

# The Election Position of Governor and Vice Governor of Yogyakarta Special Region in the Perspective of Pancasila Democracy in Indonesia

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**Abstract**— The election of the Governor and/or Vice Governor directly in the democratic system in Indonesia faces great challenges. In the context of the Special Region of Yogyakarta, direct elections contradict the legal historical election of Governor and Vice Governor carried out from generation to generation through the establishment of Sultan Hamengku Buwono and Paku Alam. Yogyakarta people also reject direct election. The rejection of the governor and/or vice-governor election of Yogyakarta by the people is in two dimensions at once, not only because of the historical provisions which do not allow direct election to be held but also because of the democratic expression of the people of Yogyakarta which insists that the election is not necessary directly. The real problem is the implementation of a democratic system of universality and particularity. The entry of local direct election clause in the Privileges of Yogyakarta Bill prior to the enactment of Law Number 13 of 2012 in line with the principle of universality. However, the rejection of direct elections is a particular aspect of the democratic process. The logic of the people of Yogyakarta must also be understood in terms of what is called the proper role of the state. Moreover, with the support of tradition and culture that has survived more than 250 years, Yogyakarta actually never entered the phase of the gap point as a state of the sultanate. Yogyakarta volunteered as a part of the Unitary State of the Republic of Indonesia not long after the Proclamation of Independence, did not necessarily dissolve the traditions of the Sultanate. This study focuses on the issue of whether the traditional election of governors and/or vice-governor in Yogyakarta has been against democratic values? This study aims to analyze and understand the democratic process in the election of governor and/or vice governor in Yogyakarta. The research method used is qualitative research approach with socio-legal type, and historical. The result of this assessment is that the election of governor and/or vice governor in Yogyakarta has been in accordance with democratic values because of the juridical aspect is the mandate of Law No. 13 of 2012 on the Privileges of Yogyakarta. From the sociological aspect, the people of Yogyakarta want the election of the governor and/or the vice governor to be done through the determination of their Sultan.

**Keywords**—Sultan; Governor; Direct; Democracy; Yogyakarta

## I. INTRODUCTION

The election position of the Governor and Vice Governor of Yogyakarta through the determination mechanism experienced an upheaval in the state administration system in Indonesia. As part of the Unitary State of the Republic of Indonesia, the arrangement of election the position of the Governor of Yogyakarta should be implemented in accordance with the mandate of the 1945 Constitution. Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that Governors, Regents and Mayors are elected democratically. A country that calls itself as a democratic state can certainly prevent society from tyrannical government, including respect for human rights, giving public freedoms, giving people an opportunity to self-determination [26].

The debate over the legality of the determination mechanism came as President Susilo Bambang Yudhoyono issued a statement that the prevailing monarchy system in the Special Region of Yogyakarta is considered incompatible with the spirit of democracy being implemented in Indonesia. The statement was issued during a cabinet meeting about politics, law and security

dated on November 26, 2010. Although, substantially the president's statement discusses the government's basic position in relation to the act of privileges of Yogyakarta Special Region.

Related to the statement, Ismu Gunandi believes there are 3 (three) essences of the statement of President Susilo Bambang Yudhoyono, i.e.: (1) privileges pillars of Yogyakarta special region based on the national system of the Unitary State of the Republic of Indonesia which in the Constitution is set explicitly; (2) the understanding of the privileges of Yogyakarta Special Region should refer to the historical landscape, and other aspects which must be specifically treated, as stipulated in the Constitution and should be visible in the special government structure; (3) considering that the Unitary State of the Republic of Indonesia is a state law and a democratic country, the values of democracy should not be ignored because surely there can not be a colliding monarchy system, either with the constitution or with democratic values [23]. As a result of these statements, there was misinterpretation and misunderstanding that caused *kawula ngarsa dalem Ngayogyakarta* (the people of Yogyakarta) to speak in both formal and informal forums. The people of

Yogyakarta think that the government of Susilo Bambang Yudhoyono has intervened against the privilege of Yogyakarta. The government of Susilo Bambang Yudhoyono is considered doesn't understand the privileges that exist in Yogyakarta, both from the point of view of history, philosophy, and juridical.

Due to the rejection of the people of Yogyakarta on the statement of President Susilo Bambang Yudhoyono, then on December 2, 2010 a press conference was held to clarify the statement already submitted by the president. One statement in the press conference was, "for the leadership and position of the Yogyakarta governor for the next five years as the best and most appropriate, still Sri Sultan Hamengku Buwono X". Nevertheless, the statement of President Susilo Bambang Yudhoyono is still polemic for the people of Yogyakarta. If we analyze deeply, President Susilo Bambang Yudhoyono statement questioned the position of Sri Sultan Hamengku Buwono X after 5 years of his term ended. That is, after 5 years in office, it is possible that the position of the governor of Yogyakarta Special Region is not held by the Sultan anymore.

Discussion about the privilege of Yogyakarta in the context of government is not only about election the post of governor, but also concerning the substance of the privilege of Yogyakarta itself. This has actually been accommodated since the Privileged Bill of the Yogyakarta Special Region and became the discussion in the Special Committee Meeting. However, the substance that is often debated is the mechanism of election the post of governor and deputy governor determining that the governor and deputy governor are elected by the Regional House of Representatives with the approval of Sri Sultan and Sri Paku alam. In fact, so far the post of governor and deputy governor is filled by Sri Sultan and Sri Paku Alam through the determination of the Regional House of Representatives. That is, if the new mechanism is implemented as discussed in the special committee meeting, the position of Sri Sultan and Sri Paku Alam is only symbolic of the state and can not perform the duties in the government.

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The substance of the privilege Yogyakarta Special Region referring to politics and government reaffirmed in the Privileges of Yogyakarta Special Region Bill regarding legal recognition of the Sultanate and Pura Pakualam position as the nation's cultural heritage. Yogyakarta Special Region is also proposed to have different forms and government structure with other provinces in Indonesia. The main difference lies in the integration of the Sultanate and Pakualam within the governance structure of Yogyakarta Province and at the same time separating the authority and structure of the management of political affairs and daily administration with strategic political affairs. The integration of Sultanate and Pakualam into the governance structure of Yogyakarta Province is done through the giving of authority, along with the inherent implications to Sultan and Paku Alam as a political entity positioned as *Parardhya Keistimewaan*.

## II. RESEARCH METHOD

The research method used is qualitative research approach with socio-legal type, and historical. This study is to examine whether election the position of governor and vice governor of Yogyakarta Special Region from hereditary according to democracy, and to examine the sense of legal justice in Yogyakarta society, and analyzing the election of the governor and vice governor of the Special Region of Yogyakarta from history.

## III. RESULT AND DISCUSSION

### A. *Legal Historical of Yogyakarta Special Region*

*Historically, Yogyakarta has long existed in diplomatic relations with other kingdoms and also the Dutch East Indies long before the proclamation of independence of the Republic of Indonesia. The Sultanate of Yogyakarta and the Paku Alaman Sultanate have the status of a vasaal state or dependent state in colonial rule, ranging from VoC, the Indies of France (Republic Bataav Netherland-France), East India/EIC (Kingdom of Britain), Dutch Indies, and the Japanese Army XVI (Japanese Prime) [23]. By the Kingdom of the Netherlands, the status is called *koti/kooti* which brings legal and political consequences in the form of authority to regulate and manage its own territory under the supervision of Dutch government ([23]. The basic law of the Sultanate of Yogyakarta is *Koninklijk Besluit* from Queen Welhelmina becomes an independent region through *Langeverklaring* (Long Agreement) between Queen Welhelmina with Sri Sultan HB IX, so with *Langeverklaring* the Yogyakarta Sultanate becomes an independent territory, and the international law is equal to the state, at the time of RIS, the Netherlands could not enter the territory of Yogyakarta, and made the State Capital of the Republic of Indonesia as legally international, independence Yogyakarta Sultanate respected.*

Towards the independence of Indonesia, the Sultanate of Yogyakarta once held the last political contract as an autonomous sultanate created between Sri Sultan Habengku Buwana IX with the Governor of Yogyakarta

L.A. Adam dated March 18, 1940 was passed on 29 April 1940 by the Governor General of the Dutch East Indies A. W. L. Tjandra van Starckenborg. The most important political contract contents are:

1. The affirmation of the legal status of the Sultanate;
2. The affirmation of the restriction of Dutch Indies power with the means of his power and the power of the Sultan;
3. Additional power to the Sultan in the field of legislation, so there is no dualism or things that once arranged in the regularization and *keuren van politie* by the resident/governor will be lost. Because, the Sultan was given the authority to form the rules applicable to the *Gouvernements Onderkoaringen* group, as long as the matters governed therein were the same as those assigned to the autonomous regions of the *Gouvernements region (Provincie, Kabupaten, Stadsgemeenten)*[19].

Meanwhile, at the time of the Proclamation of Indonesian Independence, Sri Sultan Hamengkubuwono IX and Paku Alam VIII welcomed it with joy and uttered it to Soekarno and Hatta as President and Vice President on August 18, 1945. Two days later, Sri Sultan and Paku Alam VIII sent a telegram to Jakarta that he stood behind Soekarno Hatta. President Soekarno warmly welcomed the statement of Sri Sultan and Paku Alam, even one day after the Sultan and Paku Alam sent a speech, President Soekarno issued a charter position as head of the Sultanate of Yogyakarta and Paku Alam as the head of the duchy of Paku Alaman. Through the charter meant to both he was put down all thoughts, energy, soul and body for the safety of his region as part of the Republic of Indonesia [8].

The dynamics of the relationship between Yogyakarta Special Region and the Government of the post-independence Republic of Indonesia is a space for the presence of privileges in Yogyakarta. This is as explained above, with the congratulations delivered by Sri Sultan Hamengkubuwono IX and KGPAA Paku Alam VIII on August 28, 1945. Then, on September 5, 1945 Hamengku Buwono IX stated his sultanate joined the Indonesian government through a mandate that addressed to its people, Paku Alam VIII also states joining with a similar mandate (FISIPOL UGM, 2007:8). On September 6, 1945, President Soekarno guaranteed the special status of the two kingdoms in the Charter of the Status. On January 6, 1946 to December 27, 1949 in Jakarta security had deteriorated, until finally the Government of Indonesia moved the capital to Yogyakarta. For almost 3.5 years the country is controlled from Yogyakarta, even Sri Sultan Hamengku Buwono IX to open the palace treasure chests whose funds are divided for the employees of the Government of the Republic of Indonesia for the daily needs of their families. He also helped the needs of guerrilla forces. The notification of Sri Paduka Ingkang Sinuwun Kanjeng Sultan and Sri Paduka Kanjeng Gusti Pangeran Adipati Ario Paku Alam, explicitly stated:

1. NgaYogyakarta Hadiningrat and Paku Alaman, is a special area of the Republic of Indonesia;
2. As Head of Region, Sri Sultan and Sri Paku Alam holds all power in the NgaYogyakarta Hadiningrat and

Paku Alaman, but it also covers all affairs of government and other powers;

3. The relationship between NgaYogyakarta Hadiningrat and PakuAlaman with the Central Government of the Republic of Indonesia is direct and responsible to the State directly to the President [17].

The decision to join the Sultanate of Yogyakarta and the PakuAlaman Duchy with the Government of the Republic of Indonesia was taken in the midst of the offer of the Dutch ruler to give control over all of Java for Hamengku Buwono IX. Repeatedly the Dutch government sent envoys to meet Hamengku Buwono IX for this purpose. Some of the envoys sent by the Dutch were Sultan Hamid, Kol. van Langen, Resident E.M. Stock, Berkhuus, and Prof. Jayaningrat. However, Hamengku Buwono IX never met the envoy and only sent his brothers like Prince Prabuningrat, Prince Bintara or Prince Mudaningrat to meet with the Dutch envoys [23].

After that, during the RIS, Yogyakarta became one of the regions with its own privileges at the provincial level. On March 4, 1950, the Government of Indonesia issued Law No. 3 of 1950 on the Establishment of the Special Region of Yogyakarta (State Gazette 1950 Number 48). Its contents are the Kasultanan and the Duchy of Yogyakarta as the Special Region of Yogyakarta, which covers the general affairs of the city, general government, agrarian, irrigation, roads, buildings, agriculture, fishery, veterinary, handicrafts, domestic trade, industry, cooperatives, labor, social, collection of foodstuffs and their distribution, lighting, education, teaching, culture, health, enterprise. The matters set forth in Law No. 3 of 1950 are essentially equivalent to matters owned by other regions in accordance with Article 23 and Article 24 of Law Number 22 of 1948.

Reading Law No. 3 of 1950 on the Establishment of Yogyakarta Special Region, it must be understood why this Act should exist (the prime causa of this Act as *Conditio Sine Quanon*). The law was inspired by the thoughts of Sri Sultan Hamengku Buwono IX, as set forth in the King Coronation Speech of 18 March 1940 and the Mandate of the Throne for the People, wishing for a Cultural Democracy for the Special Region of Yogyakarta, namely the respect for the rights of democracy presented by Yogyakarta's Regional House of Representative and cultural rights presented by Sultan of Yogyakarta Sultanate, as Governor and Adipati Pakualam as Vice Governor [21].

In relation to the appointment of the ruler of the special region of Yogyakarta, Law No. 22 of 1948 asserts that the Special Head of the region is appointed President of the descendant of the ruling family in the area on the terms of skill, honesty, and loyalty in view of the local customs. Law No. 18 of 1965 also stipulates that the Head of Region and Deputy Head of Yogyakarta Special Region is not related to the term of office. In Law No. 5 of 1974 also regulates the privilege of Yogyakarta stated the head of the region and the deputy head of the Special Region of Yogyakarta is not bound by the terms of tenure, terms and means of appointment for the regional head and deputy head of the other region. In Law Number 22 of 1999 that

Special Privileges of Yogyakarta as referred to Act Number 5 of 1974 is fixed [4].

Privileges of Yogyakarta contained in Law No. 13 of 2012 on the Special Privileges of Yogyakarta, distinguishing Yogyakarta with other autonomous regions is in terms of succession. The election of Governor and Vice Governor not through direct election or regional head elections, but directly stipulated by the appointment of Sri Sultan as Governor and Duke of Paku Alam as Vice Governor. Article 18 Paragraph (1c) states that the requirement to be Governor should reign as Sultan Hamengku Buwono and reign as Duke of Paku Alam for candidate Vice Governor (Article 18 Paragraph (1c)).

In the case of the coronation of the requirement to become king in the palace of Yogyakarta must be met by the next generation or the crown prince of the kingdom, the title of Sri Sultan Hamengku Buwono is “*Ngarso Dalem Sampeyan Dalem Inkgang Sinuhun Kanjeng Sultan Hamengku Buwono Senopati Ing Ngalogo Ngabdurahman Sayidin Panotogomo Khalifatullah Inkgang Jumeneng Kaping... Ing Ngayogyakarta Hadiningrat*” [9]. This title by Javanese society is considered not merely a formality degree, but the title is attached to a personality and a behavior that must be the main character of a king. In addition, in the mystical tradition of Javanese society, people strongly believe that only those who get revelation can reach the peak of power by occupying the throne of the king. This has actually started since the enactment of Law No. 22 of 1948, Law 1 of 1957, Law No. 5 of 1974, Law No. 22 of 1999, and Law No. 32 of 2004, and now confirmed in Law No. 13 of 2012 on Privileges of Special Region of Yogyakarta.

Soejamto's opinion, as cited by Isnu Gunadi Wibowo, specifies 3 (three) special features of regions that have privileges, including Yogyakarta. *First*, in contrast to the head of a common area, the head of a special region shall be appointed by the central government of the ruling family in the area prior to the Republic of Indonesia and who still controls its territory, taking into account the conditions of skill, honesty of loyalty and customs in the area; *Second*, the head of a special region can not be overthrown by the Regional House of Representatives; *Third*, concerning the salary and all the legal income attached to the position of the head of that particular region is determined by the central government, not by the regional government.

The political and legal changes that have taken place in Indonesia for decades do not necessarily discourage regions with privileged status, including Yogyakarta. Moreover, with the adoption of the regional autonomy system, the regions that have their own characteristics and uniqueness are protected constitutionally into special status areas that must be acknowledged and maintained. There are 3 (three) special substances in special region of Yogyakarta, i.e.: *first*, special in the history of the formation of the government of a special region, as provided for in Article 18 of the 1945 Constitution (before the amendment) and its explanation of the origin right of the the Republic of Indonesia territory which is more less 250 *zelfbestuurende-landschappen* and

*volksgemeenschappen* as well as authentic historical evidence in Indonesia's struggle process. *Second*, it is special in the form of a special region of Yogyakarta administration which consists of merging two sultanate and pakualaman regions into one kingdom which is provincial-level region within a unified territory of the Unitary State of the Republic of Indonesia. *Third*, special in the head of government, where in the special area of Yogyakarta held by the Sultan as Governor and Sri Paku Alam as Vice Governor as mandated the charter of the status of 19 August 1945.

#### *B. The Election of Governor and/or Vice Governor in Yogyakarta from Generation to Generation is not Contrary to the Value of Democracy*

The pros and cons of governor election and vice governor in the special area of Yogyakarta is motivated by the different views of both the central government, local government, and the people of Yogyakarta. The pros and cons of the privilege of Yogyakarta can be summarized into three views: *first*, supporting the establishment of the Sultan as governor; *second*, to support democratization in the form of gubernatorial election; and *third*, abstain, neutral still think, confused or in between, such as the election among the kraton relatives. By [15], stated that the first group is called the conservative group, the second is called the transformative group and the third is called the neo-conservative group [15]. Pro-determination group wants Sri Sultan to be governor. This group that carried out various actions of mounting flags and banners on the streets and villages that continue to support the privileges of Yogyakarta is included in the election of the governor, although not all pro-determination do this. However, this impressed that most of the people of Yogyakarta tend to agree through the determination. Yogyakarta province has about 3.5 million people, 70% of whom are farmers and laborers, 25% self-employed and 5% civil servants, state-owned employees and other formal workers. Therefore, it is understandable that peasants and workers tend to support the Sultan. They (still) regard the Sultan of the role model, and the slogan "*pejah gesang nderek sultan*" (life or die follow the Sultan) is still quite thick.

In the plenary session of the Regional House of Representatives all parties agree on a mechanism of determination, except for the Democrat Party which looks unclear or uncertain and doubtful. Although later the Democrat party affirmed his agreement to the establishment. Some of the responses of political parties in the Regional House of Representatives plenary session are:

1. The PAN faction submitted ten points of opinion including approving the determination.
2. The Golkar fraction proposed nine points statement, among which 86.7% of Yogyakarta citizens want determination.
3. The PKS faction declares that the chaos of the Yogyakarta Privilege may worsen the relationship between the central government and Special Region of Yogyakarta, as it must end with the determination.

4. The PKB Fraction supports the determination, and defend the right should not be done the wrong way.
5. The PNPI Raya faction, a combination of GERINDRA, PKPB, HANURA, PPP, expressed a similar attitude and stated that the determination is a constitutional right of Yogyakarta privilege.

In contrast to the pro-determination group, the electoral group considers that democracy in the Governor's election should be held in Yogyakarta, as it is mandated by the Constitution. At the national level, the electoral group is Democrat and president Susilo Bambang Yudhoyono, but party officials in the region do not dare to express their opinions and similar attitudes strictly as the views of this faction look at when the assembly and citizens of Yogyakarta crowded the Regional House of Representatives Building.

President Susilo Bambang Yudhoyono seeks to end the monarchy system in the province of Yogyakarta. Susilo Bambang Yudhoyono can utilize 50% of the executive vote in legislation as in Article 20 paragraph (2) of the 1945 Constitution, supported by the strengthening of elections in the 2009 presidential election and an increase of about 30% of the Democrats' seat in the House of Representatives in the 2009 general election (Falakh, Kompas, 1 December 2010). In addition, Minister of Home Affairs Gamawan Fauzi as an official who was given a direct mandate to deal with this issue responded coldly to the demands of the people of Yogyakarta, and therefore he was considered less appreciative of the feelings of the people of Yogyakarta. The people of Yogyakarta are becoming pessimistic about the government's attitude, and judge the government doesn't understand the Yogyakarta history. However, according to Gamawan Fauzi (2010), he wants to place the Sultan in a respectable position. The governor of Yogyakarta must still be elected through democratic elections, so that the Sultan and Paku Alam avoid the legal issues that can occur after they are no longer serving. And also, the age of both have started the age of the future will no longer be able to rule. In this pro-election group there are three variants: *first*, election as it takes place in another province, *second*, elections are limited to the relatives of the Sultan and Paku Alam, *third*, governors are elected as elsewhere but the Sultan and Pakualam are seated as "privileged persons" some aspects of policy.

From the sociological aspect, People of Yogyakarta still wants Sultan and Paku Alam as governor and vice governor of Yogyakarta. A poll conducted by Kompas on 13 April 2007 showed that 74.9% of respondents agreed if the position of Yogyakarta Governor is held by relatives of Yogyakarta Palace, while 63.5% of respondents agree that Yogyakarta Governor is held by public, and 59,1% agreed if the Governor of Yogyakarta held by relatives Paku Alam. Meanwhile, a series of polls concerning the public perception about the value of Yogyakarta privilege was conducted by Kompas on 21-22 December 2006 and 13 April 2007. In December 2006, the existence of Yogyakarta Sultan as Governor was still the main factor determining the privilege of Yogyakarta (32.2% ), followed by the existence of the Palace, Center of Culture

and Artists, and Tourism City (27.7%). While in April 2007, the biggest portion was shown by the historical value of Yogyakarta in the history of the nation's struggle (41.4%), followed by the Sultan's existence as Governor (32.0%)(Wikipedia.org., 200429). While research conducted by the Political Laboratory of University of Muhammadiyah Yogyakarta, shows that 96.6% of the population of Yogyakarta supports privileges; 97.5% of graduates support privileges; 93.2% of the population of Yogyakarta supports the establishment of the Sultan as Governor; 94% of graduate residents support the determination (source: People's sovereignty December 31, 2010). From the poll, it can be seen that the majority of the people of Yogyakarta still want the Sultan as Governor and Sri Paku Alam as Vice Governor.

Judged from the juridical aspect, the position of the regional head as referred to in Article 18 paragraph (4) of the 1945 Constitution that the Governor, Regent and Mayor shall be elected democratically. Furthermore, Article 18 of Law Number 13 of 2012 states that the Candidate of Governor and the candidate for Vice Governor shall be citizens of the Republic of Indonesia who must meet the following requirements: a) devoted to God Almighty; b). Loyal to Pancasila as the basis of the state, the 1945 Constitution of the State of the Republic of Indonesia, and the Unitary State of the Republic of Indonesia, and the Government; c). Appointed as Sultan Hamengku Buwono for candidate of Governor and enthroned as Duke of Paku Alam for candidate Vice Governor; d). Educated at least senior high school or equivalent; e). Aged at least 30 (thirty) years; f). capable of being physically and spiritually based on the results of a thorough medical examination of a team of doctors / government hospitals; g). Have never been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a crime punishable with imprisonment of 5 (five) years or more, unless the person has completed a crime of more than 5 (five) years and publicly announced and honest to the public that he had been a convicted person and would not repeat a crime; h). Not being deprived of its right to vote by a court decision that has obtained permanent legal force; i). Submit a list of personal assets and willing to be announced; j). Not being individually and / or legally liable to the responsibility of the debt to which the state finances are incurred; k). Not being declared bankrupt based on a court decision that has obtained permanent legal force; l). Have taxpayer ID number (NPWP); m). Submit a resume containing the history of education, employment, siblings, wives and children; and n). Not as a member of a political party.

Based on the juridical review of the Special Privilege Law of Yogyakarta Special Region Article 18 of Law Number 13 of 2012 above, it can be said that the form of election mechanism of Governor and Deputy Governor's Office in Yogyakarta Special Region is determined by the Regional House of Representatives and appointed by the President, not directly elected by the people as the province others. The mechanism of determining the Governor and Vice Governor briefly begins with the

proposal of the Governor and Vice Governor of the Sultan and Paku Alam who reigned by Kasultanan and Duchy. When nominating candidates, Kasultanan and Duchy submitted a nomination letter for candidate for Governor signed by Penghageng Kawadenan Hageng Panitrapura Ngayogyakarta Hadiningrat Sultanate and Pengahageng Kawadenan Hageng Kasentanan Kadipaten Pakualaman, as well as the statement of willingness of Sultan Hamengku Buwono who enthroned as a candidate for Vice Governor, in addition to administrative requirements as regulated in Article 18 of Law Number 13 of 2012. The nomination of Governor and Vice Governor shall be submitted to the Regional House of Representatives for verification. For the purpose of verification, the Regional House of Representatives formed a Special Committee for the stipulation of Governor and Vice Governor chaired by Chairman and Vice Chairman of the Regional House of Representatives, as well as members consisting of representatives of faction.

The position of the Sultan is very clearly mentioned in this Privileged Act in Articles 1 and 9, namely as Governor. The position of Sultan is described as a consequence of the privilege of Yogyakarta. Sultan as Governor is appointed based on descendants so that vacancy of office as a result of the Sultan can not remain filled by others (Article 16). Mentioned in Article 10, the Regional House of Representatives proposes the Sultan to be appointed Governor to the President. If within 3 months, the Regional House of Representatives does not propose the Sultan to be Governor, the President has the right to automatically appoint the Sultan as Governor. Article 11 explains further that if the Sultan has not fulfilled the requirements as Governor as determined by applicable law, then the Vice Governor who is none other than Duke of Paku Alam will perform the duty as temporary Governor.

From the point of view of democracy, the mechanism of determination in Yogyakarta is not contrary to the values of democracy. In the electoral system of the democratic era, there are 2 (two) forms of democracy, i.e. direct democracy and representative democracy. Direct democracy is a form of democracy in which every citizen votes or opinion in determining a decision. Then representative democracy is a condition in which all people elect their representatives through elections to express their opinions and make decisions for them. But in the modern world, when the size of a country does not allow the realization of democracy directly as it has been practiced by some of the past states, the election of people's representatives and public officials becomes the main mechanism by which people exercise their power. This is what would happen in Yogyakarta, where the determination of the governor and the vice governor constitutes a fundamental rights of constitutional condition, meaning that it is permissible as long as it does not violate the constitution and as long as it is still valid and get support from the public.

#### IV. CONCLUSION

If the history of the formulation of Law on the Government in the region that is established starting from Law Number 22 Year 1948, Determination of President Number 6 Year 1959 until the Act Number 5 Year 1974 there is already an affirmation about the specialty of Yogyakarta, which in principle states that the Head The Special District was appointed by the president of the "ruling" family lineage in honor of the sacrifice and support given to the Unitary State of the Republic of Indonesia. Therefore, the Head of Yogyakarta Special Region is the descendant of Sultan Hamengku Buwono and the deputy head of the Region comes from the descendant of Sri Paduka Paku Alam. Meanwhile, in the regime of Law Number 13 Year 2012 on Special Privileges of Special Region of Yogyakarta, the position of Sultan is very clearly mentioned in Article 1 and Article 9 that is as Governor. The position of Sultan is described as a consequence of the privilege of Yogyakarta. Sultan as Governor is appointed based on descendants so that vacancy of office as a result of the Sultan can not remain filled by others (Article 16). Mentioned in Article 10, the Regional House of Representatives proposes the Sultan to be appointed Governor to the President. If within 3 months, the Regional House of Representatives does not propose the Sultan to be Governor, the President has the right to automatically appoint the Sultan as Governor. Article 11 explains further that if the Sultan has not fulfilled the requirements as Governor as determined by applicable law, then the Vice Governor who is none other than Duke of Paku Alam will perform the duty as acting Governor.

If we can sort from the history of its formation, the Law on Regional Government that is starting from Law Number 22 of 1948, Determination of President No. 6 of 1959 to the Act No. 5 of 1974 there is already an affirmation of the privileges of Yogyakarta, which in principle the Head of the Special Region appointed by the president of the family descendants "in power" in honor of the sacrifice and support given to NKRI. Therefore, the Head of Yogyakarta Special Region is the descendant of Sultan Hamengku Buwono and the vice head of the region comes from the descendant of Sri Paduka Paku Alam. Meanwhile, in the regime of Law Number 13 Year 2012 on Special Privileges of Special Region of Yogyakarta, the position of Sultan is very clearly mentioned in Article 1 and Article 9 that is as Governor. The position of the Sultan is very clearly mentioned in this Privileged Act in Articles 1 and 9, namely as Governor. The position of Sultan is described as a consequence of the privilege of Yogyakarta. Sultan as Governor is appointed based on descendants so that vacancy of office as a result of the Sultan can not remain filled by others (Article 16). Mentioned in Article 10, the Regional House of Representatives proposes the Sultan to be appointed Governor to the President. If within 3 months, the Regional House of Representatives does not propose the Sultan to be Governor, the President has the right to automatically appoint the Sultan as Governor. Article 11

explains further that if the Sultan has not fulfilled the requirements as Governor as determined by applicable law, then the Vice Governor who is none other than Duke of Paku Alam will perform the duty as Governor.

The attention of the Special Region of Yogyakarta, especially in the election of their Governor, because: *First*, to implement the mandate of Article 18B of the 1945 Constitution; *Second*, in terms of historicity, Sultanate and Duchy existed before the State of Indonesia was formed, which afterwards joined into the ruling Sultan and Duke still given the position to lead their territory (which has been transformed into Yogyakarta Special Region); *Third*, the abolition of the Sultanate and the Duchy is an historical and unconstitutional act, so that if it is implemented it will potentially reject by the community. *Fourth*, the strong bond between the King and his people has become a social capital for governance and development in Yogyakarta; *Fifth*, the leadership of the Sultan and Duke in the government created stability for the people of Yogyakarta. *Sixth*, sociologically, people of Yogyakarta still wants Sri Sultan and Paku Alam as governor and vice governor of Yogyakarta.

## V. REFERENCES

- [1] Asia Indigenous Peoples' Pact. 2007. "Indigenous Governance Systems in Asia", *Conference Report*.
- [2] Bell, Gary F., 2001. "The New Indonesian Laws Relating to Local Autonomy: Good Intentions, Confusing Laws", *Asian-Pacific Law & Policy Journal*. Vol. 2, No. 1, pp 1-45.
- [3] Emmerson, Donald K. 1976. *Indonesia's Elite-Political Culture and Cultural Politics*. United Kingdom: Cornell University Press.
- [4] Falaakh, Mohammad Fajrul. "Monarki Yogya" *Inkonstitusional?*, Kompas, Wednesday, 1 December 2010.
- [5] Friedman, Harry J. 1983, "Decentralized Development in Asia Local Political Alternatives", *Decentralization and Development*, eds. G. Shabbir, London.
- [6] Gathorne-Hardy, G.M. 1953. "The Democratic Monarchy", *International Affairs*. Vol.29, No.3, pp. 273
- [7] Hadiz, Vedi R. 2004. Decentralization and Democracy in Indonesia: A Critique of Neo - Institutional Perspectives. *Development and Change*. Vol. 35. No. 4. pp 697-718. DOI: 10.1111/j.0012-155X.2004.00376.x
- [8] Huda, Ni'matul. 2013, *Daerah Istimewa Yogyakarta dalam Perdebatan Konstitusi dan Perundang-undangan di Indonesia*, Bandung: Nusa Media.
- [9] Karim, Abdul Gafar. 2003, *Persoalan Otonomi daerah Di Indonesia*, Yogyakarta: Pustaka Pelajar, 2003.
- [10] Kershaw, Roger. 2001. *Monarchy in South-East Asia: The Faces of Tradition in Transition*. London: Rutledge.
- [11] Lay, Cornelis. 2008. Keistimewaan Yogyakarta (The Privileges of Yogyakarta), Monograph on *Politics and Governance*, Department of Politics and Governance (JPP) Gadjah Mada University, Vol 2. No. 1 pp 8-22.
- [12] Lindsay, Jennifer. 2009. "Pomp, Piety and Performance: Pilkada in Yogyakarta, 2005." In *Deepening Democracy in Indonesia? Direct Elections for Local Leaders (Pilkada)*, ed. Maribeth Erb and Priyambudi Sulistyanto, pp 211-228. Singapore: Institute of Southeast Asian Studies.
- [13] Ockey, James. 2005. "Monarch, Monarchy, Succession and Stability in Thailand", *Asia Pacific Viewpoint*, Vol. 46, No. 2, p 118.
- [14] Rasyid, M. Ryaas. 2003. "Regional Autonomy and Local Politics in Indonesia." In *Local Power and Politics in Indonesia: Democratisation and Decentralisation*, ed. Edward Aspinall and Greg Fealy, pp 63-71. Singapore: Institute of Southeast Asian Studies.
- [15] Rozak, Abdul. dkk, 2003, *membongkar Mitos Keistimewaan Yogyakarta*, Yogyakarta: IRE Press.
- [16] Schmitter, Philippe C and Karl, Terry Lyn. 1991. "What Democracy Is ... and Is", *Journal of Democracy*, Vol. 2, No. 3, p 76.
- [17] Sijamto, 2000, *Daerah Istimewa dalam Negara Kesatuan Republik Indonesia*, Jakarta: Bina Aksara.
- [18] Sridiyatmiko, Gunawan. 2016. "Social Dynamic of Yogyakarta Citizens in Facing the Uncertainty of Traditional Value and Modernity: The Integrated Value of Social Study." *Journal of Education and Practice* Vol. 7, No. 15 ISSN 2222-1735 (Paper) ISSN 2222-288X (Online).
- [19] The Liang Gie, 1993, *Pertumbuhan Pemerintahan Daerah di Negara Republik Indonesia*, Yogyakarta: Liberty,.
- [20] Tim Jurusan Pemerintahan FISIPOL UGM, 2007, *Draf Naskah Akademik Rancangan Undang-Undang Keistimewaan Provinsi Daerah Istimewa Yogyakarta*, Yogyakarta: Jurusan Pemerintahan FISIPOL UGM with partnership For Governance Reform Indonesia.
- [21] Wahyukismoyo, Heru. 2010, *Merajut Kembali Pemikiran Sri Sultan Hamengku Buwono IX*.: Yogyakarta: Dharmakaryadhika Publisher.
- [22] Walker, Andrew . 2008. "The Rural Constitution and the Everyday Politics of Elections in Northern Thailand," *Journal of Contemporary Asia*, Vol. 38. pp 84-105.
- [23] Widodo, Isnu Gunadi. 2011, "Sistem Penetapan Gubernur Kepala Daerah Istimewa Yogyakarta dalam Sistem Pemilihan Kepala Daerah Berdasarkan Pasal 18 ayat (4) UUD 1945, *Jurnal Dinamika Hukum*, Vol. 11 No. 2, May 2011.
- [24] Widyatama, Bastian. 2018. "Applying Kingdom's Multiple Streams Framework in the Establishment of Law No.13 of 2012 Concerning the Privilege of Yogyakarta Special Region", *Journal of Government and Civil Society*. Vol. 2, No. 1, pp 1-18. DOI: 10.31000/jgcs.v2i1.643.
- [25] Winters, J.. 2014. Oligarchy and Democracy in Indonesia, in *Beyond Oligarchy? Wealth, Power, and Contemporary Indonesian Politics*, eds. M. Ford and T. B. Pepinsky Ithaca: Cornell University Press, 11-34.
- [26] Wiyono, Suko. 2009, "pemilu Multipartai dan Stabilitas Pemerintahan Presidensial di Indonesia", *Jurnal Konstitusi Universitas Wisnuwardhana*, Vol. 1 No. 1, 2009.
- [27] Yuniyanto, Try. 2010. The Process of Democratization in Yogyakarta, Indonesia 1951-1956: A Historical Perspective. "Tawarikh: International ournal for Historical Studies" Vol. 2, pp 61-74.