

THE MOVING OF INDONESIA'S CAPITAL CITY AND ITS LEGALITY WITHIN ITS CONSTITUTIONAL SYSTEM

**Farhan, Angelia Gunawan¹, Angelia Gunawan², Krisna Ananda Putra³,
Khanza Inas Az Zahra Fikry⁴, Tengku Mahathir Mas'ud⁵**

¹University of Airlangga, Indonesia, Email: farhan-2021@fh.unair.ac.id

²University of Airlangga, Indonesia, Email: angela.angelia12@gmail.com

³University of Airlangga, Indonesia, Email: kclkrishna@gmail.com

⁴University of Airlangga, Indonesia, Email: inaskhanza@gmail.com

⁵Universiti Sultan Zainal Abidin, Malaysia, Email: tengkumahathir@gmail.com

Received: 2022-07-08; Reviewed: 2022-08-29; Accepted: 2022-08-29; Published: 2022-08-30

Abstract

The purpose of this study is to analyze the projected status of the Special Capital Region (DKI) Jakarta after the on-going move of Indonesia's Capital City from Jakarta to Nusantara, and to analyze the legality status of the government's decision regarding the move within Indonesia's constitutional system. Through normative legal method, this study demonstrates that the status of DKI Jakarta as the capital city will change after the capital city move based on several articles in Law Number 3 of 2022 on Capital City; hence, the function and role of the capital city of the Republic of Indonesia will be transferred from DKI Jakarta to the National Capital City (IKN) after the president releases a presidential decree on the matter. Prior to the move, all positions, functions and roles of the capital city will remain in DKI Jakarta. Once the presidential decree related to the transfer of the capital city is released, the Law Number 29 of 2007 on the Provincial Government of Jakarta as the capital city of Indonesia will no longer be valid. However, Jakarta's function as an autonomous region will still apply. There are several steps that need to be done; firstly, compiling academic manuscript in drafting the academic text of Law Number 3 of 2022 on Capital City; secondly, conducting more discussions regarding Law Number 3 of 2022 on Capital City and the status of Law Number 29 of 2007 regarding the Provincial Government of Jakarta as the Capital City of Indonesia; thirdly, providing opportunity for public participation in the preparation and discussion in the making of Law Number 3 of 2022 on Capital City.

Keywords: Procedure; Status; Transfer; The Capital City of The Republic Indonesia.

1. INTRODUCTION

Jakarta is the capital city of Indonesia as regulated in Law Number 29 of 2007 on Provincial Government of Jakarta as the Capital City of Indonesia, which has a role as the center of the economy and the center of government.¹ This dual function has attracted continuous flow of people coming to Jakarta to find better jobs in search of better livelihood. However, the increasing number of people coming to Jakarta is not followed by the government's capacity for the environmental management and urban

¹ Hutasoit Wesley Liano, *Analisa Pemindahan Ibukota Negara*, DEDIKASI: Jurnal Ilmiah Sosial, Hukum, Budaya, Vol. 39. No.2, 2019, pg. 109.

planning.² As a result, several problems constantly occur, such as water pollution, air pollution, flooding, traffic jams, and high crime rates.³ These problems have prompted the Indonesian government to move the capital city away from Jakarta.

Historically, the idea of moving the capital city from Jakarta to other areas had emerged since the Dutch colonial era, first proposed by the governor general of the Dutch East Indies Herman Willem Daendels (1762-1818). There were two important reasons behind this plan. First, Jakarta was considered a disease-prone area. In 1962, Batavia was been dubbed the “Grave of the Dutch” because an outbreak of cholera and malaria took many lives at that time. This outbreak was thought to have occurred because of Jakarta’s function as the main port, so the spread of the diseases could quickly happen. The second reason was that Surabaya, which was targeted as the capital city, had many forts that could make the national defense stronger than Jakarta⁴

During the leadership of Soekarno in the Old Order years, in 1957 the idea of relocation reemerged. At that time, President Soekarno planned to move the capital city from Jakarta to Palangkaraya. The seriousness of these plans was proven by the arrival of a city planning expert from Russia to design the city of Palangkaraya to become the new capital city of Indonesia. However, this idea could not be implemented because the economic downturn in 1960 made the president decided not to proceed with the plan, which would have required significant funding and focus on stabilizing the economy.⁵ In the New Order years under the leadership of President Suharto, the discourse of moving the capital city seemed to have disappeared. In this era, the government focused on the infrastructure development on the Java Island to increase Jakarta’s effectiveness as the center of government and economy, which resulted in the city of Jakarta became the center of national urbanization.⁶

During president B.J Habibie’s (Post-reformation) years, an idea was proposed to move the capital city to Sidrap, South Sulawesi. The reason for this plan was because Sulawesi is geographically located in the middle of Indonesia, so that the government would be able to distribute the goods or services from the capital city to other areas easily.⁷ President Susilo Bambang Yudhoyono (SBY) (2010) also expressed his desire to move the capital. At that time, the president formed a small team whose focus was on reviewing the idea of relocating the national capital because the president thought that Jakarta was no longer able to carry out its dual functions as the center of economy and as the center of government. There were three recommendations from the study

² Fitri Ramdhani Harahap, *Dampak Urbanisasi Bagi Perkembangan Kota Di Indonesia*, Society, Vol. 1. No.1, 2013, pg. 35.

³ Rizqi Puteri Mahyudin, *Kajian Permasalahan Pengelolaan Sampah Dan Dampak Lingkungan di TPA (Tempat Pemrosesan Akhir)*, Jukung (Jurnal Teknik Lingkungan), Vol. 3. No.1, 2017, pg..66.

⁴ Dian Herdiana, *Pemindahan Ibukota Negara: Upaya Pemerataan Pembangunan Ataukah Mewujudkan Tata Pemerintahan Yang Baik*, Jurnal Transformative, Vol. 8. No.1, 2022, pg. 16.

⁵ Ridho Abdul Jabbar, *Kebijakan Pemindahan Ibu Kota Negara Republik Indonesia Dalam Perspektif Fikih Siyasah*, Thesis, Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah, Jakarta, 2021, pg. 34.

⁶ *Ibid*, pg..35.

⁷ *Ibid*, pg..38.

conducted by the team; firstly, maintaining Jakarta as the capital city, but all problems in Jakarta must be solved; secondly, moving the capital city from Jakarta to another area but still on the island of Java; thirdly, moving the capital city to another location outside Java.⁸

During President Joko Widodo's years of leadership, there was a strong willingness to move the capital city. The government stated that Jakarta's problems could only be solved by breaking the concentration of the national government and economic activities outside Jakarta and the island of Java. For that reason, on August 26th, 2019, President Joko Widodo announced the transfer of the state capital to the island of Kalimantan with the specific locations of Penajam Paser Utara and Kutai Kartanegara.⁹ The government's decision to move the capital city to solve the issues in DKI Jakarta has caused concerns and protests from many Indonesians. One of the reasons is that there is no statutory rule in Indonesia that regulates the mechanism and procedures for moving the capital city in detail. The word "capital city" is only mentioned twice in the Constitution of the Republic of Indonesia, saying, "The People's Consultative Assembly convenes at least once in five years in the capital city." It is also stated in Article 23G, which says, "The Supreme Audit Agency is located in the capital city and has representatives in each province". Meanwhile, the constitution does not explain the rigid definition of the capital city and the procedure for its transfer.

In addition, the relocation of the capital city will directly have implications on the laws and regulations that are still valid, such as Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia. Therefore, the relocation of the capital city without any revisions or updates of the regulations related to the status of Jakarta as a special region with its function as the capital city will result in overlapping regulations that cause legal uncertainty regarding the status of Jakarta. Therefore, a constitutional study is needed regarding the relocation procedure of the capital city of the Republic of Indonesia and its implications related to the special status of Jakarta as the capital city.

Based on the background above, the researcher would like to formulate the research question as follows:

- 1) What is Jakarta's special status after the enactment of the New Capital City Law (IKNB)?
- 2) What is the procedure for moving the capital city of Indonesia and its legality according to the Indonesian constitutional system?

The type of this research is normative legal research with a normative juridical approach, including the statutory and conceptual approaches. The types of legal materials used are primary, secondary, and tertiary materials.

⁸ *Ibid*, pg. 38,

⁹ Fikri Hadi and Rosa Ristawati, *Pemindahan Ibu Kota Indonesia dan Kekuasaan Presiden dalam Perspektif Konstitusi*, Jurnal Konstitusi, Vol. 17. No.3, 2020, pg. 540.

2. DISCUSSIONS

Special Status of DKI Jakarta after the Enactment of the New Capital City Law (IKNB)

The capital city is the epicenter of government's activity in a country. It is also a place where various diplomatic activities with foreign countries and international organizations are conducted. This is because the Foreign Country Representatives (PNA) usually establish a head office in the capital city.¹⁰ Therefore, a special arrangement is needed for the area designated as the capital of a country, because it plays a crucial role in supporting the function of government and maintaining the national image. Looking at the history of local government administration in the capital city of Indonesia, several regulations were obtained that specifically regulate the position of Jakarta as the capital city of Indonesia. For example, in the Decree of the Republic Indonesia President (Penpres) Number 2 of 1961 on Government of Capital City Jakarta, Jakarta is an area designated as the capital city of Indonesia where the president directly runs the government to facilitate its function as the center of government.

Furthermore, the budget for Jakarta is included in the budgets of central government agencies. When the plan to move the capital city that appeared in 1957 could not be conducted, the government led by President Soekarno at that time issued Law Number 10 of 1964 on the Declaration of the Special Capital City Jakarta Raya remains as the capital city of the Republic Indonesia with name Jakarta. In this Law, President Soekarno stipulated that Jakarta-Raya would remain as the capital city of the Republic of Indonesia. In addition, in the section on considerations and explanations of that Act, it is emphasized that the reason Jakarta remained as the capital city is because, historically, Jakarta is the area where the proclamation was initiated. It has also become the center of the revolution, as well as the place where the national core ideology, the Pancasila, was born.

In 1990, President Soeharto revoked the two regulations that used to be the legal umbrella for the previous government related to the special status of Jakarta as the capital city of Indonesia by issuing Law Number 11 of 1990 on Government Structure of the Special Capital City of the Republic of Indonesia, Jakarta. In this law, the government in Jakarta, initially led directly by the president, was changed so that the governor led the government in Jakarta. In addition, this law emphasized that Jakarta had duties and functions like other regions in Indonesia, with the additional task of being the nation's capital. During the era of President Habibie, the government issued Law Number 34 of 1999 on the Provincial Government of the Special Capital City of the Republic Indonesia, Jakarta. Again, this law emphasized the specificity of Jakarta because of its status as the capital city.

¹⁰ Manda Kumoro Saraswati, and Emmanuel Ariananto Waluyo Adi, *Pemindahan Ibu Kota Negara Ke Provinsi Kalimantan Timur Berdasarkan Analisis SWOT*, JISIP (Jurnal Ilmu Sosial dan Pendidikan), Vol. 6. No.2, 2022, pg. 35.

The last law that regulated the specialty of Jakarta as the capital city was ratified during the era of president Susilo Bambang Yudhoyono (SBY). The following points are some of the exclusiveness of DKI Jakarta compared to other provinces based on Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia:

- a. DKI Jakarta is an area designated as the capital city of the Republic of Indonesia as defined in Article 1 Point 6 of Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia.
- b. Apart from being an area designated as the nation's capital, DKI Jakarta is also an autonomous region at the provincial level like other regions in Indonesia.
- c. In the explanation section of Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia, it is stated that DKI Jakarta has duties, obligations, and rights that differ from other regions concerning its status as the capital city of the Republic of Indonesia. These duties, responsibilities, and special privileges are given to the city to support the government and provide locations for the representatives of foreign countries and other international institutions.
- d. Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia, stipulates the administration of the DKI Jakarta Province is carried out based on the principle of autonomy, the focus of co-administration, the principle of decentralization, and the specificity of being the capital city of the state.
- e. In Article 26 Paragraph 4 of Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia, it is regulated on the authority of the DKI Jakarta provincial government, which includes the establishment and implementation of policies in the fields of:
 - 1) spatial planning, natural resources, and the environment,
 - 2) population and settlement control,
 - 3) transportation,
 - 1) industry and trade,
 - 2) tourism;
- a. The Governor of DKI Jakarta has the authority to attend cabinet meetings regarding the issues of the capital city.
- b. In Article 30 of Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia, the central government and the DKI Jakarta Provincial Government may propose the establishment of a particular area in the DKI Jakarta Province to perform certain government functions that are specific to the national interest. Other than that, the management can be managed individually or collectively.
- c. Unlike other provinces in Indonesia, the DKI Jakarta government funding does not only come from the Regional Revenue and Expenditure Budget (APBD). Article 33 Paragraph 1 of Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia stipulates that DKI Jakarta government funding, apart

from the APBD, is also budgeted through the State Revenue and Expenditure Budget (APBN).

Based on the description above, DKI Jakarta has been designated as the capital city of the Indonesia based on many considerations. But this does not seem to be sufficient to convince the current government led by President Joko Widodo to keep Jakarta as the capital city. The government considers that various persisting problems in DKI Jakarta, such as floods, traffic, and increasing environmental pollution, have potentials to damage the nation's image. The only way to solve these problems is to move the capital city so that Jakarta's current functions as the center of government and economy can be transferred to other areas. Following that, Indonesia will also have a new capital city free from the said persisting problems.

Furthermore, the government finally issued Law of the Republic of Indonesia Number 3 of 2022 about the Capital City. In this law, the Republic of Indonesia's capital city is moved to Kalimantan in the area of Kutai Kartanegara as stipulated in Article 39. If one examines several articles of Law Number 3 of 2022 on Capital City, there are some changes to Jakarta's special status, such as:

- a. In Article 4 Paragraph (2) Law Number 3 Year 2022 on Capital City, it is regulated that the position, function, and role of the Indonesian capital will be transferred from DKI Jakarta to the National Capital City (IKN) in Nusantara by the release of the Presidential Decree.
- b. Article 39 Paragraph (1) Law Number 3 of 2022 on Capital City stipulates all positions, functions, and roles of the capital city remain in DKI Jakarta until the President releases the Precedential Decree to transfer the Capital City.
- c. Article 41 Paragraph (1) Law Number 3 of 2022 on Capital City states that if a Presidential Decree related to the relocation of the capital city is released, the provisions in Article 3 and Article 4 of Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia regulating the position of DKI Jakarta as the capital city of the Republic of Indonesia are no longer valid. However, Jakarta's function as an autonomous region still applies.
- d. Article 41 paragraph (2) Law Number 3 of 2022 on Capital City stipulates amendments for Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of the Republic of Indonesia not more than two years after the law is ratified. Afterwards, all the functions, duties and authorities of the DKI Jakarta government related to its specialty as the capital city are declared invalid.

Analysis of the Procedure Used for Transferring the Capital City of Indonesia based on the Indonesian Constitutional System

As the authors mentioned earlier, in the Constitutional Law of the Republic Indonesia, the detailed explanations about the capital city, its position, or the mechanism for its transfer are unavailable. Moreover, even in the special law that regulates the capital city, such as in Law Number 29 of 2007 on the Provincial Government of Jakarta as the

Capital City of Indonesia, there are also no rules regarding the mechanism for moving the capital city. Therefore, the authors will analyze the procedure for moving the capital city that the government has carried out and its legality to the Indonesian constitutional system.

a. Writing the Academic Papers of The Capital City (IKN) Law

The first thing the government conducted prior to transfer of the capital city was to write the academic manuscript. The academic manuscripts created by the government should be able to address all issues related to IKN juridically, sociologically, and philosophically. In addition, these academic manuscripts need to be able to explicitly explain the qualifications and criteria, as well as the urgency of moving the capital city. The limitations and descriptions related to the status of IKN whether it would solely become the center of government or it has other functions, such as the center of economy, must be explained in academic manuscripts so that the government can determine the orientation of the capital city development with a clear direction.¹¹

However, if one examines the academic paper on the IKN Law that has been released, we can find that the essential issues have not been addressed in detail, and they which raise a lot of public arguments for and against the capital city transfer plan. One example is regarding the special status of Jakarta. The regulation to Jakarta's status is still valid as regulated in Law Number 29 year 2007 on the Provincial Government of Jakarta as Capital City of Indonesia. Article 18 B Paragraph (1) Constitution law of Republic Indonesia stated that the state must recognize and respect special regional government units that the law regulates. This means that all policies and regulations must not conflict with existing rules, especially those related to the specificity of a region. However, the academic text about The Capital City (IKN) Law does not explain in detail the validation of Law Number 29 of 2007 about the provincial government of Jakarta as the capital city of Indonesia when the Law of The Republic of Indonesia Number 3 of 2022 about the Capital City has been officially approved. Hence, these rules are overlapping. In addition, the academic text also does not explain the certainty related to the special status of Jakarta after the capital city will be transferred.

Another unaddressed matter in the academic paper is related to the rules regarding the procedure for moving the capital city, which will be used as a benchmark by the government. As a state of law, all activities carried out by the government should be based on applicable regulations. Therefore, the process or steps for transferring IKN cannot be carried out before a statutory regulation explicitly regulates this matter, especially regarding the location of the new capital city, confirmation of the status of the previous capital city, and the detailed transfer mechanism. The procedure in question is all matters related to the transfer of IKNB, from forming teams and task forces to the making of accompanying strategic policies so that the president or any

¹¹ Mahardika, Ahmad Gelora, and Rizky Saputra. *Problematika Yuridis Prosedural Pemindahan Ibu Kota Negara Baru Dalam Sistem Ketatanegaraan Indonesia*. Legacy: Jurnal Hukum dan Perundang-Undangan, Vol. 2. No.1, (2022), pg.12.

other institution is not allowed to make a unilateral decision without the existing laws and regulations that previously regulated or violated existing provisions.¹²

b. Discussion of the IKN Bill

On August 26, 2019, President Joko Widodo announced the plan to move the capital city. Still, not a single law in Indonesia stipulates the mechanism or procedure for moving the capital city.¹³ Therefore, the first and foremost thing that the government should do is to draft laws and regulations regarding the country's capital city that contains rules on all matters, including the procedure for its transfer. Not only is this needed because there are no rules regarding the method for moving the capital city, but also because there is an existing law that regulates DKI Jakarta as the capital city.

In essence, the privilege of Jakarta is attached to its status as the capital city of Indonesia. If we look into Isran's opinion regarding the legal ratio of granting special autonomy in Indonesia, we find out that various regions in Indonesia that were given special status are based on two things. Firstly, special freedom is given because some areas in Indonesia have powerful customary laws attached to them, for example, Papua and Yogyakarta. Besides that, some regions in Indonesia have laws closely related to faith in certain religions, for instance, Nangro Aceh Darussalam.¹⁴ The second reason is that there are areas in Indonesia with a long history of governance that can be traced back to the Dutch colonial era. Jakarta has been the center of government and economy since the Dutch era.¹⁵ In addition, Jakarta is also a historical place where the nation's ideology (the Pancasila) was born. It is where the text of the proclamation was read as expressed in the issuance of the Law Number 10 of 1964 on the Declaration of the Special Capital City Jakarta Raya that states Jakarta remains the capital city of Republic Indonesia. This fact is reaffirmed in the explanation of Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia, which states that:

“DKI Jakarta as a government unit special in its position as the Capital of Republic Indonesia and as an autonomous region has important functions and roles in supporting the administration of Indonesia based on the 1945 Constitution Law of Republic Indonesia.”

Based on the above provisions, it can be said that Jakarta and its specificity as the capital city cannot be separated because many national historical events occurred in the city. Therefore, when the government issued the IKN Law, a particular discussion is needed relating to the status of Jakarta after the capital city is transferred to Nusantara. Therefore, conducting a discussion about the revision or updating of Law Number 29 of 2007 on the Provincial Government of Jakarta as the Capital City of Indonesia and

¹² Muhammad Yahya, *Pemindahan Ibu Kota Negara Maju Dan Sejahtera*. Jurnal Studi Agama dan Masyarakat, Vol. 14. No.1, 2018, pg. 24.

¹³ Ani Sri Rahayu, *Menyoal Pemindahan Ibu Kota Negara*, Arsip Publikasi Ilmiah Biro Administrasi Akademik, Vol. 09, 2019, pg. 32.

¹⁴ Isran, Saldi, Bertus de Villiers, and Zainal Arifin, *Asymmetry in a Decentralized, Unitary State: Lessons from the Special Regions of Indonesia*, Journal on Ethnopolitics and Minority Issues in Europe : JEMIE, Vol. 18 No. 2, 2019, pg. 43.

¹⁵ *Ibid*, pg. 45.

the debate about making the IKN Law cannot be separated because these two laws are connected.

Table 1 The Capital City of Indonesia

Period	Capital city	Legal protection	Explanation
Before the IKN Law was issued	DKI Jakarta	Law Number 29 of 2007 on the Provincial Government of the Special Capital Region (DKI) of Jakarta as the Capital City of the Republic of Indonesia	Valid
After the IKN Law was validated	Nusantara	Law No. 3 of 2022 on the Capital City	Valid
	Jakarta	Law Number 29 of 2007 About the Provincial Government of the Special Capital Region of Jakarta as the Capital of the Unitary State of the Republic of Indonesia	Not revoked

Sources: <https://peraturan.bpk.go.id/Home/Details/198400/uu-no-3-tahun-2022>

c. Public Participation Based on Law Number 12 of 2011 on Lawmaking

Indonesia is a law-based state, which means that all elements in the Indonesia must comply with the law.¹⁶ In the Indonesian legal system, public participation is essential in lawmaking because the community will undoubtedly feel the direct impact of all the regulations made by the government. Lawmaking process is regulated in Law Number 12 of 2011 on Lawmaking. Furthermore, public participation is guaranteed in Article 96 of Law Number 12 of 2011 on Lawmaking, in which it is stated that:

- (1) The public can provide input orally and/or in writing in the lawmaking process.
- (2) Verbal and/or written input, as referred to point 1, can be made through:
 - a. public hearings;
 - b. work visit;
 - c. public dissemination; and/or
 - d. seminars, workshops, and/or discussions

However, if we examine the drafting process of the IKN Law, it is evident that the public participation was very minimal. The discussion of the IKN Law conducted by the government only takes 42 days.¹⁷ It is very short when we compare it to the average formation of laws in Indonesia, which takes about 130-160 days.¹⁸ With this very minimal discussion time, the government appeared to rush the relocation process. As it is known that relocating the capital city is not an easy matter, a large number of funds is needed to build the infrastructure. Apart from that, the government seems

¹⁶ Likadja, Jeffry Alexander Ch. "Memaknai "Hukum Negara (Law Through State)" dalam Bingkai "Negara Hukum (Rechtsstaat)", Hasanuddin Law Review 1.1 (2015), pg.78.

¹⁷ Khomarul Hidayat, <https://nasional.kontan.co.id/news/cuma-dibahas-dalam-waktu-42-hari-ruu-ibu-kota-negara-sudah-disahkan-jadi-uu>, accessed on 14 Juni 2022.

¹⁸ *Ibid.*

insensitive to the people's urgent needs in other national issues since moving the capital city has become the government's priority. At the same time, the community needs government assistance to adapt to the ongoing Covid-19 pandemic. Based on the data that the authors have collected, the following is public participation in the discussion of the IKN Law:

Table 2 Public Participation in the formation of the IKN Law

Form of Participation	Involvement	Time
RDPU	30 Experts	5 days
Public consultations	• The University of Indonesia • The University of Mulawarman • The University of Hasanudin • The University of North Sumatera	14 days
Work Visit	• Kesultanan Kutai Kartanegara • Kesultanan Paser • Kerukunan Bubuhan Banjar Kalimantan Timur Kabupaten Penajam Paser Utara (KBBKT PPU) • Gerakan Putera Asli Kalimantan (Gepak) • Persekutuan Dayak Kalimantan Timur (PDKT) • Forum Dayak Bersatu (FDB) • Lembaga Adat Paser Borneo (LAPB)	3 days

Sources: <https://www.mkri.id/index.php?page=web.Berita&id=18164&menu=2>

The length of the discussion was concise and very limited, making IKN Law insufficiently accommodative to various public interests. As previously mentioned, this discussion seems insensitive to the more pressing needs of the people during the pandemic that, their basic needs have not been fulfilled. In addition, the discussion related to moving the capital city to Kalimantan should involve all the local tribes living in the projected land since their land will be transformed by the government, especially the tribes and ethnic groups in the eastern part of Kalimantan, such as the Paser and Balik tribes.¹⁹ This is exacerbated by the exclusion of various environmental organizations and environmental activists in the discussion of the IKN Law. Ecological organizations are significant because environmental organizations and activists will represent public concerns regarding potential environmental problems that may occur due to the capital city transfer from Jakarta to Kalimantan. It is well-known that Kalimantan is one of Indonesia's regions with the largest forest area and even it belongs to the top 5 most extensive forests in the world. Kalimantan is also an area rich in biodiversity. The relocation of the capital city to the island might increase pollution and affect existing ecosystem. The following is the data that the authors collected related to the results

¹⁹ Rahmat Hidayat, *Koalisi Masyarakat Kaltim Tolak Pemindahan Ibu Kota: UU IKN Cacat Prosedural* (detik.com), accessed on 18 Juni 2022.

of several environmental organizations arguing that the relocation of the capital city will be harmful to the surrounding environment.²⁰

Table 3 Research Results of Environmental NGOs on Relocation of the National Capital

NGOs Name	Research Results
Green Peace	The new capital city is located in a forest fire area. The total forest fire area in 2015-2018 was 35,785 Ha Potential to cause deforestation and threaten endangered animals such as Orang Utan.
Walhi	Endangering the Mangrove ecosystem in Balikpapan Bay covering an area of 2,603 Ha Causing environmental problems Threats to the water system and the risk of climate change due to limited groundwater in the area

Sources : Toun, Nicodemus R. "Analisis Kesiapan Pemerintah Provinsi Kalimantan Tengah dalam Wacana Pemindahan Ibu Kota Negara Republik Indonesia ke Kota Palangkaraya." *Jurnal Academia Praja* 1.01 (2018): 129-148.

However, the fact shows that the government seems to disregard the results of research conducted by the two environment NGOs, that are well known to the public. This is evidenced by the lack of opportunity for environment NGOs to participate in discussing the IKN Law and provide presentations related to the research results.

d. The Procedure of Relocating the Federal Government Center of Malaysia from Kuala Lumpur to Putra Jaya in Comparison to Indonesia's Relocation Plan

Malaysia had started planning to move the capital city and its government administration from Kuala Lumpur to Putrajaya. This plan was designed in 1993 under the leadership of Prime Minister Tun Mahathir Mohamad, and the transfer process started in 1999. According to Abdelwahab et al., the transfer made was because the capacity of the federal territory at that time (Kuala Lumpur) could no longer accommodate the construction of office buildings for the federal government every year, as well as the increasing number of people living and or moving to the city.²¹ However, the transfer of the capital city of Malaysia from Kuala Lumpur to the Putrajaya did not stop Kuala Lumpur as a center of trade, culture, and tourism in Malaysia.

The legal base of this relocation is regulated in the Constitution of Malaysia, 1963, amended laws, Act A1095, Constitution (Amendment) Act, 2001, which explains "AND that the Selangor State Alliance has agreed, through an agreement made on November 7, 2000, that the area, which now known as Putrajaya, should be placed

²⁰ Saputra, Hilvan, and Yuli Fachri. *Program Forclime (Forest And Climate Change) dalam Penanggulangan Masalah Kerusakan Hutan dan Emisi Karbon di Wilayah Kalimantan 2010-2014*. Diss. Riau University, 2017, pg. 55.

²¹ A A. Alwehab and M Juvara, *Planning and Design Attributes of Preplanned Postmodern Capital Cities: A Comparative Study*, Jurnal KnE Engineering, (2018), pg.213

in the Guild as an alliance area which will be known as the Putrajaya Alliance area.” From this law, we can see that Putrajaya was the territory of the state of Selangor, which had been converted as the Federal government and administration center to replace Kuala Lumpur.

Malaysia is a parliamentary democracy system under the king’s administration, or Seri Paduka Baginda Yang Di-Pertuan Agong, as Head of the State. One of the criteria for the parliamentary democracy system is the division of power into three parts, the legislature, judiciary, and executive.²² Unfortunately, this also resulted in almost the entire territory in Malaysia (in this case, the State of Selangor to Sabah) is still being held by each kingdom according to its territory. Meanwhile, prior to the existence of the union territories (Kuala Lumpur, Putrajaya, and Labuan), the coverage of the federal government only applied to existing federal government office buildings, so in 1972, Kuala Lumpur, which was initially a Bandar or the Capital City of Selangor, was changed to the capital city, called as Bandar Raya, is used as the first Federal Territory which in this case is controlled by the federal government.²³

Table 4 The process of relocating the Federal government center of Malaysia from Kuala Lumpur to Putra Jaya

Year	Process	Explanations
Late 1980	Negotiation	The federal government negotiated with the Kingdom of Selangor to find a territory according to the federal government’s request.
1993	2 (two) recommended areas given. They were Prang Besar in Selangor and Janda Baik in Pahang	The Selangor area was chosen because it is located between Kuala Lumpur (KL) and Kuala Lumpur International Airport (KLIA), in addition to the flat contours of the land. At first, Putrajaya was a palm oil plantation located in Selangor.
	Design Process	The Federal Government made the Putrajaya Master Plan
	Land purchased by the Federal Government from the Kingdom of Selangor	The estimated size of the purchased area was 11,320 are (4,581.04 ha)
		Putrajaya is a symbol of Malaysian sovereignty created by the Malaysian people, in contrast to Kuala Lumpur, which has existed since the British colonial era.
1994	The ratification of Putrajaya Master Plan	The Malaysian Federal Government Cabinet ratifies the Putrajaya Master Plan
1995	Putrajaya construction begun	It was one of the most significant projects in Southeast Asia at the time, with an estimated cost of USD 8.1 billion

²² Malaysia Parliament, ‘Malaysia’s Parliamentary Structure’ < https://www.parlimen.gov.my/index.php?module=content&action=001&id=23&uweb=web&_print=true > accessed 18 July 2022.

²³ Adleen Arleena, ‘Mengenali Wilayah Persekutuan’ (2021) < <https://solidaritas.my/mengenali-wilayah-persekutuan/> > accessed 18 July 2022.

1999	Transfer of the Federal Government center	The process of transferring the federal government from Kuala Lumpur to Putrajaya
2005		All government ministries were moved to Putrajaya, except for the Ministry of International Trade and Industry, the Ministry of Defense, and the Ministry of Works remained in the capital.
Now		Putrajaya is also the location for all diplomatic activities of the country and it serves as a potent symbol of Malaysia's sovereign modernization agenda.

Source: <https://themalaysianreserve.com/2019/01/31/the-journey-of-putrajaya-malaysias-jewel-capital-city/>

The development of Putrajaya can be seen as an example that a capital city needs to prioritize the efficiency of organization of a country. The government and administration centered in the Putrajaya area supported by the housing for employees as a form of efficiency for workers to fulfil their duties in the office. It is also supported by recreational places, entertainment, and sports parks and combined with multi-ethnic local identities and characters in Malaysia making Putrajaya becomes a role model for a modern city.²⁴ In this case, Putrajaya can be an example of how the formation and transfer of the capital city of the Indonesian government are conducted in the future.

3. CONCLUSION

The status of DKI Jakarta after the relocation of the capital city is based on several articles in Law of The Republic Indonesia Number 3 of 2022 on Capital City; In Article 4 point (2), the function and role of the capital city of Republic of Indonesia will be transferred from DKI Jakarta to the National Capital City (IKN) after the President releases a Presidential Decree about this matter; Article 39 point (1) stated that, prior to the new law, all positions, functions, and roles of the capital city remain in DKI. If a Presidential Decree relating to the transfer of the capital city is released, Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia will be no longer valid. However, Jakarta's function as an autonomous region still applies; Article 41 point (2) stipulates a condition that no more than two years after this law is ratified, amendments will be made to the Law Number 29 of 2007 on the Provincial Government of Jakarta as Capital City of Indonesia. As a result, all duties and authorities of the DKI Jakarta government related to its specificity as the capital city will be declared invalid.

There are several steps that the government took regarding the capital city relocation; firstly, compiling an academic manuscript in drafting the academic text of Law Number 3 of 2022 on Capital City; secondly, discussions regarding Law Number 3 of 2022 on Capital City and the status of Law Number 29 of 2007 on the Provincial Government of

²⁴ Abd Muluk bin Abd Manan and Hitapriya Suprayitno, *Preliminary Overview of Several Capital Relocations in Relationship with a Plan of Indonesian Capital Relocation*, Journal of Infrastructure and Facility Asset Management, Vol. 2 (2020), pg.83.

Jakarta as the Capital City of Indonesia; thirdly, public participation in the preparation and discussion of Law Number 3 of 2022 on Capital City.

REFERENCES

Journals

- A A. Alwehab and M Juvara, (2018), *‘Planning and Design Attributes of Preplanned Post-modern Capital Cities: A Comparative Study*, Jurnal KnE Engineering.
- Abd Muluk bin Abd Manan and Hitapriya Suprayitno, (2020). *Preliminary Overview of Several Capital Relocations in Relationship with a Plan of Indonesian Capital Relocation*, Journal of Infrastructure and Facility Asset Management, Vol. 2.
- Ani Sri Rahayu, (2019), *Menyoal Pemindahan Ibu Kota Negara*, Arsip Publikasi Ilmiah Biro Administrasi Akademik, Vol. 09.
- Dian Herdiana, (2020), *Menemukanali Syarat Keberhasilan Pemindahan Ibu Kota Negara [Identifying Conditions for Successful Relocation of the Nation’s Capital]*, Jurnal Politica Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional, Vo. 11. No.1.
- Dian Herdiana, (2022), *Pemindahan Ibukota Negara: Upaya Pemerataan Pembangunan ataukah Mewujudkan Tata Pemerintahan yang Baik*, Jurnal Transformative, Vol. 8. No.1.
- Fikri Hadi and Rosa Ristawati, (2020), *Pemindahan Ibu Kota Indonesia dan Kekuasaan Presiden dalam Perspektif Konstitusi*, Jurnal Konstitusi , Vol. 17.3,
- Fitri Ramdhani Harahap, (2013), *Dampak Urbanisasi Bagi Perkembangan Kota Di Indonesia*, Society, Vol. 1.No.1.
- Hutasoit Wesley Liano, (2019), *Analisa Pemindahan Ibukota Negara*. DEDIKASI: Jurnal Ilmiah Sosial, Hukum, Budaya, Vol. 39. No. 2.
- Isran, Saldi, Bertus de Villiers, and Zainal Arifin, (2019), *Asymmetry in a Decentralized, Unitary State: Lessons from the Special Regions of Indonesia*, Journal on Ethnopolitics and Minority Issues in Europe : JEMIE, Vol. 18 No. 2.
- Mahardika, Ahmad Gelora, and Rizky Saputra, (2022), *Problematisa Yuridis Prosedural Pemindahan Ibu Kota Negara Baru Dalam Sistem Ketatanegaraan Indonesia*, Legacy: Jurnal Hukum dan Perundang-Undangan, Vol. 2. No.1.
- Manda Kumoro Saraswati, and Emmanuel Ariananto Waluyo Adi, (2022), *Pemindahan Ibu Kota Negara Ke Provinsi Kalimantan Timur Berdasarkan Analisis SWOT*, JISIP (Jurnal Ilmu Sosial dan Pendidikan), Vol, 6. No.2.
- Muhammad Yahya, (2018), *Pemindahan Ibu Kota Negara Maju Dan Sejahtera*, Jurnal Studi Agama dan Masyarakat, Vol. 14. No.1.
- Rizqi Puteri Mahyudin, (2017), *Kajian permasalahan pengelolaan sampah dan dampak lingkungan di TPA (Tempat Pemrosesan Akhir)*, Jukung (Jurnal Teknik Lingkungan), Vol. 3. No.1.
- Saputra, Hilvan, and Yuli Fachri, (2017), *Program Forclime (Forest And Climate Change) dalam Penanggulangan Masalah Kerusakan Hutan dan Emisi Karbon di Wilayah Kalimantan 2010-2014*. Diss. Riau University.

Legislation

Constitution of the Republic of Indonesia of 1945.

Law Number 29 of 2007 on the Provincial Government of the Special Capital Region of Jakarta as the Capital of the Unitary State of the Republic of Indonesia.

Law Number 10 of 1964 about the Declaration that the Special Capital Region of Greater Jakarta remains as the Capital City of the Republic of Indonesia with the name Jakarta.

Law of the Republic of Indonesia Number 3 of 2022 about the Capital City.

Thesis

Ridho Abdul Jabbar, (2021), *Kebijakan Pemindahan Ibu Kota Negara Republik Indonesia Dalam Perspektif Fikih Siyash*, Thesis, Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah, Jakarta.

Website

<https://peraturan.bpk.go.id/Home/Details/198400/uu-no-3-tahun-2022> , accessed on 14 Juni 2022.

<https://www.mkri.id/index.php?page=web.Berita&id=18164&menu=2>, accessed on 14 Juni 2022.

<https://themalaysianreserve.com/2019/01/31/the-journey-of-putrajaya-malaysias-jewel-capital-city/>

Khomarul Hidayat, <https://nasional.kontan.co.id/news/cuma-dibahas-dalam-waktu-42-hari-ruu-ibu-kota-negara-sudah-disahkan-jadi-uu>, accessed on 14 Juni 2022.

Rahmat Hidayat, [Koalisi Masyarakat Kaltim Tolak Pemindahan Ibu Kota: UU IKN Cacat Prosedural \(detik.com\)](https://detik.com) , accessed on 18 Juni 2022.

Malaysia Parlemtent, 'Malaysia's Parliamentary Structure' < https://www.parlimen.gov.my/index.php?modload=content&action=001&id=23&uweb=web&_print=true > accessed July 18 2022.

Adleen Arleena, 'Mengenal Wilayah Persekutuan' (2021) < <https://solidaritas.my/mengenal-wilayah-persekutuan/> > accessed 18 July 2022.

<https://themalaysianreserve.com/2019/01/31/the-journey-of-putrajaya-malaysias-jewel-capital-city/>, accessed on July 21 2022