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The Presence of Sultan's Grant in Land Determination in Indonesia: a Case Study in Morowali

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Article

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Abstract

The study investigates the implementation of the Sultan Bungku grant in Morowali Regency, Indonesia, given its historical significance and potential for land conflicts in the region. This research Purpose of Writing for aims to understand how the Sultan Bungku grant, a traditional land tenure system, has been adapted to contemporary land governance practices in Morowali, especially in light of industrial development. This research method is A normative legal research approach was employed, combined with interviews with relevant stakeholders in Morowali Regency. The study found that while the Sultan Bungku grant has historical significance, its implementation has been influenced by the introduction of modern land tenure systems, such as those established by the National Land Agency (BPN). This has led to a complex interplay between traditional and modern land governance practices. Despite the potential for land conflicts, the presence of the BPN and local government has contributed to a relatively stable investment environment in Morowali. This research provides valuable insights into the evolution of land tenure systems in Indonesia, particularly in regions with historical ties to traditional land governance. It highlights the challenges and opportunities associated with balancing traditional practices with modern land administration.

Introduction

Grant sultan, as a privilege held by the king in the field of land, will have probative force as evidence of ownership over a piece of land (Rahmayana & Budhiawan, 2023). Therefore, this sultan's grant serves as a sign of ownership of a piece of land and is one of the ways to acquire rights to land (Nadzir & Ramadhani, 2020) , in accordance with the provisions of Law Number 5 of 1960 concerning Basic Agrarian Principles. The

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provisions in Article 2 of the conversion regulations state that: rights to land that grant authority similar to those mentioned in Article 20 paragraph 1, such as those referred to below, which come into effect with this law, namely: agrarian ownership rights, ownership, foundation, andarbeni, right to druwe, right to village druwe, pesini, sultan's grant, ...".

Regarding the rights to the sultan's grant mentioned above, its position is considered as a right that falls under conversion into rights specified in articles regulating ownership, building rights, business rights, and usage rights. The conversion of the sultan's grant land rights is adjusted based on the use of these rights, which can then be converted into a single right regulated by Law Number 5 of 1960 concerning Basic Agrarian Principles (Virgonia et.al., 2020). Additionally, this sultan's grant land, given by the king to his subjects or the general public, holds strong significance for the recipients of such grants. This strength is attributed to the grant being accompanied by a royal letter of bestowal.

The sultan's grant given by the king to the community, which the people have turned into ownership and control rights, has the potential to be considered as strong evidence. The existence of the sultan's grant as a proof of ownership over a piece of land, especially in Morowali as a legacy of the Bungku kingdom, signifies the origin of the property right. As an initial proof of a piece of land given by the king, the sultan's grant plays a significant role. However, whether the sultan's grant can be recognized as strong evidence without the need for re-registration by the National Land Agency (in Indonesian abbreviated as Badan Pertanahan Nasional/BPN) depends on the applicable regulations and policies in the region. Some jurisdictions may require re-registration to provide legal clarity and ensure the validity of land rights. Therefore, it is advisable to check local regulations and consult with the National Land Agency or relevant institutions for more information on the recognition and registration process for land rights, including sultan's grants (Bening & Rafiqi, 2022).

In line with the existence of the sultan's grant as evidence of ownership over a piece of land, this requires a policy from the government, particularly the National Land Agency, as the presence of sultan's grants is widespread throughout Indonesia. Therefore, in order to ensure the success of the existence of the sultan's grant in Morowali, especially in Lalampu Village, Bahadopi District, Morowali Regency, as land bestowed by the Bungku king to the community. The sultan's grant, as a land right owned by an individual, has become problematic, as it raises the question of whether this grant can be used as evidence to claim compensation if the land is acquired for

development purposes. Maria SW. Sumardjono stated that, first, the land policy pursued is in line with the regulatory climate, which began to take shape with the July 1992 regulations solidified in the October 1992 deregulation aimed at attracting more foreign investment in Indonesia (Sumardjono, 2001). The policy implemented involves simplifying the procedures for granting the right to cultivate (in Indonesian abbreviated as Hak Guna Usaha/HGU) and the right to build (in Indonesian abbreviated as Hak Guna Bangunan/HGB), as well as setting time limits for their resolution. It is undeniable that for investors, the ease of procedures and the determination of the time frame for granting land rights can be an attractive factor and worthy of attention. Second, in the case of land acquisition by housing and industrial development companies (real estate and industrial estate), typically obtained through the conversion of fertile agricultural land, there are instances where companies do not fully utilize the land according to the original plans. On one side, there are extensive areas of unused land, while on the other side, obtaining a piece of land is relatively challenging due to uncontrollable land price increases. As a result, this situation exacerbates social envy.

Third, the phenomenon of land hunger, which also affects urban areas, provides an opportunity for a small segment of society with excess capital to engage in investment or speculation, leading to land prices becoming increasingly unaffordable for the majority of the population, resulting in their displacement. This phenomenon will persist if government intervention through effective control policies is not promptly implemented.

Fourth, in cases where the people cultivate or use abandoned ex-plantation land, in the granting of the Right to Cultivate to new holders, it is not uncommon to encounter certain areas that have been intensively worked on by the community for years without interruption, often with the knowledge of the rights holder. Apart from taking action to exclude such areas from the overall requested HGU, should there not be a policy to collectively grant rights or land to these well-intentioned cultivators? This way, the interests of entrepreneurs are considered, while also not neglecting the interests of the cultivators (Sumardjono, 2007).

Regarding the four land policies presented by Maria SW. Sumardjono above, it illustrates that land issues are highly sensitive for communities as land is the heart of society. In rural areas, land is a significant asset for the community, as it is the source of their livelihood, and losing land means losing everything. Therefore, the sultan's grant, as one way for the Bungku community to obtain land, is seen as a means of acquiring land through the benevolence of their king. Thus, the sultan's grant is considered as

evidence of ownership over a piece of land, and this should not be disregarded by anyone (Sumardjono, 2001).

Morowali, as a region experiencing rapid industrial development, will require extensive land for both industrial and residential purposes, particularly for the housing of mine workers. The increasing demand for land in the area will impact the patterns of land transactions, including sales, leases, contracts, and other forms. Therefore, considering the sultan's grant, its recognition as strong evidence comes into question. Given Morowali's transformation from a mining area to an industrial zone, the surrounding areas will need land for housing and other business activities.

The presence of the sultan's grant within the context of land ownership and control, as outlined in the Basic Agrarian Law of 1960 (UUPA), presents complexities regarding its status as authentic evidence within Indonesia's proof system. The National Land Agency (BPN) generally recognizes the legal transition brought about by the UUPA, which seeks to unify and regulate land law under a national framework, potentially diminishing the legitimacy of traditional land grants such as the sultan's grant. While these grants may hold historical or customary significance, their validity in the modern land administration system often requires further verification and registration under the procedures set by the UUPA to establish legal certainty.

The contribution of this shift highlights the effort to centralize and modernize Indonesia’s land tenure system, promoting equality and clarity in land rights while reducing ambiguities stemming from pre-colonial or customary land grants. This transition is key to the integration of traditional land ownership claims into the formal legal system, ensuring legal protection and dispute resolution in a more standardized manner.

Method

This legal research employs a multifaceted methodological approach to provide a comprehensive analysis of the subject matter. A conceptual approach is adopted to delve into the underlying theoretical frameworks, doctrines, and principles that govern agrarian or land law. This approach is complemented by a statutory analysis, which involves a meticulous examination of all relevant legislative enactments and regulations pertaining to the research topic. Furthermore, a case law analysis is employed to construct compelling arguments based on previous judicial decisions, thereby offering valuable insights into the practical application of legal principles in the context of agrarian or land disputes. By integrating these methodological approaches, this research

aims to contribute to a deeper understanding of the complex legal landscape surrounding agrarian and land matters (Marzuki, 2013).

Discussion

1. Grant Sultan Bungku

Swapraja refers to a community that exists under the rule of a king and serves the king in a hierarchical manner (Burhaman, 2023). Consequently, the king, as the head of the kingdom, holds dominion over all assets and territories under their authority, including land. The existence of the sultan's grant land predates Indonesia's independence and the enactment of the Basic Agrarian Law of 1960, known as UUPA. The subsequent discussion will use the term of Basic Agrarian Law of 1960. The presence of Basic Agrarian Law of 1960 in 1960 is grounded in the philosophical basis of customary practices observed by the community in cultivating a piece of land. According to Mas'ode & Noer Fausi, the legal foundation serving as the backbone of national agrarian law is customary law according to the UUPA version (Mas'ode & Fausi 1997)) . Customary law forms the legal basis and guideline for land law within Basic Agrarian Law of 1960. This is because Indonesian society predates the arrival of Dutch colonizers in Indonesia, who then colonized the country for approximately 350 years. Before Dutch colonization, robust kingdoms were established throughout the archipelago, from Aceh to Papua, and from the Sangihe Islands to Rote Island.

Bungku, as a region of the kingdom and one of the oldest kingdoms in Central Sulawesi, theoretically remains existent and has received recognition from the Morowali Regional Government. This recognition is outlined in the Decree of the Regent of Morowali Number: 188.4.45/SK.0348/DISBOUPAR/2013 concerning the Confirmation of the Former Bungku Kingdom, Customary Institution, and Cultural Organizations in Morowali Regency. The issuance of this decree by the Regent of Morowali serves as the legal basis for the formal acknowledgment and designation of the former Bungku Kingdom as a kingdom that has influence and jurisdiction over Bungku, which has transformed into Morowali. With the issuance of the Regent's Decree Number 188.4.45/SK.0348/DISBOUPAR/2013, it signifies that the former Bungku Kingdom is still recognized in the field of cultural preservation as long as it exists. However, there is no explicit confirmation regarding the kingdom's control over the territory, particularly concerning land. Therefore, the historical control of land by the Bungku Kingdom, including the term "grant Sultan," remains relevant. The presence of sultan's grant land is also found in other regions, such as the Majapahit Kingdom in Central Java, especially

Yogyakarta. Under the complete authority of the Yogyakarta Palace, specifically the Hamengkubuwono, the ruler who controls all the land in Yogyakarta, including Gadjah Mada University.

Bungku, as the former Bungku Kingdom, once structurally controlled the entire Bungku region, including land. However, after gaining independence, traditional leaders and kingdom officials did not emphasize the issue of land ownership. In practice, the families of the former Bungku Kingdom do not question the existence of lands that were once controlled by the kingdom in their time. The heirs of the Central Bungku Kingdom do not contest the legacy of the previous kings. This perspective was conveyed by the Secretary of the Morowali District and an employee of the National Land Agency. Moreover, Morowali Regency, being one with industries in mining, theoretically might acquire lands claimed by the heirs of the kings. However, in reality, there are no issues regarding the land that serves as the location for industrial activities.

2. The Right of Customary Land Ownership According to Agrarian Law

The concept of Basic Agrarian Law of 1960 (UUPA) is the fundamental concept of customary law, and customary law serves as a guide for the customary legal community, even though it is not written (Hartana & Darmayanti, 2020). This is because the concept of written law was introduced during the Dutch colonial period in Indonesia, bringing with it the concept of written law embodied in the Civil Code (KUH Perdata), Criminal Code (KUHP), and Commercial Code (KUHD). The Dutch government incorporated land issues into the Civil Code, and Civil Law also regulated land matters through a written system. This written legal system is very unfamiliar to the customary legal community because they are not accustomed to it; their tradition relies solely on oral communication. In customary legal communities, when making agreements of a legal nature, individuals involve their relatives or family members to witness the activities. The presence of these witnesses serves as evidence in case of disputes or disagreements in the future, and the relatives who act as witnesses will testify to prove that a transaction involving the relevant land has taken place (Rafiqi, 2023).

Article 3 of the Basic Agrarian Law of 1960 stipulates the legal basis for the occurrence of customary rights, stating that "the implementation of customary rights must be in such a way that it is in line with national and state interests, based on the unity of the nation, and must not contradict other higher laws and regulations." Meanwhile, in its explanation, in paragraph II Number 3, it is stated that "the interests of a legal community must be subject to higher and broader national and state interests. The implementation of customary rights must be in accordance and not contradict those

broader interests. It cannot be justified according to this explanation if in the current state system, a legal community still maintains absolute content and implementation of customary rights. It is as if the legal community is detached from other legal communities and regions within the national framework. It appears as if the members of that community are only intended for the members of the customary legal community itself. Such a stance by the Basic Agrarian Law of 1960 is considered contrary to the legal principles stated in Article 1 and Article 2 of the Basic Agrarian Law of 1960."

Referring to the provisions mentioned in Article 1 and Article 2 of the Basic Agrarian Law of 1960 above, it can be inferred that the Basic Agrarian Law of 1960, as the fundamental regulation governing land in Indonesia, still considers customary law as the primary foundation. This is because the agrarian regulations essentially govern the legal relationships between individuals and land, extending legal recognition to communities for business activities. Granting land rights for communal or group activities illustrates that Indonesian society prioritizes collective interests.

Customary land rights encompass a set of authorities and responsibilities within a customary legal community, relating to the land situated within its territory. It serves as a fundamental support for the livelihoods and lives of the respective community throughout time. In conclusion, customary land rights cannot be individually owned; instead, the entire members of the customary legal community collectively hold rights to the land. Therefore, land rights within customary legal communities are not considered '*res nullius*,' indicating that the land is not considered unowned or belonging to no one (Harsono, 2005).

The norms protecting customary land rights of indigenous legal communities in the agrarian legislation in Indonesia indicate the responsiveness of national agrarian law (Rumiartha, 2019). The assurance of protection for the land rights of indigenous legal communities is a fundamental requirement in national agrarian legislation, and this is mandated by the constitution as stipulated in Indonesia's positive law regarding indigenous rights (Thontowi, 2015). Article 18B paragraph (2) of the 1945 Constitution asserts: "The state recognizes and respects the unity of indigenous legal communities along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law." Furthermore, Article 281 paragraph (3) of the 1945 Constitution emphasizes that: "Cultural identity and the rights of traditional communities are respected in harmony with the development of time and civilization (Rafiqi, 2021).

A.P. Parlindungan states that: "Unlike colonial states or communist countries that generally do not recognize the prior rights of the people, and only declare that because their kings have surrendered, all lands belong to the colonizers (Parlindungan, 1999). In communist countries, when they come into power, all land is considered to be owned by the people and fully controlled and owned by the state, leading to the abolition of private ownership." This perspective suggests that to avoid the arbitrariness of the state in handling the people's land rights, there needs to be more serious recognition of the customary land rights of indigenous communities. Moreover, in the granting of a land right (such as land-use rights), it is essential to re-examine and consider the opinions of the respective legal communities (recognition), as they have significant access. This approach ensures that indigenous legal communities will be impacted by the management of land and natural resources burdened by the new rights in question (Harsono, 2002)

Customary land rights are the highest rights to land owned by a legal community to ensure the orderliness of land utilization. The community has the right to control the land, and its implementation is regulated by the tribal chief or village head (G. Kartasapoetra et al., 1985). Another definition interprets customary land rights as an inherent competence specific to the customary legal community, consisting of the authority/power to manage and regulate its ancestral land both internally and externally (Sudiyat, 1982).

Therefore, agrarian law, as a manifestation of customary law, becomes something inseparable, ensuring a balance between individual and community interests (Sihombing, 2023). In other words, agrarian law continues to respect both individual and group interests simultaneously, with the provision that if a piece of land is to be used for public purposes, privately-owned land cannot be retained. Instead, it should be acquired with fair compensation. In the case of Bungku, a region targeted for mining investments and originally part of the Bungku kingdom, there have been relatively few land conflicts in practice. The implementation of investment law principles in the management of mineral and coal resources on customary land has not yet been optimal (Salinding, 2017). One contributing factor is that the heirs of the kingdom or the king do not claim lands without proper ownership evidence, except for those heirs who claim lands for which ownership has been proven and documented. This depiction serves as a fact that some lands controlled by the Bungku king have been granted proof of ownership in the form of land certificates, indicating a high legal awareness of land ownership within the royal family.

In line with the development of land ownership in Morowali, formerly known as Bungku, land regulations have provided legal certainty for its owners or those who control the respective land. This aligns with the provisions of the Basic Agrarian Law of 1960. However, after the issuance of the Basic Agrarian Law of 1960 as the fundamental regulation in the agrarian field, there have been significant changes. The significance lies in the mandatory requirement for land registration, as stipulated in Article 19 of the Basic Agrarian Law of 1960, which states that: a) to ensure legal certainty, the government conducts land registration throughout the Republic of Indonesia in accordance with regulations set by the Government; b) Registration in paragraph 1 of this article includes: a) measurement, mapping, and land bookkeeping; b) registration of rights to land and the transfer of those rights; c) issuance of certificates as strong evidence of rights; d) Land registration is conducted considering the state and societal conditions, socio-economic traffic needs, and the feasibility of implementation, according to the Minister of Agrarian Affairs' considerations; e) Government regulations stipulate the relevant costs associated with the registration mentioned in paragraph 1 above, with the provision that those who cannot afford it will be exempted from payment.

3. The Legal Basis for the Recognition of Customary Land in Central Sulawesi Province

The Central Sulawesi Province is a province located within the territory of the Republic of Indonesia. Therefore, all lands, whether possessed by individuals or entities, either by the state or private companies, are de facto controlled by the state. This is because the state serves as an order that unites society and individuals, aiming to provide prosperity and legal certainty in the field of land ownership. The regulation concerning land in the Central Sulawesi Province, in addition to being governed by Law Number 5 of 1960 concerning the Basic Agrarian Law of 1960, commonly known as UUPA Number 5 of 1960 or abbreviated as Basic Agrarian Law of 1960. In 1989, the Provincial Government of Central Sulawesi issued Decree Number 592.2/33/1993 concerning the Form and Content of the Land Ownership Rights Handover Letter. The existence of this Decree by the Governor of the First Level Regional Government of Central Sulawesi is a response from the First Level Regional Government of Central Sulawesi to the Regent of the Second Level Regional Government of Poso, dated February 21, 1992, No. 992.2/514/Pem.Um regarding the Settlement and Follow-Up of Several Land Cases in Poso Regency addressed to the Vice President of the Republic of Indonesia.

Regarding the letter from the Regent of the Second Level Regional Government of Poso mentioned above, the Governor of the First Level Regional Government of Central Sulawesi sent a letter to the Regent of the Second Level Regional Government of Poso regarding the Resolution of Land Issues in the Central Sulawesi Province, as follows: a. based on Law Number 29 of 1959 regarding the Formation of Second-Level Regions in Sulawesi and Law Number 13 of 1961 regarding the Formation of the Central Sulawesi Province, as well as prevailing regulations, the Central Sulawesi Province is a former *Swapraja* (autonomous region); b. based on the dictum Four of the Basic Agrarian Law of 1960, rights and authorities over land and water from *Swapraja* and the remaining former *Swapraja* at the time of the enactment of the Basic Agrarian Law of 1960 are abolished and transferred to the state and will be further regulated by the Government Regulation; c. based on Government Regulation No. 224 of 1961, *Swapraja* lands and former *Swapraja* lands as referred to in Dictum Four letter A of the Basic Agrarian Law of 1960 are transferred to the state, becoming one of the subjects of land control regulations; d. based on the above matters and provisions, especially point II, which explains that Central Sulawesi, including Poso Regency, was formerly *Swapraja* land/region and became state land after the enactment of the Basic Agrarian Law of 1960.

Referring to the letter from the Governor of the First Level Regional Government of Central Sulawesi above, it provides an overview that Central Sulawesi is a former *Swapraja* or former *Swapraja* region. To strengthen the Governor's letter as the head of the First Level Government in Central Sulawesi, the existence of vertical institutions must comply with the relevant regulations. Therefore, the Head of Land Affairs issued an affirmation letter No. 500-372 regarding the Affirmation of Land Status in the Central Sulawesi Province, addressed to the Minister of Agrarian Affairs, the Head of the National Land Agency in Jakarta. The contents of the letter are as follows: a) historically, Central Sulawesi Province, formerly a *Swapraja* region before being conquered by the Dutch East Indies government in 1905, was an area governed by independent kings. In 1919, the kings in Central Sulawesi renewed their allegiance to the Dutch East Indies government by signing the "*Kerte Vorklarting*," while the government over the kings' territories was regulated by the Self-Government Land Regulations (Self bestuurs regelen). The *Swapraja* government in Central Sulawesi was dissolved (abolished by Law Number 29 of 1959 concerning the Formation of Second-Level Regions in Sulawesi). Thus, the Land Law applicable in Central Sulawesi before the enactment of the Basic Agrarian Law of 1960 was *Swapraja* Land Law (Land Law made by the *Swapraja*

Government); b) the land status in Central Sulawesi has been disputed since the implementation of the Basic Agrarian Law of 1960. There is a letter from the Head of Agrarian Inspection in Central Sulawesi proposing to the central government for a practical resolution of lands controlled by the community. While waiting for instructions from the center, the Head of Agrarian Inspection, with his letter dated August 14, 1966, No. 844/II/1/66, provided guidance on the implementation of land conversion with Customary Ownership Rights to the Head of the Regional Office in Central Sulawesi. The circular states, among other things: c) formally, lands in Central Sulawesi are generally state lands, given that historically Central Sulawesi was a former *Swapraja* region; d) the Head of Agrarian Inspection in Central Sulawesi proposed to the center (Minister of Agrarian Affairs) regarding the resolution of lands continuously and traditionally controlled by the community, but there has been no response to date; e) while waiting for instructions from the center, the Head of Agrarian Inspection in Central Sulawesi believes that, based on the fact that the people have been controlling the land continuously and traditionally for years, the land can be considered owned under customary law, which, according to the conversion provisions of the Basic Agrarian Law of 1960, can be converted into ownership according to the understanding of Article 20 of the Basic Agrarian Law of 1960. However, since they generally do not have proof of ownership, recognition of rights from the Head of Agrarian Inspection is needed for the purpose of conversion; f) the opinion, as the discretion of the Head of Agrarian Inspection in Central Sulawesi in point 2 c above, aims to facilitate and accelerate land administration but, in its implementation, creates confusion regarding the understanding of customary/former customary land, as Central Sulawesi was a former *Swapraja* region before the enactment of the Basic Agrarian Law of 1960). Therefore, the applicable land law was *Swapraja* Land Law (not land made by *Swapraja*), not customary land law; g) Indonesian customary land that can be converted according to Conversion Article II of the Basic Agrarian Law of 1960 into ownership since September 24, 1960, as referred to in Article 20 paragraph (1) of the Basic Agrarian Law of 1960, is Rights *Agrarische Eigendom*, ownership, *yasan*, *anderbeni*, land rights *druwe*, land rights *druwo desa*, *posini*, grant sultan, *landerijnbwzitrecht*, *altijdurede*, land rights partikulir, and other rights that will be further affirmed by the Minister of Agrarian Affairs. Therefore, the discretion of the Head of Agrarian Inspection regarding the ability of land controlled by the community to be considered as customary owners, in its conversion implementation, should first obtain approval or affirmation from the Minister of Agrarian Affairs. However, according to our opinion, the proposal from the

Head of Agrarian Inspection regarding the implementation of conversion in Central Sulawesi, which is a former *Swapraja* region, will not receive approval or affirmation from the Minister of Agrarian Affairs because, formally and juridically, it contradicts the provisions of Dictum Four of the Basic Agrarian Law of 1960 and Government Regulation Number 334 of 1961; h) to realize the Four Land Order, and to find a strong and solid legal basis in dealing with land problems or disputes, it is necessary to return to formal provisions, namely the Basic Agrarian Law of 1960.

The Governor of the First Level Regional Government of Central Sulawesi, in a letter dated August 31, 1992, No. 592.2/4117/Re, reminded and reaffirmed that historically and based on the regulations, Central Sulawesi is a former *Swapraja* region. Therefore, based on Dictum Four: "Rights and authorities over land and water from *Swapraja* and former *Swapraja* that still exist and have been in effect since the Basic Agrarian Law of 1960 must and shall transfer to the State." Thus, the land status in Central Sulawesi since the enactment of the Basic Agrarian Law of 1960 is State land (Former *Swapraja* State Land); i) Based on the provisions of the Basic Agrarian Law of 1960 and the reaffirmation by the Governor of the First Level Regional Government of Central Sulawesi that it is a former *Swapraja* region, then on September 1, 1992, with No. 500-693, instructions will be given to the Heads of the Land Office in Central Sulawesi to adhere to the governor's letter above and process the certification of land through the procedure of granting land certificates, and since September 1, 1992, no longer perform acknowledgment conversion; j) We also report that the resolution of land certification applications processed through the procedure of granting land certificates has been quite smooth so far without causing unrest among the community (applicants) because during this time here (Central Sulawesi), the determination of the amount of administrative fees in the acknowledgment process is equal to the amount of money received by the State in the granting of rights process. However, perhaps the obstacle is the limited or low "purchasing power" or the ability of the community to fulfill the obligation to pay the money received by the State. Based on the above, we request that you strengthen and reaffirm the existence of the land status in Central Sulawesi to further strengthen and solidify the legal basis for land administration and the resolution of land issues or cases.

Referring to the considerations of the Governor of the First Level Regional Government of Central Sulawesi mentioned above, it provides a detailed description of the legal basis for the issuance of the regional government's determination letter. The central issue in the determination letter, which was also emphasized in the letter from the Head of the Agrarian Inspection of Central Sulawesi, includes: (1) Central Sulawesi

being a former *Swapraja* region; (2) the process of transferring land in Central Sulawesi, especially land that is not yet registered or certified, should not be carried out in front of the Land Deed Maker (PPAT). Therefore, for clarity, let's first elaborate on what *Swapraja* means. *Swapraja* is a term used by the Dutch to refer to regions of kingdoms, sultanates, or principalities in Indonesia, with the aim of distinguishing them from the Dutch colonial administration system in Indonesia. Linguistically, *swapraja* means a region or area with its own government. This term was used as an equivalent to the term "*zelfbestuur*" during the Dutch colonial period. The administrative system in Indonesia during the Dutch East Indies era was complex and followed various forms of regional governance. *Swapraja* was one of the recognized forms by the colonial government and encompassed various administrative structures, such as sultanates, kingdoms, and principalities. The status of *swapraja* meant that the area was led by indigenous leaders with the authority to manage its internal administration, legal matters, and culture.

Referring to the definition of *Swapraja* above, it can be explained that *Swapraja* was a formation of the Dutch East Indies government, used to distinguish it from other forms of administration. The existence of *Swapraja* was widespread throughout Indonesia as, during that time, almost the entire territory or regions in Indonesia were occupied by the Dutch East Indies. Meanwhile, through cunning strategies, the Dutch East Indies government implemented a policy of division for regions or areas with kingdoms by sowing discord. If an agreement was reached among the royal families or kingdoms in that region, the Dutch East Indies government would provide assistance to one of the kingdoms. In case of victory, that kingdom would become its ally, while the other kingdoms would become its subjects.

The ambiguity in the interpretation of *swapraja* land within national law does not determine whether the law can be applied fairly to the community. When linked to the existence of swapraja land or former *swapraja* land, it can be considered part of the legal politics in the field of land (agrarian conception in a narrow sense). Indonesia, in the process of transitioning towards the Unitary State of the Republic of Indonesia, experienced two leaderships, namely the Kingdom's Palace and the Colonial Government. For former colonial land, it is clearly nationalized directly under the Basic Agrarian Law of 1960, while land from the palace is regulated by separate rules (Bakhrul Amal, 2016).

In the Constitution of the Republic of Indonesia, there is no clear definition of what is meant by *swapraja* or former *swapraja* land. Similarly, the Basic Agrarian Law of 1960 does not provide a detailed explanation of the term *swapraja*, although the term *swapraja*

is mentioned in dictum IV letter A of the Basic Agrarian Law of 1960. Furthermore, in Government Regulation of the Republic of Indonesia number 224 of 1961 concerning the implementation of land distribution and compensation purchases, in the context of implementing Land Reform, regulations on land distribution and related matters need to be established, taking into account the results of seminars on Land Reform held centrally and in regions. Article 4 paragraph 1 states that *Swapraja* Land and Former *Swapraja* Land, as stipulated in dictum IV A of the Basic Agrarian Law of 1960, is transferred to the State and allocated for government purposes. Some are allocated for those directly affected by the removal of *Swapraja* land rights, and some are distributed to the people in need, in accordance with the provisions in this Government Regulation (Sumaya, 2018). It is essential to continuously evaluate and develop policies and regulations related to agrarian resource management to align with future needs and challenges (Herlindah, 2017).

The *swapraja r*egions or areas in Indonesia mentioned above became autonomous areas with the capability for self-governance. This autonomy theoretically grants these regions or areas *swapraja* status. Therefore, a *swapraja* region or area will automatically control all assets within its territory, including land assets. Bungku, as a former kingdom, is currently acknowledged by the Morowai Government. This recognition is formalized through Decree Number 188.4.45/SK.0348/Disbuopar/2013, concerning the Ratification of the Kerajaan Bungku Palace, Customary Institution, and Cultural Organizations in Morowali Regency for the Period 2013-2018.

4. The National Land Agency's Position Regarding the Existence of "Grant Sultan" in the Land System of Indonesia.

The National Land Agency (BPN) is the primary institution responsible for managing land affairs in Indonesia. Its mandate is broad, covering policy formulation, implementation, land acquisition, dispute resolution, and supervision of land-related activities across the country. The complexity of its functions reflects the diversity of land tenure systems in Indonesia, where both modern and customary land laws coexist. BPN was established in 1988 to centralize land management, which had previously been dispersed among various regional and local bodies. One of the key challenges faced by BPN since its inception has been harmonizing traditional land tenure systems, such as those involving “sultanate grants” or royal land titles, with the national land administration system. Indonesia’s long history of kingdoms and sultanates, particularly in regions like Java, Sumatra, and Sulawesi, has resulted in a large number of historically granted lands, which may not always fit within the modern land registry.

BPN operates under a series of laws and regulations that form the backbone of land governance in Indonesia: 1. The Basic Agrarian Law of 1960, this is the cornerstone of Indonesia's land law, setting the framework for land rights, land use, and land management. The Basic Agrarian Law of 1960 integrates aspects of both customary law and civil law traditions, 2. Presidential Decrees and Regulations, BPN's authority is reinforced by various government regulations and presidential instructions, particularly concerning land acquisition for public purposes., 3. Land Registration Law, one of BPN's critical responsibilities is ensuring the systematic registration of all land in Indonesia, an effort that has been ongoing for decades but is complicated by overlapping claims, such as those related to sultan grants.

A sultanate grant refers to land ownership or rights conferred by a sultan or traditional ruler to individuals, families, or communities. These grants were typically given as rewards for service, loyalty, or as recognition of status within the sultan's domain. In regions like Yogyakarta, Solo, Banten, and Aceh, such grants remain significant, influencing contemporary land ownership patterns. Sultanate grants, being customary in nature, often do not align with the formal land ownership systems developed under colonial rule and post-independence Indonesia. While the Basic Agrarian Law recognizes customary land rights, it also emphasizes the need for these rights to be registered to gain full legal recognition. Sultanate grants are thus in a grey area: they are recognized socially and historically but may lack the formal legal status needed under modern land laws. In areas governed by sultanates, traditional land systems operated independently of formal state systems. However, with the nationalization of land laws under the Basic Agrarian Law and the introduction of formal land registration processes, these traditional systems came into conflict with the new national framework. BPN is tasked with integrating these historical claims into the national land registry, but this process is fraught with challenges, particularly when the original sultanate grants lack proper documentation or when disputes arise over the interpretation of these grants.

The key challenge for BPN in dealing with sultanate grants is reconciling the customary land rights with the formal land registration system. Sultanate grants are often based on oral traditions, and the lack of written documentation or formalized boundaries complicates BPN's task of registering these lands. Documentation Issues In many cases, the original grants were never formally recorded, leaving BPN with the difficult task of verifying the authenticity of claims. Claimants may rely on oral histories, making it challenging to establish a clear legal basis for ownership and how the

Overlapping Claims, Land granted by sultans may now overlap with land considered state property, or it may have been sold or transferred without proper legal procedures. BPN must untangle these overlapping claims, which can involve multiple parties with competing interests.

One of the most pressing issues related to sultanate grants arises in the context of land acquisition for development projects, especially large-scale infrastructure and industrial development. In regions like Morowali, Central Sulawesi, where rapid industrial growth is taking place, land that was historically granted by sultans is now sought for commercial use. BPN plays a critical role in facilitating land acquisition, but when traditional rights conflict with modern development, disputes can emerge. Legal Certainty for Investor in industrial or infrastructure projects require legal certainty regarding land ownership. BPN must ensure that land titles are clear and undisputed, which can be difficult when sultanate grants are involved. This uncertainty can deter investment and delay development projects. Community Resistance In some cases, local communities resist the conversion of sultanate land into industrial or commercial property. They may view these lands as part of their cultural heritage, and attempts to formalize ownership or sell the land for development can lead to conflicts. Land disputes and conflicts are complex problems and are very influential in social life, both in economic terms and in social and cultural terms. Land disputes and conflicts that occur in society often have huge negative effects, this happens because many land disputes and conflicts are allowed to drag on without any concrete efforts to resolve the land disputes and conflicts that occur (Said et al., 2024).

BPN is responsible for resolving land disputes, and sultanate grants are a frequent source of contention. These disputes often involve complex legal and historical questions, including 1) Determination of Heirs, Sultanate grants were often passed down through generations, but in many cases, there is no clear documentation of rightful inheritance. BPN must work to establish who has the legitimate claim to the land, 2) Conflicting Claims. There may be multiple parties claiming rights to the same piece of land. For instance, descendants of the original grantee may have sold the land to a third party, but the sale may not have been formally registered, creating conflicting claims.

While BPN operates at the national level, land administration practices can vary significantly across regions. In areas where sultanate grants are common, local practices may not align with national laws, further complicating BPN's task. For example when Customary Practices vs. Legal Formalities, In some regions, land transactions continue

to be governed by customary practices, which may not involve the formal registration process required by law. BPN must work to bring these practices into alignment with the national land registration system without alienating local communities. In areas where sultanates still wield significant cultural and political influence, BPN must navigate the political sensitivities surrounding sultanate grants. In these regions, land ownership is not just a legal issue but also a matter of identity and tradition. Any attempt to formalize or alter land ownership patterns must be handled with care to avoid sparking conflict.

In regions like Morowali, Central Sulawesi, rapid industrialization has brought the issue of land acquisition to the forefront. Morowali is a key site for nickel mining and other industrial projects, which require vast tracts of land. BPN's role in facilitating the acquisition of land for these projects has been critical, but the process has been fraught with challenges related to sultanate grants and customary land rights. BPN's success in managing land issues in Morowali has been due in part to its close coordination with local authorities, including descendants of royalty and traditional leaders. This cooperation has been essential in resolving conflicts over sultanate grants and ensuring that land acquisition proceeds smoothly. Community Engagement. BPN has also worked to engage local communities, ensuring that they are involved in the land acquisition process and that their rights are respected. This has helped to reduce resistance to development projects and ensure that land disputes are resolved before they escalate.

To effectively manage the challenges posed by sultanate grants, BPN has adopted several strategies: 1) Historical Research and Documentation, BPN works with historians, legal experts, and local communities to document and verify sultanate grants. This helps to establish a legal basis for resolving disputes and registering land, 2) Mediation and Arbitration, BPN frequently acts as a mediator in disputes over sultanate grants, helping to negotiate settlements between conflicting parties, 3) Legal Reforms, BPN has advocated for legal reforms that would clarify the status of sultanate grants and streamline the process for registering these lands, 4) Public Education, BPN works to educate the public about the importance of registering land and the benefits of formal ownership, helping to bridge the gap between customary practices and modern legal requirements.

Conclusion

Morowali Regency, as one of the destinations for industrial development, is highly susceptible to land conflicts. However, the presence of the National Land Agency (BPN) and the local government of Morowali Regency has proven to provide assurance for comfortable investment in the region. The excellent services in licensing and guarantees from the National Land Agency (BPN) facilitate the process of obtaining land certificates for industrial development. The assurance of ease in licensing and guarantees from the National Land Agency (BPN) makes Morowali Regency attractive to investors for capital investment. With many investors contributing their capital, the Morowali Regency government will gain profits in the form of local revenue. Moreover, the presence of the National Land Agency (BPN) as a technical institution handling land issues serves as a pull factor for investors due to simplified procedures in dealing with land-related documents. Additionally, the role of community and traditional leaders significantly contributes to resolving land conflicts, thus preventing potential land issues.

The National Land Agency (BPN) faces significant challenges in integrating sultanate grants into Indonesia's modern land system. Sultanate grants, rooted in historical and customary land rights, often lack formal documentation, complicating their registration and creating conflicts with modern land laws. BPN's efforts to reconcile these traditional grants with national regulations involve thorough historical research, mediation of disputes, and engagement with local communities. This process is crucial for addressing overlapping claims and ensuring legal clarity in land ownership. Moreover, as Indonesia undergoes rapid industrialization, especially in regions like Morowali, BPN must balance the need for land acquisition with respect for traditional land rights. By advocating for legal reforms and improving public education on land registration, BPN aims to streamline land administration and facilitate development while honoring customary practices. This approach helps mitigate conflicts and ensures that land management is both effective and respectful of Indonesia's diverse land tenure systems.

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