

THE KASULTANAN AND KADIPATEN LAND (SG/PAG) AFTER THE YSL ENACTMENT: STRENGTHENING OF THE PATRIMONIAL CULTURE AND COUNTER AGRARIAN REFORM

Angger Budiadji^{1*}, Hari Purwadi², Widodo Tresno Novianto³

^{1,2,3}Universitas Sebelas Maret

* Aprayogi123@gmail.com

ABSTRACT

The purpose of this article is to identify some issues arising from the revival of the SG/PAG after the enactment of the Yogyakarta Speciality Law (YSL). This article seeks to identify three issues arising from re-emerging the SG/PAG after the enactment of the YSL. First, the strengthening of patrimonial culture in Yogyakarta. Second, the SG/PAG impact on the common people in Yogyakarta. We will answer two research questions: (1) How relation between SG/PAG revival and the strengthening of Patrimonial Culture and (2) What is the impact of the revival of SG on the prosperity of the People? The results of the research. The results showed that the patrimonial culture in Yogyakarta strengthened after the YSL was enacted and also land grabbing informal land and village land, on the other hand, patrimonialism cloaked as a 'Speciality of Yogyakarta' actually weakened state control over land in Yogyakarta.

Keywords: *Kasultanan, Kadipaten, YSL, Patrimonial, SG/PAG*

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INTRODUCTION

There are two different points of view when people respond to the promulgation of the Special Region of Yogyakarta Specialness Law No. 13/2012 (YSL). Those who agree argue that the promulgation is a fulfillment of the mandate of Article 18B paragraph (1) of the 1945 Constitution of The Republic of Indonesia to recognize and respect the special nature of the Yogyakarta Region. The Courts (*Kasultanan* Yogyakarta and *Kadipaten* Pakualaman) have a central role in politics for the people of Yogyakarta as their leader will become governor and vice governor of Yogyakarta without going through general elections, which is different from the recruitment of governor and deputy governor positions in other provinces (Luthfi et al., 2009) (Laksono et al., 2011). Those who disagree consider the existence of a monarchy in a democratic republic to be odd. However, let us exclude the issue of whether democratic or not, there are other important aspects of the YSL, including (1) Institutionalization of the Yogyakarta Provincial Government; (2) Culture; (3) Land; and (4) Spatial Planning (Wicaksono et al., 2020).

The relationship between the central government and The Courts experienced ups and downs, there was some 'hidden' tension over land issues after the promulgation of the Basic Agrarian Law No. 5/1960 (BAL) (Anggraeni, 2012). Feudalistic land ownership doesn't comply with the BAL's legislative intent which carried the spirit of Indonesian socialism. Neither *Sultan Ground's* (SG) *Kasultanan* nor *Paku Alam Ground's* (PAG) *Kadipaten* got the recognition, it can be seen in the fourth dictum of the BAL which abolished the land ownership of the *Kasultanan* and *Kadipaten* and also transferred them to the state. The abolition was later reinforced by Presidential Decree No. 33/1984 on the Full Implementation of BAL in Yogyakarta. In practice, it couldn't be implemented because the SG/PAG was used by the

common people, and most of them felt reluctant if they disputed the land (Huda, 2000) (Lay et al., 2008).

In the Indonesian Reformation era, there was some movement to pass the YSL bill which provide legal certainty for the *Kasultanan* and *Kadipaten* to manage and regulate the rights of individuals using their land, they expect the land would improve the people's economy (Lay et al., 2008) (Munyarief, 2013). Javanese also understands the legal certainty of land ownership through the idiom “*Sadumuk bathuk, sanyari bumi, ditohi pati*” (Even one touch of the forehead, one finger length of the land, will be defended to death). In the YSL bills campaign, Yogyakarta's civil society played the role of a pressure group on the House of Representatives and the Ministry of Home Affairs by mobilizing the masses to conduct demonstrations and hearings with the Representative members (Thontowi, 2019).

Kurniadi (2019) summarized that the YSL gives Yogyakarta five special powers. First, the YSL reserved the governor and deputy governor posts to *Sultan* Hamengku Buwono and *Adipati* Paku Alam, making the posts hereditary and without term limits. Second, the YSL turned traditional royal lands (SG/PAG) into private land owned by both the *Kasultanan* and *Kadipaten*, and the government also covered the costs of land ownership procedures. Third, it granted autonomy to regulate the spatial arrangement of lands of great cultural significance to the Sultanate. Fourth, it made it possible to create a unique bureaucracy in Yogyakarta. Fifth, the YSL allowed the Yogyakarta Provincial Government to develop the area based on Javanese culture. The central government has provided Yogyakarta with special funding or Dana Keistimewaan (*Danais*) to support this particularity.

The land is treated as a commodity with a specific market value that is difficult to factor into the public interest and social evaluation of the land (Bunkus & Theesfeld, 2018). When it was promulgated, the YSL made the special land provisions in the Yogyakarta, the *Kasultanan* Yogyakarta and *Kadipaten* Pakualaman become legal entities that have land ownership rights. Despite the ownership they hold should comply with the land registration provisions.

The *Kasultanan* and *Kadipaten* can now enjoy their land ownership with greater legitimacy from the state, but the opinions of those who oppose or are affected by the losses should not be ignored. 10 years after YSL was promulgated, it still leaves problems regarding agrarian conflicts as reported by LBH Yogyakarta (Lembaga Bantuan Hukum Yogyakarta, 2015) and AJI Yogyakarta (Nurchahyo, 2022). The problem is also exacerbated by the fact that Yogyakarta is the province with the highest gini ratio from 2017 to 2022, presented by Statistics Indonesia (BPS) (Statistics Indonesia, 2023).

Although Yogyakarta always receives special funds or the *Danais* from the central government every year, it does not have much impact on reducing social inequality in Yogyakarta. First off, the Central Government will continue to provide *Danais* for as long as Yogyakarta has special region status; there is no time limit on it. Second, the Ministry of Finance regulates *Danais* as a performance-based budget. From 2013 to 2022, the central government increases the allocation of the *Danais*, based on data released by the Financial Accountability Committee of the House of Representatives (Badan Akuntabilitas Keuangan Negara DPR RI, 2020) and the Regional Planning and Development Agency (Bappeda) of Yogyakarta (Badan Perencanaan dan Pembangunan Daerah DIY, 2023) below:

Table 1. The Danais Allocation 2013-2022

Year	Budget Allocation	Increase
2013	IDR 231.392.653.500/\$ 15.473.643	-
2014	IDR 523.874.719.000/\$ 35.032.445	126 %
2015	IDR 547.450.000.000/\$ 36.608.966	5 %
2016	IDR 547.450.000.000/\$ 36.608.966	0 %
2017	IDR 800.000.000.000/\$ 53.497.440	46 %
2018	IDR 1.000.000.000.000/\$ 66.871.800	25 %
2019	IDR 1.200.000.000.000/\$ 80.246.160	20 %
2020	IDR 1.320.000.000.000/\$ 88.270.776	10 %
2021	IDR 1.320.000.000.000/\$ 88.270.776	0 %
2022	IDR 1.320.000.000.000/\$ 88.270.776	0 %

Source: Badan Perencanaan dan Pembangunan Daerah DIY (Badan Perencanaan dan Pembangunan Daerah DIY, 2023), pp. 161.

Even though *the danais*, The Courts can register their SG/PAG for free. As reported by the Financial Accountability Committee of the House of Representatives, from 2013 to 2018 land affairs received an allocation of IDR 67.715.635.830 (\$ 4.511.939) or 2% of the total *danais* provided by the central government in the same year (Zakiah et al., 2020). Kurniadi (Kurniadi, 2019) also mentioned that between 2014 and 2016, 13.226 plots SG/PAG were identified, totaling 58 km² or 58.000.000 m². SG/PAG data is based on village maps drafted in 1838 and land registration data collected during the colonial period. Can individuals or private legal entities register their land with the same size for free (state-funded)? Only the *Kasultanan* and *Kadipaten* can do so.

This article seeks to identify three issues arising from re-emerging the SG/PAG after the enactment of the YSL. First, the strengthening of patrimonial culture in Yogyakarta. Second, the SG/PAG impact on the common people in Yogyakarta. We will answer two research questions: (1) How relation between SG/PAG revival and the strengthening of patrimonial culture in Yogyakarta? and (2) What is the impact of SG/PAG revival on the people in Yogyakarta?

METHOD

Traditions of power may have the greatest impact on law and society hence we would use socio-legal methods in this article. The 'socio' in socio-legal studies represents 'an interface with the context in which rights exist' (Banakar, 2015). Travers also calls it 'policy research', which deals with social policy, regulation, enforcement, and implementation issues, i.e. how the law affects society's behavior and social situation (Banakar, 2015). This article intends to use a constructive approach that sees law as a pervasive influence in the fabric of society rather than a variable whose impact can be measured from time to time (Banakar, 2015). Law is seen as a way of dividing the world into categories and concepts, giving space and opportunity, as well as limiting action and legitimizing authority. Furthermore, this article seeks to discover the legal consciousness relating to SG/PAG and the patrimonial identity of the Yogyakarta people that was deeply rooted before The Republic of Indonesia formed and further strengthened after the establishment of YSL. Banakar (Banakar, 2005) views legal

texts, i.e. YSL, as a source of sociological data that can enable researchers to explain how institutional facts regarding the land law in Yogyakarta and their patrimonial culture.

RESULTS AND DISCUSSION

SG/PAG Revival After the YSL and Strengthening of Patrimonial Culture in Yogyakarta

Before the independence of Indonesia, *Kasultanan* and *Kadipaten* were seen as protectorate states under the Dutch colonial government. They had absolute power over their SG/PAG, as Anderson (Anderson, 2007) summarized that the Javanese see power as something concrete, homogeneous, constant in total quantity, and without inherent moral implication as such. Anderson's conclusion has relevance to Weber's thoughts on traditional authority, Weber (Waters & Waters, 2015) saw traditional authority as the authority of "yesterday's immortals". That kind of authority is based on customs enforced by habitual attitudes toward the observance of sacred customs. This "traditional" method of control or *Herrschaft* was exercised by the patriarch and the patrimonial monarch old school. The traditional authority then constructs a form of government referred to as patrimonial.

Although patrimonial is considered to be the concentration of power in the hands of one person, the Ruler distributes resources to those who can be trustworthy and have great influence in the community to maintain the continuity and stability of his power. Meanwhile, the interested party has access to provide them with political and economic protection within that power structure. As explained by Adams (Adams, 2005) that the depiction of patrimonialism in Weber's writing entitled "*Economic and Society*" is:

“We see this historically when dependents are granted fiefs or other politico-economic privileges and immunities and become clients and agents of their ruler and now patron, separating themselves from his family-household to form their households.”

Yogyakarta society can be classified as a prismatic society. As Fred Riggs defines prismatic society as a form of transition from the traditional era to the modern era that has not been completed due to the clash of modern and traditional values in his work entitled "*Administration in Developing Countries: The Theory of Prismatic Society*" (Jati, 2012).

Until today some peoples work to serve *Kasultanan* and *Kadipaten* called *Abdi Dalem* (Servant). Sudaryanto (Sudaryanto, 2008) wrote that *Abdi Dalem* generally can be divided into two groups: (1) *Abdi Dalem Punokawan*, a group of *Abdi Dalem* who have daily domestic job in the palace and gets wage from The Courts; while (2) *Abdi Dalem Keprajan*, another group of *Abdi Dalem* who haven't daily job desk and gets pay by the government as they have to serve as a local civil servant. More specifically Jati (Jati, 2012) argues that in Yogyakarta there is an ongoing bureaucratization of *Abdi Dalem* that strengthens patrimonial culture, this argument makes sense because many of the people who work as Yogyakarta's civil servants also serve as *Abdi Dalem Keprajan*. The existence of modern bureaucrats who become *Abdi Dalem Keprajan* is vital for The Courts' existence as an administrative political power and socio-cultural power.

Political-administrative itself is interpreted as the mobilization of bureaucratic power in the political struggle to maintain Yogyakarta's specialty, while socio-cultural means as an agent of guarding the traditional culture of The Courts. There are several factors why people in Yogyakarta tend to obey The Courts (Sudaryanto, 2008) (Hakim et al., 2015):

- 1) Historical justification;

- 2) Cultural justification;
- 3) Political justification; and
- 4) Personal justification, e.g inner peace, continuing their parent's service

The combination of 'traditional' governance and the modern bureaucracy of the Yogyakarta Provincial Government creates some complexities, especially in three aspects:

- 1) Identification of SG/PAG in the present time;
- 2) Difficulties in determining the *Kasultanan* and *Kadipaten* as public or private legal entities; and
- 3) Three stakeholders who participated in SG/PAG registration.

Article 32 paragraph (4) YSL specifies that there are two types of SG/PAG, namely Royal (*Keprabon*) Land and Non-Royal (*Non-Keprabon*) Land. Elucidation of Article 32 YSL defines *Keprabon* Land as land used for palace buildings and their fittings (e.g square, family cemeteries, etc.), while *Non-Keprabon* Land can be interpreted more broadly as it includes: (1) SG/PAG which used by common people granted by The Courts; (2) Forests and public facilities established on SG/PAG; and (3) Informal land. Then Yogyakarta Provincial Government and Yogyakarta Provincial People's Representative Council promulgated Special Regional Regulation (Perdais) No. 1/2017 on the Management and Utilization of SG/PAG, which in Article 8 paragraph (3) Perdais adds village land whose origins are from the *Kasultanan* and *Kadipaten* as another type of *Non-Keprabon* Land. Thus, there is an extensive interpretation of *Non-Keprabon* Land both on the YSL and Perdais levels, which greatly influences the policy of land law in Yogyakarta.

Nowadays positive law can return Yogyakarta to its pre-Indonesian independence state, a condition when all land in there has belonged to The Courts. In the past time, the *Sultan* and *Adipati* gave their administrative and military apparatus economic access to land in exchange for their political support, and they also retained property ownership within the overall framework of Dutch Colonial domination (Kurniadi, 2019). Later history then forced *Kasultanan* and *Kadipaten* to release some of the lands they controlled to the Dutch private companies, as the enactment of agrarian reorganization through the 1870 *Agrarische Wet* (1870 Agrarian Law). In 1917, The Dutch East Indies colonial government then urged *Sultan* Hamengku Buwono VII to implement land conversion to provide freedom for private companies to invest their capital (Setiawati, 2011). In response to this condition, the *Sultan* issued *Rijksblad Kasultanan* No. 16/1918, which was then followed by the *Adipati* by also issuing *Rijksblad Pakualaman* No. 18/1918. Both *Rijksblad* stated: "*Sakabehing bumi kang ora ana tanda yektine kadarbe ing liyan mawa wewenang eigendom, dadi bumi kagungane keraton insung*" (all land that has no evidence of being owned by someone through rights of ownership, then the land belongs to my Court). The content of those two *Rijksblad* is the same as the *Domein Verklaring* principle contained in the 1870 *Agrarische Wet*.

The BAL then replaced the *Domein Verklaring* principle with *Hak Menguasai Negara* or State Control over the land principle. HMN in Article 2 of the BAL gives great power to the State:

- 1) Regulate and organize the allocation, use, supply, and maintenance of the earth, water, and airspace;

- 2) Determine and regulate legal relationships between people and the earth, water, and space; and
- 3) Determining and regulating legal relationships between people and their legal acts.

The scope of the State Control applies to all land in Indonesia, both lands that have not been attached by the rights, as well as land that has been attached by the rights to individuals/legal entities. Arizona (Arizona, 2014) argued there are three concepts of land tenure in Indonesia: (1) *Domein Verklaring*; (2) State Control; and (3) Constitutional Conception of State Control. The last and most recent concept is the Indonesian Constitutional Court's interpretation of several judicial review petitions against several natural resource-related laws. If the concept of HMN gives so much power to the state, on the other hand, the Indonesian Constitutional Court tries to prevent the state from acting arbitrarily as practiced during the New Order regime by protecting the rights of Indigenous People over natural resources. The three concepts of land tenure can be distinguished based on the context of political economy, the policy of land law, the relationship between state control and the rights of the people/indigenous people, legal relations in land acquisition, legal relations with private parties, and the division of land status, as explained by Arizona (Arizona, 2014) as follows:

Table 2. Comparison of the Three Land Tenure Concepts in Indonesia

	<i>Domein verklaring</i>	State Control	Constitutional Conception of State Control
Political-economy context	Liberalism	Nationalism	Neoliberalism
Setting of Law	The 1870 <i>Agrarische Wet</i> and some of the Dutch East Indies Colonial regulations	The 1960 BAL and several laws were promulgated during the New Order regime.	Indonesian Constitutional Court decisions that review law against Constitution.
The Policy of Land Law	Pluralistic, land law provisions inter-groups of society (European, Asian, and Indigenous people)	Centralized, unification of land law	Pluralistic, decentralized
Relationship between state control and the rights of the people/indigenous communities	Land tenure by the colonial rulers is residual land from freehold lands property (including land controlled by the indigenous people)	The state controls all land and natural resources. Control of indigenous communities is limited as long as it still exists and isn't contrary to the national interest	State control is limited by the existence of individual rights and the rights of indigenous communities rights. Control of indigenous communities is limited to the extent that still exist, by

	<i>Domein verklaring</i>	State Control	Constitutional Conception of State Control
			development times and the principle of Indonesia
Legal relations in land acquisition	Land acquisition is carried out by colonial rulers by purchasing freehold land property and indigenous people's land	The state provides compensation for the people's land that is used for public interest development	The state provides compensation for the people's land that is used for public interest development
Legal relations with private parties	The colonial rulers may sell land and may also grant concessions to the private sector	The ruler may not sell land, but rather grant concessions and licenses to private	The ruler may not sell land, but rather grant concessions and licenses to private
Division of land status	Free state land (<i>vrij landsdomein</i>) and Not-free state land (<i>onvrij Landsdomein</i>)	All land controlled by the state	The land is divided into three statuses: state land, indigenous communities land (<i>ulayat</i>), and freehold land

Source: Arizona ((Arizona, 2014), pp. 391.

The revival of SG/PAG by the enactment of YSL, whereas it was previously abolished by the BAL, is a consequence of the shift in the style of land law to be more pluralistic and decentralized. This aligns with the spirit of Indonesia's reformation era that seeks to strengthen regional autonomy, which is expected to provide welfare to the people (Butt & Lindsey, 2018). Article 2 Paragraph (4) of the BAL allows the state to grant State Control to the special regions and indigenous communities, as necessary and not contrary to the national interest. However, the BAL has never regulated the ownership of informal land, so it is not surprising that the principle of *Domein Verklaring* is revived through YSL and Perdais.

The argument for reduced State Control makes sense because of the recognition of the *Kasultanan* and *Kadipaten* as legal entities in Article 32 Paragraph (1) of the YSL. YSL does not explicitly explain whether the *Kasultanan* and *Kadipaten* are private or public legal entities. Pesch (Pesch, 2008) construct five approaches to distinguish public-private legal entities, but legislators of the YSL seem to tend to use a dimensional approach when attaching legal entity status to the *Kasultanan* and *Kadipaten*. As cited by Pesch (2008), Boseman sees the dimensional approach as both public and private legal entities are influenced by political and economic authority and usually use both types of authority. The YSL authorizes the *Kasultanan* and *Kadipaten* to manage and utilize SG/PAG for the maximum benefit of cultural development, social interests, and people's welfare, but YSL also does not prohibit the *Kasultanan* and *Kadipaten* from charging fees for the usage of SG/PAG. However, the *Kasultanan* and *Kadipaten* tend to be constructed as private legal entities because they are led

by *Sultan* or *Adipati* who are not appointed by the state and can grant permits for SG/PAG usage.

The argument that the Court is a private legal entity is strengthened by the involvement of the Court's internal institution namely *Tepas Panitikismo*, which deals with SG/PAG issues in the inventory and registration of SG/PAG. The data collection of SG/PAG was initially only carried out by *Panitikismo*, later in 2017, the Land and Spatial Planning Office of the Yogyakarta Provincial Government was formed to assist *Tepas Panitikismo* to record SG/PAG (Illiyan, 2020). SG/PAG data are based on 1838 village maps and some land registry data collected during the colonial period (Koran Sindo, 2015). The result of the data collection will be registered with National Land Agency (BPN) for certification.

In 1993, the first land identification revealed that SG's total area in Yogyakarta was 3,675 ha (36.75 km²), or 1.15% of the total Yogyakarta area, however, those areas did not include village lands (Kurniadi, 2019). The SG/PAG registration programs started in 2014 and are expected to be completed in 2024. Between 2014 and 2016, there are 13.226 plots of SG with a total area of 58 km² or 58 million m² were identified (Kurniadi, 2019). *Kasultanan* has SG in all regions of Yogyakarta except for four sub-districts of Kulon Progo belonging to *Kadipaten* and three sub-districts that were once enclaves of *Kasunanan* Surakarta, one of the traditional Courts in Surakarta, Central Java. *Kadipaten* manages 321 plots or 1,182.578 ha of PAG, including 359,16 ha in Panjatan, 315,42 ha in Temon, 287.97 ha in Galur, and 220.01 ha in Wates. At the time of writing this article, the size and number of SG/PAG have increased due to the inclusion of village land as *Non-Keprabon* Land of SG/PAG by the data conducted by the Land and Spatial Planning Office of Yogyakarta Provincial Government below (DPTR DIY, 2023):

Table 3. The total land area of SG, PAG, and Village Land (in m²) by Regency/City in Yogyakarta Province

No	Regency/City	SG	PAG	Village Land
1	Yogyakarta City	3,562,418	149,756	-
2	Sleman Regency	7,632,302	-	57,969,383
3	Bantul Regency	26,631,376	-	41,523,915
4	Kulon Progo Regency	6,442,767	13,603,498	26,426,470
5	Gunung Kidul Regency	33,917,996	-	72,162,332
Total		78,175,554	13,753,254	198,283,365

Source: <https://intantaruberinfo.jogjaprovo.go.id/dashboard.php>

If the total area above is summed up, so the total land area of SG/PAG in Yogyakarta Province is approximately 289 km² or 9% of the area of Yogyakarta Province. A significant increase in the area of SG/PAG has raised the issue of land grabbing in Yogyakarta, despite not using a coercive way and complying with the law but using a culturally hegemonic one (Syahyuti, 2019). Despite we don't have real evidence to prove there has been land grabbing, the YSL and Perdais provision that *Kasultanan* and *Kadipaten* may claim informal land based on data from the colonial period.

Impact of the SG/PAG on Land Access in Yogyakarta

At a macro level, unequal land ownership by one party has an impact on economic inequality (Carter, 2000). As mentioned before, compared to the other provinces in Java Island Yogyakarta is the province with the highest gini ratio from 2017 to 2022 as presented below:

Table 4. Gini Ratio of Provinces in Java Island 2017-2022

Provinces	2017		2018		2019		2020		2021		2022	
	1 st SEM.	2 nd SEM.										
Yogyakarta	0.432	0.440	0.441	0.442	0.423	0.428	0.434	0.437	0.441	0.436	0.439	0.459
Capital Region of Jakarta	0.413	0.409	0.394	0.390	0.394	0.391	0.399	0.400	0.409	0.411	0.423	0.412
Banten	0.382	0.379	0.385	0.367	0.365	0.361	0.363	0.365	0.365	0.363	0.363	0.377
West Java	0.403	0.393	0.407	0.405	0.402	0.398	0.403	0.398	0.412	0.406	0.417	0.412
Central Java	0.365	0.365	0.378	0.352	0.361	0.358	0.362	0.359	0.372	0.368	0.374	0.366
East Java	0.396	0.415	0.379	0.367	0.370	0.364	0.366	0.364	0.374	0.364	0.364	0.371

Source: <https://www.bps.go.id/indicator/23/98/1/gini-ratio-menurut-provinsi-dan-daerah.html>

The highest gini ratio in Yogyakarta means there is great economic inequality. Studies conducted by Institute for Research and Empowerment (IRE) highlight the inequality between rural and urban areas in Yogyakarta in terms of income and opportunities (Rajif et al., 2017). In rural areas, poverty is characterized by the problem of control of productive assets, especially agricultural land. Narrow tenure of agricultural land leads to a low level of income from this sector so alternative sources of livelihood must be sought from other sectors. A different pattern is found in urban areas. Poverty in urban areas is no longer solely a problem of the absence of assets, but also the inability to access employment in the formal sector that provides greater income levels.

Besides income inequality between rural and urban areas, there are also inequalities in basic services not only compare between regency/city in Yogyakarta, but also between social groups (poor, middle, and rich) and between urban-rural areas in the same district/city (Rajif et al., 2017). The concentration of basic service facilities and personnel (especially in education and health) in Yogyakarta City and Sleman Regency causes inequality in the other three regions, especially in Kulon Progo Regency and Gunung Kidul Regency. Inequality also occurs between social groups where the poor have more limited choices in accessing basic services (due to distance), while the middle class and wealthy groups have more choices, especially for higher quality services.

It has to be recognized that Yogyakarta is very attractive, especially in tourism and low cost of living, as well as easy access to universities. That attractiveness is shown by Statistics Indonesia (Statistics Indonesia, 2020) with the increasing population in Yogyakarta, in 2010 it was 3,457,491 people then in 2019 it became 3,842,932. Generally, an increasing population would attract housing developers to investing in, but Real Estate Indonesia (REI) Yogyakarta said that the price of freehold land in Yogyakarta where located in a strategic location can reach IDR 1-1.5 million or USD 66-100 per m², while in a slightly inward location, it can cost IDR 500 thousand or USD 33 per m² (Tribun Jogja, 2021). On the other hand, the minimum wage in Yogyakarta set by the Governor of Yogyakarta/Sultan Hamengku Buwono X in 2023 is only

IDR 1,981,782 or USD 131 per month (Yogyakarta Governor's Decree No. 338/KEP/2022, 2022). This condition can also be exacerbated by the projection of an increase in the number of residents in Yogyakarta in 2025 which can reach 4,179,333 people (Statistics Indonesia, 2022).

Actual losses by the revival of SG/PAG can be found when land acquisition for the construction of Yogyakarta International Airport (YIA) happened in 2016. The new airport in Yogyakarta requires 587 hectares of land in Temon District, Kulon Progo Regency, 128 hectares of the total land required is PAG and the *Kadipaten* received land compensation of IDR 701 billion/USD 46,636,478 (Kustiningsih, 2017) (Budiadji et al., 2023). In the PAG that will be acquired, 75 people use the PAG for the shrimp pond. Because the YIA Land Acquisition Committee considers those PAG to have belonged to the *Kadipaten*, so the government did not compensate the 75 people despite the shrimp ponds that had been cultivated for years. The 75 people then object that government decisions by filled consignment, as we found by tracing 75 court decisions both at the district court level and the cassation level (Budiadji et al., 2023). Initially, the Wates District Court granted the consignment request with varying values but the total compensation to be paid totaled IDR 24.674 billion/USD 1,641,546. However, after the government appealed the decisions of the Wates District Court to the Indonesian Supreme Court, the Supreme Court annulled the decisions of the Wates District Court and didn't compensate the 75 people at all.

Despite the lack of a license from the *Kadipaten*, the 75 people who have operated shrimp ponds over the years have helped protect the PAG from land takeovers. Even in formal legal terms, before YSL was passed, PAG had no clear legal basis. The amount of compensation they would receive was less than 5 percent of the compensation received by the *Kadipaten*. Actual losses happened because (Budiadji et al., 2023):

1. The non-granting of compensation is an excess of the revival of the PAG in the YSL, and in a fairly short time there was no regulation for the 75 people to apply to the *Kadipaten*;
2. Large number of objections for compensation filed at the same time and there is a short time of case examination made many things not considered in the first level decision of the Wates District Court and the Supreme Court cassation decision.

Another problem that also results from the revival of SG/PAG is the land grabbing of village land by *Kasultanan* and *Kadipaten*. The certification of village land under the name of the village government, which was original with the right of use on state land, by Utilization of Village Land Yogyakarta Governor Regulation No. 34/2017 was changed to the right of use on SG or PAG. That regulation-making by the Yogyakarta Provincial Government was opposed by Ni'matul Huda — Professor of Constitutional Law at the Islamic University of Indonesia — The Governor Regulation shouldn't change the status of village land (Nugraha, 2021). Not only the state were reduced its control over land in Yogyakarta, but this regulation practice indicated that the *Sultan* as governor and *Adipati* as vice governor were overriding state law and making their laws.

On the other hand, the village by Article 76 Paragraph (1) Village Law No. 6/2014 regulates that village may own assets in the form of village land. What is stipulated in the Governor's Regulation is contrary to the spirit of the Village Law, which gives villages the

authority to regulate and manage the needs of local communities based on their origin and traditional rights. In Village Law there are no special provisions for the village in Yogyakarta, so every region in Indonesia must comply with the Village Law. *Sultan* Hamengku Buwono X as Governor of Yogyakarta Province when issuing that Governor Regulation based on the origin of village land which was granted by The Courts a long time ago, that's like crying over spilled milk. If the previous *Sultan* or *Adipati* generously gave the villagers access to land, is it reasonable for the successors to take back the village land?

What happened on the land issue in Yogyakarta recently as stated by Luthfi (Luthfi, 2015) was 'Counter Reform'. The YSL creates legal uncertainty, social unrest, inconsistency, and chaos in constitutional issues. The agrarian policy that had been built previously in the BAL with the spirit of agrarian reform had changed because of the counter-reform practiced in Yogyakarta. Regarding village land, Luthfi also stated that the certification of the usage rights of the village government over SG/PAG is an anomaly and a double standard (Nugraha, 2021). The land tenure that is granted is the traditional right namely *anggaduh* or the right to use the SG/PAG without being able to collect the proceeds, in addition, the *Kasultanan* or *Kadipaten* as the owner can use their power to control the village government at any time.

What has happened in Yogyakarta after the YSL was passed until nowadays, is an important lesson in the development of local government law and agrarian law in Indonesia. Unfortunately, state control over Yogyakarta in land matters tends to weaken. In concrete cases such as construction for public interest such as the Bawen-Yogyakarta Toll Road, the *Sultan* was reluctant to release SG and instead proposes a lease system, so that every year the state has to pay the *Kasultanan* amount of money (CNN Indonesia, 2023). Actually, after the passing of the YSL, the central government can issue a government regulation that provides policy direction for the Courts to utilize their SG/PAG. With strong political will, the government could have encouraged the Sultanate and Duchy to allow low-cost housing to be built on SG/PAG.

CONCLUSION

The combination of Indonesia's modern democratic system with the patrimonial provincial monarchy has created complexity in the regulation of SG/PAG which was previously abolished in the BAL. The provisions in the YSL seem to allow The Courts to carry out land grabbing of informal land and village land. Under the guise of 'specialty', the principle of *domein verklaring* seems to be revived by the YSL and *Perdais*. This ambiguity brings a non-coercive weakening of the principle of State Control over the land.

The revival of SG/PAG has yet to have a tangible impact on the prosperity of the people in Yogyakarta, as evidenced by Yogyakarta's high gini ratio. The inequality between urban and rural areas still cannot be resolved and has instead sucked up the living space of rural communities as happened in Temon District, Kulon Progo Regency. With the population growth in Yogyakarta Province and the narrow access to land implied by the existence of SG/PAG, land prices are increasing without being able to be reached by common people with minimum wage income.

It is never too late, by constitutional authority, the government can issue regulations to provide policy direction for the utilization of all types of SG/PAG. A policy direction that can pressure the Palace to allow the construction of low-cost housing can at least be an alternative

to solve a small part of the problems caused by the revival of SG/PAG. Before things get chaotic.

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