

## **Analysis of North Bandung Area (KBU) Punclut Cidadap District, Bandung City Based on Land Management**

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**Abstract.** *The Northern Bandung Area in Punclut, Cidadap District, from the 1960s to the 1980s, based on state land, certificates of land rights were issued without land consolidation. These certificates were then given to cultivators by the state, who subsequently engaged in buying and selling transactions. These transactions continued, resulting in the development of residential areas, cafes, restaurants, or commercial centers that do not comply with land use regulations. Land use policy is implemented for land parcels that have rights, whether registered or not, including state land and customary land according to applicable laws and regulations. The research method used is normative juridical, which relies on literature review dominated by secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials. The research findings indicate that decisions and policies have been made for the Northern Bandung Area, but they have not been optimally implemented in practice, leading to massive development in the area such as residential areas, cafes, restaurants, or commercial centers. However, land use is synonymous with land utilization, where urban land utilization should guarantee the community against pollution, thereby creating a healthy environment, both physically and spiritually. Continuous deviations from these principles will inevitably result in an unhealthy environment, both physically and spiritually.*

**Keywords:** *Punclut; Land; Regulation.*

### **1. INTRODUCTION**

The North Bandung area (hereinafter referred to as KBU) Punclut, Cidadap District used to be in the Dutch colonial era there was an area of 154.7 hectares of Erfpacht Rights owned by Frederik Conrad Hendrik Neervoort. This area is located at the coordinates 6°50,842'S 107°37,666'E and is a highland with an area of approximately 286 Ha and is the lung of the city of Bandung, with an altitude of 850-1000 meters above sea level, the name Punclut is an abbreviation for Ciembuleuit Peak. This abbreviation is used by the community because this

area is a hilltop whose main access is from the Ciumbuleuit Area.<sup>1</sup>

In the 1960s to 1980s, on the basis of state land, a certificate of land rights was issued without any land consolidation, which was given by the state to cultivators. Whoever last worked on the land and applied for the right to his land will be given a certificate of land rights to him by the state based on the Decree of the Minister of Agrarian Affairs Nmor. Decree 27/Ka of 1961 in the form of 943 Certificate of Property Rights (hereinafter referred to as SHM) after going through the process of compensation to the state.

However, in 1997 there was a Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 19-VIII-1997<sup>2</sup>, which unilaterally canceled the 943 SHMs on the grounds that they were not built by their owners<sup>3</sup>. Then in 2002 there was a property company called PT DAM that tried to turn the area into elite housing, which was done by forcing the local community to sign a letter of approval for the transfer of land ownership, as well as forcing the local community to vacate and dismantle existing plants or trees without compensation. The land acquisition was then given a location permit and a building permit to PT DAM. The cancellation of SHM and the transfer of ownership rights then triggered a conflict between the community and the government.

On the side of the government, it is stated that because after the granting of land rights to the cultivators, then the cultivators buy and sell land to people or entrepreneurs, especially those who do not live in Bandung to be used as a villa which was previously still in the form of cultivated land (agriculture/plantation), from the sale and purchase then there was a re-sale and so on until finally now it is housing or a café or restaurant or center trade. This condition makes Punclut a tourist attraction that supports employment and income for the region and is a source of economic support for the population, but on the other hand it is a cause of environmental damage that is very dangerous if not controlled.<sup>4</sup>

On this basis, the right to the land was canceled, and the power of attorney for its management and management was given to PT DAM, where PT DAM made a site plan (development planning map). So that land management in Punclut can

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<sup>1</sup> Irwan Irwan and others, 'Persepsi Wisatawan Terhadap Kelestarian Lingkungan Di Kawasan Punclut Bandung', *EnviroScienteeae*, 16.3 (2020), p. 397–407, doi:10.20527/es.v16i3.9682.

<sup>2</sup> Kirana Mahdiah Sulaeman, Fadiyah Matni Nurdini, and Mustabsyrotul Ummah Mustofa, 'The Depoliticization of Ecology: Discourse Analysis of Land Conflict in Punclut, North Bandung Region', *Politik Indonesia: Indonesian Political Science Review*, 8.1 (2023), p. 51–62, doi:10.15294/ipsr.v8i1.42591.

<sup>3</sup> Novie Indrawati Sagita, 'Strategi Gerakan Kelompok Kepentingan Dalam Pengawasan Pengendalian Pemanfaatan Ruang Kawasan Bandung Utara', *Jurnal Wacana Politik*, 1.2 (2016), p. 96–106.

<sup>4</sup> Irwan and others.

be in accordance with the RTRW or rules regarding KBU.

Land use management is the same as the pattern of land use management which includes the control, use and utilization of land in the form of consolidation of land use through institutional arrangements related to land use as a unit of the system for the benefit of the community in a fair manner, as in Article 1 number 1 of Government Regulation Number 16 of 2004 concerning Land Stewardship (hereinafter referred to as the Land Stewardship PP). Land use activities are basically the use of land that has been attached to land rights, which at the same time gives authority to the right holder to manage their land, land rights that exist in individuals or legal entities do not automatically justify that the land can be used for personal or group interests at will, considering that all land rights have a social function, land at the highest level is controlled by the State in accordance with Article 2 paragraph (2) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA). However, it does not mean that individual interests will be pushed out at all by the public interest (society and the state). Individual interests and public interests are tried to take place in a balanced and harmonious manner.<sup>5</sup>

Land management policies are carried out on land plots that have rights, whether registered or not, to state land, and customary land of customary law communities in accordance with the provisions of applicable laws. In addition, land rights holders in the use and utilization of land are also required to follow the requirements stipulated in the provisions of laws and regulations, including technical guidelines for land management, requirements for erecting buildings, requirements in Environmental Impact Analysis (EIA), business requirements, and other provisions regulated in laws and regulations.<sup>6</sup>

Land management is carried out based on the Regency/City Regional Spatial Plan (RTRW), which is stipulated by the Regency/City Regional Regulation, by being held according to the period set out in the Regency/City RTRW as stipulated in Article 26 of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation (hereinafter referred to as UUCK) and Article 28 of Law Number 26 of 2007 concerning Structuring Space (hereinafter referred to as UUPR), which is 20 years.

There is a Bandung City Regional Regulation Number 3 of 2006 concerning Amendments to the Bandung City Regional Regulation Number 2 of 2004

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<sup>5</sup> Hutmi Amivia Ilma and others, 'Analisis Tata Guna Tanah (Land Use) Dalam Pemanfaatan Taman Pelangi Kota Surabaya Sebagai Fasilitas Umum', *Ma'mal: Jurnal Laboratorium Syariah Dan Hukum*, 4.2 (2023), p. 192–215.

<sup>6</sup> Muhammad Hasni, 'Hukum Penataan Ruang Dan Penatagunaan Tanah', *Radja Grafindo, Jakarta*, 2008.

concerning the Bandung City Regional Spatial Plan (hereinafter referred to as the Bandung City RTRW Regional Regulation), the KBU area is a protected area which is a water catchment area spread across several sub-districts, and is also an area prone to natural disasters because it is identified frequently and has a high potential to experience natural disasters such as earthquakes and landslides and floods. Then the Bandung City Regional Regulation Number 5 of 2022 concerning the Bandung City Regional Spatial Plan for 2022-2042 (hereinafter referred to as the Bandung City RTRW Regional Regulation 2022-2042) states that special disincentives will be imposed to limit development in KBU.

Then, there are also specific rules for KBU, namely West Java Provincial Regulation Number 2 of 2016 concerning Guidelines for Relying on the North Bandung Area as a Strategic Area of West Java Province (hereinafter referred to as the West Java Provincial Regulation on KBU Control which states that KBU is a limited area in terms of development that is adjusted from its land use based on Article 13 of the West Java Provincial Regulation on KBU Control, explained that the KBU control policy is directed to:

1. Control and restriction of development in order to maintain hydrological functions on land with normal and good conditions, and have wide limitations;
2. Prevention of increasing the criticality of hydrological functions on land with conditions starting to be critical and somewhat critical;
3. Restoration and countermeasures on land with critical and very critical hydrological function conditions; and
4. Determination of spatial pattern directives, zoning directives, licensing, provision of incentives and disincentives, regulation, and imposition of sanctions.

## **2. RESEARCH METHODS**

The approach method used is normative juridical. Data were obtained from library research and the study of laws and regulations related to the object of this writing. The normative juridical method approach is literature writing which is dominated by using secondary data, both in the form of primary legal materials, secondary legal materials, and tertiary legal materials. This approach seeks to find as much data as possible by focusing on applicable regulations and literature related to issues related to the writing of this article.

The specification of this research is descriptive analytical, which describes the situation being studied based on the facts obtained and relates it to other legal theories.

The data analysis in this writing is carried out in a qualitative normative juridical manner, namely by reviewing and analyzing data based on legal aspects and without using diagrams or statistical data.

### 3. RESULTS AND DISCUSSION

Article 15 of the UUPA stipulates that all parties who use land, both government agencies, companies, and communities, are obliged to prevent damage to their land, while those who use land for agriculture, fisheries, livestock, and plantation businesses must prevent damage to their land and increase soil fertility. Where this can be achieved by regulating land use and spatial planning.

Land Use Management or Land Stewardship is contained in the explanation of Article 33 paragraph (1) of the UUPR jo. Article 1 point 1 of the Land Stewardship PP, as for Land Stewardship, is the same as Land Use Management, which includes the control, use, and utilization of land in the form of consolidation of land use as a single system for the benefit of the community in a fair manner.

Land Stewardship in addition to being within the framework of the greatest prosperity of the people, must also pay attention to the obligation to maintain soil in the sense of maintaining and increasing its fertility, as well as preventing it from being damaged. Land Use Management is a concept related to maximum land management, because the concept of land use in addition to regulating the supply and use of the earth, water, and space, as well as the responsibility of soil maintenance.<sup>7</sup>

Article 11 of the Land Stewardship Regulation states that land in protected areas that do not yet have land rights can be granted land rights, except in forest areas. Where Article 13 states that the use and utilization of land in protected areas or cultivation areas must be in accordance with the functions of the area in the Regional Spatial Plan, where in protected areas must not interfere with natural functions, do not change the natural landscape and natural ecosystem, while in cultivated areas must not be abandoned, must be maintained and prevented from being damaged, not contradicting each other, not interfering with each other, and providing increased added value to the use of their land.

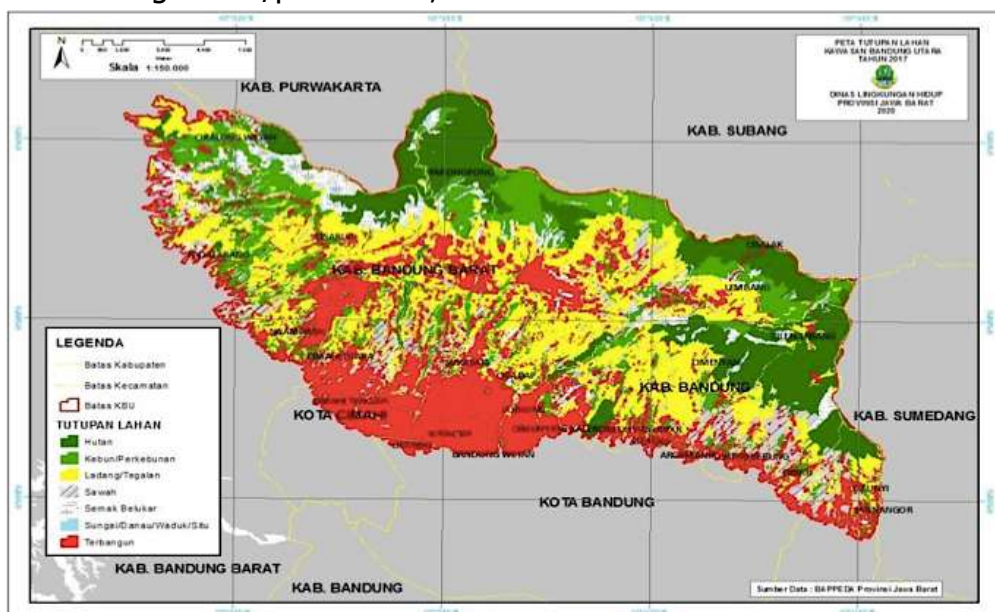
Based on the Bandung City RTRW Regional Regulation, the Punclut area is classified as a protected area, but the map of the protected area plan has been changed from green (protected area), to yellow, namely for low-density housing. Then based on the Provincial Regulation on KBU Reliance, KBU has an important function and role in ensuring the sustainability of life and environmental balance in the Bandung Basin and has been designated as a Provincial Strategic Area (hereinafter referred to as KSP), so it is necessary to control KBU to realize the spatial order of KBU as KSP West Java. KSP itself is an area whose spatial planning is prioritized because it has a very important influence in the provincial scope on

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<sup>7</sup> Samudra Ivan Supratikno, Armaidly Armawi, and Djaka Marwasta, 'Pemanfaatan Neraca Penatagunaan Tanah Dalam Mendukung Penyusunan Sistem Informasi Ketahanan Pangan Pokok Wilayah (Studi Di Kabupaten Sleman, Daerah Istimewa Yogyakarta)', *Jurnal Ketahanan Nasional*, 22.1 (2016), p. 22–41.

the economy, social, culture, environment, as well as the utilization of natural resources and high technology.

However, in reality, PT DAM's site plan, decisions, and policies for KBU have not been implemented optimally in practice because massive development in KBU is still carried out and causes more and more damage, where the Punclut area in KBU is currently filled with housing or cafes or restaurants or commercial centers. The West Java Provincial Living Environment Office released a land cover map in KBU which shows the condition of land that has been built a lot, precisely in Cimahi City and Bandung City. In addition, in Bandung Regency and West Bandung Regency, the forest area is decreasing and many have been converted into fields and gardens/plantations, as follows: <sup>8</sup>



**Figure 1. Land Cover Map of North Bandung Area**  
**Source: West Java Provincial Environment Agency**

Even though not all development can be carried out in KBU, there are several zonings that can be seen in Article 20 of the West Java Provincial Regulation on KBU Control, namely:

1. Zone L-1, is the Conservation Zone or Main Protected Area, covering protected areas, especially protected forest areas, conservation forests, Ir. H. Djuanda Forest Park, TWA Tangkuban Parahu, Tangkuban Parahu Nature Reserve, nature reserves, Bosscha Observatory area, corridor 250 (two hundred and fifty) meters left and right of the Lembang Fault, Disaster Prone Area III of Tangkuban Parahu Volcano, River and Situ/Lake Boundaries, a radius of 50 (fifty) meters from springs, as well as land with a slope of 40%

<sup>8</sup> Ewit Witia Ningrum, 'Evaluasi Kebijakan Pengendalian Pemanfaatan Ruang Kawasan Bandung Utara Di Kota Bandung' (UIN Sunan Gunung Djati, 2021).



- (forty percent) or more, Production Forests, Green Open Spaces and RTHA;
2. Zone L-2, is an Additional Protection Zone, covering community forest areas, disaster-prone areas II and I of the Tangkuban Parahu Volcano, rural areas with high water catchment functions;
  3. Zone B-1, is a Rural Utilization Zone, is an area with a medium to low level of regional density, including rural areas in low water catchment areas;
  4. Zone B-2, is an Urban Utilization Zone, which is an area with a medium to high level of regional density, including urban areas in low water catchment areas;
  5. Zone B-3, which is a Rural Limited Utilization Zone, is an area with a medium to low level of regional density, including rural areas in medium water catchment areas;
  6. Zone B-4, which is an Urban Limited Utilization Zone, is an area with a medium to high level of regional density, including urban areas in medium water catchment areas; and
  7. Zone B-5, is an Urban Very Limited Utilization Zone, is an area with a medium to high level of regional density, including urban areas in high water catchment areas.



**Figure 2. Punclut Area Zone**

Source: ArcGIS MAP – Zoning KBU Regional Regulation Number 2 of 2016

Then the Circular Letter of the Ministry of Agrarian Affairs and Spatial Planning Number 4/SE-100. PG.01.01/II/2022 concerning Land Stewardship Policy in Protected Areas (hereinafter referred to as the Protected Area Circular) which states that protected areas include areas that provide protection for their subordinate areas which include:

1. Peatlands, water catchment areas;
2. Local protected areas that include coastal boundaries, river boundaries, areas around lakes/reservoirs, areas around springs, green open areas including urban forests;
3. Nature reserve areas that include nature reserves, wildlife sanctuaries;

4. Nature conservation areas that include national parks, forest parks, natural tourism parks;
5. Cultural heritage areas or plots of land;
6. Areas prone to natural disasters include, among others, areas prone to volcanic eruptions, earthquakes, landslides, as well as tidal waves and floods; and
7. Other protected areas include hunting parks, biosphere reserves, germplasm protection areas, animal refuge areas and mangrove forested beach areas.

As explained above, Punclut is a protected area, but there are several zones, namely forest zones (main & additional), rural use, urban use, rural limited use, urban limited use, and very limited urban use. This means that there are also areas that are outside the forest area but are limited that have been owned by the community for a long time. Even though for example there is land owned by the community that after the RTRW mapping turns out to be included in the outside of the forest zone, BPN states that it will still process the application for a certificate and/or can still be certified in accordance with the Circular Letter of the Protected Area which states that the object of land registration in the protected area is those outside the forest area with limitations and obligations in the form of RRR (Right, Restriction, and Responsibility) recorded on the land book and certificate, including:

1. Rights holders are prohibited from erecting buildings that reduce the conservation function of embankments, border conservation functions, or other conservation functions;
2. The use and utilization of land in protected areas must not interfere with natural functions, do not alter the natural landscape and ecosystems;
3. Rights holders are prohibited from damaging natural resources and preserving environmental capabilities;
4. Rights holders are required to maintain the soil, including increasing its fertility and preventing its damage as well as preserving the environment;
5. Rights holders are required to maintain the conservation function of water body boundaries or other conservation functions;
6. The use and utilization of land in protected areas must be in accordance with the functions of the area in the regional spatial plan;
7. Other provisions are in accordance with laws and regulations.

Although after the issuance of the certificate, then there are irregularities that are not in accordance with the provisions listed in the West Java Provincial Regulation on KBU Control, BPN does not have a major contribution to the irregularities, but the one who has the right to contribute to these irregularities is



the central government.<sup>9</sup>

Based on the results of the evaluation of the West Java Provincial Settlement and Housing Office in 2012, the condition of the deviation of the Built Area Coefficient (hereinafter referred to as KWT) in KBU most of the deviations are in the Bandung City area, namely in Cidadap District as much as 60.9%, the number of buildings standing in KBU will certainly result in reducing the portion of green open space, reducing the function of protected areas and water catchment which has an impact on environmental damage<sup>10</sup>. Based on existing projections in 2024, the water demand in Greater Bandung, namely Bandung City, Cimahi City, Bandung Regency and West Bandung Regency, will increase while the water carrying capacity will decrease. This will result in a water deficit as seen in the following table:<sup>11</sup>

**Table 1. Comparison of Water Supply and Demand in Greater Bandung**

It	Regency/ City	2017		2024 (Projection)	
		Water Requirement (/year) $m^3$	Water Carrying Capacity	Water Requirement (/year) $m^3$	Water Carrying Capacity
1	Bandung Regency	157.532.087	61.221.201	176.831.506	41.921.782,01
2	West Bandung Regency	72.199.351	5.401.378	78.203.323	602.594,29
3	Bandung	109.089.244	102.718.924	102.644.446	106.274.126,17
4	Cimahi City	26.018.120	24.456.285	28.690.883	27.129.048,19

Source: RKPD West Java Province

Based on what has been described above, the things mentioned above are not in line with appropriate land management where land management in addition to being within the framework of the greatest prosperity of the people, must also pay attention to the obligation to maintain the soil in the sense of maintaining and increasing its fertility, as well as preventing it from damage. Land use is a concept related to maximum land management, because the concept of land use in addition to regulating the supply and use of the earth, water, and space, as well as the responsibility for soil maintenance.<sup>12</sup>

The state, in this case, the government should have the power and

<sup>9</sup> Results of the Bandung City BPN Interview on May 3, 2024.

<sup>10</sup> Sagita.

<sup>11</sup> Ningrum.

<sup>12</sup> Supratikno, Armawi, and Marwasta.

authority to regulate expressly regarding these irregularities, where based on Article 2 paragraph (2) of the UUPA and General Explanation II/2 of the UUPA, gives the state (government) the right to regulate 3 (three) things, namely:

1. Organize and administer the allocation, use, provision and maintenance of the earth, water, and space;
2. Determine and regulate the legal relationships between people and the earth, water, and space; and
3. Determining and regulating legal relationships between people or humans and legal acts related to the earth, water, and space.

Actually, there have been decisions, and the policies for KBU have not been implemented optimally in practice, causing massive development in KBU such as for housing or cafes or restaurants or commercial centers. As explained above, land management is synonymous with land use, where the use of urban land must be able to guarantee the community from pollution so that a healthy atmosphere is created, both physically and spiritually. If allowed to continue, these deviations will certainly have an impact on not creating a healthy atmosphere, both physically and spiritually. Because, for example, the reduction of water infiltration, the water capacity will be reduced over time and it will be possible to lack water later, which of course will greatly affect people's lives so that a healthy atmosphere, both physical and spiritual, is not created.

Therefore, the state must immediately follow up on the irregularities, and/or provide sanctions. However, the execution of this must be really carried out and carried out with a continuous period of time, as well as providing socialization evenly to all affected communities, not only relying on the mass media but must go directly to the field to provide the socialization.

#### **4. CONCLUSION**

Soil stewardship must pay attention to the obligation to maintain soil in the sense of maintaining and increasing its fertility, as well as preventing it from damage. However, the arrangements that have been in practice have not been implemented optimally because massive construction in KBU is still carried out and causes more and more damage. If left unchecked, it will certainly have an impact on not creating a healthy atmosphere, both physically and spiritually. Therefore, the state should be able to follow up on the irregularities, and/or provide sanctions. However, the execution of this must be done really and with a continuous time span, as well as providing socialization evenly to all affected communities directly in the field.

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