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1 Asymmetric Decentralization in A Unitary State: The Legitimization of The Sultan's Daughter as The Governor of the Special Region of Yogyakarta

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1 Abstract

Introduction to The Problem: In general, a unitary state, which democratically runs the government, rejects a monarchist system. But, Indonesia, as a unitary state which applies democracy, accepts the Special Region of Yogyakarta to have a monarchical system through the application of asymmetric decentralization.

Purpose: This research aims to find the pattern of relationships and authority between a democratic unitary state and a monarchist regional government, particularly the Special Region of Yogyakarta.

Methodology: This research is normative legal research that analyzes Law No. 13 of 2012 Concerning the Particularity of Yogyakarta, Regulations and Royal Decrees, and Royal Pro¹ouncements.

Findings: Indonesia and Yogyakarta's asymmetric decentralization has a uniqueness over the asymmetric decentralization in federal states by promulgating the Sultan as the governor. Although this promulgation accords with Law No. 13 of 2012 and the Keraton Yogyakarta Hadiningrat (Yogyakarta Palace) Regulation; however, of late, both an internal and external polemic has arisen. This polemic has been triggered by Constitutional Decision No. 88/ PUU-XIV/2016 and Royal Decree and Pronouncement, which permits a female Sultan, whereas the Law of Particularity and Royal Decree confirm the Sultan must be male. This polemic has the potential to give rise to a power struggle within the royal family which has serious implications for the asymmetric democratic system and the constitutional monarchy, which to date has been developed by Indonesia and the Special Region of Yogyakarta. This research recommends revisions be made to the Royal Decree so that there is gender justice resulting in women being able to have the opportunity to become the sultan. A female sultan can become a new discourse in the legal field and the science of government because it has wide implications for gender, political, cultural, and religious discourses.

Paper Type: Research Article



Keywords: Asymmetric Decentralization; Constitutional Monarchy; Female Sultan; Special Region of Yogyakarta

Introduction

Post the amendments to the 1945 Constitution (*Undang-undang Dasar 1945* - UUD 1945), the concept of special autonomy or asymmetry continues to be acknowledged and maintained in the political system. The state respects regional governments with special or particular characteristics regulated by law (Hasim, 2016). The determination of UUD 1945, Article 18 B subsection (1), confirms that regions with special or particular characteristics, customary legal communities, and traditional rights remain recognized and respected in the Unity State of the Republic of Indonesia.

Legally, in a unitary state, there is no state within a state, let alone a government with a monarchist system, because both are very contradictory (Ulibarri, 2000). In fact, a unitary state which applies a democratic system tends to reject a monarchist system (Malagodi, 2011). A democratic state is run based on the will and power of the people as the holder of the highest sovereignty, whereas in the monarchist system of government, power comes from the king's power as the highest holder of power (Wicaksono, et al, 2019). The head of state is chosen based on the majority vote, whereas a king is determined based on lineage or a line of descent. In this way, legally, a unitary state which holds to a conception of democracy gives no latitude for a system of monarchist government.

However, in the context of the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia* - NKRI), the government recognizes and respects regional diversity and special particularities by applying asymmetric decentralization (Heme & Imawan, 2013b). One of the regions in Indonesia whose special features and diversity is recognized through asymmetric decentralization is Ngayogyakarta Hadiningrat, presently known as the Special Region of Yogyakarta (*Daerah Istimewa Yogyakarta* - DIY) (Harsono, 2012). This constitutional recognition is embodied in Law No. 13 of 2012 Concerning the Particularities of DIY. This law provides five particularities for DIY as part of the NKRI: the method of Governor and Deputy Governor selection, land administration, zoning, regional institutions, and culture. Of these five particularities, the one which is highlighted in this research is the regional government system that determines the sultan as the governor without a democratic election, which occurs in other regions throughout Indonesia. Given this, Indonesia, as a unitary state which runs government based on a democratic foundation, recognizes and respects the monarchist system in DIY through the Law of Particularity. Asmorojati uses the term 'asymmetric decentralization' for the recognizing and respecting of the monarchist regional government within the democratic government system (Asmorojati, 2020).



The problem occurs from the determination Sultan as the DIY Governor is also regulated in the *Paugeran Ageng* (a type of special law). In the *Paugeran Ageng*, the Sultan, who is concurrently the DIY Governor, must be a male and cannot be a female (Surahman, 2020). Even though, at this time, the Sultan, who is also the DIY Governor (Sri Sultan Hamengku Buono X), does not have a male heir. Accordingly, Sultan Ngayogyakarta Hadiningrat issued a Pronouncement and Decree (*Sabdatama* and *Sabdaraja*), which states that the Sultan of Ngayogyakarta Hadiningrat can be female (Dardis, 2016). In this way, the government under a monarchist system in DIY could continue uninterrupted. However, the *Sabdaraja* has become controversial both in *Ngayogyakarta Hadiningrat* sultanate elite circles and in the DIY civil community (Rizani, 2016). Arguments for and against are still ongoing while the absolute leadership of Sri Sultan Hamengku Buwono X continues.

To date, research on asymmetric decentralization has more often been done in federal states (Çelik et al., 2016). However, asymmetric decentralization in the Indonesian context is rarely found in a unitary state. In the case of Indonesia, Buehler's research from 2009 concluded that although there had been revisions of a number of Regional Government Laws, the decentralization policy still had problems. Firstly, decentralization created an almost evenly spread distribution of opportunities for corruption. Secondly, the polarization of central government power was becoming an ever-increasing superpower. Thirdly, the moratorium policy for regional expansion was inconsistent and tended to become a political issue, dependent on central government interests. Finally, the public sector and democratization process at the local level had precisely ground to a halt and had no basis in local wisdom (Rahayu, 2019; Setyaningsih, 2017).

Further, Isra's research highlights asymmetric decentralization in Indonesia from the perspective of ethnic, cultural, ethnic group, and religious diversity. DIY's asymmetric decentralization, in the context of the NKRI, has not been adequately analyzed from the perspectives of ethnic, cultural, and religious diversity. Five aspects make the DIY special: governor and deputy governor election procedures, land administration, zoning, regional institutions, and cultural systems. The research is focused on asymmetric decentralization concerning the determination of the sultan as the governor with its monarchist characteristics in a constitutional state (constitutional monarchy). This stems from the determination of the sultan as the DIY Governor, presently in a transition position full of asymmetric conflict. The sultan has issued a Royal Decree which is considered to contravene the *Paugeran*, and attracted both internal and external conflict (Pratama, et al, 2018; Suryaningtyas, 2015).

This research aims to study and analyze: first, the constitutionality of asymmetric decentralization in a Unitary State; second, the DIY constitutional monarchy; and; third, the Legitimation of a Female Sultan: Special Laws, Decrees, and Pronouncements (*Paugeran*, *Sabdaraja*, and *Sabdatama*). This research is based on the argument that decentralization, which is in effect in a unitary state, is not absolute.



However, it still has a coordination relationship with the central government; as a result, it is not absolutism (Rahmatunnisa, Hindersah, & Achmad, 2018). Asymmetric decentralization to date only occurs in federal states (Çelik et.al.), not unitary states such as in Indonesia. The asymmetric decentralization between the NKRI and DIY has its own uniqueness as opposed to other countries, in particular, the determination of the sultan as the governor through the *Paugeran* (Surahman, 2020).

2 methodology

This research is normative legal research (Dhiantha, 2015; Benuf, 2020). The sources of data in this study are Law No. 13 of 2012 concerning the Privileges of Yogyakarta and the *paugeran* palace of Yogyakarta. The data analysis technique is content analysis (Soekanto, 1986; Yaqin, 2007). The analysis focuses on positive law and customary law (*paugeran*) for the determination of the sultan as governor.

Results and Discussion

The theory concerning asymmetric decentralization in the NKRI is actually always being debated. The debate occurs because the NKRI covers a great expanse of territory with diverse ethnicities, ethnic groups, languages, cultures, and religions, which are very heterogeneous (Dhiantha, 2015). The application of asymmetric decentralization in Indonesia can preserve the integrity of the NKRI and safeguard it from a federal state (Heme & Imawan, 2013a). Asymmetric decentralization in Indonesia also gives latitude for each area, which face different situations, to develop optimally in accordance with the socio-cultural diversity found within it (Heme & Imawan, 2013a). Ensuring a balance between the integrated, national, and political, cultural rhythm recognizes unique characteristics and complexities, which are the special particularities of each region, and were the primary focus of the nation's founders at the time of forming the NKRI (Isran, et al, 2019). In this way, the constitutional monarchist system in the DIY, in the context of the NKRI, is a new discourse within asymmetric decentralization, primarily concerning the determination of the sultan as governor.

The Constitutionality of Asymmetric Decentralization in the Unitary State

The asymmetric decentralization of Yogyakarta Special Region (DIY) privileges is regulated by Law No. 13 of 2012 on the specialty of DIY. This law includes five features of DIY that distinguish it from other regions, such as the Special Region of Aceh, and even countries with special autonomy, such as a federal state (Ivanov et al., 2016). The five authorities of DIY are discussed in the following description.

Procedures for assigning positions, duties, and authorities of the Governor and Deputy Governor

The procedures for assigning the positions, duties, and authorities of the Governor and Deputy Governor are regulated in the law on the specialty of DIY. The law mandates that the Governor and Deputy Governor of the Special Region of Yogyakarta are enthroned as Sultan and *Adipati Pakualam*. In addition, both of them are not members of a political party (Tauda, 2018; Zaenuri, et al, 2021). These two conditions



are only implemented in DIY and not in other provinces in Indonesia and even other countries (Prasetyawati, 2018). The logical consequence of the two conditions is the institutional arrangement and *paugeran*, especially regarding the succession of centralized internal leadership. Besides, this arrangement aims to produce a proper and worthy leader who is not only a leader as a sultan but also a governor. The position of the sultan, who is also the governor, only exists in DIY. This rule distinguishes itself from the dualism of the leadership of other regional heads, as found in the Sultan and the mayor of Cirebon, Indonesia (Utomo, 2017; Hasim, 2021).

The determination of the Governor and Deputy Governor in DIY is not conducted through direct elections as mandated in Law No. 7 of 2017 on the Implementation of General Elections. Although causing controversy, the pros and cons of the mechanism for appointing governors/deputy governors in DIY must be addressed wisely, considering that the recognition and respect for the Sultanate of DIY is a historical and constitutional necessity. The respect to the Sultanate is also part of the political and empirical fact that the Dutch East Indies Government socio-historically recognizes. However, it is also important to note that the Sultan must still obey the central government (Ratnawati, 2011). With this fact, it is necessary to pay attention to the regulation of DIY privileges, especially concerning the position of Governor and Vice Governor of DIY, which applies at the provincial level. Meanwhile, government administration at the district/city level will continue to use central government provisions concerning regional government (Kariem, 2018).

DIY Regional Government Institutions

The direct appointment of the sultan as governor has implications for the structure of government institutions in DIY which are more autonomous than in other regions (Dwiyanany & Wardhani, 2019). It is regulated in chapter VIII, Article 30 concerning regional institutions. In particular, the institutional arrangements for the DIY regional government are regulated in a Special Regional Regulation (*Perdais*). The formation of sub-district (*kapanewon*) and village (*kalurahan*) institutions, for example, remains adherent to local customs (Sutrisno & Syakdiah, 2021). Thus, the *basic principles of the Law also guide the Perdais* for the Establishment of Legislative Regulations (Law Number 12 of 2011). It also pays attention to several important aspects wherein its laws regulate the institutional arrangements within the DIY Province. This law mandates that the DIY Regional Government Institutions are special. Secondly, there are empirical facts about the implementation of DIY Regional Regulations on Regional Institutions. Finally, the institutional reorganization of the DIY Regional government must pay attention to the original form and structure of government that has taken root in Yogyakarta (Kosanke, 2019).

Culture

DIY is one of the regions in Asia which is widely known as a city of culture (Legates & Hudalah, 2014). Therefore, the cultural aspect is an important concern in the Law. The authority in charge of culture in Yogyakarta is held to maintain and develop



creativity, taste, and initiative and works in the form of values, knowledge, norms, customs, objects, arts, and noble traditions rooted among the local communities (Triwardani, 2015). Several traditions, such as *sekaten*, *grebeg mulud*, and *jabuhan* are among the most important traditions which receive the world's attention, and for this reason, these traditions have become one of the main concerns of the DIY government (Mulyana, 2017). This is because these types of cultures have become symbols of the acculturation of Javanese culture and Islam as the majority religion in DIY (Purwanto, 2017). Thus, cultures play an important role in this special region.

Agrarian Law

Land regulation in DIY is one of the special privileges of the DIY government. Prior to the agrarian reorganization, the land law in the Sultanate of Yogyakarta determined that land ownership rights were absolutely controlled by the king (Iqbal, et al, 2020). The people were only given the right or authority to *nggaduh* or to borrow land from the king from generation to generation. The land controlled by the king is called the land of *maosan/pamahosan dalem* (in Surakarta, it is called the land of *ampilan dalem*). In addition to the land of the *maosan dalem*, there is also *tanah kejawen* or *tanah lungguh* land or *tanah gaduhan* (apanage), which is land used to ensure the needs of the royal family or to pay the courtiers. The royal family and the courtiers who received this land were called *lurah patuh* whose rights and obligations were contained in the *pranata patuh* from 1863 (Wirawan, 2019).

Through Law No. 3 of 1950, in conjunction with Law No. 19 of 1950, the government regulates DIY's internal affairs, including agrarian affairs (Article 4). Agrarian affairs in DIY are further regulated in Regional Regulation No. 5 of 1954 on land rights, Regional Regulation No. 10 of 1954 on the implementation of village decisions regarding the transfer of *Andarbe* rights from the *kelurahan*, and hereditary *Aganggo* rights over land and changes in land types in DIY, regional regulations No. 11 of 1954 concerning the Transfer of Hereditary Individual Property Rights on Land and Regional Regulation No. 12 of 1954 concerning Legal Marks for Hereditary Individual Property Rights on Land (Nugroho, 2021).

Warner Roll writes that the reorganization carried out between 1912 and 1918 resulted in new rules, namely (Roll, 1983):

- a. The abolition of the feudal system and arbitrary actions have been entrenched.
- b. Several residential units (village; hamlet; *kebekelan*) are merged into a new administrative unit, such as a village head or village praja.
- c. The king relinquished their rights to most of the land included in this administrative unit area, which was then authorized to become a member of the village community.
- d. There was a new division of land parcels and arable land for the villagers and adapted to the specific needs of the Dutch business.



Starting in the 19th century, when foreigners began to enter Yogyakarta, all land occupied by foreigners was considered to belong to the king. These foreigners merely borrowed the land (*angadhuh*). They were obliged to hand over a portion (50% or 33%) of the agricultural harvest to the king if it was agricultural land. If not agricultural land, people were forced to be unpaid laborers. For the sultan's family and meritorious courtiers, the land was given to be used as their source of living. In addition, this land offering also included a transfer of the king's ownership rights to the property's consumed products.

The apauage system was eliminated in 1914, resulting in the following changes to the agrarian law's provisions to give farmers a proper position and avoid abuses that would raise the burden on the populace (Notoyudo, 2013):

- a. The land used by Sri Sultan himself for the Palace with all its equipment, namely the square, *pagelaran*, *sitihinggil*, *mendungan (keben)*, *sri Panganti*, and the palace; the aforementioned is called *Tanah Keprabon*.
- b. Land which the Sultan gave free of charge for use, to the Dutch Government (Government) NIS, for the Vredenburg fort, the residency office, and the train station.
- c. Lands were given to the Dutch and Chinese with *eigendom/opstal* rights.
- d. Class lands are lands given by Sri Sultan to royal employees.
- e. *Kasentanan* lands are lands that the Sultan gave to relatives/*sentono dalem* with usufructuary rights.
- f. The Regent's yardland was originally classified as group land but was gradually released from group ties and became the yardland of other higher-ranking officials with the surrounding villages.
- g. Bonan land is planted with trees, fruit, and gardens, usually located outside the center of the capital, which is given to Papatih Dalem with usufructuary rights.
- h. Common people's land, namely land not included in the above types of land, is placed directly under the Kapatihan government.
- i. Rice fields which managed by village officials (*maosan dalem* land).

Land issues are one of the unique benefits of DIY since they have a clearer administrative structure and legal foundation. The administration of land authority of the Sultanate is declared as a legal entity (President of the Republic of Indonesia, 2012). Thus, it can be understood that land regulation in Yogyakarta (*angadhuh*) does not have the risk of misuse, as in other areas.

Spatial Planning

The implementation of spatial planning authority is adjusted to the results of the inventory of the Sultan's assets. The Sultanate and Pakualaman determine the spatial policy of the Sultanate land in accordance with the privileges of DIY and still refer to the national spatial layout.



The privileged authority that applies in DIY is in line with Indonesia's decentralization reform. This authority can bring the government closer to the community due to community empowerment. Privileged funds are also more transparent, effective, and efficient in encouraging regional development and improving public service provision quality. Various studies have explained that asymmetric decentralization can conquer various regional issues with specificities or privileges so that conflicts do not occur in the administration of local government.

The main purpose of implementing asymmetric decentralization is actually to encourage regional development. After two decades of decentralization implementation, it has progressed positively, marked by a decreasing trend of regional disparity and spatial fragmentation. A fundamental restructuring of intergovernmental relations involving decentralization and expanding autonomy for provincial and local governments is underway in Indonesia (Asmorowati, Schubert, & Ningrum, 2022). In the Special Region of Yogyakarta, this restructuring is demonstrated by the enactment of Law Number 13 of 2012, which confirms the privileges of DIY in terms of procedures for filling out the positions, duties, and authorities of the Governor and Deputy Governor, local government institutions, spatial planning, land, and culture.

Asymmetric decentralization in the unitary state is a new discourse in jurisprudence and the science of government. Van Houten defines asymmetric decentralization as a legal authority (the legal powers) given to special communities which do not have sovereignty or ethnically special areas (to enable them) to make fundamental public decisions and implement freely public policies independent of state authority (currently applicable), but remaining subordinate beneath state law as a whole (Asmorojati, 2020). Apart from this, there are two fundamental matters faced by a state in applying asymmetric decentralization, namely, cultural and technocratic-managerial matters concerning the limitations of a region or territory in performing its basic governmental functions. The concept of asymmetric decentralization confirms the existence of a special or particular authority (Bagir, 1994). These laws of particularity confirm DIY's special status. The application of asymmetric decentralization in Yogyakarta has a pattern of authority relations between the central and regional governments that differ from other areas. These have their own patterns for developing asymmetric decentralization theory (Asmorojati, 2020).

Asymmetric decentralization in a unitary state experiences its patterns and colors of development, which differ from decentralization in federal states. The application of asymmetric decentralization began post-New Order until the present and is intended to give as wide as possible latitude to the implementation of autonomy for regional governments, including asymmetric autonomy (Asmorojati, 2020) for areas with particular heterogeneity. In many aspects, asymmetric decentralization can add to the complexity of running government because each region is given the constitutional latitude to manage the uniqueness of its region. On the other hand, the nation's



disintegration could threaten the integrity of the NKRI if homogenizing continues unabated. In this way, a combination of symmetric and asymmetric decentralization can add to the complexity of the conduct of government because each region has been given constitutional latitude to manage the uniqueness of its region, which wanted a balance of unification and diversity (Isran et al., 2019).

There are at least two benefits to be gained from effecting asymmetric decentralization based on special autonomy that is:

- a. As a solution to the possibility of ethnic conflict or other physical conflicts. As an illustration, learning from the Hong Kong and China relationship, where Hong Kong was clearly a part of a Chinese sovereign regional government. China was the state, but Hong Kong was given a number of important authorities in economic, legal, and economic matters.
- b. As a democratic and peaceful response to complaints and problems of minorities whose rights to date have been violated or neglected (Huda, 2014).

The basic philosophy in giving special autonomy is the effort to accommodate local government arrangements which existed before Indonesia was formed and respond to the local political dynamics of government. Decentralization politics, which is currently being practiced, uses two variants that are: *first*, the majority of provinces throughout Indonesia are regulated by general regional autonomy through the principal legal instrument, Law No. 23 of 2014 concerning Regional Government, and; *second*, for Aceh, Papua, Yogyakarta, and Jakarta which have been given Special Autonomy Status (asymmetric decentralization) with *lex specialis* (specific laws); as a result characteristics of its laws are then different to the regions which have a status of normal autonomy.

In the unitary and federal state forms, asymmetric assimilation is still maintained because of the assumption that relations between the central and regional governments are the same and that a federation consists of identical areas (Rahmatunnisa et al., 2018). Rahmatunnisa states that there are two reasons for applying asymmetric decentralization: a political reason and a capacity reason. As an archipelagic state, the demand for asymmetric decentralization is necessary for achieving development objectives and better administrative processes (Rahmatunnisa et al., 2018). Saldi Isra has also made a similar statement that applying asymmetric assimilation is very relevant in states with diverse ethnic groups, ethnicities, and cultures, such as Aceh, Papua, and Yogyakarta. However, in contrast to the opinions above, Bogdan states that asymmetric decentralization in a constitutional monarchist state separates executive and legislative power (Bogdan, 2015). In reality, the DIY constitutional monarchy and the legislative and executive functions of the NKRI are integrated into the sultan, who concurrently holds the position of governor.



Special Region of Yogyakarta Constitutional Monarchy of Indonesia

The incorporation of DIY into the NKRI, because of DIY's contribution to the Indonesian revolutionary struggle, was of great significance. Legally and formally, DIY's position had been recognized in the UUD 1945 before the amendment in Explanation of Article 18 of UUD 1945 and re-confirmed in Article 8b section (1) and (2) UUD NKRI 1945 after the amendment. Lastly, implementing the *lex specialis* law that is Law No. 13 of 2012 concerning the Particularities of DIY (UUK DIY). The consequence was that the allocation of decentralization authorities was not the same. Special regional autonomy got greater special treatment; as a result, aspect of political, administrative, and fiscal-financial authorities were also greater compared to regions without special autonomy. In the spectrum of special autonomy, an important issue deserving attention is what is the authoritative model, which has characteristics of being 'special' in each region. Yogyakarta relies on historical, legal, and cultural aspects primarily as a 'monarchist' region that existed before the Republic of Indonesia came into being (Isra, 2019).

The existence of the Yogyakarta sultanate monarchy began with the Giyanti Agreement on 13 February 1755, which Governor Nicholas Hartingh signed on behalf of the Governor General of the Dutch Indies, Jacob Mossel and Paku Buwono III and Prince Mangkubumi. The Giyanti Agreement was born from the failure of Dutch colonialists to defeat Prince Mangkubumi in several battles. Dutch writers view Mangkubumi's historical resistance as a war of succession between the ruler of Surakarta (*Susuhunan*), Pakubuwono II, and Prince Mangkubumi. The Surakarta and the Yogyakarta Keratons narrate Mangkubumi's resistance, not as a war of resistance, but as a war to rescind the Ponorogo Agreement expel the Dutch colonialists from Java (Setyono, Yunus, & Giyarsih, 2016).

Susuhunan Pakubuwono II and Prince Mangkubumi understood that the Ponorogo Agreement demeaned and greatly insulted the dignity and status of the nation. But Susuhunan Pakubuwono II was bound to his word (*sabda pandito ratu*), and on that basis, he acknowledged the authority of the Ponorogo Agreement. This was in contrast to Prince Mangkubumi's standpoint, who disagreed with, opposed, and intended to rescind the Ponorogo Agreement. This position was secretly agreed to by Susuhunan Pakubuwono II, whose support was indicated by giving a spear, a royal heirloom, the *Pusaka Kanjeng Kyai Hageng Plered* to Prince Mangkubumi as well as giving financial assistance (Prabawati, et al, 2022).

Prince Mangkubumi was elevated to be Sultan Hamengkubuwono Senopati Ing Ngalaga Ngabdurrahman Sayyidin Panotogomo Khalifatulla with half of the Kingdom of Mataram given to him with the right to bequeath it to his heir, in this case, Prince Adipati Anom Bendoro Raden Mas Sundoro. The Giyanti Agreement divided the Mataram Islamic Kingdom, with half being the Surakarta Kingdom's entitlement and the other half Prince Mangkubumi's entitlement. Through this agreement, Prince Mangkubumi was also recognized as the Sultan of half of the area of the interior of the



Javanese Kingdom with the title *Ngarsa Dalem Sampeyan Dalem Inggang Sinuwun Kanjeng Sultan Hamengku Buwono Senopati Ing Ngalaga Khalifatulla Ngabdurrahman Sayidin Panatagama Inggang Jumeneng Ing Negeri Ngayogyakarta Hadiningrat Inggang Jumeneng Sepisan* or usually called Sri Sultan Hamengku Buwono.

The Yogyakarta Special Province is the only province in Indonesia that legally and formally uses a constitutional monarchist system of government. This fact has logical consequences because Indonesia is a unitary state in the form of a Republic. A constitutional monarchy is led by someone who has the ability to govern autonomously based on a clear constitution. From a perspective of pluralism and historic institutionalism states that the system of government in DIY is a hybrid between a monarchy and democracy (Harsono, 2012).

This special status for Yogyakarta can be traced in several political documents. First, there was a political consensus between Nagari Kasultanan Yogyakarta and Kadipaten Puro Pakualaman with President Soekarno as proclaimed in Hamengku Buwono's IX's Accession Speech on 18 March 1940. This view was affirmed in Sultan Hamengkubuwono IX and Sri Paduka Paku Alam VIII's addresses on 5 March 1945. Second, on 18 August 1945, exactly a day after the proclamation of Indonesian independence, Sultan HB IX and Sri Paduka Paku Alam VIII sent an official telegram with a message of congratulations and an affirmation of full support for the existence of the NKRI. An official declaration in the form of a Yogyakarta Sultanate Political Manifesto then accompanied this statement. Paduka Sri Sultan Hamengkubuwono IX and Paku Alam VIII sent a telegram to President Soekarno on 19 August 1945. Third, on 5 September 1945, Paku Alam VIII issued a declaration stating his joint commitment with Kadipaten Pakualaman to join with the NKRI. Since then, Kadipaten Pakualaman, together with the Keraton of the Yogyakarta Sultanate, with the agreement of the Working Board of the Yogyakarta Region National Committee on 30 October 1945, became the Special Region of Yogyakarta. Fourth, the existence of the NKRI-DIY Proclamation of Independence declaration, which occurred on 30 May 1949. Lastly, a source of legitimation can be found in the declaration of 'A Crown for the People' (*Tahta Untuk Rakyat*) in 1986. The Special Region of Yogyakarta has particularities that cover how appointments are filled, positions, duties, and the authority of the Governor and Deputy Governor, DIY regional institutions, land administration, culture, and zoning. One reason for applying the policy of asymmetric decentralization in DIY is the uniqueness of its ethnic group, customs, culture, language, and religion (Sumarwono, 2008). Yogyakarta's historical, cultural, and legal particularities have a strong legitimacy since before Indonesia's independence on 17 August 1945.

The Legitimation of a Female Sultan: Special Laws, Decrees, and Pronouncements

Yogyakarta has a uniqueness of culture all its own and a political and administrative system that remains in existence within a monarchy. The unique characteristics of



Yogyakarta culture are one of the main sources of national wealth. In addition, Yogyakarta was among the first areas to support the Republic of Indonesia at the start of its independence on August 17, 1945. This support, furthermore, became its main political capital to request treatment “special without losing its monarchist system although remaining in the Indonesian state.” (“*istimewa tanpa menghilangkan sistem kerajaannya meskipun tetap dalam negara Indonesia.*”).

Paugeran is Ngayogyakarta Hadiningrat Keraton elite customary laws which are not written down. *Paugeran* can also be called living laws which are in effect within the DIY Sultanate. The culture of the Sultanate *Paugeran* law contains a system of living values within the Sultanate itself (Sartika, Pradhani, & Anggara, 2015). One issue of *Paugeran* is that the heir to the keraton throne is the son of the enthroned sultan. This *Paugeran* has been accommodated in UUK Article 18 section 1 sub-section m which states that “The gubernorial and vice-gubernorial candidates are to submit their biographies which list education, work, siblings, wife and children.” (“*Calon Gubernur dan Wakil Gubernur menyerahkan daftar riwayat hidup yang memuat riwayat pendidikan, pekerjaan, saudara kandung, istri dan anak.*”). This section clearly shows that the Governor and Deputy Governor must be males because they have to list a ‘wife’ in their biography.

As stated previously, Sri Sultan Hamengku Buwono X, as the Sultan of the Ngayogyakarta Hadiningrat Keraton, does not have a male child at this time. This situation was a reminder of history when Sri Sultan Hamengku Buwono V was about to abdicate. At that time, he did not have a male child who would inherit the royal throne in the Yogyakarta Keraton. Later, after Sri Sultan Hamengku Buwono V died, the royal throne was passed to his younger brother, Raden Mas Mustojo who then assumed the title Sri Sultan Hamengku Buwono VI (Iwan Satriawan, 2020). This historical event could become the basis for the Ngayogyakarta Hadiningrat throne to be passed to Sultan Hamengkubuwono X's younger brother. But Sri Sultan Hamengku Buwono X has not learned from history; rather than passing the throne to his younger brother, he has to the contrary, excised both his younger brothers from the Keraton family structure. In addition, on 30 April 2015, Sultan Hamengku Buwono X issued a decree and pronouncement whose substance differed from the *Paugeran* and UUK, allowing the sultan to be a female. On Thursday, 30 April 2015, Raja Keraton Yogyakarta Hadiningrat Sri Sultan Hamengku Buwono X (Sultan HB X) read the following decree:

Allah, Almighty God, the Creator, for all to know together, my subjects, the Sultan's daughters, the Sultan's family, the Sultan's relatives, and keraton staff. I accept the orders of Allah, Almighty God, the Creator, and my father, my grandfathers, Mataram ancestors. From this moment, I accept an honorable order, an order of Allah, the Almighty, the Creator, the name of my position *Ngarso Dalem Sampeyan Dalem Inggang Sinuhun Sri Sultan Hamengkubawono Inggang Jumeneng Kasepuluh Suryaning Mataram Senopati ing Ngalogo Langenging Bawono Langgenging Toto Panotogomo*. This decree needs to be understood, upheld and implemented. This is my decree” (Dardias, 2016).



The publication³ of this decree had encouraged a number of gender activists to submit a request for a **Judicial Review of Law No. 13 of 2002 Concerning the Particularity of DIY**, Article 18 section 1 sub-section m. This was a regulating condition that the Sultan had to be male to inherit the throne, and had made female descendants of the Sultan of the Ngayogyakarta Hadiningrat Keraton, it seemed, face discrimination of a constitutional right as citizens with the same position in law and government as is indicated in the 1945 Constitution, Article 27 Section 1. Following this, in 2016, the **Constitutional Court** granted the request of these gender activists contained in **Constitutional Court Decision No. 88/ PUU-XIV/2016**. At this point, nuances of feminism greatly colored the reasons of those who made the submission. Discrimination against women became a significant argument. Gender discrimination between males and females in roles, functions, rights, responsibilities, and behaviors was formed by a system of social values, culture, and customs of community groups which could change with time and the local situation (Puspitawati, 2013).

The Law of Particularity, Article 18 Section 1, was regarded as not reflecting the principle of the position of all citizens being equal in the administration of government. With phrases 'siblings', 'wife', and 'children' in the conditions to be a Gubernatorial and Deputy Gubernatorial candidate caused a polemic between those making the submission and the existence of these phrases. Those making the request for this legal test did so not in the context of removing DIY's particularities and remained appreciative that Sultan Hamengku Buwono's dan Adipati Paku Alam's selection was an internal matter for the Keraton.³ The Constitutional Court (*Mahkamah Konstitusi* – MK) formed the opinion that, **historically and legally, the Ngayogyakarta Hadiningrat Sultanate existed before the NKRI**. Because of this, the law in effect for **determining who had the right to be enthroned as the Sultan in Ngayogyakarta Hadiningrat Sultanate was the law in effect within the Keraton and Kadipaten** (Crown Prince's residence) (Saputra, 2021).

The Constitutional Court's decision confirms that the law in effect in Indonesia rejects discrimination between males and females, and females can occupy public offices such as Governor and Deputy Governor in the DIY. Given this, based on the MK's decision, the Sultan of Ngayogyakarta Hadiningrat can be a female. A number of analyses state that the release of the *Sabdaraja* and the MK's decision No. 88/ PUU-XIV/2016 paved the way for a female to become the Sultan of DIY. According to other views, the *Sabdaraja*'s release and the MK's decision are indicated to succeed the daughter of Sultan HB X as the heir to the throne. Sultan HB X giving his daughter, GKR Pembayun, the new title of Gusti Kanjeng Ratu Mangkubumi is the same as being elevated to Crown Princess and becoming ³ the heir to the throne of the Yogyakarta Keraton (Dewi, 2017). In this way, the MK's **decision No. 88/ PUU-XIV/2016** and the release **of the *sabdaraja* and *sabdatama*** became new forces to shift conservative Javanese power concepts toward modern leadership fairer to gender. In contemporary religious interpretation, in particular Islam, women may become leaders, including becoming a sultan, see al-Qur'an Chapter (al-Qur'an Surah – QS) An-



Naml (27): 32. On this basis, a female sultan is not in conflict both with constitutional law and *paugeran*. For this reason, the discourse about arguments for and against a female sultan only occurred between the conservative Javanese community and the modern Muslim elite.

Conclusion

Asymmetric decentralization in a unitary state gets strong legitimation constitutionally as a form of central government recognition to a regional government that has particular or special characteristics. The practice of the Yogyakarta sultanate monarchist tradition is a unique asymmetric decentralization design in a unitary state as Indonesia's honoring Yogyakarta's considerable contribution to the struggle for independence and the existence of the NKRI. The position of the Sultan of Yogyakarta, who is also Governor for life, constitutes an asymmetric decentralization design in Indonesia as a special authority given to the DIY. The application of NKRI asymmetric decentralization for the DIY gets not only constitutional legitimation but also cultural legitimation. The Constitutional Court's decision No. 88/ PUU-XIV/2016 and the Ngayogyakarta Hadiningrat Keraton Pugeran and the *Sabdaraja* and *Sabdatama* created the opportunity for interpretations to be opened up, including being responsive to gender equality. Giving constitutional rights to Sultan HB X's daughter, Pambayun as the heir to the DIY throne is an asymmetric decentralization pattern responsive to gender. This research recommends making revisions or amendments to the Ngayogyakarta Hadiningrat Pugeran, which, from the beginning, had closed off access for females to be opened up to relatives or descendants of the Sultan (who are all females) to be able to become the Sultan. The Pugeran revision is in accordance with the 1945 Constitution, Article 27, which guarantees the constitutional right of equality for males and females to hold public office, including that of the governor and deputy governor.

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Declarations

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