

INSTITUTIONAL DISPUTES SETTLEMENT MECHANISM OF SUCCESSION IN NGAYOGYAKARTA HADININGRAT SULTANATE

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Abstract: The Constitutional Court Decision No. 88/PUU-XIV/2016 grants a possibility for a woman to be a candidate for Governor and Vice-Governor in the Special Region of Yogyakarta. As the only province in Indonesia where the executive leaders are only able from the royal family of the Ngayogyakarta Hadiningrat, the decision then triggers a polemic among people in the region. This is due to the current governor, Sri Sultan Hamengku Buwono X, does not have a son as his successor to the throne. Thus, this paper reveals institutional disputes' settlement mechanism in the Ngayogyakarta Hadiningrat Sultanate if any disputes ever appear. The outcome finds that the Sultanate has yet clear mechanism of dispute settlement among the royal family and no official institution which possesses authority to settle royal disputes. Insofar, the Sultanate has had a customary law or *paugeran adat* in which a female figure might taking the throne to be the Sultanah and the governor of the province. Nevertheless, the authors recommend to establish an institution to settle royal disputes for the continuation of the Ngayogyakarta Hadiningrat Sultanate.

Keywords: Institutional Disputes, Ngayogyakarta Hadiningrat Sultanate, Sultanah

Abstrak: Putusan Mahkamah Konstitusi No. 88/PUU-XIV/2016 meniscayakan adanya kemungkinan untuk seorang perempuan menjadi kandidat Gubernur dan Wakil Gubernur di provinsi Daerah Istimewa Yogyakarta. Sebagai satu-satunya provinsi di Indonesia dimana pemegang kekuasaan eksekutif daerah hanya boleh berasal dari keturunan kerajaan Ngayogyakarta Hadiningrat, keputusan tersebut nyatanya memicu polemic diantara masyarakat di daerah. Hal ini disebabkan oleh tidak adanya keturunan laki-laki dari gubernur atau sultan yang sedang menjabat saat ini, yaitu Sri Sultan Hamengku Buwono X, untuk melanjutkan tahta kepemimpinan. Oleh sebab itu, artikel ini bertujuan untuk melihat mekanisme penyelesaian sengketa institusi di Keraton Ngayogyakarta Hadiningrat jika terjadi sengketa. Hasil yang ditemukan adalah tidak adanya mekanisme penyelesaian sengketa di dalam Keraton serta tidak adanya institusi resmi yang dapat memutus dan menyelesaikan sengketa tersebut. Hingga saat ini, Keraton hanya menerapkan hukum adat atau *paugeran adat* dimana mengizinkan untuk seorang perempuan mengambil alih tahta dan menjadi seorang Sultanah sekaligus gubernur. Namun demikian, penulis menyarankan untuk tetap dibentuknya sebuah lembaga yang memiliki otoritas untuk menyelesaikan sengketa antar anggota Keraton guna keberlanjutan Keraton Ngayogyakarta Hadiningrat kedepannya.

Kata Kunci: Sengketa Institusi, Keraton Ngayogyakarta Hadiningrat, Sultanah

Introduction

The issue of succession of Governor from man to a woman in the Special Region of Yogyakarta has become one of the most popular topics in the last few years, especially in 2017. This issue has become a polemic among the people of Yogyakarta and of course has become an internal problem in Yogyakarta Palace itself.¹ There has been much debate that occurred after the issue was raised in the community. Numbers of women activists questioned the terms of the candidate for Governor of Yogyakarta which implies that only men can fill the position of Governor in Yogyakarta.² The opinion is based on the existence of the phrase “wife” in Article 18 paragraph 1 letter m of Law Number 13 of 2012 on the Special Privileges of Special Region of Yogyakarta (UU KDIY).³ Article 18 paragraph 1 letter m of the UU KDIY states that “Candidates for Governor and Vice-Governor are citizens of the Republic of Indonesia which includes, among others the history of education, employment, siblings, wife, and children.”

The problem here is the existence of the phrase “wife” in the Article, in which the phrase “wife” according to women activists is discriminatory. This is because it raises the interpretation that it is as if only a man could fill the position of Governor in Yogyakarta. They argue that *a quo* provision has the potential to cause harm to women because of the discriminatory nature that only men can become Governor of Yogyakarta. Therefore, there are eleven Yogyakarta residents consisting of various professions such as the courtiers of Ngayogyakarta Palace, Village Device, Women’s Rights Antidiscrimination Activist, to women activists as well as Chairman of Women’s Commission⁴ 1998, for which they drew judicial review of the Act to the Constitutional Court.⁵

After the Constitutional Court listened to various expert opinion that is held for more than ten sessions held in the Constitutional Court, finally the Court can issue a verdict on the test material that has been submitted.⁶ In the verdict, the Constitutional Court (MK) states that women can be nominated for the Governor of the Special Region of Yogyakarta. Constitutional Court stated that the phrases contained in the article which states that “*which includes, among others the history of education, employment, siblings, wife, and children.*” are contradictory to the 1945 Constitution and has no binding legal force.⁷ In its consideration, the Constitutional Court considered that the existence of the word “wife” has the potential to create legal uncertainty.

Therefore, because of the opinion from the Constitutional Court, it was decided that the decision is that women have the same right to nominate themselves as Governor and

- 1 Ulya Fuhaidah, ‘Resistensi Penobatan Putri Mahkota Untuk Kesultanan Yogyakarta’ (2015) 16 Jurnal Esensia.
- 2 ‘Fachri Fachrudin, “Putusan MK Soal UU Keistimewaan DIY Dinilai Hapuskan Diskriminasi”, [Http://Nasional.Kompas.Com/Read/2017/08/31/22460801/Putusan-Mk-Soal-Uu-Keistimewaan-Diy-Dinilai-Hapuskan-Diskriminasi](http://Nasional.Kompas.Com/Read/2017/08/31/22460801/Putusan-Mk-Soal-Uu-Keistimewaan-Diy-Dinilai-Hapuskan-Diskriminasi)’.
- 3 Akhmad Khisni, ‘Tinjauan Yuridis Proses Pengisian Jabatan Gubernur Dan Wakil Gubernur Daerah Istimewa Yogyakarta Menurut Undang-Undang Nomor 13 Tahun 2012’ (2014) 1 Jurnal Pembaharuan Hukum.
- 4 National Commission on Violence Against Women or (Women’s Commission) is an independent state institution in Indonesia established as a national mechanism to eliminate violence against women. Women’s Commission is one of three national human rights institutions. Women’s Commission was born from the demands of civil society, especially women to the government to realize the responsibility of the state in responding and dealing with the issue of violence against women.
- 5 Teuku Muhammad Guci Syaifudin, “MK Kabulkan Gugatan UU Keistimewaan DIY, Sultan Minta Semua Pihak Menghormati”, 31 August 2017, [Http://Regional.Kompas.Com/Read/2017/08/31/17165391/Mk-Kabulkan-Gugatan-Uu-Keistimewaan-Diy-Sultan-Minta-Semua-Pihak-Menghormat](http://Regional.Kompas.Com/Read/2017/08/31/17165391/Mk-Kabulkan-Gugatan-Uu-Keistimewaan-Diy-Sultan-Minta-Semua-Pihak-Menghormat)’.
- 6 *ibid*;
- 7 Article 18 paragraph (1) letter m of the UU KDIY.

/ or Vice Governor of Special Region of Yogyakarta.⁸ The case is one of the examples of the problems that occurred in Yogyakarta, and from this case, the writer wanted to know more about how *Ngayogyakarta Hadiningrat* Palace (*Keraton*) settles the internal disputes as what had happened to the issue of succession. This is very interesting because there is no specific regulation that answered the issue. The writer wanted to find out if there is a personal body or institution in *Ngayogyakarta Hadiningrat* Palace to settle their institutional disputes or must be taken out and resolved by the district court.⁹ The *Ngayogyakarta Hadiningrat* Palace (*Keraton*) itself has indeed existed and has been divided into several institutions which have their own duties and roles. However, it is still not fully known by the community and still has not specifically explained about the problem, because there is always limited information about the Yogyakarta Sultanate itself. From here the author will examine further and process the data obtained from various sources, so it can provide more information to the community about how the institutional disputes settlement mechanism of succession in *Ngayogyakarta Hadiningrat* Sultanate.

Research Method

The type of research is normative and empirical legal research. This is the process of researching and knowing the dispute settlement mechanism within the internal area of the Yogyakarta Sultanate. The data used were primary data and secondary data. Primary data were obtained by interviewing some respondents. The writer conducted interviews to some respondents involved directly in the area of the Yogyakarta Palace (*Keraton* Yogyakarta). Bapak Ki Herman Kinung Janutama as the expert of customary law in Yogyakarta and Bapak Suropto as *abdidalem pariwisata* in *Ngayogyakarta Hadiningrat* Sultanate Palace. The Secondary data were obtained from the literature materials, archives, and documents related to the problem under research which categorized into three legal materials, as follows: primary legal materials, secondary legal materials and tertiary legal material.

The Mechanism to Settle the Institutional Disputes in Ngayogyakarta Hadiningrat Sultanate

After *Keraton Yogyakarta* and *Pakualaman* joined the Unitary State of the Republic of Indonesia through the mandate of Sri Sultan Hamengku Buwono IX on September 5, 1945 and also the mandate of Sri Pakualaman VIII on October 30, 1945, from then until now the system of government in *Keraton* is limited to the environment around the palace (*Keraton*). Based on Law No. 13 of 2012,¹⁰ Yogyakarta has officially received legal protection and also get the title "Privileges" so-called as Special Region of Yogyakarta. In Indonesia, there are only three provinces with special status (Nanggroe Aceh Darussalam, Special Region of Yogyakarta, Papua & West Papua) and there is also one special status, Special Capital Region of Jakarta.¹¹

Therefore, the State admitted and respects special local government units which are regulated in accordance with the Act. One of the contents of Law No. 13 of 2012 about the Privileges of Special Region of Yogyakarta about Sri Sultan Hamengku Buwono and Paku

8 Constitutional Court Decision Number 88/PUU-XIV/2016.

9 Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara* (RajaGrafindo Persada 2009), 268.

10 Ratified by the Government of the Republic of Indonesia on August 31, 2012, and enacted on September 3, 2012. Noted and published in the State Gazette of the Republic of Indonesia of 2012 Number 170 and Supplement to the State Gazette of the Republic of Indonesia Number 5339.

11 Edward Aspinall, 'Special Autonomy, Predatory Peace and the Resolution of the Aceh Conflict', *Regional Dynamics in a Decentralized Indonesia* (2014); see also Zaki Ulya, 'Politik Hukum Pembentukan Komisi Kebenaran Dan Rekonsiliasi Aceh: Re-Formulasi Legalitas KKR Aceh' (2017) 2 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Suhardi, 'Kajian Yuridis Tentang Kewenangan Menteri Dalam Negeri Mengawasi Dan Membatalkan Qanun Aceh' (2016) 1 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

Alam who reigned as Governor and Vice Governor of Special Region of Yogyakarta. While in *Keraton*, Sri Sultan Hamengku Buwono acts as King, but it has a different government system. Under the applicable law in Indonesia, the Governor is responsible for the President and the Minister of Home Affairs, and the Governor is assisted by the Vice Governor and the Regional Secretary.

In the past, positions such as the Regional Secretary were held by *Patih Dalem*. The last *Patih Dalem* is Kanjeng Pangeran Haryo (KPH) Danuredjo VIII. However, since the reign of Sultan Hamengku Buwono IX, Kanjeng Pangeran Haryo resigned, so he is no longer a *Patih Dalem*. From that time until now, Yogyakarta Sultanate is no longer proposes *Patih Dalem*, as formerly *Patih Dalem* resides in Kepatihan, and now Kepatihan becomes Office of Governor and Vice Governor, with its location in Malioboro Street, Yogyakarta.¹²

Based on *Dawuh Dalem* Number 01 / DD / HB.X / EHE-1932, the system of government in *Keraton Ngayogyakarta Hadiningrat* Sultanate has organizational structure, as follows:

- a. Ingkang Sinuhun:
Sri Sultan Hamengku Buwono who is enthroned / Jumeneng, currently occupied by Sri Sultan Hamengku Buwono X.
- b. Sri Palimbangan:
Anyone requested by Sultan to give advice and consideration concerning various problems relating to the circumstances within the Yogyakarta Palace (*Keraton*). Usually those who give consideration are the family of the reigning Sultan, Sultan's brothers, *Abdi Dalem*¹³ or the leaders of the institution.
- c. Pandhite Aji:
Anyone requested by the Sultan to provide suggestions, advice and considerations based on studies relating to religious, customary, artistic, cultural, economic, political, legal and social matters. Usually, there are experts from outside *Keraton*.
- d. Kawedanan Hageng Punakawan:
A body that runs part of the *Keraton* government that is technical.
- e. Kawedanan Hageng:
A body that runs part of the *Keraton* government that is functional administration.
- f. Kawedanan:
Operational technical operators.
- g. Tepas:
Administrative administrators.
- h. Golongan:

A group of *abdi dalem* who have the same job or responsibility. This classification is intended to carry out operational technical work.

- 1) Kawedanan Hageng Punakawan and Kawedanan Hageng are a combination of several Kawedanan and Tepas. Kawedanan Hageng Punakawan, if within the cabinet of the

12 Tatik Kartikasari and Binsar Simanulang, *Sistem Pemerintahan Tradisional Di Daerah Istimewa Yogyakarta* (CV Putra Sejati Raya 1997).

13 *Abdi Dalem* is a person who devoted himself to *Keraton* and Sultan with all the rules that exist. *Abdi Dalem* comes from the word "abdi" which is the basic word of dedication and "dalem" which means internal.

Republic of Indonesia government such as Coordinating Minister and Kawedanan Hageng like Secretary of State. Each Kawedanan Hageng Punakawan (3) and Kawedanan Hageng (1) was coordinated by Sultan's brothers and sisters. Here's the explanation:

- a) Kawedanan Hageng Punakawan (KHP) Purwa Budaya, coordinated or chaired by Gusti Bendara Pangeran Haryo (GBPH) Yudhaningrat (Brother of Sultan Hamengku Buwono X) and assisted by Gusti Kanjeng Ratu (GKR) Mangkubumi (First daughter of Sultan Hamengkubuwono X). Kawedanan Hageng Punakawan Purwo Budaya consists of several departments, among others:
 - (1) KHP Krida Mardawa (art):
Take care of the arts such as Niyaga, Lebdaswara, and Pedhalangan.
 - (2) Kawedanan Pengulon (religious):
Take care of the Abdi Dalem associated with religion and kawedanan governs the Gedhe Mosque, Panepen Mosque, and Pathok Negara Mosque.
 - (3) Kawedanan Puralaya (funeral):
Take care of the Sultan's graves in Gedhe and Imogiri City.
 - (4) Kawedanan Keputren (keputrian):
Take care of Keraton princesses in Keputren.¹⁴
- 2) Kawedanan Hageng Punakawan (KHP) Nitya Budaya, coordinated or chaired by GBPH Prabukusumo (Brother of Sultan Hamengku Buwono X) and assisted by GKR Bendara (Fifth daughter of Sultan Hamengku Buwono X). Kawedanan Hageng Punakawan Nitra Budaya consists of several departments, among others:
 - a) KHP Widya Budaya (Keraton ceremony):
Take care of cultural and traditional ceremonies such as labuhan,¹⁵ grebegan,¹⁶ and others.
 - b) KHP Purayakara:
Take care of the Keraton's equipment including household appliances.
 - c) Tepas Banjar Wilapa (library):
Take care of the library.
 - d) Tepas Museum:
Take care of the existing museums in the Yogyakarta Palace, such as railway museums, Sultan Hamengku Buwono IX museums, garden sari, and others.

14 Keputren is a complex of buildings destined for the empress, concubines, and princesses of the Sultan who is single. Inside the main palace of Ngayogyakarta Hadiningrat Sultanate, Keputren is located in the Kedathon area which includes the central area of the palace. In addition, keputren, kedhaton also there is a complex Kesatriyan which became a residence for the sons of the Sultan who is not married. Keputren complex is a special area that cannot be accessed by anyone, only Sultan and certain people who have received permission that may enter the region of Keputren.

15 Labuhan is one of the traditional ceremonies which since the time of the Mataram Kingdom of Islam in the XIII century until now still held regularly and still influential in the social life of the population in the Special Region of Yogyakarta. The Labuhan ceremony is a gift or offerings performed in certain places, in accordance with the belief that there has been an important event related to the ancestors of the king.

16 Grebegan, is a religious ceremony of the Palace (Keraton Yogyakarta) which is held three times a year to coincide with the birth of Prophet Muhammad SAW (Grebeg Maulud), Idul Fitri (Grebeg Syawal), Eid Adha (Grebeg Besar). On that day, Sri Sultan was concerned to give alms in the form of food and others to the people.

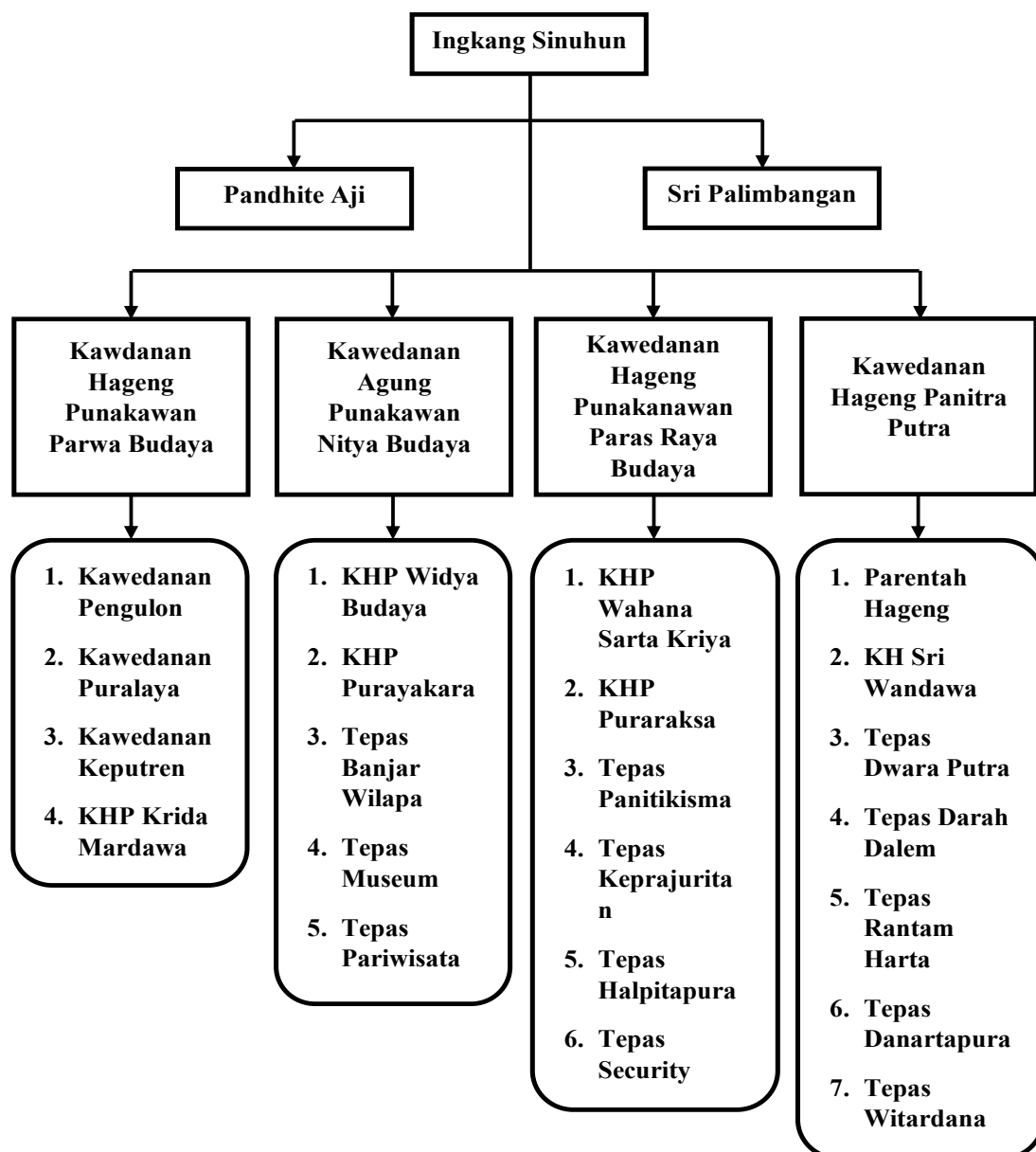
- e) Tepas Tourism:
Take care of tourism such as tour guide, and others.
- 3) Kawedanan Hageng Punakawan (KHP) Parasaraya Budaya, coordinated or chaired by KGPH Hadiwinoto (Brother of Sri Sultan Hamengku Buwono X) and assisted by GKR Maduretno (Third daughter of Sultan Hamengku Buwono X). Kawedanan Hageng Punakawan Parasaraya Budaya consists of several departments, among others:
 - a) KHP Wahana Sarta Kriya (vehicle, cleanliness and maintenance):
Take care of the vehicle, train, and renovation of the building in Yogyakarta Palace.
 - b) KHP Puraraksa KHP (security):
Take care of the security of the Keraton in a general way.
 - c) Tepas Panitikisma:
Take care of the Keraton (Sultan Ground) lands and the issuance of letters.
 - d) Tepas Soldiers:
Take care of the Keraton Yogyakarta soldiers.
 - e) Tepas Halpitapura:
Take care of Keraton Yogyakarta household affairs.
 - f) Tepas Security:
Take care of special security. Formerly established when Sri Sultan Hamengku Buwono IX served as vice president, and currently still exists.¹⁷
- 4) Kawedanan Hageng Panitra Putra, coordinated or chaired by GKR Condrokirono (Second daughter of Sri Sultan Hamengkubuwono X), consists of:
 - a) Parentah Hageng (administrative center or staffing):
Take care of the civil service administration of the *Abdi Dalem*.
 - b) Kawedanan Hageng Sri Wandawa (social welfare):
Take care of the Sultan's family administration.
 - c) Tepas Dwara Putra (contact with outsiders):
Take care of the relationships of the Keraton community including the Abdi Dalem.
 - d) Tepas Darah Dalem (genealogy of *Keraton*):
Take care of the business of belisik or sign of the abdi dalem or the order of blood relation with the Sultan.
 - e) Tepas Rantam Harta (Keraton budgeting):
Take care of the budget or budget plan of Keraton.
 - f) Tepas Danartapura (expenditure of money):
Take care of the Keraton fund or finance.
 - g) Tepas Witardana (money storage):
Take care of the welfare of the courtiers (abdi dalem) and the insurance.

17 Gusti Raden Mas Dorodjatun or Sri Sultan Hamengku Buwono IX was one of the Sultan who had led the Yogyakarta Sultanate (1940-1988) and the first Governor of the Special Region of Yogyakarta after the independence of Indonesia. He served as Indonesia's second Vice President between 1973-1978. He is also known as the Father of Indonesian Scouts, and has served as Chairman of the Kwartir Nasional Gerakan Pramuka.

h) Tepas Tandha Yekti (IT and Keraton data center):

Starting from August 28, 2012 on the existence of Dawuh Dalem (Sultan's command), Keraton Yogyakarta has Tepas Tandha Yekti or data center. The existence of this Tepas is an effort of the Palace of Yogyakarta to increasingly open themselves and utilize information technology in the preservation of the Palace as a cultural institution.¹⁸ Tepas Tandha Yekti is a data center that utilizes information and multimedia technology to document data and activities in Keraton Yogyakarta. The one who became Penghageng (Division Head) from Tepas Tandha Yekti was Gusti Kanjeng Ratu (GKR) Hayu (fourth daughter of Sri Sultan Hamengkubuwono X).

Figure 1.
Peerage in the Ngayogyakarta Hadiningrat Sultanate



18 Geoffrey M Hodgson, 'What Are Institutions?' (2006) 40 *Journal of Economic Issues* 1 <<http://www.jstor.org/stable/4228221>>; See also, Yuhki Tajima, *The Institutional Origins of Communal Violence Indonesia's Transition from Authoritarian Rule* (Cambridge University Press 2014); Seumas Miller, *Institutional Corruption A Study in Applied Philosophy* (Cambridge University Press 2019); Gretchen Helmke, *Institutions on the Edge The Origins and Consequences of Inter-Branch Crises in Latin America* (Cambridge University Press 2017).

As explained earlier that since Sri Sultan Hamengkubuwono IX together with KGPAA (Kanjeng Gusti Pangeran Adipati Aryo) Paku Alam VIII declared the declaration that the *Negeri Ngayogyakarta Hadiningrat* had become the Special Region of Yogyakarta and become a part of the Republic of Indonesia. In its state that the position of Sri Sultan Hamengku Buwono IX was as the Head of Region and KGPAA Paku Alam VIII as Deputy Head of Region, until now the government system contained in Keraton Yogyakarta was only limited to the scope of Keraton only. Because in Keraton Yogyakarta, Sultan Hamengku Buwono acts as the King while for government affairs outside the Palace (Keraton) or more precisely for the affairs of local government in the province of Special Region of Yogyakarta, Sri Sultan Hamengkubuwono acts as the Governor or Head of Region and has its own system of government, so between the affairs which occurred in the palace should not be mixed with the affairs that exist outside the palace. If there is an affair or problem that occurred in the palace then it will only be the affairs of Sri Sultan as King and the parties contained in the government organization of Keraton Yogyakarta. This is due to the fact that Yogyakarta has a special title so that the State appreciates and respects whatever the rules in the Keraton Yogyakarta.

Implication of the Constitutional Court Decision Number 88/PUU-XIV/2016

Since the existence of Court Decision Number 88 / PUU-XIV / 2016 which states that women can run and be eligible to fill the position of Governor and Vice Governor in Special Region of Yogyakarta, there is debate and problems between the parties in the Palace and also the people outside Keraton Yogyakarta. The beginning of this problem was caused by a request or a lawsuit from several groups of people who filed the lawsuit to the Constitutional Court.

Based on Article 24 C paragraph 1 of the 1945 Constitution, it is stated that one of the authorities of the Constitutional Court is to examine Law against the Constitution of the Republic of Indonesia. The Petitioners requested the Constitutional Court to re-examine the contents of Article 18 paragraph 1 letter M of Law Number 13 Year 2012 on the Special Privileges of Special Region of Yogyakarta. The contents of the Article are:

"Candidates for Governor and Vice-Governor Candidate are citizens of the Republic of Indonesia which includes, among others the history of education, employment, siblings, wife, and children."

The Petitioners state that the provisions contained in the Article which govern the existence of the word "wife" in submitting a resume by the candidates of Governor and Vice Governor of Special Region of Yogyakarta has made an interpretation that it should only be men that can be a candidate for Governor and Vice Governor of Yogyakarta. The Article only states the word "wife", so it is clear that the State has ceased to guarantee the protection of women's rights. The state should not make regulations by including only the word "wife" in the Article because in the presence of the word it raises the interpretation that only men can serve the Governor and Vice Governor of the Special Region of Yogyakarta, and it does not reflect justice because it is discriminatory against women's rights. According to Article 28 D Paragraph (1) of the 1945 Constitution, it states that:

"Everyone shall have the right to equitable recognition, guarantee, protection and legal certainty and equal treatment before the law." In Article 28 D Paragraph (3) also states that "Every citizen shall have the right to equal opportunity in the government."

These Articles constitute several Articles which are listed as the Norms of the 1945 Constitution in the petition filed to the Constitutional Court. Based on the contents of

the articles contained in the 1945 Constitution, the applicants state that the word “wife” as the history of the requirements to be a candidate for Governor and Vice Governor is a discrimination policy against women.

The Implementation of Constitutional Court Decision in Keraton Ngayogyakarta Hadiningrate Sultanate

Sri Sultan Hamengku Buwono X as the King who currently reigns at the Yogyakarta Palace only has daughters, or in other words Sri Sultan Hamengku Buwono X does not have a son who can be used as an heir to the throne of the Kingdom at Yogyakarta Palace (*Keraton*). Actually, the problem of Sri Sultan Hamengku Buwono X who has no son has also occurred during the reign of Sri Sultan Hamengku Buwono V. Sri Sultan Hamengku Buwono V had no son from the marriage, although he has more than one wife, thus he did not have a son who can be used as heir to the throne of the Kingdom at Yogyakarta Palace. However, to solve this problem, when Sri Sultan Hamengku Buwono V died, the throne of his kingdom was handed over to his brother Raden Mas Mustojo who then held the title of Sri Sultan Hamengku Buwono VI. This was done because someone who may be used as a leader or a king of the Kingdom should come from the family lineage of the Yogyakarta Sultanate.

Sri Sultan Hamengku Buwono X has issued the word of the king (*sabda raja*) and asked the entire family of Yogyakarta Sultanate to accept whatever has become a Constitutional Court Decision, because the Constitutional Court can be a reference in accordance with legislation. GKR Hermas also considered that the Constitutional Court’s decision can strengthen the legitimacy of women to become a leader especially in Special Region of Yogyakarta, so that there is no more discrimination against women.

Gusti Bendera Pangeran Haryo (GBPH) Prabukusumo who is one of the brothers of Sri Sultan Hamengku Buwono X brothers, states that he does not agree with the decision of the Constitutional Court. According to him, in *Keraton Ngayogyakarta Hadiningrat Sultanate* from the beginning, it has already had its own custom which is the so-called *paugeran*, especially for a figure that can be used as a leader. Gender equality applies only to social and political interest, but can’t be applied in customary and religious affairs.¹⁹ However, the provisions of customs that have existed since the beginning can’t be changed and disturbed, because if it happens it will be able to cause customary problems later. Gusti Bendera Pangeran Haryo (GBPH) Prabukusumo explained that although the Constitutional Court’s decision has been welcomed by Sri Sultan Hamengku Buwono X and he has issued *sabda raja*, but it should still not be able to replace the customs or *paugeran*.²⁰ Prabukusumo hopes that all parties still have to return to the *paugeran* that exists in the Ngayogyakarta Hadiningrat Sultanate. If we learn from what has happened in the reign of Sri Sultan Hamengku Buwono V, then should the person who should be entitled to become the successor to the throne in the Keraton Yogyakarta for the next is the brother of Sri Sultan Hamengkubuwono X.

Analysis of the Institutional Disputes Settlement in Keraton Yogyakarta

According to Suropto, as one of the *Abdi Dalem* Keraton Yogyakarta, with the decree of Sri Sultan Hamengku Buwono X which stated that he welcomed whatever the outcome of the Constitutional Court Decision Number 88/PUU-XIV/2016, there was a debate or internal conflict in Yogyakarta Palace. This debate also occurred between Sri Sultan Hamengku

19 Sukma Indah Permana, “Adik Sultan HB X: Bukan Diskriminasi, Tradisi Punya Aturan Sendiri”, 6 September 2017, <http://News.Detik.Com/Berita-Jawa-Tengah/d-3630955/Adik-Sultan-Hb-x-Bukan-Diskriminasi-Tradisi-Punya-Aturan-Sendiri>.

20 *Paugeran* (Javanese), if translated into Indonesian means the Rule. *Paugeran* means customary rules that already apply in Keraton Yogyakarta. Bambang Yudoyono, *Jogja Memang Istimewa* (Jogja Bangkit Publisher 2017).

Buwono X with his brother Gusti Bendara Pangeran Haryo (GBPH) Prabukusumo who has different opinion. In the Yogyakarta Palace, there are parties who are pro and contra with the outcome of the Constitutional Court Decision Number 88/PUU-XIV/2016, so there are those who support Sri Sultan Hamengku Buwono X and there is also supporter of Prabukusumo.

Prabukusumo asked Sri Sultan Hamengku Buwono X to continue to make a decision based on *paugeran* (customary law) in Ngayogyakarta Hadiningrat Sultanate. Prabukusumo also assumed that if Sri Sultan Hamengku Buwono X applied the result of the Constitutional Court Decision, then it would also cause problems or debate between the people of Yogyakarta. In the tradition of succession in Ngayogyakarta Hadiningrat Sultanate since the founding of Yogyakarta Sultanate until now there has never been a woman ruler.²¹ However, if we look from the history that existed, during the Majapahit Kingdom which is the largest Kingdom in Indonesia, the kingdom was once led by a female leader. Previously from the 15 rulers of Ancient Kingdom of Mataram, there are 6 of them were women and all of them were titled Sri Maharaja.²²

However, the Ancient Kingdom of Mataram and Majapahit Kingdom were both Kingdoms based on the teachings of Hinduism and Buddhism as the religion of the Kingdom. Meanwhile, the Kingdom of Mataram I and Mataram II (Yogyakarta Sultanate) is the Islamic Kingdom. Thus, if there is a renewal in the tradition of succession, then of course it must also first change the title of the king of Ngayogyakarta Hadiningrat Sultanate. The least is to replace the terms "Sultan" to "Sulthanah" and Kasultanan and negate the title *Sayidin Panatagama* and *Kalifatullah*.²³

The History of *Sulthanah* in Indonesia Islamic Kingdom

If we look back on the history of the Islamic Kingdom that ever existed in Indonesia, of course there are some Islamic Kingdoms that were successful in their own time, and actually there are also the Islamic Kingdom led by a woman, for example is the Kingdom of Aceh Darussalam.²⁴ The history records that the Kingdom of Aceh Darussalam once had the first female leader in the Kingdom, Sulthanah Shafiatuddin.²⁵

During the reign of Sulthanah Shafiatuddin, the Kingdom of Aceh Darussalam is quite successful, Sulthanah Shafiatuddin was quite successful in leading the Kingdom even though at first many people who doubted her leadership because she was a woman.²⁶ Doubts from some groups of society are successfully refuted by the existence of policies issued by Sulthanah Shafiatuddin which can be said to be very good and successful. In 1639 the Malacca War happened, and Sulthanah Shafiatuddin formed a line of women to strengthen the palace bull. The tactical move successfully answered the doubts of some of the earlier circles. Several times there were rebels who did not agree with her leadership, but they were also successfully overcame. Aceh Darussalam Sultanate also has a complete

21 Ki Sabdacarakatama, *Ensiklopedia Raja-Raja Tanah Jawa-Silsilah Lengkap Raja-Raja Tanah Jawa Dari Prabu Brawijaya V Sampai Sri Sultan Hamengku Buwono X* (Narasi Publisher 2010), 28; Dahlan Thaib, 'Daerah Istimewa Yogyakarta Dalam Perspektif Filosofis, Historis Dan Yuridis' (2005) 12.

22 Ki Sabdacarakatama (n 21). See also Budi Sulistiono, 'Beberapa Faktor Pendukung Terbentuknya Jaringan Perdagangan Antar Kesultanan Di Nusantara' (2013) 2 Jurnal Kalijaga.

23 Arief Aulia Rachman, 'Dinamika Kerukunan Umat Beragama Dalam Kepemimpinan Kesultanan Yogyakarta' (2014) 19 Akademika.

24 Dedeh Nur Hamidah, 'Kepemimpinan Para Perempuan Muslim Dari Kerajaan Aceh Darussalam (1641-1699)' (2017) 5 Tamaddun.

25 Fathoni Ahmad, "'Sulthanah Shafiatuddin, Nakhoda Perempuan Pertama Kerajaan Aceh Darussalam'", 12 October 2017, <http://www.nu.or.id/post/read/82042/sulthanah-shafiatuddin-nakhoda-perempuan-pertama-kerajaan-aceh-darussalam> (2017).

26 *ibid.*

structure of government,²⁷ including the existence of Mukim which has authority in resolving disputes. This Mukim also has authority to use mediation in resolving disputes among community.²⁸ This mechanism can be a good example for the Yogyakarta Sultanate to resolve the dispute in Yogyakarta Palace.

Problem of Institutional Disputes Settlement Mechanism in *Keraton Yogyakarta*

History has noted that the existing Islamic Kingdom in Indonesia was once led by a woman, this is a proof that women can actually and deserve to be a leader of a kingdom. It also proves that the existing Islamic Kingdom in Indonesia can be led by women and referred to as Sulthanah. According to Ki Herman Kinung Janutama, what is happening in Keraton Ngayogyakarta Hadiningrat Sultanate about the existence of female governor is not really a big problem. Some groups of people who filed the lawsuit merely combined the paugeran with democracy, but they have not fully understood the science and values that already exist in Yogyakarta Sultanate, there is no problem for the customs as long as it is understood with the rules or values. If the issue of women's governors in the constitutional perspective is not a problem and if it is linked to a paugeran there is also no problem if all parties understand about the customary rules. In *Keraton Ngayogyakarta Hadiningrat* Sultanate itself, actually if there will be a women governor in the Special Region of Yogyakarta it will not be a problem. It is okay if the woman served as Governor or Vice Governor in Yogyakarta. As we know that a leader in Yogyakarta has a position as Governor and also as a King or Sultan, so that when there will be a women's governors in Yogyakarta, automatically the governor will also be a Sultan in *Keraton Ngayogyakarta Hadiningrat* Sultanate.

Looking from the history of Aceh Darussalam Sultanate which is also the Islamic Kingdom and once led by a woman as Sulthanah, then the *Ngayogyakarta Hadiningrat* Sultanate also certainly not become a problem when led by a woman or called Sulthanah. Currently the government in the Yogyakarta Palace is in a state of emergency, because Sultan Hamengku Buwono X has no son offspring. So basically, the customary law that has existed since a long time ago has its own rules on this issue, namely emergency paugeran (*paugeran darurat*). If there is a woman who became a leader in Yogyakarta Palace / *Keraton Ngayogyakarta Hadiningrat* Sultanate, what is needed is only a blessing from the big family of Yogyakarta Sultanate, when the blessing has gained then *Keraton Ngayogyakarta Hadiningrat* Sultanate can be led by a woman or called as Sulthanah.

In case of *Ngayogyakarta Hadiningrat* Sultanate, there are two problems, namely: First, there is no clear structure in the Palace that has authority to resolve the conflict. Moreover, if the conflict is directly addressed to the Sultan. Second, so far there is no consensus which given blessing from the Sultanate Family to the Sabda of the Sultan regarding the issue of succession of Sultan to the daughter of the Sultan Hamengku Buwono X. This blessing can actually can be given if the Sultan asks the family to give approval in a family

27 Sejarawan Indonesia, "Kesultanan Aceh", Available at: <https://Sejarawanindonesia.wordpress.com/2016/10/02/Kesultanan-Aceh/>, Accessed on 24 July, 2018 at 1.00 Pm.; Ferdi Basfi, "Struktur Pemerintahan Kesultanan Aceh", <https://Sultansinindonesieblog.wordpress.com/Xx/Sultan-of-Aceh-Darusalam/Struktur-Pemerintahan-Kesultanan-Aceh/>, Accessed on 24 July, 2018, at 1.10 Pm.' Ira M Lapidus (ed), 'Islam in Southeast Asia: Indonesia, Malaysia, and the Philippines', *A History of Islamic Societies* (3rd edn, Cambridge University Press 2014) <<https://www.cambridge.org/core/books/history-of-islamic-societies/islam-in-southeast-asia-indonesia-malaysia-and-the-philippines/6326779F9E1D1772972BA1626385A874>>; Gunnar Stange and Antje Missbach, 'A Supreme Ruler for Aceh?' [2011] *Inside Indonesia*.

28 Muslim Zainuddin, 'Peran Dan Fungsi Kelembagaan Mukim Dalam Penyelesaian Perselisihan: Analisis Praktek Hukum Adat Di Aceh' (2017) 19 *Jurnal Rechtvindig*; A Hami Sarong, 'The Child Rights in Islamic Law with a Special Focus on Aceh' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 31 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/10>>.

meeting of Sultanate.

Conclusion

Based on the previous discussion, it may arrive at conclusion: *First*, the contents regulated in Law Number 13 of 2012 on the Law on Special Privileges of Special Region of Yogyakarta is a form of recognition and respect from the Unitary State of the Republic of Indonesia for the existence of *Ngayogyakarta Hadiningrat* Sultanate Kingdom. *Second*, that in *Ngayogyakarta Hadiningrat* Sultanate there is no clear mechanism of resolving disputes among the Sultanate family. Basically, dispute settlement in *Ngayogyakarta Hadiningrat* Sultanate Palace can be settled through discussion among the Sultanate Family. Unfortunately, the Sultan didn't use the mechanism of discussion among the family of Keraton Yogyakarta. He used Sabda of Sultan (Sabda Raja) in resolving the issue of succession by ignoring the existence of the bigger family of *Ngayogyakarta Hadiningrat* Sultanate. From this case, it seems likely that it would be better if there is a body or institution that is tasked with helping to resolve the customary problems and to avoid unrelenting conflict among members of the Sultanate. *Ngayogyakarta Hadiningrat* Sultanate Palace needs to initiate the establishment of an institution that has an authority to settle any disputes that happens in the Palace.

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