing procedure for the smooth operation of infrastructure development. This evidence has been considered an indication of an intention to prioritize corporate interests over the protection of citizens' property rights.

Culpa or here means negligence can also enter the element of fault because the perpetrator did not act carefully, in this case, such as the officer was unable to verify the physical and juridical data of the land before the installation of the pole, as a form of administrative negligence. In this case, the company's mistake is that it failed to implement standard operating procedures (SOPs)⁴⁵ such as neglecting the provision of a safe distance of 3 meters for electric cables, which can endanger the community. This is a mistake in coordination, so the element of this error increases.⁴⁶

In measuring the error of objectivity, it can be measured based on the standard of a *reasonable man* in society.⁴⁷ As a form of professionalism, legal subjects should understand that the use of private land requires an official notification in advance because it is mandatory. In reality, the public has high expectations of SOEs (State-Owned Enterprises) in their compliance with the law, deviant actions, and social propriety and professional ethics create an image that prevents them from being ideal in social interaction.⁴⁸

There is no tolerance/elimination of errors in the installation of power poles without permission (*rechtvaardigingsgrond*). Any reason, including reasons for the public interest, cannot be used as a justification for arbitrarily occupying land without compensation procedures because such actions are not carried out in an emergency or something urgent for the safety of life. The subject does not have the right in accordance with the law to carry out the seizure of property rights without a deliberative agreement; the absence of a document of the minutes indicates that the action is purely a procedural error.

There was also an error in the realization of the imperative law in Law No. 30/2009. Parties who have a license for business that takes place related to the provision of electricity are required by law to provide compensation to the landowner in a proper and fair manner.⁴⁹ The neglect of the law here is evidenced by the failure to carry out the obligation of deliberation to reach an agreement, and the perpetrator is declared to have committed *nonfeasance* because

⁴⁵ Sari.

⁴⁶ Rini Dameria, Achmad Burso.

⁴⁷ Cevitra and Djajaputra.

⁴⁸ Rini Dameria, Achmad Burso.

⁴⁹ Ramadan. *Ibid*, p. 742

Tetuko Trie Wicaksana

DOI 10.62885/legisci.v4i2.1225

he did not do something that should be required by agrarian law so that he can be held accountable for the violation of the perpetrator's legal obligations.⁵⁰

Based on the juridical analysis, it has been stated that it is legally wrong to install an electric pole without a permit. The disintegration of development policy with respect to *eigendomsrecht* creates a fatal legal failure. Therefore, finally, the electricity service provider is obliged to bear all legal risks and costs of recovering rights for their operational errors. Original documentation, such as the existence of physical evidence of infrastructure on private land without official permit documents, enhances the proof of this element of error. Thus, a civil lawsuit can be filed by the landowner because it has a solid legal reference to demand substantive justice

Elements of Loss

The element of loss or damage is a requirement in proving a lawsuit against the law based on the civil law book, namely Article 1365. According to the regulations, actions by physical intervention can only be asked for clarity if they are considered to have harmed other parties; in this case, the installation of electric poles without the permission of the landowner actually results in various non-fulfillment of a person's subjective rights. In the end, the burden of material and immaterial losses from the infrastructure accumulates,⁵¹

If sorted, the first material loss that arises is a decrease in the economic value of the land due to the permanent existence of electric poles. Here, landowners lose potential income because the market price of land has decreased drastically, as prospective buyers tend to avoid land that has electrical installations in it. In other words, the cost of restoring the legal status of land through the judicial or *vermogensrecht* of the landowner has been significantly injured.⁵²

The owner's private space is also limited because there is an infrastructure installation. The plan to change the position of the building was hampered several times because the position of the poles obstructed the main construction. In the end, to adjust the desired building design, there is a potential violation of the safe distance of the power cable set by the government. This physical obstacle is a result of a loss of land use that should be complete and safe from any intervention. The actions of the electricity service provider have deprived the land of its use value for the benefit of the rightful owners.⁵³

⁵⁰ Halipah and others.

⁵¹ Sari.

⁵² Halipah and others.

⁵³ Rini Dameria, Achmad Burso.

Tetuko Trie Wicaksana

DOI 10.62885/legisci.v4i2.1225

It can be seen from the other side, namely the immaterial aspect or ideal loss which is also fulfilled through the disruption of comfort and tension of life. Here, the landowner experiences emotional disturbances and anxiety that continue to occur due to the risk of short circuits or the collapse of poles in densely populated areas. In a civil trial, this emotional disturbance can be assessed with a sum of money, thus strengthening the basis for making a claim for compensation. These non-physical losses are a direct consequence of the disregard for ethical principles and prudence in operations in the field.⁵⁴

The real loss component can also be assessed from the increased safety risk due to installation that is not in accordance with technical procedures, because the lives of all building occupants are neglected due to the neglect of the provisions of the safe distance of cables as far as 3 meters from the roof of the house. Therefore, residents feel threatened because of the potential for future electrical accidents. This situation forces the landowner to bear the burden of risks that should not have existed if permission had been requested beforehand. Therefore, legally, this threat to environmental security is validated as a form of substantive loss.⁵⁵

It is further aggravated by the absence of proper and fair compensation or compensation for landowners who provide evidence of the fulfillment of the element of loss. Land rights for public infrastructure are often not accompanied by commensurate compensation because infrastructure providers often avoid compensation obligations. This can be categorized as a unilateral deprivation of evidence of economic value because the act of erecting poles without providing compensation so that the land owner has juridically lost part of their property rights without adequate restoration of circumstances.⁵⁶

The causality or causal relationship is the fifth indicator that is cumulative in proving an action lawsuit against the Civil Code, namely Article 1365, along with the losses experienced by the victim. The judge needs to prove this causal relationship in order to establish the obligation of compensation for the perpetrators of infrastructure installation who have committed mistakes in this case, violating the rules. In the absence of a real cause-and-effect relationship, a civil injunction has no juridical basis to be granted⁵⁷.

A theory says that if there is no physical harm caused, then the loss is considered to have never occurred, science knows the theory of factual relationship or causation, in fact, which is

⁵⁴ Sari.

⁵⁵ Rini Dameria, Achmad Burso.

⁵⁶ Sari.

⁵⁷ Gisni Halipah, *Juridical Review of the Concept of Unlawful Acts in the Context of Civil Law*, Serambi Hukum Journal, Volume 16 Number 1, 2023, pages 138-143.

Tetuko Trie Wicaksana

DOI 10.62885/legisci.v4i2.1225

often called the principle of *conditio sine qua non*.⁵⁸ The main factual cause of the emergence of agrarian disputes in this case is the unilateral installation of electric poles on private land. Because of this, the owner of the right is disturbed in controlling the land. Thus, the element of causality is fulfilled when the loss of the victim is proven to be directly sourced from the infrastructure development activity.⁵⁹

On the other hand, the physical existence of electric poles also results in a drastic depreciation of the economic value of the land. The market price of property has decreased due to obstacles to the beauty and function of the private land, the actions of the perpetrator in establishing the tianng without permission, which is the cause of financial losses. Landowners will not lose the value of their assets if the electricity service provider installs according to procedures. This cause-and-effect relationship is real because economic losses follow the physical existence of infrastructure in tandem.

Without his permission in the installation of electric poles, it also causes land owners not to freely use their private space. The process of changing the position of the building in the construction of the building is also often canceled because the position of the poles that hinder the construction because they are installed is not in accordance with the applicable procedures. The disruption of the freedom of landowners is a direct result of the act of installing electricity infrastructure. Therefore, if muasyawarah is carried out for the installation of poles, then the landowner will not suffer this loss.⁶⁰ This causal relationship will continue to be causal because the obstacles to land use that occur are a logical consequence of the improper placement of poles.

Safe distances that are ignored also threaten the safety aspect of the community. Residents feel anxious because there is a potential for an electrical accident that causes immaterial losses in the form of emotional disturbances. The emergence of this risk is a consequence of the careless actions of the operator⁶¹. Without the installation of cables that cross the roofs of houses, the psychological worries of the residents will never arise. This causal relationship proves that these unlawful actions are an efficient cause of the loss of the victim's sense of security.

⁵⁸ Glenn Kevin Cailla, et al., *Juridical Review of Unlawful Acts Regarding Land Disputes Through the Principles of Justice and Legal Certainty*, SAKOLA - Journal of Science Cooperative Learning and Law, Volume 1 Number 2, 2025, pages 736-744.

⁵⁹ Halipah and others.

⁶⁰ Cevitra and Djajaputra.

⁶¹ Sari.

An effective proximate cause theory provides a limitation that damages can only be charged on losses that are alleged to arise as a result of the main event.⁶² Losses in the form of legal fees to recover land rights are included in the category of direct impacts of the perpetrator's actions. To maintain evidence of his infringed certificate, the landowner was forced to bear the operational costs of the court. The financial expenditure is a direct result of the failure to mediate over the arbitrary actions of the electricity provider. Thus, the relationship between unlawful actions and the cost burden of rights restoration has been legally proven.

Land with a valid SHM or Certificate of Ownership should be protected from intervention, because it undermines the principle of land legal certainty. This move triggered ownership disputes that cost landowners time and energy for years. The wasted time and energy occur only because the pole installer ignores proof of ownership. If the electricity provider respected the sovereignty of property rights from the beginning, legal disputes would never have occurred. This causality confirms that the entire series of agrarian conflicts originated from one illegal act.⁶³

In civil law, the party filing the lawsuit or the victim bears the burden of proving a cause-and-effect relationship. The landowner must prove that the losses are a tangible result of the installation of the infrastructure. Certificates of evidence and field facts about pole position serve as a very powerful causality tester in trials. The judge will conclude that there is a relationship if the act violates the rules made to protect the interests of the victim. Juridically, the installation of electric poles without a permit qualifies as the sole cause of the loss of property rights of residents.

Installation of Electric Poles on Land Owned by Individuals without Permission according to Ronald Dworkin's View

The state has the authority to regulate the use of land for the prosperity of the people through a constitutional mandate. The actions of PT. PLN (Persero) installing electricity poles on private land is a manifestation of this collective policy. This policy often intersects with the interests of individuals who have legal ownership of the land. Referring to Dworkin's

⁶² Indah Sari, *Unlawful Acts (PMH) in Criminal Law and Civil Law*, Aerospace Law Scientific Journal, Volume 11 Number 1, 2020, pages 53-70.

⁶³ Ramadan.

Tetuko Trie Wicaksana

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perspective on individual property rights is not just a technical civil interest but a fundamental right that needs to be protected⁶⁴.

By ignoring these basic rights, the government, through the actions of PT PLN (Persero), made a mistake even though there are benefits for the wider community. The installation of electric poles without permission clearly violates a person's basic rights. The public interest should not be a justification for unilaterally depriving citizens of private space, even if it is by the Government. Dworkin rejected the idea that individual rights could be defeated simply for the sake of giving society an advantage or benefit.⁶⁵

In a situation where power poles are installed without permission, the "public interest" argument put forward by PLN is a form of policy aimed at achieving collective benefits. However, Dworkin's idea of outlining the principle of individual ownership of land should take precedence over communal utilization.⁶⁶ Dworkin's theory explains that the Right to Rule the State (HMN) is not an absolute right; it must be subject to an obligation to respect the rights of the individual/individual.⁶⁷

According to Ronald Dworkin, the definition of public interest for the prosperity of the people is a political policy.⁶⁸ This political policy is contained in the mandate of Law No. 30 of 2009, as well as regulations related to land acquisition for the continuation of public needs. This is different from Property Rights guaranteed by Article 20 of the UUPA as a fundamental principle or moral right of individuals. The mandate of Article 33 of the 1945 Constitution regarding the prosperity of the people is seen as a legitimate policy mandate and must be managed by the state responsibly. Therefore, the fulfillment of the people's prosperity through PT. PLN (Persero) is obliged to submit to the supremacy of constitutionally recognized private rights.

Property rights are guaranteed in Article 20 of the UUPA because this right is fulfilled, strongest, and also hereditary.⁶⁹ Dworkin emphasized that the provisions of Article 20 could serve as a trump card that provides protection based on moral rights. The provisions on social

⁶⁴ Joao Costa Neto, *Rights as Trumps and Balancing: Reconciling The Reconcilable*, Revista Direito, Volume 11, Number 1, 2015, pages 159-188.

⁶⁵ Ronald Dworkin, *Taking Rights Seriously*, (Cambridge: Harvard University Press, 1977), page 200.

⁶⁶ Agam Ibn Sina, *The Evolution of Ronald Dworkin's Legal Philosophy: From Interpretivism to Integrity*, Journal of Humanities & Education: ABJAD, Volume 3 Number 2, 2025, pages 111-124.

⁶⁷ HMN does not mean 'owning' but only regulates and manages as the highest authority based on the mandate of the Nation's Rights that has been regulated in the UUPA (see Tina Marlina et al., *Agrarian Law Textbook*, Yogyakarta: Deepublish, 2023, page 12).

⁶⁸ Natalia Niedmann Alvarez, *From The Rule of Law to A Rule of Rights*, The International Journal of Human Rights, pages 1-19, DOI: 10.1080/13642987.2022.2035096.

⁶⁹ Maiyestati, *Agrarian Law*, (Padang: LPPM Bung Hatta University, 2023), page 61.

functions contained in Article 6 of the UUPA do not authorize the ruler to act arbitrarily on behalf of the people. The restriction of rights through social functions is only justified if there is a basis that is in accordance with the provisions of Article 18 of the UUPA, namely, compensation.⁷⁰

The provision of adequate compensation is a manifestation of the legal obligation to respect human dignity. The installation of electric poles on land owned by individuals without the consent of the owner creates an imbalance in the legal relationship between the state and the citizens. This imbalance requires a restoration so that the position of the parties returns to a proportionate state. This is in line with corrective justice in Aristotle's thought, which serves to restore the imbalance due to the violation of rights. Aristotle emphasized that just action should be concerned with the common welfare without sacrificing the individual⁷¹.

State legal liability arises when there is a violation of individual rights. The installation of electric poles without a permit is a form of unauthorized intervention. Related actions can be classified as unlawful actions. The state or business entity that acts must bear the legal consequences. Compensation is a form of recovery for the aggrieved party.

The relationship between social function, public interest, and legal responsibility shows a close relationship. Social functions provide the basis for restricting rights. The public interest is the purpose of the restriction. Legal liability arises when restrictions are unlawfully imposed. These three elements form a unity in the analysis.

Dworkin provides a moral framework for assessing state actions in this context. Individual rights must be placed as a limit to state power. Public policy cannot ignore the principle that protects rights. The state must ensure that every action is in line with those values. This approach strengthens the protection of individual rights.

Thus, land tenure for the public interest must be carried out carefully. The state is obliged to respect the rights of individuals and follow legal procedures. Social functions are not capable of being a trigger or background for acting arbitrarily. Legal liability is a consequence of every

⁷⁰ Myrna A. Safitri, et al., *Agrarian and Community Law*, (Jakarta: HuMa, Van Vollenhoven Institute, KITLV, 2010), page 313. Social functions cannot be interpreted as a justification for the unilateral actions of the state. Restrictions on rights must be carried out through legitimate and transparent procedures. The use of land without the consent of the owner is contrary to the principle of protection of rights. The provision of appropriate compensation is an obligation so that the action has legal legitimacy.

⁷¹ The installation of electric poles without permission may be based on public policy, but it must still be morally tested. The concept of justice as a moral virtue demands that there is an action that is not only legally valid, but also ethically correct. Formal legality is not enough if the act violates the rights of the individual (see Probo Pribadi S.M., *Discovering the Meaning of Justice in the Legal Context According to Philosopher Aristotle and Its Relevance in the Modern Era*, 2025, pp. 1-12, [10.13140/RG.2.2.11080.64006](https://doi.org/10.13140/RG.2.2.11080.64006)).

violation. Individual rights and a balanced public interest are the key to maintaining legal justice.

CONCLUSION

1. The act of installing electric poles on privately owned land without the owner's consent can be classified as an Unlawful Act because it has sufficient elements of perversion, unlawful nature, error, loss, and causal relationship. These actions violate the subjective rights of the landowner and are not in accordance with the land acquisition procedures or the provision of proper compensation. Therefore, the party that carried out the installation is obliged to restore the situation and provide compensation.
2. According to Ronald Dworkin's perspective, the conflict between the public interest and individual rights must be resolved by placing individual rights as "*rights as trumps*" that cannot be defeated by utilitarian policies alone. The public interest cannot be the background for the disregard of property rights without legal basis, consent, and fair compensation. Referring to related matters, the state's authority when using land is limited by moral and juridical principles that guarantee the protection of individual rights.
3. The social function of land allows the use of land for the public interest, but its implementation must still respect individual rights as affirmed in Dworkin's theory. Social functions cannot be used as a basis for justification for unilateral actions without proper procedures, consent, and compensation. Therefore, the implementation of balanced social functions is a requirement so that the use of land for public interest is not categorized as unlawful expansion.

Suggestions

1. The government and PT. PLN (Persero) must carry out the development of electricity infrastructure by complying with legal procedures, including obtaining the approval of the landowner and providing appropriate compensation. Supervision and law enforcement need to be strengthened so that there is no installation of infrastructure without a valid legal basis. In addition, regulatory harmonization is needed to prevent the vacuum of norms that have the potential to harm society.
2. The state and law enforcement officials must place the protection of individual rights as the main limit in any policy that correlates with the public need. The approach used in dispute

resolution should be based on the principle of substantive justice as put forward by Ronald Dworkin. Therefore, every action that ignores individual rights must be considered a violation of the law and given strict sanctions.

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