

FORM AND COMPOSITION OF LOCAL GOVERNMENT: MIXED REVIEW REGIONAL GOVERNMENT YOGYAKARTA

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Abstract

This study aims to analyze and explain shape and composition of government Special Region of Yogyakarta that is privileged, reviews mixed government. This study is a normative legal research. The results of the study that Yogyakarta Special region has a shape and structure of government is unique in nature. DIY Local Government consists of Local Government and DPRD DIY. DIY Local Government headed by the Governor who once was a king who reigns as the lane, who held the position for five (5) years and are not bound to the provisions of 2 (two) times periodization tenure as stipulated in the law on local government. DIY DPRD have the status, composition, duties and authority as provided for in the legislation Regional Government, as applicable also to Parliament in another province. However, in addition to duty and authority as specified Local Government Act, DIY Parliament is authorized to determine governor and vice governor and shaping legislation and Perdais with the Governor. The combination of the Governor of Yogyakarta as the king who reigns in the Sultanate along with a DIY parliament democratically elected government raises mixture (mixed government) in the form of democratic monarchy.

Keywords: Local Government; Mixed Government; Yogyakarta Special Region.

INTRODUCTION

The only area that since the beginning of independence has been granted the status of "Special Region" as mandated by Article 18 UUD 1945 (before and after the amendment) is just Yogyakarta. As for Aceh Special Region, granting the status of "Special region" not in relation to Article 18 UUD 1945, but their special needs for the region to be given the privilege in the administration of local governance.¹

Sultanate of Yogyakarta is part of the history survivalitas Indonesia as a nation. The specificity was concerned not only contribute DIY in establishing and maintaining the

existence of the Unitary Republic of Indonesia, but also symbolic and actual filling Indonesiaan vision more concrete. Reviewing the history of the Sultan of Yogyakarta and Indonesia indicate the status of the privilege of Yogyakarta is a conscious political choice taken by the ruler of Yogyakarta, the lane IX and Paku Alam VIII, and not the administration of the national political entities.²

DIY privilege granting status as recognition of the role lane IX heavily in favor of the Republic of Indonesia on hard times in the early independence. For the people of Yogyakarta granting privilege status is not only a recognition of the role of individuals

¹Ni'matul Huda, Special Region of Yogyakarta in the debate over the Constitution and Legislation in Indonesia, Bandung: Nusa Media, 2013, p. 52

²Cornelis Lay, et.al., "Privileges Yogyakarta, Academic Paper and Draft Law on Privileges Yogyakarta", Monographs on Politics & Government Journal UGM Department of Government Science and S2 Program of local politics and local autonomy, Vol. 2, No. 1, 2008, page 12

lane IX, but it is an agreement "-kabul consent" between the Government of the Republic of Indonesia and the Sultan Palace for providing privileges for DIY to implement a system of monarchical rule in the Homeland neighborhood.³

Therefore, the Yogyakarta Special Region has a shape and structure of government is unique in nature, is different from other areas who do not have the features or specificity as stipulated in Article 18 B of paragraph (1) and (2) of the 1945 Constitution that "The state recognizes and respects the local government units are special or that are regulated by law". The exit of the Act No. 13 Year 2012 on the specialty of Yogyakarta Province is the form of state recognition of the existence of the Ngayogyakarta Sultanate.

Article 8 of Law No. 13 In 2012, that (1) DIY has a shape and structure of government is unique in nature. (2) consists of a DIY Local Government Local Government and DPRD DIY DIY. Article 9 (1) DIY Local Government headed by the Governor. (2) In carrying out its duties and authorities, the Governor assisted by the Deputy Governor.

In practice common constitutional concentration of power in one hand, resulting in a management system of government that made an absolute and authoritarian, to avoid this, it is necessary to division / separation of powers, resulting in the control and balance between the institutions of power. It can be interpreted that power is divided into several

sections (executive-legislative, judicial), but not separated. It thus brings the consequence that between the parts it is possible there is no coordination or cooperation.⁴

Horizontal division of state power by 1945 is done at the level of central government or local governments. The division of power at the level of central government institutions lembaga negara place between equals. Horizontal division of power at the level of local government took place between the institutions of equal area, which is between the Local Government (Regional Head / Deputy Head) and the Regional Representatives Council (DPRD). At the provincial level, the division of power takes place between the provincial government (governor / deputy governor) and the provincial assembly. While at the district / city, power sharing took place between the district / city (regent / vice regent or mayor / deputy mayor) and regency / city.

PROBLEM FORMULATION

How the shape and composition of government Special Region of Yogyakarta that is privileged, reviews mixed government?

RESEARCH METHODOLOGY

This study is a normative legal research, the use of primary legal materials in the form of legislation and secondary legal materials in the form of literature that is relevant to the object under study. This study

³Aidul Fitrijadi Azhari, Reconstruction of Stateless Tradition in 1945, Yogyakarta: Genta Publishing, 2014. Pg. 2

⁴Moh. Kusnadi and Harmaily Ibrahim, Introduction to the Law of State governance, Jakarta: Indonesia Legal procedures State University, 1988, p. 140, Rika Marlina, the Rule of Law Journal Volume 1 No. March 1st, 2018: 171-178, pp 176

takes a historical approach (historical approach) and law (statute approach) and analyzed descriptively qualitative.

DISCUSSION

Shape and Structure Mixed government Yogyakarta.

In the course of constitutional privilege status of Yogyakarta Indonesia has experienced a polemic since the independence of Indonesia. In the early days of independence through the Sultan and Amanat Amanat Sri Paku Alam September 5 1945, Yogyakarta confirmed as the two special regions in the country of Indonesia with the title of Yogyakarta Sultanate and Pakualaman State. Furthermore, under the Commission of Sri Sultan Hamengkubuwono IX and Sri Paku Alam VIII dated October 30, 1945 changed the status of being one special area with two heads Special Region (Sri Sultan and Sri Paku Alam) as the Special Region of the Republic of Indonesia. Then Explanation of Law 1 Year 1945 declared status as one of Yogyakarta Special Region which includes the Sultanate of Yogyakarta, Surakarta Sultanate, Duchy Pakualaman and Mangkunegaran as Yogyakarta and Surakarta. So that de facto, Yogyakarta actually been born since the arena of the revolution through the process between September 5, 1945 to May 18, 1946. But de jure, Yogyakarta newly set March 3, 1950 through Law No. 3 Year 1950.⁵

Legal regulation goes on to explain that Edict No. 14 dated April 11, 1946 and Edict No. 15 April 1, 1946 with the status of The Special Region which includes the Yogyakarta Sultanate and Pakualaman with Sri Sultan Hamengkubuwono IX and Sri Paku Alam VIII as Regional Head, and is called the Republic of Indonesia Yogyakarta Special region (Sultanate and Pakualaman). The next development is Article 122 of Law No. 22 of 1999 on Regional Autonomy in his explanation stated that the status of Yogyakarta as a special region which covers an area of Yogyakarta Sultanate and Pakualaman, and with Hamengkubuwono X as governor and Paku Alam IX as deputy governor, as well as the so-called Yogyakarta Special region.⁶

Based on Law No. 22, 1999 demanding the privilege of Yogyakarta was confirmed by positive law the withdrawal of Aceh and West Papua.⁷ Furthermore, the legal aspect is reinforced by Act No. 32 of 2004 on Regional Government.⁸ In the matter of tradition, the real privilege of Yogyakarta longstanding and growing since then. Status privilege it also is in conformity with Article 18 of the 1945 Constitution.⁹ The reason is normative, the power status of the privilege of Yogyakarta is based on the legal status or the Act Privileges Yogyakarta. The realm of law can not be denied with a strong tradition for the legal issues to be resolved with the law anyway. Tradition may affect the legal

⁵ Ni "matul Huda, *Autonomy: Philosophy, History and Development of Problemantika*, Yogyakarta: Student Library, 2009, p 23

⁶Article 122 of Law No. 22, 1999

⁷ibid

⁸UU no. 32 of 2004

⁹ibid

justification as material considerations the force of law.¹⁰ Finally out of Law No. 13 Year 2012 on the specialty of Yogyakarta.¹¹

Based on Article 18 B of paragraph (1) of the Constitution of the Republic of Indonesia Year 1945, the State recognizes and respects the local government units are special or that are regulated by law. One of the laws that govern the regional administration unit special is the Act No. 13 Year 2012 on the specialty of Yogyakarta.

According to Jimly Asshidiqie¹², Article 18 B above, there are five basic things, namely that (1) the state recognizes; (2) the state respects; (3) that is recognized and respected it is local government units; (4) local government units referred to specific or special; and that (5) local government units that are special and privileged to be regulated by law. What the meaning "states recognize"? Whether such recognition should be retrospective, ie objects that are recognized to be the first existing on the statement of recognition, or can also be proactive and "forward-looking" in which the object is recognized only emerged after the disclosure statement needs further study.

Although the Constitution of 1945 recognizes the local government units privileged as contained in Article 18 B of paragraph (1) above, however, as it turns out they arise various problems. For example relating to leadership and governance

mechanisms DIY. When the end of the term of office of Governor of Yogyakarta in 1998, at which time the Central Government (cq Ministry of Internal Affairs) requires the determination of the governor is done by vote by Parliament as stated in Law No. 5 of 1974, but on the other side of Yogyakarta people want direct determination lane X as Governor of Yogyakarta.¹³

Although ultimately Yogyakarta Governor not through elections, but through determination by the DPRD DIY¹⁴ but in several groups, the Government of the Republic of Indonesia through the Ministry of Justice and Human Rights, Patrialis Akbar DIY submit the draft bill at the State Secretariat agreed:¹⁵

"Lane and nail nature reigns, although not become governors, they will still be the number one, both in Yogyakarta; Elected Local Government should seek approval to Sultan anything related to government. Even the Parliament in the budget menyusun also require approval from the Sultan; If the Sultan

¹³Status as a special area of impact on the provision of a number of "confessions" which is the position of Sultan khusus.Salah. In Yogyakarta, many who interpret the privilege of DIY with a variety of things, but most at issue is the position of the Sultan as King as well as the Governor of Yogyakarta. There is a pro-election faction and pro-determination and ultimately approved by Parliament through the establishment of DIY. The pro determination al. DIY Feature represented by the Joint Secretariat as one of the elements of civil society. Read Aprilia Maya, Masyaratak Civil and Determination lane X as Regional Head of Yogyakarta Special Region (Study Role Privileges SEKBER DIY), Journal of Politics and Government Studies, Volume 2, No. 1, Year 2013

¹⁴Article 17 paragraph (2) of Law No. 13 In 2012

¹⁵ Fill in the draft bill Privileges Yogyakarta " www.tempointeraktif.com, See also Aulia Rachman Arief, the dynamics of religious harmony in Yogyakarta Sultanate Kepemimpinanh, academic, vol.19, No.01, January-June 2014, p. 90-114

¹⁰Arief Aulia Rahman, Dynamics ... Op. Cit

¹¹UU no. 13 In 2012

¹²Asshiddiqie, " Principles of Constitutional Law at the Indonesia Post-Reformation ", Jakarta: Bhuana Popular Science, 2006, pp. 484,

and Paku Alam run for governor and vice governor, then the nomination is individual, without going through a political party; If the Sultan and Paku Alam run, then other relatives palace should not stand; If only one candidate, then Parliament will no longer carry out the election of the Sultan and Paku Alam. They immediately confirmed as governor and deputy governor; If not elected Governor and Vice Governor, position of the Sultan and Paku Alam is the Governor and Deputy Governor of the Main. This position is located at the top of the Governor / Head of the Region. Whatever policies require approval from the Head of the Main Governor (Sultan) and Deputy Governor of the Main (Paku Alam).¹⁶

When viewed from the substance of the draft above actually reinforces the position of the Sultan and Sri Paduka Paku Alam both as Governor and Deputy Governor of Yogyakarta Special Province as well as the King of Yogyakarta, but still embrace opportunities for election of Governor and Vice Governor as the election of Regional Head in other provinces in Indonesia.

There can be no monarchy colliding, both with the constitution and democratic values, according to the statement by President Susilo Bambang Yudhoyono (SBY)¹⁷ addressing the bill on the Privileges

Yogyakarta. The attitude of the government which wanted the Governor of Yogyakarta is not occupied by the Sultan of Yogyakarta as a manifestation of the monarchy which was considered incompatible with democracy. In the understanding of government, democracy must be reflected in filling the post of Governor is done by election and not by way of determination of the Sultan of Yogyakarta who gained office by descent. The SBY statement caused a strong reaction in the community of Yogyakarta.¹⁸

In principle, the people of Yogyakarta need that filling the post of Governor to do with the determination of the Sultan of Yogyakarta as done so far. This is due to the historical aspect of Yogyakarta privilege granted by the government as a tribute to the role of the Sultan of Yogyakarta heavily in favor of the Republic of Indonesia on hard times in the early independence. Privileging Yogyakarta is an agreement or a 'consent-granted' between the government of the Republic of Indonesia to the palace of Yogyakarta to provide privileges for DIY implement a system of monarchical rule in the Homeland neighborhood.

While the government, through the bill Privileges Yogyakarta designing the office of Governor Primary¹⁹ chaired by the Sultan of Yogyakarta and the Governor as Head of Local Government elected through electoral mechanism Regional Head as is done in other areas. Government's position is based Article

¹⁶ ibid

¹⁷ Aidul Fitriadi Azhari. Traditional reconstruction of the 1945 Constitution of Stateless In Yogyakarta: Genta Publishing. 2014, p. 1-2, read Emillius Yacob, from autocracy to democracy ... Op Cit, Ismu Gunadi Widodo, Determination System Governor of the Yogyakarta Special Region in the Regional Head Election Systems based on Article 18 paragraph (4)

1945, Journal of Dynamics Law Vol 11 No. May 2, 2011, p. 316-334;

¹⁸ Aidul Fitriadi Azhari. Traditional reconstruction of the 1945 Constitution of Stateless In Yogyakarta: Genta Publishing. 2014, p. 1-2.

¹⁹ Ibid, pp 2

18 paragraph (4) of the 1945 Constitution which requires the Governor as Head of Region elected democratically. The question arises whether the determination of the Sultan of Yogyakarta as the Governor in accordance with the principle of popular sovereignty as contained in Article 1 (2) of the Act of 1945?

The description of the Sultanate Ngayogyakarta in the Republic of Indonesia will not be separated from the historical aspect of the merger of the Sultanate Ngayogyakarta in the Republic of Indonesia. Lane IX and Paku nature VIII assert itself as a part of the Republic of Indonesia was proclaimed to keep control and lead their traditional territory as a special part of the Republic of Indonesia through edict dated September 5 1945.²⁰

The edict is able to establish the existence of the Sultanate and Pakualaman in the Republic of Indonesia. Two kingdoms merged to become a privileged area. Instead, the two fractions Mataram Solo can not anticipate political changes, thus losing a privileged area and the soil, and is not ruling that counts and increasingly losing influence. While the lane IX is a figure that is intelligent, not someone who is pragmatic use status is not only to support the Republic of Indonesia during the revolution, but also to maintain the political status and primarily for defending the rule of prinspnnya that ultimately

²⁰Bayu Dardias, Sultan Preparing Women: Regime Legitimacy and Effectiveness sky Sultan Hamengkubuwono X, Indonesian Society Journal, Vol 42 (1), June 2016, p. 33 <http://bayudardias.staff.ugm.ac.id/wpcontent/uploads/2017/02/Bayu-Dardias-2016-Setting-Sultan-Women-legitimacy-Sky-DanKekuatan-regime-Sultan-Hemengkubuwono-X.Pdf>

mempertahannkan territory of traditional, as it is said Monfries:²¹

"Hamengkubuwono was a politically astute, non-ideological pragmatist who cleverly used his status as Sultan ascribed not only to support the Republican cause during the revolution, but Also to Ensure his own political survival and, Ultimately, to preserve his principalities"

In rhythm with the observation of Voltaire, and in accordance with the 1945 Constitution, which puts the law above man, even above the law-makers themselves, then the law should underlie the entire livelihood of the Indonesian people, such as social livelihood, politics, religion and culture.²²

Due to his busy extraordinary, the Government of the Republic of Indonesia has not had time to adjust the position of the Yogyakarta Sultanate and Pakualaman as a special area set forth in the 1945 Constitution Things that should be regulated by the Center even then be regulated solely by the lane IX and Sri Paku Alam VIII. 5 September 1945 the mandate of both the authorities and the Duchy palace in Yogyakarta is, first, that the State Ngajogjakarta nature Hadiningrat The Kingdom is a special area of the Republic of Indonesia; second, that we as Regional Head

²¹John Monfries, A Prince in a Republic: The Life of the lane IX of Yogyakarta, Singapore: Institute of Southeast Asian Studies, 2015, p. 117

²²Khudzaifah Dimiyati, Kelik Wardiono, Dynamics Legal Thought: Thought Orientation and Characteristics of the Indonesian Legal Expertise, Series Summary Competitive Research Grant Year I No. Contract: 154 / SPPP / SP / DP3M / IV / 2005, Surakarta Muhammadiyah University Faculty of Law Master of Law Universitas Muhammadiyah Surakarta, <https://publikasiilmiah.ums.ac.id/xmlui/bitstream/handle/11617/718/1.%20DIMYATI.pdf?sequence=1>, Downloaded July 18, 2018

of State holds all power in Ngajogjakarta Sultanate, and therefore in connection with today's state of affairs in the government of the State Ngajogjakarta Sultanate began today in our hands and our other powers hold its entirety; third, that the nexus between the State Ngajogjakarta Sultanate and the Central Government of the Republic of Indonesia, is straightforward and we are responsible for Overseas We directly to the President of the Republic of Indonesia.²³

Concerning the position of the governor mentioned in Article 12 of Law No. 13 In 2012, as follows: (1) the Governor for his domicile as well as representatives of the Government; (2) In the position as a Government representative, the governor is responsible to the President; (3) The provisions regarding position, duties and authority of the governor as a representative of the Government applies the provisions stipulated in the law on local government.²⁴

Based on Law No. 13 Year 2012 on the privileges DIY Article 18 paragraph (1) letter © that the governor of Yogyakarta Special Region one of the conditions was enthroned as the lane is equipped with a confirmation letter stating evidence lane reigns in the Sultanate. DIY privilege is the privilege of the legal position held by DIY is based on the history and origins of rights according to the Constitution of the Republic of Indonesia to set up and administer a special authority.²⁵

Reigns as the lane means King of the Sultanate Ngayogyakarta, hereinafter called the Sultanate, is a cultural heritage that lasted for generations and led by ngarsa Dalem Sampeyan Dalem ingkang Sinuwun Kanjeng lane Senopati Ing Ngalaga Ngabdurrahman Sayidin Panatagama Kalifatullah, herein after the lane.²⁶

Pursuant to Article 7 (2) of Law No. 13 of 2012 mentioned that some authority in matters of Yogyakarta Special Region Features include: procedures for filling positions, position, duties, and authority of the Governor and the Deputy Governor; DIY Local Government institutions; culture; land; and layout.²⁷

Since the presence of the legislature are elected democratically, Yogyakarta categorized as a province that adopts electoral autocracy. Electoral autocracy is defined as a government headed by an executive set, but lead executives together legislative leaders elected democratically by the people.²⁸ *electoral autocracy* does not conflict with Western democratic values because the legislature can control the executive leader. As a province that applying electoral autocracy Governor and Deputy Governor of Yogyakarta lead together with the legislature election results. Therefore, arbitrary leadership can be prevented

²⁶Article 1 Paragraph (4) of Law No. 13 In 2012

²⁷Article 7 (2) of Law No. 13 in 2012 on the speciality of Yogyakarta special region.

²⁸Emilianus Yakop Sese Tolo, from autocracy to democracy: History Unfold and Survivalitas "Democracy ala Yogyakarta Special Region", Journal of Humanities, Volume 25, No. October 3rd, 2013, p. 270-280

²³ Nikmatul Huda, Yogyakarta ... Ibid

²⁴Article 12 of Law No. 13 In 2012

²⁵Article 1 (2) of Law No. 13 In 2012

because the legislature can use its role to control the running of the government.

Based on the search history, HB IX aware of the role of the legislature to the democratization process and appreciate it, as evidenced in parliament dated February 20, 1952, HB IX rejected the decision to place a higher position than the legislature for the area. According to HB IX, the executive and legislative institutions must be balanced and equal so that the legislature can perform the function kontrolnya to the executive branch. Only in this way, the process of democratization can run well and bring benefits to the people of Yogyakarta Special Region.²⁹

Ngayogyakarta Sultanate as a traditional institution coupled with modern institutions (read state), gave rise to the order in the province, namely dualism between traditional institutions / local-based hierarchy with modern institution that carries an egalitarian democracy.³⁰ It thus appears in the selection process based determination of Governors, where the sultan that reigns will be automatically set as the Governor of Yogyakarta. DIY DPRD have the status, composition, duties and authority as provided for in the legislation Regional Government, applies also to Parliament in another province. However, in addition to duty and authority as specified Local Government Act, the council is

authorized to determine DIY Governor and Deputy Governor and shaping legislation and Perdais with the Governor.³¹

Terms of governor and deputy governor of DIY in addition to that required under the Local Government Act was enthroned as the lane for candidates for Governor and enthroned as Duke Paku Alam's deputy governor.³² DIY submitted to Parliament by submitting a nomination letter to the governor signed by Penghageng Kawedanan Hageng Panitrapura Ngayogyakarta Sultanate and the nomination for vice governor signed by Penghageng Kawedanan Hageng Kasentanan Pakualaman.³³

According to Article 24 of Law No. 13 In 2013, paragraph (2) DPRD DIY sets the lane that reigned as governor and Duke Paku Alam who reigns as the Deputy Governor, the next parliament DIY propose to the President through the Minister for approval by the determination of the lane that reigned as governor and Duke Paku Alam reigns as Deputy Governor. The President endorsed the establishment of the governor and deputy governor based on the proposal of the Minister. Ministers give notice of ratification determination governor and deputy governor of the DPRD DIY.

Tenure of the lane that reigned as governor and Duke Paku Alam who reigns as Vice Governor for five (5) years from the

²⁹ ibid

³⁰Nur Azizah at. Al, *Democracy Syncretic: Dialectics of Modern Democracy by the Institution of Traditional in Yogyakarta*, in the book: *Regime Local in Indonesia*, Purwo Santoso at. Al (ed), Jakarta: Yayasan Pustaka Obor Indonesia, PolGov UGM and University of Oslo, 2018, p. 341

³¹Article 17, paragraph 91), and (2) of Law No. 13 Year 2012 on the specialty of Yogyakarta.

³²Article 18 of Law No. 13 Year 2012 on the specialty of Yogyakarta.

³³Article 19 paragraph (3), a, b. Law No. 13 Year 2012 on the specialty of Yogyakarta.

inauguration and not tied to the provisions of 2 (two) times periodization tenure as stipulated in the law on local government.³⁴ DIY Regional governance model that the governor is the King who reigns as the lane along with a DIY parliament directly elected by the people democratically raises mixed government (mixed government) is the division of powers between the throne and the kingdom of Parliament. This government is a mixture of monarchy, oligarchy, and democracy also called electoral autocracy is a government headed by an executive set, but lead executives together legislative leaders democratically elected by the people (Yakop Sese Tolo, 2013: 270-280)

CONCLUSIONS

Yogyakarta Special region has a shape and structure of government is unique in nature. DIY Local Government consists of Local Government and DPRD DIY DIY. DIY Local Government headed by the Governor who once was a king who reigns as the lane, who held the position for five (5) years and are not bound to the provisions of 2 (two) times periodization tenure as stipulated in the law on local government. DIY DPRD have the status, composition, duties and authority as provided for in the legislation Regional Government, as applicable also to Parliament in another province. However, in addition to duty and authority as specified Local Government Act, DIY Parliament is authorized to determine governor and vice governor and shaping legislation and Perdais with the

Governor. The combination of the Governor of Yogyakarta as the king who reigns in the Sultanate along with a DIY parliament democratically elected government raises mixture (mixed government) in the form of democratic monarchy.

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³⁴Article 25 of Law No. 13 In 2012

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