

THE GOVERNANCE OF SULTAN GROUND LAND POSITION AND PAKUALAMAN GROUND IN THE FRAMEWORK OF NATIONAL LAW AND THE SPECIAL LAW OF YOGYAKARTA SPECIAL REGION IN ACHIEVING JUSTICE

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ABSTRACT

One of the sovereignties of the Special Region of Yogyakarta is manifested in recognition of the privileged authority outlined in Law No. 13 of 2012 concerning the Privileges of Yogyakarta Special Region. The exercise of authority in terms of privileges is based on local wisdom values and favors the community. The authority of Yogyakarta Special Region as an Autonomous Region covers the authority in the Yogyakarta Special Region Regional Government's affairs as referred to in the Law on Regional Government and the special functions regulated in the special law. This study aims to analyze, study and formulate the governance of the land position of the sultan's ground and the nail in the ground within the framework of the national law and the special laws of Yogyakarta Special Region in realizing justice. This research was conducted by using normative legal research methods, namely by comparing the prevailing laws and related issues, then with existing legal principles or doctrines, and paying attention to the practices that occur as a study of legal history. This research found that the authority over the management and utilization of Sultan Ground Pakualaman Grounds (SG-PAG's) land often collided with the Sultanate's meaning, and the Duchy limited to the 'palace' only. The community's participation in planning, utilization, and control was still lacking, even though the term Sultanate -Duchy has a legal meaning, including all the components in it, namely the flag, servant (*punggawa/abdi dalem*), and community (*kawula dalem*). So, it has more justice and usefulness. In contrast, this SG-PAG land is a communal right, namely private rights owned by many people, in this case, the whole Yogyakarta Special Region community. So, it needs reformulation of Law no. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta.

Keywords: Sultan Ground;Paku Alaman Ground; Yogyakarta Special Region;

A. INTRODUCTION

The entry of colonial influence in Java also influenced and even changed the agrarian order in Yogyakarta, particularly concerning land ownership and control patterns. The land tenure model with the apanage system was replaced by land *Andarbe* (communal property rights) and *Anganggo* (hereditary rights). In 1926 the lands in Yogyakarta Special Region began to change to a self-governing model (land management with a self-government system) by allowing part of the Sultanate's land and the Duchy of *Pakualaman* to be owned. Lands in Yogyakarta Special Region have undergone reorganization, such as those owned by self-governing subordinates with the status of property rights. These lands were also registered in *Rijksblaad* Yogyakarta No.13 of 1926¹.

In subsequent developments, the Sultanate, and the *Pakualaman Duchy* (a minor Javanese princely state within the Sultanate of Yogyakarta) were able to grant land rights to the community to live while remaining as the land of the Sultanate and the Duchy of *Pakualaman*. This right is called *Magersari* right. *Magersari* rights are usually given to *sentana dalem* (*punggawa*/court official in Javanese shadow play), servant, and people who are considered to have contributed to the Sultanate and Duchy of *Pakualaman*, soldiers, and others as a token of service for their service².

In the 2000s, many people, in general, were able to utilize and use *Magersari* land. Permits or *kekancingan* began to be issued by the Sultanate and the Duchy of *Pakualaman*. The community was allowed to use the *magersari* land, which they used for business premises or to live³. However, the community's use of the *magersari* lands of the Sultanate and the Duchy of *Pakualaman* contains problems. For example, they are prone to disputes or conflicts between communities.

One example of the conflicts or problems regarding *Magersari* land in Yogyakarta Special Region occurred in 2013. The problem was due to *Magersari* land's eviction used by street vendors in the *Gondomanan* area, sued by a person named Eka Aryawan, who held a *Kekancingan* certificate. This happened because the street vendors did not want to leave the land they had used as a place to sell since 1960.

Conflicts in regulating land tenure rights also occur between the former self-governing government's laws and the Basic Agrarian Law. This can be seen in Yogyakarta Special Region, which has caused conflicts between individuals and government agencies regarding the Sultanate land's existence and the land of the Duchy of *Pakualaman*⁴.

As it is known that in the fourth Dictum of the Basic Agrarian Law it is stated that in letter (A) the rights and authorities over land and water from self-government or former self-government which still exist at the time this law comes into effect are abolished and transferred to the state. In Letter (B) Matters relating to the provisions in Letter A above shall be further regulated by government regulations. However, the absence of government regulations regulating self-government and ex-self-government

¹ Boedi Harsono, 2005, *Hukum Agraria Indonesia*, Djambatan, Jakarta, p. 56.

² Nur Aini Setyawati, dkk, 2015, *Konflik Pemilikan dan Penguasaan Tanah di DIY setelah Reorganisasi Agraria 1960*, CV Smartmedia Utama, Yogyakarta, p. 17.

³ Achmad Fachrudin, 2012, "*Hak Atas Tanah dari Surat Kekancingan Keraton Yogyakarta Menurut UUPA dan Hukum Islam*", Undergraduate Thesis Islamic Law Study Program, UIN, Yogyakarta, p. 5-6.

⁴ Julius sembinging, 2009, *Tanah Negara*, STPN Pres, Yogyakarta, p. 61.

land has created legal uncertainty for self-governing and ex-autonomous lands in Indonesia, especially in Yogyakarta Special Region. This is also supported by the perception of the people and bureaucrats in Yogyakarta Special Region that lands that have not been adhered to individual rights/state land belong to the Sultanate and the Duchy of *Pakualaman*⁵.

Referring to the *Rijksblaad Sultanate* and *Rijksblaad Pakualaman* which stated that the king (Sultan HB X and Paku Alaman IX) could own uncertified lands throughout the Yogyakarta Special Region area, this has the potential to cause turmoil in the community, most of whom still do not have ownership certificates. Especially when recently the Sultanate and the *Pakualaman Duchy* conducted an inventory of the lands of *Sultan Ground* and *Pakualaman Ground* by referring to an old map in 1838, which can be ascertained that all land in Yogyakarta Special Region belongs to the Sultanate and Duchy of *Pakualaman*.

Article 7 of Law no. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta states that the implementation of authority in matters of privilege is carried out following the values of local wisdom and partiality to the people. This also applies to land affairs as one of the five main derivatives of policies in Special Region Regulation (Perdais). The utilization of *Sultan Ground* and *Pakualaman Ground*, according to Perdais Article 3 is aimed at developing culture, social interests, and community welfare. However, this is contrary to the reality on the ground. There are many problems, one of which is the fear of the residents if it turns out that their land belongs to the Sultanate and *Duchy Pakualaman*. Therefore, there is the potential for eviction.

Based on a preliminary study of the relationship of authority between the central government and regional governments in the Draft Law on Privileges, it is limited to the issue of election or determination of the Regional Head, not on more fundamental issues. It has an impact on economic and social justice. Politically, the Privileges Law will guarantee the availability of land for land grabbing projects on the Kulon Progo coast, including: 1) iron sand mining (investors from Australia), 2) construction of international airports (investors from India), 3) ports, 4) Indonesian Navy radar and shooting range, and 5) Southern Java Road which covers 3 districts in Yogyakarta Special Region (ADB project from 2002 to 2050), as well as the proliferation of high-rise buildings, apartments, hotels, centers. shopping focused on business areas that often ignore emerging negative impacts such as evictions and environmental impacts. Furthermore, legally, the Privileges Law is in some parts controversial with Law no. 23 of 2014 concerning Regional Government, Law no. 5 of 1960 concerning Agrarian Principles, Law no. 26 of 2007 concerning Spatial Planning, Law No 32 of 2009 concerning the Environment, Law no. 27 of 2007 concerning Coastal and Small Islands, Law no. 11 of 2005 concerning Economic, Social and Cultural Rights, and Law no. 39 of 1999 concerning Human Rights.

This special authority of Yogyakarta Special Region is potential to create absolute power in a state system that upholds democratic values and economic interests, particularly the matter of land in Yogyakarta Special Region. Based on the history of "*Verklaring Domain*" when the Dutch colonial government enacted the *Agrarische Wet* in 1870, the *Sultanate* and *Duchy Pakualaman* in 1918 issued the same thing, which stated that all land in the Sultanate of the Sultanate and the Duchy of *Pakualaman* did not yet have a Right Certificate. *Eigendom* Dutch property belongs to the Sultanate and the Duchy of *Pakualaman*. Most of the land has been cultivated by the community, especially the peasants who did not have the *Eigendom* Dutch Ownership Certificate.

Through the Privileges Law No. 13 of 2012, it seems that there are efforts by the Sultanate and the Duchy of *Pakualaman* to regain the lands with the status of *Sultan Ground* and *Pakualaman Ground*. In various mass media, it was stated that the lands used for state buildings, for *Vriedenburg* Fortress, for Gadjah Mada University were Sultanate lands. The Kridosono Stadium, which is not clear who the certificate holder is currently being targeted to become a business center, is considered to have no certificate⁶. In Gunungkidul Regency on 27 May 2015, there were 8 people from *Kodok Beach* were policed by investors related to *Sultan Ground*⁷. Besides, there are cases where land is certified, and then certificates that are already Freehold are withdrawn and changed to Right to Use⁸. Such cases show an economic interest above the community's interest, the incompatibility of the Perdais mandate in utilizing the land of *Sultan Ground* and *Pakualaman Ground*. This indicates that there is potential to revive self-government based on the The Yogyakarta Privileges Law is Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta (UUK) and Perdais. Mastery of the land in *Sultan Ground* and *Pakualaman Ground*, which should have been for the community's welfare, favors only economic interests.

As it is known that after the Law on the Privileges of Yogyakarta Special Region was passed, including regulating land in Yogyakarta Special Region, where every land of the Sultanate and Duchy of *Pakualaman* would be recorded and inventoried. As a result, the *Sultanate* and the *Pakualaman Duchy* had the right to give the community authority over the land under control. This is clearly seen in the contents of the two letters of the Governor of Yogyakarta Special Region to the Head of Regional Office of BPN Yogyakarta Special Region, dated 12 November 2012 and 15 February 2013, relating to the Control of Applications for Land Rights Controlled by the Yogyakarta Special Region Regional Government. The concept that wants to be regulated in the land aspect is that the land is still allowed to be used by the community and wants to emphasize that all land in Yogyakarta Special Region is the object of the Sultanate and the Duchy's rights of *Pakualaman*.

Although the implementation basis did not want to withdraw all land used by the community, it was found that this was not the case. For example, productive agricultural land in the Coastal Regency of Kulon Progo is claimed to be the Duchy of *Pakualaman*. In addition, through the legitimacy of the UUK, Sultan Hamengku Bawono X as the governor of Yogyakarta is conducting an inventory of the village treasury lands, bent land, and the like in all Yogyakarta Special Region areas which are state property to serve as legal objects belonging to the Sultanate and the Duchy of *Pakualaman*.

⁵ Maria SW Soemardjono, 2007, "*Keistimewaan Yogyakarta di Bidang Pertanahan: Status Hukum tanah Keraton Dalam Lingkungan Hukum Tanah Nasional*", Journal of Pulpit Special Edition, Yogyakarta, p. 57.

⁶ Imam Yuhotomo, "*Menuju Keistimewaan Demokratis dan Kepentingan atas Tanah*", This paper was presented at a lecture in commemoration of National Peasants Day at the Muhammadiyah University Campus, Yogyakarta, 24 September 2013.

⁷ Koran Kedaulatan Rakyat, 1 June 2015, p. 6, Tribun Jogja, 31 May 2015, pages 1 and 7.

⁸ Casrudi, Rudi. "*Kondisi Agraria dan Organisasi Rakyat Kabupaten Gunung Kidul DIY*". Research on Agrarian Reform Program in Gunung Kidul Regency. This was done in order to fulfill the obligations of the Field Officer (FO) to the Consortium for Agrarian Reform (KPA) in the framework of the Agrarian Reform Program for the Poor in Southern Java. *Rukun Tani*, p. 39

Law number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta Chapter X Land Article 32 paragraph (4), which states that the Sultanate's lands and the Duchy of Pakualaman include *prabon* land and non-virgin land in the Yogyakarta Special Region area. This means that the lands that were once controlled by the Sultanate and the Duchy of Pakualaman are still valid today, while the community only has the right to use the land.

Land control by the Sultanate and the Duchy of Pakualaman is not only for regulating the designation and use of these lands. However, as a legal subject, both the Sultanate and the Pakualaman Duchy can own the land, confirmed in Article 33 paragraph (1) of Law no. 13 of 2012 that the ownership rights to the land of the Sultanate and the Duchy of Pakualaman are registered with the land agency. Further regulations relating to the authority of the governor and deputy governor are contained in Chapter XIV of Article 43 paragraph (1) of Law No.13 of 2012, which states that one of the duties of the governor and the deputy governor is to inventory and identify the lands of the Sultanate and the Duchy of Pakualaman.

The Special Region of Yogyakarta, of the total area of not less than 4,000 hectares of which is the land of the Sultanate and the land of the Duchy of Pakualaman, in the form of lands of kings and families of the Sultanate and Duchy of Pakualaman, sites, land cultivated by the community or *Magersari* and vacant land and cultivated land⁹. These lands are scattered in areas in Yogyakarta Special Region.

Currently, the process of inventorying the Sultan Ground and Pakualaman Ground has unwittingly affected the implementation of land certification for communities identified as occupying parts of the Sultan Ground and Pakualaman Ground. Among the people who feel the impact are those in Gunungkidul Regency, Bantul Regency, Kulon Progo Regency, and Yogyakarta City.

Considering that the right to agrarian is the right to a living space and a livelihood source, the right to land is nothing but a human right. Changes in land tenure structure in Yogyakarta Special Region after the ratification of the Yogyakarta Special Region, Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta (UUK) radically changed the land system because the pattern led to the loss of state land and land belonging to the community (individual and communal / village). Apart from this, the Cultural Heritage Legal Entity has the potential to become the only subject of land ownership rights in Yogyakarta Special Region, especially those categorized as Sultan Ground (SG) and Pakualaman Ground (PAG). UUK Yogyakarta Special Region impacts justice and legal uncertainty when interpreted and implemented to serve certain interests that are detrimental to society and the state.

Based on this, it is interesting to study the Governance of Sultan Ground Land Position and Pakualaman Ground in the Framework of National Law and the Special Law of Yogyakarta Special Region in Achieving Justice.

B. METHODS

This research was conducted using normative¹⁰ legal research methods. Legal research using the normative method is carried out by comparing the prevailing laws and related issues, then with existing legal principles or doctrines, and observing practices that occur as a study of legal history. This research prioritizes using literature on matters related to the material discussed, such as through books, magazines, scientific articles, or scientific journals¹¹. Data analysis is done qualitatively, meaning that it describes the data in an orderly, sequential, logical, non-overlapping, and effective form so as to facilitate data interpretation and understanding of the analysis¹².

C. FINDING AND DISCUSSION

Law No.13 of 2012 concerning the Privileges of the Special Region of Yogyakarta gives authority to Yogyakarta Special Region as an autonomous region to administer the procedures for filling out the governor's positions, positions, duties, and powers deputy governor; government institutions; culture; land, and layout. This is following Article 7 of Law no. 13 of 2012, which states that the administration of authority in matters of privilege is carried out following the values of local wisdom and pro-people. Specifically, land authority is regulated in Articles 32 and 33 of Law no. 13 of 2012, which in essence states that the Sultanate and the Paku Alaman Duchy to administer land authority are declared legal entities the subject of ownership rights to land.

Regarding the special aspects of Yogyakarta Special Region, especially regarding land issues, it will be closely related to the Mataram Kingdom's historical journey as the forerunner of today's Yogyakarta Special Region. History records that Yogyakarta Special Region was formed from the royal territory, namely the Yogyakarta Sultanate and the Pakualaman Duchy region. The two kingdoms are already independent and sovereign states, so they have their order in carrying out management related to land issues. This is a crucial point of the special value of Yogyakarta Special Region¹³.

⁹<http://tantra-agistya.blogspot.com/2015/05/mendeskriskan-secara-resume-tentang.html>, Describing the Resume of Land Law, Tuesday, May 1 2015 at 20:20 WIB

¹⁰Ade Adriansyah, Anis Mashdurohatur, and Widhi Handoko, Implementation of Zakat & Professional Income Tax Payments for Notaries & PPAT (Comparative Law Study of Zakat Payment System & Professional Income Tax), Sultan Agung Notary Law Review (SANLaR) Volume 3 No. 1, March 2021: 17-26 ISSN : 2686-4428,pp.20

¹¹Johny Khoesoema Hioe, Anis Mashdurohatur, Gunarto, Irwan Jasa Tarigan, Reconstruction of Pretrial Institution Function in Supervising Investigator Authorization Based on Justice Value with Moderating Role of Supply Chain Management, Int. J Sup. Chain. Mgt Vol. 9, No. 3, June 2020, p.617. See Yeltriana, Anis Mashdurohatur, Jelly Leviza, Deal Reconstruction Of Protection For Layoff Victim At The Industrial Relations Court Based On Justice, International Journal of Law, Government and Communication, eISSN: 0128-1763, Volume: 4 Issues: 14 [March, 2019] pp.34.

¹²Anis Mashdurohatur, Eysra Setya Kurnia, The Settlement Model Against Credit Agreements Between Creditors And Debtors, International Journal of Law Reconstruction Volume 4, Number 2, September 2020. p.126. DOI : <http://dx.doi.org/10.26532/ijlr.v4i2.11319>, see Haris Budiman, Eman Suparman, Anis Mashdurohatur, Spatial Policy Dilemma: Environmental Sustainability and Economic Growth, UNTAG Law Review (ULREV) Volume 2, Issue 1, May 2018, p.2

¹³Tri Widodo Wahyu Utomo, 2002, *Hukum Pertanahan: Dalam Perspektif Otonomi Daerah*, Navila, Yogyakarta, p. 38

As a form of royal government, at first, the land system in the Yogyakarta Special Region area used the apanage system. The *apanage* system is a land system regulated by the king as the absolute owner of the land and is assisted by his bureaucrats. In this case, the Sultanate and the *Pakualaman* Duchy have absolute rights over Yogyakarta Special Region lands, which are commonly referred to as Sultan Ground and *Pakualaman* Ground.

The Sultan Ground and Pakualaman Ground consist of 2 types, among them are Keprabon and non *Keprabon* lands. Keprabon lands are the lands of the Sultanate and the Duchy of *Pakualaman* that cannot be inherited from anyone, such as the square, *Kepatihan*, grand mosque, etc. Non-keprabon land is land whose rights can be borne by the people, such as public facilities (schools, hospitals, etc.), residences, and business premises.¹⁴

Land belonging to the Sultanate and the Duchy of Pakualaman in the past could be leased to foreign companies owned by Europe and China. However, the Sultanate and the *Pakualaman* Duchy still retained the eigendom (land title) rights to the opstal rights (property rights to buildings on other people's land) granted to them. Besides, the rights regarding customary land ownership and Yogyakarta Special Region regulation are stated in the Domein Verklaring *Rijksblaad* Sultanate 1918 No. 16. jo 1925 No.23 states that all ownership rights and arrangements for lands in Yogyakarta Special Region are the absolute authority of the Sultanate and the Duchy of *Pakualaman*¹⁵.

The pattern of control and utilization of lands in the Sultanate and the Duchy of Yogyakarta, in practice, has its characteristics due to historical aspects and the rights to the origins of the existence of the land object.

First, legally the land's customary law in Yogyakarta is the Sultan's right, while the people (Yogyakarta Special Region residents) only have the right to use it continuously. The people cannot sell their land to other parties. The land that is owned with usufructuary rights must first be returned to the Sultan. For control of the vast land, the sultan left it to his relatives and the employees (*priyayi*) appointed by the Sultan. Thus, the vast land in Yogyakarta was partly entrusted to the Sultan's relatives and his employees (*abdi dalem*). Meanwhile, the land that is given to them is called *lungguh* land.

On this land (*apanage*) the courtiers can collect taxes as their income. The courtiers and their assistants have great power over the land held to them, while the people do not have rights over the land. They are only allowed to use and occupy it, following the provisions given by the landlord. As apanage land, there is no stipulation on the period of use. As long as the people who use the land cannot fulfill their obligations, they are allowed to use the land that has been determined. However, suppose the people cannot fulfill the obligations imposed. In that case, the right to use the land is revoked to be given to those who want to use the land on condition that they are willing to fulfill the obligations determined by the *abdi dalem*.

In general, the aristocratic apanage lands are in charge of a district head to administer or collect taxes. The land in Yogyakarta directly controlled by the sultan is called the Sultanate's land (SG), which is used to build the houses of the *abdi dalem*, the Sultan's family and is used by the people of Yogyakarta as a hereditary use right or *Magersari's* right. In the early twentieth century, the Sultan owned a huge land area and at the same time had great power over the lands in Yogyakarta. At that time, the Sultan was considered the ruler and owner of the land who could regulate the land use system in his power.

Therefore, the Sultan has regulated the land use system of the Sultanate according to its position and function, namely: land which is used by the Sultan himself, namely the palace; lands which the sultan handed over free of charge to be used as infrastructure in Yogyakarta; lands with *eigendom* or *opstal* given to the *Tioghoa* and Dutch; land that was handed over to be used by the Sultan's employees which was managed in groups called land groups; land that was handed over to a relative/*sentana* sultan with the status of a right to use which is called Kas vulnerability land; the regent's homestead land which was originally classified as classified land, but was gradually released from class ties and became the homestead of other high ranking officials; yards and plantations located outside the city center which are granted with use rights to the *pepatih dalem* which are called *kebonan* and land of public interest; common people's land yards, including land under the Sultan's control; The rice fields are managed by *bekel* which is called *Maosan* land¹⁶. Some other examples of land use in the Sultanate are:

- a) settlements, for example in Guwosari Village, Pajangan District, Bantul Regency;
- b) agricultural business, for example in Gadingsari Village, Sanden District, Bantul Regency;
- c) tourism objects, for example, Kuwaru Beach in Sragkan District, Bantul Regency;
- d) camping ground, for example in Caturharjo Village, Pandak District, Bantul Regency;
- e) location of local transmigration and places of planting rare plants, for example in Karangtengah Village, Imogiri District, Bantul Regency;
- f) place of education (school); place of worship (mosque); hotel; mall; tomb; Yogyakarta Special Region Government agency offices.

One of the Palace land management is that it is used as a residence for the people of Yogyakarta with *Magersari* status. The people may use the land with full awareness that the status of the land belongs to the Palace. The land of the Palace is very extensive and includes lands in many districts in the Yogyakarta Special Region. Palace land, which is the land belonging to the Sultanate of Yogyakarta, is currently not owned by individuals and is not certified yet only a certificate from the Palace (*Letter Kekancingan*). However, there are palace lands that are certified as property rights for safeguarding the sultanate's assets. To obtain a permit in renting or using the palace land (*magersari*), you must first ask permission from Panitikismo as the Keraton land institution.

Panitikismo is a customary institution that manages Palace land, including regulations and permits that have an organized organizational structure down to the village level. The proof of the permit is the issuance of the Magersari Certificate of Office, which contains a clause that the Magersari holder is prohibited from building permanent buildings, the Magersari land cannot be

¹⁴ Merlinda Norma Puspita, 2013, "*Pemetaan Persebaran dan Penggunaan Tanah Sultan Ground di Kotamadya Yogyakarta*", Undergraduate Thesis Geodesy Engineering Study Program, Faculty of Engineering, UGM, Yogyakarta.

¹⁵ *Rijksblaad Van Sultanaat Djogjakarta*, No. 16 of 1918.

¹⁶ Sugiarto, Ownership and Control of the Sultanate of Yogyakarta after the 1917 Land Reorganization, *Journal of Lembaran Sejarah*, volume 4(1), pp. 109-110. 2016.

traded, and is willing to return the land at any time if requested. However, licensing, and administrative requirements are still subject to local government regulations, in this case the district government, although it is not possible for Magersari to obtain a certificate for the land. *Panitikismo* has the authority to manage the use of the Palace land for various interests and welfare of the people of Yogyakarta. The management and utilization of the Sultanate's land is intended for the maximum benefit of cultural development, social interest, and public interest for the people's welfare.

The existence of land belonging to the palace will not be disturbed because the Sultanate's land is not land owned by the central government. The land of the Sultanate has been used or occupied by the people, including building houses, school buildings, and offices, but they cannot take over the land's ownership rights. For Palace lands that have been certified as property rights, according to the applicable Agrarian Law, the application for land rights is subject to the provisions of the Basic Agrarian Law and other provisions that include administrative provisions. This indicates that the prevailing laws regarding land in the Special Region of Yogyakarta are still dualistic. In addition, there are lands that have been certified and owned by individuals. The land is land which in fact cannot be contested by the Palace because there is already a legal title. If other parties want to control the land, there is no need for land use permits such as *Magersari* to *Panitikismo*.

However, after the issuance of Law No. 13 of 2012 concerning the Privileges of Yogyakarta, it is indicated that land which has been certified under individual names can be taken over at any time by the Palace, so that the issuance of this law becomes a *de jure* for the ownership of the land. The land throughout the Special Region of Yogyakarta by the *Ngayogyakarta* Sultanate Palace.

Written arrangements for the management and utilization of Sultanate Land in Article 9 to Article 18 Chapter IV Management and Article 19 to Article 23 Chapter V Utilization of Special Regional Regulations (Perdais) of the Special Region of Yogyakarta No. 1 of 2017 concerning Management and Utilization of Sultanate Land and *Duchy* Land. This is emphasized by Article 6 to Article 41 Chapter II Procedures for Management of Sultanate Land and *Duchy* Land and Article 42 to Article 57 Chapter Procedures for Utilizing Sultanate and *Duchy* Land Governor Regulation of the Special Region of Yogyakarta No. 33 of 2017 concerning Procedures for Management and Utilization of Sultanate Land and land *Duchy*, as the implementation procedure.

In general, from the beginning of independence, it was based on Law No. 3 of 1950 concerning the Establishment of the Special Region of Yogyakarta. Within the framework of the Special Region of Yogyakarta's privilege as regulated in the Privileges Law of the Special Region of Yogyakarta, the Sultanate and the *Duchy* are legal entities that are the subject of rights that have ownership rights over the Sultanate land and the *Duchy* land. In this status, the Sultanate and the *Duchy* have the authority over the management and utilization of these lands for the maximum purpose of cultural development, social interests, and community welfare. To clarify the existence of the Sultanate land and the *Duchy* land, the Governor as Sultan Hamengkubuwono, who reigns and /or the Deputy Governor as Adipati Pakualam reigns is currently carrying out the mandate of the Law on the Privileges of the Special Region of Yogyakarta.

The objectives of the management and utilization of the Sultanate land and the *Duchy* land are to provide legal certainty, orderly administration, and guarantee accountability. And based on several principles, such as recognition of the rights of origin, the effectiveness of governance, utilization of local wisdom. Meanwhile, the implementation considers several values, such as local wisdom, noble culture, people's welfare, justice, legal certainty, orderly administration, and openness.

Second, an analysis of the *Pakualaman* *Duchy*, which is part of the Special Region of Yogyakarta, which is now *Kulon Progo* Regency. Before the formation of *Kulon Progo* Regency on October 15, 1951, the *Kulon Progo* region was divided into two districts, namely *Kulon Progo* Regency, the area of the *Ngayogyakarta* Hadiningrat Sultanate, and *Adikarta* Regency, which is the *Duchy* of *Pakualaman*. In the *Negaragung* area, the *Diponegoro* War, including the *Kulon Progo* region, has no government official who has served in the region as the ruler. At that time, the wheels of government were run by the *pepatih dalem* based in *Ngayogyakarta* Hadiningrat. After the *Diponegoro* War 1825-1830 in the *Kulon Progo* region, now which is part of the Sultanate, four districts were formed, namely: *Pengasih* Regency, 1831; *Sentolo* Regency, 1831; *Nanggulan* Regency, 1851; *Kalibawang* Regency, 1855;

Since the colonial period in Yogyakarta 2 (two) agrarian laws, customary law and western law (*burgelijke wetboek*) have been applied. Land rights affairs are regulated in *domein verklaring/Rijkblaad* Sultanate in 1918 and *Rijkblaad* *Pakualaman* in 1918. This power is restated in Law No. 3 of 1950 concerning the Special Region of Yogyakarta's Establishment. The existence of *Duchy* Land (PAG) is recognized by both the wider community and the government. It is proven that if the local government wants to use land in the Yogyakarta area, it must first ask permission from the Palace or *Puro Pakualaman*.

Likewise, entrepreneurs who want to invest in Yogyakarta. Meanwhile, the community acknowledges that the land is marked by the receipt of a *Kekancingan* Certificate in the community, explaining that the land's status is *Magersari* land. The letter was signed by the *Panitikismo* or the palace land manager, a *panitikismo* organization like the one in the Palace is not found in *Pakualaman* and is currently only trying to be formed. *Pakualaman* admits that the National Land Agency knows the area and area of land for the *duchy*.

Written arrangements for the management and utilization of *Duchy* Land in Article 9 to Article 18 Chapter IV Management and Article 19 to Article 23 Chapter V Utilization of Special Regional Regulations (Perdais) of the Special Region of Yogyakarta No. 1 of 2017 are concerning Management and Utilization of Sultanate Land and *Duchy* Land. This is emphasized by Article 6 to Article 41 Chapter II Procedures for Management of Sultanate Land and *Duchy* Land and Article 42 to Article 57 Chapter Procedures for Utilizing Sultanate and *Duchy* Land Governor Regulation of the Special Region of Yogyakarta No. 33 of 2017 concerning Procedures for Management and Utilization of Sultanate Land and *Duchy* Land, as the implementation procedure.

From the various things that have been stated above, it can also be conveyed that the development of an orderly land administration process carried out by the Central Government, the Yogyakarta Sultanate and the *Pakualaman* *Duchy* on the land of the Sultanate (SG) and the land of the *Duchy* (PAG) after the enactment of the Special Region of Yogyakarta Special Regional Regulations (Perdais) No. 1 of 2017 concerning the Management and Utilization of Sultanate Land and *Duchy* Land, which has started with the process of inventory, identification, verification, mapping and registration, control and legalization of assets (rectification) carried out by the Sultanate Palace of Yogyakarta and *Pakualaman* *Duchy* in collaboration with the National Land Agency and all officials Villages in the Districts/Cities in the Special Region of Yogyakarta, henceforth so that the orderly planning

of the land administration of the Sultanate land (SG) and the entire duchy land (PAG) in 2021 can continue to be implemented and resolved in a real sustainable manner which is needed different from 2013 ago.

That the scope of the existence of the Sultanaat Ground and *Pakualaman* Ground in Yogyakarta Special Region is quite broad so that the specialty in land affairs must be able to bring progress in the Yogyakarta Special Region community. Based on this, there must be synchronization and harmonization of regulations that govern them to realize legal certainty.¹⁷

Land issues are a sensitive matter for all levels of society, in this case, Yogyakarta Special Region, which has a strong sense of the philosophy of "*sak dumuk bathuk saknyari bumi*" which roughly means a kind of bet on honor and dignity in terms of land. Articles 32 and 33 of Law no. 13/2012 state 'land of the Sultanate and land of the Duchy', which means land belonging together between the components of the Sultanate- Duchy. This land is spread throughout the Yogyakarta Special Region area, within some places, even in the form of cultural sites, which are divided into virgin land and non-virgin land.

The terms Sultanaat Ground and *Pakualaman* Ground, commonly referred to as Sultanate land and *Pakualaman* Duchy land, contain legal meaning to the land rights of the Sultanate and the *Pakualaman* Duchy. In the social stratification according to the traditional customs that apply in the Special Region of Yogyakarta, the people in the Sultanate and Duchy *Pakualaman* are divided into 3 (three) groups, namely:

- 1) Nobility (*Bendana*);
- 2) Employees (*Abdi Dalem*) are appointed based on a decree issued by the Sultanate and Duchy of Pakualaman with the classification of their appointment as employees:
 - a) *Keraton* (Palace);
 - b) *Kepatihan* and districts;
 - c) *Kapanewon* and employees seconded to the Dutch East Indies government;
- 3) People (Kawula Dalem), which is divided into:
 - a) Indigenous people;
 - b) Migrants from outside the *Ngayogyakarta Hadiningrat* Sultanate and the *Pakualaman* Duchy;
 - c) Foreigners and their descendants who are not citizens of the Sultanate-Duchy who live in the Sultanate and the Duchy areas¹⁸.

As for the meaning of 'Sultan and *Pakualaman*', it can be meaningful in the context of an individual, personal, and as a subject of private law, so that in relation to the legal object in the form of land in the Yogyakarta Special Region area it is deemed inappropriate. Based on these matters, it can be argued that the appropriate terms for this mention are Sultan Ground and *Pakualaman* Ground, or land of the Sultanate and the Duchy, where the holder of ownership rights according to traditional customary law is in the form of joint ownership between the flag, courtiers and *kawula* as described in the description. Above, so that in every form of management and utilization, both the Sultanate and the Duchy lands must involve the three social components in them. This is in line with the concept of the privileges of Yogyakarta Special Region, which was echoed long ago by Sri Sultan Hamengkubuwono and Sri Paduka Pakualam as King and Adipati Anom with 'Throne for the People', which means that these positions and positions are manifested solely in their dedication to the benefit of the Yogyakarta Special Region community as a community unit. Customary law, which has traditional rights.

In general, it can be stated that the causal relationship between the national land system and the customary land system in Yogyakarta Special Region is a system that cannot be equated, considering that the specialties possessed by Yogyakarta Special Region are important historical origins, so national law demands and respects these policies to this Yogyakarta area by giving special autonomy.

On the one hand, the The Unitary State of the Republic of Indonesia is a state whose powers are divided into regions through the granting of regional autonomy or the granting of authority to regions to manage and manage their own households through decentralization or through deconcentrating. In this case, Yogyakarta Special Region, as a region that is given special autonomy authority, is expected to be able to take care of its own household needs, including in matters of land. Several legal events that lead to polemics regarding national land regulations and land regulations in Yogyakarta Special Region mean that special autonomy is given to Yogyakarta Special Region because land in the area has historical significance or origins that cannot be separated from traditional customs¹⁹.

Responding to this land issue, which includes the Sultanate land and the Duchy land, it is indeed very important to emphasize as in Law No. 13 of 2012, which is also an acknowledgment of the existence of these lands, has become a separate part within the special framework of Yogyakarta Special Region. However, the basic reasons regarding the selection of land affairs are included in the special framework of Law No. 13 of 2012 is not found to be strong and relevant.

When referring to Article 1 Paragraph (1) of Law No. 3 of 1950, which contains recognition and affirmation of the existence of the 'Sultanate area and the Duchy area' which formed Yogyakarta Special Region, so there must be a clause that describes the relevance of this term 'area' and 'land' as a legal object. According to Harsono, in its implementation, the state gives land to a person or legal entity with rights according to the designation and need to be used properly, but in granting this right, it is limited by the customary rights of legal community units as long as it is the reality is still there.²⁰

When referring to Law No. 5 of 1960 also, the term 'area' means more the law of the 'right to control', not 'property rights' as in this land affair. This condition can create bias in future problems, with no strong reasoning so that land affairs suddenly appear to have entered a privileged authority and are more inclined to side with certain interests.

¹⁷ Rangga Alfiantri Hasim, Politik Hukum Pengaturan Sultan Ground Dalam Undang-Undang No. 13 Tahun 2013 Tentang Keistimewaan Yogyakarta Dan Hukum Tanah Nasional, ARENA HUKUM Volume 9, Nomor 2, Agustus 2016,p.413.

¹⁸ Yeni Dwi Ayu Paramita, 2013, *Abdi Dalem Penghulu pada Masa Pemerintahan Paku Buwana X Keraton Kasumanan Surakarta (1983-1939)*. Undergraduate Thesis, Faculty of Letters and Fine Arts, Sebelas Maret University, p. 18

¹⁹ Article 18B Paragraph (2) of the 1945 Constitution P

²⁰ Boedi Harsono, Hukum Agraria Indonesia (Jakarta: Revision ed., 2004), pp. 32-34

Thus, the existence of this SG-PAG land is a communal²¹ right, namely private rights owned by many people, in this case the whole Yogyakarta Special Region community. Reformulation of Article 1 and Article 50 of Law No. 13 of 2012 concerning the Privileges of the Yogyakarta Region. Article 1 of Law No. 13 of 2012, it is necessary to emphasize that the Ngayogyakarta Hadiningrat Sultanate, hereinafter referred to as the Sultanate, is a cultural heritage of the nation that has been passed down from generation to generation, consisting of elements of *bendoro*, *abdi dalem*, *kawulo*, and led by “*Ngarsa Dalem Sampeyan Dalem Ingkang Sinuwun Kanjeng Sultan Hamengku Buwono Senapati Ing Ngalaga Ngabdurrahman Sayidin Panatagama Kalifatullah*”, hereinafter referred to as Sultan Hamengku Buwono. Duchy of Pakualaman, hereinafter referred to as Duchy, is the nation's cultural heritage that has been passed down from generation to generation, consisting of elements of *bendoro*, *abdi dalem*, *kawulo*, and led by Kanjeng Gusti Pangeran Adipati Arya Paku Alam, hereinafter referred to as Adipati Paku Alam. It should be added regarding the terminology: Palace is the four residences of queens or kings; King's palace. Article 50 of Law No. 13 of 2012 It is necessary to affirm and mention matters that are Yogyakarta Special Region household affairs.

D. CONCLUSION

Law number 13 of 2012 concerning the Privileges of Yogyakarta Special Region in several respects according to legal logic, in fact, it creates confusion in the land administration of the Sultanaat Ground (SG) and *Pakualaman* Ground (PAG), causing multiple interpretations among various interested parties. This requires a simple, concise, and philosophical affirmation that is expected, which is complemented by historical traces of the original rights referred to in the legislation. The management of the land position of the sultan ground and *Pakualaman* ground in the framework of the national law and the special laws of Yogyakarta Special Region in realizing justice, namely the authority over the management and utilization of SG-PAG land, often collides with the meaning of the Sultanate and the Duchy is limited to the 'palace' only, so that the participation of the community in planning, utilization, and control is still lacking, even though the term Sultanate-Duchy has a legal meaning which includes all components / elements in it, namely the flag, *abdi dalem* (*punggawa*/servant/ employee) and *kawula dalem* (community), so that has more value of justice and benefits. This also means that the existence of this SG-PAG land is a communal right, namely private rights owned by many people, in this case, the whole Yogyakarta Special Region community. So, it is necessary to reformulate Article 1 and Article 50 of Law No. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta.

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²¹The Indonesian basic values clearly reflected in the values of Pancasila in which the load the value of spiritualism, collectivity, and inclusiveness. Anis Mashdurohaturun, Constructing And Developing The Social Function Principlesin Utilising Copyright Products Related To The Fundamental Rights, South East Asia Journal of Contemporary Business, Economics and Law, Vol. 7, Issue 4(Aug.) 2015.pp.89.

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