



Reconstruction of agrarian legal policy on the former kasunanan surakarta hadiningrat land status based on social justice values

Ricky Ananta*, Gunarto, Widhi Handoko

Department of Law, Sultan Agung Islamic University, Semarang, Indonesia

Abstract

This research analyzes the weaknesses of The Agrarian Legal Policy on The Former *Kasunanan* Surakarta Hadiningrat Land Status in Indonesia currently and how to reconstruct the law Based on social Justice Value in a constructivism paradigm where the type of research method used is normative juridical and the specifications of this research have a prescriptive analytical nature with the approach used by the author being a statutory approach.

The research results found that the weaknesses of regulations on agrarian law policies regarding the status of the former Surakarta Hadiningrat *Kasunanan* land are that there are overlapping regulations that are unable to accommodate conflicts related to the management and control of the former Surakarta *Kasunanan* Land. This has an impact on the lack of legal certainty regarding customary land ownership by indigenous peoples. The reconstruction of existing regulations as support for agrarian law policies regarding the status of the former Surakarta Hadiningrat *Kasunanan* land based on social justice values. In substance, this reconstruction recommends a detailed and clear legal policy reformulation concept related to the control and management of customary land that is guided by the prosperity of the people, in the sense of happiness, welfare and freedom in society and the Indonesian legal state that is independent, sovereign, just and prosperous with a sociological legal approach.

Keywords: Legal reconstruction, agrarian law, kasunanan land, justice value.

Introduction

The Special Region of Surakarta is a special autonomous region (special region) that de facto existed between August 1945 and July 1946. The determination of this special autonomy status during that period was never stipulated with a separate law based on article 18 of the original Constitution, but only with the Presidential Determination Charter dated August 19, 1945 and Law No. 1 of 1945 concerning the Position of the Regional National Committee. Kasunanan Surakarta and Praja Mangkunegaran on August 18-19 sent a congratulatory cable to Sukarno-Hatta for Indonesia's independence. Furthermore, on September 1, 1945, four days before Yogyakarta, SISKS Pakubuwana XII, and KGPAA Mangkunagara VIII, separately issued an official royal decree. Five days later, on September 6, 1945, the two monarchies received a Determination Charter from the President of Indonesia. After the issuance of UUPA, *Baluwarti* residents in the Surakarta area demanded to obtain land ownership (SHM), but were strongly rejected by the *Kasunanan* Surakarta. The palace claimed that the rights to *Baluwarti* land were still in the hands of the palace based on eigendom land rights, and were strengthened by the issuance of Presidential Decree No. 23 of 1988. The overlapping status of *Baluwarti* land legally became a debate between the *Kasunanan* palace and the *Baluwarti* community (Fernanda, 2024) ^[5]. The city government also appeared and seemed silent and did not try to advocate the needs of the *Baluwarti* community and seemed to guarantee the protection of land rights for citizens. The *Baluwarti* land conflict is very complex, starting from ordinary residents who migrated and lived on *Baluwarti* land with the permission of the *Kasunanan* palace for years because of the location of *Baluwarti* land as the center of government and strategy. In the end, *Baluwarti* land became a settlement for ordinary residents who entered into a rental contract with the *Kasunanan* Surakarta palace.

After the UUPA was enacted, the *Baluwarti* residents demanded the issuance of SHM (Ownership Certificate) to the city government. This was strongly rejected by the Surakarta *Kasunanan* palace.

The problem resurfaced after the collapse of the New Order. The *Baluwarti* residents refused to approve the Surat Palilah Griya Pasiten and claimed that the government had the right to manage and regulate *Baluwarti* land based on the provisions of Land Reform. The Surakarta *Kasunanan* Palace claimed that the rights to *Baluwarti* land were still and remain in the hands of the palace. The Surakarta city government as an extension of the central government had put forward arguments to issue SHM and several times planned development on *Baluwarti* land was also not realized.

Control of *Baluwarti* land is still in the hands of the *Kasunanan* palace until now. Every plan related to *Baluwarti* land must obtain the approval of the *Kasunanan* palace. On the other hand, the *Baluwarti* community still expects assistance from the Surakarta city government to issue the ownership status of *Baluwarti* land to the *Baluwarti* community with individual ownership rights. The Surakarta city government as a formal institution that has legislation in land management in Surakarta has not yet issued a firm action on the status and management of *Baluwarti* land. In this case, the *Kasunanan* Surakarta palace must face the Surakarta city government to defend *Baluwarti* land. This problem was then bough to the author in a research where the problem studied are further organized into research with the following main problem:

1. What are the weaknesses of The Agrarian Legal Policy on The Former *Kasunanan* Surakarta Hadiningrat Land Status in Indonesia currently?
2. How Is the Legal Reconstruction of The Agrarian Legal Policy on The Former *Kasunanan* Surakarta Hadiningrat Land Status Based on Justice Value?

Method of research

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (socio-legal approach). The sociological juridical approach (socio-legal approach) is intended to study and examine the interrelationships associated in real with other social variables (Toebagus, 2020) ^[7].

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010) ^[4].

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the freedom to express opinions in public.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

Research result and discussion

1. Weaknesses of the agrarian legal policy on the former *kasunanan* surakarta hadiningrat land status in Indonesia currently

The land management and control system in *Kasunanan* Surakarta experienced dynamics from time to time, from the beginning the highest land rights were in the hands of the Sunan by classifying that land directly controlled by the King/Sunan as *ampilan Dalem* land, and land that was not directly controlled by the King as *Kejawen* land. Furthermore, in further developments, there was a fundamental change where the highest power over land was no longer the King personally, but by the State (*Kasunanan* Government), accompanied by the formation of sub-districts with perpetual use rights (*kaparingaken gumaduh ing salawas-lawase*) over the land in their village area. Further developments based on *Rijksbladen* 1938 No. 10. The Village was given *anggaduh* rights over all land in its jurisdiction (recorded in the Village Register), Proof of land rights is called *Pikukuh*. Land rights that were once granted by the Surakarta Palace as stated in *Rijksblade* Surakarta No. 9 as quoted by Bambang Hardiyanto in Wahyu Widodo (2019) ^[10], namely *Anggaduh* Authority (a kind of Ownership Rights), *Anggaduh* Run Authority is hereditary

but can be taken by the Palace at any time, *Tanah Lungguh* (as a salary for servants, village heads and their subordinates), and is subject to landrente/land tax., *Tanah Pituwas* (given to retired village heads and their subordinates, if they die then the land returns to the village treasury), is not subject to land tax, village land treasury (all land outside *lungguh*, *pituwas*) as Village income, and is subject to land tax.

The lands that are directly controlled and used by the Surakarta Palace based on *Rijksblade* Surakarta No.13 of 1938 as quoted by Bambang Hardiyanto are *Bumi pamijen keraton* (land used for the needs of the King and his family), *Bumi negara* (land for the needs of the palace), and *Bumi mutihan* (land for the development of Islam).

The land management pattern of the Swaraja was apparently adopted in land management regulated in the national land law, namely Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA), such as state land, government asset land, village treasury land, *pelungguh* land, owned land, land for building use rights, business rights, and so on, even in its development, ownership rights by Swaraja also became control rights by *Swaraja* as applied in national land law. (Putri, 2024) ^[6] With the establishment of the Republic of Indonesia which is sovereign with the constitutional basis of the 1945 Constitution, the position of Swaraja and its rights and authorities over its territory should refer to the constitution as part of the Republic of Indonesia including land affairs which is based on the constitution Article 33 of the 1945 Constitution has been enforced by the national land law (UUPA). In reality, this is not immediately "*recognized or applies*" automatically and completely to the *Swaraja* area because there are still differences in perception about Swaraja/ex Swaraja land between the Government and the Swapraja/Ex Swapraja Government. This is certainly inseparable from the historical and political factors of each autonomous region that has ever existed in the Republic of Indonesia (Ambuwaru, 2023) ^[1], each of which has its own political history, including the Surakarta *Kasunanan*.

Broadly speaking, it can be formulated regarding the overlapping regulations for the management and control of the Ex-*Swapraja* Land, starting with the unclear and undetailed UUPA, PP Number 224 of 1961 and Presidential Decree Number 23 of 1988 in regulating the transfer of former *Kasunanan* land and its division and the lack of harmonization between UUPA and PP Number 38 of 1963 on the one hand with Presidential Decree Number 23 of 1988 on the other hand can cause a lack of legal certainty regarding the legal status of *Baluwarti* land. Thus, there needs to be a comprehensive regulation of *Baluwarti* land.

The former Surakarta *Kasunanan* land, with its long history and cultural heritage, is the center of attention in land management regulations in Indonesia. Although efforts have been made to regulate and manage the land, there are weaknesses in the regulations that have resulted in a number of unresolved problems.

one of the main weaknesses in the regulation of land management of the former *Kasunanan* Surakarta is the lack of legal certainty which causes land ownership conflicts. The long history of this land, involving transfers of ownership during the colonial and post-independence eras, has created uncertainty regarding the legal status of the land. Land that should be owned by a particular community or entity is often disputed by different parties, resulting in complex and difficult to resolve legal conflicts. (Widodo, 2018).

The regulation of land management of the former Kasunanan Surakarta is also often less transparent and less accountable. The decision-making process related to land is often not Open to the public and does not involve the active participation of all parties involved. This lack of transparency can give rise to suspicion and distrust from the community towards the land management process, as well as increase the risk of corrupt practices and abuse of power. Indigenous communities who have claims to the former *Kasunanan* Surakarta land often face obstacles in obtaining adequate legal protection for their rights. Inadequate land management regulations often fail to accommodate the customary rights of these communities, increasing the risk of extortion, forced displacement, and conflict with other parties claiming the same land. (Toebagus, 2022) ^[8].

Although there are regulations governing the management of former Kasunanan Surakarta land, law enforcement against violations of these regulations is often ineffective. Lack of resources, capacity, and political will to enforce the law means that violations of land management regulations can occur without significant consequences for the perpetrators. This results in an environment that is not conducive to sustainable and equitable land management. Weaknesses in the regulations for managing former *Kasunanan* Surakarta land are serious challenges that need to be addressed immediately. Greater efforts are needed to improve legal certainty, transparency, accountability, and protection of customary rights in the management of this land. Effective law enforcement is also very important to ensure that existing regulations are implemented properly and fairly for all parties involved. (Bedner, 2019) ^[2]. By taking these corrective steps, it is hoped that the problems related to the management of former *Kasunanan* Surakarta land can be overcome, and this land can be managed sustainably and in accordance with the values of justice and sustainability.

For the Surakarta City Government, the palace building and the traditional ceremonies of the Surakarta palace, as symbols of Javanese legal culture, are tourism assets that can generate economic benefits. This is the basis for using Javanese legal culture as a reference framework for the Surakarta City Government in interpreting the Surakarta Palace as a traditional institution, a holder of Javanese culture led by a king. The Surakarta City Government refers to Law Number 5 of 1960 (UUPA) which has the ideology of family legal culture in interpreting Baluwarti land as state land. The Surakarta City Government has a strong desire to control Baluwarti land. The high aspirations of the Surakarta City government for the rights to Baluwarti land were caused by first, past achievements, the Letter of the Minister of Home Affairs addressed to the Governor of Central Java Number Dox.48/1/30 dated October 29, 1956, regarding the land of the Surakarta palace (Baluwarti), which stated that the buildings and land in Baluwarti were under the control of the government of the Republic of Indonesia. The Letter of the Minister of Home Affairs above has encouraged the birth of the Letter of the Mayor of the KDH of Surakarta City dated August 3, 1967 Number 1515/T.6/VIII-67 concerning the use/management of the DKS state land in the Baluwarti village area. Based on this mayoral letter, the management of Baluwarti land was handed over to the Regional Revenue Service and Baluwarti residents who used the land were considered as land tenants to the local government. Residents of Baluwarti land were required to

make a "*temporary lease agreement for land controlled by the Surakarta city government*". The Letter of the Minister of Home Affairs Number Dox. 48/1/30 dated October 29, 1956 has given rise to the aspirations of the Surakarta City government regarding the rights to Baluwarti land that are unrealistic, meaning aspirations that are inconsistent with the aspirations of the Surakarta palace relatives. This can cause conflict.

2. Legal Reconstruction of the agrarian legal Policy on the former *Kasunanan* Surakarta hadiningrat land Status Based on Justice value

The resolution of the former Kasunanan Surakarta land swapraja dispute raises various issues that require a progressive and inclusive legal approach. By linking the resolution of the dispute with progressive legal theory, it is hoped that better justice can be realized for all parties involved, as well as encouraging the creation of a legal system that is more responsive to social and cultural change. Thus, the resolution of the Kasunanan Surakarta land swapraja dispute can be the first step towards a fairer and more sustainable justice system in Indonesia.

The resolution of the former Kasunanan Surakarta land swapraja dispute also requires a sociological legal approach. Dispute resolution is an important part of the legal system that aims to resolve conflicts between individuals or groups in a fair and effective manner. One of the approaches that has developed in dispute resolution is the sociological legal approach, which considers the social, cultural, and psychological aspects of legal conflicts. The sociological legal approach emphasizes the importance of involving the community in dispute resolution. By considering local values, norms, and culture, dispute resolution can be more in line with the needs and desires of the local community.

Sociology of law helps understand the social context in which conflicts occur. By considering factors such as social, economic, and cultural status, dispute resolution can be more sensitive to the interests and needs of all parties involved. Through a sociological approach to law, communities can be more involved in the dispute resolution process. This not only provides an opportunity for individuals to resolve their conflicts in a more effective manner, but also strengthens a sense of ownership and trust in the legal system. By understanding the root causes of conflict in more depth, a sociological approach to law can help reduce the likelihood of conflict recurring. By addressing the underlying issues, dispute resolution can become more sustainable and prevent similar conflicts from occurring in the future. A sociological approach to law plays an important role in dispute resolution by considering the social, cultural, and psychological aspects of legal conflicts. By involving communities, understanding the social context, and empowering communities, dispute resolution can become more effective and sustainable. Thus, it is important to continue to develop and apply the sociological approach to law in modern legal systems.

The importance of harmony or conformity of the opinions of the Surakarta City Government, *Baluwarti* residents and some of the Surakarta palace relatives regarding the meaning of the Surakarta palace as a traditional institution, a Javanese cultural custodian led by Sinuhun and can be utilized as a tourist attraction. Each group uses Javanese legal culture as a reference framework to organize their opinions regarding the meaning of the Surakarta palace. The

opinion of some of the Surakarta palace relatives who state that the Surakarta palace is the center of government cannot be accommodated in the *Baluwarti* land arrangement because it is not compatible with the aspirations of the Surakarta City Government and the *Baluwarti* community and can cause social unrest. (Erdika, 2024) ^[3]. The Surakarta City Government, the *Baluwarti* community and the Surakarta palace relatives have the same interest, namely that the existence of the Surakarta palace can provide economic benefits. This common interest is the basis for reconstructing the *Baluwarti* land arrangement as a cultural heritage area. The rights to *Baluwarti* land are based on the rights of the nation. The Surakarta city government as the holder of the HMN regulates the relationship between Sri Susuhunan, and other Surakarta palace relatives, individuals, legal entities with the *Baluwarti* land. The rights to the *Baluwarti* land are the property of Sri Susuhunan as the leader of the Surakarta palace relatives. This ownership right can be burdened with HGB, right of use, right of lease, *magersari*, *anggaduh*, *nenggo*.

The settlement of the *Kasunanan* Surakarta land dispute involves various parties, including the government, local communities, and customary institutions. One of the approaches used in resolving this dispute is the legal approach and the customary approach. The legal approach involves a formal legal process regulated in applicable laws and regulations, while the customary approach involves a process of deliberation and mediation led by a customary leader or community leader.

In some cases, the settlement of the *Kasunanan* Surakarta land dispute also involves customary law institutions, such as the Central Java Customary Council, which is tasked with resolving disputes related to Javanese customs in the Central Java region. The approach used in resolving this dispute reflects legal pluralism in Indonesia, where positive law and customary law can coexist in resolving complex disputes. After discussing various issues as described above, then Based on Law No. 5 of 1960 concerning the UUP, it is explained that the Ulayat Land (*Baluwarti* Land) Management Rights originating from the Ulayat Land are determined by the customary law community. However, empirical evidence provides information that the *Baluwarti* land is considered a cultural heritage so that its management is utilized for tourism purposes. In this case under the auspices of the Surakarta City Government. Such conditions weaken the management rights of customary land that should be carried out by the customary community. The reconstruction of existing regulations as support for the agrarian law policy regarding the status of the former *Kasunanan* Surakarta Hadiningrat palace land which is based on social justice values. In substance, this reconstruction recommends the concept of a detailed and clear reformulation of legal policies related to the control and management of customary land which is guided by the prosperity of the people, in the sense of happiness, welfare and freedom in society and the independent, sovereign, just and prosperous Indonesian legal state with a sociological legal approach.

Conclusion

1. The weaknesses of regulations on agrarian law policies regarding the status of the former Surakarta Hadiningrat *Kasunanan* land are currently overlapping regulations that are unable to accommodate conflicts related to the

management and control of the former Surakarta *Kasunanan* Land. This has an impact on the lack of legal certainty of customary land ownership by indigenous peoples.

2. The reconstruction of regulations proposed by the author as support for agrarian law policies regarding the status of the former Surakarta Hadiningrat *Kasunanan* land based on social justice values. In substance, this reconstruction recommends a detailed and clear legal policy reformulation concept related to the control and management of customary land that is guided by the prosperity of the people, in the sense of happiness, welfare, and freedom in society and the Indonesian legal state that is independent, sovereign, just and prosperous with a sociological legal approach.

References

1. Ambuwaru Jesse, Saragih Bintan, Sumanto Listyowati. The Politics of Land Law and The Implementation of The Agrarian Reform Program in Indonesia. International Journal of Educational Review, Law and Social Sciences (IJERLAS),2023:3:1443-1450. 10.54443/ijerlas. V3i5.1013.
2. Bedner Adriaan, Arizona Yance. Adat in Indonesian Land Law: A Promise for the Future or a Dead end? The Asia Pacific Journal of Anthropology,2019:20:1-19. 10.1080/14442213.2019.1670246.
3. Erdika Lucy, Brahmana Sindy, Herlindah, Permadi, Iwan. Integration of Customary Law in Agrarian Law Development in the Industrial Revolution 4.0 Era: Significance and Urgency. Peradaban Journal of Law and Society,2024:3:88-103. 10.59001/pjls. V3i1.131.
4. Faisal. Menerobos Positivisme Hukum. Rangkang Education, Yogyakarta, 2010, 56.
5. Fernanda M, Karjoko Lego, Purwadi Hari. Juridical Analysis of the Position of the Surakarta Kasunanan Palace as a Cultural Heritage Area Linked to the Basic Agrarian Law (UUPA). International Journal of Social Science and Human Research, 2024, (7)10. 47191/ijsshr/v7-i05-01.
6. Putri Natasya, Sarmilah Sarmilah, Velda Jennifer, Zschock Wulan. Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia. Jurnal Ilmu Kenotariatan,2024:5(1):10. 19184/jik. V5i1.47416.
7. Toebagus Galang Windi Pratama. The Urgency for Implementing Crytomnesia on Indonesian Copyright Law, Saudi Journal of Humanities and Social Sciences, October,2020:5(10):508-514. DOI:10.36348/sjhss.2020. v05i10.001.
8. Toebagus Galang Windi Pratama. Peran Integrasi Teknologi dalam Sistem Manajemen Peradilan, Widya Pranata Hukum: Jurnal Kajian Dan Penelitian Hukum, 2022, 4(1). DOI: https://doi.org/10.37631/widyapranata.v4i1.583
9. Wahyu Widodo, Sapto Budoyo And Toebagus Galang Windi Pratama. The Role of Law Politics on Creating Good Governance and Clean Governance for A Free-Corruption Indonesia in 2030. The Social Sciences,2018:13:1307-1311.
10. Wahyu Widodo, Toebagus Galang. Poverty, Evictions and Development: Efforts to Build Social Welfare Through the Concept of Welfare State in Indonesia, 3rd International Conference on Globalization of Law and Local Wisdom (Icglow), 2019. Dx.Doi. org/10.2991/Icglow-19.2019.65.