

Quo Vadis the Jakarta Special Regional Bill: Ideal Design Based on Constitutional Law Perspective

Diana

Faculty of Law, Universitas Tarumanagara, Jakarta, Indonesia,
diana.205220158@stu.untar.ac.id

Juan Matheus*

Faculty of Law, Universitas Tarumanagara, Jakarta, Indonesia,
juanmatheus5202@gmail.com, ORCID ID 0000-0002-6104-7756

Hizkia Ivan Nugroho

Faculty of Law, Universitas Tarumanagara, Jakarta, Indonesia,
hizkia.205200095@stu.untar.ac.id

Abstract. The ratification of the IKN Law implies huge changes in the status of Jakarta, which was originally a special capital city into a special region with the status of a national economic center, global city, and agglomeration area. A new regulation is needed to rule this alteration. This has been responded by the House of Representatives of the Republic of Indonesia by drafting the DKJ Bill to date. However, the DKJ Bill caused many polemics about the status and position of Jakarta later. This study aims to examine the ideal design of the Jakarta Special Region Bill. This research uses a type of normative juridical research by examining various secondary data obtained through library research. The author uses a statutory approach and a conceptual approach. Based on the discussion, the DKJ Bill was drafted hastily, lack of public participation, and lack of public transparency with several provisions contradict to the spirit of regional autonomy. Although Jakarta will no longer be the capital city of Indonesia, Jakarta will be projected as an area devoted to being a business center and agglomeration with an autonomous regional government; in accordance with Article 18B of the 1945 NRI Constitution which is interpreted by the Constitutional Court in Decision Number 81/PUU-VIII / 2010. Therefore, the Government of Indonesia and the House of Representatives of the Republic of Indonesia must improve the bill a quo by implementing meaningful participation principle to emphasize the origin and characteristics of the region and the special status of Jakarta.

Keywords: New Capital City of Nusantara, IKN Law, DKJ Bill.

Abstrak: Pengesahan UU IKN memiliki implikasi yang serius atas status Jakarta yang semula merupakan ibu kota khusus, berubah menjadi daerah istimewa dengan status pusat ekonomi nasional, kota global, dan kawasan aglomerasi. Terkait dengan perubahan status Jakarta tersebut, maka perlu dibuat suatu peraturan baru untuk mengaturnya. DPR RI telah merespon dengan menyusun RUU DKJ. Namun, RUU DKJ tersebut menimbulkan banyak polemik menyangkut status dan kedudukan Jakarta di masa yang akan datang. Penelitian ini bertujuan untuk mengkaji desain ideal RUU Daerah Istimewa DKI Jakarta. Penelitian ini merupakan penelitian yuridis normatif dengan mengkaji berbagai data sekunder yang diperoleh melalui studi kepustakaan, dengan pendekatan perundang-undangan dan konseptual. Berdasarkan hasil analisis dapat disimpulkan bahwa, RUU DKJ disusun secara tergesa-gesa, kurang melibatkan partisipasi publik, dan tidak transparan serta terdapat ketentuan di dalamnya yang bertentangan dengan semangat otonomi daerah. Meskipun Jakarta tidak lagi menjadi ibu kota Indonesia, Jakarta akan diproyeksikan sebagai daerah otonomi yang dikhususkan sebagai pusat bisnis dan aglomerasi; sesuai dengan ketentuan Pasal 18B UUD NRI 1945 sebagaimana telah ditafsirkan oleh Mahkamah Konstitusi dalam Putusan Nomor 81/PUU-VIII/2010. Oleh karena itu, Pemerintah dan DPR RI harus memperbaiki RUU a quo dengan menerapkan prinsip partisipasi yang bermakna untuk mempertegas asal usul dan karakteristik daerah serta status istimewa Jakarta.

Kata kunci: Ibu Kota Baru Nusantara, UU IKN, RUU DKJ

Submitted: 24 Maret 2024 | Reviewed: 30 Maret 2024 | Revised: 8 April 2024 | Accepted: 16 Mei 2024

INTRODUCTION

The construction of the spirit of Indonesian development initiated by the Founding in the Preamble to the Constitution of the Republic of Indonesia Year 1945 (hereinafter referred to as the 1945 NRI Constitution") which mandates the state to protect the entire Indonesian nation and all Indonesian bloodshed which is not only limited to physical security aspects, but also includes aspects of life that is safe from various threats such as natural disasters and non-disasters nature. Furthermore, the Preamble of the 1945 NRI Constitution also emphasized the importance of the role and responsibility of the government in order to provide general welfare in all areas of life both in the economic, religious, cultural, social, and security defense fields for all people.¹ This is related to the conception of the welfare state proposed by R. Kranenburg which emphasizes that the state is responsible for the welfare and social protection of its citizens. Based on the conception of a quo, the state through the central government by nature must be actively involved in striving for the general welfare that prioritizes empowerment and social protection to ensure every citizen has fair and equitable access to the resources and services needed to get a decent life.²

Promoting the general welfare through equity is often associated with the development and management of the capital as a center of effective and inclusive economic, political, and social activity that aims to create an environment that provides equal accessibility for all citizens. Factors such as adequate infrastructure, access to health and education services, diverse employment opportunities, as well as security and political stability in the capital can have a direct impact on the overall level of well-being of the people. Moreover, development policies implemented in the capitals can also affect the equal allocation of resources and opportunities throughout the country, which in turn affects the social and economic welfare of the population. However, based on a study conducted by the Ministry of National Development Planning/National Development Planning

¹ Galang Asmara, "Urgensi Kewenangan Diskresi Dalam Penyelenggaraan Pemerintahan Untuk Memajukan Kesejahteraan Umum," *Jurnal Diskresi* 1, no. 1 (2022): 1–16.

² Marsudi Dedi Putra, "Negara Kesejahteraan (Welfare State) Dalam Perspektif Pancasila," *Jurnal Likhita Prajna* 23, no. 2 (2021): 116–28, <https://doi.org/https://doi.org/10.37303/likhitaprajna.v23i2.199>.

Agency of the Republic of Indonesia (Kementerian PPN/BAPPENAS RI") since 2017, the Special Capital City of Jakarta Province (hereinafter referred to as "Jakarta") which is currently the capital of Indonesia is no longer able to fulfill its role optimally because of serious problems related to growth uncontrolled population. It has an impact on high levels of congestion, deterioration in environmental conditions and functions such as decreasing availability of groundwater and remaining land, air pollution problems that continue to occur without concrete solutions, flood threats, and a decrease in the quality of life. In addition, uneven economic growth between Java and other regions is also a factor that worsens these conditions.³ The condition a quo shows that concrete steps from the Government of Indonesia is needed to overcome obstacles in Jakarta and formulate better solutions to maintain security, welfare, and sustainability for all Indonesian citizens.

Based on considerations regarding the various complexities of Jakarta's problems, the Government of Indonesia finally decided to take concrete steps related to the plan to move the national capital city from Jakarta which was officially conveyed by President Jokowi through a state of the nation address on August 16, 2019. This step received support from (hereinafter referred to as the "DPR RI") by passing Law Number 3 of 2022 concerning the National Capital City (hereinafter referred to IKN Law) together with the Government of Indonesia as the legal basis for the transfer. The birth of the IKN Law reflects the determination and sincerity of the Government of Indonesia in facing challenges and pursuing better development goals by realizing a serious and planned capital relocation plan.

It also marks a significant change in the status, position, and function of Jakarta after it is no longer the capital as stipulated in Article 41 paragraphs (2) and (4) of the IKN Law which states that the Government of Indonesia together with the RI Parliament must formulate a new regulation that regulates the maintenance of regional governance in the Province of Jakarta no later than 2 years after the promulgation of the Act. This Article

³ Bakhrul Amal dan Aditya Yuli Sulistyawan, "Dinamika Ketatanegaraan Pemindahan Ibu Kota Negara Indonesia dalam Perspektif Hukum," *Masalah-Masalah Hukum* 51, no. 4 (2022): 346–54, <https://doi.org/https://doi.org/10.14710/mmh.51.4.2022.346-354>.

as a coercive rule because Jakarta will no longer as the capital of the State of the Republic of Indonesia after the transfer of the new capital to the Capital of Nusantara located in parts of the territory of Penajam Paser North and Kutai Kartanegara District, East Kalimantan. The new rules will later adapt the position, functions, and role of Jakarta as the national economic center, global city, and agglomeration area along with Bogor, Depok, Tangerang, Bekasi, Puncak, and Cianjur within the framework of Indonesian sovereignty as an implication of the establishment of the Capital of Nusantara as the center of government of the country.⁴

Following the mandate set out in the IKN Law, the DPR RI immediately initiated the drafting of the draft Jakarta Special Regional Law (hereinafter referred to as the “DKJ Bill”). The draft of bill by DPR RI was originally targeted to be completed on February 15, 2024; before the recession period of the members of the DPR RI. The date of 15 February 2024 coincides with the two-year deadline set by law to the Government of Indonesia and the DPR RI to promptly amend Article 39 paragraph (1), the provisions of Article 3, Article 4 except functioning as an autonomous region, and Article 5 of Law No. 29 of 2007 concerning Government of the Special Provincial Region of Jakarta Capital as the Capital of the State of the United Republic of Indonesia. However, until this research is done, the a quo bill has not been discussed further by the members of the DPR RI since President Joko Widodo sent a letter of submission of the appointment of the deputy government to discuss the a Quo bill to the DPR RI and was just received by Mrs. Maharani as the President of the Chamber Deputies on February 6th, while as we know that the period of resignation of members of DPR RI has begun again so that the minimum of time available makes the discussion of the DKJ Bill becomes obstructed and provokes new polemics.⁵

It is true that discussing the DKJ Bill will has caused a lot of controversy in society since the first time it was announced by the DPR RI. One of the polemics that sparked a fierce

⁴ Putri Novani Khairizka, “RUU Perubahan Status Jakarta Dibuat, Menjadi Daerah Khusus Jakarta,” Pajakku, 2024, <https://www.pajakku.com/read/6ca0cd6a-cf8e-4af5-8d65-207c3dfaa3fe/RUU-Perubahan-Status-Jakarta-Dibuat-Menjadi-Daerah-Khusus-Jakarta>.

⁵ Bagus Ahmad Rizaldi, “DPR Terima Surat dari Presiden Jokowi untuk Bahas RUU DKJ,” Antara, 2024, <https://www.antaranews.com/berita/3950454/dpr-terima-surat-dari-presiden-jokowi-untuk-bahas-ruu-dkj>.

debate was a discourse about the Governor and Vice Governor of the Special District of Jakarta will be appointed, and dismissed by the President of Indonesia, taking into account the proposal or the opinion of the Regional People's Representative Council (herein referred as the "DPRD") in the clause of Article 10 paragraph (2) of Section IV of the DKJ Law. This clause gained a lot of attention from the public who questioned the legal reasoning of making the article a quo in the DKJ Law, because it was potentially violating the 1945 NRI Constitution.⁶ On the other hand, the lack of public participation in drafting the DKJ Bill and uncertainty regarding the status of Jakarta after also reaped controversies in the community. Those polemics of the DKJ Bill have implications for the author's concern that the bill a quo can eradicate democratic principles and public constitutional rights considering that Indonesia is currently in the general election period, so democracy is still sensitive matter. This makes the author interested in exploring the polemic of the DKJ Bill and how the status of Jakarta after the relocation of the capital is reviewed based on the perspective of constitutional law.

METHODOLOGY

The type of research used by the author in this study is normative juridical research to provide a strong foundation for the author in understanding the legal implications of the legal issues that the author raises, as well as providing a clear framework for formulating recommendations or solutions in accordance with applicable law. Referring to the opinions of Soerjono Soekanto and Sri Mahmudji, normative juridical research basically uses an approach to a legal principle that focuses on legal norms in existing laws and regulations in Indonesia.⁷ This research had done before the promulgation of the DKJ Law; therefore, this research should be seen as a critic in terms of lawmaking process in the democratic state. The author uses various methods of approach to examine legal issues discussed in this study, including the statutory approach (statute approach) and

⁶ Dyah Arum Ratri, "Pakar Hukum Nilai RUU DKJ Sebabkan Cacat Konstitusional dan Langgar UUD 1945 karena Alasan Ini," AyoJakarta.com, 2023, <https://www.ayojakarta.com/metropolitan/7611126559/pakar-hukum-nilai-ruu-dkj-sebabkan-cacat-konstitusional-dan-langgar-uud-1945-karena-alasan-in>.

⁷ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)* (Jakarta: Rajawali Press, 2006).

conceptual approach (conceptual approach). The statute approach is used by the author to review and review various legal regulations related to the issues discussed. While the conceptual approach is used by the author to solve problem formulations by referring to views and doctrines that exist in legal disciplines.

To achieve a deep understanding of the legal materials needed, the author uses library research data collection techniques in tracing the required legal materials by reading and reviewing literature relevant to legal issues raised from various sources that the author finds. The legal material used is secondary data consisting of primary and secondary legal materials. The primary legal entity that the author uses refers to legal documents that have binding force in the form of laws and regulations, jurisprudence, and international agreements such as the 1945 NRI Constitution, Law Number 29 of 2007 (hereinafter referred as "DKI Jakarta Law"), the P3 Law, the IKN Law and amendments, and so on. Meanwhile, secondary legal materials used by the author whose contents explain primary legal materials such as books, research results from legal circles, and scientific articles on the internet related to the problem studied. Secondary legal materials help in deepening the understanding of legal concepts contained in primary legal materials and provide additional points of view from various sources that can enrich the legal analysis and discussion carried out. After the data is collected, the author will then analyze secondary data obtained through internet media using qualitative analysis techniques to gain a deep and comprehensive understanding of the phenomenon under study.

RESULT AND DISCUSSION

Position and Status of Jakarta After the Passing of the UU IKN

A capital city or capital has an important role in a country, as a center of activity in various fields such as economy, culture, and government. Capital city is a term that refers to the main city in a country that is the center of administration, political power, and decision-making. In particular, the definition of capital city according to KBBI is a city that is the headquarters of the government, a place where executive, legislative, and

judicial institutions have offices and carry out their functions.⁸ Stefano Bartolini argued that the capital city has a very important role in the identity of a country and as a political center in government. The capital is not only a symbol of the country itself, but also a location where major political decisions are taken and implemented. For example, Indonesia has DKI Jakarta as its capital.⁹ Bartolini affirmed that the importance of the capital lies not only in its geographical aspect, but also in how it reflects the essence and image of the country in the eyes of the world.¹⁰

According to Peter Hall's explanation of the characteristics of various types of capital cities in the world, Jakarta is classified as a type of multifunction capital. That is, Jakarta is not only the center of government administration, but also functions as the center of the national economy and state identity. Its central role in various aspects of life makes Jakarta a major focal point in Indonesia. As an economic center, the city became a major place for various business and trade activities. Meanwhile, as the identity of the country, Jakarta is the face of Indonesia in the international context and is the location of various important events, both political and cultural. Jakarta has a significant role for growth in all fields for Indonesia. Jakarta plays a substantial and strategic role in the development of Indonesia in various sectors. As a center of business and trade for a long time, Jakarta has been the heart of the country's economy, contributing significantly to Indonesia's economic growth. The city has become the center of all business activities, playing a vital role in strengthening the national economy by contributing as much as 17.3% of Indonesia's total Gross Domestic Product (GDP). In addition, Jakarta's presence as a business hub is also reflected in its ranking in the Global Cities Index, where the city is ranked 69th, demonstrating the importance of Jakarta's role in the global context.¹¹

⁸ Kementerian Perencanaan Pembangunan Nasional/Kepala Badan Perencanaan Pembangunan Nasional Republik Indonesia, Naskah Akademik Rancangan Undang-Undang tentang Ibu Kota Negara (Jakarta: Kementerian Perencanaan Pembangunan Nasional/Kepala Badan Perencanaan Pembangunan Nasional Republik Indonesia, 2020).

⁹ Stefano Bartolini, *Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union* (New York: Oxford University Press, 2007).

¹⁰ Bartolini.

¹¹ Dewan Perwakilan Rakyat Republik Indonesia, Naskah Akademik Rancangan Undang-Undang Republik Indonesia Nomor ... Tahun ... tentang Provinsi Daerah Khusus Jakarta (Jakarta: Dewan Perwakilan Rakyat Republik Indonesia, 2023).

Over time, the capital city of Indonesia had experienced changes several times with certain factors. The relocation of the Indonesian capital had occurred at that time due to the country's politics that were not safe, therefore, for a while the capital city changed to Yogyakarta in temporary period and after that the Capital City Status moved back to the City of Jakarta.¹² Considering various problems in DKI Jakarta, President Jokowi has announced plans to move the national capital. This step was taken through the passage of the IKN Law which stipulates the movement from Jakarta City to two regencies on the island of Kalimantan, namely North Penajam Paser and Kutai Kartanegara, located in East Kalimantan. This decision is based on important considerations related to the sustainability and welfare of the country. The move is expected to overcome various problems related to Jakarta, such as congestion, high pollution levels, and development imbalances between regions. In addition, the relocation of the national capital is also expected to equalize development, strengthen connections and integration between regions in Indonesia. This step is part of the government's long-term vision to improve the quality of life of citizens and support sustainable development in various parts of Indonesia.

The capital dislocation carried out was not without reason, but because of various problems. The problems are population density caused by an increase in population that cannot be controlled, a decreased environmental quality, the well-being of one's life become worse, and problems that occur from time to time have not been effectively resolved, namely floods, traffic density, and other problems that still need to be overcome with the best solution.

The election of Kalimantan City as National Capital City stated by President Joko Widodo has several factors and considerations, namely:

1. Kalimantan City which has a small risk of various floods and other natural disasters.
2. It has a strategic shape in terms of geography located in the middle of Indonesia.
3. Have land that is already available and owned by the government.

¹²Dian Herdiana, "Pemindahan Ibukota Negara: Upaya Pemerataan Pembangunan atukah Mewujudkan Tata Pemerintahan yang Baik," *Jurnal Transformativa* 8, no. 1 (2022): 1–30, <https://doi.org/https://doi.org/10.21776/ub.transformativa.2022.008.01.1>.

4. Locations that have experienced significant development and are close to cities that are already quite developed such as Samarinda.

As Kalimantan becomes the new national capital city (hereinafter referred to as "IKN"), Jakarta has a great opportunity to address the various problems it faces. The transfer of IKN is expected to reduce poverty levels and control excessive urbanization due to an increase in population. Despite the transfer of IKN, Jakarta will still be the main destination for people looking for jobs and a better livelihood. In addition, the development of Jakarta as a national economic center shows the potential to become like New York in future projections. This shows that despite changes in the country's administrative structure, Jakarta will continue to play an important role in Indonesia's economy and overall development.

Looking at other countries that have moved the capital, such as Brazil which moved the capital center from Rio de Janeiro to a new location, namely Brasilia, with the aim of separating the functions of the center of economic growth and the center of government, can be a mirror for Indonesia. This step is expected to create economic stability and flatten the population in Jakarta which previously experienced significant social challenges. The decision to relocate the Indonesian capital is strategic because it is believed to provide a significant economic boost to the new region. This will attract economic attention as well as investment, it also raises the new growth centers with national impact. However, it is also important to consider the impact of externalities that may arise, both positive and negative, on the destination area. Thus, the area must be ready to develop as a metropolis that pays attention to social diversity.

Polemic on the Position and Status of Jakarta in the DKJ Bill

Since it was announced by the House of Representatives in the Plenary meeting on November 5, 2023, the DKJ Bill has become the center of attention in public discussion. The presence of the Bill has triggered various responses and debates among the community and relevant stakeholders. The official submission by the DPR marked the beginning of a series of in-depth dialogues and analyses of various aspects contained in the DKJ Bill. The draft of the Bill a quo was created with the aim of creating a legal

framework specifically designed to regulate Jakarta as the center of the national economy, a global city, and an agglomeration area. The DKJ Bill aims to provide a solid legal foundation to ensure Jakarta can develop optimally as a center of economic activity, as well as to promote integration and collaboration between economic sectors within it. The drafting of the Bill a quo attracted the attention and attention of many parties, including legal experts, politicians, and Jakartans themselves, all of whom participated in analyzing the potential implications and impacts of the draft Bill. The debate covered various aspects, including issue of appointment of governors and deputy governors by the president, the lack of public participation and transparency in drafting the RUU, the short timing of making the Bill, the potential to conflict with Article 18 paragraph (4) of the Third Amendment NRI Constitution, the potential for nepotism, and counterproductive to the spirit of regional autonomy originally owned by Jakarta.

First, the draft of Bill a quo states that the President of Indonesia will have the authority to appoint and to dismiss the Governor and Vice Governor of DKJ, considering the opinion of the DPRD. This provision has raised concerns from various quarters who argue that such direct appointment can have a negative impact on the country's system of government and are incompatible with democratic principles that Indonesia has upheld. This step is considered to be able to eliminate the process of electing DKJ regional heads which has been carried out through direct elections by the people to direct appointment by the President, therefore, it is considered to damage aspects of democracy that have been built and maintained so far.¹³

Second, as a law product of the initiation of the House of Representatives of the Republic of Indonesia, the preparation of the DKJ Bill is seen as lacking transparency and minimal role of public participation. "Transparent" refers to the level of openness and clarity in the process of drafting the DKJ Bill, which is believed to be inadequate and the lack of public participation refers to limited community involvement and contribution in the formation of the DKJ Bill. The lack of transparency aspects in the DKJ Bill can be seen

¹³ Heru Wahyudi, "Draft RUU DKJ Dampaknya Terhadap Jakarta dan Politik Nasional," Kompas.com, 2023, <https://katanetizen.kompas.com/read/2023/12/19/121320185/draft-ruu-dkj-dampaknya-terhadap-jakarta-dan-politik-nasional?page=1>.

from the non-upload of the draft DKJ Bill on the DPR RI website, causing the public to be unable to access the draft text of the DKJ Bill. Meanwhile, the lack of community participation can be seen from the non-participation of stakeholders from the community in the process of drafting the bill a quo which has implications for the formulation of the DKJ Bill to be more concerned with political interests than the aspirations of the community.¹⁴ The process of forming the DKJ Bill has also overridden the constitutional rules in the Constitutional Court Decision (hereinafter referred to as "MK") No. 91/PUU-XVIII/2020 which states that it will guarantee the right of citizens to participate meaningfully (meaningful participation) in every stage of the formation of laws and regulations. It becomes a public question if the passage of the DKJ Bill is passed and how people's participation will be meaningful in it. If you look at this direct election very far back in the New Order regime, which at that time had proven to be a failure and had only left problems such as corruption, inequality, and arbitrariness.¹⁵

Third, the short time in the bill making process. In this discourse, the DPR is too hasty to make changes of regulations that are declared effective and are accepted by the public, which should be able to focus more on the specificity of DKJ as the economic capital in Indonesia. Some of the reasons for the provision of the DKJ Bill are that conducting regional elections requires quite expensive costs. Meanwhile, direct appointment of the Governor by the President is considered more democratic than the costs previously incurred for regional elections, it can be used for accomplishing the welfare of the people. However, this can lead to justification of argumentation as an excuse that will be used in other regions, especially if the local elections cost will be allocated for the individuals well-being. On the other hand, the budget allocation for Jakarta is noncritical thing, because Jakarta is a prominent business area compared to other regions in Indonesia.

¹⁴ Fitria Chusna Farisa, "RUU DKJ Dibahas Jelang Pemilu 2024, Dinilai Sarat Akan Transaksi Politik," Kompas.com, 2023, <https://nasional.kompas.com/read/2023/12/06/13200041/ruu-dkj-dibahas-jelang-pemilu-2024-dinilai-sarat-akan-transaksi-politik>.

¹⁵ Lembaga Bantuan Hukum (LBH) Jakarta, "Rilis Pers RUU DKJ Tak Lebih Dari Produk Dinasti Dan Kartelisasi Politik," LBH Jakarta, 2024, <https://bantuanhukum.or.id/rilis-pers-ruu-dkj-tak-lebih-dari-produk-dinasti-dan-kartelisasi-politik/>.

After the capital of Indonesia is moved to the National Capital (IKN), Jakarta will become an enviable example by other regions as an economic center. Therefore, it does not make sense for the financial aspect of regional elections as the highlight issue in the DKJ Bill. The heated debate over the nomination and appointment of the Governor in Jakarta has had a negative impact on the public's view of the Government of Indonesia and the House of Representatives of the Republic of Indonesia, resulting in an excessive concentration of power. In essence, the intended specificity should aim to strengthen people's sovereignty, improve democratic practices, and improve governance, so it is not appropriate if the steps taken actually hinder progress towards a more democratic direction.

Fourth, the potential to contradict Article 18 paragraph (4) of the NRI Constitution because of the Third Amendment. This endorsement is considered to eliminate the democratic system in Indonesia as a sovereign state. Article 10 paragraph (2) of the DKJ Bill states that "The Governor and Deputy Governor are appointed, elected, and dismissed by the President by taking into account the proposal or opinion of the DPRD", while Article 10 of the DKI Jakarta Law states that "The DKI Jakarta Provincial Government is led by one Governor assisted by one Vice Governor who is directly elected through the general election of the Regional Head and Deputy Regional Head".¹⁶ The contradiction in Article 10 paragraph (2) of the DKJ Bill is considered to have hidden political interests. This regulation is deeply conflicted to Article 18 paragraph (4) of the 1945 NRI Constitution from the third amendment which states that "the Governor, Regent, and Mayor respectively as heads of the local governments of the Province, Regency and City are democratically elected". It is clear that in the implementation of the DKJ Bill in Article 10 paragraph (2) there is an unknown interest motivation, which is not at all oriented towards the public interest.

Fifth, related to nepotism. This problem can occur if the DKJ Bill is passed and can open space for politicians to occur KKN. If the candidate for direct appointment is not

¹⁶ Dian Erika Nugraheny, "Polemik RUU DKJ, Jokowi Tetap Ingin Gubernur Jakarta Dipilih Rakyat Langsung," Kompas.com, 2023, <https://nasional.kompas.com/read/2023/12/11/12364801/polemik-ruu-dkj-jokowi-tetap-ingin-gubernur-jakarta-dipilih-rakyat-langsung>.

considered competitive, there will be a loophole to carry out KKN that violates the mandate of the reform. In a more assertive definition, a relationship of political corruption encompasses political policymaking at a high level. Political corruption occurs when politicians and state bodies are entitled to make and enforce laws in the name of society. Political corruption arises from political decision-makers and using the political power held by them to maintain their power, status, and wealth. Then, political corruption can be distinguished from bureaucratic corruption or petty corruption, where corruption in state administration, in its implementation is ended by politics.¹⁷ This outlines the material importance of selecting contestants to be more profitable in meeting the needs of some parties in disguise and hinders the ability of voter representatives to make aligned policies and reduces the welfare of voters who oppose those policies.¹⁸

Sixth, the DKJ Bill is counterproductive to the spirit of regional autonomy originally owned by Jakarta. The DKJ Bill is considered opposed to the spirit of regional autonomy. The implementation of regional autonomy must also pay attention to democracy, which means it must involve the community within the process. Starting from planning, budgeting, electing regional heads and heads of state. Is direct appointment the best option to improve and streamline the governance of a region? Because it is strongly influenced by community participation in organizing good governance to exercise their rights in expressing opinions in decision making. If this is seen in terms of politics, history, and philosophy, the DKJ Bill regarding Article 10 paragraph (2) has not described its legal reasoning. In fact, Jakarta is an autonomous region, granting this status is based on Law Number 29 of 2007 not an administrative region. Where the autonomous region has the authority to regulate its own region. This includes electing regional heads, not appointed, or be appointed. If the election of a governor is appointed, the constitutional problem must first be addressed by changing the status of the province

¹⁷ Arnold J. Heidenheimer, Michael Johnston, dan Victor T. LeVine, *Political Corruption: A Handbook*, Cetakan Ke (New Brunswick, N.J: Transaction Books, 1993).

¹⁸ Fransiska Adelina Sinaga, "Bentuk-Bentuk Korupsi Politik," *Jurnal Legislasi Indonesia* 16, no. 1 (2019): 59–75, <https://doi.org/10.54629/jli.v16i1.256>.

to no longer be an autonomous region. In the sense that the reasons built by the DPR in Article 10 paragraph (2) of the DKJ Bill are considered to lack justification.

Although Prof. Wicipto Setiadi said that "what is stated in the DKJ Bill regarding the appointment of governors, does not contradict the 1945 Constitution. Moreover, in the process, the President must pay attention to the proposal or opinion of the DPRD. However, people must look back at the concept of DKJ Specificity. Basically, the election of Regional Heads does not have to go through direct elections." However, it must still be underlined that DKJ has a special authority regarding in the financial sector that carries the concept of a global economic and business center such as New York, not a special authority of full autonomy related to Regional Governments such as Yogyakarta.

The Ideal Design of the Jakarta Special Region Bill

The Law Number 3 of 2022 concerning the National Capital which will move capital from Jakarta to Kalimantan. Changes in the status of the national capital will have an impact on the Jakarta area. When the national capital moves, Jakarta remains having basic problems, such as Congestion and high economic problems, environmental problems such as floods, uncontrolled illegal settlements, uneven development of telecommunications infrastructure. Those problems cannot be solved by Law Number 29 of 2007 alone but requires a solution from the Central Government. Therefore, it needs to research comprehensively on the impact of moving the National Capital, including; specificity and role of the Special Region of Jakarta Province as the center of the national economy and global city, the implementation of local government, finance, culture, population, mobility and connectivity, environment and natural disasters, housing, and spatial planning. Based on the provisions of Article 43 paragraph (3) of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations (hereinafter referred to as "Law P3"), draft laws originating from the DPR, President, or DPD must be accompanied by academic manuscripts, as a reference in the preparation of the Bill on DKJ Province.

The aim of this academic paper is for making the DKJ Bill, so that it can be formed systematically, comprehensively, and provide valid solutions to the problems of nation,

state, and community life in the implementation of governance matters. In addition, it can also formulate philosophical, sociological, and juridical foundations in the formation of the DKJ Bill. In the aim of achieving the Republic of Indonesia as stated in the Fourth Paragraph of the Preamble of the 1945 NRI Constitution, namely "protecting the entire nation and participating in implementing world order based on independence, lasting peace, and social justice", one of them is by drafting this bill.

Based on these, this bill should in accordance with Article 18 paragraph (1) of the NRI Constitution of 1945 which states "The Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial areas are divided into districts or cities in a smaller scope". The purpose of the level of Government is to form a government in carrying out its main duties effectively. Article 18B of the 1945 NRI Constitution states that "The State recognizes and respects special or special local government units stipulated in the Law", therefore the state can recognize and respect a special local government. The criteria for specificity or privilege stipulated in Article 18 B of the 1945 NRI Constitution are not clearly described. In practice, the Constitutional Court has interpreted these criteria through its Decision Number 81/PUU-VIII/2010 which basically confirms that there are 2 (two) criteria for regions to be granted special autonomy/privileges. Firstly, the rights and origins inherent in areas that have been recognized and have lived that cannot be ignored by the state. Secondly, special autonomy is granted to regions by considering the background of formation and real needs such as to resolve existing conflicts.

The target to be achieved in the preparation of this bill is to provide legal certainty related to the position, role, and function as well as the implementation of government in Jakarta after the enactment of the IKN Law. In addition, the target to be achieved from the preparation of this bill is that this law is able to solve the problems faced by the Jakarta Government. The direction and reach of the material contained in the Bill will concern the position, role and function of Jakarta Province, procedures for governance in Jakarta Province including structures, authorities, institutions and regulations related to the role of Jakarta Province as the center of the national economy/business.

CONCLUSION

The ratification of the IKN Law has implications for the change in the status of Jakarta, which was originally a special capital region into a special region with the status of a national economic center, global city, and agglomeration area, therefore a new regulation is needed that specifically regulates changes in this status. This has been responded by the House of Representatives of the Republic of Indonesia by drafting the DKJ Bill to date. However, the DKJ Bill caused many polemics as outlined by the author in discussions starting from the lack of public participation to its hasty drafting. Therefore, the Government of Indonesia together with the House of Representatives of the Republic of Indonesia must take a few steps to improve the bill a quo. The first step that can be taken is that the House of Representatives of the Republic of Indonesia should open a space for meaningful public participation in the discussion of the DKJ Bill as well as involves relevant stakeholders from the community. Then, the Government of Indonesia together with the House of Representatives of the Republic of Indonesia needs to consult constitutional law experts in revising problematic clauses in the Bill a quo. As a result, Jakarta will be acknowledged to the origin and characteristics of the region and its special status.

REFERENCES

- Amal, Bakhrul, dan Aditya Yuli Sulistyawan. "Dinamika Ketatanegaraan Pemindahan Ibu Kota Negara Indonesia dalam Perspektif Hukum." *Masalah-Masalah Hukum* 51, no. 4 (2022): 346-54. <https://doi.org/https://doi.org/10.14710/mmh.51.4.2022.346-354>.
- Asmara, Galang. "Urgensi Kewenangan Diskresi Dalam Penyelenggaraan Pemerintahan Untuk Memajukan Kesejahteraan Umum." *Jurnal Diskresi* 1, no. 1 (2022): 1-16.
- Bartolini, Stefano. *Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union*. New York: Oxford University Press, 2007.
- Dewan Perwakilan Rakyat Republik Indonesia. *Naskah Akademik Rancangan Undang-Undang Republik Indonesia Nomor ... Tahun ... tentang Provinsi Daerah Khusus Jakarta*. Jakarta: Dewan Perwakilan Rakyat Republik Indonesia, 2023.
- Farisa, Fitria Chusna. "RUU DKJ Dibahas Jelang Pemilu 2024, Dinilai Sarat Akan

- Transaksi Politik." Kompas.com, 2023. <https://nasional.kompas.com/read/2023/12/06/13200041/ruu-dkj-dibahas-jelang-pemilu-2024-dinilai-sarat-akan-transaksi-politik>.
- Faruq, Nabil Syarifudin Al. "Pengamat: Jakarta akan Jadi Kota Bisnis seperti New York." Jakarta Bisnis, 2023. <https://jakarta.bisnis.com/read/20230922/77/1697516/pengamat-jakarta-akan-jadi-kota-bisnis-seperti-new-york>.
- Haryanti, Amelia. "Politik Hukum Disahkannya Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Nusantara." *Jurnal Legislasi Indonesia* 19, no. 3 (2022): 307-19. <https://doi.org/https://doi.org/10.54629/jli.v19i3.936>.
- Heidenheimer, Arnold J., Michael Johnston, dan Victor T. LeVine. *Political Corruption: A Handbook*. Cetakan Ke. New Brunswick, N.J: Transaction Books, 1993.
- Herdiana, Dian. "Pemindahan Ibukota Negara: Upaya Pemerataan Pembangunan ataukah Mewujudkan Tata Pemerintahan yang Baik." *Jurnal Transformative* 8, no. 1 (2022): 1-30. <https://doi.org/https://doi.org/10.21776/ub.transformative.2022.008.01.1>.
- Hermansah. "Gubernur DKJ Ditunjuk Presiden: Kontraproduktif Tetapi Sesuai UUD." *Alinea.id*, 2023. <https://www.alinea.id/nasional/gubernur-ditunjuk-presiden-kontraproduktif-tapi-sesuai-uud-b2ich9PrJ>.
- Kementerian Perencanaan Pembangunan Nasional/Kepala Badan Perencanaan Pembangunan Nasional Republik Indonesia. *Naskah Akademik Rancangan Undang-Undang tentang Ibu Kota Negara*. Jakarta: Kementerian Perencanaan Pembangunan Nasional/Kepala Badan Perencanaan Pembangunan Nasional Republik Indonesia, 2020.
- Khairizka, Putri Novani. "RUU Perubahan Status Jakarta Dibuat, Menjadi Daerah Khusus Jakarta." *Pajakku*, 2024. <https://www.pajakku.com/read/6ca0cd6a-cf8e-4af5-8d65-207c3dfaa3fe/RUU-Perubahan-Status-Jakarta-Dibuat-Menjadi-Daerah-Khusus-Jakarta>.
- Lembaga Bantuan Hukum (LBH) Jakarta. "Rilis Pers RUU DKJ Tak Lebih Dari Produk Dinasti Dan Kartelisasi Politik." LBH Jakarta, 2024. <https://bantuanhukum.or.id/rilis-pers-ruu-dkj-tak-lebih-dari-produk-dinasti-dan-kartelisasi-politik/>.
- Nugraheny, Dian Erika. "Polemik RUU DKJ, Jokowi Tetap Ingin Gubernur Jakarta Dipilih Rakyat Langsung." Kompas.com, 2023. <https://nasional.kompas.com/read/2023/12/11/12364801/polemik-ruu-dkj-jokowi-tetap-ingin-gubernur-jakarta-dipilih-rakyat-langsung>.
- Putra, Marsudi Dedi. "Negara Kesejahteraan (Welfare State) Dalam Perspektif Pancasila." *Jurnal Likhitaprajna* 23, no. 2 (2021): 116-28. <https://doi.org/https://doi.org/10.37303/likhitaprajna.v23i2.199>.
- Raditya, Iswara N. "Bunyi Pasal 18 UUD 1945: Penambahan Isi Sebelum dan Setelah

- Amandemen." Tirto, 2021. https://tirto.id/bunyi-pasal-18-uud-1945-penambahan-isi-sebelum-setelah-amandemen-gk4B#google_vignette.
- Ratri, Dyah Arum. "Pakar Hukum Nilai RUU DKJ Sebabkan Cacat Konstitusional dan Langgar UUD 1945 karena Alasan Ini." AyoJakarta.com, 2023. <https://www.ayojakarta.com/metropolitan/7611126559/pakar-hukum-nilai-ruu-dkj-sebabkan-cacat-konstitusional-dan-langgar-uud-1945-karena-alasan-in>.
- Rizaldi, Bagus Ahmad. "DPR Terima Surat dari Presiden Jokowi untuk Bahas RUU DKJ." Antara, 2024. <https://www.antaraneews.com/berita/3950454/dpr-terima-surat-dari-presiden-jokowi-untuk-bahas-ruu-dkj>.
- Sinaga, Fransiska Adelina. "Bentuk-Bentuk Korupsi Politik." Jurnal Legislasi Indonesia 16, no. 1 (2019): 59-75. <https://doi.org/https://doi.org/10.54629/jli.v16i1.256>.
- Soekanto, Soerjono, dan Sri Mamudji. Penelitian Hukum Normatif (Suatu Tinjauan Singkat). Jakarta: Rajawali Press, 2006.
- Wahyudi, Heru. "Draft RUU DKJ Dampaknya Terhadap Jakarta dan Politik Nasional." Kompas.com, 2023. <https://katanetizen.kompas.com/read/2023/12/19/121320185/draft-ruu-dkj-dampaknya-terhadap-jakarta-dan-politik-nasional?page=1>.