
MEASURING JUSTICE IN THE SETTLEMENT OF KALURAHAN LAND DISPUTES: AN AGRARIAN LAW PERSPECTIVE

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ABSTRACT

The Special Region of Yogyakarta (DIY) has a special status in land management based on Law No. 13/2012, giving it greater authority in land utilization. Kasultanan and Kadipaten lands are recognized as property rights for the welfare of the community. However, misuse of land licenses has become a serious problem, triggering land conflicts and threatening the environment and the rights of local communities. The research method includes legal (regulatory analysis) and sociological (empirical data) approaches. Primary data was obtained from the community, while secondary data came from legal materials. Case studies were conducted in 4 districts and 1 city in Yogyakarta, focusing on land use permits. Data were collected through document studies, interviews, and observations, then analyzed qualitatively. The research lasted for three months. The origin of land tenure in Yogyakarta dates back to the 1755 Treaty of Ganti, with different histories for Sultanate, Duchy and Kalurahan lands. After independence, Yogyakarta was given agrarian autonomy. Dualism in agrarian law led to uncertainty, triggering corruption and conflict. Regulatory reform, transparency and community participation are needed to address land permit abuse and realize equitable management. The main challenge is the misuse of land licenses, which often involves corruption. Regulatory reform, legal harmonization, institutional strengthening, law enforcement, technology utilization, and strengthening legal culture are needed to address this issue. These efforts aim to realize a fair, transparent and sustainable land management system, involving all relevant parties.

Daerah Istimewa Yogyakarta (DIY) mempunyai status khusus dalam pengelolaan pertanahan berdasarkan Undang-Undang Nomor 13 Tahun 2012 sehingga memberikan kewenangan yang lebih besar dalam pemanfaatan pertanahan. Tanah Kasultanan dan Kadipaten diakui sebagai hak milik untuk kesejahteraan masyarakat. Namun penyalahgunaan izin pertanahan telah menjadi permasalahan serius yang memicu konflik pertanahan dan mengancam lingkungan hidup serta hak-hak masyarakat lokal. Metode penelitian meliputi pendekatan hukum (analisis regulasi) dan pendekatan sosiologis (data empiris). Data primer diperoleh dari masyarakat, sedangkan data sekunder diperoleh dari bahan hukum. Studi kasus dilakukan di 4 kabupaten dan 1 kota di Yogyakarta, dengan fokus pada perizinan penggunaan lahan. Data dikumpulkan melalui studi dokumen, wawancara, dan observasi, kemudian dianalisis secara kualitatif. Penelitian berlangsung selama tiga bulan. Asal mula penguasaan tanah di Yogyakarta berawal dari Perjanjian Ganti tahun 1755, dengan sejarah yang berbeda-beda untuk tanah Kesultanan, Kadipaten, dan Kalurahan. Setelah kemerdekaan, Yogyakarta diberikan otonomi agraria. Dualisme hukum agraria menimbulkan ketidakpastian, memicu korupsi dan konflik. Reformasi

peraturan, transparansi dan partisipasi masyarakat diperlukan untuk mengatasi penyalahgunaan izin lahan dan mewujudkan pengelolaan yang adil. Tantangan utamanya adalah penyalahgunaan izin lahan, yang seringkali melibatkan korupsi. Reformasi regulasi, harmonisasi hukum, penguatan kelembagaan, penegakan hukum, pemanfaatan teknologi, dan penguatan budaya hukum diperlukan untuk mengatasi permasalahan ini. Upaya tersebut bertujuan untuk mewujudkan sistem pengelolaan lahan yang adil, transparan, dan berkelanjutan dengan melibatkan seluruh pihak terkait.

Kata Kunci: *Permit Abuse, Land Management, Regulatory Reform.*

A. INTRODUCTION

Yogyakarta Special Region (DIY) has a special status in the management of natural resources, including land. This specificity is regulated in local laws and regulations that give greater authority to the DIY government in regulating land use in its area (Riswati, 2022). This privilege provides great opportunities for more independent management and oriented towards the welfare of local communities (Febriansyah et al., 2021).

The privilege of Yogyakarta is recognized in Law Number 13 of 2012, which gives DIY special authority in land management. The land of the Sultanate and Duchy is recognized as property rights that can be managed for social interests and community welfare, provided that they are in accordance with applicable regulations (Wirawan, 2019). Village Cash Land, as one of the village's wealth, is managed for the benefit of government, development, and service of the village community (Pambudi, 2023). Regulation of the Governor of the Special Region of Yogyakarta Number 11 of 2008 regulates the management of Village Cash Land, the use of which must be in accordance with the provisions and obtain permission from the local government

Law Number 26 of 2007 concerning Spatial Planning aims to realize a safe, comfortable, productive, and sustainable national territorial space. Land stewardship is further regulated by Government Regulation Number 16 of 2004, which emphasizes the importance of RTRW in managing land use. The management of the Sultanate Land must obtain permission from the Sultanate or Duchy. Sultanate land can be burdened with other land rights such as building use rights, use rights, and lease rights, in accordance with laws and regulations.

Article 33 paragraph (3) of the 1945 Constitution states that the earth, water, and natural resources are controlled by the state for the prosperity of the people. This provision is spelled out in the UUPA, which stipulates that the state has the authority to regulate the use and maintenance of natural resources for the prosperity of the people. The state may delegate land management authority to regions and customary law communities in accordance with government regulations. The UUPA also regulates the obligation to maintain soil fertility and quality for all land rights holders. Land must be

optimally utilized for public purposes, such as agriculture, fisheries, and industry, and must be aligned with the existing Regional Spatial Plan (RT/RW) (Pambudi, 2023).

The specificity of DIY brings its own challenges in land permit management. The issue of misuse of land permits in DIY has become a complex and ongoing issue in recent years. Weak interagency supervision and coordination in the land licensing process opens up opportunities for irregularities. Poor coordination between relevant institutions leads to overlapping authority and asynchronous policies (Sinaga & Rini, 2022).

Unclear regulations and loopholes in existing regulations are used by certain parties to carry out abusive licensing practices. In addition, a strong economic drive to gain access to land illegally or by violating regulations also contributes to irregularities, such as corrupt practices and bribery in the licensing process.

The consequences of misuse of land permits are very detrimental. Illegal land tenure is becoming more prevalent, potentially triggering land conflicts between interested parties. In addition, this abusive practice also threatens environmental sustainability, such as uncontrolled land use change or excessive exploitation of natural resources.

Furthermore, the rights of local communities are often neglected. Their access to land is limited and their interests are ignored in favor of certain powerful parties. This of course contradicts the principles of justice and community welfare which should be the main goal in natural resource management (Anita et al., 2022).

By understanding the root causes and factors that influence misuse of permits related to land use, and formulating steps to resolve them, it is hoped that this effort can make a significant contribution in realizing better governance and integrity in land management, as well as minimizing the potential for corruption in this field.

B. METHODS

The research methods used in this study include two main approaches, namely the legal approach (normative) and the sociological approach (empirical) (Benuf & Azhar, 2020). The legal approach uses analysis of laws and regulations, while the sociological approach involves collecting empirical data from the public (MARKUAT, 2022). The data sought are divided into primary data obtained directly from the community through field studies, and secondary data which include primary and secondary legal materials.

The location of this activity includes 4 regencies and 1 city in the Special Region of Yogyakarta, case studies of the use of permits that are not in accordance with their designation, namely: Yogyakarta City, Bantul Regency, Gunungkidul Regency, Kulonprogo Regency and Sleman Regency in this case in Kaliwaru, Condongcatur Village, Kapanewon Depok, Sleman Regency with a focus on case studies of permit utilization that is not in accordance with its designation. Data collection methods

include document studies for secondary data and interviews and observations at the activity site for primary data.

Data analysis is carried out using a qualitative approach, where the data is systematically elaborated to facilitate interpretation and conclusions. The stages of the study include literature review, regulatory studies, mapping through discussions, surveys and observations in the field, as well as review of results by a team of experts. The period of implementation of this activity is for three months with the stages of completion of work that have been scheduled in detail.

C. RESULTS AND DISCUSSION

The origin of land tenure in the Yogyakarta region involves historical treaties, such as the Gianti Agreement in 1755 which marked the establishment of Yogyakarta. The lands of the Sultanate, Duchy, and Kalurahan have different histories of tenure, from the granting to courtiers to the abolition of the apanage system in 1914 which gave stronger rights to the population. After Indonesian independence, the Special Region of Yogyakarta was formed, giving it autonomous authority in land affairs (Purnomo, 2022).

Identification of land utilization of Sultanates, Districts, and Villages shows the potential for criminal acts of corruption. The dualism of agrarian law between national law and the DIY Privilege Law causes ambiguity in land tenure, creating space for violations and legal conflicts (Tetama, 2023). With the enactment of Law Number 6 of 2014 concerning Villages, village autonomy is recognized and respected in the national government system. Villages are given the authority to organize their own government, including in terms of land management and village development.

The delegation of authority to villages in accordance with the right of origin and local authority at the village scale, provides opportunities for villages to manage resources and meet local needs more effectively (Adinegoro, 2023). Community participation in supporting government programs and improving welfare is expected to increase through village empowerment and proper control of land (Huda & Wandebori, 2021).

Kalurahan land disputes often occur in various regions, including in Yogyakarta. One of the cases that attracted attention was the misuse of village land utilization permits for certain interests. This case raises questions about fairness in resolving urban land disputes from an agrarian law perspective. In Yogyakarta, there were cases where village land utilization permits granted by the local government were misused. The land is supposed to be used for the benefit of indigenous peoples, but in practice it is used for commercial purposes such as the construction of shopping centers or industrial estates. This has led to conflicts between local governments, investors, and indigenous peoples who feel their rights are being violated (Permadi, 2023).

The Land Mafia, a phenomenon that is increasingly prominent in society, has a variety of definitions and complex modus operandi (Krisnantoro, 2022). The definition of online KBBI describes them as secret groups involved in crimes on plots of land. They are structured and organized, with members holding systematically divided roles. Prof. Nurhasan Ismail explained that their structure involves sponsorship groups, frontline groups, and professional groups, working legally and illegally.

In practice, the land mafia uses a variety of methods, both illegal and apparently legal. They engage in document forgery, violence, and a structured and logical legal approach. Their tactics include intimidation, embezzlement, and fraud, with the eventual goal of illegally controlling land or legalizing their ownership (Wirawan, 2022).

Regarding the handling, the Ministry of ATR/BPN has realized the existence of individuals in their agencies who are involved in land mafia practices. They have sought to work with other law enforcement agencies to eradicate the practice. The modus operandi of land mafias such as falsification of documents and the use of courts to achieve their goals make handling them complex.

Looking from the perspective of Lawrence Meir Friedman's theory, legal culture plays an important role in understanding and handling legal issues such as land mafias. Friedman emphasized that legal culture, both internal and external, influences legal behavior and decisions in society (Wahyuni et al., 2021). By understanding the legal culture, handling land mafia cases can be more comprehensive and effective.

The problem of misuse of land permits in the Special Region of Yogyakarta (DIY) is directly related to the unique characteristics of its land governance arrangements that reflect its rich history and cultural heritage. DIY has a different legal system from other provinces in Indonesia, which recognizes the privileges of DIY and gives it special authority in agrarian affairs. However, misuse of licensing has become a threat to stability and fairness in the system (Sukmawati, 2022).

Misuse of land permits in DIY often involves corrupt practices and abuse of authority, as happened in the case of misuse of village cash land (TKD) in Sleman. This threatens security and justice in land management and harms communities that would otherwise benefit from the use of the land. To address this problem, comprehensive regulatory reform and legal harmonization are needed to address the confusing dualism of law. Regulations should be clarified and tightened, strict sanctions for violators should be enforced, and transparency and community participation in the land management process need to be improved (Wahyudi et al., 2023).

In the context of resolving urban land disputes in DIY, one of the problems that needs to be addressed is the misuse of land permits which often involves corrupt practices and abuse of authority. Cases such as the misuse of village cash land (TKD) in Sleman are clear examples that threaten justice and harm the community who should benefit from the use of the land.

From the perspective of agrarian law, this issue demands comprehensive regulatory reform and legal harmonization to overcome the confusing legal dualism. The legal framework related to the issuance of village land utilization permits must be clarified and tightened, by imposing strict sanctions for those who violate the rules. This is in line with the principle of justice in Indonesian criminal law, where every perpetrator of criminal acts, including corruption, must be held accountable for their actions in accordance with applicable regulations (Mono & Samaloisa, 2022).

In addition, transparency and community participation in the village land management process also need to be improved. With greater involvement and supervision from the community, abusive practices and corruption can be minimized. This will help realize a fair and equitable settlement of urban land disputes, where the rights of indigenous peoples are protected and the interests of economic development can go hand in hand with cultural and environmental preservation.

Through these efforts, DIY can be an example for other regions in building land management systems that are effective, transparent, and pro-public interest. By applying a comprehensive approach from an agrarian law perspective, DIY can prevent prolonged conflicts and ensure the sustainable use of urban land for the benefit of indigenous peoples in a fair and equitable manner, while maintaining its cultural privileges and heritage.

Institutional strengthening and coordination among relevant agencies is essential, with the establishment of an independent specialized agency to oversee land management and licensing in DIY. The process of resolving urban land disputes must involve the participation and representation of all interested parties, including local governments, investors, and indigenous peoples. Through open dialogue and deliberation, the interests of each party can be heard and considered fairly. Transparency and accountability in the process of issuing village land use permits are also very important to build trust and ensure fairness. All stages and decisions must be made openly and accountable to the public (Earlene & Djaja, 2023).

The use of technology and innovations such as Geographic Information Systems (GIS) and drone technology can support more effective land management (Riswati, 2022). Finally, strengthening the legal culture in DIY through education and socialization about rights and responsibilities in land management can help create a fair, transparent, and sustainable land management system.

By remembering the historical journey involving historical agreements and the evolution of the land tenure system in the Special Region of Yogyakarta (DIY), it is important for us to face the challenges of the present with the same determination. Although misuse of land permits has become a serious threat to stability and fairness in the DIY land management system, measures have been identified to address it. Through comprehensive regulatory reforms, institutional strengthening, firm law enforcement,

technology utilization, and strengthening legal culture, DIY has the opportunity to build a fairer, more transparent, and sustainable future (Susatyo et al., 2024).

With a comprehensive approach from an agrarian law perspective, the Special Region of Yogyakarta (DIY) can be an example in resolving urban land disputes in a fair and equitable manner. This is done by considering a clear and consistent legal framework, protection of indigenous peoples' rights, participation and representation of all interested parties, transparency and accountability in the permit issuance process, and the social, economic, and environmental impacts that may arise.

In the case of misuse of urban land utilization permits in DIY, dispute resolution should involve open dialogue and deliberation between local governments, investors, and indigenous peoples. Through this process, the interests of each party can be heard and considered fairly. In addition, transparency and accountability in the permit issuance process must be upheld to build trust and ensure fairness.

A balance between the interests of economic development and the preservation of indigenous peoples' culture and environment also needs to be pursued. DIY must ensure that the use of urban villages does not neglect the cultural heritage and environment of indigenous peoples. Thus, DIY can safeguard its privileges and cultural heritage for future generations, while ensuring that its communities can enjoy the benefits of land management in accordance with the principles of justice and sustainability.

Through close collaboration between local governments and civil society, as well as a commitment to strictly enforce regulations, DIY can be an example for other regions in building effective land management systems that are in the public interest. By applying a comprehensive approach from an agrarian law perspective, DIY can prevent prolonged conflicts and ensure the sustainable use of urban land for the benefit of indigenous peoples in a fair and equitable manner.

D. CONCLUSION

Land control and management in the Special Region of Yogyakarta (DIY) has a long and unique history, with historical agreements such as the Gianti Agreement in 1755. However, in practice, there are quite big challenges in maintaining justice and security of the land management system in DIY, especially related to misuse of land permits which often involves corrupt practices and abuse of authority. Comprehensive efforts are needed involving regulatory reform, legal harmonization, institutional strengthening, firm law enforcement, use of technology, and strengthening legal culture. These steps aim to overcome confusing legal dualism, increase transparency and accountability, and involve participation and representation of all interested parties, including local governments, investors and indigenous communities.

A comprehensive approach from an agrarian law perspective is needed so that DIY has the opportunity to become an example for other regions in building a land

management system that is effective, fair, transparent and supports the public interest. Resolving urban land disputes must be carried out by considering the balance between the interests of economic development and preserving the culture and environment of indigenous communities. This effort can prevent prolonged conflict and ensure sustainable use of urban land for the benefit of indigenous communities in a fair and equitable manner, while maintaining their special features and cultural heritage for future generations. Close collaboration between local governments and civil society, as well as a commitment to strictly enforcing regulations, will be the key to success in achieving these goals.

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