

The Chinese Resistance to Land Rights Discrimination in Indonesia



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Abstract Ethnic Chinese is the largest ethnic minority in Indonesia. However, ethnic Chinese is not entirely accepted by Indonesian society. For instance, ethnic Chinese experienced discrimination through the 1975 instruction, which prohibited land ownership in the only special region of Indonesia, namely Yogyakarta. This article aims to trace the ethnic Chinese response to the 1975 Instruction. By employing the historical method with a multidimensional social sciences approach. This research shows that historically ethnic Chinese who have experienced discrimination in land ownership rights in Yogyakarta since 1975 only started to carry out resistance in 1998. Resistance began to emerge and grew with increasing escalation due to factors in the political culture conditions that occurred in Indonesia generally and Yogyakarta especially. The resistance carried out divided into individuals and groups. However, both are categorized as open resistance. In the end, the Indonesian government needs to take serious steps to address the issue of racial discrimination in land rights before it escalates into conflict.

Keywords: minority, 1975 instruction, Yogyakarta, Granad, Forpeta, post-authoritarian

1. Introduction

Indonesia, as a nation, has become one of the most multicultural societies in the world. The multicultural society in Indonesia comes from various ethnic groups that live in the territory of Indonesia and build Indonesia as a nation. Central Agency on Statistics of Indonesia (2010) noted that Indonesia consists of more than 1,300 ethnic groups. However, of the many ethnic groups in Indonesia, there are ethnic ones that are considered indigenous and some are considered non-indigenous. One of the ethnic groups called non-indigenous is ethnic Chinese. However, in the history of Indonesia, ethnic Chinese has not been fully accepted as a member of the nation (Suryadinata 1997). Such circumstances make ethnic Chinese vulnerable to becoming targets of discrimination.

Debebe et al (2022) state that the interpretation of historical phenomena plays a big role in a nation. Historically as studies conducted by many scholars, ethnic Chinese have gone through many discriminatory historical phenomena in the frame of Indonesia as a nation. During the colonial period, ethnic Chinese received a negative stigma from society due to their role as overseers during the cultivation system period, which was considered to be miserable for the indigenous people (Carey 1984). In the post-colonial, ethnic Chinese in the Old Order era under President Soekarno experienced discriminatory actions in the field of sports through affirmative policies for natives, so that ethnic Chinese did not dominate in the number of national athletes (Tanasaldy and Palmer 2019). The next era under President Soeharto (known as the New Order era) forced ethnic Chinese by the dominant discourse to assimilate Indonesian culture by completely abandoning their original identity with the aim of absorbing ethnic Chinese as this minority into the national body (Hoon 2006). The situation changed when entering the Reform era after the 1998 riots in Indonesia. Subsequent presidents introduced policies aimed at easing legal restrictions on ethnic Chinese in Indonesia (Turner and Allen 2007). Nevertheless, in fact, there is still discrimination against ethnic Chinese in the era of modern Indonesia.

As the previous paragraph already suggested, there have been many studies on discrimination against ethnic Chinese in Indonesia. Yet, one issue that is almost absent is their response to discrimination. One of the discriminations received by ethnic Chinese in modern Indonesia is in their only special region, namely Yogyakarta. Yogyakarta, as a Special Region of Indonesia, granted specialness rights to a land authority. Ethnic Chinese have been prohibited from having the right to land ownership in Indonesia since 1975 (Tania and Satriawan 2021). The prohibition is stated in the Instruction of the Head of the Special Region of Yogyakarta Number K.898/I/A/1975, more familiarly referred to as the 1975 Instruction. Based on the rule, ethnic Chinese can only obtain building rights on Yogyakarta lands. The regulation is one of the implementations of separate rights granted by the central government in the land sector only to the special region of Yogyakarta.

The objective of this study is to trace the historical records of Chinese resistance as a response to the discrimination on land rights in Yogyakarta as the only special region of Indonesia. The main question is how is the dynamics of Chinese resistance



as a response to discrimination on land ownership rights in Yogyakarta since 1975. This study aims to reconstruct the history of ethnic Chinese resistance in Yogyakarta within 25 years, from 1975 to 2020. This research becomes important because it sees the dynamics of the multicultural and plural society in Yogyakarta so that it can be a reflection of Indonesia in an effort to achieve national harmonization. Moreover, it is a campaign about respecting human rights, pluralism, and multiculturalism in the world in this era of globalization.



Figure 1 Several ethnic Chinese held demonstrations to protest against discrimination in land rights. Source: iNews Yogya (2018).

2. Materials and Methods

This study is written based on employing the historical research method, which has four operational steps: heuristics, source criticism, interpretation, and historiography (Gottschalk 1981). The data used in this study consists of historical sources derived from reports and news with the content of the results of interviews with related informants and archives as primary sources and journals and books as secondary sources to support the argumentation in interpretation. This research seeks to use the model of Sartono Kartodirdjo's (1992) historical methods with a multidimensional social science approach. The main concept used to help the analysis is James C. Scott's (1985) concept of open resistance, which he defines as organized, systematic, cooperative, unselfish, and revolutionary it also embodies intentions that negate the basis of domination. Resistance can also be in the form of various efforts made to survive and find a decent living (Scott 1990).

3. Results and discussion

3.1 *Obey in Silence (1975-1998)*

The 1975 Instruction, as the basic regulation for ownership rights to land in Yogyakarta, was interpreted by the government as part of its regional specialness. Although, it intends to implement affirmative action, however in its implementation, the 1975 Instruction turn on full of inconsistency that occurred in its technical application; it actually made discrimination that added to the dynamics of land affairs in Yogyakarta (Mustajab 2022). However, the specialness and central positions after being considered to play a big role in Indonesian independence, there is a distinctive pattern that is closely related to Yogyakarta.

As an ex-self-government (lit. *ex-swapraja*), Yogyakarta remains strong in its feudal cultural influence, though it has joined Indonesia as a nation and thus adopted a democratic republic in its system of government. Hamengkubuwono IX and Pakualam VIII, as local leaders, therefore automatically served as governor and vice governor had considered revolutionary figures and contributed greatly to the survival of Yogyakarta and Indonesia when they achieved and maintained independence from the Netherlands in 1945 in a conducive and restrained atmosphere. Even though they have joined Indonesia, Hamengkubuwana IX and Pakualam VIII remain as traditional rulers and become figures who are highly obeyed, respected, and upheld by the people, and also very fanatical towards their king as a leader. The people will carry out the king's orders, whatever they may be (Sutiyah 2017).

The strong feudal culture made migrants also their descendants, such as Chinese, Arabs, Indians, and Europeans, forced to follow in respect for the leader of Yogyakarta. Thus, there is no historical record that mentions Indonesian citizens descended or commonly referred to as non-indigenous resisting the 1975 Instruction even though they have been directly discriminated against in the right to own a piece of land in Yogyakarta. In fact, government archives record Indonesian citizens of descent or non-indigenous who tried to apply for the granting of land ownership title certificates using very polite words and paying respect to the regional head of Yogyakarta in their land proposal letter still getting rejected.

Deep-rooted feudal culture in Yogyakarta resulted in no resistance to the 1975 Instruction as a discriminatory policy on land rights until the demise of Hamengkubuwono IX in 1988 and Pakualam VIII in 1998 brought about a new chapter in land affairs in Yogyakarta.

3.2 The Resistances Has Begun (1998-2020)

1998 was a new chapter for Indonesia to open new historical pages. A resistance movement called the Reformasi Movement (*Gerakan Reformasi*), which spoke out against the authoritarianism of Soeharto as the president of Indonesia, first echoed in the capital and quickly followed throughout Indonesia. In spite of Yogyakarta was also one of the arenas for the struggle of the Reform Movement, it can still be said to be quite conducive because it was under the command of Hamengkubuwono X and Pakualam VIII who expressed their support for the Reform Movement. While the Reform Movement was turbulent in 1998 and spread riots in some cities, the ethnic Chinese themselves were quite cornered nationally, but not in Yogyakarta (Park 2012).

After the reform movement succeeds in overthrowing Soeharto's authoritarianism, one of the interesting growths in Indonesian society is the increasing bravery of the people to express their interests. They are no longer silent in defeat when facing the authorities (Purwanta 2022). Yogyakarta, as part of Indonesia, cannot be separated from the impact of the Reformation Movement. For example, ethnic Chinese in Yogyakarta commence responding to land ownership discrimination that they have experienced for years. Furthermore, Pakualam VIII as a signatory of the 1975 Instruction, passed away right after the end of the 1998 Reform Movement.

2001 was the year of the first time were attempts at resistance by ethnic Chinese. Budi Setyagraha, a businessman of Chinese descent who had received land ownership rights in 1998, was later rejected for a second land ownership application. Budi Setyagraha filed a State Administrative Court (lit. *Pengadilan Tata Usaha Negara*) lawsuit on the letter of the Head of the Bantul Regency Land Office regarding the refusal to grant Ownership Rights (Kurniadi 2020). At the District Court level, Budi Setyagraha was won, arguing that the 1975 Instruction was contrary to the Indonesian Basic Agrarian Law 1960 and Presidential Decree No. 33 of 1984. Yet, The Land Office appealed, and the High Court of the State Administrative Court won the Land Office with the argument that the letter of the Head of the Land Office was merely correspondence and was not an object of the State Administrative Court's. Budi Setyagraha then filed an appeal to the Supreme Court (lit. *Mahkamah Agung*). Through Supreme Court Decision No. 281 K/TUN/2001, the appeal was not accepted on the grounds that there was no legal error in the decision of the State Administrative Court judge at the High Court level. Perceive that the sense of justice was not fulfilled, Budi Setyagraha filed a Judicial Review of the Supreme Court's decision in 2001.

Willie Sebastian became the next individual to dare to defy the practice of ethnic and racial discrimination in the field of land in Yogyakarta (Yuniar 2018). Armed with the letters he sent and received, among others, to the President on February 23, 2011, regarding the request for the revocation of the 1975 Instruction and replied to by the Letter of the Deputy for Institutional and Community Relations of the Ministry of State Secretariat of the Republic of Indonesia No. B-2774/Setneg/D-3/03/2011, Willie Sebastian complained to *KOMNAS HAM* (Indonesian National Human Rights Commission) in June 2013. On August 30, 2013, *KOMNAS HAM* took the initiative to hold a meeting with the Governor of Yogyakarta, but could only be met by the Regional Secretary of Yogyakarta. In the meeting, *KOMNAS HAM* said that the implementation of the 1975 Instruction should not be continued because it is contrary to human rights. *KOMNAS HAM* also asked the Yogyakarta's Governor to meet ethnic Chinese citizens in order to resolve the problem through a mediation facilitated by *KOMNAS HAM*. This mediation ended in a stalemate; the Governor gave no signs of willingness to meet. On 11 August 2014, *KOMNAS HAM* issued letter No. 037/R/Mediation/VIII/2014 on Recommendations Related to Discrimination of Land Rights of Citizens of Chinese Descent in Yogyakarta, to the Governor. The point is that: 1) the 1975 Instructions are contrary to the 1945 Constitution, the Basic Agrarian Law, the Citizenship Law, and the Law on the Elimination of Racial and Ethnic Discrimination; 2) The following differences in discrimination and affirmative action, for example; 3) the governor is threatened with human rights violations if he ignores or rejects the recommendations of *KOMNAS HAM*.

Willie Sebastian then wrote to the Governor and Regional People's Representative Council of Yogyakarta to implement the recommendations of *KOMNAS HAM* so as not to fall into criminal acts regulated by Law No. 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination as well as human rights violations according to Law No. 39 of 1999 concerning Human Rights. The letter was unrequited. Then, on April 30, 2015, Willie Sebastian complained again about the attitude of the Governor of Yogyakarta to *KOMNAS HAM*, and his complaint was replied to by the issuance of letter No. 069/R/Mediation/VIII/2015 concerning the Implementation of *KOMNAS HAM* Recommendations Related to Discrimination of Land Rights of Citizens of Chinese Descent in Yogyakarta Province (Chandran 2018). The content of the letter is that *KOMNAS*

HAM states that "... submission of recommendations for a case of human rights violations to the government for follow-up resolution. The disregard of the Yogyakarta Governor's Brother on the recommendation of KOMNAS HAM No. 037/R/Mediation/VIII/2014 (August 11, 2014) can be indicated as a form of human rights violation in the form of systematic discrimination, as regulated by Article 104 paragraph (1) of Law No. 39 of 1999 concerning Human Rights". The second recommendation of the KOMNAS HAM also had the same fate as the first recommendation. Willie Sebastian then wrote a letter to the president in 2015 accusing Yogyakarta's Sultan (who is also its governor) of discrimination (Varagur 2018). But it, too, had no effect.

During 2014 - 2018, Handoko, a lawyer of Chinese descent, sued the 1975 Instruction within the material test. In February 2015, he filed a lawsuit against Yogyakarta's Governor to the Supreme Court (Marwan 2018). His suit is known to have not been accepted since April 2015, but a copy of Supreme Court judgment No. 13 P/HUM/2015 was only received by Handoko in April 2016 after filing an application letter. The content of the judgment is: The application for objection to the applicant's Material Test Rights cannot be accepted because the Instruction of the Regional Head of DIY No. K 898/I/A/1975 does not include the laws and regulations as referred to in Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations *juncto* Article 1 paragraph (1) of MA Regulation No. 1 of 2011 concerning The Right to Material Test, and Article 31 paragraph (1) of Law No. 5 of 2004 concerning the first amendment to Law No. 14 of 1985 concerning the Supreme Court and the second amendment to Law No. 3 of 2009 and Article 1 paragraph (1) of Supreme Court Regulation No. 1 of 2011 concerning the Right to Material Test.

Supreme Court Decision No. 13 P/HUM/2015 contains arguments from the legal team of the Yogyakarta's Provincial Government. In the Supreme Court Decision Document No. 13P/HUM/2015, they argued that the 1975 Instruction was in accordance with the customary law of the Sultanate. According to them, Indonesian Basic Agrarian Law is based on customary law and the principle of customary law is that only citizens can have full rights to land, namely in the form of property rights. At the same time, non-indigenous can only be given the right to use it. Furthermore, according to Law No. 13 of 2012 concerning Yogyakarta's specialness, the authority on land is attached to the Head of the Yogyakarta Region. The tribunal chaired by Hendro Cokro Mukti thwarted Handoko's suit in an audience on February 20, 2018 (Varagur 2018). Furthermore, in April 2018, Handoko appealed the Yogyakarta district court's decision that the ban was in accordance with the general principles of good governance. After nearly two months have passed, and there have been no bright spots from the appeal memorandum. Prior to this lawsuit, Handoko had already fought legally over this discriminatory policy, namely through a Judicial Review to the Supreme Court in 2015 and sued Yogyakarta's State Administrative Court in 2016.

The issue of discrimination of land title was reported to the OMBUDSMAN of the Republic of Indonesia by four people in March-May 2016. First, whistleblower Ida Cholidah from Yura Law Office as the attorney of Eni Kusumawati, with the reported head of the Bantul Land Office. Second, whistleblower Zealous Siput Lokasari, who reported the head of the Kulonprogo Land Office. Meanwhile, the third whistleblower Kus Sri Antoro is the power of attorney of Tan Susanto Tanuwijaya, with the reported head of the Jogja City Land Office. Next, the fourth whistleblower, Willie Sebastian reported all heads of the land office in Yogyakarta. Then, Zealous Siput Lokasari, in September 2016, took the initiative to submit a letter of condolence for Hamengkubuwono X to the Yogyakarta Governor's office but was unable to meet in person. Latest effort, Felix Juanardo Winata, a student of Gadjah Mada University, filed a lawsuit with the Constitutional Court regarding Article 7 paragraph (2) letter d of Law Number 13/2012 on November 14, 2019, which was considered to be a shield for discrimination in protecting the 1975 Instruction.

The resistances portrayed above denote those individual patterns have not received a response that is in line with expectations. Hence, group resistance began to emerge. It was recorded that there were two groups that carried out resistance, namely *Granad* and *Forpeta*.

3.3 GRANAD (*Gerakan Anak Negeri Anti Diskriminasi/Nation's Child Against Discrimination Movement*)

As a community movement, *GRANAD*, on February 7, 2015, attempted to carry out resistance by holding an audience with the Regional House of Representatives Council's regarding violations of the constitution in land policy in Yogyakarta (Humas 2015). In this regard, the leader of the *GRANAD* group, represented by Willie Sebastian, said that after the Specialness Law was enacted, it caused unrest for some residents, especially related to land in Yogyakarta. For this reason, *GRANAD* reports violations of the constitution in the land policy to: 1) The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia, 2) The Corruption Eradication Commission, 3) The Head of the Police of the Republic of Indonesia, and 4) The Minister of Home Affairs of the Republic of Indonesia were sent by post and fax.

The Yogyakarta Regional People's Representative Council appreciated what *GRANAD* had conveyed, then said that what was certain was that the Yogyakarta Regional People's Representative Council could not position itself as a court so that everything went according to their respective portions. The Regional People's Representative Council also asked for written documents because they had to read up on several aspects, i.e., the juridical, sociological, and historical aspects. In this case, of course, everyone has an argument about placing this history into a single unit.

Regarding the juridical constitution, in the formation of laws and regulations, there is a hierarchical order of laws and regulations. Presidential Decree No. 33/1984 will look at the minutes of how this Presidential Decree was issued. The legal

position is debatable. However, this Presidential Decree is unable to annul the laws above. The Presidential Decree is not included in the legislative hierarchy; this is not equal to be compared with the legislative hierarchy. The Privilege Law in Article 7, paragraph 2 letter (d) clearly commands that one of them is land, customary interests, and local wisdom. In this Privileges Law, the existence of *lex specialis*, things like this should not be contradicted by the Basic Agrarian Law.

3.4 *Forpeta* (Forum Pembela Tanah/Land Care Forum)

Forpeta, on November 23, 2016, once tried to hold an audience with the special committee team on the draft of Special Regional Law on the 3rd floor of the Yogyakarta Regional People's Representative Council building (Humas 2016). During the audience, the *Forpeta* consisting of about 40 people, was met directly by the Head of the Special Committee Team and accompanied by members of the special committee. *Forpeta*, represented by Zealous Siput Lokasari, provided input to the special committee regarding the draft of a special regional regulation on the management and utilization of Sultanate Land and Duchy Land in Yogyakarta. The Yogyakarta Regional People's Representative Council, which was represented by the chairman of the special committee, said that suggestion from *Forpeta* would be accommodated and would be studied further so that it could later be taken into consideration for the next meeting. In addition, *Forpeta* has also sent a subpoena to the Governor of Yogyakarta accompanied by a document with a copy addressed to the President of the Republic of Indonesia and several state institutions and the public as a report related to land.

Eventually, after the death of Pakualam VIII as a signatory of the 1975 Instruction and the impact of the Reform Movement in 1998, ethnic Chinese were even noted to have begun opposing discriminative policy targeting them. The circumstances of the Chinese community in various discriminations gave rise to a solidarity movement to fight for their rights as citizens (Pelu and Purwanta 2020). The resistance carried out by the ethnic Chinese in Yogyakarta took official legal steps instead of physical resistance.

4. Conclusions

Ethnic Chinese in Yogyakarta has been experienced racial discrimination in land ownership rights for more than 25 years. The 1975 Instruction became the main and fundamental policy prohibiting the Chinese from holding ownership rights to land. Meanwhile, they have been discriminated against since 1975, and ethnic Chinese only began to resist it in 1998. Prior to 1998, ethnic Chinese in Yogyakarta chose to remain silent and obey in response to the discrimination because of the authoritarian political and culture in Indonesia generally, and Yogyakarta especially. Ethnic Chinese experienced poor acceptance due to the stigma that formed and evolved in Indonesian society, but they were still accepted to live a life in Yogyakarta. After 1998, the social conditions of the society at the national level of Indonesia and Yogyakarta began to undergo a slight change based on politics and culture due to the erodes of feudalism and authoritarianism. The regime change in 1998 became the determinant factor that made ethnic Chinese in Yogyakarta begin to resist. The resistance carried out by ethnic Chinese in Yogyakarta after 1998 continued to escalate into two. Individual resistance is carried out through legal actions. On the other hand, group resistance is carried out through the formation of communities to express aspirations freely in public. Although they look different, the two forms of resistance carried out by the ethnic Chinese in Yogyakarta are defined in public transcripts or better known as open resistance.

In conclusion, the Indonesian government needs to take serious steps to address the issue of racial discrimination in the land rights sector before it escalates into conflict. Considering that Indonesia as a plural and multicultural nation is a representation of the rejection of a homogeneous world as a negative impact of globalization.

Ethical considerations

Not applicable.

Conflict of Interest

The authors declare that they have no conflict of interest.

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