

Legal Politics Legislative Law Number 13 of 2012 Concerning Privileges of the Special Region of Yogyakarta

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ABSTRACT

The 1945 Constitution has been amended 4 times. The results of the second amendment to the 1945 Constitution, specifically added the formulation of an article regarding special regions. This study aims to analyze the legal politics that underlies the legislative process of Law Number 13 of 2012 concerning Privileges of DIY, related to the problem of how the *Special Constituendum* of the Special Region of Yogyakarta in the Era of Constitutional Democracy. Legal politics is a legal policy *that* the government wants to or has implemented nationally. The research method uses a *socio-legal research approach*. The results of the study show that Indonesia in its regional autonomy concept adheres to asymmetric decentralization, namely by legally recognizing special and special autonomous regions constitutionally. The recognition of the Special Region of Yogyakarta is inseparable from philosophical, sociological and juridical factors. With the enactment of Law Number 13 of 2012 concerning Privileges of DIY, DIY has additional authority apart from the authority already regulated in the Law on Regional Government

INTRODUCTION

Indonesia as a Country State suits a part of social differing qualities that develops in society. Each social differing qualities that develops in Indonesia is shaped through a long verifiable handle, which is at that point institutionalized and accepted by the individuals. Included in this are teach within the frame of government educate that are particular in each locale. The advancement of the Indonesian sacred framework has had an impact on the extraordinary position of the locales whose detailing conforms to the values within the structure. The method of revisions to the 1945 Constitution which took put from 1999 to 2002 stamped a alter within the Indonesian protected framework. The comes about of the moment revision to the 1945 Structure particularly include unused definitions in most of the articles, counting Article 18 which is the premise for DIY courses of action. The sound of the modern definition as a result of the correction to the 1945 Structure is as takes after:

- 1) The Unitary State of the Republic of Indonesia is divided into territories and the territories are isolated into regencies and cities , each of which features a territorial organization, which is controlled by law.
- 2) Common, rule and city territorial governments direct and oversee their claim legislative issues agreeing to the standards of independence and co-administration.
- 3) Common, rule and city territorial governments have a Territorial People's Agent Board whose individuals are chosen through common decisions.
- 4) Governors, Regents and Chairmen individually as heads of common, locale and city territorial governments are chosen fairly.
- 5) Territorial governments carry out the largest conceivable independence, but for government undertakings which are decided by law as the affairs of the Central Government.
- 6) The territorial government has the correct to stipulate regional regulations and other controls to carry out independence and co-administration assignments.
- 7) The structure and strategies for regulating territorial government are controlled by law.

ARTICLE 18A

- (1) The relationship of authority between the central government and provincial, regency and city regional governments , or between provinces and regencies and cities, shall be regulated by law by taking into account regional specificities and diversity.
- (2) Relations between finance, public services, utilization of natural resources and other resources between the central government and regional governments shall be regulated and carried out in a fair and harmonious manner based on laws.

ARTICLE 18B

- (1) The state recognizes and respects special or special regional government units which are regulated by law.
- (2) The state recognizes and respects the customary law community units along with their traditional rights as long as they are still alive and in accordance

with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

There is a difference between Article 18 of the 1945 Constitution before and after the amendment, in Article 18 of the 1945 Constitution before the amendment the discussion regarding Regional Government which is special is only the rights and origins within the region which are special. Meanwhile, after the changes, the discussion on special Regional Governments becomes more complete and in accordance with the theory of regional autonomy in Indonesia.

Based on this constitutional basis, it should be in accordance with the mandate of Article 18B, a law must be made immediately to regulate the privileges of DIY. But in reality, until such a long time the law has not been made. Efforts to define the specialties of DIY have been repeatedly regulated through several laws on regional government. Until finally, after a long polemic between the Central Government and the Special Region of Yogyakarta, finally on August 31, 2012 the Draft Special Law on Yogyakarta (RUUK Yogyakarta) was ratified by the House of Representatives to become Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta. (UUK Yogyakarta).

However, it is still felt that there is a need for an analysis of *legal policy* or legal politics in the legislation of the Yogyakarta Privileges Law. By understanding the legal politics of UUK DIY legislation, the author further wants to raise the issue of how *ius constituendum* is a study of ideal matters in law related to the implementation of the privileges of the Special Region of Yogyakarta, in the current era of constitutional democracy.

The author found several previous studies with almost the same object, one of which is a journal written by Dian Putri Pratama, Retno Saraswati, Suparno entitled Studies on the Political Law of Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta, which is published in DIPONEGORO LAW REVIEW Volume 1, Number 2, Year 2013 Online at <http://ejournal-s1.undip.ac.id/index.php/dlr> . However, this paper has not provided an analysis of *the Ius constituendum* implementation of the privileges of the Special Region of Yogyakarta, so in this study the author will complete it.

THEORETICAL REVIEW

A. Definition of Legal Politics

According to Mahfud MD in his book entitled Indonesian Legal Politics, Legal Politics is a *legal policy* or official policy line regarding laws that will be enforced either by making new laws or by replacing old laws, in order to achieve state goals. Thus, legal politics is a choice regarding laws that will be repealed or not enforced, all of which are intended to achieve the goals of the state as stated in the Preamble of the 1945 Constitution.

Padmo Wahyono has the same opinion regarding legal politics, namely legal politics is the basic policy that determines the direction, form, and content of the law to be formed. In another book, Padmo Wahjono conveys in more detail that legal politics is the policy of state administrators regarding what is used as a criterion for punishing something which includes the establishment, application and enforcement of law. Thus, the understanding of legal politics according to

Padmo Wahjono is related to the law that will apply in the future (*Ius Constituendum*).

Teuku Mohammad Radhie defines legal politics as a statement of the will of the state authorities regarding the laws that apply in their territory and regarding the direction of development of the laws that are built. Meanwhile, Satjipto Rahardjo defines legal politics as the activity of choosing and the means to be used to achieve a social goal with certain laws in society whose scope includes answers to several basic questions, namely: i. what goals are to be achieved through the existing system; ii. what methods and which ones are considered the best to be used in achieving these goals; iii. when and in what way the law needs to be changed; iv. can a standard and well-established pattern be formulated to assist in deciding the process of selecting goals and the ways to achieve these goals properly.

B. Legislative Process of Law Number 13 of 2012 concerning Privileges of DIY

As is known, the Special Region of Yogyakarta before the enactment of Law Number 13 of 2012 concerning Privileges of DIY was only bound by Law Number 3 of 1950 concerning the Formation of the Special Region of Yogyakarta as amended several times, most recently by Law Number 9 of 1955 concerning Amendment to Law Number 3 jo. Number 19 of 1950 concerning the Formation of the Special Region of Yogyakarta. However, Law Number 3 of 1950 has not explicitly regulated the specialties of DIY, so that another law is needed to regulate the special affairs of DIY.

The Privileges Arrangements for the Special Region of Yogyakarta in laws and regulations since the founding of the Unitary State of the Republic of Indonesia have remained consistent with giving recognition to the existence of a special region. In fact, Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia provides recognition of the existence of a special region within the framework of the Unitary State of the Republic of Indonesia. However, consistent recognition of the special status of a region has not been followed by comprehensive and clear arrangements regarding its privileges. The authority granted to the Special Region of Yogyakarta through Law Number 3 of 1950 concerning the Establishment of the Special Region of Jogjakarta has been amended several times, most recently by Law Number 9 of 1955 concerning Amendments to Law Number 3 jo. Number 19 of 1950 concerning the Establishment of the Special Region of Yogyakarta solely refers to Law Number 22 of 1948 concerning Regional Government which treats all regions in Indonesia equally.

Law Number 3 of 1950 concerning the Establishment of the Special Region of Jogjakarta is classified as very concise, because it only consists of 3 chapters and 7 articles. This law does not fully reflect the contents of the privileges, which should regulate the existence of the Ngayogyakarta Hadiningrat Sultanate and the Pakualaman Duchy, the positions of governor and deputy governor, land affairs, spatial planning and culture. Procedure substance Filling in the positions of governor and deputy governor which is a special feature of the Special Region of Yogyakarta has not been regulated.

Arrangements regarding the positions of the governor and deputy governor of the Special Region of Yogyakarta were included in several laws concerning Regional Government, starting with Law Number 22 of 1948 concerning Regional Government, Law Number 1 of 1957 regarding Fundamentals of Regional Government, Presidential Decree (Presidential Decree).) Number 6 of 1959 (Improved) concerning Regional Government in Article 6 reads "The head of the Special Region is appointed from the descendants of the family who had the power to run the government in that area in the era before the Republic of Indonesia and who is still in power to run the government in his area, taking into account the requirements of skill, honesty, loyalty to the Government of the Republic of Indonesia and customs in that area and appointed and dismissed by the President".

METHODOLOGY

Socio-legal research approach that is approached by social sciences. To approach the subject matter of the research, the research specification used is analytical descriptive which describes the condition of the object under study in this case is a description of the political legal process of the legislation of the Privileges Law of the Special Region of Yogyakarta, as well as the *Ius constituendum* of the implementation of the privileges of the Special Region of Yogyakarta, in the era of democracy current constitutional.

RESULTS

The same thing happened during the validity period of Law Number 18 of 1965 concerning Principles of Regional Government, then in Article 91 letter b of Law Number 5 of 1974 concerning Principles of Regional Government. The provisions in Law Number 5 of 1974 were then re-arranged in Law Number 22 of 1999 concerning Regional Government, related to Regional Heads who are Regional Heads who are special in Article 122 which reads: "Privileges for the Province of the Special Region of Aceh and The Province of the Special Region of Yogyakarta, as referred to in Law Number 5 of 1974, is permanent with the provision that the governance of the Special Province of Aceh and the Special Province of Yogyakarta is based on this law.

Political changes after Soeharto's renunciation from the administration did not conclusion the legitimate acknowledgment of the presence of uncommon districts. Article 122 of Law Number 22 of 1999 concerning Territorial Government emphasizes the uncommon status of the Extraordinary Locale of Yogyakarta:

"Benefits for the Territory of the Uncommon Locale of Aceh and the Area of the Uncommon Locale of Yogyakarta, as alluded to in Law Number 5 of 1974, are settled with the arrangement that the organization of government The Uncommon Area of Aceh and the Uncommon Territory of Yogyakarta are based on this law.

More particularly, the explanation of Article 122 emphasizes:

"The acknowledgment of the benefits of the Extraordinary Area of Aceh is based on the history of the battle for national freedom, whereas the substance of

its benefits are within the frame of actualizing devout, standard and instructive life and paying consideration to the part of the clergy in setting up territorial arrangements. The affirmation of the benefits of the Uncommon Territory of Yogyakarta is based on its origin and part within the history of the national battle, whereas the substance of the privilege are the arrangement of the Representative taking into consideration candidates from the relatives of the Sultan of Yogyakarta and the Appointee Senator taking under consideration candidates from Paku Alam plunge who meet the prerequisites in understanding with this law.

The substance of the course of action for filling the positions of Representative and Appointee Senator of the Extraordinary Locale of Yogyakarta has debased, since the substance is the appointment of the Senator taking under consideration candidates from the relatives of the Sultan of Yogyakarta and the Delegate Representative taking into consideration candidates from the relatives of Paku Alam who meet the prerequisites in understanding with this law, giving room for decisions within the arrangement of Territorial Heads and Appointee Territorial Heads from the relatives of the Sultan and Paku Alam. So, the Sultan and Paku Alam who are jumeneng or on the position of authority do not consequently ended up Senator and Agent Representative. And the term of office as stipulated in Law Number 22 of 1999, is for two periods or 10 a long time of office.

At last, in Article 226 passage (2) of Law Number 32 of 2004 concerning Regional Government it states:

"Benefits for the Area of the Uncommon Locale of Yogyakarta as alluded to in Law Number 22 of 1999, are settled with the stipulation that the organization of the Territory of Yogyakarta Uncommon Locale .

Because in these various regulations the specialties of the Special Region of Yogyakarta do not yet appear, it is necessary to amend, adjust and affirm the substance of the privileges granted to the Special Region through Law Number 3 of 1950 concerning the Establishment of DIY as last amended by Law Number 9 1955 and Law Number 32 of 2004 concerning Regional Government. For this reason, in the framework of changing and adjusting and affirming the Privileges of the Special Region of Yogyakarta, a law was enacted concerning the Privileges of the Special Region of Yogyakarta.

The enactment of Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta became the basis for the implementation of a new government system in the Special Region of Yogyakarta. It clearly states the special authority of the Special Region of Yogyakarta, which includes: a. procedures for filling the positions, positions, duties and authorities of the Governor and Deputy Governor, the institutions of the Regional Government of the Special Region of Yogyakarta, culture, land affairs and spatial planning.

Various polemics then followed the birth of Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta, one of which was regarding the procedure for filling positions, positions, duties and powers of the Governor and Deputy Governor which is one of the special powers. Furthermore, in Article 18 paragraph 1 letter c of the DIY Privileges Law it is stated that the

requirements for filling the positions of Governor and Deputy Governor are enthroned as Sultan Hamengku Buwono for governor candidates and enthroned as Duke of Paku Alam for deputy governor candidates. This means that only those who have royal ancestry can occupy the position of Governor and Deputy Governor. It is different from other regions where the Governor and Deputy Governor are directly elected by the people so that anyone can propose themselves as a candidate for Governor and Deputy Governor regardless of their ancestral background.

***Ius Constituendum* Privileges of the Special Region of Yogyakarta in the Era of Constitutional Democracy**

Sudikno Mertokusumo in the book *Discovery of Laws An Introduction* (2007), explains that time-based laws are divided into two. First, *ius constitutum*, namely the law that applies in the present, which means *ius constitutum* is the law that has been established. Second, *ius constituendum*, namely the law that aspires to. This law has not yet been established, or one could also call it the law that is yet to come.

Then what about the special *privileges* of the Special Region of Yogyakarta in the current era of constitutional democracy? Miriam Budiardjo defines constitutional democracy as "the idea that a democratic government is a government that has limited power and is not justified in acting arbitrarily against its citizens. Restrictions on the powers of government are listed in the constitution". In one of his writings, Saldi Isra stated that constitutional democracy is a "meeting point between the sovereignty of the people and the sovereignty of the law". The question of how *the* special privileges of the Special Region of Yogyakarta in the current era of constitutional democracy requires an analysis of whether the procedures for electing the Governor and Deputy Governor as one of the *privileges* of DIY as stated in Article 7 paragraph (2) in the future are still relevant to constitutional democracy. Likewise, it is necessary to analyze how the impact after the enactment of the Privileges Law for the Special Region of Yogyakarta is expected to achieve the goals of the state as stated in the Preamble of the 1945 Constitution.

The Special Region of Yogyakarta at present and in the future will continue to experience very dynamic social changes. The people of the Special Region of Yogyakarta have entered a new phase marked by a society that hierarchically continues to follow the pattern of *patron-client relationships* in the past and on the other hand the community has strong horizontal relationships. The above developments, although they have brought about fundamental changes, have not diminished the position of the Ngayogyakarta Hadiningrat Sultanate and the Paku Alaman Duchy as a source of cultural reference for the majority of the people of the Special Region of Yogyakarta. The Sultanate of Ngayogyakarta Hadiningrat and the Duchy of Paku Alaman are still positioned as symbols of protecting people's lives and remain as a special feature of the Special Region of Yogyakarta.

In the context of modern society, the implementation of democratic state power is not only proven by the presence or absence of direct or indirect elections, but is realized by the components of society involved in determining

destiny, including achieving the goals of national and state life. Article 18 paragraph (4) of the 1945 Constitution states that Governors, Regents and Mayors respectively as heads of provincial, regency and city regional administrations are democratically elected. At the constitutional level, the 1945 Constitution does not provide an explanation of what is meant by democratic elections.

As a follow-up to Article 18 paragraph (4) of the 1945 Constitution, laws and regulations regarding regional head elections have been issued, namely:

1. Law Number 32 of 2004 concerning Territorial Government;
2. Law Number 12 of 2008 concerning Alterations to Law Number 32 of 2004 concerning Territorial Government;
3. Law Number 22 of 2014 concerning the Decision of Governors, Officials and Chairmen;
4. Law Number 1 of 2015 concerning Stipulation of Government Directions in Lieu of Law Number 1 of 2014 concerning the Race of Governors, Officials and Chairmen to Ended up Laws;
5. Law Number 8 of 2015 concerning Revisions to Law Number 1 of 2015 concerning Stipulation of Government Directions in Lieu of Law Number 1 of 2014 concerning Decisions for Governors, Officials and Chairmen to Ended up Laws;
6. Law Number 10 of 2016 concerning the Moment Alteration to Law Number 1 of 2015 concerning the Stipulation of Government Controls in lieu of Law Number 1 of 2014 concerning the Race of Governors, Officials and Chairmen to Gotten to be Law.

The depiction of democratization in territorial head races based on Article 18 section (4) of the 1945 Structure is contained within the Clarification of Law Number 22 of 2014 concerning the Decision of Governors, Officials and Chairmen, " In understanding with the arrangements of Article 18 section (4) of the Structure of the Republic of Indonesia In 1945, governors, officials and leaders individually as heads of common, locale and city territorial governments were fairly chosen. The race mechanism is fairly held within the setting of actualizing people's sway in territories and districts/cities". It was encourage clarified that "The race of governors, officials and leaders through agent teach carried out by the Common DPRD and Regency/Municipal DPRD is planning to put the component for choosing governors, officials and leaders in a law based manner and reinforce effective and viable territorial administration within the development of a government framework . The Unitary State of the Republic of Indonesia based on the guideline of decentralization “.

Law Number 22 of 2014 concerning the Race of Governors, Officials and Leaders which controls the component for selecting territorial heads by implication through the Territorial People's Administrative Gathering has gotten broad dismissal by the individuals and the decision-making handle has made issues and a squeezing emergency concurring to the Court's Choice Structure Number 138/PUU-VII/2009. So that Law Number 1 of 2015 concerning the Stipulation of Government Directions in lieu of Law Number 1 of 2014 concerning the Decision of Governors, Officials and Chairmen was at that point issued.

DISCUSSION

Within the Explanation of Law Number 1 of 2015 Concerning the Stipulation of Government Controls in Lieu of Law Number 1 of 2014 Concerning the Race of Governors, Officials and Leaders to Ended up Laws it is expressed that:

"To ensure that the decision of governors, officials and chairmen is carried out fairly as commanded in Article 18 passage (4) of the 1945 Structure of the Republic of Indonesia, the people's sway and vote based system from the individuals, by the individuals, and for the individuals must be regarded as the most conditions. holding races for governors, officials and mayors. Sway of the individuals and popular government should be emphasized by the execution of coordinate decisions for governors, officials and leaders by the individuals, by making a few essential enhancements to the different issues of coordinate races that have been actualized so distant. In any case, the arrangement of Law Number 22 of 2014 concerning the Decision of Governors, Officials and Chairmen which controls the component for selecting territorial heads by implication through the Territorial People's Agent Chamber has gotten far reaching dismissal by the individuals and the decision-making prepare does not reflect equitable standards.

The meaning of equitable races as referred to within the 1945 Structure is deciphered as coordinate decisions by the individuals. Be that as it may, the address at that point is is it genuine that the meaning of democracy as alluded to within the 1945 Structure can as it were be realized by coordinate decision by the individuals? What almost territorial head races within the Uncommon Locale of Yogyakarta?

The questioning with respect to whether or not the strategy for filling the positions of Representative and Agent Representative has really happened some time recently the birth of Law Number 13 of 2012 concerning Benefits of the Uncommon Locale of Yogyakarta. At that time, open supposition was isolated into two, to be specific those who were pro-election and those who were pro-determination (choice).

The pro-election party considers that the arrangement of the Sultan as Senator and Paku Alam as Appointee Senator of the Uncommon Locale of Yogyakarta is opposite to the standards of majority rule government agreeing to the 1945 Structure, particularly Article 18 section (4) after the moment revision which peruses:

"Representative , Officials and Chairmen separately as heads of common, locale and city territorial organizations are fairly elected".

Jimly Asshiddiqie interprets the provisions of Article 18 paragraph (4) of the 1945 Constitution the same as the MPR, which can be directly elected by the people or by the DPRD as has been the case so far. In line with this opinion, Bagir Manan, who was one of the drafters of the amendment to Article 18 of the 1945 Constitution, said that being elected democratically means that it can be directly or by the DPRD. "Governors, Regents and Mayors should be directly elected by the people like village head elections." With this provision, the pro-election party opposes the mechanism for determining the Sultan who is enthroned as

Governor and Paku Alam who is enthroned as Deputy Governor of the Special Region of Yogyakarta which is not based on elections as a representation of democracy.

The pro-determination party (*referendum*) actually argues that the mechanism for determining the Sultan who is enthroned as Governor and Paku Alam who is enthroned as Deputy Governor of the Special Region of Yogyakarta Sri Paku Alam as deputy governor is a true form of democracy, because it is in accordance with the general will (*volonte generale*) .

Each considered his opinion to be correct. According to those who are pro-election, the election mechanism is a form of equality and human rights of every citizen in the political process. This egalitarian principle opens wide opportunities for residents of the Special Region of Yogyakarta who meet the requirements based on law, regardless of their ancestry, to become governor and/or deputy governor. On the other hand, the designation mechanism is considered to have eliminated the opportunity for the people to take part in political contestation, both in the process of selecting candidates, nominations, public participation and closing opportunities for competition to become governor and/or deputy governor.

Whereas those who are pro-determination accept that the assignment component may be a concrete appearance of the application of the favored status wanted by the individuals of the Extraordinary Locale of Yogyakarta, as a appearance of the history of the Extraordinary Locale of Yogyakarta.

Previous Chairman of Commission II of the DPR for the 2004-2009 period, Abdul Hakam Naja, indeed said that directions with respect to the conditions for candidates for senator and appointee representative candidates have the potential to abuse human rights. He passed on that this potential had been examined at the Panja Assembly for the drafting of Law Number 13 of 2012 concerning the Benefits of the Uncommon Locale of Yogyakarta (UU KDIY) in 2011. This explanation was passed on by him as a master submitted by the DPD in a hearing which took put Monday (30/1) within the Court of the Sacred Court in a case enlisted with Number 88/PUU-XIV/2016 filed by eight Yogyakarta inhabitants with different callings, counting hirelings within the Ngayogyakarta Royal residence, town authorities, anti-discriminatory women's rights activists, and ladies activists chaired by the 1998 National Commission on Ladies.

In truth, the issue with respect to the strategy for filling within the positions of Representative and Delegate Representative of the Extraordinary Locale of Yogyakarta has moreover been submitted to the Constitutional Court by Imam Syahfi, SH, et al with Case Number 42/PUU-XIV/2016 dated 29 April 2016, with the protest of the legal audit case Number 13 of 2012 concerning Benefits of the Uncommon Locale of Yogyakarta Article 18 section (1) letter c, passage (2) letter b, Article 19 section (1), (2), (3) letter a, b, c, d, Article 20 passage (1) to passage (6), Article 21, Article 22 section (1) to section (11), Article 23 passage (1) to passage (4), Article 24 passage (1) to passage (6), Article 25 passage (1), (2), Article 26 section (1) to section (8) and Article 28 section (5) letters a to k Opposite to Article 18 section (4), Article 18B passage (1), Article 27 passage (1) of the 1945 Constitution, with the center of the issue:

"While agreeing to the Applicants the arrangements of the articles specified over the instrument for deciding the Governor and Agent Senator of DIY by DPRD clearly abuses the structure, since Governors, Officials and Chairmen are equitably chosen is regard which cannot be diminished by anybody, since the constitution states clearly. the rule of Sultan Hamengku Buwono as Senator and Adipati Paku Alam for Agent Governor, this is opposite to the rule of human rights, where men and ladies have the same degree in regulating government, the a quo arrangement does not give openings for ladies indeed in spite of the fact that the children of the Yogyakarta sultanate still cannot as Senator or Delegate Senator. This has restricted the protected rights of each Indonesian citizen in government and is opposite to the 1945 Constitution".

In any case, on July 28 2016 the Sacred Court Judge issued a choice that the case may not be acknowledged. The Protected Court concludes that based on an evaluation of the truths and law:

1. the court has the specialist to listen the a quo request ;
2. The Solicitor does not have legitimate standing to record the a quo petition ;
3. The vital of the application isn't considered advance. The Protected Court expressed that the Petitioners' appeal might not be acknowledged.

There are several main considerations of the Constitutional Court that need to be underlined, namely:

1. The Sacred Court is of the supposition that an region is decided as a extraordinary locale on the off chance that the benefit of the zone is related to the beginning rights and welfare of the region since some time recently the birth of the Unitary State of the Republic of Indonesia. The rights of root and history must still be recognized, ensured and cannot be overlooked in deciding the sort and scope of the benefits of an region. Within the setting of DIY, specifically by recollecting that the Ngayogyakarta Hadiningrat Sultanate and the Pakualaman Duchy as of now had region, government and populace some time recently the birth of the NKRI, and made a major commitment in keeping up, filling and keeping up the astuteness of the NKRI, based on this history and beginning rights, the lawmakers Law through Law Number 13 of 2012 gives uncommon specialist to DIY. Hence the exemplification of the uncommon necessities for filling the positions of the Senator and Delegate Representative of DIY is one of the appearances of the extraordinary specialist of DIY.
2. That benefit in filling the positions of Representative and Delegate Senator of a uncommon locale is advocated, indeed given a protected premise Article 18B section (1) of the 1945 Structure, as has been the supposition of the Sacred Court in Choice Number 37/PUU-XIV/2016 dated 21 June 2016. It is indeed fortified by the presence of the equation "chosen fairly" in Article 18 passage (4) of the 1945 Structure which is planning to grant administrators specialist to consider the fitting strategy in Pilkada, counting in zones that are extraordinary and uncommon as alluded to in

Article 18B passage (1) of the 1945 Constitution, Law Number 13 of 2012 has decided the assurance by the DIY DPRD as a way of filling the positions of Representative and Appointee Representative of DIY. In this way the courses of action with respect to filling within the candidates for Senator and Delegate Senator of DIY are in understanding with Article 18B passage (1) of the 1945 Structure and are not conflicting to Article 18 passage (4) of the 1945 Structure;

Notwithstanding of the presence of different polemics, as clarified prior that legitimate legislative issues is an official approach line formed in arrange to attain state objectives. Concurring to Law Number 13 of 2012 the reason of the nation has been clarified in Article 1 passage (1) that "The Extraordinary Locale of Yogyakarta, hereinafter alluded to as DIY, is a common zone that has benefits in carrying out government issues inside the system of the Unitary State of the Republic of Indonesia".

The conceptual establishment of DIY's benefits within the setting of filling the positions of Senator and Agent Senator is " Legal-Rational-Cultural " or "Kultur-Legal-Rational". Generally the filling of the positions of Senator and Delegate Representative of DIY which has been going on so distant is connected to the position of Sultan Hamengku Buwono as the social pioneer (ruler) of the Ngayogyakarta Hadiningrat Sultanate and the Duke of Paku Alam as the social pioneer of the Duchy of Paku Alaman.

The connection of the positions of Senator and Delegate Senator and Appointee Representative to the position of Sultan and Duke has so distant demonstrated as a combination of the connection of a sound lawful specialist frame that applies to the position of Representative and Delegate Senator, as well as a frame of social administration (conventional authority) that applies to the position of Sultan. and Duke. This shape of filling the positions of Senator and Delegate Representative has been going on for a long time, to be specific since the starting of the foundation of the Republic of Indonesia until presently, and has taken put in agreement with statutory controls without encountering any impediments. This demonstrates that the shape for filling within the positions of Representative and Appointee Representative has long been acknowledged and backed by the people of DIY.

Within the future, to preserve the coherence of DIY's uncommon highlights, a pioneer who has administration competence is needed in understanding with the period, where present day, advanced values are combined with neighborhood intelligence values. The Territorial Government of DIY with its uncommon specialist must be able to demonstrate its predominance within the national and worldwide field. A concordant and concordant combination of cutting edge government organization frameworks within the period of sacred majority rule government combined with neighborhood intelligence in regulating territorial government will make the uncommon highlights of DIY excellent.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

In the concept of regional autonomy, Indonesia adheres to asymmetric decentralization, namely by legally recognizing special and special autonomous regions constitutionally. The recognition of the Special Region of Yogyakarta is inseparable from philosophical, sociological and juridical factors. With the enactment of Law Number 13 of 2012 concerning Privileges of DIY, DIY has additional authority apart from the authority already regulated in the Law on Regional Government. The additional authority is the authority in (1) matters of procedures for filling the position, position, duties and authority of the Governor and Deputy Governor; (2) DIY Regional Government institutional affairs; (3) cultural affairs; (4) land affairs; and (5) spatial planning affairs. Thus the political law of legislation in the preparation of Law Number 13 of 2012 concerning Privileges of DIY is not contrary to the constitution (not *unconstitutional*) as long as it gains legitimacy from the community.

Recommendations

1. Protecting the forte of DIY can't fair be pleased of its status. The Ius Constituendum within the future requires visionary directions for the Extraordinary Locale of Yogyakarta, which are able to combine modern values with the respectable values of local wisdom, in arrange to attain the objectives of the Unitary State of the Republic of Indonesia, and are able to realize an increment in people's welfare socially and financially in DIY.
2. The arrangement of Sri Sultan Hamengku Buwana as Senator and Sri Paku Alam as Delegate Senator of the Extraordinary Locale of Yogyakarta does not strife with the standards of protected vote based system concurring to the 1945 Structure. Political stability which is generally smooth without any turmoil within the race of the Senator must be utilized as a drive in carrying out maintainable improvement (support) For this reason, the ius constituendum that DIY needs is refinement of Law Number 13 of 2012 concerning Benefits of DIY, particularly with respect to the Undertakings of Strategies for Filling the Positions of Representative and Appointee Representative, Obligations, Specialists and Obligations to be fortified.

FURTHER STUDY

In this study, the researcher is aware of all the deficiencies in the research process related to **the Legal Politics of Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta**

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REFERENCES

- Jimly Asshidiqqie. (2002) *Consolidation of the Manuscripts of the 1945 Constitution After the Fourth Amendment*, Yogyakarta: Center for the Study of HTN FH UII.
- Bambang Yudoyono. (2017). *Jogja Is Special*. Yogyakarta: Jogja Publisher Rises Publisher.
- Share Mana. (2001). *Welcoming the Dawn of Autonomy*, Yogyakarta: Publisher PSH Fak. III law
- Iwan Dipo P. (2010). *Juridical Consequences of Amendments to Article 18 of the 1945 Constitution on the Privileges of the Special Region of Yogyakarta*. Thesis. Indonesian Islamic University. Yogyakarta
- Moh. Mahfud MD. (2017). *Indonesian Legal Politics*. 7th printing. Jakarta: Rajawali Press.
- Kompas.com. (2022). *Ius Constitutum and Ius Constituendum, This is the Definition and Difference*. Source: <https://www.kompas.com/tren/read/2022/08/27/181000565/ius-constitutum-dan-ius-constituendum-ini-pengertian-dan-perbedaannya?page=all>. Accessed 7 June 2023
- Padmo Wahjono. (1986). *Indonesia is a State Based on Law* Cet II. Jakarta: Ghalia Indonesia.
- Padmo Wahjono. (1991). *Examining the Process of Forming Legislation*. Forum Justice Magazine No.29, April 1991
- Satjipto Rahardjo. (2006) *Law Studies*, 6th Printing, Bandung: Citra Aditya Bakti
- Setyarini, ALT, Tjandra, R., & Purnomo, VD (2023). Privileges Fund Management Based on Performance-Based Budgeting Principles. *International Journal of Scientific Multidisciplinary Research*, 1 (4), 267-278.
- DPR RI. Source: https://www.dpr.go.id/jdih/perkara/id/273/id_perkara/960 (accessed June 7, 2023)
- RI Constitutional Court. Source: <https://www.mkri.id/index.php?page=web.Berita&id=13581> (accessed on 7 June 2023)
- The 1945 Constitution of the Republic of Indonesia
Law Number 22 of 1948 concerning Regional Government
Law Number 18 of 1965 concerning Fundamentals of Regional Government,
Law Number 5 of 1974 concerning Fundamentals of Regional Government,
Law Number 22 of 1948 concerning Regional Government
Law Number 13 of 2012 concerning Privileges of the Special Region of Yogyakarta
Law Number 1 of 2015 Concerning the Stipulation of Government Regulations in lieu of Law Number 1 of 2014 Concerning the Election of Governors, Regents and Mayors Becomes Law