

## Under The Local Regime: Chaos in Village Land Management Subsequent to Privilege of Special Region of Yogyakarta

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### ABSTRACT

This research examines the management and utilization of village land in the Sriharjo Village. This research was conducted based on the problem that village authority was still hampered, impacting the Sriharjo Village's government was not optimally managing and utilizing village land. The obstruction of village authority was stripped away by regulations from the Sultanate's authority. As a result, there were inconsistencies between Sriharjo Village rules and Sultanate regulations regarding the administration and use of village land. Although this behaviour is frequently observed in the villages of Special Region of Yogyakarta, few people have looked into, dissected, or even criticised this issue. This study aims to reveal how the Village Government responds to the dynamics of regime contestation. This research is a qualitative type with a descriptive method. Observation, interviews, and documentation are used as data gathering methods in Sriharjo Village, Kapanewon Imogiri, Bantul Regency. The study's findings shows that the administration and use of village land in the Sriharjo Village underwent a discourse that gave rise to the dynamics of competition between the Village Law regime and the Privileges Law regime of the Special Region of Yogyakarta. According to Article 76 paragraph (1) of Law Number 6 of 2014 concerning Villages, the Sultanate's authority's use of village land is contrary to village authority. It is evident that the Privileges Law regime weakens local authority while using village land. The Special Region of Yogyakarta Privileges Law, namely from Law No. 13 of 2012, is integrated with the Governor Regulation Number 34 of 2017 on the usage of village land. This study concludes that the administration and use of village land in Sriharjo Village led to a discourse of contestation between the Village Law regime and the Privileges Law regime, and it also resulted in a dualism of power, namely between the Village and the Sultanate.

Keywords: Village Land; Village Government; Sultanate Authority; Authority Dualism.

### ABSTRAK

*Penelitian ini mengkaji pengelolaan dan pemanfaatan tanah desa di Kalurahan Sriharjo. Penelitian ini berangkat dari masalah yang menemukan bahwa masih terhambatnya kewenangan desa, sehingga pemerintah Kalurahan Sriharjo belum maksimal dalam mengelola dan memanfaatkan tanah desa. Terhambatnya kewenangan desa dipreteli oleh regulasi dari otoritas Kesultanan. Hingga dalam pengelolaan dan pemanfaatan tanah desa di Kalurahan Sriharjo menimbulkan kontradiktif regulasi desa dengan regulasi Kesultanan. Fenomena ini sering ditemukan di desa-desa yang ada di Daerah Istimewa Yogyakarta, namun belum banyak yang meneliti, membongkar, dan bahkan mengkritik terkait hal tersebut. Penelitian ini bertujuan untuk mengungkapkan bagaimana respon Pemerintah Desa terhadap dinamika kontestasi rezim. Penelitian ini berjenis kualitatif dengan metode deskripsi. Mengambil lokasi di Kalurahan Sriharjo, Kapanewon Imogiri, Kabupaten Bantul, dengan menggunakan teknik pengumpulan data melalui observasi, wawancara dan dokumentasi. Hasil penelitian menunjukkan bahwa pengelolaan dan pemanfaatan tanah desa di Kalurahan Sriharjo mengalami diskursus yang melahirkan dinamika kontestasi rezim Undang-Undang Desa dengan rezim Undang-Undang Keistimewaan Daerah Istimewa Yogyakarta. Kebijakan otoritas Kesultanan dalam pemanfaatan tanah desa kontradiktif dengan kewenangan desa yang tertuang dalam Pasal 76 ayat (1) Undang-Undang Nomor 6 Tahun 2014 Tentang Desa. Hal tersebut terlihat bahwa kewenangan desa dilemahkan oleh rezim Undang-Undang Keistimewaan dalam pemanfaatan tanah desa. Peraturan Gubernur Nomor 34 tahun 2017*



*tentang pemanfaatan tanah desa merupakan bentuk integrasi dari Undang-Undang Keistimewaan Daerah Istimewa Yogyakarta, yakni dari Undang-Undang No. 13 Tahun 2012. Penelitian ini menyimpulkan bahwa dalam pengelolaan dan pemanfaatan tanah desa di Kalurahan Sriharjo yang mengakibatkan diskursus kontestasi pertarungan rezim Undang-Undang Desa dengan rezim Undang-Undang Keistimewaan juga memunculkan dualisme kewenangan yakni antara Desa dan Kesultanan.*

Kata Kunci: Tanah Desa; Pemerintah Kalurahan; Otoritas Kesultanan; Dualisme Kewenangan.

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## INTRODUCTION

This study aims to reveal the village government's response to the contestation dynamics of the Village Law regime with the Social Region of Yogyakarta's Privileges Law regime concerning Village Land Management, and taking a location in Sriharjo Village, Kapanewon Imogiri, Bantul Regency. This study emerges from the results of observations which found that: First, the management and utilization of village land in the Sriharjo Village has not been optimally managed by the Sriharjo Village's Government. Second, in the village land management and utilization, the village's government only has the authority to administer, cultivate and make use of the land without having fully rights over the management and utilization of the village land. This phenomenon occurs because of those who have full rights and control regarding the management and utilization of village land are the Sultanate authorities. So that the existence of the rights and authorities of the village government as described in Law Number 6 of 2014 concerning Villages, in accordance with the principles of recognition and subsidiarity, is not in sync or contradictory with the regulations of the Sultanate in the utilization of village land, and the village land in question should be part of Village Assets. This means that village land is included in Village Assets as explained in Article 76 Paragraph (1) of Law Number 6 of 2014 concerning Villages.

Village land is a village main asset that can support programs of development activities and village community welfare, so that the management and use of village land is not only oriented towards Village Genuine Income (PADes), but also for the welfare and prosperity of the local community. Land is also one of the essential natural resources in human life, it is not only needed by individuals and is also very important for the Village Government. Moreover, land is the most important element in the survival of living things, especially humans themselves, the process of sustaining life until death. There is no doubt that land is a source of life for humans, namely the community and the nation itself. In short, the land becomes an element that will not be able to be far from humans. The level of human tendency and dependence on land will never end as long as the land exists, (Savitri 2016)

Land is the surface of the earth that must be regulated and managed nationally to preserve the life system of the nation and state. Besides, the constitutional mandate stated that land politics is directed at realizing land as a source of people's prosperity, which



includes control, ownership, utilization and use of land. The Republic of Indonesia is an agrarian country where most of the people work as farmers. Soil is used as a growing medium in agriculture. Indonesia is a country crossed by the equator and is blessed with very fertile land for planting various kinds of agricultural products, ranging from agricultural products, development and others, (Prasetyo 2018).

Furthermore, most of the previous research was more directed and looked at the policies that Indonesia (central government and local government) is the only one who has the authority to control and grant land rights to its citizens. The similarity of this study with previous research lies in the theme of land and village land. However, this study specifically concerning at the contestation of the statutory regime regarding authority. With the existence of a constitution, namely Law Number 6 of 2014 of Villages with two principles of recognition and subsidiarity in it, it can provide a big chance for village government through its authority. The contestation between the Village Law regime and the Privileges Law regime will be seen from a government perspective through the relationship and pattern of relations from both authorities.

This research study will discuss the pattern of relations, and the contestation of regime battles which bring the dualism of authority in managing and utilizing village land. This study aims to discuss the contestation of the struggle between the Village Law regime and the Privileges Law regime regarding the management and utilization of village land and its impact on village communities. By the reason of that, this research question formed as "how are the contestation dynamics of the Village Law regime with the Yogyakarta Privileges Law regime regarding village land arrangements in Sriharjo Village"? In this case, apart from contributing novel knowledge, on the other hand this research can also be used as reference material for policy makers.

## **THEORETICAL REVIEW**

Previous research mostly examines government policies on land tenure, both institutional studies and local wisdom related to land management and utilization. The phenomenon of land management and utilization, both at the level of village and regional government institutions, still has various kinds of problems, such as land disputes, land plots, and others. Those are what always causes land management and utilization not to be utilized optimally by certain parties.

Studies related to village authority with asymmetric decentralization also studied by several previous researchers, such as what happened in Aceh as one of the regions that has special autonomy (asymmetric decentralization). This study aims to analyze the arrangements of village boundaries that apply in Aceh. Policy arrangements about village boundaries are based on Minister of Home Affairs regulation Number 45 of 2016 which is an order of Law Number 6 of 2014 Concerning Villages. However, the minister's regulation is contrary with Law Number 11 of 2006 of Aceh governance which is specifically about the field of policy regulation related to the village, then this led to an arrangement that emphasized that village boundaries did not accommodate the position of the Mukim institution in Aceh (Syahz Vianda, Rinaldi, and Mansur 2019).



The case of village land also occurs in the Special Region of Yogyakarta which having domain rights over the Sultan Ground land which are different from the property rights or domains owned by individuals. The Sultanate, with the issuance of the Privileges Law, applied the right based on the *lex posteriori derogate legi priori* principle, which means that the new law overrides the old one (Hasim 2016). Then a perspective emerges from the study of regional government law and agrarian law within the framework of clarifying the legal position of the Sultanate and Duchy as ownership rights to the Sultanate's land and Duchy land which shows that the Sultanate and Duchy are a special legal entity apart from the other public or private legal entity as an *sich*, (Wicaksono, Yurista, and Sari 2019). Thus, concluded that legal pluralism is not the result of governance errors, but the result of the development design of the Indonesian state from the colonial period to the present. Therefore, the Privileges Law No. 13 of 2012 which institutionalized and revived the ground sultan as a royal landlord in Yogyakarta, and also a logical consequence of the layered authority of the Indonesian state (Pranoto 2017).

Furthermore, with the enactment of the Yogyakarta Privileges Law, it stipulates that the Sultanate and Duchy institutions are legal entities which are the subject of property rights in the form of *Keprabon* land and non-*Keprabon* land or *dede keprabon*. In addition, to be able to use the sultanate and duchy lands, they must have a permit in the form of a *Serat Kekancingan* issued by the customary institution *panitikismo* in charge of palace land which includes licensing arrangements. Communities or legal entities that use and exploit Sultanate land or Duchy land cannot be traded, are prohibited for constructing permanent buildings for time-honored rights, and are willing to return land if requested at any time, (Tilman et al, 2021).

Research by Biyan Tirta Wanadhi et al, in Yogyakarta (2021), aims to find out and analyze the implementation of the inventory of the Sultanate's Land in the Special Region of Yogyakarta, and find out the indicators used in mapping the area in inventory activities carried out after the enactment of Law Number 13 of 2012 and the legal consequences arising from these activities. Then, it was concluded that the implementation of this inventory was based on Privileges Law Number 13 of 2012. Moreover, in the land inventory process throughout the Special Region of Yogyakarta it was still based on the old village map of 1938, as well as data on Kelurahan. so that this inventory activity is facilitated by related agencies from the provincial to village level, (Tirta Biyan, et al. 2021).

In terms of managing and utilizing assets, the village also has its own authority. So that in carrying out its authority, the village can use two main principles namely, recognition and subsidiarity. First, recognition of the origin of the village. This means that the village has the right to utilize, support and strengthen the existing village economy without being biased to the intervention from the Supra Village Government. Second, subsidiarity is the localization of village authority and local decision-making for the benefit of the local village community. These two principles are the spirit in positioning the village to have authority in administering village administration, development, community development, and community empowerment. These two principles are also the strength for the village to manage itself based on its assets and potential. When viewed from the principle of subsidiarity, this will teach local governments to give mandates to villages in



managing and managing the interests of their people in the "village way". Giving a mandate does not mean that the government allows villages to act and think for themselves, the government must ensure that the mandate works (Sutoro Eko, M. Barori 2017).

Furthermore, the village is part of the district or city government subsystem, but there is no theory or principle that justifies the delegation of authority or affairs from the regency or city government to the village. The constitution also does not stipulate village authority decentralization, but village autonomy. Therefore, village authority is based on the principles of recognition and subsidiarity, and not on residual decentralization (remaining authority). By that reason, the village no longer receives a scheme for handing over or delegating part of its authority from the district or city, but through recognition and subsidiarity, with the aim of benefiting the local community, with direct constitutional guidance from the Village Law (Sitorus, et al 2007).

## **RESEARCH METHOD**

This study is qualitative research with a descriptive method. (Creswell, 2009 in Sugiyono) states that qualitative research useful as a provision for researchers to be able to understand the context more broadly and deeply. As for the purpose of this study is to reveal the social phenomena that are happening clearly and carefully, the method used is descriptive method. Creswell also define qualitative research as an approach or search to explore and understand a central phenomenon, (Sugiyono, 2017). The types of data used are primary and secondary data with data collection techniques namely: Observation, Interview, and Documentation. Then, data analysis is conducted using data analysis techniques, namely: data reduction, data display, and conclusion drawing.

## **RESULT AND DISCUSSION**

### **Village Land in Sriharjo Village**

Sriharjo Village is one of 75 Villages in Bantul Regency, and also one of 8 Villages in Kapanewon Imogiri, Special Region of Yogyakarta. The Sriharjo Village was also one of the Villages that were given land and rights to manage and utilize the land by the Sultanate and then used the benefits for the continuity of the wheels of government and people's welfare.

In Sriharjo, there are two types of Sultanate land, namely Sultan Ground land which is given indirectly to the village government and Sultanate Land which is handed over to the village government for the continuity of the government. Sultan Ground land which was not given directly to the Sriharjo Village Government is land on hillsides, mountains, riverbanks, and forestry, this land is managed directly by the Special Region of Yogyakarta (DIY) land service. While the Sultanate's land that was given to the Sriharjo Village Government was Village Treasury Land, Pelungguh Land, Pengarem-arem Land, and Land for Public Interest. In this case, the Sriharjo Village Government was given the right to manage and utilize the village lands.

The beginning of the village land in the Sriharjo is inseparable from the initial formation of the Sriharjo Village in 1948 which was a merger of three Villages namely; Mojuhuro Village, Dotangan Village, and Kedungmiri Village. Before it formed as Sriharjo





village, each those three Village has its own area, which are: Mojohuro which consisted of 4 Padukuhan namely, Miri, Teak, Mojohuro, and Pelemadu Padukuhan; the Kedungmiri Village consists of 6 Padukuhan, namely Sungapan, Gondosuli, Trukan, Dogongan, Ketos, and Ngarancan; and Kedungmiri Village consists of 3 Padukuhan, namely Pengkol, Sompok, and Wunut. The three village were merged with-one of- the objectives is to compress Village's Staff (unite the government of the three villages into one). For example, initially there were three Lurahs (village's head government), then they were combined, and Jakabaya was made up of three people. In addition, rights are also seen from the income of each of these sub-districts. Because at that time, only one of these three sub-districts was considered to have enough potential as a food storage area and could support the two sub-districts in terms of food, because the land was relatively fertile and located on good plains, namely Mojohuro Village. The Mojohuro Village is also the central area of the current Sriharjo Village Administration.

### **Management and Utilization of Village Land in Sriharjo Village**

Land management in the Special Region of Yogyakarta (DIY) is different from other provinces or other former kingdoms in the Indonesia. The existence of land in the Special Region of Yogyakarta can be traced both from historical facts, physical and ownership structures, or based on the law and implementing regulations. Therefore, it can be said that this land structure is one of the pillars of the Privileges of the Special Region of Yogyakarta. However, since ancient times the Sultanate of Yogyakarta gave *anggaduh* (rights to manage and use) to Sriharjo Village. With the rights granted by the Sultanate, Sriharjo Village has the right to manage and take the proceeds or benefits from the Sultanate's land, with the aim of administering village administration and also for the prosperity and welfare of the village community.

Furthermore, at the beginning of the administration of the three villages (before merged to Sriharjo Village), the Sultanate give the land to the (three) village government, to manage and utilize, then Lurah and the Pamong (vilage apparatus) took the benefits as their salary. In the past, the expected salary for each village official was only obtained through the land given by the Sultanate, this land was called "Bengkok" land. So, regarding the management of the land (bengkok land), it is up to the Lurah and Pamong, whether they want to manage it themselves or rent it out to the community. However, the proceeds will still go into the personal pockets of the Lurah and Pamong, because that is a form of salary for them from the Sultanate. While the rest of the existing land will be managed and utilized by the Village Government for public interest.

Land management and utilization has been implement ever since the establishment of the Sriharjo Village, which was the result of the merger of three Villages (mentioned above). However, the management and utilization has not yet massive (maximum). This happens because there are no Regulations that specifically regulate the management system and utilization of Village land. Therefore, the management and utilization guidelines in the Village land leasing system at that time were only based on an agreement between the Lurah, Secretary and the community who rented the Village treasury land. One of the important points in the agreement was production sharing, where the community as tenants



and the village government as the land owner. Moreover, it depends on the season and the results obtained, because there is no binding agreement that must be demanded that the community must pay a certain amount after using the land. Whereas now the regulation exist, everything has its procedures. The management and utilization of village land is guided by the Regulation of the Governor of the Special Region of Yogyakarta Number 34 of 2017 concerning Utilization of Village Land, and the Regulation of the Sriharjo Village Village Number 7 of 2020 concerning the Use of Sriharjo Village Land.

In this case, Kalurahan (Village) land is land originating from the Sultanate and/or Duchy which is managed by the Sriharjo Village's government based on Anggaduh rights, which includes village treasury land, Pelungguh, Pengarem-arem, and Land for Public Interest. Sriharjo Village's treasury land is part of the village land that is used to support the administration of the village government. Pelungguh Land is a part of land that is used for additional income for the Lurah and the Village Administration. Pengarem-arem is part of the land that is used for allowances for the retired village head or village head.

However, the most dominant land leased by the community is the land treasury of the Sriharjo Village. The management and utilization of the treasury land is a form of Sriharjo Kalurahan Government dedication for governance, and for the welfare and prosperity of the Sriharjo people. Currently, the management and utilization of the village treasury land in Sriharjo is different from the system that was in effect in previous years. The management and utilization system of treasury land in Sriharjo has been regulated in the village regulations so that the management and utilization of the Kalurahan treasury land has begun to be well organized/structured.

### **Village Position**

Village is a traditional village and village or what is referred to by another name (e.g Kalurahan, etc), hereinafter referred as Village, is a legal community unit that has territorial boundaries that are authorized to regulate and manage government affairs and the interests of the local community based on community initiatives, origin rights, and or traditional rights granted recognized and respected in the system of government of the Unitary State of the Republic of Indonesia. Villages have origin traditional rights to regulate and manage the interests of the community and play a role in realizing the independence ideals based on the 1945 Constitution of the Republic of Indonesia. Therefore, villages need to be protected and empowered so that they become strong and developed entities, independent and democratic to create a solid foundation to implement governance and development, equal and prosperous society. Thus, the purpose of establishing village arrangements in Law Number 6 of 2014 Concerning Villages is a form of further elaboration of the provisions referred to in Article 18 Paragraph (7) and Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

The existence of this Village Law is an effort to maintain the village's existence, which includes the origin rights of the village. In the Village Law there are two principles that play an important role, namely the recognition and subsidiarity principle. The principle of recognition is recognition of village origins. Recognition in the Village Law not only recognizes and respects diversity, position, authority, and origin rights, village government,



but also comes from multiculturalism. This is related to justice, citizenship and nationality and related to decentralization. This means that the state has recognized and respected the presence and existence of the village. Because the village is one of the institutions that existed before and after the establishment of Republic of Indonesia. Nancy Fraser (in Sutoro Eko 2005: 77) argue that recognition in the context of the political effort to fight injustice. For Fraser, recognition is not just giving recognition and respect and affirmation, but also be accompanied by social and economic justice. Recognition not only recognizes and respects diversity, position, authority, and rights of origin as well as regarding the structure of the government, but also redistributes the economy in the form of APBN and APBD funds. The state redistributed to villages as a response to socio-economic injustices caused by the state itself in the past, namely during the New Order era.

Subsidiarity is the determination of local-scale authority and local decision-making for village community benefits. This means that the village has the authority to determine the direction of village progress without intervention from the supra-village. The village has the right to make, determine and decide what kind of policies it will implement, the important thing is that the policies made by the village do not contradict the applicable-upper laws and regulations. Subsidiarity has the principle that, no organization that dominates and replaces small and weak organizations in carrying out their functions. Subsidiarity also contains four important things. First, local community interest better handled by local organizations, which is the village. In other words, subsidiarity localizes the use of authority and decision-making for the benefit of the local community to the village. Second, the state hands over authority to the village, not as decentralization or de-concentration, but the state has determined village-scale local authority to become authority through the Village Law. That is, the determination of authority over villages is different from the delegation of authority which is commonly known under the principles of decentralization and deconcentration. It means, recognition that respects and acknowledges the authority of village origins. Third, the government does not interfere with village authority, but supports and facilitates villages. If understood from that, then the Sultanate should give trust to the village in managing and organize the interests of its people, to strengthen the village as a subject of development that is capable and independent in developing village assets for people welfare. Fourth, the provincial government, in this case the Sultanate, does not have to set quantitative targets which evenly and centralized frame of programs. On the other hand, subsidiarity teaches the government to give mandates to villages in regulating and managing the interests of their people in the "village way".

Furthermore, village position and authority are an inherent part of village autonomy. This has been a serious discussion since the 1900s (Sutoro Eko, 2005: 189). However, what is currently being debated is that the village is being politicized by various groups, both from the village government itself, the regions, and non-government (community).

### **Sultanate Position**

The Special Region of Yogyakarta has been recognized as a reality in Indonesian life and government by having a strong position supported by a very strong foundation; both from a historical, cultural, political and juridical basis. The Special Region of Yogyakarta





is a special region that exists, and is on the same level as the province in general. Historically, the establishment of the Special Region of Yogyakarta was a form of integration between the two kingdoms in Yogyakarta, namely the Ngayogyakarta Hadiningrat Sultanate and the Pakualaman Duchy.

The granting of special autonomy to the Special Region of Yogyakarta is an implication of Article 18 of the 1945 Constitution of the Republic of Indonesia which states that the nation recognizes and respects specific or special regional government units that have been regulated in statutory regulations. In addition, the country also recognizes and respects customary law community along with their traditional rights throughout their lives in accordance with society development and the principles of the Unitary State of the Republic of Indonesia that regulated by provisions of the law. This acknowledgment shows that traditional informal institutions can maintain their existence when facing modern formal institutions (state and democracy).

Furthermore, decentralization is a concept that implies delegation of authority from the central government to lower-level governments to manage their own territory, in this case the Special Region of Yogyakarta. The existence of decentralization also aims to make the government more able to improve efficiency, effectiveness, and functions in serving all levels of society. In short, it means that the concept of decentralization is like showing a vertical building seen from the form of power that exists in Indonesia. This decentralization in Indonesia, both symmetrically and asymmetrically, is very important to look at and to study, because it has ongoing relationships and processes with the aim of finding an effective form of government management related to central and regional relations. Moreover, although implementation of decentralization was from a long period in Indonesia, even since the colonial era, decentralization is aimed mostly at administrative arrangements in order to maximize colonial economic benefits. In addition, decentralization is a form of central and regional relations wrapped within the framework of a unitary state. In a unitary state, all parts of the country are managed by the central government, because the area and character of the region are so wide, and the lack of central government's ability to handle all government affairs that guarantee public services, some matters are handed over to the government or delegated to the regions, (Kurniadi, 2012). Asymmetric decentralization is not just an authority delegation in the form of a special transfer of authority which is only given to certain regions. However, other aspects will also be a consideration when the authority is delegated. Thus, the implementation of asymmetric decentralization is a logical consequence in the practice of democracy in Indonesia. Special form of decentralization that will give authority to the regions as an appreciation from the state for the historical value of a region, (Hayati, et al 2019).

### **Regime Battle**

The discourse of management and use of land in the Sriharjo Village actually presents a regime battle between the Kalurahan which is based on village and the Sultanate's authority, means that this battle is a battle for village power and authority in land management and utilization. This regime battle is a war between the Village Law and the



Governor's Regulations which the entry point is land and related to using, managing and utilizing the land.

In the management and utilization of village land in the Special Region of Yogyakarta, the Sultanate uses three rules in the process of managing and utilizing village land, namely the Yogyakarta Special Region Privileges Law, the Special Region Regulation (Perdais) on Land, and the Governor's Regulation Number 34 of 2017 concerning Land Utilization Village. The Sultanate is a party that has full authority in managing and utilizing land in Yogyakarta through the legal instruments it enforces. Moreover, Governor Regulation Number 34 of 2017 concerning Utilization of Village Land is the dominant rule used in land management. This regulation is a form of integration of the Privileges Law for the Special Region of Yogyakarta, so that with these regulations the Sultanate tries to put pressure on the village and village authority. Meanwhile, on the other hand, the Kalurahan or Village has the right and authority to manage and utilize its assets through a constitutional instrument made by the Nation, namely Law Number 6 of 2014 concerning Villages. However, in the management and utilization of village land, the existence of the Village Law has been weakened by regulations made by the Sultanate even though the constitution does not stipulate the decentralization and de-concentration in village authority. Therefore, village authority is based on recognition and subsidiarity, and not on the principle of decentralization (residuality), means that the village no longer receives the remaining authority from the regency or city, but rather focuses on recognition and subsidiarity schemes.

The discourse on the management and utilization of village land in the Sriharjo Village, the Sultanate with absolute authority as manifested in Governor Regulation no. 34 of 2017 concerning Utilization of Village Land. The Sultanate made a feudalistic policy by claiming that almost all village land in Yogyakarta belonged to the Sultanate. Selo Soemardjan quoted by Nur Azizah and Nuruddin Al Akbar, (in Longgina Novandona Bayo, et al 2018: 342) describes how the relations between the community and the Sultanate of the Special Region of Yogyakarta looks like. Soemardjan explained that the power of legitimacy possessed by the kingdom (read: the Sultanate) over the community put the Sultanate at the top of the social structure. Because, the Sultanate has economic, political, military and religious power, even from a magical aspect. With an explanation from Soemardjan, it illustrates that the pattern of relations in the Special Region of Yogyakarta is dominated by the Sultanate and no one is able to intervene (Akbar 2018).

Furthermore, polite politics dominate the relationship pattern between Village Government and the Sultanate. Polite politics is a political culture that available to form aspirations, hopes, preferences and priorities in dealing with social change that leads to the state ideology "Pancasila". Polite political culture is one of the things that cause freedom for citizens to take responsibility for the development and future of the country. However, in this polite politics, the Sultanate occupies the highest position in the social structure of society. In other words, no one is capable of intervening in the existence of the Sultanate as the King and the Governor of the Special Region of Yogyakarta, especially regarding to land management and utilization in the Special Region of Yogyakarta. To conclude, the pattern of power relations between the Sultanate and the Sriharjo Village causing regime



dualism, this is a logical consequence of the principles of decentralization and de-concentration in the Special Region of Yogyakarta, thus opening up the possibility of examining village rights and authorities contained in the Village Law. Moreover, the dualism of authority in village land management and utilization Sriharjo Village, which dominate by the Sultanate, occurred because the Sultanate was at the top of the community structure in the Special Region of Yogyakarta. In addition, the dualism of authority in the Special Region of Yogyakarta between the Village and the Sultanate led to a lack of attention to the heterogeneity of land use complexity at the village level. The process of dualism that occurred which was dominated by the sultanate would culturally subjugate the village government and the community.

The authority of the Sultanate and Village on management and use of land should be inclusive, considering that the village received recognition from the state for its presence through Law Number 6 of 2014 concerning Villages. However, the case of Sriharjo Village shows that in practice, the type of distributive authority is unclear and not operates as it should. The authority that exists in the village is only residual because the Sultanate has power over all decisions of land management and utilization.

Referring to Law Number 6 of 2014 concerning Villages, it shown that the village/kelurahan has full rights to manage and utilize its assets for the prosperity and welfare of the village community without intervention from the supra-village. The village/sub-district act in line with the principles contained in the Village Law, namely the principles of recognition and subsidiarity. These two principles are a form of recognition by Indonesia for villages presence. These two principles aim to protect the village or Kelurahan from supra-village intervention. Because the village existed before the birth of Indonesia. Meanwhile, the Sultanate operates with special autonomy which is a manifestation of the asymmetrical decentralization bestowed by the country because it has historical value.

From my point of view, the pattern of political, economic and social relations that exist between the Sriharjo Kalurahan Government and the Yogyakarta Sultanate tends to be rigid but looks harmonious, because the Sriharjo Government always ready to implement every policy issued by the Sultanate but unable to criticize, this also shows that the existing bureaucratic culture is still very common and dominated by the Sultanate. In short, based on the literature and field facts that the Sultanate is still dominantly using old regulations to control rights over lands in the Special Region of Yogyakarta which are the rights of his as happened in Kalurahan Sriharjo. Even with the issuance of various regulations regarding the management and use of land, this illustrates that the Sultanate is not willing that these lands will change their ownership rights.

Furthermore, with various regulations that have been issued till dominated by the Sultanate, making the Sriharjo Kelurahan Government powerless and unable to intervene in every policy that is issued, this shows that the dominance of power in the hands of the Sultanate. Even since the Basic Agrarian Law has been enacted which regulates land in Indonesia, it is fully implemented in the Special Region of Yogyakarta. the Agrarian Law should be basis regulation for all parties/people including the Sriharjo Village Government that had the authority to manage their own households in managing their assets according



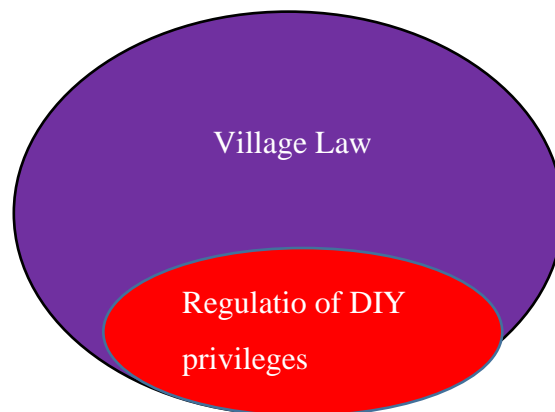
to what was stated in Law Number 6 of 2014 Concerning Villages, but the facts that happened were contradictory with the authority of the Sultanate, because the two regulations have different concepts in the management and use of land.

### **Patern of Regime Contestation**

The pattern of regime contestation between the Village Authority and the Sultanate authority which has now spawned a regime battle also provides a general picture that can be seen from the existence of these two regulations as follows: First, the Privileges Law in the Village Law. Second, the Village Law in the Privileges Law. Third, a form of recommendation regarding the existence of the two regulations that are currently fighting to jointly fight for their respective authorities, namely the pattern of negotiation between the two regulations.

### ***Regulation of DIY Privileges in Village Law***

Figure 1. Regime Contestation of Regulation of DIY Privileges in Village Law



This is a form of regime implementation that should occur in the Sriharjo Village where the Village Law must dominate the existence of authority in the management and utilization of village land, and not authority that is decentralized (residuality) from the region. This means that the Privileges Law must be included in the circle of the Village Law and conform to the implementation of the Village Law's authority. Why? because the Village Law operates according to the principles of recognition and subsidiarity. These two principles are a form of recognition that places and supports the village to become an independent village. We know that recognition and subsidiarity in the Village Law does not only recognize and respect the existence of village authority based on origin right, but also the principles of recognition and subsidiarity are also the main spirit for village progress and independence.



## Village Law in Privilege Law

Figure 2. Village Law in Privilege Law regime pattern



This pattern of regime contestation exists today or occur in the Sriharjo Village. The pattern of this regime has clashed with each authority, so that in the end it was dominated by the Privileges Law. In short, placing the Village Law in the Privileges Law is the same as weakening the Village Law. In other words, the Village Law is within the circle or grip of the Privileges Law, thus making the Village Law unable to move in line with its original rights granted by the state. This illustrates that the Privileges Law guides the Village Law. Thus, the Village Law can only adjust and follow the pattern of implementation of the Sultanate's regulations in the management and utilization of village land that should belong to the village. Regarding the existence of village regulations (Village Law) in the Privileges Law, it is very much dominated by the Privileges Law, so that the Privileges Law is able to suppress (force) the Village Law subtly. However, it is also possible that the Village will fight against the implementation of the Privileges Law which subtly suppresses the implementation of village authority. Meanwhile, the village will continue to fight for its authority, because this is state recognition of the existence of a village based on origin rights, as mentioned above that villages operate on the principles of recognition and subsidiarity, means that the village will not simply give in to the implementation of the Yogyakarta Special Region Privileges Law.

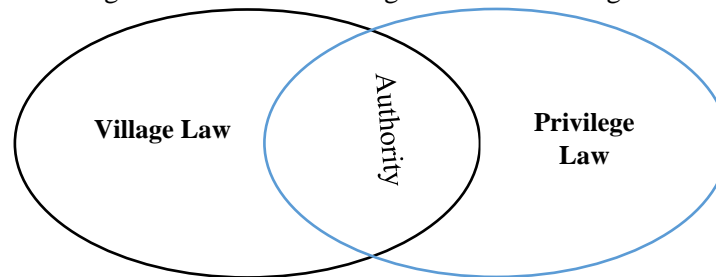
Moreover, even though the existence of the Privileges Law dominates the authority in utilizing village land, this has also caused upheaval (resistance) from the authority of the Village Law. In conclusion, this has created horizontal contradictions in the political, social and economic fields. Because neither of these regulations gave in, both of them were fighting for their authority, namely between Village Authority and Sultanate Authority. If only the Privileges Law gave in just a little and provided space for the existence of village authority, then both of them could certainly be able to side by side in realizing the meaning of the philosophy of "*Memayu Hayuning Bawana*" which is oriented towards the welfare and prosperity of the village community.





## Negotiation Between Village Law and Privilege Law

Figure 3. Negotiation Between Village Law and Privilege Law



The form of the regime pattern above is a form of negotiation pattern offered by this paper. The scheme (pattern) will disclose possibility that in the implementation of the authority of these two regulations each can get their share, without interfering or putting pressure on one another, means that these two regulations can work together in advancing the village without one being dominating, because both of them have the same function, namely to regulate the benefit of the lives of many people. This slice pattern can be used as a reference for making a policy that can support village authority, such as making regional regulations, and so on.

## CONCLUSION

The management and utilization of village land in the Sriharjo Village has not been optimal. Because the Sriharjo Village Government does not have full authority in the management and utilization of village land, but is controlled by the authority of the Sultanate, leads to minimum management and utilization. In addition, the Sriharjo Village Government is also still in a dilemma in making decisions to manage and utilize existing village land, because it is heavily influenced by the intervention of the Sultanate's authorities. The Sriharjo Village Government even face various policies issued by the Sultanate regarding the management and utilization of village land. On the other hand, the Sriharjo Village Government was unable to intervene in the regulations issued by the Sultanate, this was because these regulations were bound and legitimized by the Privileges Law, so that they were only dominated by the Sultanate.

In the management and utilization of village land in the Sriharjo Village, a regime battle emerged between the Village Law regime and the Privileges Law regime. Both are based on their respective policies and authorities. Villages or sub-districts are based on the authority contained in the Village Law, while the Sultanate is based on the Special Autonomy Law (decentralization). This creates a dualism of authority in the management and utilization of village land in the Sriharjo Village, namely village authority based on the Village Law and authority of the Sultanate which has full authority over village land. Discourse regarding the management and use of village land in the Sriharjo Village, which now led to a battle between the two regimes, the Village Law has occupied a losing position to the Privileges Law regime, because the Privileges Law has a greater influence on the



existence of village lands in the Special Region of Yogyakarta, means that the Privileges Law regime won in the regime's battle, so that villages could only follow orders from the Sultanate and participate in implementing every regulation made by the Sultanate.

## REFERENCES

- Akbar, Nur Azizah dan Nuruddin Al. 2018. *Demokrasi Sinkretis: Dialektika Demokrasi Modern Dengan Institusi Tradisional Di Daerah Istimewa Yogyakarta. Rezim Lokal Di Indonesia*. pertama. ed. dalam. Willy Purna Samadhi Loggina Novadona Bayo, Purwo Santoso. Jakarta: Yayasan Pustaka Obor Indonesia.
- Aprilia Ambarwati. 2017. *Ketimpangan Akses Tanah Di Perdesaan*. Pertama. dalam. *Potret Politik & Ekonomi Lokal Di Indonesia*.ed. Anang Zakaria. Institute For Research and Empowerment (IRE) Yogyakarta.
- Biyan Tirta Wanadhi dan Rizky Septiana Widyaningtyas. 2021. "Implementasi Inventarisasi Tanah Kesultanan Di Daerah Istimewewa Yogyakarta Berdasarkan Undang-Undang Nomor 13 Tahun 2012 Tentang Keistimewaan Daerah Istimewa Yogyakarta." <http://etd.repository.ugm.ac.id/>.
- Eko, Sutoro. 2005. *Manifesto Pembaharuan Desa*. 1st ed. Diterbitkan oleh APMD Press, Yogyakarta.
- Fatih Gama Abisono. Dalam Bayang-Bayang Otonomi Khusus: Dilema Politik Afirmasi Dan Meritokrasi Dalam Penataan Birokrasi Di Papua: 2016. *Peneglaaan Pemerintahan Lokal*. dalam. Supardal. (ed) Perpustakaan Pusat APMD.
- Fatmawati, Nur Ika. 2018. "Desentralisasi Asimetris, Alternatif Bagi Masa Depan Pembagian Kewenangan Di Indonesia." *Madani Jurnal Politik dan Sosial* 10(3): 73–85.
- Hasim, Ranga. 2016. "Politik Hukum Pengaturan Sultan Ground Dalam Undang-Undang No. 13 Tahun 2013 Tentang Keistimewaan Yogyakarta Dan Hukum Tanah Nasional." *Arena Hukum* 9(2): 207–24.
- Hayati, Rahmi et al. 2019. "Praktik Desentralisasi Asimetris Di Indonesia." *Jurnal Pemikiran dan Penelitian Administrasi Publik dan Administrasi Bisnis* 3(2): 131–40.
- Jaweng, Endi Robert. 2011. "Kritik Terhadap Desentralisasi Asimetris Di Indonesia." *Analisis CSIS* 40(2): 160–76.
- Kurniadi, Bayu Dardias. 2012. "Desentralisasi Asimetris Di Indonesia." *Politik dan Pemerintahan*: 1–11. <https://bayudardias.staff.ugm.ac.id/wp-content/uploads/2008/06/Desentralisasi-Asimetris-di-Indonesia-LAN-Bdg-26112012.pdf>.
- Luis Djuanda. 2016. "Analisis Hak Atas Tanah Ulayat Masyarakat Adat Suku Moi Di Kota Sorong Ditinjau Menurut Undang-Undang Pokok Agraria No 5 Tahun 1960." *Lex Administratum* 4(4): 56–66.



<https://ejournal.unsrat.ac.id/index.php/administratum/article/view/11824>.

Naibaho, Marlina. 2016. "Respon Masyarakat Terhadap Pesan Komunikasi Survei Sosial Ekonomi Nasional Pada BPS Kota Pematangsiantar." *Jurnal Simbolika* 2(1): 1–12.

Nurfurqon, Ardika. 2020. "Politik Hukum Otonomi Daerah Studi Terhadap Desentralisasi Asimetris Di Indonesia." *Khazanah Hukum* 2(2): 73–81.

*Peraturan Lengkap Desa (UU RI No. 6 Tahun 2014)*. 2017. Redaksi Sinar Grafika.

Peraturan Pemerintah Nomor 43 Tahun 2014 Tentang Peraturan Pelaksanaan Undang Undang Nomor 6 Tahun 2014 Tentang Desa

Peraturan Menteri Dalam Negeri Nomor 4 Tahun 2007 Tentang Pedoman Pengelolaan Kekayaan Desa.

Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 1 Tahun 2016 Tentang Pengelolaan Aset Desa.

Peraturan Daerah Istimewa Yogyakarta Nomor 1 Tahun 2017 Tentang Pengelolaan Dan Pemanfaatan Tanah Kasultanan Dan Tanah Kadipaten.

Peraturan Gubernur Daerah Istimewa Yogyakarta Nomor 34 Tahun 2017 Tentang Pemanfaatan Tanah Desa.

Peraturan Desa Sriharjo Nomor 20 Tahun 2020 Tentang Pemanfaatan Tanah Desa Sriharjo.

Pranoto, Carolus Bregas. 2017. "Pembangunan Negara, Hukum Pertanahan Indonesia, Dan Kembalinya Tanah Kasultanan Di Yogyakarta." *Jurnal Politik* 3(1).

Prasetyo, Agung Basuki. 2018. "Mengenal Karakteristik Pengaturan Tanah Bengkulu Di Indonesia." *Law, Development and Justice Review* 1(1): 97–104.

Prof. Dr. Sugiyono. 2017. *Metode Penelitian Kebijakan*. 1st ed. ed. Safitri Yosita Ratri. Bandung: Alfabeta, cv.

Putriyanti, Erma Defiana. 2015. "Dualisme Penerapan Hukum Pertanahan Di Daerah Istimewa Yogyakarta." *Ilmu dan Budaya* 4(2): 4473–87.

Rizza Utami Putri. 2022. "Governability Pemerintah Desa Dalam Pemanfaatan Tanah Kasultanan." Program Studi ilmu Pemerintahan Sekolah Tinggi Pembangunan Masyarakat Desa "APMD" Yogyakarta.

Tilman, Antonio, Dian Aries, Asih Retno, and Land Legalization. 2021. "Legalisasi Tanah Kasultanan Dan Tanah Kadipaten Di Daerah Istimewa Yogyakarta." *Riau Law Journal* 5(1): 1–13.

Savitri, Miya. 2016. "Analisis Kebijakan Peraturan Daerah Kabupaten Malang Terhadap Pengelolaan Tanah Bengkulu Desa." *Jurnal Panorama Hukum* 1(2): 55–68.



- Sitorus, E.B. et al. 2007. "Naskah Akademik Rancangan Undang-Undang Tentang Desa." *Naskah Akademik Rancangan Undang-Undang*: 1–98. [www.forumdesa.org](http://www.forumdesa.org).
- Sutoro Eko, M. Barori, Hastowiyono. 2017. *Desa Baru Negara Lama*. Perpustakaan Pusat APMD.
- Syahzevianda, Syahzevianda, Yanis Rinaldi, and Teuku Muttaqin Mansur. 2019. "Implikasi Yuridis Pengaturan Batas Desa Di Aceh." *Syah Kuala Law Journal* 3(3): 348–63.
- Umar, Jaenudin. 2021. "Kewenangan Otonomi Daerah: Sistem Pertanahan Daerah Istimewa Yogyakarta." *Cerdika: Jurnal Ilmiah Indonesia* 1(2): 114–19.
- Undang-undang Negara Republik Indonesia 1945.
- Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria.
- Undang-Undang Nomor 13 Tahun 2012 Tentang Keistimewaan Daerah Istimewa Yogyakarta.
- Undang-Undang Nomor 6 Tahun 2014 Tentang Desa.
- Wicaksono, Dian Agung, Ananda Prima Yurista, and Almonika Cindy Fatika Sari. 2019. "Mendudukkan Kasultanan Dan Kadipaten Sebagai Subyek Hak Milik Atas Tanah Kasultanan Dan Tanah Kadipaten Dalam Keistimewaan Yogyakarta." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8(3): 311–28.

