



Special Region of Yogyakarta in the Perspective of Asymmetric Decentralization Reviewed from the Law Number 13 Year 2012

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Abstract

The Republic of Indonesia as a unitary state adheres to the principle of decentralization in government administration, by providing opportunities and flexibility to the regions. This research journal uses two problem formulations, namely whether the Special Region of Yogyakarta is part of the asymmetrical decentralization perspective studied from Law Number 13 of 2012. This type of research is normative legal research. Theoretically, asymmetric decentralization is actually relatively new in Indonesia than the development of regional autonomy and decentralization theories which only prioritize the transfer of authority from the center to the regions. Asymmetric decentralization doesn't only talk about the delegation of authority, but also how authority, finance, supervision and institutions are contextually decentralized. Based on the description above, it can be concluded that the authority determined in Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta is one of the provincial-level autonomous regions in Indonesia. Special Region of Yogyakarta and its status as Special Region in accordance with Article 5 paragraph 2 letter a, Article 9, and Article 16.

Keywords: *Yogyakarta Special Region; Asymmetric Decentralization; Law Number 13 Year 2012*

Introduction

The Special Region of Yogyakarta (DIY) in the asymmetric decentralization perspective is reviewed from Law Number 13 of 2012 concerning the privileges of the Special Region of Yogyakarta (DIY) (here in after abbreviated as Law No.13 of 2012). Special status for Yogyakarta, Sultan Hamengkubuwono IX and Paku Alam VIII issued a mandate, on September 5, 1945 which stated that the Yogyakarta Palace and Pura Pakualaman were special regions of the Republic of Indonesia. The form of relationship with the central government is direct and accountable to the President of the Republic of Indonesia. Furthermore, on May 18, 1946, Sultan Hamengku Buwono IX and Paku Alam VIII issued Decree No. 18 which regulates legislative and executive power.

On March 3, 1950, the Government issued Law Number 3 of 1950 concerning the Establishment of the Special Region of Yogyakarta (DIY).¹ A number of articles that regulate, among others: The area covering the Sultanate of Yogyakarta and the Paku Alaman are is designated as the Special Region of Yogyakarta (DIY) (Article 1 paragraph 1); The Special Region of Yogyakarta (DIY) is at the same level as the Province (Article 1 paragraph 2); Domestic affairs of the Special Region of Yogyakarta (DIY) include general affairs, general government, agrarian affairs, irrigation, roads and buildings, agriculture and fisheries, veterinary, crafts, domestic trade, industry and cooperatives, labor and social affairs, food collection and distribution, information, education, teaching and culture, health, company (Article 4 paragraph 1).

Theoretically, asymmetric decentralization² is actually relatively new in Indonesia than the development of regional autonomy and decentralization theories which only prioritize the transfer of authority from the center to the regions. Asymmetric decentralization doesn't only talk about the delegation of authority, but also how authority, finance, supervision and institutions are contextually decentralized. Thus, the implementation of asymmetric decentralization is actually able to appreciate and make existing diversity into a national harmony, *Bhinneka Tunggal Ika*. Furthermore, when this diversity is able to be cared for and managed properly, it can also be ensured that the Unitary State of the Republic of Indonesia continues to exist and be intact.³ By itself, community welfare efforts can be carried out well.

Formulation of the Problem

Based on the description in the background of the problem, the problems in this study can be formulated:

- a. Is the Special Region of Yogyakarta (DIY) part of the perspective of asymmetric decentralization ?
- b. How is the Special Region of Yogyakarta (DIY) in the Perspective of Asymmetric Decentralization Assessed from Law Number 13 Year 2012 ?

Methods

This research is normative legal research, namely research that places law as a system of norms, namely regarding principles, norms, laws and regulations, court decisions, agreements and doctrines (teachings).⁴

¹ 'Dari Otokrasi Ke Demokrasi: Menyibak Sejarah Dan Survivalitas "Demokrasi Ala Daerah Istimewa Yogyakarta"', *Humaniora*, 2013 <<https://doi.org/10.22146/jh.v25i3.3539>>.

² Gabriel Lele, 'Asymmetric Decentralization And The Problem Of Governance: The Case Of Indonesia', *Asian Politics And Policy*, 2019 <<https://doi.org/10.1111/aspp.12493>>.

³ Septi Nur Wijayanti, 'Hubungan Antara Pusat Dan Daerah Dalam Negara Kesatuan Republik Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2014', *Jurnal Media Hukum*, 2017 <<https://doi.org/10.18196/jmh.2016.0079.186-199>>.

⁴ M. Roesli, Sarbini Sarbini, And Bastianto Nugroho, 'Kedudukan Perjanjian Baku Dalam Kaitannya Dengan Asas Kebebasan Berkontrak', *Dih: Jurnal Ilmu Hukum*, 15.1 (2019), 1 <<https://doi.org/10.30996/dih.v15i1.2260>>.

Discussion

Yogyakarta Special Regions (DIY) is Part of the Asymmetric Decentralization Perspective

The specificity or privilege given by the government to the regions is possible in accordance with the mandate of Article 18B paragraph (1) of the 1945 Constitution which states: “The state recognizes and respects regional government units that are special or special in nature regulated by law”⁵. In my opinion, granting special autonomy and privileges will not endanger NKRI. Our country remains in the form of a (*unitary state*). Only to these regions, because of their status as special regions or special regions, did the government delegate broader and more extensive powers. In exercising their authority, these regions cannot be separated from the constitution and government system established by the central government. This practice is in accordance with the concept of asymmetric decentralization and is empirically found in other countries in the world, such as the Quebec region in Canada, the Basque in Spain, Moro in the Philippines, and Bougenville in Papua New Guinea.

The Province of Yogyakarta Special Region (or Yogyakarta / DIY) and often abbreviated as DIY is a province in Indonesia which is located in the southern part of Java Island and borders the Province of Central Java in the north. Yogyakarta is geographically located on the island of Central Java. The area was affected by the earthquake on May 27, 2006 which left 1.2 million homeless.⁶

Yogyakarta Province has a public service supervisory agency called the Yogyakarta Regional Ombudsman which was formed by a DIY Governor Decree. Sri Sultan HB X in 2004. DIY is a province based on the Ngayogyakarta Hadiningrat Sultanate and Pakualaman Kadipaten. In addition, the former Surakarta Hadiningrat Sunanate and Mangkunagaran Praja areas were added, which were previously *enclaves* in Yogyakarta.

The DIY government can be traced back to 1945, even before that. A few weeks after the proclamation of 17 August 1945, at the urging of the people and after seeing the existing conditions, Hamengkubuwono IX issued a royal decree known as Mandate 5 September 1945. The decree contained the integration of the Yogyakarta monarchy into the Republic of Indonesia. A decree with a similar content was issued by Paku Alam VIII on the same day. Such an integration decree with the Republic of Indonesia was actually issued by various monarchies in the archipelago, although not a few monarchies awaited the establishment of the *Nederland Indische (Dutch Indies)* government after the defeat of Japan.⁷

At that time the powers of the Yogyakarta Sultanate included:

- 1) Yogyakarta City District with it's regent KRT Hardjodiningrat;
- 2) Sleman Regency with it's regent KRT Pringgodiningrat;
- 3) Bantul Regency with it's regent KRT Joyodiningrat;
- 4) Gunungkidul Regency with it's regent KRT Suryodiningrat;
- 5) Kulonprogo Regency with it's regent KRT Secondiningrat.

⁵ Khotman Annafie And Achmad Nurmandi, ‘Kelembagaan Otonomi Khusus (Otsus) Dalam Mempertahankan Nilai-Nilai Kebudayaan Di Provinsi Daerah Istimewa Yogyakarta’, *Journal Of Governance And Public Policy*, 2016 <<https://doi.org/10.18196/jgpp.2016.0061>>.

⁶ Oky Ardiansyah Nur Hidayah, ‘Sistem Pemerintahan Kraton Yogyakarta Pada Masa Perang Kemerdekaan Tahun 1945-1951’, *Risalah*, 2017.

⁷ Dinas Pendidikan Kebudayaan & Olah Raga Diy, ‘Sejarah Singkat Provinsi Daerah Istimewa Yogyakarta’, *Dikpora Diy*, 2017.

The basic philosophy of regional development in the Province of DIY is Hamemayu Hayuning Bawana, as a noble ideal to perfect the values of the life of the people of Yogyakarta based on the regional cultural values that need to be preserved and developed.⁸ Other philosophical bases are Hamangku-Hamengku-Hamengkoni, the Throne for the People, and the Throne for Socio-cultural Welfare.

The Concept of Regional Head Election is based on the Privileges Draft Law

The position of the Sultan is clearly stated in the Draft of this Privileged Law in Article 1 and Article 9, namely as Governor. The position of the Sultan is explained as a consequence of the privilege of Yogyakarta.⁹ The Sultan as Governor is appointed based on descent so that the vacancy of the position as a result of the Sultan's absence remains not filled by other people (Article 16). It's stated in Article 10, the DPRD proposes the Sultan to be appointed as Governor to the President. If within 3 months, the DPRD doesn't propose the Sultan to become Governor, the President has the right to automatically appoint the Sultan as Governor. Article 11 further explains that if the Sultan has not met the requirements as Governor as stipulated by the applicable law, the Deputy Governor who is none other than Adipati Paku Alam will carry out his duties as acting Governor. The Sultan as governor plays 2 functions at once, namely as head of an autonomous region and as a representative of the central government (deconcentration).

Yogyakarta Special Region (DIY) is the second oldest region in Indonesia after East Java, which was formed by the Indonesian state government. This province-level region also has special status or special autonomy. This status is a legacy from the pre-independence era. The Sultanate of Yogyakarta and also the Duchy of Paku Alaman¹⁰, as the forerunners or origins of DIY, had the status as a "vassal kingdom / state / *Dependent state*" in colonial rule starting from the VOC, French Indies (Bataav Dutch – French Republic), East India / EIC (United Kingdom), Dutch East Indies (Kingdom of the Netherlands), and finally the Japanese XVI Army (Imperial Japan). By the Dutch this status was called *Zelfbestuurende Lanschappen* and by the Japanese it was called *Koti / Kooti*.¹¹ This status brought legal and political consequences in the form of the authority to regulate and manage the territory [of one's own country] under the supervision of the colonial government, of course. This status was also later recognized and given a legal umbrella by the Founder of the Indonesian Nation Soekarno, who sat in BPUPKI and PPKI as a region no longer as a country. The mechanism for filling the positions of governor and deputy governor of the Yogyakarta Special Region which has been running so far is constitutional.¹² This is in line with the provisions of Article 18B of the 1945 Constitution. This article is intended to accommodate special and special regions, such as Aceh, the Special Capital Region of Jakarta, the Special Region of Yogyakarta and Papua. Meanwhile Article 18 paragraph (4) is intended to regulate other areas.¹³

⁸ Nurani Siti Anshori, 'Makna Kerja (Meaning Of Work) Suatu Studi Etnografi Abdi Dalem Keraton Ngayogyakarta Hadiningrat Daerah Istimewa Yogyakarta', *Cired - Open Access Proceedings Journal*, 2013 <<https://doi.org/10.1049/Oap-Cired.2017.1227>>.

⁹ Helmi Triayana, 'Pergeseran Ibukota Ri Dari Jakarta Ke Yogyakarta Pada 4 Januari 1946 Henni Triyana Superwoto Abstrak', *Avatara*, 2013.

¹⁰ Dinas Pendidikan Kebudayaan & Olah Raga Diy.

¹¹ Lailatuzz Zuhriyah, 'Kosmologi Islam Kasultanan Ngayogyakarta', *Tasawuf Dan Pemikiran Islam*, 2013.

¹² Moch. Asichin And Yety Rochwulaningsih, 'Perkembangan Demokratisasi Pemerintahan Daerah Istimewa Yogyakarta, 1945–1955', *Indonesian Historical Studies*, 2018 <<https://doi.org/10.14710/Ihis.V2i1.2879>>.

¹³ Hy. Agus Murdyastomo, 'Politik Kolonial Dan Perkembangan Seni Tari Di Puro Pakualaman Pada Masa Pemerintahan Paku Alam Iv (1864-1878)', *Informasi*, 2012 <<https://doi.org/10.21831/Informasi.V2i2.4451>>.

The Position of Men in the Legal Culture of the Yogyakarta Sultanate

Based on Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the state recognizes and respects regional government units that are special or special in nature which are regulated by law. One of the laws regulating a special regional government unit is Law No.13 Th.2012 on the Privileges of DIY. UU No.13 Th.2012 concerning the Privileges of the Special Region of Yogyakarta is a regulation that governs the legal culture that lives and develops in Yogyakarta.

The rule regarding Sultan Hamengkubuwono having to be a man, of course, cannot be separated from the Legal Culture of the Pugeran of the Yogyakarta Special Region as a law that lives and applies in the Sultanate of the Special Region of Yogyakarta. The legal Culture of the Pugeran Kasultanan contains a value system that lives in the Sultanate itself. Thus, of course, it's important to know how the value system of the Sultanate of the Special Region of Yogyakarta is a source of preparation of pugeran before finding out about the position of men in the legal culture of the Sultanate of the Special Region of Yogyakarta and the Prince's response to the times.

DIY found new political momentum in Indonesian democracy¹⁴ after the promulgation of a special law. After going through a long process since reformation, DIY has special authority at the provincial level covering five areas: culture, land, spatial, planning, institutions, as well as the positions of governor and deputy governor which are automatically held by the Sultan and the reigning Paku Alam.¹⁵ The positions of the two traditional institutions in DIY namely the Yogyakarta Sultanate (Kasultanan) and the Pakualaman Kadipaten (Pakualaman), receive special treatment in the Indonesian political system. Political leaders in Yogyakarta are determined not by regional head elections as happened in 33 other provinces, but by changes in traditional leadership in the two institutions. In addition, the Sultan crowned his only wife, Gusti Kanjeng Ratu (GKR) Hemas, as empress. As a solution, Sultan HB X issued Sabda and Dawuh, who appointed GKR Mangkubumi to be a candidate to succeed the throne.

The Political Dynamics of the Special Region of Yogyakarta after Law Number 13 of 2012

Theoretically, asymmetric decentralization is actually relatively new in Indonesia than the development of regional autonomy and decentralization theories which only prioritize the transfer of authority from the center to the regions.¹⁶ Asymmetric decentralization doesn't only talk about the delegation of authority, but also how authority, finance, supervision and institutions are contextually decentralized.¹⁷

In addition, the implementation of asymmetric decentralization that can be applied in Indonesia is also a criticism of the implementation of asymmetric decentralization so far. As well as rejection of the argument that states that a unitary state like Indonesia is not suitable for the application of an asymmetric decentralization model. In reality, a diverse unitary state like Indonesia needs to implement asymmetric decentralization.¹⁸ Thus, with the implementation of asymmetric decentralization, it will be able to respect and make existing diversity into a national harmony, *Bhinneka Tunggal Ika*. Furthermore, when this

¹⁴ Tomy Michael, 'Right To Have Rights', *Mimbar Keadilan*, 2017, 106 <<https://doi.org/10.30996/Mk.V0i0.2203>>.

¹⁵ Heru Tri Febriantiko, 'Perbandingan Prosesi Perkawinan Adat Keraton Yogyakarta Masa Sri Sultan Hamengkubuwono VIII Dan IX', *Avatara*, 2014.

¹⁶ Roger D. Congleton, Andreas Kyriacou, And Jordi Bacaria, 'A Theory Of Menu Federalism: Decentralization By Political Agreement', *Constitutional Political Economy*, 2003 <<https://doi.org/10.1023/A:1024750712089>>.

¹⁷ Ratna Dewi And Eko Nuriyatman, 'Efektifitas Undang-Undang Keistimewaan Daerah Istimewa Yogyakarta (Diy)', *Jurnal Hukum Respublica*, 2018 <<https://doi.org/10.31849/Respublica.V16i2.1444>>.

¹⁸ I Nyoman Pursika, 'Kajian Analitik Terhadap Semboyan "Bhinneka Tunggal Ika"', *Jurnal Pendidikan Dan Pengajaran*, 2009 <<https://doi.org/10.23887/Jppundiksha.V42i1>>.

diversity is able to be cared for a managed properly, it can also be ensured that the Unitary State of the Republic of Indonesia continues to exist and be intact. By itself, community welfare efforts can be carried out well.

The granting of privileges to Yogyakarta is based more on historical origins.¹⁹ The traditional institution of the Mataram kingdom / sultanate (*zelfbestuurende landschappen*) is still alive today. Unlike Jakarta and other autonomous regions which already have a Special Autonomy Law, when it doesn't have it's own Special Autonomy Law, Yogyakarta's specialties, especially the dual sultanate position as Governor of Yogyakarta, have actually been recognized for a long time. Laws related to regional government, namely Law Number 22 Year 1948, Law Number 1 Year 1957, Law Number 5 Year 1974, Law Number 22 Year 1999, and Law Number 32 Year 2004, also recognize the privilege of Yogyakarta. Later, while the draft of the Yogyakarta Privileges Bill was being drafted, the government of President Susilo Bambang Yudhoyono (SBY) questioned the privileges of Yogyakarta which he considered still implementing a monarchy system and far from being a democratic system.²⁰

Yogyakarta Special Status

The granting of privileged status to Yogyakarta bears little resemblance to granting special status to DKI Jakarta. It is the historical aspect that is a vital consideration for granting privileged status to Yogyakarta.²¹ Before the independence of the Republic of Indonesia, Yogyakarta already had full sovereignty as a kingdom led by Sri Sultan Hamengkubuwono IX (HB IX) and Sri Paku Alaman XIII (PA XIII), so that the establishment of DIY. *De facto*, it's special status was declared by the mandate of HB IX and the mandate of PA XIII on September 5, 1945, which respectively declared the Kasultanan and Pakualaman areas as special regions. Furthermore, on October 30, 1945 a mandate was issued which contained only one special region in the Republic of Indonesia, namely Yogyakarta. HB IX and PA XIII and all the people of Yogyakarta responded through a series of heroic struggles to reclaim Indonesian independence. Yogyakarta is believed to be the capital of Indonesia because of the emergency situation in Jakarta at that time.

One of the symbols of the specialties of DIY is related to filling the positions of Governor and Deputy Governor, which is the right of the internal Sultanate and the Duchy itself where the King of the Sultanate becomes the Governor and the King of Puro Pakualaman becomes the Deputy Governor. The filling of the positions of Governor and Deputy Governor was the most crucial issue during the formulation of the Yogyakarta Privileges Law. The emergence of pros and cons regarding filling the positions of Governor and Deputy Governor along with various arguments that accompany them inevitably has an impact on the process of drafting the privilege law. Through Law Number 13 of 2012, Sultan Hamengkubuwono and KGPAA Paku Alam, who reign, are automatically appointed as Governor and Deputy Governor of the Special Region of Yogyakarta.²²

Based on the provisions which state that the right to become Governor and Deputy Governor are Sultan Hamengkubuwono and Adipati Paku Alam who reign, then of course the Government only recognizes the Sultan and Adipati Paku Alam as candidates for Governor and Deputy Governor. Thus, anyone and any party (especially from the internal Kaultanan and Pakualaman) will not be submitted or accepted as Governor and Deputy Governor if not the Sultan and Adipati Paku Alam who reign. This

¹⁹ John Monfries, 'The Sultan And The Revolution', *Bijdragen Tot De Taal-, Land- En Volkenkunde*, 2008 <<https://doi.org/10.1163/22134379-90003659>>.

²⁰ Akbal Muhammad, 'Harmonisasi Kewenangan Antara Pemerintah Pusat Dan Daerah Dalam Penyelenggaraan Otonomi Daerah', *Jurnal Supremasi*, 2016.

²¹ Agus Sudaryanto, 'Hak Dan Kewajiban Abdi Dalem Dalam Pemerintahan Kraton Yogyakarta', *Mimbar Hukum*, 2018.

²² Ahmad Yani, 'Sistem Pemerintahan Indonesia: Pendekatan Teori Dan Praktek Konstitusi Undang-Undang Dasar 1945', *Jurnal Ilmiah Kebijakan Hukum*, 2018 <<https://doi.org/10.30641/kebijakan.2018.v12.119-135>>.

juridically strengthens the legitimacy of the positions of the Sultan and Adipati Paku Alam, who are entitled to be nominated as candidates for Governor and Deputy Governor.

Conclusion

The process of implementing asymmetrical decentralization is a long and complex process. In the concept of asymmetric decentralization, the development of the Special Region of Yogyakarta emphasizes five things in accordance with the mandate written in Law Number 13 of 2012 concerning the privileges of the Special Region of Yogyakarta, namely the matters of filling out the positions of governor and deputy governor, institutions, culture, land and spatial planning. One of the symbols of the specialties of DIY is related to filling the positions of Governor and Deputy Governor, which is the right of the internal Sultanate and the Duchy itself where the King of the Sultanate becomes the Governor and the King of Pulo Pakualaman becomes the Deputy Governor. The filling of the positions of Governor was the most crucial issue during the formulation of the Yogyakarta Privileges Law.

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