

Synchronization of the Transfer of the Indonesian State Capital According to Law Number 3 of 2022 Concerning the State Capital with the 1945 Constitution and Applicable Positive Laws

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KEYWORDS

UU IKN, UUD 1945, Society

ABSTRACT

Until now, the capital city of Indonesia is the Special Capital Region of Jakarta (DKI Jakarta). Jakarta as the capital is the center of everything that makes Jakarta a big burden as the capital of Indonesia. President Joko Widodo moved the capital from Jakarta to Kalimantan under the name "Nusantara" as a form of representation of Indonesia's development. Law Number 3 of 2022 concerning State Capitals (UU IKN) was created, on January 18, 2022. However, this law experienced various problems due to the haste to ratify the IKN Law. The IKN Law is inconsistent with the 1945 Constitution and laws that are equivalent to the IKN Law do not involve the community's right to participate and obtain information from the government as their responsibility. As a result of the problems experienced in the UU IKN, this law must be corrected in detail and completely so that the UU IKN gets legal certainty and the IKN development process goes according to the goals of the state and nation. By considering every voice of the Indonesian people which is their right to build a prosperous country.

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Introduction

Jakarta, which became the capital of Indonesia during the independence era, until now has not experienced a change in place or name. The determination of Jakarta as the capital is contained in Law Number 10 of 1964 concerning the Declaration of the Special Capital Region of Jakarta Raya as the Capital City of the Republic of Indonesia with the name Jakarta. The word "capital" in English is "capital city" which comes from the Latin word "caput" which means head. Although the law does not explain the word "capital", the Big Indonesian Dictionary (KBBI) explains that the capital is the center of government of a country. The capital city is a reflection of uniqueness in all aspects of life to introduce the character and identity of a nation.

Jakarta is not only the national capital and the center of government, but also an economic center so that it attracts many people to move and live in the capital city of Jakarta to make a living so that Jakarta becomes a cog for the national economy and a destination city for urbanization. However, various problems arose in the capital city so that President Ir. Joko Widodo as the President of the Republic of Indonesia (hereinafter referred to as the President of the Republic of Indonesia) must move the Indonesian

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capital from Jakarta to Kalimantan. In fact, this is not a rare phenomenon in Indonesia, but Indonesia's history records from the period of Dutch colonialism to the reform era of President Soeharto with various problems that occurred so that he wanted to move the nation's capital. This happened again, when President Jokowi emphasized in a joint session of the DPD RI and the DPR RI on August 16 2019 regarding the plan to move the national capital to Kalimantan.

The President of the Republic of Indonesia stressed that moving the new capital was not only a greatness of a nation but as a representation of the nation's progress. There are several reasons why the President of the Republic of Indonesia and his staff chose to move the national capital from Jakarta to Kalimantan, including: First, there is an imbalance in development and the economy that is not evenly distributed in Java Island and outside Java Island. It can be seen, the majority of development and economic activities take place on the island of Java alone (Seta, 2020).

This problem gave rise to the strong desire of the President of the Republic of Indonesia to distribute equity in various aspects in various regions and develop policy instruments capable of accelerating development and the economy outside Java Island. Second, internal problems that arise from Jakarta as the capital towards the non-optimal implementation as the center of everything, one of which is overpopulation. Jakarta itself, as the general public knows, is the center of government, economy and urbanization, so that optimal administration of the government system is not created. With the transfer of the capital, Jakarta is expected to become a city that is able to organize everything without the burden of being the capital. Finally, there is a desire to realize a progressive and resilient IKN and represent a capital city that has the characteristics and vision of Indonesia's development in the industrial revolution 4.0 era and carries the concept of a modern, smart and green city (Prahassacitta, 2019).

In the end, after going through various pros and cons regarding the plan to move the capital, the decision was made to issue Law Number 3 of 2023 concerning the State Capital (hereinafter referred to as the IKN Law) by the House of Representatives together with the President of the Republic of Indonesia, on January 18, 2022. The Capital of Indonesia named Nusantara is the one chosen by the President of the Republic of Indonesia from the many choices of candidates for the name of the capital put forward by the public. The reason for choosing the name Nusantara is an icon that depicts the Indonesian nation with a diversity of ethnicities, religions, races, classes, languages, but which is a unified whole and is known by the international community (Darwis & Rudiadi, 2023).

The President of the Republic of Indonesia emphasized that the IKN program is not just moving places, moving the capital is changing a modern mindset and building a more just social life (Hadi & Gandryani, 2022). The IKN program will be proof of the government's transformation in the aspect of community survival to become more qualified. With the transfer of the state capital, it is a great hope for the Indonesian people that it will be carried out properly, if it is accompanied by material and formal laws and regulations so as to produce legal certainty. However, the passing of the IKN Law received various criticisms even before the passing of the IKN Law (Herdiana, 2022).

The Prosperous Welfare Party (PKS) faction stated that the IKN Draft Law (hereinafter referred to as the RUU) on IKN was discussed haphazardly, was immature and problematic both formally or procedurally as well as materially or substantially. The IKN Law is one of the laws with the fastest ratification process starting from the discussion on 7 December 2021 until the ratification of the IKN Bill on January 18 2022,

meaning that the ratification of the IKN Bill to become the IKN Law only takes 42 days. The ratification and implementation of the IKN Law is a question for the people of Indonesia, whether the IKN Law is in accordance with the 1945 Constitution (hereinafter referred to as the 1945 Constitution) as the country's constitution, whether the President of the Republic of Indonesia and his staff have thought in the future what the consequences or problems will be if the state capital is moved to Kalimantan so that synchronization must be carried out with the 1945 Constitution and the positive laws that apply (Dwiatmoko & Nursadi, 2022).

Synchronization is an assessment to what extent the law is in line with or in accordance with other regulations. UU IKN must be synchronized vertically and horizontally. Vertical synchronization is identifying a regulation that is in line or not in terms of the hierarchy of laws and regulations. Horizontal synchronization is identifying a regulation that is in line or not in terms of regulations that have the same position as the regulation. The 1945 Constitution and other laws will serve as a benchmark for whether the IKN Law is appropriate and in line with existing regulations. In this way, the author wants to analyze the involvement of the 1945 Constitution as the state constitution and Indonesia's positive law in the implementation of the IKN Law (Haryanti, 2022).

Based on the background of the article entitled "Synchronization of the Transfer of the Indonesian State Capital According to Law Number 3 of 2022 concerning the State Capital with the 1945 Constitution and Applicable Positive Laws", there are several problems formulated by the author, namely: How to synchronize the UUD 1945 and positive law against Law Number 3 of 2022 concerning the State Capital?.

Research methods

In writing an article entitled "Synchronization of the Transfer of the Indonesian State Capital According to Law Number 3 of 2022 Concerning the State Capital with the 1945 Constitution and Applicable Positive Law", the research method used was normative legal research. According to Jonny Ibrahim, normative legal research is used to find truth based on logic from the normative side in a scientific research.

That way, to support the implementation of research, the collection method is secondary data collection. The secondary data referred to are primary legal materials, such as applicable positive laws and secondary legal materials, such as articles and books on legal science. The nature of the research used by the authors is descriptive research, in which the authors examine natural objects with the intention of interpreting existing phenomena. This research also focuses on problems or events that are true and are happening.

The approach used is a qualitative approach with the aim of gaining an understanding of the phenomena studied. After that, the data analysis method used is qualitative juridical using deductive logic by placing the positive law that applies as the major premise and facts as the minor premise to then draw a conclusion according to the problem being studied.

Results and Discussion

The strong desire and ambition of state officials was realized from the birth of the IKN Law on January 18 2022 until the inauguration of the head and deputy head of the IKN authority on March 10 2022. The formation and ratification of the IKN Law must consider the effectiveness of the enactment of these regulations in Indonesia, starting from

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the philosophical aspect, sociological and juridical. In the IKN Law itself, the name of the country's capital has been stipulated as "Archipelago", as well as regulating aspects, such as geography, government and economy. Legal policy, namely the transfer of the capital in achieving the goals of the state must be carried out democratically by the people's representative institutions as people's representatives.

In realizing the goals of the state listed in the 4th (fourth) paragraph of the Preamble of the 1945 Constitution, the formation of the IKN Law was based on Pancasila values to carry out state goals. The president, in this case, has the right to submit a bill to the DPR, which holds legislative power, and discuss the law with the president for mutual approval. In Article 22A of the 1945 Constitution, the provisions for forming laws are regulated in the laws that govern them, namely Law Number 12 of 2011 concerning the Formation of Legislation (UU P3). The preparation and preparation of the material for a bill must be accompanied by an academic text which contains the purpose of making, the vision and mission to be realized and how it is regulated. However, the problem is that as a result of the rapid ratification of the IKN Law, this law does not have an academic text as the basis for making the IKN Law.

Academic papers are scientifically compiled texts regarding a bill as an answer to what problems exist and what the community needs. From this understanding, academic texts are considered as a determinant of whether or not a law is made to comply. If academic papers are not fulfilled or complete as an important part in the formation of a bill, then the law must be considered contrary to the constitution, namely the 1945 Constitution. In the application for a formal review of the IKN Law by Herifuddin Dauly stated that there are points why the IKN Law is contrary to the 1945 Constitution, among others:

- a. The policy of moving the national capital is not aimed at the prosperity of the nation and the nation;
- b. There is no transparent explanation regarding the financial capacity to move the capital;
- c. The relocation of the capital of another country is due to economic problems, but the Indonesian capital is moving due to human calculations regarding future disasters;
- d. The main impact as a result of moving the capital to Kalimantan does not mention predicting problems, solving problems, and even steps for making government decisions are not mentioned in the IKN Law.

In the formation and ratification of the IKN Law, the government has an obligation to be accountable for what it does and report it to the public and the public has the right to obtain information on what the government is doing so that transparent and accountable information is created. The community's right to obtain information is stated in Article 28F of the 1945 Constitution. However, in reality the public did not know for certain that there was information on the transfer of the capital to Kalimantan which resulted in the creation of rumors, incorrect information (hoaxes) and even uproar about this issue. Not only regarding information on moving the capital city broadly, but details on the problems of moving the capital, such as the potential for deforestation, new environmental developments and other problems due to the construction of the new IKN.

Therefore, the government has violated the 1945 Constitution regarding the provision of information in a transparent and accountable manner which should fulfill access to information, especially for the public, especially for the benefit of society. Apart from that, the people's right to participation was also neglected in the drafting of a bill

regarding the relocation of the capital. Where the public has the right to provide input or criticism regarding the formation of laws and regulations. In facilitating the public in providing suggestions, each bill of law must be accessible to the public in accordance with the principle of openness in the process of forming legislation. The principle of openness is a principle that is intended for all levels of society to provide input and criticism in the process of forming legislation up to the ratification stage which is transparent and open. Disclosure is an important key in the era of technology and information development, one of which is information from the government that may have an impact on the wider community. The public has the right to know to what extent and how important this regulation is made, whether it is made for the people or the personal interests of the people's representative institutions as the purpose of the law

itself is for the people. There is openness in the formation of products

laws as a form of legal development support, so that if there are weaknesses and deficiencies in the process of forming legislative products, the community can complement them in the framework of ensuring justice. In Decision Number 91/PUU-XVIII/2020, one of the rulings is that community participation is meaningful participation because involvement between legislators and the community will be in accordance with what is expected in advance. Community participation is specifically intended for people who have a direct relationship with the bill. Meaningful community participation has three conditions, including:

- a. The right to be heard (right to be heard)
- b. Right to be considered opinion (right to be considered)
- c. The right to get an explanation of the opinion given (right to be explained).

Conclusion

In the development of a large-scale IKN, it will be realized if there is harmony with other regulations and the participation of the community in providing input regarding plans to relocate the IKN. The drafting of the IKN Law was made in a hurry so that there were no academic papers and immature contents. As a result of the haste in drafting and ratifying the IKN Law, there were several discrepancies with other regulations, such as the absence of academic papers, the government's lack of accountability in conveying information to the Indonesian public regarding plans to form the IKN Bill, and the absence of direct public participation in the continuity of the formation of the IKN Law. and the absence of the principle of openness from the government. The IKN Law must be revised in detail and completely so that there is conformity with the IKN Law with other regulations. As a government, it is obligatory to correct any mistakes that exist so that the plan to move IKN to Kalimantan can proceed according to the goals of the state and nation.

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