

Study of Regulatory and Institutional Framework for the Relocation of the National Capital in Indonesia

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Abstract

This study explores the regulatory and institutional framework for relocating Indonesia's national capital (*Ibu Kota Nusantara*, IKN) from Jakarta to East Kalimantan, a plan rooted in the integrative ideology articulated by Soepomo in 1945. This ideology emphasizes harmony between macrocosmic and microcosmic forces within the state, suggesting that the government center should be located centrally within the country to symbolize supreme authority. The relocation is also seen as a crucial move toward achieving “*Indonesia Emas 2045*”. However, the enactment of Law No. 3 of 2022, which serves as the legal basis for the relocation, has faced significant criticism, particularly

regarding the regulatory, institutional, and funding aspects. Previous studies have often been opinion-based and lacked scientific rigor, especially in addressing the complexities of policy implementation. This research aims to fill this gap by providing a detailed analysis of the policy from regulatory and institutional perspectives. The study uses a normative legal approach, incorporating both statute and conceptual analyses, to evaluate the regulatory and institutional frameworks guiding the capital relocation. While it does not extensively address funding issues, it focuses on identifying how well the existing rules align with the policy's implementation goals. Findings suggest that while the relocation offers significant benefits, such as promoting national unity and symbolizing progress, the process faces challenges, including conflicts with existing regulations and institutional inefficiencies. The contribution of this study lies in offering actionable insights for both the government and civil society to assess and improve the policy's implementation, ensuring its alignment with the broader vision of national development.

Keywords *Capital Relocation, Institutional Framework, Regulatory Framework*

Introduction

Indonesia is a nation whose "*staatsidee*" (state idea) is grounded in an integralist ideology that transcends all groups within the state, ensuring no particular group is favored over others. This concept was articulated by Soepomo in his speech on May 31, 1945, during the BPUPKI session, as part of the drafting process of the 1945 Constitution. The ideology suggests that governance should reflect a harmonious integration of macrocosmic and microcosmic forces, where the power of the universe is embodied in the world through the unity of the state's organization, with ultimate authority residing in the ruler.¹

¹ Robert Heine-Geldern, "Conceptions of State and Kingship in Southeast Asia," *The Far Eastern Quarterly* 2, no. 1 (November 1942): 15–30, <https://doi.org/10.2307/2049276>.

The symbolic manifestation of this idea is reflected in the state organization, including leadership and the "political landscape" of its architecture.² This means that power should be centralized and spread evenly throughout the nation's territory, with the seat of government being the highest authority located at the center of the country, not on its periphery. Furthermore, Bartolini (2005) stated that the center of government can be identified as a significant component representing national identity and the magnitude of state power. It also serves as the political hub in debates on power legitimacy.³ This concept serves as the philosophical and religious foundation for the policy of relocating the capital city (*Ibu Kota Nusantara*, hereinafter as IKN) in Indonesia. The relocation symbolizes the dawn of a new era under a regime aimed at realizing "*Indonesia Emas 2045*".⁴

The policy to relocate the capital is part of achieving the national development goals toward "*Indonesia's Emas 2045*", as envisioned in the Preamble to the 1945 Constitution. This constitutional foundation must be elaborated further and structured through regulations to provide technical guidance. Thus, Law No. 3 of 2022 on the Capital City or "UU IKN" became the legal and regulatory foundation for preparing and implementing the capital's relocation in stages. However, the regulation is not perceived as urgently needed, given that reviews and studies on the regulation reveal weaknesses in the design of its implementation guidelines, particularly in three frameworks: regulatory, institutional, and financial.

The investigation based on the regulatory framework reveals deficiencies in meeting three aspects. *First*, legality, concerning the integration of laws both vertically and horizontally, which underpins

² Adam Smith, *The Political Landscape: Constellations of Authority in Early Complex Polities* (Berkeley, CA: University of California Press Books, 2003).

³ Stefano Bartolini, *Restructuring Europe* (New York: Oxford University Press, 2005), <https://doi.org/10.1093/0199286434.001.0001>.

⁴ "Indonesia Emas 2045" is a major goal/vision to make Indonesia an advanced, modern country, equal to the world's major nations by 2045. The term "golden generation" refers to the hope of producing a young generation expected to be the best in technology and science, contributing to Indonesia's transformation into a strong and sovereign country on the international stage. As previously explained, the 2045 golden generation is the period when Indonesia will enjoy a demographic bonus.

the enactment of the UU IKN. The investigation begins with the constitution and equivalent laws, revealing a lack of clear or direct delegation or substantive authority regarding the capital's relocation. This absence, although not necessarily contradictory, creates multiple interpretations of the UU IKN's emergence.

Second, necessity: the regulation on IKN does not seem to meet urgent needs, benefits, or societal demands.⁵ Considering the current needs of the Indonesian people, particularly after the COVID-19 pandemic, strategies for accelerating economic recovery are crucial to achieve national growth and economic equality, environmental sustainability, renewable energy, and addressing global challenges such as climate change. If the IKN is viewed as a program to achieve these goals, it can be understood that the IKN is not a rational solution to the current issues faced by the Indonesian people.

Third, utility: The relocation of IKN requires around IDR 466 trillion,⁶ Such a financial burden is substantial and falls heavily on the people. Indonesia's available budget of IDR 89.4 trillion from the state budget (APBN) is already a heavy burden. The large funding gap requires optimal efforts to involve third-party/private sector investments in the IKN's financing. However, this would require the government to persuade private parties to collaborate, which is not a straightforward process. On the other hand, the involvement of private parties in infrastructure financing contracts for IKN is expected to bring financial benefits for them, which might not necessarily lead to positive economic growth for Indonesia.⁷ The genuine hope is that IKN can contribute to economic development across Indonesia, not just to the financial gains of investors. Therefore, the utility of IKN for the Indonesian people,

⁵ Abdul Aziz, "Moving the National Capital from a Civil Society Perspective," *Journal of Politics and Policy* 5, no. 2 (December 31, 2023): 104–18, <https://doi.org/10.21776/ub.jppol.2023.005.02.03>.

⁶ Manda Kumoro Saraswati and Emmanuel Ariananto Waluyo Adi, "Relocation of the State Capital to East Kalimantan Province Based on SWOT Analysis," *JISIP (Journal of Social Sciences and Education)* 6, no. 2 (March 16, 2022): 4042–52, <https://doi.org/10.58258/jisip.v6i2.3086>.

⁷ Agus, Dwi. "Dilema pro Dan Kontra Pemindahan Ibu Kota Negara: Pembangunan Atau Pengrusakan Lingkungan Dan Kearifan Lokal? - Radar Jogja." Dilema Pro dan Kontra Pemindahan Ibu Kota Negara: Pembangunan atau Pengrusakan Lingkungan dan Kearifan Lokal? - Radar Jogja. Radar Jogja, June 14, 2023. <https://shorturl.at/ROvjG>. Accessed on 17th July 2024

already burdened by the state budget, needs to be re-evaluated, as it may end up adding to their suffering.

Besides a strong regulatory framework, the relocation of IKN also requires institutional support to carry out the regulatory objectives effectively. An optimal institutional design for governance in IKN is needed, such as the establishment of an IKN Authority, which differs from local/regional governments in autonomous or special regions of Indonesia. The IKN Authority is considered appropriate because its members are not chosen through political elections, unlike regional or special autonomous governments such as Jakarta. The separation from political influence is expected to optimize governance in IKN.⁸ However, this could lead to new problems for the future of democracy in Indonesia. The IKN Authority's existence could limit public participation, transparency, and accountability in government oversight, paving the way for corruption to flourish.⁹

From the problems outlined above, the research questions posed are: 1) What is the foundation of IKN's development? 2) What is the regulatory framework for relocating the capital city in Indonesia? 3) What is the institutional framework for relocating the capital city in Indonesia? These questions are proposed because this research aims to analyze the IKN relocation policy through a regulatory and institutional framework. This study is important for assessing the IKN relocation policy in terms of legality, necessity, and utility. Additionally, the primary purpose of this research is to establish a legal framework for the relocation of IKN in Indonesia. This study is limited to the regulatory and institutional framework, excluding the financial framework for IKN's relocation. It contributes to central and regional government agencies such as Bappenas, the Ministry of Finance, and the IKN Authority, providing a legal construction review for the IKN relocation policy. It also benefits civil society for controlling, monitoring, and evaluating strategies and programs related to the policy.

⁸ Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from US States," *American Economic Review* 104, no. 8 (August 1, 2014): 2456–81, <https://doi.org/10.1257/aer.104.8.2456>.

⁹ Alan Potter, "Locating the Government: Capital Cities and Civil Conflict," *Research & Politics* 4, no. 4 (October 9, 2017): 1–7, <https://doi.org/10.1177/2053168017734077>.

Numerous academic articles have been published on the relocation of Indonesia's capital, offering valuable input and comparisons for this research. However, these studies often fall short of providing scientifically rigorous policy analysis. One such study, conducted by Sahat Aditua Fandhitya Silalahi in 2019, titled "*The Economic Impact and Risks of the Capital City Relocation*," explores the economic impacts and risks associated with the relocation, particularly regarding the financing of infrastructure development. While informative, the study lacks a cost-benefit analysis (CBA), which diminishes its analytical depth and applicability for policy guidance.

Similarly, Reni Ria Armayani Hasibuan and Siti Aisa's 2020 study, "*The Economic Impact and Risks of the Capital City Relocation in Indonesia*," also examines long-term economic risks, including spatial planning. However, like Silalahi's work, it is weakened by the absence of a CBA, rendering its conclusions incomplete and less reliable for practical policy formulation. Another studies, Dian Herdiana's 2022 research, "*The Capital Relocation: An Effort for Equitable Development or Achieving Good Governance*," provides a descriptive analysis based on tertiary data but lacks the depth required for a robust scientific policy evaluation. The study is informative but insufficient as a comprehensive policy analysis, as it does not offer a strong analytical framework.

Muhammad Zaida Syafiqy Akhmad's 2024 study, "*The Regulatory Framework for Capital City Relocation in Indonesia based on Economic Analysis of Law*," examines the regulatory aspects of the relocation using Richard Posner's Economic Analysis of Law approach. However, similar to the other studies, it does not incorporate a CBA, which limits its utility as a foundation for effective implementation strategies. Meanwhile, Suryadi Jaya Purnama and Chotib's 2022 research, "*Public Policy Analysis on the Capital City Relocation*," focuses on public policy within the social sciences, largely compiling various literature sources. While valuable for understanding policy trends, the study lacks original, scientifically rigorous analysis and serves more as a review of existing literature than as a robust research paper.

Finally, Suharyono's 2023 research, "*Optimizing the Utilization of State-Owned Assets for Financing the New Capital City Nusantara*," concentrates on the financial aspects of the relocation. However, it does not address the regulatory or institutional frameworks surrounding the move, leaving a critical gap in its analysis.

Collectively, these studies highlight the need for a more scientifically grounded approach to policy analysis in the context of Indonesia's capital relocation. They often lack key components, such as cost-benefit analysis (CBA), and their discussions tend to resemble media opinions more than professional, scholarly policy assessments. As such, they provide valuable insights but fall short of offering comprehensive, actionable guidance for policymakers.

Interestingly, the authors offer a more scientifically valid and reliable policy analysis method in this research. This can be seen in the use of a well-established policy analysis method, which includes the regulatory and institutional frameworks. This method is commonly used by professionals, academics, and policy practitioners when analyzing current or future legal issues. The results of this technocratic analysis can provide objective foundations for formulating strategies, programs, and evaluations for policymakers and civil society. The novelty of this study lies in the use of the CBA and/or ROCCPI approach, which adds credibility and authority to this discussion on IKN relocation.

Although this paper focuses on the regulatory implementation review, which connects the regulatory, institutional, and organizational frameworks, it is limited to the regulatory and institutional frameworks. Future researchers can examine the financial framework to offer a more comprehensive regulatory implementation review on the issue of the capital's relocation and development, supported by empirical data to ensure the study's validity.

This research is fundamentally a normative legal study, as defined by Peter Mahmud Marzuki (2019), who describes normative legal research as a process aimed at identifying legal rules, principles, or doctrines that are relevant to addressing the legal issues at hand. In this study, the researcher will examine the regulations (positive law), legal principles, and doctrines that apply in Indonesia concerning the regulation of the relocation of the National Capital. The objective is to analyze the various legal reactions stemming from these regulations and use this analysis to answer the research questions.

Additionally, this study can be classified as qualitative research. According to Bodgan and Taylor, as cited in Lexy J. Moleong, qualitative research is a form of social science inquiry that generates

descriptive data based on the subjects or behaviors being observed. In this case, the research will involve the collection, processing, and presentation of data in a manner that aligns with qualitative methods, emphasizing a descriptive and interpretive approach to understanding the legal framework surrounding the capital relocation.¹⁰

In normative-qualitative legal research, the methodological approach essentially allows the researcher to utilize findings without altering the character of normative legal research. Therefore, in this study, we have determined that the statute approach will be used. The statute approach is essentially a method that views normative legal research as needing to focus primarily on legislation. Thus, the researcher will see law and its derivatives as a closed system that is comprehensive, all-inclusive, and systematic, aiming to achieve concrete and objective research results.¹¹ However, the researcher acknowledges that to achieve concrete and objective results, the statute approach cannot stand alone as the primary approach. Thus, the researcher also employs the conceptual approach to align understanding of legal terminology and the analytical approach to analyze the legal materials collected in an effort to understand the conceptual meanings of terms used in the legislation and to explore legal application in practice, including various legal rulings.

Furthermore, the novelty of this research lies in the use of the Cost and Benefit Analysis (CBA) and Roccipi approaches, as the implementation of the regulatory and institutional frameworks cannot be separated from these two approaches to produce valid research. Therefore, the researcher will later refer to Law No. 3 of 2022, known as the “IKN Law,” as a reference for analyzing the regulatory framework for the relocation of the National Capital in Indonesia based on this law. Additionally, Presidential Regulation (Perpres) No. 62 of 2022, LN.2022/No.102, will also be reviewed as a reference for analyzing the institutional framework in the relocation of the National Capital in Indonesia under the respective Presidential Regulation. Thus, this research will focus on: 1) Identifying the legal aspects of relocating the

¹⁰ Lexy J Moleong, *Metodologi Penelitian Kualitatif* (Jakarta: Remaja Rosda Karya, 2016).

¹¹ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, n.d.): 206.

National Capital from Jakarta to a part of East Kalimantan Province and the legal aspects of the institutions formed in the process of the relocation. 2) Identifying the aspects of necessity and benefits in the relocation of the National Capital and the institutional establishment in the process.

This research draws from two sectors of research sources, including: 1) Primary legal materials, consisting of various laws and regulations, court decisions, legal doctrines, legal principles, and state documents relevant to the discussion in this study. 2) Secondary legal materials, such as legal literature including law books, books on legislative drafting, relevant journal articles, and relevant online articles and news articles. The next step involves an inventory process, which entails processing the data by reducing and selecting relevant data as a step to be conducted during the data reduction phase. Following this, the reduced data will be analyzed using the research approaches as described in the previous stage to formulate the research results.

Cost Benefit Analysis (CBA) in Evaluating the Regulatory Framework

This research on the regulatory and institutional framework will be discussed systematically and sequentially. As per the established protocol, the discussion begins with an in-depth analysis of the existing regulatory framework, namely the IKN Law and its derivative regulations. In the first part of the discussion, we will present the regulatory framework. The regulatory framework is identified as one of three implementation principles, alongside the institutional and financial frameworks, used as a "*technocratic*" scientific method for analyzing policies/regulations, whether already in place or to be established in the future, on an issue or policy, whether economic or social in nature.

The regulatory framework is a mandatory method followed by policymakers or policy analysts when conducting reviews of a legal issue/policy to ensure that the recommendations and policy alternatives produced can be scientifically accountable, valid, and reliable. The process includes stages such as analysis, research (Cost Benefit Analysis/

CBA),¹² and final stages involving policy recommendations/alternatives. The analysis is carried out by identifying the fundamental issue (problem background), setting goals/targets (public, private, investors, taxpayers, immigrants, refugees, alien, asylum seekers, indigenous communities, and others), and identifying existing or related regulations.

The study examines three essential aspects: legality, necessity, and benefits, each critical to evaluating the regulatory framework for the relocation of Indonesia's national capital.

The **legal aspect** focuses on analyzing the relevant legislation to address several key concerns. It investigates whether there is a clear delegation of regulations, both vertically (across different levels of government) and horizontally (across sectors and institutions), ensuring that there is no ambiguity in the distribution of legal authority. Additionally, this aspect explores potential conflicts between the capital relocation regulations and other existing laws, as well as any inconsistencies or disharmony that might arise within the broader regulatory framework. The study also considers how different interpretations of the regulations could lead to varying legal outcomes, aiming to clarify and streamline the legal landscape to avoid confusion and ensure coherent governance.

The **necessity aspect** evaluates the urgency of the regulations and their relevance in the context of Indonesia's broader development goals. It assesses whether the relocation of the capital is a pressing issue, both in terms of the physical challenges facing Jakarta and the broader economic, environmental, and social considerations. This aspect also examines the potential benefits of the regulation for society, focusing on whether the relocation will contribute to national progress by addressing issues like regional inequality and overpopulation in Jakarta. Moreover, the study considers any potential barriers that could hinder the achievement of national development targets, such as logistical, financial, or political challenges, and how these could impact the overall success of the relocation.

¹² Caroline Cecot, "Deregulatory Cost-Benefit Analysis and Regulatory Stability," 68 *Duke Law Journal* 68, no. 8 (2019): 1593–1650. <https://www.law.gmu.edu/pubs/papers/lsl832>

Finally, the **benefit aspect** incorporates a cost-benefit analysis (CBA), evaluating whether the regulations impose significant financial burdens on the state and regional budgets (APBN/APBD). This analysis seeks to determine whether the costs associated with the relocation and its implementation are justified by the potential benefits. The study weighs the economic, social, and developmental gains against the financial outlay required to execute the relocation, ensuring that the benefits outweigh the costs and that the policy represents a sound investment for the country's future.

Together, these three aspects form a comprehensive framework for assessing the regulatory, practical, and financial dimensions of the capital relocation, providing a thorough basis for evaluating the effectiveness and viability of the proposed legal and institutional framework.

The regulatory framework must be conducted through two scientific approaches known in regulatory formulation, namely the economic approach (CBA) or other social/non-economic approaches. The use of CBA is considered more appropriate in analyzing the regulatory framework regarding the IKN relocation, considering the economic aspects that dominate the issue, although this economic analysis may face qualitative challenges. Nonetheless, it can at least provide a definite answer to policy recommendations.

The second discussion concerns the institutional framework used to investigate the urgency of forming an organization with appropriate size, function, and process to support national development through institutional restructuring. The investigation is conducted to determine whether there is a need for an institution through a structure follow program strategy. Government organization formation can take the form of state institutions, ministries, non-ministerial government institutions, non-structural agencies, local governments including local apparatus, coordination agencies, and others.

Institutional formation in the context of IKN, namely the Authority Agency, is understood as a special need of the national development program. The provision of "special" autonomy for the Authority Agency in preparing and administering local governance in IKN is essential for effectively achieving governance objectives. Effective organizational structuring, including duties and functions, must be

conducted to ensure there is no overlap, excessive organizational size, lengthy and complicated bureaucracy, and that monitoring is effectively based on output, not on impact or benefits for the target. An effective organization must be based on indicators of benefits to the target. In the context of IKN, the design of the Authority Agency will bring ease to stakeholders, particularly the public, the environment, and businesses/private sectors. These conveniences are expected to be based on public satisfaction with the goods and services provided at IKN by service providers, who must be accountable transparently, responsibly, and participatively within the framework of a democratic rule of law.

The Foundation of IKN Development

A. Philosophical Foundation

As an initial step, when reviewing the appendix (point 2) of Law No. 12 of 2011 on the Formation of Legislation, it clearly states that the philosophical foundation, *Filosofische Grondslag*, can be identified as a consideration that interprets the formed legal product as one that reflects a worldview, consciousness, and implementation of legal ideals, embodying the spirit of the Preamble of the 1945 Constitution of the Republic of Indonesia. It aims to achieve the goals of the Indonesian nation in protecting all Indonesians and promoting the general welfare, and also embodies the Indonesian philosophy of "Pancasila," which consists of: 1) "Sila Ketuhanan yang Maha Esa" *Believe in the One and Only God*, In the relocation of the capital, there is a hope of maintaining harmony, balance, and mutual respect between local communities and newcomers, fostering peace and understanding as a teaching passed down by God Almighty. 2) "Sila Kemanusiaan yang Adil dan Beradab" *Just and Civilized Humanity*, the presence of the IKN Law aims to bridge generations and acknowledge human dignity without discriminating against differences. 3) "Sila Persatuan Indonesia" *Unity of Indonesia*, the relocation of the capital is expected to provide an ideal shelter for all Indonesian people, symbolizing national unity by prioritizing the interests and safety of the nation. 4) "Sila Kerakyatan yang Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan Perwakilan" *Democracy Guided by the Inner Wisdom in the Unanimity Arising Out of Deliberations Amongst Representatives*, the leadership in IKN is expected to respect the rights and opinions of all citizens as

accountability in a democratic process. 5) “Sila Keadilan Sosial Bagi Seluruh Rakyat Indonesia” *Social Justice for the Whole of the People of Indonesia*, it is hoped that the leadership in the new capital will accommodate noble attitudes and actions based on family values and mutual cooperation to achieve fairness and balance between rights and obligations.¹³

The Academic Paper on the IKN Bill mentions that all elaborations in the paper strive to realize the principles of Pancasila, with none contradicting it. Furthermore, it clarifies that the Bill's purpose is to realize two of the four national goals stated in the Preamble of the 1945 Constitution: to protect all Indonesians and promote general welfare. The focus on better governance and spatial and environmental planning is the main point of the Academic Paper on the IKN Bill. Therefore, protection for Indonesian citizens in IKN from ecological disasters, crime, and corruption can be achieved, with potential economic growth and equity in eastern Indonesia supported, aligning with the fifth principle of social justice.

B. Historical Foundation

The study of a regulation and policy within the statute approach would be incomplete if it only discusses the philosophical basis behind the formation of the regulation. This is because a study of regulations mandates a historical, sociological, and juridical analysis as an integral whole. As a historical review, it is worth noting that the relocation of the capital city in Indonesia is not being done for the first time. In 1946, Indonesia moved its capital from Jakarta to Yogyakarta due to political and national security reasons. Similarly, in 1948, Indonesia temporarily relocated its capital from Yogyakarta to Bukittinggi before returning to Jakarta, based on the “Fall of Yogyakarta.” Historically, these facts indicate that the relocation of the capital was triggered by conditions that necessitated such a policy. The current relocation of the capital from Jakarta to parts of East Kalimantan also has its reasons. According to Janti (2017) and Novelino (2019) in Herdiana (2022), this issue

¹³ Otti Ilham Khair, “Analysis of Philosophical, Sociological and Juridical Foundations in the Formation of the State Capital Law,” *ACADEMIA: Journal of Academic Research Innovation* 2, no. 1 (March 29, 2022): 1–10, <https://doi.org/10.51878/academia.v2i1.1037>.

stems from the belief that Jakarta, as the current capital, is unable to accommodate the demands and needs of government administration. Furthermore, based on the opinions of scholars, Herdiana explains that during the reform era, the call to move the capital was driven by the need for economic distribution outside Java and the desire to create a more conducive capital city capable of supporting government operations aligned with good governance practices.¹⁴

C. Sociological Foundation

The sociological foundation (*Sociologische Grondslag*) of the relocation of the capital city, can be seen from two considerations to assess the socio-political and economic impacts that will arise following the enactment of Law No. 3 of 2022 concerning IKN. These are: 1) The socio-political impact, referring to the social impacts resulting from the relocation process of the capital city. Khair gives the example that the relocation of civil servants from various cities in Indonesia could potentially trigger social friction and conflict with local communities due to cultural differences. Therefore, the government, through the IKN Authority, is required to create thorough preparations to accommodate the social processes that will occur in the IKN in the future. 2) The economic impact following the relocation of the capital city. As Khair points out, even though IKN on paper only burdens the state budget by 53.3% of the total cost of construction, the economic impact of the relocation, particularly in terms of economic conditions in Jakarta and IKN, should be a consideration for why relocating Indonesia's capital is deemed necessary.¹⁵ Consequently, an analysis of the financing arrangements serves as a sociological foundation for the relocation of the capital. Therefore, the sociological foundation as outlined in the academic manuscript of the IKN Bill describes preventive efforts regarding the potential impacts of development on

¹⁴ Dian Herdiana, "Moving the National Capital: An Effort to Equalize Development or Realize Good Governance," *Jurnal Transformatif* 8, no. 1 (March 30, 2022): 1–30, <https://doi.org/10.21776/ub.transformatif.2022.008.01.1>.

¹⁵ Otti Ilham Khair, *Op. Cit*, pp:6

local communities before and after the actualization of the capital's relocation.¹⁶

Furthermore, the sociological foundation of the formation of the IKN Law is also discussed in the academic manuscript of the IKN Bill. Chapter II of the academic manuscript explains in detail how the application of theories, principles, and ideas in managing the Capital City (IKN) can address various urban problems and meet societal needs in various aspects such as the economy and business, spatial planning, land use, corruption-free governance, improved environment, and disaster resilience. Additionally, the discussion covers what is required by the state in improving the governance of IKN so that the administration of government becomes more optimal.

On the other hand, there is a sociological dimension that needs attention, namely the mitigation of the impact of IKN development on local communities that have long inhabited the area before the relocation plan was made. The analysis shows that the Academic Manuscript and the IKN Bill fully consider the inclusive needs of the community. In this regard, the affected communities can be categorized into the following groups: First, 100% integration of all residents, including local communities and newcomers – both indigenous people, long-time residents of IKN, and those who will live in or around IKN. Second, 100% of residents have access to social services or community services within 10 minutes. Third, 100% of public spaces will be designed by applying the principles of universal access, local wisdom, and inclusive design. All new public spaces are expected to follow local wisdom to ensure equal access.

Specifically, the spatially-based social strategies outlined in the IKN Master Plan 2021 are as follows: Strategy 1: Preserve assets of important cultural value and ensure accessibility for local communities. Strategy 2: Design a structure that not only reflects and supports local communities and newcomers but also allows for changes in the "identity" of a place. Strategy 3: Create strong connections between public spaces at the local, regional, and national levels that are inclusive for all. Strategy 4: Provide equal access to core infrastructure and various

¹⁶ Frans Sembiring, Lendy Siar, and Josepus Pinori, "Juridical Analysis of the Formation of Law Number 3 of 2022 concerning the State Capital," *Lex Privatum* 11, no. 4 (April 1, 2021): 1–10.

types of housing. Strategy 5: Develop communities capable of adapting and surviving in the face of climate change.

D. Juridical Foundation

Finally, as for the juridical basis *Wettelijke Grondslag*, it functions as a consideration that the regulation being formed aims to fill a legal void by considering existing legislation and the regulation to be formed, amended, or repealed to ensure legal certainty and justice in society.¹⁷ Meanwhile, the legal issue behind the formation of the IKN Law lies in the legal vacuum in the process of relocating the new capital, as well as the strategic economic and socio-cultural considerations that policymakers must take into account, to be legislated into law as the legal framework for various innovations in life at the new capital city. Therefore, harmonization of various related regulations is necessary to address the issues of capital city management, Jakarta's dual role, and the representation of the central government in the new capital city (IKN).

Politics of Capital City Relocation

Meanwhile, when discussing the process of forming legislation, legal politics will inevitably influence the process. Speaking about legal politics, conceptually, Bagir Manan in Anggoro (2019) refers to legal politics (*rechtspolitik*) as the Policy behind the legal policy. Furthermore, Manan divides legal politics into two types: legal politics as the process involved in law-making and legal politics in law enforcement policy.¹⁸ This statement is also supported by Mahfud MD in Latif & Ali (2010: 19), who defines legal politics as the legal policy carried out by the government, discussing how political policy influences law by observing the configuration of forces behind the law-making process. Therefore, legal politics can influence the formulation of legal content in its

¹⁷ Ali Gea, "The Urgency of Philosophical, Sociological and Juridical Foundations in the Formation of Laws in Indonesia," *Unnes Law Review* 6, no. 4 (June 28, 2024): 10976–88. <https://doi.org/10.31933/unesrev.v6i4.2077>.

¹⁸ Syahriza Alkohir Anggoro, "Legal Politics: Seeking a Number of Explanations," *Jurnal Cakrawala Hukum* 10, no. 1 (August 7, 2019): 77–86, <https://doi.org/10.26905/idjch.v10i1.2871>.

implementation.¹⁹ This is how legal politics can significantly influence the formation of legislation, considering the nature of law as a political product.

Considering the arguments presented by several scholars earlier, we can understand that the process of law-making will always face the dynamics of legal politics. Similar experiences occurred during the formation of Law No. 3 of 2022 concerning IKN, which, in fact, was not immune to the dynamics of legal politics. As revealed by Benia and Nabilah (2022:821-822), it can be understood that the process of forming the IKN Law was perceived as lacking in accommodating concrete and relevant policy directions. Benia and Nabilah argue this because of findings that during the formation of the IKN Law, there was a lack of clarity both materially and formally. Moreover, they believe that the academic manuscript of the IKN Law seemed shallow in its study and analysis. This could be due to the short time frame in which the IKN Law was formed, making the process seem rushed. Benia and Nabilah add that the implications of the underdeveloped legal political process resulted in the sidelining of public participation, which shows a violation of Law No. 13 of 2022 concerning Amendments to Law No. 12 of 2011 on the Formation of Legislation.

Additionally, problems resurfaced when the formation of the IKN Law was not planned in the 2005-2025 National Long-Term Development Plan (RPJP), which resulted in the inflexible financing study for the construction of IKN.²⁰ Based on the various conditions mentioned earlier, the dynamics of legal politics in the formation of the IKN Law essentially show that the discourse on relocating the capital lacks sufficient preparation, indicating that the relocation does not demonstrate any real urgency. Nevertheless, this is not a final assessment. To determine this, a more in-depth analysis is needed on the implementation of the “regulatory framework and institutional framework” in the following segments.

¹⁹ Achmad Ali, *Menguak Realitas Hukum: Rampai Kolom & Artikel Pilihan Dalam Bidang Hukum* (Jakarta: Sinar Grafika, 2008).

²⁰ Elsa Benia and Ghina Nabilah, “Legal Politics in the Process of Moving the National Capital through the Establishment of the National Capital Law (IKN Law),” *Lex Generalis* 3, no. 10 (October 31, 2022): 806–25, <https://doi.org/10.56370/jhlg.v3i10.323>.

Seeing the Practice of Relocation National Capitals in Other Countries

The relocation of the capital of Indonesia from Jakarta to parts of East Kalimantan was actually inspired by the success of the policy of moving the capital city in several countries. This argument was built by looking at the recognition in the academic text of the IKN Bill.

Some of the countries reviewed in the study include: *First*, Malaysia, which transferred executive power from Kuala Lumpur to Putrajaya on the grounds of resolving the problems of the previous capital city and strengthening the nation's identity.²¹ Departing from the move, Indonesia can study Putrajaya's master plan which affirms the concepts of "*intelligent City*" and "*City in a Garden*" which in its concept will integrate waterways, park systems, wetlands, forests, and open spaces; long-term planning and funding commitments; the urgency of connectivity through the implementation of public transportation; and pay attention to socio-political risks to land use.

Second, South Korea transferred administrative power from Seoul to Sejong (currently the administrative capital) in 2009. The reason for the relocation is based on the ideals of solving the problems of the previous capital city; expectations for equitable distribution of national development; and responding to socio-political and defense issues.²² Departing from the relocation of the capital city, Indonesia in carrying out the relocation can learn the urgency of political agreements with various parties to discern interests; pay special attention to our economy; and require long-term budget commitments.

Third, Brazil moved its capital from Rio de Janeiro to Brasilia in 1960 for three main reasons: resolving the problems of the previous capital; efforts to equalize national development; and efforts to strengthen the nation's identity. Starting from the ²³ practice of

²¹ Sarah Moser, "Putrajaya: Malaysia's New Federal Administrative Capital," *Cities* 27, no. 4 (August 1, 2010): 285–97, <https://doi.org/10.1016/j.cities.2009.11.002>.

²² Youngsang Kwon, "Sejong Si (City): Are TOD and TND Models Effective in Planning Korea's New Capital?," *Cities* 42 (February 1, 2015): 242–57, <https://doi.org/10.1016/j.cities.2014.10.010>.

²³ Kelly, Jared. "The City Sprouted: The Rise of Brasília." *Consilience*, no. 22 (2020): 73–85. <https://www.jstor.org/stable/26924964>.

relocating the capital by Brazil, as contained in the IKN Bill, policy designers learned that the relocation of the capital must be supported by the implementation of green open space development; careful planning of infrastructure development and urban governance; consideration of political risks; and acceleration of development.

Fourth, Kazakhstan moved its capital from Almaty to Astana in 1997 for three main reasons: efforts to solve the problems of the previous capital; efforts to strengthen the nation's identity; and encouragement to solve socio-political issues.²⁴ Departing from the move, Indonesia can learn that the development of the capital city requires a long-term planning and funding commitment. In addition, the construction of Astana does not entirely use funding from the government. Therefore, in the practice of moving the new capital city in Indonesia, Indonesia can strengthen cooperation and involvement of the private sector.

Fifth, Myanmar moved its capital from Yangon to Naypyidaw in 2005 based on efforts to resolve the problems of the previous capital city; efforts to equalize national development; strengthen national identity; and underlying socio-political reasons.²⁵ *Sixth*, the United States, moved its national capital from New York to Washington D.C. in 1800 with the aim of separating the capital of the central business from the government. *Seventh*, Pakistan moved its national capital from Karachi to Islamabad in 1966²⁶ as an effort to solve the problems of the previous capital, equitable development, strengthening the nation's identity, and resolving the accompanying socio-political issues. Departing from the practice of moving the capital by Pakistan, Indonesia can study the urgency of reviewing the social, cultural, and

²⁴ Mehmet Arslan, "The Significance of Shifting Capital of Kazakstan from Almaty to Astana: An Evalution on the Basis of Geopolitical and Demographic Developments," *Procedia - Social and Behavioral Sciences* 120, no. 1 (March 1, 2014): 98–109, <https://doi.org/10.1016/j.sbspro.2014.02.086>.

²⁵ Daniel Gomà, "Naypyidaw vs. Yangon: The Reasons Behind the Junta's Decision to Move the Burmese Capital," in *Burma or Myanmar? The Struggle for National Identity* (Singapore: World Scientific, 2010), 185–204, https://doi.org/10.1142/9789814313650_0007.

²⁶ Carl Henrik Knutsen, Lee Morgenbesser, and Tore Wig, "On the Move: Autocratic Leaders, Security, and Capital Relocations," *Political Geography* 113, no. 1 (August 1, 2024): 1–14, <https://doi.org/10.1016/j.polgeo.2024.103154>.

economic conditions of indigenous peoples and immigrant communities; accommodating the management of social conflicts; and forecast the city's capacity.

The Regulatory Framework for the Relocation of Indonesia's Capital City

A. Legal Aspects of Relocating Indonesia's Capital City

In the sub-section "legal aspects of relocating the capital city" within a regulatory framework, it will generally explain the legality of a policy that has been established. In this case, we will explain the legality of relocating the capital city by referring to Law No. 3 of 2022 concerning the Capital City and the Academic Manuscript of the IKN Bill. The discussion will be presented sequentially, starting from: First, is the regulation a mandate of a higher or other regulation?; Second, does the regulation conflict with other regulations?; Third, does the regulation cause disharmony and inconsistency with other regulations?; Fourth, does the regulation cause multiple interpretations?

First, "is the regulation a mandate of a higher or other regulation?" can easily be answered by referring to the "considering" section of Law No. 3 of 2022 concerning the Capital City, where the law in question lists several reference articles that serve as the basis for the enactment of the law in question. These reference articles include: Article 4 paragraph (1), which discusses that government power is in the hands of the President of the Republic of Indonesia; Article 5 paragraph (1), which discusses the president's right to propose a bill to the DPR; Article 18 paragraph (1), which discusses separation of power and regional autonomy; Article 18B paragraph (1), which discusses the state's respect for regional government units with special characteristics as regulated in law; Article 20, which discusses the DPR's rights and roles in making laws; and Article 22D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the DPD participates in the discussion of bills related to regional matters, such as autonomy, relations between the center and the regions, regional forms, regional management, and regional finances.

From the facts mentioned earlier, it can be understood that the presence of Article 5 paragraph (1); Article 20; and Article 22D

paragraph (2) of the 1945 Constitution of the Republic of Indonesia in the "considering" section of Law No. 3 of 2022 concerning the Capital City, can indeed be categorized as a basic protocol for the formation of the law in question. Therefore, in terms of regulation formation, the law in question has carried out the mandate of the constitution as the basis for forming legislation. This fact is further supported by the government's efforts through the president when the President's Letter (Surpres) was received on September 29, 2021, from the central government to the DPR RI, which contained the IKN Bill until a Special Committee was formed by the DPR RI on November 3, 2021, and eventually the bill was passed into law through a Plenary Session on January 17-18, 2022.

Meanwhile, the inclusion of Article 18 paragraph (1) in the "considering" section of the IKN Law is intended to align the form of the region and its government with the provisions in the 1945 Constitution of the Republic of Indonesia. The final form of the IKN can be seen in Article 1 paragraph (2) of the IKN Law, which states that the capital city named Nusantara is a regional government unit with special characteristics equivalent to a province. When reviewing the Academic Manuscript of the IKN Law, it is mentioned that the third option (a combination of forming a new autonomous province and a special area) was chosen and ultimately established.²⁷ This formation had been reviewed against Article 360 paragraph (2) of Law No. 23 of 2014 on Regional Government, which allows the central government to determine the special characteristics of an area. In the context of the IKN, the special area formed is designated for other national interests as stated in letter n of Article 360 paragraph (2) of the Regional Government Law.

Not only that, when reviewing the Academic Manuscript of the IKN Bill, it can be seen that in the case of relocating the capital city, the IKN Law also considers related legislation, such as: First, Law No. 2/2012 concerning Land Procurement for Development in the Public

²⁷ In the Academic Manuscript of the IKN Bill, it is mentioned that there are four proposed institutional formats, namely: 1) A new Autonomous Region in the form of a Province. 2) A Special Area within the Province of East Kalimantan. 3) A combination of the formation of a new Autonomous Province and a Special Area. 4) A Special Government for the Capital City.

Interest as amended by Law No. 11/2020 on Job Creation, through Article 6 jo. Article 7 of Law No. 2/2012, which establishes the basic framework for land provision for the public interest that must meet regional spatial plans, national/regional development plans, strategic plans, and work plans of each agency. In addition, the relocation of the capital city and its development have met the criteria for land procurement used for national development through Article 10 of Law No. 2/2012. Second, Law No. 5 of 1960 on Basic Agrarian Principles (UUPA), which is also considered in the relocation of the capital city, refers to the regulation and administration of life in a region entrusted to local governments and indigenous communities, provided it does not conflict with national interests. Third, Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Housing Units, and Land Registration, through which the regulation grants management rights (norms for granting management rights) to the IKN authority in realizing and ensuring the protection of national interests. Fourth, Presidential Regulation No. 36 of 2015 on Government Cooperation with Business Entities in Infrastructure Provision, through which the regulation allows the state to cooperate with other entities in providing infrastructure. In the context of the capital relocation, cooperation is carried out in the construction of infrastructure supporting the new capital.

Second, “does the regulation conflict with other regulations?” This question will be answered by referring to the hierarchy of laws and regulations (stufenbau theory) and the principle of Lex Superior Derogate Legi Inferior, which means that a lower-level regulation must not conflict with a higher-level regulation. Entering the main discussion, it is a well-known fact that the enactment of the Capital City Law has always been accompanied by pros and cons among the public, such as when referring to the opinion of Sembiring, et al. (2023:3), which states that the Capital City Law contradicts the constitution because it considers the interests of East Kalimantan without taking into account the interests of other regions in Indonesia, the process of forming the Capital City Law did not involve public participation as stipulated in Article 1 paragraph (2) of the 1945 Constitution, and it

shows a conflict with Article 18 paragraph (1) of the 1945 Constitution in terms of forming a special region equivalent to a province.²⁸

Although this opinion is echoed by many, we do not entirely agree with this opinion. Our disagreement arises because the argument they put forward regarding "the placement of East Kalimantan as the new capital contradicts the constitution by disregarding the interests of other regions" is an unfounded argument. Besides the fact that not all regions are ideal for becoming the capital, the relocation of the capital must be expedited given that Jakarta's current condition is no longer ideal as the capital, although it does not mean leaving problems in Jakarta behind. Referring to the Academic Manuscript of the Capital City Law, the placement of the new capital in part of the East Kalimantan region was chosen because the region has met several considerations, such as socio-political considerations, socio-economic considerations, readiness of residential land and city spatial planning, availability of human resources, support for social and cultural aspects, security aspects, and environmental sustainability.²⁹ Additionally, when referring to the principles of capital city relocation as outlined in the Academic Manuscript, especially the principle of "equality," it shows that the opinion of Sembiring, et al. is not strong enough to prove that the relocation of the capital disregards the interests of other regions. Through this principle, the author interprets that the relocation of the capital through the Capital City Law demonstrates a commitment to equitable growth across all regions in Indonesia.

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²⁸ Sembiring, *et.al* "Juridical Analysis of the Formation of Law Number 3 of 2022 concerning the State Capital,"

²⁹ Suryadi Jaya Purnama and Chotib Chotib, "Public Policy Analysis of the Relocation of the National Capital," *Journal of Economics and Public Policy* 13, no. 2 (February 6, 2023): 153–66, <https://doi.org/10.22212/jekp.v13i2.3486>.

Although we frequently express disagreement, in the matter of "the lack of public participation in the formation of the Capital City Law," we express agreement because real-world experiences show that this is indeed the case. As is known, when referring to Article 96 of Law No. 13 of 2022 on the Formation of Legislation, the concept of "meaningful participation" emerges, which has three criteria, namely: the right to be heard, the right to be considered, and the right to be explained as mandated by the Constitutional Court's decision No. 91/PUU-XVIII/2020. "Meaningful participation" must be implemented in the formation of legislation to fulfill the provisions in Law No. 13 of 2022, which at least must be carried out at the stage of (i) the submission of the draft; stage (ii) joint discussions (DPR with the President) and (DPR, President, and DPD). However, in the context of the formation of the Capital City Law, these provisions were not fulfilled because the discussion of the Capital City Law was not accompanied by meaningful participation from the public.³⁰

Third, "Does the regulation cause disharmony and inconsistency with other regulations?" has, in essence, been explicitly answered in the second question. However, in reality, disharmony between the IKN Law and other regulations is still found. For example, with Law No. 3 of 2004 on Regional Government. As mentioned in the IKN Law, the IKN Law grants extensive authority to the IKN Authority as an agency equivalent to a ministry (Non-Ministerial Government Agency) to administer autonomous governance at the provincial level in a special manner. However, in the IKN law, there is no rigid regulation on the coordination mechanism between the IKN Authority and other regional governments. Additionally, disharmony is also found when referring to Law No. 32 of 2008 on Environmental Protection and Management. Although it has undergone a series of academic studies to ensure sustainable and environmentally friendly development, the content regarding reclamation and industrial area development is feared to have a significant impact on environmental degradation. Therefore, this issue needs to be taken seriously by the IKN Authority. Thus, we

³⁰ Merdiansa Paputungan and Syaiful Bakhri, "Questioning the fulfillment of meaningful community participation in the formation of the Law on the National Capital," *Al-Qisth Law Review* 6, no. 2 (February 14, 2023): 274–300, <https://doi.org/10.24853/al-qisth.6.2.274-300>.

assert that the disharmony between the IKN Law and other regulations ultimately triggers legal uncertainty and overlapping authorities. Therefore, the content in question needs to be amended through the mechanism of law revision, judicial review, or by creating derivative regulations as a more relevant explanation.

Fourth, “Does the regulation lead to multiple interpretations?” Fundamentally, multiple interpretations in the IKN Law are still often found. Gusnaeni & Putra (2023: 403-407) reveal that linguistically, the naming of the new capital as “Nusantara Capital City” leads to double interpretations for the public. According to them, the confusion arises from the interpretation of “Nusantara” as a unity of territory and culture (from Sabang to Merauke along with the cultures within). Therefore, misinterpretation will lead to two understandings of the meaning, namely “Nusantara as the Capital” or “Nusantara as an Archipelago Cluster.” Not only that, the lack of harmony in the regulation of the timeframe for land rights based on Government Regulation No. 12 of 2023 sometimes causes multiple interpretations that result in legal uncertainty.³¹ reveal that in practice, norm conflicts regarding the timeframe for granting Land Rights in the IKN often occur, resulting in losses for business actors. Additionally, this multiple interpretation and inconsistency will lead to more dramatic issues of monopoly by capital owners, which certainly harms the public.³² Aside from these two issues, multiple interpretations also occur when referring to the existence of the IKN Authority, which is placed on par with a minister, influencing the interpretation in the constitutional structure because it directly implies dualism in position and legal uncertainty.

³¹ Reka Gusnaeni and Firmansyah Putra, “Analysis of Law Number 3 of 2022 concerning the Formation of a New Capital City in the Perspective of Legislation Formation,” *Limbago: Journal of Constitutional Law* 3, no. 3 (October 30, 2023): 401–14, <https://doi.org/10.22437/limbago.v3i3.21769>.

³² Aditya Murti, Nawang Wulan, and Andre Saputra, “Conflict Problems of Norms for the Implementation of Land Rights Term Based on Government Regulation Number 12 of 2023 concerning the Provision of Business Licensing, Ease of Doing Business, and Investment Facilities for Business Actors in the Capital City of the Archipelago,” in *Prosiding Seminar Hukum Aktual: Problematika Kemudahan Proyek Strategi Nasional: Konflik Norma Dan Tantangan Kesejahteraan* (Yogyakarta: Universitas Islam Indonesia, 2023), 33–46.

B. Aspects of the Need for Relocating the Capital of Indonesia

In the sub-section "aspects of the need for relocating the capital" within a regulatory framework, it generally outlines the urgency of a policy that is being planned. In this case, we will elaborate on the urgency of relocating the capital by referring to Law No. 3 of 2022 concerning the Capital of the State and the Academic Paper of the IKN Bill. The discussion will be systematically addressed starting from: First, is the regulation urgent to be established?; Second, does the regulation provide benefits to the public?; Third, does the regulation offer convenience to the public?; Fourth, does the regulation have the potential to hinder the achievement of national development goals and targets?

First, "Is the regulation urgent to be established?" This question will be answered in the discussion in this section, beginning with the condition of Jakarta as the capital city. The discourse on moving the capital from Jakarta to a region in Kalimantan, which will later be called Nusantara, actually stems from the issue of Jakarta's "unsuitability" in the future as the capital. Empirical facts today, based on BPS data (2018-2022), show that Jakarta holds the title of "Trade Center" in Indonesia, contributing 20% of GDP in the trade sector; "Financial Services Center," contributing 45% of GDP in the financial services sector; "Corporate Services Center," contributing 68% to GDP in the corporate services sector; "Administrative and Defense Center," contributing a total of 49% to GDP in that sector; "Education Services Center," contributing 27% to GDP in the education sector; and "Manufacturing Industry Center," contributing 10% of GDP overall.³³ Jakarta's condition as the "center of everything" ultimately sparked urbanization, leading to issues such as overpopulation, limited clean water supply, land subsidence, flooding, and other social problems, all of which require significant costs to address.

President Joko Widodo's speech in a Joint Session of the Regional Representative Council (DPD) and House of Representatives (DPR) discussing the plan to move the capital to IKN with hopes of making it a representation of progress, equity, justice, and national development

³³ BPS, "Provinsi DKI Jakarta Dalam Angka" (Jakarta, February 25, 2022).

became a turning point, showing that the government is committed to establishing IKN as the new capital despite the political process involved.³⁴ However, the simultaneous implication that arose after the speech was the question of the validity of Law No. 29 of 2007 concerning the Governance of the DKI Jakarta Province as the Capital of the Republic of Indonesia and Law No. 10 of 2016 concerning Regional Head Elections. Referring to scholars like Stahl, it is argued that government operations must be based on existing legislation.³⁵ However, at that time, the legal foundation for relocating the capital was not yet in place. Based on that experience, the urgency of enacting the IKN Law emerged to legitimize IKN as the capital of the Republic of Indonesia through the concept of derogation and to prevent confusion regarding the status of the national capital.

Second, “Does the regulation provide benefits to the public?” Referring to the primary reason for relocating Indonesia's capital, it is to demonstrate the government's commitment to creating progress, equity, justice, and national development as an integral part of the nation's aspirations enshrined in the “preamble” of the 1945 Constitution of the Republic of Indonesia. From that perspective, the relocation of Indonesia's capital is expected, on paper, to bring benefits in terms of distributing development so it is not concentrated solely on the island of Java. However, the actual process of moving the capital sometimes differs from what is expected. Therefore, the IKN Law serves as a legal umbrella for all Indonesian citizens, especially the people of Jakarta and the indigenous people around IKN. Referring to Law No. 15 of 2019 concerning the Formation of Legislation, there is the principle of utility and effectiveness, which is inherent in that law. This principle is meant to ensure that every piece of legislation enacted must be based on the needs and benefits of regulating society in national life. Furthermore, referring to responsive law theory, which mandates that

³⁴ Zaenal Muttaqin et al., “Government, Civil Society, and Media Accommodation in the Polemic of Moving and Establishing the National Capital Baru,” *Jurnal Studi Jurnalistik* 5, no. 1 (April 17, 2023): 1–22,

³⁵ Notohamidjojo, *Makna Negara Hukum Bagi Pembaharuan Negara Dan Wibawa Hukum Bagi Pembaharuan Masyarakat Di Indonesia* (Jakarta: Badan Penerbit Kristen, 1970).

law must be sensitive to social needs and offer more than just legal procedures to achieve substantive justice.³⁶

For the Indonesian people as a whole, relocating the capital is not just about realizing an effective government system and economic development equity. Referring to the eight principles in the formation of the IKN Law, which include the principles of equality; ecological balance; resilience; sustainability; livability; connectivity; smart city; and diversity, focusing on the principles of equality and livability, it can be seen that the enactment of this law demonstrates the government's commitment to creating the widest possible welfare for the Indonesian people, as Utrecht expressed in his views on the role of the government in contemporary rule of law. This effort is understandable because Indonesia, as a nation, adheres to the concept of a welfare state. Therefore, aside from referring to the eight principles of forming the IKN Law, in its development, the government also ensures the implementation of aspects or targets of the Sustainable Development Goals (SDGs) as well as 11 sectoral principles in the green economy according to UNEP.³⁷ This argument is also supported by a predicted increase in GDP by 0.1%. Bappenas (2019) stated that this increase comes from the optimal utilization of potential resources, such as land clearing for productive infrastructure purposes, which positively impacts economic capacity and job creation, reflected in a 1.37% increase in the price of labor.³⁸

Meanwhile, for the people of Jakarta, it is important to note that the idea of relocating the capital and the enactment of the IKN Law stem from empirical problems occurring in Jakarta. The academic paper states that Jakarta is no longer considered suitable to hold the title of the nation's capital due to its social problems. The problems referred to include: First, overpopulation. The population of DKI Jakarta Province

³⁶ Philippe Nonet and Philippe Selznick, *Toward Responsive Law: Law and Society in Transition* (London: Routledge, 2017).

³⁷ Roy Armansyah, Muhammad Syam, and Nabila Azahra, "The Role of the Nusantara Capital City as a Sustainable City in Prospering the Indonesian People," *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara* 2, no. 1 (December 14, 2024): 255–66. <https://doi.org/10.55606/eksekusi.v2i1.879>.

³⁸ Siti Amila et al., "Analysis of the Impact and Risk of Relocating the State Capital on the Economy in Indonesia," *Jurnal Sahmiyya* 2, no. 1 (May 1, 2023): 10–18. <https://e-journal.uingusdur.ac.id/sahmiyya/article/view/867/591>

in 2017 reached 10,277,628 people, placing Jakarta among the top 10 most densely populated metropolitan cities in the world (WEF, 2017). Second, the limited supply of clean water and land subsidence, exacerbated by the contamination of several clean water sources, leading to excessive land extraction, which in turn causes subsidence at an average rate of 2.5 to 10 cm per year. Third, disaster threats. In addition to flooding, Jakarta also faces the potential for tectonic earthquakes, megathrust tsunamis, and volcanic eruptions due to its location in the "Ring of Fire." Based on these various issues, the relocation of the capital is expected, on paper, to reduce overpopulation by curbing urbanization rates through the redistribution of urban activity centers. This issue directly impacts efforts to improve social and environmental conditions, providing an opportunity for local policymakers to address Jakarta's lingering problems.

The benefits of relocating the new capital through the IKN Law for the communities around IKN, especially the indigenous people of Kalimantan, are still debated. As stated in the academic paper of the IKN Law, referring to the processed census data of 2010, it shows that the region of East Kalimantan, designated as the new capital, is inhabited by five major ethnic groups, namely Javanese (30.2%); Bugis (20.6%); Banjar (12.4%); Dayak (9.3%); and Kutai (7.7%), with the majority of the population being migrants (73.2%). Considering this data, the relocation of the capital will undoubtedly have a significant impact on social life, triggering cultural shifts that lead to acculturation and assimilation as government officials are relocated to IKN. However, concerns about the extinction of indigenous people, loss of livelihoods, and the creation of new social conflicts remain.³⁹ Nevertheless, referring to Annex II of the IKN Law, nine fundamental principles of capital development are explicitly stated.⁴⁰ Referring to the fundamental

³⁹ Irwansyah Irwansyah, Daryono Daryono, and Isai Mangele, "The Impact of Moving the Capital to East Kalimantan: A Perspective of Democracy Civil Society," *Innovative: Journal of Social Science Research* 4, no. 3 (May 23, 2024): 6681–91.

⁴⁰ There are 9 fundamental principles of capital city development outlined in Appendix II of the IKN Law. These include: The basic principles of area development; the basic principles of economic development; the basic principles of social and human resource development; the basic principles of land provision and management; the basic principles of environmental protection and

principles of regional development, economic development, social and human resource development, land provision and management, as well as environmental management, they serve as mitigation efforts for potential issues previously mentioned. This is possible because the fundamental principles in a law act as guidelines for government policy implementation. Meanwhile, concerns about the creation of new social conflicts may occur. However, the potential for such conflicts is empirically low, given that, sociologically, the population residing in East Kalimantan before IKN was established is a heterogeneous society, which is relatively safe from social and ethnic conflicts.⁴¹ Therefore, the presence of the IKN Law, accompanied by the nine fundamental principles of Capital Development, is expected to concretely implement these principles through IKN Authority government policies to achieve benefits for society at large.

Third, “Does the regulation provide convenience for the public?” To answer this question, the discussion about convenience for the public will naturally focus only on “the convenience accommodated by the issue of relocating the national capital through the IKN Law in terms of governance and other bureaucratic matters.” Therefore, when referring to the broader framework of IKN development as part of the vision for IKN's construction, it can be understood that the establishment of the IKN Law demonstrates a commitment to creating effective and efficient governance by relocating central government institutions and decentralizing civil servants (ASN) while enhancing ASN capacity through an integrated system.⁴²

Meanwhile, this issue was discussed in the academic manuscript of the IKN Bill. The discussion begins when the regulation was formed

management; the basic principles of infrastructure development; the basic principles of capital relocation and governance; the basic principles of relocating foreign representatives, and the basic principles of defense and security for the capital city.

⁴¹ Purnama & Chotib, Public Policy Analysis of the Relocation of the National Capital,”

⁴² There are five major frameworks underlying the vision of IKN development, including: 1) Making IKN a national identity. 2) Becoming a smart, green, beautiful, and sustainable capital city. 3) Becoming a modern capital city with international standards. 4) Becoming a capital city with effective and efficient governance. 5) Aiming to be a driver of economic equality for the Eastern Indonesia region.

with the aim of becoming a sustainable city, a driver of Indonesia's future economy, and a city that symbolizes national identity. However, these hopes are hindered by Indonesia's poor political stability and bureaucratic efficiency.⁴³ This issue aligns with what Efendi (1996) stated in Sedarmayanti (2004), that excessive government intervention in public life, particularly in the economy, has limitations and results in significant bureaucratic inefficiency. Therefore, public bureaucracy needs a shift in values from bureaucratic authoritarianism to bureaucratic autonomy. Effendi referred to this shift as the transformation from a bureaucratic state to a service-oriented state. In the context of the IKN Law, this ideal concept has been accommodated through the "New Public Management" paradigm, where the IKN Law demands that the values it upholds meet the aspects of simplifying bureaucratic processes and enhancing work efficiency and effectiveness as a way to improve the quality of public services. Moreover, to achieve these aspirations, efforts to enhance political stability are required.⁴⁴ One step taken by the IKN Law is to eliminate local legislative representation and grant authority to the IKN Authority to achieve flexibility in government affairs, as long as these affairs are not directly related to matters that are absolutely under the central government's jurisdiction.

Furthermore, to implement the ideal of achieving efficient bureaucracy as previously explained, when referring to the basic principles of relocating and managing the center of government in 'Appendix II' of the IKN Law, it can be noted that the IKN Law in question has attached a concrete strategy for bureaucratic and governance reform as follows: a) Strengthening civil servant management by implementing national talent management, improving the merit system, simplifying organizational layers, and organizing functional positions. b) Restructuring institutions and business processes by organizing government institutions and implementing an

⁴³ According to the World Bank's Worldwide Governance Indicators in 2017, Indonesia had a government effectiveness score of 54.81% and a political stability score of 29.05%. The survey was updated in 2019 with results that remained stagnant.

⁴⁴ Sedarmayanti, *Good Governance "Kepemerintahan Yang Baik" Bagian Kedua, Edisi Revisi: Membangun Sistem Manajemen Kinerja Guna Meningkatkan Produktivitas Menuju Good Governance* (Bandung: Mandar Maju, 2012).

integrated electronic government system. c) Reforming the performance accountability system by expanding the implementation of integrity systems, strengthening the management of bureaucratic reform and organizational performance accountability, and reforming planning and budgeting systems. d) Transforming public services by implementing electronic services (e-services), strengthening public oversight of public service performance, enhancing the innovation ecosystem, and improving integrated services. Therefore, it can be said that through the IKN Law, a gradual bureaucratic reform will occur, ultimately benefiting the public by providing easier access to public services.

Fourth, “Does the regulation have the potential to hinder the achievement of national development goals and targets?” Whether a regulation hinders or supports the achievement of national development goals and targets depends on how the regulation is implemented. In Indonesia, the national development goals and targets are outlined in the National Long-Term Development Plan (RPJP) 2005-2025 and the National Medium-Term Development Plan (RPJM) 2020-2024. The RPJM (2020-2024) is an integral part of the RPJP (2005-2025) because the RPJM influences how the development targets in the RPJP can be realized. The direction provided by the RPJP to the RPJM is to “create an independent, advanced, just, and prosperous Indonesian society by accelerating development in various fields, emphasizing the establishment of a strong economic structure based on competitive advantages in various regions, supported by high-quality and competitive human resources.” Therefore, the RPJM 2020-2024 mainstreams the achievement of the targets of the 17 Sustainable Development Goals (SDGs) and their indicators, which will always go hand in hand with the 7 national development agendas. Thus, the concrete vision contained in the RPJM 2020-2024 is “to realize an advanced Indonesia that is sovereign, independent, and characterized by mutual cooperation”. This vision can be considered successful if it fulfills the missions outlined in the RPJM, including: Improving the quality of Indonesian human resources; Creating a self-sufficient, productive, and competitive economic structure; Promoting equitable development with a justice-based paradigm; Focusing on achieving sustainable environmental conditions; Accelerating cultural advancement as a reflection of the Indonesian nation's identity; Establishing clean, trustworthy, and dignified law enforcement;

Committing to providing protection and security for all citizens; Creating a clean, effective, and trustworthy governance and bureaucratic system; and Strengthening synergy with local governments. Based on these nine missions (Nawacita), the RPJM ultimately directs five main strategies, including human resource development, infrastructure development and equity, regulatory simplification, bureaucratic effectiveness, and economic transformation.

In the context of relocating Indonesia's national capital through the IKN Law, the overall "goals and objectives of the national capital's master development and expansion plan" as well as the "vision and basic principles of the national capital" as contained in 'Appendix II' of the IKN Law are aligned with the vision and mission of the RPJP (2005-2025) and the RPJM (2020-2024). Moreover, when referring to Appendix of Presidential Regulation No. 18 of 2022 and the 2020-2024 National Legislation Program (Prolegnas), it can be seen that the issue of relocating Indonesia's national capital through the IKN Law supports the goals and targets of national development.

C. The Benefits Aspect of Relocating Indonesia's Capital City

In the subsection "the benefits aspect of relocating the capital city" within a regulatory framework, in general, it will focus on outlining the benefits derived from policies implemented through established regulations. On this occasion, we will refer to the content included in Law No. 3 of 2022 regarding the Capital City and the Academic Script of the IKN Bill. The discussion will be sequentially structured, starting with: First, Does the regulation burden the state or regional budget?; Second, Does the regulation provide greater benefits than the costs incurred?

First, "Does the regulation burden the state or regional budget?" A funding review prior to the formation of the IKN Law was conducted as outlined in the academic script of the IKN Law. The academic script mentions several regulatory guidelines, including: Law No. 17/2003 on State Finance; Government Regulation in Lieu of Law (Perpu) No. 1/2020 on State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/or Facing Threats Endangering the National Economy and/or Financial

System Stability; Law No. 1/2004 on State Treasury; and Government Regulation No. 27/2014 on the Management of State/Regional Property. Referring to the study conducted by Bappenas (2019), the development of IKN is estimated to require funding of IDR 466 trillion. Meanwhile, according to a report submitted by the Ministry of Finance (2019), the funding sources for the development of IKN are divided as follows: the state budget (APBN) of IDR 89.4 trillion (19.2%); the Government Cooperation Program (KPBU) scheme of IDR 253.4 trillion (54.4%); and private sector funding of IDR 123.2 trillion (26.4%).⁴⁵

Siswanto (2022) has reviewed Indonesia's budget and financing readiness in relocating the capital city by examining several funding sources and evaluating them with indicators of value, growth, and attention to infrastructure. The results indicate that the KPBU scheme for funding IKN is considered ready, although it does not meet the growth estimates of project costs. For the private sector, it is also considered ready to finance despite challenges in the market capitalization growth indicator of the Indonesia Stock Exchange. Additionally, foreign investors through the Foreign Direct Investment (FDI) scheme are also considered sufficiently prepared for funding, although the "foreign investment growth" indicator remains problematic in the report. The issue is that the funding scheme from the APBN is deemed unprepared due to not meeting the value and growth of state revenue indicators. From this review, we can understand that the funding for IKN development is still considered unprepared when examining the state revenue value, based on the fact that there has been a significant budget deficit, reaching three times higher in 2021 compared to the pre-pandemic period (2020). Likewise, the state revenue growth indicator shows that the country's revenue growth tends to be unstable and fluctuating. Thus, the development of IKN has the potential to burden the state budget if these problematic indicators are not immediately addressed.⁴⁶

⁴⁵ Rizki Kurniawan et al., "Analysis of Crowdfunding as an Alternative to Infrastructure Development Financing in Proy," *Economics and Digital Business Review* 5, no. 1 (January 1, 2024): 387–93.

⁴⁶ Siswanto Siswanto, "Analysis of Indonesia's Budget and Financing Readiness in Moving the National Capital: A Literature Study," *Journal of Public Policy Studies* 1, no. 1 (November 30, 2022): 27–41.

Second, "Does the regulation provide greater benefits than the costs incurred?" One of the implications of the enactment of Law No. 13/2022 (P3 Law) is the legalization of the Cost and Benefit Analysis (CBA) method in the process of analyzing or drafting regulations. The CBA method is essentially an effort to process the information data obtained to assess the goals and usefulness of an alternative offered based on the outcomes and limited to the costs required along with the benefits of choosing that alternative. A high-quality CBA analysis does not only focus on quantitative elements and matters of profit and loss. However, good quality can be achieved through the existence of scientific case analysis, making it reasonable, involving transparent assumptions, and considering decisions based on deliberation..⁴⁷

As mentioned earlier, the benefits of relocating the capital city can generally be felt by all Indonesians, the people of Jakarta as the old capital, and the people of Kalimantan as the new capital. For the entire Indonesian population, the relocation of the capital city to part of the Kalimantan region shows the government's commitment to creating balanced development. This commitment is not only demonstrated through massive infrastructure development outside Java Island but also through a symbolic gesture showing strong commitment. Thus, the existence of the IKN Law not only accommodates the regulation of the new capital development but also serves as an "agreement" between the government and the people in promoting equitable development. This can be proven by the regulatory subjects outlined in the IKN Law, which cover all Indonesians. Furthermore, the commitment demonstrated through the eight principles of the IKN Law's formation underpins how the IKN Law is programmed as a means of achieving the welfare state. This sacrifice eventually brings its own advantages. The estimated increase in Gross Regional Domestic Product (GRDP) by 0.1%, stemming from the optimal utilization of potential resources such as land clearing for productive infrastructure needs, has an impact on the economy's growth and job creation, reflected by a 1.37% increase in the price of labor, as mentioned in a study published by Bappenas in 2019.⁴⁸

⁴⁷ Cecot, "Deregulatory Cost-Benefit Analysis and Regulatory Stability,"

⁴⁸ Amila, ., "Analysis of the Impact and Risk of Relocating the State Capital on the Economy in Indonesia,"

The benefits felt by the people of Jakarta can be reviewed from the problems that gave birth to the idea of relocating the capital. Therefore, it is hoped that the relocation of the capital will gradually resolve the issues inherent in Jakarta. Meanwhile, for the indigenous people of Kalimantan, the existence of the IKN Law through the nine basic principles of capital development, as stated in Annex II of the IKN Law, is expected to serve as the foundation for sustainable development across Kalimantan. Thus, the funding burden for relocating the capital can be considered "balanced" if it refers to the benefits to be gained in the future.

Analysis of the Synchronization of the IKN Law with Related Laws

A good law "*good/common good/liberty/equality/fraternity*" and effective is a law whose existence is not isolated from the legal system and legal framework, the importance of legal integration in the legal system and legal framework can be pursued through the process of drafting laws and regulations which begins with the preparation of a legal framework/ mapping and content materials, both are used to produce a legal product that is synchronous, consistent and harmonious, while in this case the legal framework and content material of IKN regulation and other related materials, namely the Paris Agreement Law "hereinafter referred to as the PP Law", the Law on Land Acquisition for Development for the Public Interest "hereinafter referred to as the PTPKU Law", the Law on Environmental Protection and Management "hereinafter referred to as the PPLH Law", The Spatial Planning Law "hereinafter referred to as the PR Law", and the Local Government Law "hereinafter referred to as the Local Government Law", as shown on Table q.

TABLE 1. Legal framework of the IKN Law and other related

No	Rule	Relatedness of Regulatory Materials
1	1945 Constitution	Article 18 paragraph (1) "The Unitary State has a regional government, which is regulated by law". Article 18B paragraph (1) "The State recognizes which is special or special regulated by law."

No	Rule	Relatedness of Regulatory Materials
2	Paris Agreement Law	Explanation ".... the principle of shared responsibility.... sustainable governance." Translation of the Paris Agreement ".... principles, shared responsibility...." ".... sustainable development...." Article 4 ".... sustainable development...."
3	IKN Law	Article 3 paragraph (2) "a. equality; b. ecological balance; c. durability; d. sustainability of development; e. eligibility for life; f. connectivity; g. smart city."
4	Local Government Law	Article 1 ".... the widest possible autonomy in the system and the Unitary State...." ".... Basic Principles.... which is based on Regional Autonomy." Article 13 ".... accountability, efficiency, externality, national strategic interest."
5	PTPKU Law	Weighing ".... the principles of humanity, democracy, and justice." Explanation ".... humanity, justice, utility, certainty, openness, agreement, participation, welfare, sustainability, and harmony...."
6	PPLH Law	Weighing ".... sustainable and environmentally sound development."
7	PR Law	Weighing ".... integration, sustainability, democracy, legal certainty, and justice...."

If analyzed against the legal framework of the IKN Law with the laws and regulations vertically, the tracking of the conformity of the principles contained in the IKN Law can be said to be in accordance hierarchically with the principles of local government as stipulated in article 18 paragraph (1) and 18B paragraph (1) of the Constitution, then, the search for principles is also carried out horizontally against the relevant laws and regulations that are equivalent. It is known that the IKN Law is closely related to the PP, PTPKU, PPLH and PR Laws as each is in accordance with the principles of development sustainability, sustainability, sustainable and environmentally sound development, and sustainability. This means that the IKN Law is declared harmonious/synchronized with other related laws. On the other hand, with the Local Government Law, it does not have relevance/conformity in principle considering that the two assume each other *lex specialis derogat legi generalis*.

Next, after an analysis of the mapping, it is followed by an analysis of the content material that contains the government's authority/obligations towards citizens who are the target of the IKN Law and other related regulations, as follows:

TABLE 2. Target of IKN Law and Other Related Regulations

No	Rule	Authority/Obligations
1	Paris Agreement Law	"The obligations of each country.... Nationally Determined Contributions.... contribution decline...." "The obligation of developed countries...." Article 9 ".... mitigation and adaptation to continue obligations" Article 20 ".... bound by all obligations under this Agreement...."
2	IKN Law	Article 12 ".... authority to grant investment licenses," Article 36 ".... obligations of the Nusantara Capital Authority as a user of goods...." Appendix II ".... low carbon," ".... low-carbon energy as a source of energy in the future," "...., as well as low-carbon energy," ".... low energy consumption and carbon footprint...." "Low Carbon Energy Cluster and Mining...."
3	PTPKU Law	Article 1 ".... the right to control from the state.... the authority to implement it is partially delegated...." Article 45 "Release of Land Acquisition Objects.... delegation of authority" Explanation ".... authority to make arrangements...."
4	PPLH Law	Explanation ".... broad authority to the Minister.... environmental protection and management...." Explanation "The use of natural resources the obligation to preserve the environment and realize sustainable development goals." Article 37 ".... obligations stipulated in the AMDAL document...."
5	UU PR	Article 7 ".... the authority of spatial planning to the government and local governments."

No	Rule	Authority/Obligations
		Article 37 "Licensing provisions.... authority...."
		"Space utilization permit.... authority..."
		Explanation ".... obligations, and community participation...."
		Explanation of article 8 "Government authority in the use of space and control...."
		Explanation of article 61 ".... obligation to provide access"

Based on the results of the mapping of the content material above which is based on the principle of state authority and obligations to citizens, it is found that the content material of the IKN mostly targets the achievement of economic rather than social goals, it can be seen that the majority of the authority of the "*soft approach*" means here aimed at providing facilities for investment licensing facilities for targets/targets of business actors, This is reasonable, considering the characteristics of the IKN Law as a economic regulations that place great emphasis on the role of the government in economic rather than social functions, however, it does not mean that the IKN Law ignores aspects of other objectives other than the economy. The role of the government in the social aspect is indeed not too dominant in the content of the IKN, but the government does not solely ignore the aspects of social goals, such as climate change, basic services, housing, employment, education, welfare, local community rights, customary land and "environment", while all aspects of these social goals, especially regarding the issue of community rights, customs, local rights to land, the environment and other related are still accommodated in the material IKN content for community targets/targets, indigenous peoples, locals. For example, related to policies/strategies/mechanisms regarding spatial planning, land and transfer of land rights, environmental protection and management have adjusted/referred to the provisions of existing laws and regulations in the PR, PPLH, and PTPKU Law. In detail, the importance of the involvement of indigenous and local communities in the form of active participation in forest and environmental management in the IKN has been facilitated in the form of adaptation of local wisdom in the use of forest resources and providing a role to the community as *citizen foresters*. Then, regarding the fulfillment of

emission reductions due to the impact of climate change, it has not yet been seen in the content material of the IKN Law, but these concerns are contained in the content of the Attachment to the vision of the development of the IKN as a *forest city*, *sponge city* and *smart city* which is supported by forest restoration measures, the provision of green open space (RTH) up to 70%, the use of new and renewable energy (NRE) and other actions for the achievement of a low-carbon city in accordance with the obligations of the Paris Agreement Law.

Thus, that the IKN Law can be declared not to contradict each other both in terms of *legal framework/ethics/value mapping/principles* and content materials with the Paris Agreement Law and other related materials, so that it is very possible that all laws and regulations can be united in a spirit that is synchronous, consistent and harmonious in the formation of good laws and regulations.

In addition, based on the analysis of the content material mentioned above, which is entirely in the form of a law, it is necessary to conduct an analysis of the content of the regulation, the analysis of the regulation is carried out with three key aspects, which include *agenda setting* (targets), *behaviour modification* (compliance), and *information-gathering (detection)* and other additional aspects of *self-regulation*. The three aspects can be described as follows:

TABLE 3. Aspects of Good Regulation of the IKN Law & other related

Rule	Target/Target what/who	Compliance: Handling	Detection: Prevention	Self-Regulation
IKN LAW	Business actors, the community	Present	None	Present
PTPKU LAW	Business actors, the community	Present	Present	Present
PPLH LAW	Business actors, the community	Ada Present	Present	Present
PR LAW	Business actors, the community	Present	Present	Present

The analysis of the IKN Law in this case is closely related to the issues of principles and content materials above, namely regarding business issues, land use, the environment and other related issues. First, the IKN Law contains aspects of compliance in the form of

"mandatory" content material on targets/targets for actions directed by the ruler to be in accordance with the compliance in question, for example in article 16 related to land and the transfer of land rights contains the phrase "mandatory" for HAT holders in the use of land in the IKN in accordance with its designation, including "mandatory" to obtain the approval of the Head of the IKN Authority in the transfer of rights. Then, the detection aspect, in the form of a series of government actions in carrying out preventive efforts through monitoring and evaluation activities in the implementation of rules to minimize the risks that occur has been regulated in the IKN Law in the Appendix regarding detection, prevention, and monitoring related to the compliance of business entities in the use of HAT is said to be not optimal, considering that the prevention instrument exists to regulate other things besides the HAT in question. Finally, the aspect of *self-regulation*, meaning that the IKN Law facilitates various conveniences for targets/targets to regulate themselves in the form of flexibility in determining policies that are adaptive, flexible and effective. This of course has been intended by the IKN Law for business entities in providing various investment/business facilitation facilities, meaning that the IKN Law provides profitable business opportunities for businesses in carrying out their business activities in the IKN, such as ease of licensing, ease of procurement of goods and services, ease of export and import, support for market creation for new products produced by new economic clusters, and so on.

Based on the results of the analysis, it is known that the IKN Law as a complex regulation, in this case the content material regulates both economic and social aspects, it is said that it is not too optimal in its regulatory aspects, considering its weakness in the detection/prevention aspects related to business issues, land use and the environment have not been regulated in the content material, so adequate support for prevention from other related laws is needed, such as the PR Law, the PTPKU Law and the PPLH Law. This support is needed to optimize the implementation of various business activities in the IKN in line with safety, community security and the environment. Thus, the IKN Law with its shortcomings can be declared as a fairly good regulation, so it is declared *good/benefit enough* as a regulation.

The Institutional Framework for the Relocation of Indonesia's Capital City

A. Aspect of the Suitability of the IKN Authority Agency

In the sub-section "*aspect of the suitability of the IKN Authority Agency*" within an institutional framework, it generally focuses on outlining the suitability of the institutional form of the IKN Authority Agency with several existing values and norms. In this context, we will refer to the content contained in Law No. 3 of 2022 on the National Capital, the Academic Manuscript of the IKN Bill, Presidential Regulation No. 62 of 2022 on the Nusantara National Capital Authority, Presidential Regulation No. 63 of 2022 on the Details of the Nusantara National Capital Master Plan, Government Regulation No. 27 of 2023 on the Special Authority of the Nusantara National Capital Authority, and the IKN Regulation No. 3 of 2024 on the Strategic Plan of the IKN Authority for 2020-2024. The discussion will proceed sequentially, starting with: First, does the proposed institutional framework align with the goals/objectives of regional development (RPJMD)? Second, does the proposed institutional framework align with institutional framework policies?

First, "Does the proposed institutional framework align with the goals/objectives of regional development (RPJMD)?" The novelty in the drafting of regulations and institutional formation means that the existence of the IKN Authority Agency was not planned in the RPJMN (2020-2024). On the other hand, technically, the IKN area can be considered as a regional division at the provincial level (Special Province) in parts of East Kalimantan Province, specifically in parts of Kutai Kartanegara Regency and North Penajam Paser Regency. Therefore, the existence of the IKN Authority Agency is not mentioned in the RPJMD of Kutai Kartanegara Regency 2021-2026 and the RPJMD of North Penajam Paser Regency 2021-2026. As such, the planning for the establishment of the IKN Authority Agency is regulated through Presidential Regulation No. 63 of 2022 on the Details of the Nusantara National Capital Master Plan. In addition, it is further emphasized through IKN Head Regulation No. 3 of 2024 on the Strategic Plan of the IKN Authority for 2020-2024, that institutionally, the existence of the IKN Authority Agency will focus on

implementing policies as mandated by the RPJMN 2020-2024 within the scope of government organizations, which include the formulation of duties, functions, authorities, roles, and the structure of bureaucratic reform at the agency level. In this way, the core organizational structure under the Head of the IKN Authority⁴⁹ and the IKN Authority Agency itself, although not planned through the RPJMD of Kutai Kartanegara Regency 2021-2026 and the RPJMD of North Penajam Paser Regency 2021-2026 (since they are unrelated), the implementation of programs and institutional planning within the scope of the IKN Authority refers to the RPJMN 2020-2024; Presidential Regulation No. 62/2022 on OIKN, Presidential Regulation No. 63/2022 on the Details of the Nusantara National Capital Master Plan, Government Regulation No. 27/2023 on the Special Authority of the Nusantara National Capital Authority, and IKN Head Regulation No. 3 of 2024 on the Strategic Plan of the IKN Authority for 2020-2024.

Second, “Does the proposed institutional framework align with institutional framework policies?” As stipulated in Article 11 paragraph (1) of the IKN Law, it is explained regarding the provisions of the organizational structure, duties, authorities, and work procedures of the IKN Authority, which are further regulated through a Presidential Regulation, namely Presidential Regulation No. 62 of 2022 on the Nusantara National Capital Authority (OIKN). Through the IKN Law and the OIKN Presidential Regulation, the format of the IKN Authority's region and institution is clearly a combination of the formation of a new Autonomous Provincial Region and a Special Area. This format was proposed in the Academic Manuscript of the IKN Bill and has undergone in-depth study. The use of this format is mentioned

⁴⁹ As outlined in Presidential Regulation No. 62 of 2022 on the Nusantara Capital City Authority, Presidential Regulation No. 63 of 2022 on the Details of the Nusantara Capital City Master Plan, Government Regulation No. 27 of 2023 on the Special Authorities of the Nusantara Capital City, and IKN Authority Head Regulation No. 3 of 2024 on the 2020-2024 IKN Authority Strategic Plan, it is known that the core organization under the Head of the IKN Authority includes: 1) Secretariat. 2) Deputy for Planning and Land Affairs. 3) Deputy for Development Control. 4) Deputy for Social, Cultural, and Community Empowerment. 5) Deputy for Green and Digital Transformation. 6) Deputy for Environment and Natural Resources. 7) Deputy for Facilities and Infrastructure. 8) Deputy for Funding and Investment. 9) Legal and Compliance Work Unit.

to provide advantages in planning and governance without variables that could potentially hinder the relocation, development, and governance of the new capital city. Therefore, alternative institutional formats proposed in the academic manuscript of the IKN Bill were considered unsuitable because the authority agency that has been formed is a specially established agency for the development of IKN, not a coordination/coordination body or an optimization of the functions of existing ministries/institutions. Based on this analysis, the proposed institutional framework as presented in the Academic Manuscript of the IKN Bill is in accordance with the institutional format and policies, as stated in the IKN Law and the OIKN Presidential Regulation.

B. The Urgency Aspect of the Establishment of the IKN Authority Agency “*Badan Otorita IKN*”

In the subsection "the urgency aspect of the establishment of the IKN Authority Agency," within an institutional framework, it will generally focus on explaining the urgency of establishing the IKN Authority Agency institutionally and comparing it with existing values and norms. On this occasion, we will refer to the content contained in Law No. 3 of 2022 concerning the National Capital, the Academic Draft of the IKN Bill, Presidential Regulation No. 62 of 2022 concerning the Nusantara Capital Authority, Government Regulation No. 27 of 2023 concerning the Special Authorities of the Nusantara Capital Authority, and IKN Regulation No. 3 of 2024 concerning the Strategic Plan of the IKN Authority for 2020-2024. The discussion will proceed in order, starting with: First, does the proposed institutional framework impact the achievement of development targets? Second, is the proposed institutional framework mandated by laws and regulations?

First, “Does the proposed institutional framework impact the achievement of development targets?” Through the Head of IKN Authority Regulation (Perka) No. 3 of 2024 concerning the Strategic Plan for the Nusantara Capital for 2020-2024, it has been mentioned that the institutional work focus fully refers to the 2020-2024 National Medium-Term Development Plan (RPJMN), which is regulated

through Presidential Regulation No. 18 of 2020. Although the existence of the IKN Authority Agency's establishment is not mentioned through the 2020-2024 RPJMN, the values contained in the 2020-2024 RPJMN are fully applied as the norm for the IKN Authority Agency's policy direction.

Furthermore, Perka No. 3 of 2024 concerning the Strategic Plan for the Nusantara Capital for 2020-2024 also mentions that to achieve the strategic goals set, the IKN Authority Agency uses the "Balanced Score Card" (BSC) approach. Through this approach, the strategic goals are grouped into three perspectives, including: "(1) Stakeholder/ Customer Perspective, which has four strategic goals to be achieved, namely: a) Realizing controlled, inclusive, and equitable development and economic growth, with indicators of the percentage of area development and the area's economic growth rate. b) Realizing optimal management of the environment and natural resources with indicators of achieving the environmental quality index and the percentage of rehabilitation and/or tree planting in IKN. c) Realizing a reliable and integrated digital ecosystem for the IKN area, with indicators of the percentage of completion of the area's strategic IT system and the percentage of completion of IT infrastructure development. d) Realizing optimal funding management and the investment climate in the IKN area with work indicators of the percentage of follow-up on investment MoUs in IKN and the percentage of IKN development funding. (2) Internal Process Perspective with two strategic goals, namely: a) Realizing effective internal control and supervision with work indicators of the legal decision-winning index and the level of internal compliance with regulations. b) Realizing credible and accountable financial and state property (BMN) management with the indicator of the BPL opinion index on the LK BA 126. (3) Learning and Growth Perspective with the goal of realizing an optimal organization with the indicator of increasing public trust in OIKN." Although as of this writing, there has been no official report on the IKN Authority Agency's achievement in fulfilling these strategic goals, it can be understood that institutional performance management with measurable benchmarks can be a positive value if executed well. Moreover, these benchmarks position the 2020-2024 RPJMN as a standard and measure to achieve development targets.

Second, “Is the proposed institutional framework mandated by laws and regulations?” It is known that the specific regulation of the IKN Authority Agency is regulated through Presidential Regulation No. 62 of 2022 concerning the IKN Authority (Presidential Regulation OIKN). Referring to the “considering” section of the OIKN Presidential Regulation, it is clear that the establishment of the IKN Authority Agency is an effort to implement the provisions of Article 5 paragraph (7), which mandates the creation of further provisions regarding the composition and procedures for administering the special regional government of IKN, the formation of IKN regulations other than regulations governing tax levies, as well as the regulation of the implementation of the capital transfer process, and Article 11 paragraph (1) of the IKN Law, which mandates the creation of regulations regarding the organizational structure, duties, authorities, and work procedures of the IKN Authority Agency.

C. Feasibility Aspects of the Formation of the IKN Authority

The sub-section on the Feasibility Aspects of the Formation of the IKN Authority Body within the institutional framework seeks to evaluate the viability of the proposed institutional structure for the IKN Authority Body, grounded in existing values, norms, and legal frameworks. The analysis will reference several key legal instruments, including Law No. 3 of 2022 on the State Capital, the Academic Manuscript of the IKN Bill, Presidential Regulation No. 62 of 2022 on the Nusantara State Capital Authority, and Government Regulation No. 27 of 2023 on the Special Authority of the Nusantara State Capital. These documents provide the regulatory foundation for the discussion, which will be structured around several critical questions.

The first question addresses whether the proposed institutional framework for the IKN Authority overlaps with any existing institutions. This is important to assess potential redundancies or conflicts with existing governance structures, which could complicate the implementation of the capital relocation. The second question explores whether the proposed framework will improve the efficiency of development implementation. Efficiency is a key consideration in

ensuring that the relocation process proceeds smoothly and meets national development goals within the specified timeframes.

The third question examines whether the proposed framework can streamline the bureaucratic process in policy implementation. By reducing unnecessary layers of bureaucracy, the framework could facilitate more timely and effective decision-making. The fourth question focuses on the potential direct and positive impacts the framework might have on society, particularly in terms of improving living conditions, creating economic opportunities, and addressing regional inequalities.

The fifth question assesses the realism of completing the institutional framework within the first three years of the RPJMN 2020-2024. Given the ambitious timeline for the capital's relocation, this inquiry is critical in evaluating the practical feasibility of the proposal. Finally, the sixth question considers whether the framework is supported by a comprehensive set of supporting documents, including study results and a thorough cost-benefit analysis. These documents are essential for ensuring that the proposed institutional structure is grounded in solid evidence and will deliver the intended benefits without overburdening the state or regional budgets.

First, “Does the proposed institutional framework overlap with existing institutions?” As discussed in the regulatory aspect regarding the determination of the special status of the region by the central government, as stated in Article 360 paragraph (2) of Law No. 23 of 2014 on Regional Governance, the proposed institutional framework should not overlap with existing institutions as it does not violate material regulations. To prevent institutional disharmony, the government has taken an important step by repealing Law No. 9 of 2007 on the Government of the Special Capital Region of Jakarta as the Capital of the Republic of Indonesia. Instead, the government enacted Law No. 2 of 2024 on the Special Region of Jakarta, which was ratified by the President in April 2024.

Second, “Does the proposed institutional framework impact the efficiency of development implementation?” It is mentioned in OIKN Regulation No. 3 of 2024 on the Strategic Plan of the IKN Authority for 2020-2024 that as regulated by Presidential Regulation No. 62 of 2022 (Presidential Regulation on OIKN), the IKN Authority has 28

functions in carrying out its duties. Therefore, a clear mandate is required to achieve the implementation of the OIKN Strategic Plan 2020-2024 and the RPJMN 2020-2024. Hence, the IKN Law mandates that the IKN Authority institutionally operates at the ministerial level, responsible for the preparation, development, relocation of the state capital, and governance process. Additionally, the IKN Authority is granted special authority in providing public services, such as issuing investment permits, business facilitation permits, and providing special facilities for parties contributing to the financing of the preparation, development, and relocation of the state capital. This authority gives flexibility to the IKN Authority in development and public service provision, as mentioned in the 2020-2024 Nusantara State Capital Development Master Plan. Furthermore, with the special status granted through the IKN Law, governance in the IKN will operate without the existence of a Regional House of Representatives (DPRD). According to the academic manuscript of the IKN Bill, the removal of the DPRD is intended to minimize its political and managerial interference in the state capital's operations, allowing the government greater freedom in formulating and implementing policies.

Third, “Does the proposed institutional framework shorten the bureaucratic chain in policy implementation?” As is well known, the form of government in the IKN is that of an authority government as mandated by the IKN Law. In addition, the tasks of governance, including public service delivery in the IKN, are delegated by the IKN Authority through bureaus (deputy sectors) established under the New Public Management (NPM) paradigm. This is a novel step since Indonesia has traditionally relied on the classical Weberian paradigm. Moreover, the elimination of the DPRD in the institutional structure of the IKN also serves to minimize DPRD intervention in regional management processes. Therefore, it is stated in the Academic Manuscript of the IKN Bill that the consequence of the absence of the DPRD is to maximize the role of the DPR-RI in absorbing the aspirations of IKN residents. Furthermore, the commitment to shortening the bureaucratic chain is supported by the implementation of a strategic area development program, which aims to create a reliable and integrated digital ecosystem (SP3) to promote collaborative government and e-government. In addition, the strategic area development program also aims to optimize IKN investment climate

and funding management (SP4). This target is accommodated by the IKN Law, which grants the IKN Authority the power to formulate regulations and facilitate investment permits. In the management support program, there are strategic program goals supporting the issue of "shortening the bureaucratic chain," including the program goal to achieve effective internal control and oversight (SP5); the program goal to realize credible and accountable financial and asset management (SP6); and the goal to create an optimal organization (SP7). Therefore, a strong institutional framework supported by measurable program implementation can bridge the effort to shorten the bureaucratic process.

Fourth, "Does the proposed institutional framework have a direct and positive impact on society?" The discussion of "positive institutional impacts on society" inherently addresses the institution's benefit in accommodating and delivering public services. This discussion begins with the organizational structure and internal institutions of the IKN. As is well known, these arrangements are generally seen in Articles 4 through 8 of Presidential Regulation No. 62 of 2022 on the IKN Authority and OIKN Regulation No. 3 of 2024 on the Strategic Plan of the IKN Authority for 2020-2024. Through these two regulations, it can be observed that the IKN Authority also has functions in providing public services, including the authority to issue investment permits, decide on business facilitation permits, and provide special facilities for those investing in the development and financing of the state capital relocation. Therefore, the clear mandate given to the OIKN can influence the ease of public service provision in the IKN.

Furthermore, these two regulations indicate that, structurally, auxiliary tasks are also assigned to the Deputies of the OIKN Head. As stated in Article 13 paragraph (1) of the Presidential Regulation on OIKN, deputies are tasked with assisting the OIKN in exercising its authority. This authority includes tasks related to the development and relocation of the state capital. Deputies' responsibilities are also expanded to include governance assistance tasks, including public service provision. Further regulation on the deputies responsible for assisting in governance tasks can be found in the Annex to OIKN Regulation No. 3 of 2024 on the OIKN Strategic Plan for 2020-2024.

Through this regulation, it is clearly stated that the organizational structure has specific tasks with set targets and achievements. Thus, the existence of a clear institutional structure and responsibilities, as well as measurable performance targets, is expected to have a positive impact on society.

Based on the arguments previously provided, we emphasize that up until the publication of this article, no concrete performance reports have been available regarding the implementation of the 2020-2024 OIKN Strategic Plan, particularly concerning the institutional performance of IKN in providing public services. However, with clear mandates, structures, division of tasks, and performance targets, it is expected to deliver optimal results in delivering public services.

Fifth, “Is the proposed institutional framework realistic to be completed (within the first three years of RPJMN 2020 - 2024)?” The submission of the form of government as an Authority Body, including the institutional structure of the IKN Authority, was initially proposed through Law No. 3 of 2022 on the IKN. The IKN Authority, including the secretariat, deputies, and legal & compliance units, began to form in 2022. Thus, the IKN Authority institution was expedited to continue the development and relocation process of the state capital.

In terms of performance, when referring to the targets for strategic goals and OIKN performance indicators for 2020-2025 (SS1 to SS7), as mentioned in the Annex to OIKN Regulation No. 3 of 2024 on the OIKN Strategic Plan 2020-2024, it can be observed that the IKN Authority, including the IKN Authority Head, secretariat, and deputies, could not fully achieve the strategic goals using the Balanced Scorecard (BSC) approach by 2024. Furthermore, when referring to the targets for strategic program goals (SP) and program performance indicators (ISS), it is evident that the IKN institution has not reached 100% of its targets by 2024. However, there is a difference indicated by the activity performance indicators (ISK), where by 2024, the IKN institution managed to achieve 100% completion for (SK1 to SK13).

The inability of the IKN institution to achieve 100% performance targets had already been predicted through a SWOT analysis conducted by the government, as stated in OIKN Regulation No. 3 of 2024. One of the main challenges in the relocation and governance of the IKN is the relatively long construction period. The study explains that the relocation and development process spans from

2020 to 2045. Therefore, efforts to minimize errors involve dividing the process into five development phases: phase 1 (2022-2024); phase 2 (2025-2029); phase 3 (2030-2034); phase 4 (2035-2039), and phase 5 (2040-2045).

Sixth, “Is the proposed institutional framework supported by the completeness of supporting documents (study results and cost & benefit analysis)?” The function of the academic manuscript is as a scientifically accountable document that contains the background, objectives, target outcomes, an overview of the substance, material, and scope of a proposed regulation, and provides considerations for the executive and legislative bodies in decision-making. Therefore, it is appropriate for the drafting of any regulation to require the inclusion of an academic manuscript.⁵⁰ The completeness of supporting documents has been fulfilled by the legislators through the inclusion of the IKN Bill Academic Manuscript. Furthermore, other supporting documents that can be used as references include the 2020-2024 RPJMN and the IKN Development Master Plan.

Conclusion

The relocation of Indonesia’s capital city (IKN) is based on strong philosophical, historical, sociological, and legal foundations, all rooted in the values of Pancasila and the principles contained in the 1945 Constitution. However, from a legal-political perspective, the process of forming Law No. 3 of 2022 on IKN still faces several criticisms regarding the lack of public participation as meaningful participation, the rushed drafting process, the absence of the capital relocation idea in the 2005-2025 National Long-Term Development Plan (RPJP), and the ongoing disharmony with other regulations, especially concerning governance coordination and environmental issues. Nevertheless, the relocation of Indonesia’s capital city, regulated by Law No. 3 of 2022, is a strategic move taken by the government to address various issues faced by Jakarta as the center of government, such as urbanization, flooding, population density, and land subsidence. Based on a needs

⁵⁰ Deus Levolt Sihombing et al., “The Role of Academic Manuscripts in the Formation of Laws and Regulations,” *Locus: Journal of Legal Concepts* 3, no. 1 (March 30, 2023): 11–20, <https://doi.org/10.56128/jkih.v3i1.38>.

analysis, Jakarta is deemed no longer suitable to serve as the capital in the future, making the relocation a more effective and efficient long-term solution. Additionally, the capital relocation has the potential to promote more equitable economic development outside Java, with the hope of fostering social justice and prosperity. Through the application of sustainable and ecological balance principles in line with the Sustainable Development Goals (SDGs) and the green economy, the government aims to ensure that this relocation brings long-term benefits to the broader community. However, significant challenges remain in its implementation, particularly concerning funding, which is estimated to reach IDR 466 trillion, with a financing scheme through Public-Private Partnership (PPP) and private sector contributions playing crucial roles in the development process. The reliance on the state budget (APBN) becomes a challenge when the APBN faces a budget deficit. Thus, the success of this regulation greatly depends on its implementation, both in terms of efficient bureaucratic governance and achieving the sustainable development vision outlined in the Long- and Medium-Term Development Plans (RPJP and RPJM)

On the other hand, discussions regarding the institutional framework of the Nusantara Capital City Authority (IKN) focus on the alignment of institutional structures with existing regulations, such as Law No. 3 of 2022 on the Capital City, Presidential Regulation No. 62 of 2022, and the 2020-2024 Strategic Plan of OIKN. Although the existence and discourse on the formation of the IKN Authority are not mentioned in the RPJMN and RPJMD of several related regions, its planning is based on specific regulations that grant authority to the IKN Authority. This institution has specific tasks in the preparation, construction, and relocation of the capital, as well as governance without a local parliament (DPRD) to avoid local political interference. The IKN Authority also plays a role in providing public services, investment permits, and managing strategic areas with measurable targets based on the Balance ScoreCard approach. A clear organizational structure, measurable performance targets, and regulatory support provide the IKN Authority with a strong foundation to support the development of IKN efficiently, shorten bureaucratic chains, and have a positive impact on the community, though concrete achievement reports are not yet available to date.

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*Justitia est constant et
perpetua voluntas ius suum
cuique tribuendi*

Justice is the constant and perpetual
will to render everyone his right.

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