

Juridical Review of the Mechanism of Election of Heads Area in Area Special Yogyakarta (*Perspective Democracy and Historical*)

Kelik Endro Suryono^{1*}, Vicki Dwi Purnomo²

Master of Law, Widya Mataram University, Yogyakarta

Corresponding Author: Kelik Endro Suryono Keliksuryono63@gmail.com

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ABSTRACT

Indonesia is a democratic country, hence the constitution Indonesia in a manner fundamentals confess And ensure sovereignty on actually belongs to the people. This is stated in Article 1 paragraph (2) UUD 1945, that "sovereignty is in the hands of the people, and implemented according to the law Basic . The purpose of this study is to study the Juridical Review of Regional Head Elections in the Special Region of Yogyakarta by conducting research methods. This research is a qualitative research, with the type of research yang used is study References (*libraries research*)

INTRODUCTION

A. Background Behind Problem

Indonesia is a democratic country, hence the constitution Indonesia in a manner fundamentals confess And ensure sovereignty on actually belongs to the people. This is stated in Article 1 paragraph (2) UUD 1945, that "sovereignty is in the hands of the people, and implemented according to the law Base".

The spirit and demand for democratization of the Indonesian government has had an impact on the constitutional demands of local governments to do "adjustment" system election on level local. Matter This illustrated by the provisions in Article 18 paragraph (4) of the Law Bye 1945 amendment fourth Which hinted implementation democratic election of regional heads. "Governors, Regents and Mayors each as head government area province regency, And city selected democratic".

There is something new in implementing the principles of democracy implementation of regional autonomy, since the issuance of Law Number 10 2016, Second Amendment to Law Number 1 of 2015 about Determination Regulation Government Replacement Constitution Number 1 year 2014 about Election Governor, Regent, And Mayor Become Constitution. Objective maintenance election shared become 4 (four) that is; *first* , For possible happening transition leadership governance in an orderly and peaceful manner; *second* , to allow for its occurrence replacement official Which will represent interest people in institution representative; *third* , For carry out principle sovereignty people; And *fourth* , For implement principles citizen rights country. Year 2014 about Election Governor, Regent, And Mayor Become Constitution. Objective maintenance election shared become 4 (four) that is; *first* , For possible happening transition leadership governance in an orderly and peaceful manner; *second* , to allow for its occurrence replacement official Which will represent interest people in institution representative; *third* , For carry out principle sovereignty people; And *fourth* , For implement principles citizen rights country.

The General Election of Regional Heads has a strategic position in building democracy in a transitional period, so that democracy has great leverage in creating a dignified democracy that maintenance must refers on principle independent; Honest; fair; certainty law; orderly organizer election; interest general; openness; proportionality; professionalism; accountability; efficiency; And effectiveness. The principle of general elections for regional heads and deputy regional heads in a manner explicit No formulated in Constitution Base 1945 as the general election principle, but contained in Article 2 paragraph (1) of the Law Number 10 of 2016 Second Amendment to Law Number 1 of 2016 2015 about Determination Regulation Government Replacement Constitution Number 1 Year 2014 about Election Governor,

Regent, And Mayor Become a Law, which states; elections are carried out democratic, based on principle direct, general, free, confidential, Honest, And fair. System Election general head area direct is a set of elements that carry out activities or compose a scheme or arrangement how to carry out the process to elect regional heads. As a system, The general election system for regional heads has characteristics, among others, for elect regional heads, each component involved in that activity is a subsystem, each activity is interrelated and dependent in a complete circuit, has a control mechanism, and has ability to organize and adapt. In short, the core of the Pilkada system is the dependency relationship between each component involved and between which activities form a system.

In implementation Pilkada, There is a number of area Which own specifications and special rules in accordance with regional status such as, Region Special Yogyakarta (DIY). DIY's position has been accepted as a reality in the governance of Indonesian government with a position that very sturdy, Because sustained with base Which very strong Good base historical, cultural, political nor juridical. In structure CountryUnity Republic Indonesia based on Constitution 1945 Area Special Yogyakarta is area special Which level with area province. Authority DIY as Area Autonomous covers authority in affairs Government Area DIY as meant in Constitution about government area And affairs Privileges stipulated in Law No. 13 of 2012 tries to explain order of life of the people of Yogyakarta. In terms of maintenance authority DIY as Area Autonomous naturally No will free from the role of head of government. In Law No. 13 of 2012 concerning Privileges Yogyakarta arrange Also about Governor And Representative Governor. These things are regulated in a complex way in this law such as the duties and authorities of the Governor and Deputy Governor up to process governor and deputy governor elections. Based on the background of the problem as described in above regarding the election of regional heads in the Special Region of Yogyakarta, then writer interested For do study "Juridical Review of Electoral Mechanisms District head In the Special Region of Yogyakarta (Democratic Perspective And Historical)".

B. Formula Problem

Based on background behind in on, so writer can formulate problem as follows:

1. What is the juridical review of the regional head election mechanism in the regions Special Yogyakarta in perspective Democracy?
2. What is the juridical review of the regional head election mechanism in the regions Special Yogyakarta in perspective Historical?

LITERATURE REVIEWS

A. Theory Democracy

Etymologically, the word democracy comes from the Greek " *demos* " means the people, and " *kratos* " which means power or rule. With thereby democracy It means government by people, Where power the supreme authority is in the hands of the people and is carried out directly by them or representatives they elect under a free electoral system. Democracy is hope And system Which most Good in the system political And state administration presumably No can denied. Treasure thinking And political pre-reform in various countries came to a meeting point on this: democracy is an option best of many choices others.

Draft democracy as something form government, will but the use of this concept in modern times began since the upheaval revolutionary in public West on end century 18th. On In the mid-20th century the debate about the meaning of democracy emerged three general approaches. As a form of government, democracy has defined based on the source of authority for the government, the purpose of which served by government and procedures For form a government.¹⁰

In essence, the meaning of democracy is always contained in the meaning that always refer on practice from system government, Which adhere 'from the people' (*Government of the people*), 'by the people' (*Government by people*), and 'government for the people' (*Government for people*). Thus meaning Which contained on *government of the people* is For pointing that in country democracy, validity or legitimacy to Who Which Reign, always can exposed from *governor by people* . Expression This contain meaning that in maintenance government is carried out by the government, the process is supervised by the people. It is different when associated with the term *government for people* , which precisely contained meaning that in process maintenance something governance, must be carried out for the greatest possible prosperity people.

According to M. Mahfud MD, there are two reasons for choosing democracy as system of society and state. *First* , almost all countries in the world This has make democracy as principle Which fundamentals. *second* , democracy as the essential principle of the state gave directions for the role of society to organize the state as an organization highest.¹² Pressure There is on role And function inhabitant public For decide for themselves the fate of the government, and thus themselves can manage everything that is closely related to life together in public every day.

Move on from system the, so in in understanding as well as understanding of democracy always contained three key usual known with Name *Triassic Politics* . Principle Which There is in term triassic politics is

pattern distribution power political country which consist from executive, judiciary, and legislature. To realize the three types of institutions country, it should be noted here that the three are always mutually exclusive free (Independent) And is at in ranking Which parallel One The same other.

Draft democracy Actually identical with draft sovereignty the people, in this case the people are the source of the power of a country. So the main purpose of democracy is to give happiness as much as possible to the people. If there is an implementation of a democracy that it turns out harm people Lots, but only profitable For people certain just, so matter the Actually is misguided implementation of democracy. Sovereignty of the people in a system democracy reflected from expression that democracy is something system of government of the people, by the people and for the people *the people, by the people for the people*).

Democracy as order political is model Which appropriate For manage life statehood. Democracy of course No the only one the most perfect model in managing human life. History show that democracy own opportunity most small in

insult humanity. growing regime communism in Europe The East adds to the long list of advantages of democracy over other political regimes,so that now democracy embraced by part big Country in This world.

B. Local Government

Understanding government area according to Constitution Number 23 of 2014 concerning Regional Government is the implementation of affairs administration by the regional government and the Regional People's Legislative Assembly (DPRD) uses the principle of autonomy and co-administration with the principle widest possible autonomy within the system and principles of the Unitary State of the Republic Indonesia as meant in Constitution Base Country Republic Indonesia Year 1945. Arrangement And system method maintenance regional administration is regulated in article 18 paragraph (7) of the Constitution Republic of Indonesia in 1945. Implementation of local government directed to accelerate the realization of social welfare through enhancement service, empowerment, And role as well as public, as well as enhancement Power competitive area with notice principle democracy, equity, justice, And peculiarity something area in system Country Unity Republic of Indonesia.

C. Election General Head Area

Election General Head Area And Representative Head Area, or often called Pilkada or Pilkada, is part of the implementation democracy. Head area is position political in charge of leading and move the speed of the wheels of government. Public office terminology This means that the regional head carries out the function of making direct decisions with interest people or public, impact to people And felt. Therefore the Regional Head must be elected by the people and is mandatory bear answer it. Whereas meaning position political is that the

mechanism for the recruitment of regional heads is carried out politically, namely through election Which involve the elements political that is with selecting people against figures who nominate as regional heads. In political life in the regions, regional elections are activities that have value parallel with election legislative, proven head area And DPRD become partners. Based on Law Number 8 of 2015 concerning Changes On Constitution Number 1 Year 2014 About Determination Government Regulations Replacement Constitution Number 1 Year 2014 About Election Governor, Regent And Mayor in in chapter 1 paragraph 1 explain what is meant by the election of governors and representatives governors, regents and deputy regents, as well as mayors and deputy mayors hereinafter referred to as the election is the implementation of people's sovereignty in region province, And regency/city For choose Governor And Representative governors, regents and deputy regents as well as mayors and deputy mayors direct and democratic.

D. Privileges Area Special Yogyakarta

Area Special Yogyakarta (DIY) is province Which has privileges in the administration of internal government affairs framework of the Unitary State of the Republic of Indonesia. This privilege is the privileges of the ' legal position' owned by DIY based on history And right origins ' according to Constitution Base Country Republic Indonesia Year 1945 ' For arrange And look after authority special.

Authority special This is authority addition certain owned by DIY other than the authority specified in the law act about government area. Authority DIY as area autonomous covers authority in affairs Government Area DIY as referred to in the law on regional government and authority affairs Privileges Authority privilege in implementation government area has arranged with Constitution Number 13 Year 2012 about Privileges Area Special Yogyakarta.

Based on the Act Area Special Yogyakarta (DIY) own form And arrangement government Which characteristic special. In order to realize the implementation of this special authority, the central government through the Central Transfer mechanism allocates funds Privileges sourced from the APBN to the DIY Regional Government. The Central Government has allocated the DIY Privileges Fund since 2013 whose number continues to increase every year. The funds are earmarked for And managed by Government Area DIY Because Authority The privileges of DIY are fully in the province according to Article 6 of the Law Law Number 13 of 2012. This authority includes: 1) Procedures charging position, position, task, And authority Governor And Representative Governor; 2) Institutional Government Area DIY; 3) Culture; 4) Land; and 5) System room.

The exercise of authority in matters of privilege is based on values wisdom local And partiality to people. Provision further details regarding authority in matters of privilege are regulated by DIY Special Region Regulation (Perdais). Perdais Number of 2015 concerning Change On Regulation Area Special Area Special Yogyakarta Number 1 of 2013 concerning Authority in DIY's Privileged Affairs, as arranged in Chapter 1 number 13, state that Perdais is Regulation Area DIY Which formed by DPRD DIY together governor For arrange maintenance special authority.

METHODOLOGY

This research is a qualitative research, with the type of research yang used is study References (*Libraries research*), that is studies literature from various references that are relevant to the subject matter about review law mechanism election head area in Area Special Yogyakarta in perspective democracy And historical. Besides That, This research can also be called normative legal research, namely a type study Which done with method researching material References For find rule law, principles law nor doctrines law To use For answer issue law Which faced in accordance with characteristics Legal studies. This study uses a juridical approach, namely the type of approach with use provision legislation Which apply on something Country or method approach law doctrinal that is theories law and the opinion of legal scientists especially those relating to problem Which discussed. Approach juridical Which used in study This is approach regulation legislation Which related to the Privileges of DIY, namely Law Number 13 of 2012 about Privileges Area Special Yogyakarta And Constitution Republic Indonesia Number 23 Year 2014 about Local government.

RESEARCH RESULTS

A. Description General Government Area Special Yogyakarta

Area Special Yogyakarta (DIY) own history long Which unique and makes it a special region. DIY's long history No free from existence Sultanate Yogyakarta Hadiningrat Which was founded in 1775 and the Pakualaman Duchy was founded in 1813. The dynamics of the historical journey of the archipelago continues to be interspersed replacement power, However Sovereignty Sultanate And Duchy still acknowledged Good by government colonial Indies Dutch nor on period occupation Japan. Until on Finally independence Indonesia proclaimed in 1945, Sri Sultan Hamengku Buwono IX and Sri Paku Natural VIII state to President RI that Area Sultanate Yogyakarta Hadiningrat And Area Duchy Pakualaman become parts of the territory of the State of the Republic of Indonesia, united to become one stated unit as the Special Region of Yogyakarta. Law Number 3 of 1950 concerning the Formation

of the Special Region of Yogyakarta is a response to the existence of DIY and also an acknowledgment of authority to handle various matters in running the government as well as matters of a nature special. This law has been amended and supplemented, the last time by Law Number 9 of 1955 (State Gazette of 1959 Number 71, Supplement to State Gazette No. 1819) which is still up to now apply. In Constitution the stated that DIY is an area level province And covers used Area Sultanate Yogyakarta Hadiningrat And Area Duchy On every the law The law that regulates regional government is stated to be special for DIY still acknowledged.

Law Number 13 of 2012 Concerning DIY Privileges confirm return privilege DIY the. Privileges DIY aims to realize good and democratic governance, the peace and welfare of the community, guaranteeing unity in *diversity ika -an*, And institutionalize role And not quite enough answer Sultanate And Duchy in guard And develop culture Yogyakarta Which is the nation's cultural heritage. DIY Privilege Settings aims to realize good and democratic governance, peace And well-being public, ensure diversity-in-difference, And institutionalizing the roles and responsibilities of the Sultanate and the Duchy within maintain and develop the culture of Yogyakarta which is a heritage the nation's culture. The arrangement is based on recognition of rights origin, populist, democracy, diversity in diversity effectiveness government, national interests and utilization of local wisdom. By therefore with notice aspect historical, sociological, And juridical substance Privileges DIY laid on level government province.

Authority in matters of Privileges as stated in Law Number 13 of 2012 Article 7 paragraph 2 includes: procedures charging position, position, task And authority Governor And Representative Governor; institutional Government Area DIY; culture; land; And system room. With thereby, Government Area have authority which cover business authority Privileges based on Constitution Number 13 Year 2012 And authority based on Law Number 32 of 2004 concerning Regional Government which onhis journey experience change with Constitution Number 23 2014 concerning Regional Government. In accordance with Law No. 23 In 2014, the position of DIY as a region that is equivalent to a province implies that the Governor is the Head of an Autonomous Region and at a time representative government center in area. Authority here it is Which make Area Special Yogyakarta become the only one province in Indonesia, which has leaders from generation to generation and not through election general like province other in Indonesia. Temporary That, County town Which there is in Area Special Yogyakarta still do election general For determine leader area eachrespectively. Overview Juridical Mechanism Election Head Area In Area Special Yogyakarta in

Perspective Democracy

Charter President date 19 August 1945 And Mandate Sri Sultan Hamengku Buwono IX and Sri Paku Alam VIII on 5 September 1945 is not a juridical basis, even though it is a basis for legitimacy for Sri Sultan HB IX and Sri Paku Alam VII led DIY, especially in the 1945- 1950 when DIY existed *de facto* not yet *de jure* . Charter President on August 19, 1945 and the Mandate of Sri Sultan Hamengku Buwono IX and Sri Paku Alam VIII on 5 September 1945 became the source of law material for laws and regulations that provide privileges DIY And right to Sri Sultan HB IX And Sri Nail Natural VII For set as District head And regional deputy head DIY.

Determination Sri Sultan as Governor And Sri Nail Natural as the deputy governor of the DIY Province is a form of the privilege of the DIY Province based on the Position Charter issued by President Soekarno on 19 August 1945 after receiving the 5 September 1945 Mandate from Sri Sultan HBIX and Sri Paku Alam VIII which stated the integration of the two kingdoms become part from Republic Indonesia. Furthermore by para composer 1945 Constitution and strengthened by the amendments to the 1945 Constitution, the 1945 Constitution was drafted by containing provisions that provide recognition and respect to DIY related to origin rights the.

Determination Sri Sultan Hamengku Buwana as Governor And Sri Nail Natural as Representative Governor Province DIY No contrary with Masa position Sultan Hamengku Buwono Which enthroned as Governor and Duke of Paku Alam enthroned as Deputy Governor for 5 (Five) years since the inauguration. Sultan Hamengku Buwono Which enthroned as Governor And Duke Nail Natural Which enthroned as Deputy Governor is not bound by the provisions of 2 (Two) terms of period position as arranged in Constitution about government area. In matter Sultan Hamengku Buwono Which enthroned fulfil requirements as a candidate for Governor and Duke of Paku Alam who are enthroned not fulfil condition as candidate Deputy Governor, DPRD DIY set Sultan Hamengku Buwono Which enthroned as Governor. As The governor, Sultan Hamengku Buwono, who is enthroned and carries out the duties of the Deputy Governor until the appointment of the Duke of Paku Alam, who enthroned as Deputy Governor.

DISCUSSION

In the event that Sultan Hamengku Buwono does not meet the requirements as candidates for Governor and Duke of Paku Alam meet the requirements as candidates for Deputy Governor, DPRD DIY set Duke Nail Natural as Representative Governor. As Representative Governor, Duke Nail Natural Which enthroned at a time carry out the governor's duties until by

appointment Sultan Hamengku Buwono who is enthroned as Governor. Based on determination Sultan Hamengku Buwono enthroned as Governor or Duke Paku Alam who is enthroned as Deputy Governor, DPRD DIY proposes to President through Minister For get endorsement determination.

Privileges on election head area Also accommodated in Article 18B Paragraph (1) of the 1945 Constitution which mandates that recognition and respect for areas that are special is regulated by law act. By Because That, remember privilege DIY located on regional leadership, then the mechanism for filling the positions of governor and deputy the governor of DIY must be the spirit of the governing law about DIY privileges. In a sense, the mechanism must be regulated clear and firm with separate laws that specifically regulate questions privilege DIY, No Again just 'entrusted ' in Constitution about government area.

Regardless of whatever mechanism is agreed upon, whether it is the determination, election, appointment, or other ways, as long as it is desired public DIY And notice location privilege DIY form must involve Sri Sultan and Sri Paku Alam and their descendants, so mechanism that's Which must poured in Constitution which regulates the matter of DIY privileges. In this case, the DPR and the Government as shaper Constitution in process formation the law act the should play role limited accommodate the will of the DIY community, not to bargain, counter, let alone fight that will. In a deliberative democracy, caring for the mentality collective Which tend take sides on benefit general is inevitability. Therefore, for the sake of the public good, the former The law is obliged to facilitate the achievement of consensus when it is desired the DIY community has been so clear. Thus, when passed Later, product Constitution the is form real principle people's sovereignty in a constitutional democracy and become the law responsive character. democratic principles according to the 1945 Constitution. This is due to several reasons consideration as follows:

1. Based on provision chapter 18 paragraph (4) constitution N RI year 1945 determine that Governor, Regent, And mayor each as the head of provincial, district, and city regional government is elected democratically. At the constitutional level, the 1945 Constitution of the Republic of Indonesia is not provide an explanation of what is meant by election democratic the. In context academic And Constitution deems that the election of Regional Heads and Deputy Regional Heads democratically can be done in two ways, *first* ; election done by DPRD, *second* ; election in a manner direct by people. Article 18 paragraph (4) of the 1945 constitution as a constitutional basis implementation regional head election, in fact was born at the same time as Article 18A and Article 18B, namely in the second amendment to the 1945

Constitution and included in Chapter about Government Area. Furthermore Chapter 22E born through the third amendment of the 1945 Constitution but did not include Article 18 paragraph (4) but only provision Chapter 18 paragraph (3) Which arrange regarding the DPRD. This can be interpreted that the Constitution does not want include regional head elections in the sense of general elections as meant in Chapter 22E paragraph (1) Which mention "General elections shall be carried out directly, publicly, freely, secretly, Honest, and fair every five once a year.

2. Consideration law court constitution furthermore say: formula " *selected in a manner democratic* " in provision election Also consider implementation election head area in area- areas that are special and special as meant in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. But this cannot be interpreted that direct Pilkada is the only way to give meaning the phrase "elected democratically" contained in Article 18 paragraph (4) Constitution N RI Year 1945. However in fact in describe the meaning of " *elected democratically* " in Article 18 paragraph (4) of the Constitution of the Republic of Indonesia In 1945 the legislators chose the regional election method direct. As a consequence, the principles and organizing institutions election must reflected in maintenance Pilkada
3. Decision mahkamah constitution state: sentence democratic no immediately means directly elected by the people, but can also election done by DPRD even means democracy if implementation indeed done democratically without any intervention and manipulation. Democratic interpretation in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia as " *direct election by the people* " based on the UU Susduk MPR, DPR, DPD, And DPRD Which say that DPRD No own authority again to elect regional heads and deputy regional heads. Preamble General Explanation of number 2 Regional Government Law no. 32 Year 2004 concerning Regional Government determines that the election in a manner democratic to Head Area the, with bearing in mind that the duties and authorities of DPRD according to Law Number 22 2003 concerning the Composition and Position of the Consultative Assembly People, Board Representative People, Board Representative Area, And The Regional People's Legislative Council stated, among other things, that the DPRD does not have the duty and authority to elect Regional Heads and Deputy Regional Head, then the election is democratic in the Law Invite this is done by people by direct.

Based on some of these opinions, it is clear that in context filling the post of regional head through democratic elections according to Article 18 paragraph (4) Constitution N RI Year 1945, No solely done in a manner directly by the people or elections conducted by DPRD, however Also consider

implementation election head area in area- areas that are special and special as meant in Article 18B paragraph (1) of the 1945 Constitution. This means that there is another mechanism (Procedure). in the process of filling the position of regional head, as well as the designation system Governor Head of Region and Deputy Governor of DIY Province. It is with The consideration is that the character and needs of each region are different as stipulated in Article 18 of the 1945 Constitution of the Republic of Indonesia. With thus the system of determining Hamengku Buwono X and Sri Pakualam, as The Governor and Deputy Governor of DIY are not against the constitution (not unconstitutional) as long as the stipulation obtains legitimacy from public (Public want it). Meanwhile the Governor and Deputy Governor are referred to as powers based on rational-legal authority, i.e. belief in the legal order rationale underlying the position of a leader. As Article 18 paragraph (4) of the 1945 Constitution states "Governors, Regents, and Mayor each as head government area province, Regencies and cities are elected democratically. The right to rule originates from legal sources or regulatory laws and regulations procedures And conditions become leader government.

Between the sultan and paku alam with the governor and deputy governor are two different forms of power. It should have two powers stems from the contradictory authority and right to rule it does not can be used as a unit of power. This will raise confusion in implementation government Which run. With unification the We No Can differentiate, where Which is royal behavior and which is governmental behavior. In the Constitution privilege Area Special Yogyakarta even No There is article that differentiates between the two. The impact is, you can imagine How in implementation of government rules of government characteristic absolute And not indisputable like case command king Sultan Which No can be argued. Of course government the will become government Which absolute (*Absolute Of power*), And This No desired apply in Indonesia.

The enactment of the special law of the Special Region of Yogyakarta has made the articles in the 1945 Constitution, namely article 18B paragraph (1) with article 18 paragraph (4), article 27 paragraph (1), article 28D paragraph (3), chapter 28I paragraph (3) Constitution Base 1945 walk with each other contrary, Also between Constitution privilege Area Special Yogyakarta with Constitution right basic man. Matter This Of course raises ambivalence law in system state administration Indonesia. Base the problem is started from ratified Constitution privileges of the Special Region of Yogyakarta by the DPR as a law Which apply in Indonesia. Especially located on arrangement charging position Governor And Representative Governor Which side fully to Sultan Hamengku Buwono and Paku Alam, who were not wanted, were in force Indonesia.

The Privileges Law is believed to be an effort to while maintaining the regional traditions typical of Yogyakarta since formerly. But No appropriate, If rule Which apply in Sultanate Yogyakarta in filling the positions of Sultan and Paku Alam was also implemented for the government in filling the positions of Governor and Deputy Governor. Position of Governor and Deputy Governor with the rules for filling their positions has covers characteristic features country law Which run by Indonesia. Temporary position Sultan Hamengku Buwono And Nail Natural No will exists characteristic features country law the. Will become bomb time Which A little by little scrape privilege Yogyakarta, if is maintained as it is today. Because it cannot be denied the Sultan's policy And Nail Natural as Governor And Representative Governor with all progress, affect Also in policy in sultanate Which should be static and remain hereditary. Real example of this is the Order of the King's Word issued by Sultan Hamengku Buwono X which caused conflict within the kingdom of Yogyakarta because it did not fit with royal rules has occurred hereditary

As country law, constitution country enforced on position highest in hierarchy regulation legislation. In context hierarchical, the legal order is depicted as a pyramid with the constitution as the highest law, and the rules that are under it constitute explanation from constitution That. View This characteristic structural Because position the constitution at the top of the pyramid. Meanwhile, the second view initiated satjipto Raharjo, Which quote opinion Hans Kelsen Which state that, " *this regressus is terminated by highest, the basic norm...* " (Suite formation law terminated by norm base Which highest). The hierarchy of legal orders is described as an inverted pyramid, with constitution as the highest law is at the base of the pyramid. this view more characteristic functional. Although see from perspective Which different, However second view This own thread red Which The same that formation norm more low, determined by norm other Which more high, the formation of which is determined by other norms that are more tall again and the series of law formation it ends with a basic norm highest, ie constitution. It means constitution is norm abstract which need to be elaborated and described in the legal products that are in underneath (*Concretisierung process*).

Legal products that are under the constitution are not allowed contrary to the constitution. In an effort to keep legal products under the constitution, then there are rules that function For guard so that product law Which made own coherence, consistency, and correspondence as well as not contradicting the constitution either in both formal and material perspectives. The entire legal product must is a harmonious whole (because it is synchronous or consistently vertical and horizontal) both from the material aspect which includes legal principles Because fulfil principle formation regulation legislation Which

Good, And principle material payload), as well as in accordance with principle law Which is the background/reason/ratio legis of the formation of law, meaning (Good meaning Which written nor Which implied), until use terminology; as well as from a formal aspect where the method of preparation must be in accordance with the provisions apply.

Applicability Constitution Privileges Area Special Yogyakarta Also show How political has influence law That Alone. Constitution Privileges Area Special Yogyakarta can said as results or crystallization from will- will political Which each other interact And (even) each other compete. Seen here that seen from relationship between political And law, law Which affected by political, Because subsystem political own concentration energy which are more big than law. So that If must face to face with political, so law is at in position Which weaker. The stronger the concentration of political energy, the reason is there the conviction that oftentimes legal autonomy in Indonesia is intervened by political, No only in process manufacture, but Also in implementation.

CONCLUSIONS AND RECOMMENDATIONS

Based on results study And discussion which are already described on chapter previously, then it can be made conclusion as follows:

1. Overview juridical mechanism head selection area in Area Special Yogyakarta in perspective Democracy refers on a number of rule law, namely 1) Article 18 paragraph (4) of the 1945 Constitution as a constitutional basis implementation of regional head elections, which were born simultaneously with Article 18A and Article 18B, namely in the second amendment to the 1945 Constitution and included in Chapter about Government Area; 2) Consideration law Court Constitution furthermore say: Formula " *selected in a manner democratic* " in provision Pilkada Also consider implementation election head area in regions Which characteristic special And special as meant in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Tafsir democratic in Chapter 18 paragraph (4) Constitution N RI Year 1945 as " *direct election by the people* " based on the UU Susduk MPR, DPR, DPD, and the DPRD saying that the DPRD no longer has authority to elect Regional Heads and Deputy Regional Heads; 3) Act Number 13 Year 2012 explain order life public Yogyakarta. Law Number 13 of 2012 concerning Privileges Area Special Yogyakarta (UUK DIY) in a manner special Chapter 20 paragraph (1) which states that "In the implementation of the determination of the Governor and Representative Governor. ". Matter This is mandate Chapter 18B paragraph (1) Constitution Base 1945 Which mention that "Country confess And respect regional government units that are special or characteristic special Which regulated by law".

2. Overview juridical mechanism head selection area in Area Special Yogyakarta in perspective Historical No free from beginning start joining Sultanate Yogyakarta Hadiningrat to in Country Unitary Republic of Indonesia. The issuance of the Notice dated September 5, 1945 Hamengkubuwono IX And Nail Natural VIII, make elements the formation of the state to be concrete and complete. With this Notice, the territory and people who are in the two kingdoms automatically become the territory and people of the newly declared Republic of Indonesia who own status special. Besides That Also, become strength savior when Indonesia is at in situation crisis For maintain Proclamation Independence August 17, 1945. DIY was made as the national capital when Jakarta No can maintained as Mother city country as due to the 1st Dutch military aggression in 1948 and the fact that Yogyakarta became one of the three regions that remained the Unitary State of the Republic of Indonesia when other regions split become Republic Indonesia Union Already become understanding general.

ADVANCED RESEARCH

Hopefully the next research will be better

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REFERENCES

Ubaedillah and Abdul Rozak, *Citizenship Education: Democracy, Human Rights and Civil Society* , Jakarta: ICCE UIN Sharif Hidayatullah, 2006.

Ani Sri Rahayu, *Introduction to Regional Government Theory, Law, and Studies the application* , poor: Ray Graphics, 2017.

Chidmad, Tatag, Sri Endang Sumiyati and Budi Hartono, 2001, *Straightening History Attack Oemoem 1 March 1949* , Jakarta: Media Presidentindo.

Erwin Muhammad, *Education Citizenship Republic Indonesian* , Bandung: PT Refika Aditama, 2011.

Hendratno, *Unitary State, Decentralization and Federalism*, Graha Ilmu And University Pancasila Press, 2009.

Irawan Soejito, *Connection Government Center And Government area* , Jakarta: Rineka Cipta, 2000.

Jimly Asshiddiqie, *Constitutional Law and the Pillars of Democracy* , Jakarta: Ray Graphics, 2015.

Jimly Asshiddiqie, *Introduction to Constitutional Law* , 2nd Printing, Jakarta: Eagle Press, 2010.

Joko J. Prihatmoko and Moesafa, *Won Elections in the Middle of Party Oligarchy* , Yogyakarta: References Study, 2008.

Joko. J. Prihatmoko, *Election District head Direct: Philosophy, System And problem Application in Indonesian* , Yogyakarta: References student, Print I, 2005.

Moenta Pangerang and Pradana Anugrah, *Fundamentals of Government Law area* , Jakarta: PT King Grafindo Persada, 2017.

Moh. Mahfud MD, 2009, *Legal Politics in Indonesia* , Jakarta: Rajawali Press, Edition Revision.

Muliansyah A. Ways, *Political Science, Democracy, Political Parties & Welfare State* ,Yogyakarta: Book Litera, 2015.

Munir Fuady, *The Concept of a Democratic State* , Bandung: Revita Aditama, 2010.
Ni ' matul Hoda, *Science country* , Jakarta: King Grafindo, 2014, matter. 196.

Peter Marzuki Muhammad, *Study law* , Jakarta: golden Prenda Media,2011.
Forecast Surbaki, *System Election And order Political democracy* , Jakarta: Partnership, 2008.

Risky Ariestandi Irmansyah, *Law Right Fundamental Man And democracy* , Yogyakarta: Graha Science, 2009.

Samuel P Huntington, *Wave Democratization third* , Jakarta: PT. MidasSun Grafindo, 2003.

Sinyo Harry sarundajang, *Current Come back Power Center to area* , Jakarta: Sinar Harapan Library, 1999.

Soerjono Soekarno And Sri Mahmudji, *Study Law normative, Something Overview short* , Jakarta: King Grafindo Persada, 2003.

Soerjono Soekanto, *Introduction to Legal Research* , Jakarta: UI Press, 2006.

Suharizal, *local elections, Regulation, Dynamics And Draft future* , Jakarta: PT. RajaGrafindo Persada, 2011.

Sujamto, 2000, *Special Region in the Unitary Republic of the Republic Indonesian* . Jakarta: Build Script

Cornelius Lay, et al, *Specialties of Yogyakarta, Draft Academic Paper Law on the Privileges of Yogyakarta, Monograph on Politics and government* , Vo. 2 No. 1, JEEP FISIPOL UGM And Program S2 Political Local and Autonomy Yogyakarta, 2008.

<http://Indonesia-like.blogspot.com/keistimewaan-yogyakarta-History.html>.