

# The Politics of Land Law in Yogyakarta Special Region

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**Abstract.** The issuance of Law no. 13 of 2012 concerning the Specialties of the Special Region of Yogyakarta (DIY) apparently gave rise to political and legal controversy in the land sector in the DIY region. A number of policies issued as a form of implementation of this law actually gave rise to cases of claims of ownership of the land of the Ngayogyakarta Hadiningrat Sultanate and the land of the Duchy of Pakualaman as well as claims regarding the right to manage and utilize these lands. This paper analyzes the Political and Legal authority of the Sultanate and Duchy over the management and utilization of Sultanate and Duchy land within the framework of DIY privileges. Apart from that, this paper also examines the direction of land autonomy in DIY which tends to be seen as a counter agrarian reform.

**Keywords:** Politics of Law, Land, Yogyakarta Special Region

## 1 Introduction

The Special Region of Yogyakarta (DIY) is administratively one of the provinces within the Unitary State of the Republic of Indonesia (NKRI).[1] Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) states that the state recognizes and respects units of regional government that are special or special in nature, which are regulated by law. The issuance of Law No. 13/2012 on the Privileges of the Special Region of Yogyakarta (DIY Privileges Law) then became the elaboration of these constitutional provisions that apply exclusively to the DIY region.[2] This law has actually complemented Law No. 3 of 1950 jo Law No. 19 of 1950 jo Law No. 9 of 1955 on the Establishment of the Special Region of Yogyakarta.

The granting of special autonomy to DIY in context clearly emphasizes that the privilege in question is the privilege of legal position owned by DIY based on history and rights of origin according to the 1945 Constitution of the Republic of Indonesia to regulate and manage special autonomy authority.[3] Recognition of the existence of the Ngayogyakarta-Karta Hadiningrat Sultanate and the Pakualaman Duchy in a historical context is very evident in this Law. This is stated explicitly in the weighing part of letter b of the DIY Privileges Law, which states that the two entities had territory, government and population before the birth of the Unitary State of the Republic of Indonesia (NKRI) on August 17, 1945 and played a role and made a major contribution in maintaining, filling and maintaining the integrity of the NKRI.

DIY Privileges can be observed from the provisions of Article 7 paragraphs (1) and (2) of the DIY Privileges Law, which determine that the authority of DIY as an autonomous region includes the authority in DIY Regional Government affairs as referred to in the Regional Government Law and special affairs stipulated in the DIY Privileges Law, which include 5 (five) affairs, namely; procedures for filling the position, position, duties, and authority of the Governor and Deputy Governor; DIY Regional Government institutions; culture; land; and spatial planning. The issue of land is then specifically regulated in Chapter X of the DIY Privileges Law. Thus, it becomes clear that land is an authority in the affairs of the DIY Regional Government as an autonomous region, which is certainly different from the authority possessed by other regional governments in Indonesia.[4] As a reflection, in Indonesian Public Law Number 3 of 1950 concerning the Establishment of the Special Region of Jogjakarta, it is determined that agrarian affairs are DIY's household affairs.[5]

The DIY Privileges Law stipulates that both the Sultanate and the Duchy are legal entities that are subjects of rights that have property rights over Sultanate land and Duchy land, both in the form of *keprabon* land and *non-keprabon* land located in all regencies/cities in the DIY area.[6] Thus, Article 32 paragraph (5) of the DIY Privileges Law also gives the Sultanate and Duchy the authority to manage and utilize Sultanate land and Duchy land aimed at the maximum development of culture, social interests, and community welfare. Interestingly, Article 33 paragraph (4) of the DIY Privileges Law and the Explanation of this provision regulate and explain that the management and utilization of these lands by other parties, namely individuals, legal entities, business entities, and social entities, must obtain approval permission from the Sultanate for Sultanate land and approval permission from the Duchy for Duchy land.

Some people are concerned that this law could become the legal basis for unilateral claims, or even seizures, of lands scattered throughout Yogyakarta by the Sultanate, Pakualaman and the Regional Government.[7] It is very worrying that the Palace will claim and seize land that has long been controlled by the people of Yogyakarta for the benefit of these cultural institutions by referring to the provisions contained in the Sultanate's *Rijksblaad* No. 16 of 1918 which is also stipulated by the Pakualaman Duchy with *Rijksblaad* Kadipaten No. 18 of 1918, which determines that the entire territory of the Sultanate of Yogyakarta applies the principle of domain, as determined based on its authority as the absolute land owner and ruler (domain holder).[8]

The assumption that Sultanate land is State land has raised objections from the Sultanate, as in reality both the community and the government have recognized the existence of Sultanate land. The problem that has arisen in relation to the Sultanate's land is that there is no provision in the UUPA that regulates the institution of the Sultanate as a legal entity that can be the subject of land rights.

Regarding the privileges given to DIY after the issuance of the DIY Privileges Law, it turned out to be a polemic related to the legal politics of Sultan Ground (SG) and Duchy Ground (Pakualaman Ground /PAG). History records how the two types of land that are factually spread across 5 (five) regencies and cities in DIY have experienced varying status at least during the last 2 centuries. The change of land law that changed from the colonial style to the national agrarian system seems to be one of the factors that caused the dynamics of the right to own, the right to

control, and the right to utilize Sultanate land and Duchy land in DIY. Industrial and investment pressures that require land in Yogyakarta also make the two lands the target of business people. A number of land conflicts continue to surface. For example, the case of Sultan's land in the Dagen area, which caused landowners (residents) and investors to not dare to continue the transaction process.[9]

Another case is about the iron sand mining plan in Kulon Progo Regency which will use the community's productive agricultural land which is claimed as Kadipaten land [10] Suparno, Sukarmin and Karmiyo are three coastal farmers from Karangwuni, Wates, Kulon Progo Regency who refuse to surrender their cultivated land to the Kadipaten Puro Pakualaman, even though they have been asked by letter by Kawedanan Kaprajan Kadipaten Pakualaman residents to vacate Kadipaten land in order to build a factory.[11]

On September 28, 2015, masses on behalf of the Action Committee for Agrarian Formation (KARA) DIY demonstrated against the steps of the Yogyakarta Regional Government (DIY) and the Yogyakarta Palace to inventory and legalize all land included in SG and PAG in DIY. They also demanded that Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) be enforced in all areas of Yogyakarta.[12]

The above description is of course closely related to the issue of human rights. On the one hand, the community is fighting for the right to land that they have long managed, while on the other hand there are cultural rights related to the ownership of the lands spread in Yogyakarta by the sultanate and duchy.

## **2 Research Question**

From the above background, the following problems can be formulated:

- a. What is the authority of the Sultanate and Duchy over the management and utilization of Sultanate land and Duchy land within the framework of the Privileges of the Special Region of Yogyakarta?
- b. How is the legal politics of land autonomy in the Special Region of Yogyakarta based on Law No. 13 of 2012 on the Privileges of the Special Region of Yogyakarta?

## **3 Limitation and Significance of Research**

The main targets that are the focus of this paper are the politics of land law and agrarian aspects. The General Indonesian Dictionary defines "land" (in the sense of earth) as the surface of the earth or the layer of earth that is above once.[13] The dictionary also recognizes the term "royal land", which is land belonging to the king; land belonging to the state. Meanwhile, the term "agrarian" is defined as agricultural land affairs (plantations). Regarding the term "sultan", the dictionary defines it as king; baginda, while sultanate is defined as the area ruled by the sultan; kingdom, or palace of the sultan.

In this article, "Sultanate" should be interpreted as Ngayogyakarta Hadiningrat Sultanate

as the nation's cultural heritage that lasts for generations led by Sultan Hamengku Buwono, while “Kadipaten” refers to Pakualaman Kadipaten which is the nation's cultural heritage that lasts for generations and is led by Adipati Paku Alam.[14]

The words “land” and “sultan” are the 2 (two) basic words that form the term “*Sultanate land*”. This paper refers to the legal definition contained in the Yogyakarta Privileges Law, namely “Kasultanan land” (*Sultanaat Grond/ Sultan Ground/SG*), commonly referred to as Kagungan Dalem, is land belonging to the Sultanate, while what is meant by “Kadipaten land” (*Pakualamanaat Grond/ Pakualaman Ground/PAG*), also commonly referred to as Kagungan Dalem, is land belonging to the Kadipaten. The term “Kasultanan land”, commonly translated as “Sultan Ground”, also has an equivalent meaning. The term “Sultanate Land” which is commonly translated as “Sultan Ground” also actually has an English equivalent of “*crown land*” and “*demesne land*”, which is land owned by the *Crown* (the ruler, in the traditional sense) which is controlled by the ruler for personal purposes.[15]

Sultanate and Duchy land includes *Keprabon Land* and *Non-Prabon Land* located in all districts/cities in DIY. *Keprabon Land* is land used for palace buildings and its equipment, such as Pagelaran, Kraton, Sripanganti, land for the tombs of the King and his relatives (in Kotagede, Imogiri, and Giriloyo), town square, mosque, the park, pesanggrahan, and petilasan. The *Non-Prabon Land* consists of two types of land, namely land used by residents/institutions with rights (magersari, ngindung, public space, forest, campus, hospital) and land used by residents without

The word special also needs to be given meaning. Lexically, 'special' is defined as distinctive (for a certain purpose and so on); special, other than others, extraordinary, and especially; moreover, while the term 'specialness' is defined as special qualities (things); excellence. In this paper, specialness is attached to the nature of DIY, especially in land issues.

Autonomy comes from the words “auto” or “oto” which means alone and “nomos” which means to regulate, so that autonomy is the same as managing one's own household. Article 1 number 6 of Law Number 23 of 2014 concerning Regional Government defines regional autonomy as the rights, authorities and obligations of autonomous regions to regulate and manage their own Government Affairs and the interests of local communities within the Republic of Indonesia system. The definition of an autonomous region is a legal community unit that has territorial boundaries authorized to regulate and manage government affairs and the interests of local communities according to their own initiatives based on community aspirations within the system of the Unitary State of the Republic of Indonesia.

## **4 Discussion**

### **4.1 The Authority of the Sultanate and Duchy over the Management and Management of Sultanate and Duchy lands within the Framework of the Privileges of Yogyakarta Special Region**

#### **a. Legal Position of Sultanate Land and Duchy Land**

In the period before joining the Government of the Republic of Indonesia, the Sultanate of Yogyakarta in its position as a Royal Government institution carried out full land management

within its territory, which was carried out by Papatih Dalem as the implementation of government on behalf of the King. In the management of land controlled by / intended for indigenous people, it is regulated in the Sultanate Rijkblad and Pakualam Rijkblad.

The status of Sultanate land and Duchy land is still being debated among academics, agrarian activists and the general public. The Fourth Dictum A of UUPA states: "The rights and authorities over land and water of the swapraja or former swapraja that still exist at the time this Law comes into force shall be abolished and transferred to the State and will be further regulated by Government Regulation (PP). With this UUPA, the status of land in the former swapraja of Yogyakarta should have been transferred to the State, but some people interpret that Law Number 3 of 1950 which was continued with DIY Regional Regulation Number 5 of 1954, including the DIY Privileges Law, is a form of a strong legal basis to override national land law because land regulations in DIY are autonomous.

Referring to *domein verklaring* (1918), which was strengthened through DIY Regional Regulation No.5 of 1954 until it was re-stated on April 11, 2000 at the inventory and certification of DIY Palace lands between the local government and related institutions, Sultanate land and Duchy land are lands located in the territory of the Yogyakarta Hadiningrat Palace and Pakualaman Duchy, except for lands that have been given ownership rights to the community. On September 22, 2000 the Yogyakarta Palace made a Circular Letter addressed to a number of related institutions as follows:

"With regard to the many requests from the public to improve land rights into property rights, we ask for the following attention: That the Palace together with the Provincial Government of Yogyakarta and the Regional Office of the National Land Agency of Yogyakarta Province are carrying out the curbing of Palace lands in Yogyakarta, we hope that the application for improving the status of land into property rights as long as it involves Palace land should be suspended first until further instructions are available." [16]

The current position of the Sultanate's land is actually still recognized by both the government and the wider community. It is proven that if the local government and also entrepreneurs who want to invest in Yogyakarta want to use land in DIY, they must first ask permission from the Yogyakarta Palace or *Puro Pakualaman*. The permit is marked by the receipt of Kekancingan from *Kawedanan Hageng Punokawan (KHP) Wahonosartokriyo Kraton Ngayogyakarta Panitikismo* (palace land institution) with an explanation that the status of the land occupied is *Magersari* land or belongs to the palace.[17]

The DIY Specialty Law assigns three duties to the Governor as the enthroned Sultan Hamengku Buwono and/or the Deputy Governor as the enthroned Adipati Paku Alam relating to land issues, namely;

1. Conduct inventory and identification of Sultanate land and Duchy land;
2. Registering the results of the inventory and identification of Sultanate land and Duchy land with the land agency;
3. To inventory and identify all assets of the Sultanate and Duchy other than Sultanate land and Duchy land which are the nation's cultural heritage.

In connection with this task, the Palace together with the DIY Government has begun to

conduct an inventory of its assets in the form of land as the basis for the discussion of the Draft Special Regional Regulation (Raperdais) by the DIY DPRD. The government ensures that the process of collecting data on Sultanate and Pakualaman land will take up to 2024 years to be fully completed.

In its implementation, the Palace and the DIY Government used the 1838 map as the basis for conducting an inventory of Sultanate and Duchy land on the grounds that this was the beginning of the existence of Kelurahan and Desa. The Head of the Land Section of the Governance Bureau of the DIY Regional Secretariat, Ismintarti stated that in 2013 the DIY Government had succeeded in inventorying 2,000 parcels in Gunung Kidul and 1,000 parcels in Bantul and then in 2014, the Yogyakarta Palace and the DIY Government succeeded in inventorying 1,044 parcels of Sultanate and Duchy land. Until the end of 2015, the DIY Government has a target to be able to inventory as many as 2,168 parcels of Sultanate land and Duchy land.

The Head of the DIY Governance Bureau Beny Suharso said that the DIY Government is trying to complete the inventory of Sultanate land and Duchy land by the end of 2015 by directly involving the Regency/City Government and Village Government.

The following is the inventory data of SG and PAG lands.

**Table 1.** Inventory Data of Sultanate and Duchy Lands

No.	Regency/City	Inventory Target 2015	Inventory 2014	Inventory 2013
1	Bantul	1.367 fields	471 fields	1.000 fields
2	Gunung Kidul	300 fields	54 fields	2.000 fields
3	Kulon Progo	174 fields	216 fields	-
4	Sleman	252 fields	137 fields	-
5	Kota Yogyakarta	75 fields	166 fields	-
	Total	2.168 fields	1.044 fields	3.000 fields

Source: Sindo. August 09, 2015

The area of Sultanate land and Duchy land can be described in the following table.

**Table 2.** Data on the size of Sultanate land (SG) and Duchy land (PAG)

Regency/City	Adm Area	Ex Swapraja Estimates	CD	Area of Ownership		
				SG	PAG	Village Treasury
Yogyakarta	325 ha	80,05 ha	21,89 ha	80,05 ha	3 ha	16,94 ha
Sleman	47.482 ha	306,16 ha	1,70 ha	306,16 ha	-	6.743,30 ha
Kulon Progo	5.627 ha	1.037,65 ha	-	2.051,99 ha	330,62 ha	2.746,34 ha
Bantul	506.301,50 ha	1.669,75 ha	-	581,50 ha	-	581,50 ha

Regency/City	Adm Area	Ex Swapraja Estimates	CD	Area of Ownership		
				SG	PAG	Village Treasury
Gunung Kidul	148.536 ha	581,80 ha	-	581,50 ha	-	581,50 ha
<b>Total</b>	<b>708.271,50 ha</b>	<b>3.675,41 ha</b>	<b>23,59 ha</b>	<b>3.601,2 ha</b>	<b>333,62 ha</b>	<b>10.669,58 ha</b>

Source: Koran Sindo. August 09, 2015

Currently, the process of inventorying Sultanate land and Duchy land unwittingly has an impact on the implementation of land certification for people whose land is identified as part of Sultanate land and Duchy land. The people who feel the impact are those in the regencies and cities in Yogyakarta, namely Gunung Kidul, Bantul, Sleman, Kulon Progo and Yogyakarta City.

Although UUPA has been fully implemented in DIY since 1984 and the DIY Privileges Law has been passed, dualism in land arrangements based on UUPA still occurs. This certainly implies controversy. The assertion of the status of the palace and the land it controls should be within the framework of the Republic of Indonesia and lead to the achievement of people's welfare, so that the interests of the people must be prioritized.

#### **b. Central Government Authority over Land in General**

Prior to the amendment of the Constitution, the State's right of control was elaborated in the UUPA. The provisions of Article 2 paragraph (1) of the UUPA can be interpreted that this right of control authorizes regulating and organizing its allocation, use, supply and maintenance as well as determining and regulating legal relationships, including legal acts between people regarding land issues. The Explanation of Article 2 of the UUPA states that agrarian matters, by their nature and in principle, are the task of the Central Government. In its implementation, the right to control from the State can in fact be authorized to Swatantra regions and customary law communities, as long as it is needed and does not conflict with national interests and in accordance with laws and regulations.[18]

#### **c. Sultanate and Duchy Authority over Sultanate Land and Duchy Land**

As a follow-up to the Law, the Yogyakarta Special Region Regional Regulation (Perda) No. 5 of 1954 on Land Rights in Yogyakarta was issued in order to fill the legal vacuum (*chtsvacuum*) pending the establishment of a national land law. *De facto*, the Special Region of Yogyakarta (DIY) has existed since the scene of the revolution between September 5, 1945 and May 18, 1946, while *de ju* DIY was formed at the time of the issuance of Law No. 3 of 1950 on the Establishment of the Special Region of Yogyakarta (as amended by Law No. 19 of 1950).

The DIY government then issued several local regulations governing land management, including Local Regulation No. 4 of 1954, Local Regulation No. 5 of 1954, Local Regulation No. 10 of 1954, Local Regulation No. 11 of 1954 and Local Regulation No. 12 of 1954. With the issuance of these local regulations, the authority to manage land, which was originally the authority of the Sultanate, and these local regulations are considered a form of autonomy in the land sector in the former kingdom and at the same time brought changes to the right to

control/own (*domein*) of the Sultanate over land, because they contain provisions regarding the granting of hereditary individual property rights to community members who previously controlled land with hereditary *angango* rights. Thus, the Sultan is on the one hand the Governor of Yogyakarta who carries out the orders of the Law, but on the other hand is a king in his cultural life in Yogyakarta who has power over the territory including land.

The DIY Privileges Law then becomes a national legal instrument that clarifies the authority over the management of “traditional” lands in DIY. Article 32 paragraph (5) of the Law explicitly states the authority of the Sultanate and Duchy to manage and utilize Sultanate and Duchy lands for the maximum development of culture, social interests, and public welfare. The substance of this provision is not further explained in the Explanation of Article 32 paragraph (5) of the DIY Privileges Law.

The context of this authority turns out to be attached to licensing. Article 33 paragraph (4) of the DIY Privileges Law states that the management and utilization of Sultanate land and Duchy land by other parties must obtain a Sultanate approval permit for Sultanate land and a Duchy approval permit for Duchy land.

Privileges on the management and utilization of Sultanate land and Duchy land are also related to spatial issues. Article 34 paragraph (1) of the DIY Privileges Law stipulates that the authority of the Sultanate and Duchy in spatial planning is limited to the management and utilization of Sultanate land and Duchy land only. Furthermore, paragraphs (2) and (3) of the article also stipulate that in exercising the authority as referred to in paragraph (1), the Sultanate and Duchy establish a general framework of spatial planning policy for Sultanate land and Duchy land in accordance with DIY Privileges by taking into account national spatial planning and DIY spatial planning. Further provisions regarding the management and utilization of Sultanate and Duchy land as well as the spatial planning of Sultanate and Duchy land will be regulated through DIY Special Regional Regulations (*Perdais*) formed by the DIY DPRD and the Governor.

#### **4.2 Legal Politics of Land Autonomy in the Special Region of Yogyakarta based on Law No. 13 of 2012 on the Privileges of the Special Region of Yogyakarta.**

Professor of Constitutional Law at the University of Indonesia and former Chairman of the Constitutional Mahkamah Jimly Asshiddiqie stated that Indonesia adheres to an asymmetrical decentralization system, in which Yogyakarta has a format of executive privileges, one of which is reflected in the specificity that the Governor of Yogyakarta is not elected through general elections, but comes from the Sultanate of Yogyakarta. In relation to these privileges, local politics and regional autonomy expert from Universitas Gadjah Mada, AAGN Ari Dwipayana explained that in the concept of *Parardhya* where the Sultan and Paku Alam are placed as separate institutions outside the governor and the House of Representatives. Generally, in unraveling Yogyakarta's privileges, there are several main issues that arise, including the position of the palace in the modern political constellation; land issues, and how to put the spirit of regional autonomy and decentralization in the context of Yogyakarta's privileges.[19]



Behind the historical facts regarding DIY privileges, not a few academics and legal practitioners consider that the land autonomy contained in the DIY Privileges Law is unconstitutional by referring to Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that: "The President stipulates government regulations to carry out the Law properly." Government regulations are subordinate to the law in the hierarchy of laws and regulations.

Yogyakarta has a different agrarian law from other regions in Indonesia due to its status as a former *swapraja* area that had a special *Lange contracten* (long contract) with the colonial state in the period before Indonesian independence. In addition, prior to the agrarian reorganization, the land law in the Sultanate of Yogyakarta determined that the ownership rights to the entire land area in the royal territory were absolutely in the hands of the King.

Yogyakarta Special Region with the Central Government around 2000, a Presidential Decree was proposed to be issued to establish the Sultanate as a legal entity that could be subject to land ownership rights.

**a. Normative Review of Law No. 13/2012 on the Privileges of the Special Region of Yogyakarta**

Article 32 paragraph (1) of the DIY Privileges Law expressly states that in the exercise of land authority, the Sultanate and Duchy are legal entities. The Explanation of this provision only states that what is meant by "legal entity" is a special legal entity for the Sultanate and Duchy, established under this Law." It is important to emphasize that this authority is actually related to the authority of DIY as an autonomous region, especially those that cover special affairs stipulated in the DIY Privileges Law.<sup>44</sup> The legal consequence of the status of the Sultanate and Duchy as legal entities is that the Sultanate is a subject of rights that has property rights over the Sultanate's land and the Duchy is also a subject of rights that has property rights over the Duchy's land.<sup>45</sup> It is important to raise the issue of legal entities that have long been regulated in DIY. Yogyakarta Special Region Regulation No. 5/1954 on Land Rights in the Special Region of Yogyakarta stipulates that Kelurahan is a legal entity that has property rights over land, especially land that until the regulation was drafted had been controlled, hereinafter referred to as village land which is used to support kelurahan officers, as a pension fund, village treasury, and public interest.[20]

The main thought in letter i of the General Elucidation of the regulation also states that "Legal entities, such as N.V. Foundation, which want to own land, need to be reviewed in depth and regulated separately". Thus, the ideas, concepts and arrangements regarding legal entities that can own land in DIY are actually developing dynamically.

The next issue is about land management. Article 32 paragraph (5) of the DIY Privileges Law also gives the Sultanate and Duchy the authority to manage and utilize Sultanate land and Duchy land for the maximum development of culture, social interests, and community welfare. Interestingly, Article 33 paragraph (4) of the DIY Privileges Law stipulates that the management and utilization of these lands by other parties must obtain approval permission from the Sultanate for Sultanate land and approval permission from the Duchy for Duchy land. Article 32 paragraph (4) of the DIY Privileges Law states that the Sultanate's land and the

Duchy's land *keprabon* land and *non-keprabon* land in the DIY area.

It can be interpreted that the lands that were once controlled by the king are still valid to this day, while the community only has the right to utilize the land. The procedural aspect of land registration is also regulated in this Law. Article 33 paragraphs (1) and (2) of the DIY Privileges Law stipulates that ownership rights to Sultanate land and Pakualaman land are registered with the land institution in accordance with the provisions of laws and regulations. In the event that the registration of Kasultanan land and Pakualaman land is carried out by another party, paragraph (3) of the provision stipulates that such registration must obtain written approval from the Kasultanan for Kasultanan land and written approval from the Pakualaman for Pakualaman land.

#### **b. Autonomy Issues and Indications of Counter Agrarian Reform**

Most importantly, this section will present an analysis of the political direction of land law in DIY. As an opening discussion, it can be argued that the current politics of land law in DIY does not lead to agrarian reform, such as the efforts made by Hamengku Buwono IX who hoped that land issues in DIY would be subject to national land law.

The regulation of land autonomy that occurred after the enactment of the DIY Privileges Law can be illustrated as a *counter agrarian reform*, namely the reversal of the process of overhauling the agrarian structure from inclusive to exclusive, from distributed to concentrated. In other words, *counter agrarian reform* is a series of efforts to legitimize reform policies from being implemented in DIY by using the argument of 'privilege' in the province's land autonomy[21].

At the time of joining the Government of the Republic of Indonesia, Law No. 3 of 1950 on the Establishment of the Special Region of Yogyakarta was issued as the legal basis for the establishment of the Yogyakarta Special Region Government whose autonomy included the Agrarian sector, so the authority to manage land shifted to the authority of the Yogyakarta Special Region Government. Article 4 of Law No. 3 Year 1950 contains household affairs that are the authority for the Special Region of Yogyakarta, including Agrarian affairs (land), which are explained as follows:

1. The government handed over the right of "elgendom" over "elgendom" land to the state "medebewind";
2. Transfer of State land "feheersoverdrucht" to other ministries or ministries or to autonomous regions "medebewind";
3. The granting of permission to change the name of "elgendom" and "postal" rights over land if one or both parties are foreigners "medebewind";
4. Supervision of the work of autonomous regions under the agrarian "partly medebewind".

The controversial statement of the Governor of Yogyakarta Special Region, who is also the King of the Ngayogyakarta Palace, Sultan Hamengku Bawono X at the DIY Parliament building on September 15, 2015, which said that there was no state land in the Yogyakarta area, certainly showed a desire to override the State's land as well as being a strong indicator of the existence of counter agrarian reform. At that time, the Governor based the rejection of the state

land claim by referring to the Paliyan Nagari (Giyanti Agreement) signed in 1755 which determined the division of the Mataram Sultanate into two parts, namely Surakarta Sunanate and Yogyakarta Palace.

As described earlier, the DIY Privileges Law explains that every Sultanate and Pakualaman land will be recorded and inventoried, so that the Sultanate and Pakualaman clarify the legal position of their lands as well as give the community authority over the land they control. Two letters from the Governor of Yogyakarta to the Head of the Regional Office of BPN Yogyakarta dated November 12, 2012 and February 15, 2013 relating to the control of applications for land rights controlled by the Yogyakarta local government imply the concept to be regulated, which in principle confirms that all land in Yogyakarta is subject to the rights of the Sultanate and Pakualaman, which in essence can still be used by the community.

Basically, it does not want to withdraw all the land that has been used by the community, but in fact it is not entirely the case. It is proven that land tenure in Yogyakarta until now still applies the old model or system, namely apanage, which places everything in the Sultanate and Duchy areas as their domain (property). This is certainly contradictory because this system was actually abolished in 1918.

It is quite clear that the policy that was originally transformed and integrated into the national land system, which had the orientation that land was used for the welfare of the community, then turned into a "special" regional land system that indicated that it allocated land to "landlords" and "financiers". Thus, there is no appropriate sentence to describe this situation other than there has been a counter agrarian form in DIY. This situation is unfortunate because the construction of the privilege will really be felt by the community as the recipient and purpose of the privilege itself. The principle of "Throne for the People" actually needs to be interpreted as "Privileges must also be for the People."

## **5 Conclusion**

There are two things that can be concluded from the above description, namely:

- a. In the frame of DIY privileges as stipulated in the DIY Privileges Law, the Sultanate and Duchy are legal entities that are subjects of rights that have property rights over Sultanate land and Duchy land. In this status, the Sultanate and Duchy have the authority over the management and utilization of these lands so that they can be used for the maximum development of culture, social interests, and community welfare. As a basis for efforts to clarify the existence of Sultanate and Duchy lands, the Governor as the incumbent Sultan Hamengku Buwono and/or the Deputy Governor as the incumbent Adipati Paku Alam are currently implementing the mandate of the DIY Privileges Law, namely by conducting an inventory and identification of Sultanate and Duchy lands while registering them with land institutions and conducting an inventory and identification of all Sultanate and Duchy assets other than these lands.
- b. The legal politics of land autonomy in DIY is not in line with the spirit of agrarian reform. It is unfortunate that the DIY Government is not serious about the success of agrarian

reform nationally and it can be seen from a number of land policies that refer to the DIY Privileges Law that show strong indications of counter agrarian reform. This is a setback or a reversal of the DIY Government's previous commitment to integrate DIY land affairs into the national agrarian system in order to eliminate the dualism of the land system.

## 6 Suggestion

- a. Easily form a multidimensional study conducted jointly by stakeholders in the field of land in DIY as well as the Central government to formulate the ideal direction of land autonomy that is truly beneficial holistically.
- b. The policies in the DIY Privileges Law are detrimental, do not provide a sense of justice for the community, and are not in line with the spirit of the constitution. Thus, the constitutionality of this law, especially in relation to land issues, needs to be tested by the Constitutional Court of the Republic of Indonesia.

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