

CHAPTER ONE

INTRODUCTION

A. Background

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. 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.¹ 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).

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.”*

¹Fachri Fachrudin, “Putusan MK soal UU Keistimewaan DIY Dinilai Hapuskan Diskriminasi”, 31 August 2017, <http://nasional.kompas.com/read/2017/08/31/22460801/putusan-mk-soal-uu-keistimewaan-diy-dinilai-hapuskan-diskriminasi>, accessed on October 31, 2017 at 1.29 pm.

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 men 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 Commission²1998, for which they drew judicial review of the Act to the Constitutional Court.³

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.⁴

²National 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.

³Teuku 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-menghormati>, accessed on October 31, 2017 at 1.40 pm.

⁴*Ibid.*

In the verdict, the Constitutional Court (MK)⁵ 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.⁶ 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 / or Vice Governor of Special Region of Yogyakarta.⁷ 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

⁵MK referred as "Constitutional Court" is a high state institution in the Indonesian state administration system which is the holder of judicial power together with the Supreme Court.

⁶Article 18 paragraph 1 letter m UU KDIY.

⁷Constitutional Court Decision Number 88/PUU-XIV/2016.

district court.⁸ 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*.

B. Research Problem

Based on the background above, a research problem can be formulated: how is the mechanism of institutional disputes settlement on succession in *Ngayogyakarta Hadiningrat Sultanate*?

C. Objective of Research

The objectives of the research are:

1. To understand the contents of Law No. 13 of 2012 on the UU KDIY and the Decision of the Constitutional Court No. 88/PUU-XIV/2016;

⁸Jimly Asshiddiqie, 2009, *Pengantar Ilmu Hukum Tata Negara*, Jakarta; PT. RajaGrafindo Persada, p.268.

2. Analyzing on how the *Ngayogyakarta Hadiningrat Sultanate* settle their institutional disputes, particularly in cases of succession of the Governor in Ngayogyakarta Hadiningrat Sultanate;

D. Benefits of Research

The benefits of research are, as follows:

1. Theoretical benefits

This research will provide understanding and open views on the mechanism of dispute settlement within the Yogyakarta Sultanate.

2. Practical Benefits

This research will suggest recommendations on of institutional disputes settlement mechanism in Ngayogyakarta Hadiningrat Sultanate.