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Nusantara: A New Capital City or a Costly Gamble for Indonesia?

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Abstract: The strategic relocation of the national capital from Jakarta to IKN has far-reaching implications for Indonesia. This article aimed to analyze the legal aspects and other impacts of the state capital relocation. The legal aspects that were the focus were the justification and legitimacy of the formation of Law Number 3 of 2022 on the Relocation of the National Capital. In addition, this article also examined the potential social impacts that may arise from the relocation of the state capital, such as the potential for new inequality issues, environmental impacts, and risks to the sustainability of the IKN project. The research method used was normative legal research with a statutory approach. The data used in this research was secondary data consisting of primary legal materials and secondary legal materials. The conclusions that were drawn were in accordance with the issues that were investigated through descriptive and qualitative data analysis. The results showed that the legal justification and legitimacy of the formation of Law Number 3 of 2022 regarding the National Capital still need to be questioned. Furthermore, the relocation of the national capital also has the potential to cause various social impacts that need to be anticipated and handled properly.

Keyword: Law, Policy, Nusantara Capital City.

INTRODUCTION

Since the Dutch colonial era, Jakarta has served as the administrative, economic, and cultural hub of Indonesia. As the nation's capital, Jakarta bears a tremendous burden. With a population exceeding 10 million and more than 30 million if the Jabodetabek metropolitan area is included, Jakarta faces significant challenges that threaten its survival as the nation's capital (Kahar, 2022). One of Jakarta's significant problems is severe traffic congestion. Jakarta has been named one of the world's worst congested cities, causing economic losses of up to trillions of rupiah each year (Pratiwi, 2016). This congestion not only hinders population mobility but also affects the productivity and efficacy of the national economy.

In addition, Jakarta is also experiencing land subsidence caused by excessive groundwater extraction. In some areas, the land is sinking at a rate of 10-20 centimetres per year, making the city increasingly vulnerable to flooding. The combination of land subsidence and rising sea levels places Jakarta at significant risk of future submergence (Smith, 2023).

Jakarta is also confronted with the environmental challenge of air pollution. The health of its millions of residents is adversely affected by the toxic air quality that is the result of high emissions from motor vehicles and industrial activities. The absence of verdant open space, which comprises less than 10% of the total city area, further worsens this pollution crisis. Furthermore, Jakarta undergoes annual flooding that induces substantial economic and social losses. Inadequate drainage systems and the narrowing of rivers due to irregular development make Jakarta unprepared for heavy rainfall, which is becoming more frequent due to climate change.

The strategic relocation of the capital city from Jakarta to the Islands in East Kalimantan has been meticulously planned. The planning, development, and operationalization of the Islands as the new national capital are regulated by a number of laws that support this initiative. The primary legal foundations are as follows: a). Law Number 3 of 2022 regarding the National Capital: This law replaces Jakarta with the Thousand Islands as the capital city of the Republic of Indonesia. This law governs a variety of aspects, such as the financing and administration of state assets in IKN, as well as environmental management and spatial planning. b). The amendment to Law No. 3 of 2022 and Law No. 21 of 2023 is a modification to the previous law that includes policy updates, technical adjustments, and additional regulations to assure the seamless operation and development of IKN (National Capital City).

The government had already initiated the relocation process with preparatory measures prior to the passage of this law. President Joko Widodo submitted Presidential Letter Number R-34/PRES/08/2019 to the House of Representatives (DPR) on August 23, 2019, along with two primary directives: 1). Report on the Results of the Presidential Study on the Relocation of the National Capital City: This document was the outcome of a comprehensive investigation conducted by the government to ascertain the strategic and technical rationale for the decision to relocate the capital city. The study examines the economic, social, environmental, and geographical factors that contribute to the decision to relocate the capital city. Second. The House of Representatives is also requested to provide support for the capital relocation plan, including the preparation and ratification of the essential regulations. This letter also contains a request for parliamentary support for the relocation of the capital city.

These steps illustrate the government's seriousness in carrying out the capital relocation process, which involves thorough legal and administrative preparations. In addition to the primary law, the government has also issued a series of implementing regulations and drafted additional laws aimed at strengthening the legal framework for the development of the National Capital City (IKN). These regulations will cover various technical and operational aspects, including environmental management, spatial planning, natural resource management, and frameworks for financing and investment (Mustofa, 2022). The proposed regulations also include equitable and sustainable land management schemes, as well as efforts to involve local communities in the development process. This is important to ensure that the development of IKN not only benefits the government and investors but also provides tangible benefits to local communities (Purba et.al., 2023).

Indonesia is a state of law, as stipulated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. As a state of law, all aspects of the life of society, nation and state, including governance, must be based on law in accordance with the national legal system. Before stating that Indonesia is a state based on law, in the preamble of the 1945 Constitution, there are objectives of the Indonesian state, namely: "... to protect the entire Indonesian nation and the entire Indonesian homeland, to promote the general welfare, to

educate the nation's life, and to participate in the implementation of world order based on independence, lasting peace and social justice." In order to achieve these goals, the actions of the government and the people must be based on the law (Nuraini, 2018). Similarly, the National Capital Law must be legally referenced and subject to the implementation of national law, which is carried out in a planned, integrated, and sustainable manner by a system that ensures the protection of the rights and obligations of all Indonesian citizens.

METHOD

This research was a type of normative legal research that uses a statutory approach. The data used in this research consisted of secondary data, which included primary legal materials and secondary legal materials. Primary legal materials used included the 1945 Constitution of the Republic of Indonesia, Law No. 12/2011 on the Formation of Legislation, and Law No. 3/2022 on the National Capital. Meanwhile, the secondary legal materials used consisted of legal literature such as books, journals, papers, lecture materials, and other secondary legal sources related to the relocation of the national capital. The legal materials were analyzed using a descriptive-qualitative approach to draw conclusions in accordance with the issues studied in this research.

RESULTS AND DISCUSSION

Is IKN suitable for the capital city or as a replacement for Jakarta?: A Problem Analysis

The relocation of the capital city to IKN has elicited a variety of responses from academics, public figures, and experts. While some regard the move as a critical measure to guarantee the sustainability of Indonesia's development, others are apprehensive about the potential obstacles that may appear. Proponents of relocating the capital city argue that: a) Equitable Development. Relocating the capital will stimulate development outside Java, reduce regional disparities, and create new economic opportunities in East Kalimantan; b). Efficient Governance. With infrastructure specifically designed to be the centre of government, IKN will enable more efficient and modern governance; and 3). Healthier Environment. IKN offers the opportunity to build a greener, cleaner, and more environmentally friendly city compared to the congested and polluted Jakarta.

Following that, capital transfer is criticized for its numerous challenges and risks, such as its exorbitant costs. To relocate the capital, a substantial investment is necessary, which could affect the national budget and other development priorities. Secondly, in terms of social risks, The relocation of the capital could result in social issues in East Kalimantan and create uncertainty for Jakarta residents who work in the government sector if development is not conducted inclusively. Third, environmental challenges. Despite the fact that IKN is intended to be a green city, the local ecosystem is at risk due to the development of the forest areas in East Kalimantan.

On the other hand, the relocation of the national capital also presents legal obstacles. The drafting of Law No. 3 of 2022 on the National Capital City was completed in a remarkably brief amount of time, with minimal transparency and public participation. The Draft Law on the State Capital was only formed within 42 days, and public consultations were conducted only twice, which is evidence of the lack of adequate participation and transparency in the formation of the State Capital Law. Upon comparing the phases of the law formation process, which include planning, preparation, discussion, ratification, and enactment, to the process of forming the IKN Law, which only requires 42 days, it becomes apparent that the time frame is illogical. Furthermore, the academic paper that served as the foundation for the IKN Law is incomplete.

In fact, transparency and participation are crucial elements in the legislative process. This is in line with Article 5 letter (g) and Article 96 of Law Number 12/2011 on the Formation of Legislation. Public participation in the formulation of the PMN Law must be carried out in a meaningful manner as mandated by the Constitutional Court Decision Number 91/PUU/XVII/2020. That is, participation will be deemed fulfilled if the community has fulfilled the right to be heard, the right to have their opinions considered, and the right to obtain an explanation or answer to the views that have been given (Benia and Nabilah, 2022). This concept is a more precise representation of the principle of meaningful participation, which is characterized by the utilization of a participation model that is designed to optimize the involvement, collaboration, and empowerment of community ideas in order to support development planning (Damayanti et al., 2020).

Public participation is essential in the formation of laws and regulations because it is also the community's responsibility to be actively involved. As the subject affected by the enactment of laws, the community must have a role in determining policy direction and legislative priorities. Without the community's involvement in its formation, it is almost impossible for legislation to be widely accepted and effectively implemented. Moreover, it is recognized that one of the main prerequisites for producing responsive legal products is public participation (Taib, 2017).

Furthermore, the administration of the National Capital City is not explicitly regulated by the National Capital City Law. Therefore, numerous substances associated with IKN are assigned to implementing regulations, including presidential regulations (Perpres) and government regulations (PP). As a result, the IKN Law violates the principle of harmony and conformity between categories, hierarchies, and content material in its formation process, as outlined in Article 5 Letter C of Law Number 12/2011.

On the other hand, the establishment of the PMN Law may be interpreted as a necessity. In contrast, Law Number 12/2011's Article 5 letter e mandates that the development of laws and regulations must be predicated on the principles of efficiency and utility. This principle asserts that each regulation is implemented due to its genuine necessity and practicality in regulating the affairs of society, nation, and state. According to a survey conducted by the Indonesian Public Opinion Discussion and Study Group (Kedai Kopi) on December 19, 2021, 61.9% of individuals are opposed to the relocation of the capital city. Budget squandering was the primary cause of respondents' disagreement. This response was rejected by 35.3% of the respondents. The location that would subsequently be selected as the new IKN was deemed insufficiently strategic by up to 18.4% of respondents, while 10.1% of respondents believed that the facilities in Jakarta were adequate. Then, a significant proportion of respondents, up to 5.6%, expressed concern regarding the potential increase in debt that would result from the relocation of the capital city. Afterwards, up to 4.7% of respondents believed that the history or historical significance of the Unitary State of the Republic of Indonesia (NKRI) could be altered by relocating the capital city.

Due to the non-inclusive process of drafting Law No. 3 of 2022, it is vulnerable to being perceived as a legal product with a conservative, orthodox and elitist character. This legal character substantially tends to reflect the social vision of the political elite and government interests, and is orthodox due to limited and unaccommodated public participation. As a product of legal politics, Law No. 3 of 2022 does not align with the objectives of a welfare state as mandated by the 1945 Constitution. Mahfud MD (2009) defines legal politics as legal policy or the outlines of the state's direction regarding the laws

that will be enacted, either through new laws or the replacement of old laws, to achieve national goals.

Hartono (1991) also explains that legal politics in law must be in line with the state's obligation to carry out planned, integrated and sustainable national legal development in a national legal system that guarantees the protection of the rights and obligations of all Indonesian citizens as stipulated in the 1945 Constitution. Therefore, the legal politics underlying Law Number 3 Year 2022 ideally aims to form a legal instrument that is in line with the constitutional mandate of the 1945 Constitution.

Impacts of the New Capital City (IKN)

The relocation of the capital city is projected to be a major driver of economic growth, not only in East Kalimantan but also nationally (Aji, Arfani, Sari, Septiani, 2023). Economists such as Brojonegoro (2022) and Chaniago (2022) agree that the relocation of the national capital will have an impact on economic aspects. The financial implications of relocating the national capital include: first, increased investment. The development of the archipelago is expected to result in a significant increase in investment, especially in the construction and infrastructure sectors. Foreign investors are also likely to be interested in participating in the project due to its scale and strategic significance.

Secondly, the creation of employment opportunities. The construction of the new capital city will generate millions of new jobs, both in the short term (during the construction period) and in the long term (through the management and development of the city). This will contribute to the reduction of the unemployment rate and the enhancement of the income level of the local community. Third, a fair development. The economic disparity between Java and other regions is anticipated to be diminished by relocating the capital city to a different area. East Kalimantan is expected to experience a substantial increase in economic activity as the new centre of government, which will subsequently stimulate development in other sectors, including trade, services, and tourism.

Meanwhile, there are many voices supporting the development of the National Capital City (IKN) on the grounds of economic equity and reducing inequality; there are also many voicing concerns and opposition to this project. Some community leaders and groups voiced concerns that the development could create new inequalities, cause negative environmental impacts, and raise questions about the effectiveness of budget allocations. These criticisms highlighted the need for more in-depth consideration of the social and ecological impacts of the project, as well as a focus on equitable development across Indonesia.

The environmental impact is one of the primary concerns associated with the relocation of the capital to East Kalimantan. The region is well known for its extensive tropical forests, which are crucial in the preservation of the equilibrium of global ecosystems and provide habitat for numerous endemic species. Initially, deforestation is one of the potential environmental consequences. If improperly managed, the establishment of a new capital city (IKN) could result in substantial deforestation. The government is required to guarantee that the development adheres to sustainable principles, which encompass the preservation of conservation areas and the implementation of reforestation initiatives. Second, ecosystem disruption. Local ecosystems, such as wetlands, rivers, and wildlife habitats, may be disrupted by urbanization and development activities. Therefore, comprehensive environmental impact studies and appropriate mitigation measures must be implemented.

Third, the quality of the air and water. The quality of air and water can be significantly influenced by the extensive development of new cities, particularly as a result of industrial

pollution and domestic waste. In order to preserve the environmental integrity of IKN, it is imperative to implement rigorous ecological management measures, such as the utilization of environmentally friendly technologies and the treatment of waste. However, IKN has the potential to be a more environmentally friendly city than Jakarta, as it intends to incorporate large green spaces and implement green technologies into its urban design.

Other impacts of relocating Indonesia's capital city that are important to consider are as follows: first, the economic impact. The construction of the capital city in East Kalimantan requires a considerable budget, estimated at hundreds of trillions of rupiah. Critics argue that such a large budget would be better allocated to improving infrastructure across Indonesia, especially in underdeveloped areas. In addition, there are concerns that focusing on the development of IKN could divert attention from other more pressing issues, such as poverty alleviation, education, and health. Additionally, there is concern that the concentration of development in a single location may exacerbate disparities between regions that do not receive the same level of attention.

Second, social impacts. The development of IKN also threatens to have substantial social consequences. One of these is the potential displacement of indigenous communities that have resided in the region for centuries. Their cultural heritage and livelihoods may be jeopardized by the relocation and construction of a new city. Furthermore, an abrupt surge in population in an area that has been relatively quiet can trigger social unrest, mainly if there are insufficient resources to meet the needs of the new residents.

Third, the potential for political instability and sustainability. Long-term political commitment and robust policy stability are essential for a project of the magnitude of IKN. Nevertheless, the initiative is susceptible to disruption in the event of a change in government or policy in a dynamic political environment. Ultimately, the project could be halted or not completed on schedule as a result of this political uncertainty, utilizing resources without delivering apparent results.

CONCLUSION

The relocation of Indonesia's capital city is a multifaceted matter that carries substantial potential benefits and risks. Proponents contend that the relocation of the capital will foster equitable development, efficient governance, and a healthier environment. However, critics raise concerns about the high costs, social risks (such as the displacement of Indigenous people and potential social conflicts), and environmental challenges (such as deforestation, ecosystem disruption, and pollution). Furthermore, the legal process associated with the relocation, particularly the drafting of Law No. 3 of 2022, has been criticized for its lack of transparency and public participation, which could lead to a law that prioritizes privileged interests over the broader public interest. Concerns regarding resource allocation are also raised by the substantial budget necessary for the development of IKN, which has the potential to exacerbate disparities between regions. Lastly, the project's long-term success is contingent upon sustained political commitment and policy stability, which are not guaranteed in a dynamic political landscape. In summary, the IKN project is a substantial risk that has the potential to generate significant returns, but it also entails substantial risks that necessitate meticulous evaluation and mitigation.

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