

## THE DECENTRALIZATION DILEMMA: NAVIGATING CHALLENGES IN BUILDING THE NUSANTARA CAPITAL CITY

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### Abstrak

Sejalan dengan pemindahan ibu kota baru di wilayah Kalimantan Timur, dalam ketentuan pasal 4 Ayat (1) Huruf b UU IKN menyebutkan bahwa Otorita Ibu Kota Nusantara sebagai lembaga setingkat kementerian yang menyelenggarakan Pemerintahan Daerah Khusus Ibu Kota Nusantara, dan Pasal 5 Ayat (4) UU IKN yang menyebutkan bahwa Kepala Otorita Ibu Kota Nusantara merupakan kepala Pemerintah Daerah Khusus Ibu Kota Nusantara yang berkedudukan setingkat menteri, ditunjuk, diangkat, dan diberhentikan oleh Presiden setelah berkonsultasi dengan DPR. Tujuan penelitian ini untuk menganalisis dampak jangka panjang yang timbul dari model pemerintahan terpusat terhadap pelaksanaan sistem pemerintahan baru di Wilayah Ibu Kota Nusantara. Penelitian ini menggunakan jenis penelitian hukum normatif dengan menggunakan Pendekatan Perundang-undangan dan Pendekatan Konseptual. Adapun hasil penelitian ini, dampak yang timbul akan berpengaruh pada politik lokal, demokrasi serta representasi masyarakat atas perwakilannya, dan yang paling mendasar adalah hak konstitusionalnya sebagai warga negara. Sudah dipastikan tidak ada representasi lokal pada sistem politik perwakilan seperti saat ini.

**Kata Kunci:** *Ibu Kota Nusantara, Desentralisasi, dan Sentralisasi.*

### Abstract

In line with the relocation of the new capital city in the East Kalimantan region, in the provisions of Article 4 Paragraph (1) Letter b of the IKN Law, it is stated that the Nusantara Capital City Authority as a ministerial-level institution that organizes the Special Regional Government of the Nusantara Capital City, and Article 5 Paragraph (4) of the IKN Law which states that the Head of the Nusantara Capital Authority is the head of the Nusantara Capital Special Regional Government with a ministerial position, appointed and dismissed by the President after consulting with the House of Representatives. The purpose of this study is to analyze the long-term impact of the centralized governance model on the implementation of the new governance system in the Nusantara Capital city region. This study uses a type of normative legal research using a Legislative Approach and a

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Conceptual Approach. As for the results of this study, the implications will affect local politics, democracy, community representation of their representatives, and the most basic is their constitutional rights as citizens. It is certain that there is no local representation in the representative political system like today.

**Key Words:** Nusantara Capital City, Decentralization, and Centralization.

## INTRODUCTION

The idea of moving the capital city has been a long-standing vision, realized under President Joko Widodo. This signifies a continuous effort towards equitable development and decentralization of power. The Nusantara Capital City, where the local government is referred to as the Authority, is led by a Head of Authority directly appointed by the President. This aligns with the provisions of Article 4 Paragraph (1) Letter b of the IKN Law, which stipulates that the Nusantara Capital Authority is a ministerial-level institution. Article 5 Paragraph (4) further states that the Head of the Nusantara Capital City Authority is equivalent to a minister, appointed and dismissed by the President. This centralized structure contrasts with the previous decentralized governance model in Indonesia. However, Article 13 of Law Number 3 of 2022 concerning the State Capital clearly regulates the provisions regarding the election of the IKN, including:

- 1) Limited Elections: Elections in the State Capital are primarily for the president, vice president, DPR, and DPD.
- 2) Seat Determination: The number of seats for areas adjacent to the State Capital will be determined by laws and regulations.
- 3) Election Commission Responsibility: The General Election Commission and the Regional Government of the State Capital are responsible for compiling and conducting elections for DPR and DPD members in the National Capital.

The existence of problems that will arise in the ratification of Law number 3 of 2022 concerning the State Capital is of course not just accepted by all levels of society, thus there are at least six applications to conduct a Judicial Review of the Constitutional Court, the following author attaches a list of applications in the following table:



No.	Case Number	Petitioner	Type of Judicial Review
1	Number 47/PUU-XX/2022	Ir. Mulak Sihotang, (driver/ academics)	Formal Test
2	Number 39/PUU-XX/2022	Sugeng, S.H. (retired civil servant)	Formal and Material Test
3	Number 48/PUU-XX/2022	Damai Hari Lubis, S.H., M.H. (Lawyer and Humanitarian Organization Activist)	Formal Test
4	Number 53/PUU-XX/2022	Anah Mardianah (Teacher)	Formal Test
5	Number 54/PUU-XX/2022	1. Muhammad Busyro Muqoddas (lecturer) 2. Dr. Trisno Raharjo, S.H., M.Hum. (Lecturer) 3. Yati Dahlia (Housewives) 4. Dwi Putri Cahyawati (Dean of Faculty of Law of the University of Muhammadiyah Jakarta) 5. Alliance of Indigenous Peoples of the Archipelago (AMAN) 6. Indonesian Forum for the Environment Foundation Yayasan Wahana Lingkungan Hidup Indonesia,	Formil Test
6	Number 40/PUU-XX/2022	Herifuddin Daulay (Honorary Teacher)	Formal and Material Test

Another legal problem is that constitutionally, there are no regulations governing the mechanism for moving the capital of the Republic of Indonesia in the constitution or in Indonesian laws and regulations. Second, the determination of the new location of the capital of the Republic of Indonesia precedes the establishment of its legal basis. Third is the lack of involvement from other branches of power, especially from the Legislature in relation to the relocation of the capital city. (Ristawati, 2020)



Constitution is a set of most important rules governing the relationship between different parts of the government of a particular country, as well as the relationship between various parts of the government and the people of that country. (Parpwoerth, 2020) The situation caused by the IKN Law certainly has an impact on the most basic law enforcement in the Indonesian legal system, especially those contained in Article 22E paragraph (2) of the Constitution of the Republic of Indonesia which states: "General elections are held to elect Members of the House of Representatives, Regional Representative Councils, Presidents and Vice Presidents and Regional House of Representatives". The elimination of the general election option to elect DPRD members in the IKN area weakens the people's voting rights because it eliminates their right to determine who will represent them at the regional level. Even in areas such as districts and cities, people's sovereignty is condensed through a representative system through the Regional People's Representative Council, which is also filled by general elections. (Rikardo, 2020) Everyone has the right to take part in the government of his country, either directly or through freely elected representatives. (Budijanto, 2016)

Article 18 paragraph 3 of the Constitution of the Republic of Indonesia of 1945 describes this idea in the field of constitutional law. Provincial, regency, and city governments have Regional People's Representative Councils whose members are elected through general elections, although the IKN has its own uniqueness, but it is appropriate if the IKN is designated as a Regional Government unit, the DPRD is also a regional representative. The difference is that the drafters of the IKN Law have cited it in Article 18 B paragraph 1 of the 1945 NRI Constitution which states that the State recognizes and respects special or special local government units regulated by law. Based on Article 1 Number 2, Article 1 Number 8, Article 4, Article 5, and Article 13 of Law Number 3 of 2022 concerning the State Capital, there is still disharmony or inconsistency in the existing laws and regulations, for example, this IKN Law is of course not in accordance with Article 18, Article 22E Paragraph (2) of the Constitution of the Republic of Indonesia in 1945, Law 23 of 2014 concerning Regional Government and Law Number 7 of 2017 concerning General Elections (Pemilu) are not in line with the spirit of the mandate of the 1998 Reform which provides the principle of Regional Autonomy to Regional governments in Indonesia.



## THEORETICAL BASIS

### 1. Unitary State

Law as a tool of social control, as a tool of social engineering, social reform, and as a means of strengthening society. As a state of law based on Pancasila and the 1945 Constitution of the Republic of Indonesia, all aspects of life in the fields of society, nationality, and statehood including government must always be based on law. (Kusdarini, 2024) In the concept of a unitary state, there is only one government, the central government which has the highest power and authority in the field of the state government determines government policies, and implements state government both at the national and regional levels. According to World Bank records, it is also referred to as a unitary state. Among 116 countries that are included in developing countries, as well as implementing a decentralization system, 106 of them have a unitary state, thus it can be assumed that in a unitary state, the central government runs an absolute government, namely the central government as the highest power holder.

The form of the Indonesian state is the Unitary State, while Indonesian unity is the basic principle of the state that should be built on the basis of unity. The principle of unity is essential because the diversity of ethnicity, religion and culture inherited by the Indonesian people in history requires the Indonesian people to be united within that diversity. Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that the State of Indonesia is a unitary state in the form of a Republic. The principle of a unitary state is that the one who holds the highest power over all state affairs is the central government without a delegation or delegation of power to local governments. In a unitary state, there is a principle that all state affairs are not divided between the central government and the local/local government, all affairs in a unitary state are still a unity (eenheid) and the holder of the highest power in the country is the central government. (Lubis, 1983)

Unitary States can be distinguished in two forms, namely (1) unitary states with a centralized system, (2) unitary states with a decentralized system. In a unitary state with a centralized system, everything in the state is directly regulated and managed by the central government, and the regions only have to carry out everything that has been instructed by the central government. Meanwhile, in a unitary state with a decentralized system, regional heads are given the opportunity and power to govern and manage their own households (regional autonomy) called autonomous regions. (Amrusyi, 1987)



## 2. People's Sovereignty

In the era of reform, Indonesia has taken comprehensive reform measures by returning sovereignty to the people. The culmination of these efforts was the amendment of the 1945 Constitution of the Republic of Indonesia carried out over four consecutive years: the First Amendment in 1999, the Second Amendment in 2000, the Third Amendment in 2001, and the Fourth Amendment in 2002 by the People's Consultative Assembly (MPR). The goal of the amendments was to complement the basic rules of life as a state, which led to abuses of power in the past. (Syaidi, 2024) The foundation of people's sovereignty in Indonesia is inseparable from the constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia which is written in Article 1 Paragraph (2), namely: Sovereignty is in the hands of the people and is implemented based on the Constitution. The foundation of contemporary democracy is the idea of people's sovereignty. This idea emphasizes that the supreme authority of a country is in the hands of its citizens. Rousseau argued in "The Social Contract" that power must ultimately be in the hands of the people and serve their interests. The doctrine of people's sovereignty is further built on this premise. (Rousseau, 2002)

In the modern era, Robert Dahl in "Democracy and Its Critics" defines democracy as a system in which citizens are enabled to participate effectively in political decision-making. It emphasizes the importance of people's active participation in realizing their sovereignty. The implementation of people sovereignty could be seen in various aspects of the democratic political system, such as elections, which are the main manifestation of people sovereignty. Through the elections, people vote for their representatives to run the government. Lijphart in "Patterns of Democracy" analyzes various electoral systems and their impact on people's representation. In the United States, the idea of people sovereignty is also one of the fundamental principles in formation of the state. Thomas Jefferson, in the American Declaration of Independence, stated that the government gained its power from the "the consent of the governed". This principle is later embodied in the United States Constitution, which begins with the phrase "We the People". In the development of modern political theory, the concept of people's sovereignty continues to undergo elaboration and interpretation.

Mahfud MD in The Politics of Law in Indonesia explains how the principle of people's sovereignty is applied in Indonesia's post-reform constitutional system. (Mahfud MD, 2003) Then, according to Jimmly Asshiddiqie in Indonesian Constitution and Constitutionalism analyzes the





development of the concept of people's sovereignty in the history of the Indonesian constitution. (Asshiddiqie, 2010) To ensure the sovereignty of the people, he emphasized the importance of a government structure that has a check and balance mechanism. The election of the president, members of the House of Representatives, and regional heads is a concrete example of how the people's sovereignty is implemented in Indonesia. However, Aspinall and Mietzner in "*Problems of Democratisation in Indonesia*" identified various challenges in the consolidation of Indonesian democracy, including money politics and patronage. (Mahendra, 1996) The idea that the people should have the highest authority is fundamental to democratic principles such as people's sovereignty.

### 3. Asymmetrical Decentralization Theory

Asymmetrical decentralization is the implementation or transfer of special authority that is only given to certain regions in a country, which is considered as an alternative to solve the problem of relations between the central government and regional government in Indonesia. It maintains the existence of regions within the territory of the Unitary State of the Republic of Indonesia. (Tauda, 2018) Asymmetric decentralization includes political, economic, fiscal, and administrative decentralization, but it does not have to be uniform for all regions of the country, taking into account the specificities of each region. The implementation of the asymmetric decentralization policy is a manifestation of the effort to enforce privileges. This concept has actually been implemented in the practice of the constitution of the Republic of Indonesia, namely with the existence of several regions with special status/special autonomy.

## RESEARCH METHODS

This type of research uses the Normative type of legal research. This type of research involves searching for relevant regulations and literature in addition to secondary sources. Legal research is a process of comprehending legal situations to make a conclusion and find solutions. (Dian Hadiati, 2023) In the preparation of this research, a legislative approach and a conceptual approach are used. The Statue Approach is carried out by examining all laws and regulations related to the legal issues being handled, then the Conceptual Approach is carried out by moving from the views and doctrines that develop in legal science by studying the views or doctrines in legal science, the researcher will find ideas that give birth to legal understandings, concepts law, and legal principles that are relevant to the issue at hand.



In this study, the technique of tracing legal materials uses library research supported by the collection of primary, secondary, and tertiary legal materials. The processing of materials in normative legal research requires the collection of legal documents obtained methodically to overcome the legal problems raised in the formulation of the problem. The term "systematic" refers to the practice of organizing legal documents into categories for study and drafting purposes. The procedure used in examining prescriptive analysis data is for the purpose of conducting normative legal research.

## RESULTS AND DISCUSSION

### 1. The Centralized Authority

In the concept of a unitary state, decentralization comes from centralization, but on the other side, decentralization and regional autonomy are provisions of the 1945 Constitution. This means that the unitary state must be implemented in line with regional autonomy. Centralization should not eliminate the existence of regional autonomy as mandated by the constitution. Centralization, especially during the New Order era, resulted in a gap between the center and the regions. Regions are losing their identity and unable to take the initiative to conduct its development in accordance with its own conditions and wealth. The progress of the national economy is inversely related to the progress and welfare of the regions. This is the result of inequitable regulation, distribution and utilization of national resources.

In Law Number 23 of 2014 regarding Regional Government, the direction of centralization can be seen from the preamble that stated the efficiency and effectiveness of regional governance should be improved by considering more aspects of the relationship between the Central Government and the regions and between regions, the potential and diversity of the regions, along with the opportunities and challenges of global competition in the unity of the state governance system. It indicates that Law Number 23 of 2014 was created due to considerations of the ineffectiveness and inefficiency of regional governance, especially in the aspect of central and regional government relations within the unity of the state governance system. The centralization of Law Number 23 of 2014 could be seen from 6 things, which are (1) the assertion of the President's power, (2) the principle of division of affairs, (3) the relationship of natural resource utilization, (4) marine management, (5) legal action for the cancellation of local regulations, and (6) the existence of an appendix to the





Law that regulates the division of concurrent affairs between the central government, provincial regions, and regency/city.

The division of relations between the central government and regional governments also includes regional governments that are particularly or specially hierarchical with a bottom-up pattern, meaning that regencies and cities have to coordinate with the province, and the province also has to coordinate with the central government. The result is the center of government here is not the regional government but the central government as the highest peak of power in a country. In the context of the ideal design of particular or special regions indicates that the central government can provide the status of particular regions/special regions for Provinces, Regencies/Cities that are considered to qualify as particular/special regions. The understanding of particular and special regions shows that there are differences in the meaning, requirements, and background that become the reason for a region to be given particular and special status since the basic and meaning of particular and special regions are different.

The construction of a New Capital City is tied to Nationalism. Rossman states that the concept of 'nation states' is flourishing again today, as seen from capital relocation efforts in 40 countries that illustrate the strong connection between the state and nationalism. For developed countries, especially in the West, the existence of a capital city is viewed as a necessity for administrative arrangements and state governance. But for countries such as in Africa, Asia, and Latin America, which are in the middle of nation and state development, the existence of a capital city is a sensitive matter and considered a reinforcement for national symbols, unification, and equalization of physical and economic development of a country's territory.

The enactment of the IKN Law has raised several implications for the regulation of the head of the authority. If viewed from the law of regional autonomy, it will be seen that in terms of the selection and dismissal of the Head and/or Deputy Head of the IKN Authority, it has not fully implemented the principle of decentralization, but tends to be centralized. This is because the Head and/or Deputy Head of the IKN Authority is at the ministerial level, appointed and dismissed by the President, and can be dismissed at any time before its term of service (5 years) ends. Apart from not reflecting the principle of decentralization, it also does not reflect the democracy that Indonesia has been embracing. (Mulyaningsih, 2022)



## 2. Conflict with Decentralization Principles

Decentralization is not just the distribution of authority, but also contains the division of power to regulate and manage the implementation of the state government between the central government and lower-level government units. Thus, the decentralized system implies the recognition of the government's policy determinants of the potential and capabilities of the regions by involving the people's representatives in the regions in organizing government and development by training themselves to use things that are balanced with the obligations of a democratic society.

The implementation of decentralization in the regional government system in Indonesia is inseparable from the presence of legal politics that was born after the reform in 1998 which sees the condition of Indonesia's vast territory with the characteristics of an archipelagic country. One way to realize the state's goals is due to the vastness of the territory of the Indonesian state, so based on Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is stipulated that the Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial area is divided into districts and cities, where each province, district, and city has a regional government regulated by law. The expression "divided up" instead of "composed of" is not a coincidental term. The phrase is used to explain that our country is a unitary state where state sovereignty is in the hands of the Center. In contrast to the composition that shows more the substance of federalism. (Sekretariat Jendral MPR-RI, 2010)

The legal politics of the implementation of local government can also be seen in the general explanation of Law No. 23 of 2014, namely: The relationship between the Central and Regional Governments. The relationship between the central government and the regions can be traced from the third and fourth paragraphs of the Preamble to the Constitution of the Republic of Indonesia in 1945. The third paragraph contains a statement of the independence of the Indonesian nation. Meanwhile, the fourth paragraph contains a statement that after declaring independence, the first one to be formed was the Indonesian State Government, namely the National Government which is responsible for regulating and managing the Indonesian nation. It is further stated that the task of the Government of the State of Indonesia is to protect the entire nation and spill Indonesian blood, promote the general welfare and educate the life of the nation, and participate in maintaining the world order based on independence, lasting peace, and social justice.



**a) Position of the DPRD of Special Region of Yogyakarta**

The Special Region of Yogyakarta is one of the regions that is given regional privileges that still applies the Kingdom system in its government system. The head of the government is also led by a governor who comes from the Kingdom or sultanate called Sultan Hamengkubuwono. The Yogyakarta Regional Government is a regional government in the system of the Unitary State of the Republic of Indonesia based on the 1945 Constitution of the Republic of Indonesia which carries out government affairs and special affairs carried out by the Yogyakarta Regional Government and the Yogyakarta Regional People's Representative Council.

Article 17 Paragraph (1) "The DIY DPRD has the position, structure, duties, and authority as specified in the laws and regulations." Paragraph (2) "In addition to duties and authorities as referred to in paragraph (1), the DIY DPRD is on duty and authorized: (a) enact Governor and Vice Governor; and (b) establish Regional Regulation and Special Regional Regulation with the Governor. Paragraph (3) states that the implementation of duties and authorities as referred to in paragraphs (1) and (2) is regulated by the rules of conduct of the DIY DPRD which are prepared and determined in accordance with laws and regulations.

**b) Position of the DPRD of Special Region of Jakarta**

Article 1 number 2 of Law Number 29 of 2007 concerning the Provincial Government of the Special Capital Region of Jakarta as the Capital of the Unitary State of the Republic of Indonesia states that "The Provincial Government of the Special Capital Region of Jakarta is the implementation of government affairs by the local government and the Regional People's Representative Council of the Special Capital Region of Jakarta, according to the principle of autonomy and the task of assistance with the principle of broad autonomy in the system and principles of the Unitary State. The Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia."

The Jakarta Special Region Provincial People's Representative Council, hereinafter referred to as the DPRD, is a regional people's representative institution of the Jakarta Special Region Province which is positioned as an element of the Jakarta Special Region Provincial Government. Article 11 Paragraph (1) of the DPRD has the function of forming Regional Regulations and other regulations in accordance with the authority, budget, and supervision. Paragraph



- (2) The duties, authorities, rights, and obligations of the DPRD are in accordance with the provisions of laws and regulations. Paragraph
- (3) The number of DPRD members is regulated in accordance with the provisions of laws and regulations.

**c) Position of the DPRD of Special Territory of Aceh**

The Aceh Regional People's Representative Council, hereinafter referred to as the Aceh People's Representative Council (DPRA), is an element of the Aceh Regional Government whose members are elected through general elections. The Aceh House of Representatives (DPRA) is one of the elements of the Aceh Government which acts as a legislative institution in Aceh with the function of formulating Aceh policies (legislation), allocating resources (budgeting), and supervision (oversight). Regarding the formulation of policies or authorities in the field of legislation in Article 23 paragraph (1) point a of Law No. 11 of 2006 concerning the Government of Aceh, the DPRA has the task of "forming the Aceh Qanun which is discussed with the Governor to obtain joint approval".

In this law as a representative institution, it is clear that the DPRA has functions and authorities in the field of legislation. In this case, the DPRA is an institution that has the authority and authority to make various regional regulations termed as Qanun. Where the qanuns also determine the direction of development and the direction of government policies in Aceh, because the qanun provides the basis and limitations on how governance in various fields must be carried out. The DPRA as an element of the Aceh Government is required to provide accountability for the duties and authorities given to it by showing its optimal performance.

**d) Position of the DPRD of Special Autonomy of Papua**

Papua Province is a province located in the Papua region that is given Special Autonomy within the framework of the Unitary State of the Republic of Indonesia. In Article 1 Number 2 of Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2021 concerning Special Autonomy for Papua Province, it is stated that "Special Autonomy is a special authority recognized and given to the Province of Papua to regulate and manage the interests of the local community according to its own initiative based on the aspirations and basic rights of the Papuan people.



In this Constitution, some regulations related to the DPRP in Papua as stipulated in Article 6 of Law 2 of 2021, namely: Paragraph (1) The DPRP consists of members who: (a) elected in general elections in accordance with the provisions of laws and regulations; and (b) appointed from Indigenous Papuans. Paragraph (2) The members of the DPRP who are appointed as intended in paragraph (1) b amount to 1/4 (one-quarter) of the number of DPRP members as intended in paragraph (1) letter a. Paragraph (3) Members of the DPRP as referred to in paragraph (1) b have a term of office of 5 (five) years and end at the same time as the term of office of the elected DPRP member as intended in paragraph (1) letter a. Paragraph (4) Position, composition, duties, authority, rights and responsibilities, membership, leadership, and fittings of the DPRP in accordance with the provisions of laws and regulations.

**e) The government system of Nusantara Capital City**

Nusantara Capital City is a special regional government unit that organizes government affairs at the provincial level, and its area becomes the seat of the National Capital City (IKN). The National Capital Authority is the distinctive Regional Government of Nusantara Capital City. It is led by the Head of the IKN Authority, who is responsible for the preparation, development, and relocation activities of the IKN. Nusantara Capital City functions as the capital city of the Republic of Indonesia (NKRI), which is the site where central government activity is held, as well as the seat of representatives of foreign countries and representatives of international organizations or institutions. As a distinctive regional government unit, the Regional Government of Nusantara Capital City regulates and manages its government affairs. Meanwhile, the Authority holds a ministerial-level position and is appointed, determined, and dismissed by the President after consulting with the People's Representative Council (DPR). (dkk, 2023)

In the academic paper of the IKN Law, particularly in the section on evaluating statutory regulations, Articles 18, Articles 18A, and Articles 18B of the UUD 1945 serve as the foundation for implementing the concept of special government for the national capital. It is mentioned that four options might be chosen by the government to be used as a concept for the new capital city. The first is a new regional autonomy in the province form, the second is a particular region within the province of East Kalimantan, the third is





a particular region within the new regional autonomy, and the fourth is a specific government for the national capital. (Areliia, 2022)

The IKN Authority based on the IKN Law is designed to function like a regional government at the provincial level. While based on the provisions of Article 18 of the UUD NRI 1945, the type of regional government in the Indonesian constitutional system is very vividly and rigidly limited to only provincial and district/city areas. Therefore, it is not possible to have a name or concept of regional government other than that which has been determined by constitutional norms. Article 18 only recognizes the form of Province, Regency, and/or City while IKN, although positioned as a province, takes the form of an authority. After the enactment of Law Number 23 of 2014, the DPRD is no longer positioned as the Regional People's Representative Council as in the previous Regional Government Law, namely Law Number 22 of 1999. The DPRD is positioned as the Regional Head and the DPRD as a government partner, meaning that their positions are equal. However, the DPRD still has a function, one of which is overseeing, while in the implementation of the IKN Government, with the DPRD elements not being involved, the mechanism for overseeing the IKN Authority institution is also questioned.

### **3. The implications of the limited scope of elections in Nusantara Capital City for democratic representation and participation**

Article 1 Number (2) of the IKN Law states "The National Capital City named Nusantara and referred to as the Nusantara Capital City is a special regional government unit at the provincial level whose territory is the location of the National Capital City as determined and regulated by this Law." The IKN region as a special region which was given as the region hosting the Nusantara Capital City will be led by the Head of the IKN Authority who has the equivalent position as a Minister as regulated in Article 4 Paragraph (1) Letter b of the IKN Law. It is based on Article 5 Paragraph (4) which states that "The Head of Nusantara Capital City Authority is the head of the Special Regional Government of the Nusantara Capital City who has the equivalent position as a minister, and is appointed and dismissed by the President after consulting with the DPR." It generates a distinct contention where these articles are not in line with Article 18 of the 1945 Constitution law of the Republic of Indonesia, which also regulates the concept of regional government to be implemented in Indonesia. According to the Constitution of the Republic of Indonesia regulates the framework of governance, it also establishes some fundamental political





ideas (equality, representation, and individual freedom) that limit how far temporary majorities can go. (Wico, 2021)

Article 13 Paragraph (1) of the IKN Law states that "Excluded from the provisions of laws and regulations governing electoral districts in the context of general elections, the Indonesian Capital City will only hold Presidential and Vice-Presidential Elections, House of Representative (DPR) elections, and Regional Representative Council (DPD) elections." This article indirectly states that in the IKN region, there will be no general elections to select the DPRD, which will result in the absence of DPRD in the IKN region, which is in line with what has been contained in the institutional section in the academic paper of the IKN draft law (RUU) in 2021. If that article is examined and reviewed carefully, it will align with Article 5 Paragraph (3) of the IKN Law, which states that "Excluded from other regional government units, in the Capital City of Nusantara, only national-level general elections will be held." Therefore, the DPRD considered as the administrator of regional government, will also not exist in the Nusantara Capital City region, as stated in Article 13 Paragraph (1) of the IKN Law. The regional authority of the Nusantara Capital City which has a position as a regional government with special autonomy should still have the DPRD as one of the administrators of regional government as stated in Law Number 23 of 2014 about Regional Government. Until now, the DPRD has had an important role as an oversight institution for the performance of regional heads, and DPRD continues to be a fulcrum point for the public in each region to be able to convey their aspirations regarding the various problems that exist in their respective area.

The logistical impact of this regulation is that the regional government in the IKN will not experience political dynamics in practice (such as the election of regional heads and people's representatives) because it has already been determined by the central government. In addition, the authority department formed by the central government reflects unlimited discretion regarding the responsibility of the head authority. Moreover, a long-term plan that will be built in the management of the concept of IKN authority will create a new order in the regional government system. The establishment of the Department of Nusantara Capital City Authority, which was conceived at the ministerial level, has political and legal consequences for the Indonesian state administration because existing regulations, both the UUD NRI 1945 and Law Number 23 of 2014 concerning Regional Government, still do not recognize this form of authority. It can be concluded that in the concept of authority with all the authority and specializations contained, there will be issues in its



implementation. The state regulation and law enforcement are monopolized by the state. the law enforcement in a state of law carries the concept of supremacy of law, equality before the law, and constitution based on individual rights. (Andriyan, 2016)

The Special IKN Government is basically an extension of the Central Government that manages a region in the Unitary State of the Republic of Indonesia (NKRI). In principle, it should not occur to regional governments that implement broad regional autonomy. Certainly, the application of the decentralization principle in Indonesia is considered an ideal regional government concept compared to the return of a centralized system like during the New Order era. As be acquainted, the birth of decentralization in Indonesia was caused by centralization which resulted in absolute and tended toward authoritarianism, thus the mandate of reform carried out as an antithesis to the New Order government system must continue to be implemented. With the narrative that the IKN authority is an extension of the central government, it will slowly return to centralistic power and also greatly threaten the principles of democracy in Indonesia.

## CONCLUSION

The application of the principle of Decentralization and the Concept of Government in the Nusantara Capital City area with the absence of the DPRD will be greatly influential in the local government management system in Indonesia. This is inseparable from the presence of articles in the IKN Law which state that IKN is a special regional government. The defeasance of the DPRD and the position of the Head of Authority which is considered to be at the ministerial level, has caused a conflict in the application of the principle of decentralization contained in Article 18 of the 1945 Constitution of the Republic of Indonesia.

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