

## The Political Direction Of The Law On The Establishment Of The Capital City Of Nusantara: Analysis Of Interests, Public Participation, And Regulatory Legitimacy

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**Abstract:** This article examines the legal politics of Indonesia's new capital, Ibu Kota Nusantara, by analyzing political interests, public participation, and the regulatory legitimacy of Law No. 3 of 2022. Using a normative juridical method, combined with constitutional and administrative law analysis, the study reveals that the formation of the IKN Law reflects strong executive centralization and strategic political objectives that influence the institutional design of the IKN Authority. Despite its national strategic status, the legislative process displayed limited transparency, minimal stakeholder involvement, and accelerated deliberation, raising concerns regarding compliance with constitutional participatory standards. The exceptional governance structure granted to the IKN Authority also presents challenges related to democratic accountability, land governance discretion, environmental safeguards, and oversight mechanisms. Procedural deficiencies at the legislative stage risk generating long-term legitimacy deficits that may extend into derivative regulations governing land use, investment, and environmental management. The study concludes that while the IKN project is framed as a transformative development agenda, its regulatory framework requires stronger participatory mechanisms, clearer oversight structures, and enhanced protections for local and indigenous communities to ensure long-term constitutional and political legitimacy.

**Keywords:** *Administrative Law, Capital Relocation, Constitutional Legitimacy, IKN Law, Public Participation.*

## INTRODUCTION

The establishment of the new capital city of Indonesia, Ibu Kota Nusantara, represents one of the most ambitious legal and political restructuring agendas in Southeast Asia. The relocation of the national capital from Jakarta to East Kalimantan is justified by the government as an urgent response to ecological degradation, overpopulation, congestion, and governance inefficiencies in Jakarta. These structural problems have been extensively documented by global institutions. The OECD reported in 2021 that Jakarta is one of the fastest-sinking coastal megacities in the world, with subsidence rates reaching up to 11 centimeters per year and 40 percent of the city already below sea level.<sup>1</sup> At the same time, Indonesia's National Development Planning Agency revealed that economic losses caused by floods, congestion, and

<sup>1</sup> OECD, "Responding to Rising Sea Levels: Jakarta Case Study," OECD Urban Policy Reports, 2021.

infrastructure deterioration in Jakarta amount to more than 50 trillion rupiah annually.<sup>2</sup> These severe vulnerabilities position Jakarta as increasingly unsustainable as the nation's administrative center. Against this backdrop, the shift toward Ibu Kota Nusantara emerges as a political decision with far-reaching implications, not only for administrative governance but also for legal certainty, public participation, and regulatory legitimacy.

The enactment of Law No. 3 of 2022 on Ibu Kota Negara (IKN Law) formalizes the legal architecture governing the development, governance, and financing of the new capital. However, the political motivations underlying the law have invited wide scholarly debate. Research in comparative political law notes that capital relocation often reflects political interests, consolidation of power, state-building strategies, and geopolitical repositioning.<sup>3</sup> In the Indonesian context, scholarship by Butt and Lindsey indicates that major administrative reforms frequently serve dual functions: promoting governance efficiency while also advancing executive political agendas.<sup>4</sup> The political dimension of the IKN project is therefore inseparable from the legal construction of its institutional framework. Questions arise regarding whose interests are prioritized, how decisions are negotiated, and whether the legislative process reflects democratic and participatory standards mandated by the Constitution.

The central issue emerging from the literature concerns the adequacy of public participation in the legal drafting processes related to Ibu Kota Nusantara. Meaningful participation is a constitutional requirement articulated in the principles of open government, deliberative democracy, and transparent policymaking. Studies on participatory lawmaking by Marzuki & Marzuki (2020) emphasize that Indonesia has struggled with inconsistent implementation of public consultation mechanisms, especially in large-scale development projects.<sup>5</sup> Concerns related to public participation in the IKN Law include limited access to draft legislation, short consultation periods, and the exclusion of key stakeholders such as indigenous communities in East Kalimantan who will be directly affected by land acquisition and spatial planning decisions.<sup>6</sup> These concerns raise critical questions about compliance with constitutional guarantees of meaningful participation as recognized by the Constitutional Court in multiple landmark decisions.

Furthermore, political law scholarship highlights that regulatory legitimacy depends on both procedural and substantive dimensions. Procedural legitimacy relates to the openness, inclusiveness, and transparency of the legal drafting process, while substantive legitimacy pertains to the fairness, coherence, and constitutional soundness of the legal norms produced. According to Nagin & Telep's theory of procedural justice, laws acquire legitimacy when stakeholders perceive the decision-making process as fair, even if the outcomes are contested.<sup>7</sup> In the case of the IKN Law, criticisms regarding accelerated deliberation, limited public engagement, and the strong centralization of authority raise concerns about procedural legitimacy.

<sup>2</sup> Bappenas, "Kajian Dampak Ekonomi Kemacetan dan Banjir Jakarta," 2020.

<sup>3</sup> Vale, L., *Capital Cities and Their Politics*, Urban Studies Journal, 2019.

<sup>4</sup> Butt, S., & Lindsey, T., *Indonesian Law and Society*, 3rd ed., 2018

<sup>5</sup> Marzuki, Marzuki. "Towards Balanced Bicameralism: Reconstruction of Law-making powers in Indonesian Representative Institutions." *Substantive Justice International Journal of Law* 5, no. 2 (2022): 128-142.

<sup>6</sup> Bahzar, Mohammad. "Impacts of the development of a new city on the life of indigenous communities: A case from Nusantara Capital City (IKN), Indonesia." *Asian Journal of Education and Social Studies* 50, no. 8 (2024): 166-171.

<sup>7</sup> Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual review of law and social science* 13, no. 1 (2017): 5-28.

Substantively, the law grants extensive discretionary powers to the IKN Authority, including in land allocation, spatial planning, investment facilitation, and governance arrangements.<sup>8</sup> Such broad authority invites scrutiny regarding checks and balances, particularly when governance of the new capital operates under a unique status separate from provincial and municipal governments.

In addition to these concerns, the political economy dimension of capital relocation amplifies legal debates. Large-scale development projects attract various interest groups, including state-owned enterprises, foreign investors, domestic conglomerates, and regional elites. Research by Jiang & Martek (2024) warns that extensive infrastructure investments with centralized governance frameworks can foster rent-seeking, elite capture, and policy distortion if not accompanied by strong accountability mechanisms.<sup>9</sup> For Ibu Kota Nusantara, the financing scheme relies heavily on public-private partnerships and foreign investment, raising questions regarding transparency, procurement standards, and safeguards against conflicts of interest. The legal framework must therefore be evaluated not only for its normative coherence but also for its capacity to prevent regulatory capture and ensure equitable distribution of benefits.

Another central issue concerns the rights and welfare of indigenous and local communities in East Kalimantan. Several legal scholars argue that the IKN Law insufficiently addresses land rights, environmental protection, and socio-cultural impacts on indigenous groups such as the Balik Tribe.<sup>10</sup> Environmental law research also identifies potential risks related to deforestation, biodiversity loss, and carbon emissions associated with large-scale land conversion.<sup>11</sup> The integration of environmental and indigenous rights protections is essential for aligning the IKN project with constitutional mandates and Indonesia's commitment to sustainable development principles.

Despite growing scholarly attention, major research gaps remain in the academic study of the legal politics of Ibu Kota Nusantara. The first gap emerges from Marzuki & Marzuki (2022), whose research focuses on participatory deficits in Indonesian lawmaking but does not specifically examine how these deficits manifest in the context of capital relocation.<sup>12</sup> The second gap arises from Butt and Lindsey (2018), who analyze Indonesian political law broadly but do not address the unique governance structure and institutional design created by the IKN Law.<sup>13</sup> The third gap is found in Jiang & Martek (2024), whose work addresses political risks in infrastructure governance but does not evaluate their legal implications within the specific regulatory framework of IKN.<sup>14</sup> These gaps demonstrate the need for a more targeted analysis examining political interests, participatory processes, and the legitimacy of regulations governing Ibu Kota Nusantara.

<sup>8</sup> Rachman, Cipta Indraestari, Monica Ruzz, and Nina Rosida. "Implications of The Establishment of The IKN Authority on The Structure and Authority of The East Kalimantan Province Regional Government." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 24, no. 1 (2025): 5806-5826.

<sup>9</sup> Jiang, Weiling, and Igor Martek. "Strategies for managing the political risk of investing in infrastructure projects, in developing countries." *Engineering, Construction and Architectural Management* 31, no. 10 (2024): 4079-4098.

<sup>10</sup> Rahman, A., "Hak Masyarakat Adat dalam Pembangunan IKN," *Jurnal Hukum IUS QUA IUSTUM*, 2022.

<sup>11</sup> Triyanti, Annisa, Mochamad Indrawan, Laely Nurhidayah, and Muh Aris Marfai. *Environmental Governance in Indonesia*. Springer Nature, 2023.

<sup>12</sup> Marzuki & Marzuki, op. cit., 2022

<sup>13</sup> Butt & Lindsey, op. cit., 2018.

<sup>14</sup> Jian et al, op. cit., 2024.

The novelty of this research lies in its integrated legal-political analysis of Ibu Kota Nusantara, combining perspectives on political interests, public participation, and regulatory legitimacy within a single evaluative framework. Unlike prior studies that assess these issues in isolation, this article connects the political dynamics of decision making with constitutional principles of participation and rule of law. The objective of this study is therefore to critically evaluate how the political interests shaping the IKN project interact with the adequacy of public participation and the legitimacy of its regulatory framework.

## METHODOLOGY

This study employs a normative juridical research method, which examines legal norms, statutory provisions, and doctrinal interpretations to analyze the political direction, public participation mechanisms, and regulatory legitimacy of the Ibu Kota Nusantara legal framework. The normative method is appropriate because the issues under investigation relate directly to the coherence, hierarchy, and constitutional alignment of Law No. 3 of 2022 and its derivative regulations. This research relies on primary legal materials including the 1945 Constitution, the IKN Law, and relevant government regulations, as well as secondary legal materials such as scholarly articles, jurisprudence, and doctrinal commentaries. The analysis follows deductive reasoning, beginning with constitutional principles and general legal doctrines before applying them to the specific case of the IKN regulatory architecture.<sup>15</sup>

In addition, this study incorporates a statutory and conceptual approach, combining political law analysis with principles of participatory governance and regulatory legitimacy. This approach is consistent with contemporary legal scholarship that emphasizes the intersection between law, political decision-making, and public accountability. By integrating these analytical dimensions, the research seeks to uncover how political interests shape normative structures, how participatory standards are applied in the formation of the IKN regulatory framework, and whether the resulting regulations fulfill substantive and procedural legitimacy requirements. The method also includes comparative insights from international cases of capital relocation to support a more comprehensive normative evaluation.<sup>16</sup>

## RESULTS AND DISCUSSION

### **The Political Direction of the Law on the Arrangement of the Capital City of the Archipelago and the Configuration of State Interests**

The political direction of the legal framework governing Ibu Kota Nusantara reflects a deliberate attempt by the state to centralize decision-making authority and accelerate the execution of strategic national projects under a strong executive framework. Political law theorists argue that state-driven megaprojects commonly embody efforts to consolidate executive capacity in order to overcome bureaucratic fragmentation and expedite development agendas deemed crucial for national progress. In the Indonesian context, the structure of Law No. 3 of 2022 illustrates a deliberate design of political authority in which the central government assumes dominant control over spatial planning, investment policy, land governance, and institutional arrangements for the new capital. This political orientation is consistent with research by Bivitri Susanti, who observes that Indonesia's contemporary legal politics often gravitates toward executive centralization in areas considered vital to national strategic interests.<sup>17</sup>

<sup>15</sup> Soekanto, S., *Metode Penelitian Hukum*, UI Press, 2019.

<sup>16</sup> Henderson, Bradley. "Maintaining Legitimacy: Artificial Intelligence, Automated Decision Making, and Reasonableness Review Under Canadian Administrative Law." *UBCL Rev.* 58 (2025): 415.

<sup>17</sup> Susanti, B., "Executive Power and Strategic Projects in Indonesia," *Indonesia Law Review*, 2020.

The IKN Law establishes the Ibu Kota Nusantara Authority as a special governing body with administrative, regulatory, and fiscal powers that exceed those held by conventional regional governments. This institutional design positions the Authority as both regulator and operator, creating a unique governance structure that departs from standard decentralization models rooted in regional autonomy law. Political law literature suggests that such concentrated authority structures typically arise in contexts where the central government seeks to ensure policy coherence in projects involving high financial stakes, extensive land transformation, and complex multi-actor coordination. Butt and Lindsey's analysis of Indonesian governance indicates that centralization often emerges as a response to perceived inefficiency in multi-level governance arrangements, particularly in infrastructure sectors requiring long-term strategic planning.<sup>18</sup>

The prioritization of national economic interests is evident in the political motivations embedded within the IKN project, primarily through its projected role in rebalancing national economic distribution beyond Java. The political narrative underpinning IKN positions the new capital as an instrument for correcting the historical imbalance in economic development, where Java has dominated GDP contributions for decades. The government's 2022 development report notes that relocating the capital is expected to stimulate new economic corridors in Kalimantan and foster more even spatial distribution of state investment. This rationale aligns with political-economic scholarship by Jakimow and Patunru, who argue that major state-led infrastructure projects are often justified as tools for addressing regional inequality, although the success of such strategies depends heavily on institutional capacity and long-term commitment.<sup>19</sup>

However, the political interests surrounding the IKN project extend beyond macroeconomic objectives to include elite-driven agendas that influence policymaking. Research by Jiang & Martek (2024) indicates that megaprojects involving extensive land acquisition and investment flows can attract political and business elites seeking influence over regulatory design, procurement processes, and land value capture. Observers note that the governance structure of the IKN Authority, with its broad discretionary powers, may create opportunities for preferential treatment toward large investors or politically connected entities. This raises concerns regarding the direction of political law in Indonesia, particularly whether the regulatory framework is sufficiently safeguarded against potential rent-seeking behaviour that could undermine public interest.<sup>20</sup>

Another important dimension of political interest is Indonesia's strategic positioning in global economic and geopolitical networks. The design of Ibu Kota Nusantara as a "global city" reflects a political ambition to elevate Indonesia's status within international economic systems. The government's official vision frames IKN as a future hub for green industries, digital innovation, and sustainable investment, positioning it as a model city for international collaboration. Comparative political law studies suggest that capital relocation can function as a symbolic project aimed at signaling national modernization and attracting foreign investment. In this regard, Nusantara is strategically framed as an environmentally sustainable and technologically advanced capital, aligning with global narratives on climate adaptation and smart city

<sup>18</sup> Butt, S., & Lindsey, T., "Centralization Trends in Indonesian Governance," *Australian Journal of Asian Law*, 2018.

<sup>19</sup> Jakimow, Tanya. "Beyond 'state ibuism': Empowerment effects in state-led development in Indonesia." *Development and Change* 49, no. 5 (2018): 1143-1165.

<sup>20</sup> Jiang, Weiling, and Igor Martek. "Strategies for managing the political risk of investing in infrastructure projects, in developing countries." *Engineering, Construction and Architectural Management* 31, no. 10 (2024): 4079-4098.

development. Research by Hanakata & Gasco (2018) indicates that such projects often serve dual purposes: demonstrating political vision and aligning national development agendas with global investment trends.<sup>21</sup>

The political configuration of the IKN project also reflects efforts to secure administrative and territorial control in Kalimantan, a region of strategic importance due to its natural resources and geographic positioning. While the government publicly frames IKN as a response to ecological and administrative pressures in Jakarta, scholars have noted that relocating the capital to Kalimantan carries political implications for national integration and security. A study by Aspinall and Berenschot (2020) highlights that central government interventions in peripheral regions are frequently motivated by concerns related to governance stability, territorial cohesion, and long-term control over resource-rich areas. Nusantara's design as a centrally administered territory aligns with this political logic, reinforcing state authority over a region historically shaped by resource extraction and decentralization complexities.<sup>22</sup>

Political law analyses further highlight that capital relocation typically functions as a political legacy project for incumbent administrations. In Indonesia, the IKN project has been closely associated with the leadership vision of President Joko Widodo, raising questions about how political transitions may impact the continuity and legitimacy of the project. Megaprojects of this scale often outlive the administration that initiated them, making institutional design crucial in ensuring their sustainability. Research by Brunet (2021) demonstrates that political transitions can significantly affect regulatory certainty for long-term development programs, especially when successor governments do not share the same political priorities. This underscores the need to examine whether the legal framework for IKN is sufficiently insulated from political fluctuations to ensure stable governance.<sup>23</sup>

The political law direction of the IKN project must also be assessed through the lens of constitutional principles governing the distribution of state power. The significant authority vested in the IKN Authority raises doctrinal questions about the consistency of the governance model with Indonesia's constitutional commitment to regional autonomy. Although the central government justifies the exceptional arrangement on the basis of national strategic interest, scholars such as Patricia Popelier argue that deviations from regional autonomy principles must be justified through strong constitutional reasoning to avoid establishing legal precedents that weaken decentralization. This raises concerns about whether the legal justification for the Authority's broad powers adequately balances constitutional norms with political objectives.<sup>24</sup>

Ultimately, the political direction of the IKN legal framework reveals a complex configuration of national development goals, executive centralization, elite interests, geopolitical ambitions, and territorial governance strategies. These dimensions form the political backdrop against which public participation and regulatory legitimacy must be evaluated. Understanding the political drivers behind the IKN project is essential to assessing whether its regulatory framework advances public interest, aligns with constitutional mandates, and ensures democratic accountability.

<sup>21</sup> Hanakata, Naomi C., and Anna Gasco. "The Grand Project politics of an urban age: Urban megaprojects in Asia and Europe." *Palgrave Communications* 4, no. 1 (2018): 1-10.

<sup>22</sup> Aspinall, E., & Berenschot, W., *Democracy for Sale*, Cornell University Press, 2020.

<sup>23</sup> Brunet, Maude. "Making sense of a governance framework for megaprojects: The challenge of finding equilibrium." *International Journal of Project Management* 39, no. 4 (2021): 406-416.

<sup>24</sup> Popelier, Patricia. *Dynamic federalism: A new theory for cohesion and regional autonomy*. Routledge, 2021.

## Public Participation in the Legislative Formation of the IKN Law: Constitutional Standards and Practical Deficits

Public participation is a constitutional component of Indonesia's democratic legal order, established in Article 1(2) of the Constitution, elaborated in Article 96 of Law No. 12 of 2011, and reinforced through multiple Constitutional Court decisions affirming that lawmaking must satisfy principles of openness, accessibility, and meaningful engagement. In the formation of the Ibu Kota Nusantara Law (Law No. 3 of 2022), however, public participation emerged as one of the most contested procedural dimensions. Although the government framed the IKN project as a national agenda with long-term implications for national development, civil society organizations, academic observers, and affected communities reported substantive limitations in access to information and opportunities for involvement throughout the drafting process. These observations raise concerns about the extent to which participatory guarantees were fulfilled and whether the legislative process achieved the procedural legitimacy required under Indonesia's constitutional framework.<sup>25</sup>

The speed with which the IKN Bill was deliberated in Parliament became a central indication of the participatory deficit. Legislative deliberations proceeded rapidly, with the bill introduced, discussed, and ratified in a matter of weeks. Such accelerated deliberation is uncommon for legislation of strategic national scale involving land governance, environmental protection, administrative restructuring, and fiscal regulation. From a constitutional perspective, accelerated timelines risk truncating opportunities for meaningful participation because affected communities, academics, and institutional stakeholders are unable to review the draft text comprehensively or provide substantive feedback. Scholars of legislative governance in Indonesia caution that speed-driven deliberation frequently compromises the deliberative function of the DPR, undermining the openness and inclusiveness that are constitutionally required in the formation of laws.<sup>26</sup>

Transparency problems further exacerbated the limitations to participation. Several monitoring reports noted that comprehensive draft versions of the bill were not consistently accessible to the public during key phases of deliberation. In some instances, different versions circulated informally, while consolidated official drafts were not immediately published. Transparency is essential for enabling public scrutiny, yet the inconsistencies observed in the disclosure of documents suggest obstacles to public understanding of the law's implications. Legal scholars have emphasized that transparency is not merely administrative courtesy but a constitutional requirement enabling citizens to exercise the right to be heard in legislative processes. The partial opacity surrounding the IKN Bill therefore constitutes a procedural shortcoming with direct implications for the law's democratic legitimacy.<sup>27</sup>

A particularly critical issue relates to the representation, or lack thereof, of indigenous and local communities in East Kalimantan who will be directly affected by land acquisition, environmental changes, spatial restructuring, and socio-cultural transformation associated with Ibu Kota Nusantara's development. International standards on indigenous rights, including the principles of free, prior, and informed consent, frame participation as a substantive entitlement rather than a procedural formality. Indonesian

<sup>25</sup> Gusman, Delfina, and Yunita Syofyan. "Public participation in legislation (legal comparation studies in Indonesia, South Africa, And United State)." *Nagari Law Review* 6, no. 2 (2023): 133-145.

<sup>26</sup> Kysar, Rebecca M. "Dynamic Legislation." *University of Pennsylvania Law Review* (2019): 809-868.

<sup>27</sup> Iristian, Yovan. "Ensuring Administrative Legality and Justice Through Judicial Review in Indonesia." *Journal of International Multidisciplinary Research* 2, no. 3 (2024). "Transparency Challenges in Indonesian Legislative Processes," *Indonesia Law Review*, 2022.

environmental and agrarian law scholars similarly emphasize that development projects affecting indigenous territories require heightened participatory protections. Reports from East Kalimantan indicate that indigenous groups such as the Balik community experienced minimal involvement in formal consultations, raising concerns about compliance with constitutional protections for cultural and communal rights.<sup>28</sup>

Substantive public participation enriches the quality of legislation by allowing affected groups to articulate risks, propose safeguards, and identify potential conflicts that may not be visible to policymakers. Comparative public policy research demonstrates that participation tends to produce more robust regulatory outcomes because the legislator gains deeper insights into local realities, institutional constraints, and foreseeable social impacts. The absence of broad-based participation in the formation of the IKN Law risks producing a regulatory framework that is technically structured but socially disconnected, particularly in relation to land governance, environmental protection, and social safeguards. This procedural gap may undermine the quality and resilience of the regulatory norms that will govern the new capital's development.<sup>29</sup>

Before analyzing deeper implications, it is useful to synthesize the participatory dimensions observed in the formation of the IKN Law. The following table presents an analytical evaluation, not based on field survey results but derived from academic literature, monitoring reports, and legal assessments of the legislative process.

**Table 1. Public Participation Assessment in the Lawmaking Process of the IKN Law**

Dimension of Participation	Analytical Findings	Implications for Regulatory Legitimacy
Access to the draft bill	Limited and inconsistent availability	Reduces transparency and weakens public scrutiny
Stakeholder consultation	Uneven and limited across affected sectors	Lowers deliberative quality and increases regulatory blind spots
Indigenous community involvement	Minimal participation in key deliberative stages	Heightens risk of rights violations and social conflict
Deliberation timeframe	Extremely condensed for a national-level law	Restricts public input and diminishes constitutional participatory guarantees
Public information disclosure	Fragmented and not systematically updated	Weakens accountability and public trust

This synthesis illustrates that public participation in the legislative formation of the IKN Law experienced deficiencies in transparency, stakeholder inclusion, deliberative duration, and representational breadth. These deficits collectively weaken the procedural legitimacy of the regulatory framework, especially given the Constitutional Court's persistent jurisprudence requiring meaningful, not symbolic, participation. The Court has emphasized that participation must allow citizens to access draft laws in a timely manner, review

<sup>28</sup> Bahzar, Mohammad. "Impacts of the development of a new city on the life of indigenous communities: A case from Nusantara Capital City (IKN), Indonesia." *Asian Journal of Education and Social Studies* 50, no. 8 (2024): 166-171..

<sup>29</sup> Wicaksono, A., "Participatory Governance and Policy Outcomes," *Journal of Public Policy*, 2019.

their implications, provide feedback, and receive documentation of how their views were considered. When these elements are lacking, legislation risks being procedurally unconstitutional despite the formal completion of administrative steps.<sup>30</sup>

Another structural challenge arises from the dominance of executive institutions in the drafting of the bill, which may limit the DPR's role as a representative deliberative body. In practice, highly technical state-driven projects are often drafted primarily by ministries or specialized task forces before being submitted to Parliament for accelerated approval. This governance pattern centralizes expertise but reduces democratic oversight. Scholars on Indonesian political law argue that executive-driven drafting tends to prioritize administrative efficiency and state objectives over participatory standards. The IKN Law reflects this pattern, with the executive shaping much of the normative content, thereby narrowing the DPR's opportunity to serve as a channel for public input and debate.<sup>31</sup>

Digital participation mechanisms, which in theory could expand public engagement, also did not function optimally in the legislative formation of the IKN Law. Although Indonesia has developed digital legislative portals intended to publish draft laws, provide explanatory materials, and facilitate public comments, the effectiveness of these systems depends heavily on timely document uploads and consistent updates. Monitoring studies reveal that during the IKN deliberations, official digital platforms did not always display the most recent draft versions nor provide structured channels for public comment. As a result, digital participation remained largely symbolic rather than substantive. This pattern reflects broader weaknesses in Indonesia's digital governance infrastructure, which continues to face challenges in standardization, reliability, and transparency.<sup>32</sup>

The lack of meaningful participation also carries longer-term implications for the legitimacy of derivative regulations that will govern land use, environmental standards, spatial planning, taxation regimes, and investment licensing in Ibu Kota Nusantara. Regulatory legitimacy is cumulative; when foundational legislation lacks participatory legitimacy, subsequent regulations may inherit a structural legitimacy deficit. Scholars note that participatory shortcomings in initial legislation often propagate into derivative rulemaking, especially when the same institutions and procedural norms govern both processes. In the context of IKN, limited participation at the legislative stage increases the risk that future derivative regulations will similarly reflect limited engagement, thereby compounding legitimacy concerns across the regulatory architecture.<sup>33</sup>

Constitutionally, procedural deficiencies in public participation could expose the IKN Law to judicial review before the Constitutional Court. The Court's jurisprudence in previous cases demonstrates that violations of procedural participatory rights may constitute grounds for partial or total invalidation of legislation. Yet the political sensitivity of the IKN project and its status as a national strategic program may influence the likelihood of judicial intervention. Scholars note that although the Court has the constitutional authority to enforce participatory standards, its decisions often reflect a balance between constitutional

<sup>30</sup> Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual review of law and social science* 13, no. 1 (2017): 5-28.

<sup>31</sup> Wardana, Dodi Jaya, Sukardi Sukardi, and Radian Salman. "Public participation in the law-making process in indonesia." *Jurnal Media Hukum* 30, no. 1 (2023): 66-77.

<sup>32</sup> Murdhani, Lalu Ahmad. "The Implementation of Digital Governance in Indonesia: A Systematic Review of Challenges and Opportunities." *International Journal of Scientific Research* 2, no. 01 (2025).

<sup>33</sup> Henderson, Bradley. "Maintaining Legitimacy: Artificial Intelligence, Automated Decision Making, and Reasonableness Review Under Canadian Administrative Law." *UBCL Rev.* 58 (2025): 415.

principles and political realities. Whether the IKN Law could withstand constitutional scrutiny therefore depends on how the Court interprets the threshold for meaningful participation in the context of strategic national development.<sup>34</sup>

### **Regulatory Legitimacy of the IKN Legal Framework: Constitutional Coherence, Accountability, and Long-Term Governance Risks**

Regulatory legitimacy is a composite concept grounded in constitutional coherence, procedural fairness, institutional accountability, and public trust. The legitimacy of the IKN Law depends not only on the formal validity of its statutory provisions but also on its alignment with Indonesia's constitutional principles, particularly those relating to decentralization, checks and balances, environmental stewardship, and protection of indigenous rights. Scholars in Indonesian constitutional law argue that legitimacy requires both procedural and substantive consistency, meaning that laws must be created through open and participatory processes and must substantively reflect constitutional values and safeguards. In examining the IKN Law, concerns arise regarding the balance between state authority and public accountability, the extent of discretionary power granted to the IKN Authority, and the adequacy of protections for communities and ecosystems affected by the capital relocation.<sup>35</sup>

One major area of legitimacy concern relates to the exceptional governance model established for Ibu Kota Nusantara, which deviates from Indonesia's regional autonomy framework. The IKN Authority holds regulatory, administrative, and fiscal powers not typically vested in any sub-national institution, raising questions about its compatibility with the constitutional commitment to autonomous regional governance under Articles 18 and 18A of the Constitution. While the government justifies this exceptional arrangement by invoking the national strategic importance of the project, legal scholars warn that the concentration of authority in a non-elected body may undermine democratic accountability. The Authority's hybrid nature, combining technocratic management with extensive policymaking powers, risks creating a governance structure with limited mechanisms for political oversight, public consultation, or regional representation.<sup>36</sup>

The delegation of expansive land management powers to the IKN Authority also contributes to legitimacy concerns, particularly given the scale of land acquisition required for the project and its implications for indigenous and local communities. Studies in agrarian and land governance law emphasize that large-scale land transfers must adhere to principles of fairness, transparency, and community consent to avoid unjust displacement and conflict. The IKN Law grants the Authority significant discretion over land allocation, zoning, and spatial planning, with limited statutory requirements for community consultation. Critics argue that such discretion may create a regulatory environment vulnerable to land speculation, elite capture, and uneven power distribution, especially in regions where land governance has historically been contested.<sup>37</sup>

<sup>34</sup> Roux, Theunis. "Indonesia's Judicial Review Regime in Comparative Perspective." *Const. Rev.* 4 (2018): 188.

<sup>35</sup> Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual review of law and social science* 13, no. 1 (2017): 5-28.

<sup>36</sup> Popelier, Patricia. *Dynamic federalism: A new theory for cohesion and regional autonomy*. Routledge, 2021.

<sup>37</sup> Sayer, Jeffrey, Agni Klintuni Boedihhartono, James Douglas Langston, Chris Margules, Rebecca Anne Riggs, and Dwi Amalia Sari. "Governance challenges to landscape restoration in Indonesia." *Land use policy* 104 (2021): 104857.

Environmental legitimacy is another critical dimension, given that the development of Ibu Kota Nusantara requires extensive land clearing, infrastructure expansion, and long-term environmental management. Indonesia's legal framework, including the Environmental Protection and Management Law (Law No. 32 of 2009), mandates environmental impact assessments, public participation in environmental decision-making, and sustainability safeguards. Scholars in environmental constitutionalism argue that large-scale projects must integrate ecological considerations not merely procedurally but substantively into their legal design. However, reports from environmental monitoring groups highlight concerns that the environmental impact assessment process for IKN lacked sufficient transparency and public engagement, raising questions about whether environmental safeguards were incorporated adequately into the regulatory framework.<sup>38</sup>

From an administrative law perspective, the accountability mechanisms embedded in the IKN Law warrant careful examination. Accountability mechanisms serve to ensure that institutions vested with discretionary authority operate within legal boundaries and remain answerable to the public and representative institutions. In the case of the IKN Authority, oversight mechanisms appear limited, with the Authority reporting directly to the President without a structured parliamentary oversight framework. Comparative research on special administrative regions suggests that when oversight is weak or ambiguous, discretionary powers may be exercised without sufficient checks, increasing the risk of policy distortions and administrative abuses. The absence of robust oversight in the IKN governance structure therefore represents a significant regulatory risk.<sup>39</sup>

The financing model envisioned for the IKN project further influences regulatory legitimacy. With a heavy reliance on public private partnerships, foreign investment, and state capital injections, the project requires strong safeguards against conflicts of interest, corruption, and undue influence by private actors. Scholars of public financial law argue that regulatory legitimacy depends on transparency in procurement, accountability in budget allocation, and clear delineation of state and private roles. Critics have noted that the IKN Law provides broad authority to the IKN Authority to negotiate investment terms, allocate land, and manage incentives, without detailed procedural safeguards. This regulatory openness may generate uncertainty regarding investor selection, revenue distribution, and alignment with public interest.<sup>40</sup>

Legitimacy also relates to the capacity of the regulatory framework to withstand political transitions. Megaprojects that span multiple electoral cycles require legal frameworks that are not only constitutionally sound but also politically resilient. Research in political law demonstrates that regulatory frameworks lacking participatory legitimacy or institutional balance may experience contestation or reversal under new political leadership. The IKN Law's dependence on central executive authority, combined with limited public buy-in, raises concerns regarding its long-term stability. If successive administrations question its legitimacy or operational relevance, the project may face political challenges that compromise regulatory continuity and financial viability.<sup>41</sup>

<sup>38</sup> Triyanti, Annisa, Mochamad Indrawan, Laely Nurhidayah, and Muh Aris Marfai. *Environmental Governance in Indonesia*. Springer Nature, 2023.

<sup>39</sup> Lakaev, Oleg A. "Legal regulation of the system of public administration entities providing the administrative and legal regime of special economic zones." *Law enforcement* 6, no. 2 (2022): 134-146.

<sup>40</sup> Yescombe, Edward R., and Edward Farquharson. *Public-private partnerships for infrastructure: Principles of policy and finance*. Butterworth-Heinemann, 2018.

<sup>41</sup> Brunet, Maude. "Making sense of a governance framework for megaprojects: The challenge of finding equilibrium." *International Journal of Project Management* 39, no. 4 (2021): 406-416.

A further legitimacy issue arises from the hierarchical placement of derivative regulations. As the IKN project progresses, numerous implementing regulations will be required concerning land administration, environmental permitting, investment licensing, infrastructure governance, and special fiscal arrangements. The coherence of these derivative regulations is essential to ensuring legal certainty. However, derivative regulations drafted without robust participatory processes or adequate public scrutiny may replicate the legitimacy deficits of the parent law. Scholars in administrative rulemaking warn that cumulative regulatory opacity can generate systemic legitimacy deficits, reducing public trust in the entire governance regime of the new capital.<sup>42</sup>

The final dimension of legitimacy concerns public perception and societal acceptance. Even when statutory frameworks are formally valid, their practical legitimacy depends on whether citizens perceive the regulatory process as fair, transparent, and oriented toward the public good. Research on legal legitimacy underscores that public trust is crucial for compliance and long-term policy stability. Surveys conducted by several policy think tanks indicate mixed public perception of the IKN project, with concerns centered on environmental impacts, financing, and the prioritization of national resources. These perceptions reflect broader anxieties about procedural fairness and distributive justice, suggesting that legitimacy challenges may persist unless addressed through more participatory and transparent governance mechanisms.<sup>43</sup>

## CONCLUSIONS

The legal and political analysis of the IKN Law demonstrates that its legitimacy is shaped by intersecting issues of political interest, participatory deficits, and structural governance risks. While the project is framed as a national strategic initiative aimed at administrative efficiency and balanced economic development, the legislative process exhibited limited public participation, accelerated deliberation, and constrained stakeholder engagement. The exceptional powers granted to the IKN Authority raise questions about constitutional coherence and democratic accountability, particularly in relation to land governance, environmental protection, and oversight mechanisms. The cumulative effect of these procedural and substantive concerns indicates that although the IKN Law is formally valid, its regulatory legitimacy remains contested and vulnerable to constitutional and political scrutiny.<sup>10</sup>

Ensuring the long-term legitimacy and resilience of the IKN regulatory framework will require substantial improvements in participatory mechanisms, oversight structures, transparency in environmental and land governance processes, and stronger safeguards against conflicts of interest in financing arrangements. Policymakers should integrate meaningful public consultation into the drafting of derivative regulations, strengthen institutional checks, and align governance practices with constitutional principles of decentralization, environmental stewardship, and protection of indigenous rights. Without these reforms, the legal foundations of Indonesia's new capital may face ongoing legitimacy challenges, undermining public trust and compromising the sustainability of the project across political cycles.<sup>11</sup>

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<sup>42</sup> Henderson, Bradley. "Maintaining Legitimacy: Artificial Intelligence, Automated Decision Making, and Reasonableness Review Under Canadian Administrative Law." *UBCL Rev.* 58 (2025): 415.

<sup>43</sup> Poelzer, Gregory, and Stan Yu. "All trust is local: Sustainable development, trust in government and legitimacy in northern mining projects." *Resources policy* 70 (2021): 101888.

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