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Dr. Luqman Hakim, M.Sc dan Dr. Ir. Fadel Muhammad. (Ed.)

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Editor:

Dr. Luqman Hakim, M.Sc
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Reign to the People: The Application of “Democratic Monarchy” in Yogyakarta

Dwi Harsono

*Lecturer of Public Administration Study Program, Faculty of Social Science,
Yogyakarta State University, Indonesia.
Email: dwiharsono@staff.uny.ac.id*

Abstract: *This paper aims to investigate the polity of Sultan in Yogyakarta in developing democratic approach to govern special region of Yogyakarta which has created the tension between monarchical and westerns-styled democratic system during the revision of Law no 3 of 1950 about the special privileges of Yogyakarta. This research applied literature review as the principal method and used secondary data to answer the question. Based on the findings, the existence of hybrid system came from the application of intertwined institution between monarchy and democracy within the Sultan administration in Yogyakarta. Sultan attempted to 'harmonise western and eastern value without depriving the tradition' by strengthening the monarchy using democratic approach. The polity has applied a limited monarchical system and emphasised more on democratic approach which introduced both monarchical and democratic system to people. As a result, even though people have had different aspirations; both of them could express their freedom of right which is acknowledged by the hybrid system in Yogyakarta.*

Keywords: *Democracy, Monarchy, Hybrid System*

Introduction

Special region of Yogyakarta comes from two traditional kingdoms, which have pledged alliance to the Republic of Indonesia since 1945. Although it joined up with Indonesia, the monarchical system existed through the application of Law 3 of 1950 about special law of Yogyakarta that set the appointment of *Sultan*, its traditional ruler, as the governor of the province. Furthermore, the implementation of Law 32 about local government that applied local election to local government in 2004 did not change the special law of Yogyakarta. However the law raised the contestation between appointment and election mechanism for governor of the province and the need to renew the special law which is very simple and out of date to administer the province. In relation this, in 2010, the central government of Indonesia drafted the revision of special law which proposed direct election in Yogyakarta to choose its governor. As a result, the draft faced people's resistance and they demanded to keep special law to be based on the appointment of their *Sultan* as the governor of the province. This situation created a tension between monarchical and western-styled democratic system.

The conventional understanding of democracy can be defined as an arrangement for organizing relations between rulers and the ruled (Schmitter and Karl 1991:76). To develop democracy, this concept applies election procedure as institutional process to show the competing interest and value of people, group and even individual. However, election is still categorized as minimalist definition of democracy because it is only a starting point to have a democratic leader who will govern the society.

Diamond (2002: 21-4) showed case studies on democratization process in the world in which conducting election to choose the political leader of the country and, then, it turned into less democratic regime. For example in Russia, election was used to justify the new regime and it became electoral authoritarian regime because it did not fairly conduct and honestly count due to the lack capacity of electoral institution. In Singapore's case, the procedure to democracy through election ended up in the creation of hybrid regime which is combining democratic and authoritarian method in the political processes.

On the other hand, the creation of substantive democracy needs to combine the rules such as free, fair, and competitiveness and the institutional arrangement such as consensus, participation, and accountability which keep the system to endure (Schmitter and Karl 1991). Rakner et al. (2007:6) argued that the application of substantive democracy needs to be emphasised on the role and importance of accountability. She also explored the democratisation process into three phases: liberation, transition and consolidation. Liberation phase is indicated by the fall of authoritarian regime in the country, transition can be seen through the performance of competitive election, and consolidation of democracy is achieved by the country when the practice is recognised and accepted by the people. Accordingly, the process is aimed to follow the path of developed countries, such as United States and Western Europe, in building their capacity to hold democracy. These countries conducted substantive democracy through the application of different type of government system, such as the presidential system and the constitutional monarchy as the government system. Although the processes ended up with different government systems, these countries managed to go through democratisation to establish the western-styled democracy as the model to develop governance system. However, democratisation is a complicated process. Even when it gets through the transition, it does not always guarantee to the consolidation. Internal constraints within the countries may cause a stagnant transition to democratisation or prompt the process back to more or less authoritarian regime which turns the consolidation phase into the emergence of hybrid regime (Rakner et al. 2007:8).

Considering to the conventional understanding of democracy proposed by the central government of Indonesia to change the local politics in Yogyakarta, this paper comes to explore the system of which has been applied by *Sultan* in the region. People's resistance to democratic election is underlain by their understanding to local arrangement that intertwined the monarchical and western styled democratic systems as hybrid institution. Hybrid institution can be explained as the translation of democratic principles by traditional political institutions as an obvious approach in power separation and co-responsibility among the stakeholders (AIPP 2007:2). Moreover, the paper contributes a different perspective on the debate about democracy versus indigenous value because western-styled democratic system seems not the people's best choice to develop their society in Yogyakarta. People prefer to have hybrid institution that is created by legal pluralism in the region as their cultural practice. Moreover, the practice has been proven able for decades in maintaining a better

circumstance for Yogyakarta. In contrast to the mainstreaming agenda on development, the situation in Yogyakarta is less popular but it could give an alternative to application of different style on governance. Besides that, this study also draws how the 'pluralistic legal system' in Yogyakarta influenced the people's behaviour. It happened because different laws strengthened each other in establishing the conducive situation to different behaviour of the people in the society.

Evaluating the 'Democratic Monarchy'

The paper takes two continuous approaches. These are 'legal pluralism' (Merry 1988), and 'historical institutionalism' (Hall and Taylor 1996). The integration of the conceptual approaches in the paper can be done because the analysis provides alternative explanations that are linked to each other. The analysis creates a flowing explanation from international debate on governance system to the local context of Yogyakarta. Moreover, the approach is designed not only to answer the aims of the paper but also to provide useful information to revisit the term of 'democratic monarchy' in Yogyakarta. By doing this, the paper describes the hybrid system in Yogyakarta that applied different governance system compared to the mainstream of democracy in the world.

a. Legal Pluralism

This paper applies 'legal pluralism' concept to examine the relation between different laws and the occurred legal phenomena within certain society. By examining the relation, the term helps this paper to reconceptualise the relation between different laws in the society and the existing of intertwined institution as the legal order (Merry 1988:869). Based on Merry's definition on legal pluralism (1988), the coexistence of different legal systems which are emerged at the same time in a social field can be stated as legal pluralism. This definition also brings the understanding complex arrangement of legal order that comprises different legal system.

Moreover, the paper seeks to explain how legal pluralism can influence the people by applying different laws in a different choice in a certain time. People develop their legal consciousness within the relation to the legal order in the society. As defined by Trubek, legal consciousness can be seen as 'all the ideas about the nature, function, and operation of law held by anyone in society at a given time' (Hertogh 2004:460). This situation can be understood in relation to the traditional law that has been persisted among people for a long time period although a new law have been introduced. Moreover, Ewick and Silbey's explained the notion of legal consciousness as cultural practice which is created by the people's interaction to their environment (Cowan 2004:931). Both scholars emphasised the role of space as the place of cultural practice of the law. It is supported by Cotterell's work that explains the interwoven study of legal consciousness relates the notion of the concept in understanding the legal culture (Ibid 2004:935).

People perception to the legal culture influences their adherence to the law which, then, created into aptitude, competence or awareness of the law or perceptions or image of law (Hertogh 2004:461). The people perception about the law was called by Ehrlich as 'living law' which is dominant to people and it can be very different with the formal definition in the law in book (Ibid 2004:466-71). Cultural practice is the phenomenon of living law that emerged as people perception to plural legal system. The living law becomes

the general rule that happened not only in understanding the plural legal order, official and traditional law, but also in the relation of different legal order.

Even this conceptual approach can examine the legal pluralism situation in the society, the concept lacks in explaining the institutional development as the result law enforcement. Institutional analysis helps the paper to relate the legal pluralism and people political behaviour. The next section presents the conceptual approach that explains how institution influences people political behaviour in the society.

b. Historical Institutionalism

This approach analyzes the political relation between institution and people behaviour that underpinned the culture of Yogyakarta. Institutionalism is defined as the study of political institutions, a set of theoretical ideas and hypotheses relating institutional characteristics and political agency, performance, and change (Hall and Taylor 1996: 4). Its aim is to explain the role of institutions in creating social and political outcomes. By applying this approach, the paper seeks to define the political structure that creates Yogyakarta's society.

Historical institutionalist defines institution as the formal or informal procedures, routines, norms and convention embedded in the organisational polity (Ibid 1996: 6). It is questioning the affect of institution to individual behaviour by employing the calculus and cultural approach. The calculus approach refers to the level of certainty to present and future actor's behaviour and cultural approach stresses on the patterns of individual behaviour in achieving their goal. As an eclectic approach, historical institution tends to use cultural approaches to examine actor's behaviour by discerning individual as satisficer rather than utility maximisers (Ibid 1996: 7-8). As a satisficer, individual usually tends to follow the fix pattern to attain the satisfaction. This pattern explains the idea of 'path dependence' (Krasner 1984) as the social causation that admits the intervention of institutional context will help operative forces in producing the same result in all places. Institution continually plays an important role in maintaining the historical process of development. However, the institution, sometimes, faced some 'critical junctures' (Collier and Collier 1991) in preserving the process. Critical juncture is important institutional alteration which is punctuated by crisis or conflict that could diverge the process into different path. Historical institutionalist argues the factors that perpetuate the critical junctures mostly come from socioeconomic and political development; however it does not close the role of idea in changing people beliefs (Ibid 1996: 9-10).

The role of idea, to some extent, has been seen transforming individuals after a new idea influenced their beliefs. Hall (1983; 1984; 1990) works on 'the role of idea and idea shift' found that idea has a strong effect to individual if it can offer a better satisfaction. Consequently, it shifts the individual behaviour to the new one and it also opens the possibility to change the approach from cultural to calculus in maximising his satisfaction. This action shows the strategic relation between idea and individual behaviour in historical institutionalist approach (Hall 1996:7). To keep the pattern of behaviour, historical institutionalist applied 'neo-evolutionary theory' (Thelen 1999; 2004) to preserve the existing institution. This theory focuses on prescribing 'incentive' to 'disloyal' idea within the institution to restraint the emergence of critical juncture (Thelen 2004:284-5). Furthermore, institution can be endured by adapting and transforming itself parallel with the changing of social, political, and economic conditions. Even this approach does not omit the

'disloyal' idea, which is also altering; the interplay between stabilisation and innovation can be systematically done to preserve the institutional arrangement (Lustik 2011:206). The conceptual approach affirms the emergence of hybrid institution in Yogyakarta. By integrating these multiple analyses, the paper situates the conceptual approach to give and develop a comprehensive explanation in answering the research questions.

History of Yogyakarta

In order to have a complete understanding on Yogyakarta, this section presents the contexts which explain the cultural tradition and the special feature which underlay the local politics in Yogyakarta. The cultural tradition underlies the way of life of the people and the special features explain the unique combination of governance system in Yogyakarta compared to other application in different countries. Those explanations give the information to create basic understanding in analyzing the local politics of Yogyakarta.

a. The Traditional Culture

Yogyakarta is originated from former traditional kingdoms, *Kasultanan Ngayogyakarta Hadiningrat* and *Kadipaten Pakualaman*. The king of *Kasultanan* is *Sultan Hamengkubuwono* and the duke of *Pakualaman* is *Adipati Pakualam*. As leader of traditional Javanese kingdom, they have been symbolized as the heritage of Javanese culture that strongly influenced the people's way of life in Yogyakarta.

People in Yogyakarta believe to *Sultan* as a good king because he should meet to several individual values such as *dhana* (generous), *sila* (good attitude), *ksanti* (calm and patience), *virya* (courage) *dhyana* (contemplate), *pranidhana* (good determination) *bala* (powerful) and *juana* (wellinformed to new knowledge). These characteristics have to be owned by *Sultan* because there is a cultural understanding that the throne is the revelation from God (Nusantara, 1999: 91). When he became *Sultan*, he has to perform himself to the philosophical value of this culture, *hamemayu hayuning bawana* (harmonize the beauty of the world), and devotes himself to wealth of the people of the kingdom (Yogyakarta Provincial Government, n.d.). By fulfilling the requirements to be *Sultan* and its duties, they guarantee the capacity of the person who had the throne. Moreover, people obey their traditional leader because they assume that the *sabda pandhita ratu* (the king's words) is a law and is said to good of the society (Nusantara 1999:156).

Besides that, the culture of this society also has several traditions to keep a close relationship between *Sultan* and his people, such as *laku pepe* and *pisowanan agung* (Nusantara 1999: 191). *Laku pepe* (sun bathing using white shirt in the main square) is a symbolic media for *kawula alit* (common people) to express injustice situation faced by them to *Sultan*. By showing this ritual, they ask an opportunity to talk directly to their king and express their problems. *Sultan* will accept them to the palace and let the people to directly convey their grievance. Then, *Sultan* will help them to solve the problem. Other media to maintain a good relation with stakeholder in the kingdoms is The *pisowanan agung* is mass traditional gathering which involves thousands of people and it is conducted in the main square of Yogyakarta to ask *Sultan's* statement about the problem faced by the society (Nusantara 1999; Lay 2008). Using this event, *Sultan* can know the aspiration of his people and the situation in grass root level.

Above explanations show that cultural tradition in this society has become the strong norms and values. They influenced people's behaviour and guided the appropriate attitude to be accepted in this society. Although Yogyakarta was not a kingdom anymore and it became a province in Indonesia, those traditions are still preserved by the society to recent time. Consequently, the situation in Yogyakarta created a unique combination that underlay the local politics in Yogyakarta. The next section explains the special feature in Yogyakarta that has been resulted by the combination.

b. Special Feature of Yogyakarta

The Law 3 in 1950¹ about special status stated Yogyakarta as a special region of Indonesia in the provincial level of government. This law also set the *Sultan*, the traditional ruler of former kingdom in Yogyakarta, as the governor of the province. This law created dualism in the figure of *Sultan*. On the one hand as the ruler of former monarchical kingdom in Yogyakarta, *Sultan* is the symbol of traditional institution in which cultural identity of the kingdom attached to his authoritative power. On the other hand, the implementation of special law appoints him as the governor of Yogyakarta who gives the power by the modern law to govern the province. Consequently, *Sultan* has the informal and formal power and legitimate based on both institutions which are existed in Yogyakarta.

Unfortunately, the special status law which was enacted in 1950 had a very simple article in regulating the provincial government administration. Besides that, the development of local government in Indonesia evolved to a complex intergovernmental system which needed to be regulated in a better law. In relation with this situation, since 1950 Indonesia has been enacting 4 local government laws and an Agrarian law; nonetheless, these laws did not change the dualism in Yogyakarta. Besides, Yogyakarta is a province which obliged to implement national regulation and the dualism overrules the central government law. According to the latest local government law, Law 32 of 2004, Yogyakarta is one provincial government of 35 provinces in Indonesia. Surprisingly, even though the law applied 'strong major system' through direct local election; it reinforced the special status of Yogyakarta. It kept maintaining the special status and at the same time it suggested the application of the new law in administering the provincial government.

The reason of maintaining the special status of Yogyakarta was explained in the monographs based on their explorations to the local context that caused the privileges to this province (Lay 2008; Regional Representative Council 2010). First, since the beginning of this province, Yogyakarta has been obtaining different status as a province because it originated from sovereign and established kingdom compared to other province in Indonesia. Moreover, the contributions of this province to Indonesia after declaring its independence also created a strong historical relation which could not be ignored. Second, the former monarchy in Yogyakarta is a national heritage which needs to be preserved. It has a strong

¹ Statement said by Djoko Suryo in the expert judgment meeting that the central government of Republic of Indonesia enacted this law in 1950 as the acknowledgement of Yogyakarta's contributions to Indonesia after this country declared its Independence from Dutch colonizer in 1945 (Lay 2008). The contributions were 1) declaring their kingdoms as part Indonesia after this country claimed its independence from Dutch colony, 2) allowing the displacement of Jakarta to Yogyakarta as the capital city of Indonesia, and 3) financing the government expenditure in administering the new country.

cultural tradition from the former kingdom which did not only influence the people in Yogyakarta but it also enriched the Indonesian culture. Third, the land tenure policy in Yogyakarta is characterised by the social protection to the marginalised group of the society which came from the cultural philosophy of *Sultan* to deliver the wealth of the kingdom to the society. Based on these findings, the monographs argued that the special status of Yogyakarta needed to be preserved because of these reasons.

The dualism as the political context of Yogyakarta is underpinned by the interplay between monarchical and western-styled democratic systems (Ibid). The local politics in Yogyakarta creates a unique system because *Sultan* as the King of former traditional kingdom is the governor of the province. Both roles are legitimate to the people in Yogyakarta. Furthermore, using the discretion, *Sultan* applies democratic approach in his policy to strengthen his traditional monarchy in Yogyakarta. Gathorne-Hardy (1953) called this policy as the 'democratic monarchy'. The term of 'democratic monarchy' could be considered as an oxymoron because it is combining two 'antithetical conceptions' within one phrase. Both contrasting words negated each other because monarchy is the system which relies on hereditary principle and democracy challenges the monarchical system to give an egalitarian principle for the people (Abell and Stevenson, 2011:487-8). Hardy named the term while he described Queen Victoria's policy in dealing with the approaching democratisation in British monarchy.

Today, the function of British monarchy is purely ornamental after the application of 'constitutional monarchy' as the governmental system in Britain (Gathorne-Hardy 1953:274). The 'constitutional monarchy' is a type democratic government system which put the traditional leader as the symbol of the monarchy. The leader does not have any political power because it belongs to the prime minister and the parliament to govern the country. Similar to the constitutional monarchy that held in the Netherland, even the Queen, as the head of state, with the council of ministers forms the government; she plays her role as monarchical symbol. The Queen does not have formal power to govern the state and it belongs to the prime minister.

Other examples of constitutional monarchy are seen in Malaysia and Thailand which have constitutional monarchy in their governmental systems. These countries put the role of King not only as the symbol of the monarchy but also the head of the state and the government is run by the prime minister. However, based on Diamond argument (2002), Malaysia is not a democratic government and it can be categorised as hybrid regimes. He argued that Malaysia had electoral autocracy in the multiparty election (Diamond 2002:23). Similar to Thailand case, even though Thailand has election to choose the prime minister; most of prime ministers in this country were selected by military regime (Lay 2008). Based on the monographs finding, the examples of constitutional monarchy are different with the condition existed in Yogyakarta. Sultan has held both roles, as the symbol of the society and as the formal leader, and it has been preserved by the latest law even it has enacted a contradicted approach with the context of the province. In the following part, the paper presents the analysis of hybrid institution which underpins the unique local politics in Yogyakarta.

Explaining the Hybrid Institution

The analysis of the paper comes from the reflection on the data using two different approaches. The analysis is started by exploring the hybrid legal system in Yogyakarta as a result of legal pluralism that is accepted by the people through their understanding on the existing condition of Yogyakarta. Then, it is followed with analysing the emergence of hybrid institution by describing the people's political behaviour as phenomena which shows the existence of hybrid system in Yogyakarta. This section is organised by the paper to give a comprehensive explanation to the conflict that emerged in Yogyakarta. They support each other to build the argumentation of the paper and answer the research questions.

a. The Hybrid Legal System in Yogyakarta

Pluralistic legal system in Yogyakarta has been created by the application of special status law which allowed different legal order to co-exist together at the same time and form the hybrid legal system. Moreover, the interplay between monarchical and democratic approach to create harmonious relations between not only people and the legal order but also between different laws has been accepted as their living law. However, the system also allowed the raising idea of democratic election in Yogyakarta. Accordingly, most people refused the democratic idea because it deprived hybrid legal system in Yogyakarta their living law.

Hybrid legal system in Yogyakarta has been created by the application of dual legal systems since *Sultan IX* became the king. The speech² in his inauguration expressed the vision to combine two different values in his governing system. This speech became the 'ethical commitment'³ of *Sultan* to develop unique legal practice because both laws coexist together within the society. Although the tradition and law come from different legal principles; they complement each other and the dialectics between themselves create 'legal pluralism' in Yogyakarta. Based on Merry's definition, legal pluralism is the coexistence of different legal system at the same time (1988:869). Consequently, the interaction forms complex relation of hybrid legal system because it plays not only between monarchical and modern law but also between the legal system and the people in Yogyakarta.

However, the coexistence of dual system in Yogyakarta cannot be separated from the former kingdoms within the province and the republic of Indonesia because both of them joined together in forming the legal order in this province. The former traditional kingdoms gave the cultural tradition that is applied by the people for a long time as the behavioural norm. The norm deeply rooted in the people mind because it is internalised through the daily practice in the society (Nusantara 1999). On the other hand, people in Yogyakarta cannot be free from their obligation as the citizen of the state. As the citizens, people have to obey the modern law that regulate their interaction with other citizens and with the state.

² 'The task that puts upon me is difficult and hard, thereby I am fully aware of it, especially concerning to reconcile the western and eastern value in a harmonious nuance without losing the eastern characters. Although, I genuinely learned western education but I am firstly Javanese and it remains the same. Accordingly, as long as the custom does not hamper the development, it stays at the first place in the palace with its traditional richness'. Sultan gave the speech in 18 March 1940 (Atmakusumah 1983).

³ The term of 'ethical commitment' appeared during the discussion with Purwo Santoso while understanding the polity of Sultan IX in governing the region, March 29, 2012

Consequently, people must obey two different laws simultaneously in their daily activity because the local system applies pluralistic legal system.

The emergence of pluralistic legal system in Yogyakarta is caused by the acceptance of the people to different laws in their society although it is very different with their perceived law. The perceived law usually comes from their traditional culture that is deeply internalised in their mind. However, the acceptance is generated by their common understand to the application of traditional law which does not create conflicting situation to the society. In relation to this situation, people apply their legal consciousness during the interaction with different laws because legal consciousness helps individual in interpreting the legal order (Hertogh 2004:460). Moreover, the principle of legal consciousness is practical tradition that is conducted by the people in relation with their environment (Cowan 2004:931). Although cultural practice has strong relation with the tradition; it could happen in the modern laws. The manifestation of legal consciousness as cultural practice emerges in the situation that takes place legal pluralism in the society.

The legal consciousness can be seen through the application of *tepa salira* (tolerance) tradition in Yogyakarta which absorbed the external law from outside the province such as different traditions or laws brought by new settler in the region. It tends to build a good social relation not only in the individual interaction but also in complementing the different laws (Nusantara 1999). During the drafting process of special status law, local politics in Yogyakarta was heated by the grievance of the group who supports appointment mechanism; even though, it was peacefully done by the people. People preferred to show their aspiration through traditional events, such as *pisowanan* agung (mass gathering), *laku pepe* (sun bathing), and *tapa bisu* (silent meditation), which perform less violent situation.

The role of the cultural practice in controlling the proper behaviour is also applied to the relation between people as the citizen and the governmental law. As a part of Indonesia, people in Yogyakarta have to obey the national law which has been enacted by central government to the region. However, as the special region, Yogyakarta has two different laws to regulate domestic legal order, the special status law and local government law. Unfortunately, both laws contradict each other because special status law maintains the monarchical system and the local government law proposes direct local election and this situation was strongly publicised by the central government official (Erwida and Suwarni 2010). For the people in Yogyakarta, the situation does not give any problem because they put it into the understanding of cultural practice. Practical understanding shows that people apply the monarchical system in the appointment of Sultan as the governor and land tenure policy and the rest regulation use local government law (Regional Representative Council 2010). The practice put individual judgement to the situation and, then, it spreads in the society as general knowledge. People look the laws as hybrid legal system and it comprises different laws which create legal pluralism situation (Merry 1988). Moreover, people could apply the living law arrangement on the contradicted laws because they have been familiar with both laws for years and the one who problematized the situation is the central government of Indonesia. The application of living law in the society shows that people are well experienced with the hybrid system in Yogyakarta. The system deeply rooted in the people's mind and characterised the culture of Yogyakarta (Atmakusumah 1983; Nusantara 1999; Lay 2007; Regional Representative Council 2010). The application of self-regulating system on land used to deliver the wealth for the people and 'protect the public land from the

acquisition of private motive company⁴. Yet, *Sultan* policies have allowed the using of the land by the people and cultivated it for years. In relation to democratic approach, the foundation was introduced by *Sultan IX* who reigned from 1940 to 1988 and at this time it can be preserved by his successor, *Sultan X*. Since 1942 *Sultan* has applied several policies which can be identified as the introduction of democratic system. First, *Sultan* limited the role of *pepatih dalem* (regent) and removed this position when the last *pepatih dalem* died in 1948. By eliminating the *pepatih palem*, *Sultan* established himself not only in high politics such as decision making process but also in daily politics such as meeting with the people and hearing their aspirations. Moreover, the termination of *pepatih dalem* position gave back his formal position to him as the ruler of Yogyakarta (Regional Council Representative 2010: 15). Second, in 1946, the introduction of direct election to choose the chief of villages and its official in rural area entrenched the democratic value not only to urban but also to rural area in Yogyakarta (Atmakusumah citing Kahin 1983: 176). The application of this policy gave a strong evidence that people in Yogyakarta was accustomed to direct election because they had it in choosing their village officials. Third, in 1948, *Sultan* dissolved the royal family privileges as the major of the city and head of regions within the province and let ordinary people to have it through the election. That is why within the province, the head of regions are elected from the people and do not come from royal family (Regional Council Representative 2010). Based on these policies, *Sultan* gave the foundation for the establishment of hybrid legal system in Yogyakarta and people got the experience before the local government has been enacted by the central government to promote direct election. The situation explains why most people in Yogyakarta feel the hybrid system can be preserved even there is a contradiction within the systems. In addition, people can deal with the situation by applying the hybrid institution as their living law. To find out the existence of opposite aspiration which explains the contradiction within the system in Yogyakarta, the paper applies historical institutionalism to examine the political behaviour of people in Yogyakarta which indicate the emergence of hybrid institution in the next section.

b. Emergence of Hybrid Institution

The behaviour of people in Yogyakarta was affected by the implementation of hybrid institution as the local policy which combined monarchical and democratic system as the foundation of the society. Moreover, using this policy, *Sultan* could control the appropriate behaviour of people by intertwining the cultural and calculus approaches to maintain a stable circumstance in the region. The special status law allowed *Sultan* to apply this policy and it could keep Yogyakarta as one of the most peaceful regions in Indonesia.

Since 1950, Yogyakarta has developed hybrid institution within the region. However, the existence of this system is less noticed because the local politics of Yogyakarta does not present a conflicting application of it and the process takes place peacefully. People only observe Yogyakarta as a region which has strong cultural root from former traditional kingdoms and the governor of the region is *Sultan*, the traditional ruler of the kingdom. The system became noticeable as hybrid system when political conflict between different

⁴ Land tenure policy in Yogyakarta was explained by Julius Sembiring, one of participants in the Agrarian Course in ISS, May 2011

people's aspiration divided the society into group that support appointment or election mechanism⁵.

The existence of conflicting aspirations that divide the society originates from hybrid institution that is underpinned by the application of legal pluralism in Yogyakarta. Institutional analysis argued that institution can influence people's political behaviour because institution relates its characteristic to the people as their agency (Hall and Taylor 1996). Furthermore, historical institutionalist states that it can be originated from both formal and informal institution in the society. Formal institution is provided by modern law which promote western-styled democratic system. This system bears the calculus approach because people use their rationality to achieve their goal. The goal gives the benefit to individual which is defined as benefit maximiser. On the other hand, the informal one obtains cultural approach to keep the satisfaction by emphasizing the role of norm to create appropriate behaviour of the people as the goal (Ibid: 6-8). By achieving appropriate behaviour in the society, the social pattern can be preserved. The application of both approaches characterizes the historical institutionalist in examining the role of institution in influencing the behaviour of the agency.

Hybrid institution in Yogyakarta that is underlain by the special status law allows the application of cultural and calculus approach to influence the behaviour of people. Cultural approach is backed up by monarchical system which applies the appointment mechanism and land tenure policy and calculus one is underlay by modern system that uses democratic policy. Even though Yogyakarta became part of Indonesia; people acted in feudalistic manner especially for the large number of them who live in rural area. Cultural approach preserves the patron-client relation between Sultan and people in rural area which is still lasting and it gives strong legitimacy for *Sultan* as the governor (Lay 2008). The land tenure policy supports this approach because, as the king, Sultan can give reference letter (*serat kekancingan*) for the people to use the land. Besides, 'most people in rural area do not pay the rent for the land and they can inherit the right to cultivate the land to their family'. It hardly happened to the people who rent the land in the urban area because they have to pay for it⁶. This situation also explains the strong relation between *Sultan* and the people in rural area. *Sultan* develops resource patronage to the people using his land tenure policy; even though, it uses the monarchical justification to implement the policy.

On the other hand, *Sultan* also applies calculus approach by introducing democratic policy in governing the region. The introduction of democratic approach in Yogyakarta was a necessity to the society because *Sultan IX* saw the approaching of democratisation in the European countries⁷. In fact, the policy assured a closer relation between *Sultan* and his people because the people experienced with the democratic approach policy. Moreover the policy created a mutually constitutive relation between monarchical and democratic approach and has been able to maintain the local politics of Yogyakarta passing through

⁵ Said by Teguh Juwarno, member of house of representative, in rakyatmerdekaonline.com accessed in 30 September 2011

⁶ The discussion took place during the agrarian course, May 2011, in ISS with Julius Sembiring, one of the participants of the course.

⁷ Sultan IX had lived in the Netherland for 9 years (1930-1939) as a student in Leiden University and developed his knowledge about democratisation in European countries during this time.

political turmoil in Indonesian history. The implementation of democratic policy by *Sultan IX* was also continued by his predecessor, *Sultan X*. When Indonesia was approaching the reformation era in 1998, *Sultan X* strongly supported people in forcing the authoritarian regime to step down (Woodward 2011: 230). He joined the demonstration and appealed them not to be anarchical while they were demonstrating. Amongst people in Yogyakarta, *Sultan* is a very respectable person and, traditionally, people had to obey "the king's words". In fact, Yogyakarta became the most peaceful region in Indonesia in reforms processes although a million of people gathered together protesting the regime (Nusantara 1999: 59). The peaceful environment in Yogyakarta was well managed because the society knew the appropriate behaviour which is underpinned by the local culture in dealing with the situation. *Sultan* also played his role as their traditional ruler to situate the crowd by appealing people not to be destructive. Using this approach, *Sultan* can maintain the 'path dependence' (Krasner 1984) of Yogyakarta by keeping the pattern of non-violence approach and using traditional symbol to develop a peaceful society that is underlain by cultural approach.

In relation to the 'critical juncture' (Collier and Collier 1991), in 1998 and 2007, Yogyakarta faced strong political tension that disrupted its local politics. People gathered together against the idea on local election for governor position and demanded central government to renew the special law and appoint *Sultan* as the governor of Yogyakarta. Nonetheless, the demonstration did not change into riot and people safely got back to their home. People's demand to hold on the special status law and the appointment of *Sultan* as the governor can be considered as calculus approach because they use their right to express their choice. Especially for them who live in urban area, their rationality let them to choose the existing situation in Yogyakarta because they are comfortable with the way of life in the region (Astuti and Suryaningtyas 2011). This aspiration is generated by the application of calculus approach to the people. Consequently, this shows that people also use their rational calculation to keep their cultural tradition.

People's ability to create the interplay between two approaches explains the 'the role of idea' concept which also describes an idea shift in the people's mind (Hall 1983; 1984; 1990). People became familiar with the application of both approaches because they experienced the approaches in their political activities. Both approaches influenced their behaviour; therefore, people decided the application of the approach by themselves. To maximize the satisfaction in living in Yogyakarta, some of them applied calculus consideration to preserve their way of life that is supported by cultural tradition. In fact, 'calculus approach through democratic election does not guarantee creating democratic government'⁸ that is why some people prefer to preserve hybrid institution than democratic government. In contrast, there are also people who nurture democratic election as the application of calculus approach because it implements substantive understanding of democracy. 'Election gives an equal opportunity to the people and seeks the accountability of governor to its constituent'⁹.

⁸ Mudjanto, a historian, was commenting the application of democratic election in the monograph made by Governance and Political Department, Gadjah Mada University.

⁹ Afan Gaffar, during the hearing of government official when socializing the monograph made by Gadjah Mada University (Lay 2008)

The idea to strengthen the monarchy using democratic approach can be considered as the application of 'non evolutionary theory' (Thelen 1999; 2004). It is aimed to preserve the monarchical system within the society; hence, it gives democratic situation established within the people's political activities. Moreover, both Sultans tolerate the opinion of the group that support the election to be applied in Yogyakarta. *Sultan* gives the 'incentive' that he can also become a democratic person to the group that support the application of local election for governor in Yogyakarta (ibid). By developing democratic approach, *Sultan* gives his 'good trick' to maintain the possibility of disloyalty on the hybrid institution by showing his support to democracy (Lustik 2011).

Sultan IX statement to preserve the tradition by combining monarchical and modern value through the introduction of democratic approach can be considered as the application 'non evolutionary theory' (Thelen 1999; 2004). He confirmed himself to keep his monarchical tradition and reconciled it with the modern value. Following 'his word', he created democratic policies during his reign such as direct election for village officials. The hybrid system persisted although *Sultan IX* passed away in 1988 and his successor, *Sultan X*, has continued to apply the local politics in Yogyakarta (Nusantara 1999). The hybrid institution applies monarchical tradition in the appointment of *Sultan* and land tenure policy; while the other policies in the region are by *Sultan* based on democratic approach. However, people seem to accept this arrangement and they feel comfortable with the local context (Regional Representative Council 2010; Astuti and Suryaningtyas 2010). This situation shows the role of democratic policies in preserving the traditional monarchy and it plays as the 'incentive' to maintain democratic idea which is existed in the society.

Since 1998, during the term of *Sultan X*, the situation of Yogyakarta has been more complex because the hybrid institution has been challenged by the democratisation in Indonesia. The challenge is questioning the application of appointment of *Sultan* as the governor which is not in line with the application of substantive democracy. In dealing with the conflict in filling the governor position within the special law, *Sultan* let his people to decide their own choices because he realized that there were pro and contra within his society (Nusantara 1999). Both appointment and election mechanisms have the proponent in the society and it is their right to have the own decision. Furthermore, his statement about unwillingness to be the governor for the rest of his life¹⁰ fretted the people in Yogyakarta. When his people forced him to give the explanation about his statement through *pisowanan* agung, he answered, diplomatically, that he did not want to be the governor if the people did not support him (Lay 2008: 22). Besides, the statement also reinforced the opinion of people who support the election of governor in Yogyakarta. In relation to this, people agreed with election based on 'the concern over the future of the province if *Sultan* becomes the governor for the rest of his life because he can get sick and unfit for the position'¹¹. Similar expression said that '*Sultan* is human being which can make mistakes and die'¹². Nonetheless, the aspiration of election group is expressed by the people; their voices are less heard compared

¹⁰ Kompas.com, Sultan HBX: Saya tak mungkin gubernur seumur hidup (I could not be the governor for the rest of my life), edition 20 September 2008 accessed March 2011

¹¹ Statement said by Budi Setiyawan in The Jakarta Post edition 12 March 2010 accessed 15 August 2011

¹² Statement said by Sudaryanto in The Jakarta Post edition 12 March 2010 accessed 15 August 2011

to the other group. Despite unwillingness to be the governor for the rest of his life, *Sultan* seems measuring his personal justification on the people who supports him by using the democratic approach to guard the social pattern which is embedded in Yogyakarta. The statement is a 'good trick' to calculate his legitimacy to keep the local context (Lustik 2011).

Historical institutionalist analysis showed that people's behaviour in Yogyakarta was influenced by the application of monarchical and democratic system in the region. Furthermore, it described how the hybrid institution allows the growing of different aspirations in the society and maintained a stable interaction between appointment and election groups. The tension between monarchy and democracy took place when the central government tried to impose democratic election to the region. People reacted by showing their support to *Sultan* and protesting the central government decision. Although the situation in Yogyakarta changed into conflict, *Sultan* tried to preserve the special status using the interplay between cultural and calculus approaches as the application of hybrid institution.

Conclusion

This paper was designed to describe the application of "Democratic Monarchy" in Yogyakarta. Based on the findings, legal pluralism analysis described the appearance of conflict between different aspirations in local situation related to the filling mechanism of governor position. Different aspiration divided the society into group who supported direct election and group who insisted the appointment mechanism. Both groups were existed in the society because they were familiar with the situation. The special status law of Yogyakarta allowed Sultan as the governor to apply monarchical and democratic approaches at the same time. His policy to reconcile western and eastern value has been proven capable to maintain stable and durable circumstances in Yogyakarta for decades. In relation to this situation, people in Yogyakarta were aware to the cultural practice between monarchical and democratic system in the society and admitted it as their 'living law'. The findings about 'living law' showed the role of cultural practice in controlling individual behaviour to interact with not only other individual but also the government. Accordingly, the aspiration of most people in Yogyakarta refused the application of democratic election because it deprived their 'living law'.

On the other hand, splitting aspiration of the people appeared in Yogyakarta because Sultan applied the intertwined approaches of 'historical institutionalist' which maintained the divided aspiration of the people in Yogyakarta. Based on the 'calculus approach' analysis, Sultan applied democratic approach to strengthen the monarchical system. Despite giving the democratic approach as 'incentive' to the people, Sultan mainly focused on maintaining the social pattern in Yogyakarta to keep his legitimacy. Moreover, he could reinforce his patronage using the cultural approach such as land tenure policy which strongly influenced people behaviour. The application of institutionalist approaches explains the relation between Sultan and his people.

As a result, the existence of Yogyakarta as a "democratic monarchy" came from the application of intertwined system between monarchy and democracy within the Sultan administration in Yogyakarta. Sultan attempted to 'harmonise western and eastern value without depriving the tradition' by strengthening the monarchy using democratic approach. This policy is similar to Gathorne-Hardy conception of democratic monarchy which explains Queen Victoria's policy in Britain. Moreover, the special status law allowed Sultan to

implement the policy which has been proven capable to maintain a peaceful environment in the region for decades. This arrangement became the characteristic of Yogyakarta. Because people felt comfortable with the situation, they embraced it as their 'living law'.

However Sultan applied a limited monarchical system and emphasised more on democratic approach which introduced both monarchical and democratic system to people. Consequently, people in Yogyakarta experienced with democratic approach before the central government proposed the draft of special law which imposed the direct election. As a result, even though the society has been divided into two different groups; both aspirations described their freedom of right which is acknowledged by the hybrid legal system in Yogyakarta. People understanding on their freedom right originated from their interaction with the local system in Yogyakarta because Sultan's administration applied democratic approach policy.

However, based on Rakner (2007:7) division on substantive democracy, the governance system in Yogyakarta could not be categorised as democratic local government. The regime in Yogyakarta is never change and it keeps relying on monarchical system to fill the position province leader which implied in the special status law. Furthermore, even people accepted Sultan as their formal leader; it seemed hard to have accountability measurement because the relation between Sultan and the people have been mostly underlain by the power and resources patronage.

Using Diamond (2002) reflection on many applications of governance system, Sultan administration can be considered as hybrid regime in a broad sense. However, the application of monarchical system that underlay democratic approach in Yogyakarta can be distinguished with Diamond's examples of hybrid regime. Sultan has used less authoritarian approach within the limited monarchical system and most policies have applied democratic approach to govern the province. Accordingly, the regime can be best described by the term of 'hybrid institution' which showed the role of traditional system in translating democratic approach in its society similar to the Sultan's policy in Yogyakarta(AIPP 2007:2). This definition seems similar with the term of democratic monarchy as the concept of policy which strengthens the monarchical system using democratic approach.

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