

## **The Existence of DKI Jakarta's Special Status as the Capital of Indonesia after the Ratification of the State Capital Law**



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**ABSTRACT:** Jakarta Province has a special autonomous status as a Special Capital Region after Law Number 10 of 1964. DKI Jakarta's journey as the Capital of the Unitary State of the Republic of Indonesia (NKRI) has not been spared from various problems ranging from social, political, economic to ecological. On August 16, 2019, President Joko Widodo through his State of the Union address conveyed that regarding the transfer of the capital which was followed by the promulgation of the IKN Bill through Law Number 3 of 2023. Therefore, this article aims to find out the basis for special regulation of DKI Jakarta and the special status of DKI Jakarta after the existence of the Law. Number 3 of 2022. This research uses the normative legal research method or the statute approach. The results of this study are, first, the Special status of DKI Jakarta is regulated in 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, which revokes Law Number 34 of 1999. Second, the specialization of DKI Jakarta will continue valid as long as there has not been a Presidential Decree regarding the transfer of the State Capital from the Province of the Special Capital Region of Jakarta to the Capital of the Archipelago, no later than 2 (two) years after the promulgation of Law Number 3 of 2022.

**KEYWORDS:** DKI Jakarta, UU IKN, Specificity of Jakarta

### **I. BACKGROUND**

The Unitary State of the Republic of Indonesia is divided into provincial regions and provincial regions are divided into districts/cities, each province, district/city has a regional administration which is regulated by law, this is in accordance with Article 18 paragraph (1) of the Constitution of the Republic of Indonesia. Republic of Indonesia of 1945. It is further regulated in paragraph (2) that regional governments have the right to manage and regulate their own government affairs based on the principle of autonomy and co-administration. This gave birth to regional autonomy which is the right, authority and obligation of an autonomous region to regulate and manage its own government affairs and the interests of the local community in accordance with laws and regulations, in accordance with Article 1 paragraph (5) of Law Number 32 of 2004 concerning Regional Government. which replaces Law Number 22 of 1999 concerning Regional Government which is no longer relevant. In accordance with the provisions contained in Law Number 32 of 2004, the implementation of regional autonomy in regions in Indonesia is based on decentralization in the form of broad, real and responsible autonomy.<sup>1</sup>

The history of the implementation of regional autonomy since 1945 has always been marked by the birth of a law and regulation. In 1945 regional autonomy in Indonesia during the colonialism period emphasized the aspect of the ideals of sovereignty which was realized through the establishment of representative bodies for each region, with three types of autonomous regions, namely charismatic, District and city. In the following period, namely in 1948, the implementation of local government focused on the democratic composition of local government with two types of autonomous regions, namely ordinary autonomous regions and special autonomous regions as well as 3 regional levels namely provinces, districts/big cities and villages/small towns. Furthermore, in 1974 through Law Number 5 of 1974, it regulates the administration of government which is the task of the central government in the regions, so that the principles used switch to real and responsible autonomy, as used in the spirit of regional autonomy today. The next period for implementing regional autonomy was in 1999 through Law Number 22 of 1999 and Law Number 25 of 1999 which were post-reform legal products. Based on these two laws, the implementation of decentralization in Indonesia tends to be devolved, in contrast to the previous law which implemented decentralization with a deconcentration style. In its journey, Law Number 22 of 1999 was born because of demands from people in areas rich in Natural Resources (SDA) who felt disadvantaged.

<sup>1</sup> Sani Safitri, "The History of the Development of Regional Autonomy in Indonesia", *Criksetra Journal*, Vol.5, No.9, 2016. pp. 79-83.

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Over time, the implementation of regional autonomy is based on Law Number 32 of 2004 and Law Number 33 of 2004 which can realize equity for each region. Currently the Law on Regional Government that applies in Indonesia is Law Number 23 of 2014.<sup>2</sup> In addition to general areas, according to Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "The state recognizes and respects regional government units that are special or special in nature which are regulated by law". This provision has the meaning that apart from the provinces that carry out general autonomy, the majority of which are in Indonesia, there are provinces that have special and special autonomy in Indonesia. Currently there are 7 provinces, consisting of 1 special province namely DI Yogyakarta, then 6 special provinces consisting of the Provinces of DKI Jakarta, Aceh, Papua, South Papua, Papua Mountains and Central Papua. Each province has its own background as special and special autonomy. Specialties are given to DKI Jakarta because Jakarta is the capital of the Unitary State of the Republic of Indonesia, this is in accordance with Law Number 34 of 1999 concerning Provincial Government of the Special Capital Region of the Republic of Indonesia Jakarta which has now been revoked by Law Number 29 of 2007<sup>3</sup>.

After the President of Indonesia's state address on 16 August 2019 discussing moving the Indonesian capital city, this decision has been through a study conducted by the National Planning and Development Agency (Bappenas RI). One of the protracted reasons Behind the transfer is the location of the new capital which is in the middle of Indonesia, so that it will be easier to achieve equity and economic equality and development for all Indonesian people.<sup>4</sup> In fact, the ratification and promulgation of the State Capital Bill (IKN) has even been carried out through Law Number 3 of 2022 concerning State Capital (UU IKN). Then, the problem is the status of special autonomy as the national capital which is currently still owned by DKI Jakarta, because relocating the national capital will greatly affect the implementation of regional autonomy in DKI Jakarta Province.

## II. RESEARCH METHODS

The research method used in this article is normative legal research with statutory and comparative approaches, besides that this article is also based on a conceptual approach. The data sources used are secondary data sources or literature studies, while the legal materials used are primary, secondary and tertiary legal materials consisting of laws and regulations, books, scientific writings, news to language dictionaries.

## III. RESULTS AND DISCUSSION

### 1. Arrangements related to the Special Autonomy of Jakarta

The specificity of DKI Jakarta is regulated in 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, which revokes Law Number 34 of 1999. In Article 4 of the Law it states that "DKI Jakarta Province is a special area that functions as the capital of the Unitary State of the Republic of Indonesia as well as an autonomous region at the provincial level". The determination of DKI Jakarta as the capital of the Republic of Indonesia through Law Number 10 of 1964 concerning the Declaration of the Special Capital Region of Greater Jakarta remains as the capital city of the Republic of Indonesia with the name Jakarta contains a long history. At first the Indonesian capital was moved to Yogyakarta from 1946 to 1949 due to the war of independence, but when there was an emergency government the Indonesian capital was in Bukittinggi, West Sumatra from 1948 to 1949 before the arrest of President Soekarno. Then Aceh Province was also the national capital for a period of one week before the national capital returned to Jakarta while waiting for Indonesian independence through the Proclamation of Independence of the Unitary State of the Republic of Indonesia in 1945.<sup>5</sup>

As the capital of the Unitary State of the Republic of Indonesia, of course Jakarta has more complex tasks, challenges and responsibilities, therefore the granting of special autonomy to Jakarta is expected to be able to develop Jakarta in a single unit of planning, implementation and control with the ultimate goal of providing maximum public services for the community. The reason behind the determination of Jakarta as the capital of the Unitary State of the Republic of Indonesia is the long history of the Indonesian people's struggle for independence which was not spared from Jakarta's contribution, which at that time was still called " *Jakarta Tokubetsushi* " during the Japanese colonial period. The specificity of DKI Jakarta as the capital contains various consequences such as the privileges of political, economic, development and other powers.<sup>6</sup> The specificity of DKI Jakarta can also

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<sup>2</sup> Budiman, "The History of Roem-Roijen Diplomacy in the Struggle to Defend the Independence of the Republic of Indonesia in 1949", *Wahana Journal*, Vol.4, No.1, 2017 . pp. 87-112.

<sup>3</sup> Kiki Endah, "Implementation of Regional Autonomy in Indonesia", *Scientific Journal of Governance: MODERAT*, Vol.2, No.2, 2016. Pp 797-804.

<sup>4</sup> Nabil Adiani, "7 Things that Specialize for the DKI Jakarta Province in Regional Autonomy", *Adjar.id*, 2022. Accessed via: <https://adjar.grid.id/read/543572237/7-hal-yang-jadi-pembe-for-provinsi-dki-jakarta-in-regional-autonomy?page=all> on 14 June 2023.

<sup>5</sup> Wesley Liano Hutasoit, "Analysis of Moving the State Capital", *Dedication*, Vol.19, No.2, 2018. pp. 108-128.

<sup>6</sup> Rizky Putri Utama, "Dynamics of the Specificity of DKI Jakarta Province as the National Capital", Thesis, Jakarta: UIN. pp. 38-40.

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be seen from its administration, such as (1) members of the DPRD DKI Jakarta Province with a maximum number of 125% of the maximum number for the category of population of DKI Jakarta; (2) governors may attend cabinet meetings concerning the interests of the Indonesian state capital; (3) the funds for implementing the specificity of DKI Jakarta as the state capital are determined between the government and the DPR in the APBN; (4) the absence of district/city DPRD<sup>7</sup>

The national capital is the center of government of a country, so that the main position of government apparatus is in the capital designated by law. In addition to being the center of government, the capital city is generally the center of economic and political power, so that it has an important role in the life of the nation and state. In several countries, the capital is located in an area that has a large area so that it can accommodate the needs as the capital of a country. As the capital of a country, the area also has a diplomatic mission because it is the seat for embassies of other countries, therefore the government must be able to ensure that the area has a low level of conflict. <sup>8</sup>As Gottmann and Harper define capital as " *The capital is by definition a seat of power and a place of decision making processes that affect the lives and the future of the nation ruled, and that may influence trends and events beyond its borders. Capital differs from other cities: the capital function secures strong and lasting centrality; it calls for a special hosting environment to provide what is required for the safe and efficient performance of the functions of government and decision-making characteristics of the place*" <sup>9</sup>efficiency in carrying out its functions as a government as well as a decision maker.

Jakarta's 59-year journey as the capital of the Republic of Indonesia has played a role in the development of DKI Jakarta through a positive impact on the progress of the province of DKI Jakarta, based on data it is known that 70% of the national economy is driven by the APBN while APBN funds will always revolve around the center of government. This is what ultimately makes DKI Jakarta an increasingly advanced province, apart from various other problems faced by Jakarta as a metropolitan city. <sup>10</sup>Apart from being the capital of the Unitary State of the Republic of Indonesia, Jakarta plays a role as the center of civilization and the center of the economy in Indonesia. Therefore, Jakarta becomes a multi-functional province which in turn has social, political, economic and ecological impacts. The high unemployment rate in DKI Jakarta, slum settlements, increasing criminality, the risk of conflicts of interest, ecological crises, unstoppable traffic jams, economic inequality and various other problems are proof that DKI Jakarta is no longer capable of being the foundation for the capital city of Indonesia. Apart from that, Jakarta is prone to conflict and high crime rates are no longer conducive for state security or related to the diplomatic mission carried out by the nation's capital.<sup>11</sup>

### 2. Special Autonomy for DKI Jakarta after the ratification of Law Number 3 of 2022 concerning the State Capital

Various problems that occur in Jakarta, which acts as the capital of the Unitary State of the Republic of Indonesia as well as an autonomous region at the provincial level which is the center of all trading, financial, corporate and educational activities, raises various problems related to urbanization, security, transportation, the environment, management of special areas and other social problems that affect the community. Requires solving problems synergistically through various instruments. From these various problems, there are 2 consequences of thinking related to the status of the capital of the Republic of Indonesia, (i) moving the capital is a must, but with a time limit, and is no longer a discourse, (ii) moving several departments and activity centers outside Jakarta. From these two consequences, the government is more inclined to move the capital of the Republic of Indonesia as stipulated in Law Number 3 of 2022.

The relocation of the national capital did not only occur in Indonesia, in 2004 the South Korean government moved its capital from Seoul to Sejong. The Brasila government also did the same thing, even before the transfer of the South Korean capital, which moved from Rio Jenairo to the interior due to population density. China also experienced the same thing, where the nation's capital moved from Nanjing to Shanghai because the traditional capital was fading economically. <sup>12</sup>With these facts and supported by the provisions contained in the 1945 Constitution of the Republic of Indonesia which do not explicitly regulate the location of the capital of the Republic of Indonesia so that there is a high degree of flexibility in setting up the state capital, it is very possible

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<sup>7</sup>Sani Safitri, "The History of the Development of Regional Autonomy in Indonesia", *Criksetra Journal*, Vol.5, No.9, 2016. pp. 79-83.

<sup>8</sup>Doring Kokutungisa Ishenda, " *Determinants in Relocation of Capital City*", *Journal of Public Administration and Governance*, Vol.9, No.4, 2019. Pp 200-220.

<sup>9</sup>Jean Gottmann and Robert A. Harper, Since Megalopolis, " *The Urban Writings of Jeas Gottmann* ", Baltimore and London: The John Hopkins University Press, 1990. Pg 63 in Fikri hadi, Rosa Ristawati, " *The Relocation of Indonesia's Capital City and the Presidential Powers in Constitutional Perspective* ", *Journal of the Constitution*, Vol.16, No.3, 2020. Pp 530-557.

<sup>10</sup>HM Yahya, "Moving the Capital of a Developed and Prosperous Country", *Journal of Religion and Society Studies*, Vol. 14, No. 01, 2018. Pgs 21-30.

<sup>11</sup>Bunbunana Hesty FMT, Andriman Andaya Lestari, Achmad Farid Wadjdi, " *Utilization of Big Data Analytics Technology to Support National Defense (Case Study of Social Conflict Prediction in DKI Jakarta)*", *Journal of Sensing Technology*, Vol.3, No.2, 2021. Hlm 1 -14.

<sup>12</sup>Fikri Hadi, Rosa Ristawati, "Moving the Indonesian Capital City and the Power of the President in a Constitutional Perspective", *Journal of the Constitution*, Vol.17, No.3, 2020 . pp. 530-557.

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for the transfer of the capital of the Republic of Indonesia to occur. However, moving the capital of the Republic of Indonesia from DKI Jakarta will certainly affect the special autonomy possessed by DKI Jakarta.

The philosophical, juridical and social foundations of the formation of the IKN Law were able to convince the public to accept the transfer of the Republic of Indonesia's capital. In its philosophical basis, the IKN Bill regulates the governance of the capital of the Republic of Indonesia so that it becomes better, in terms of governance as well as the dimensions of spatial planning and the environment. Of course, this arrangement will keep the capital of the Republic of Indonesia away from the threat of ecological disasters, crime, corruption and increase economic growth and equity in the eastern region of Indonesia which can support the achievement of national goals and is in accordance with the fifth precept, namely social justice for all Indonesian people. From a sociological point of view, the Academic Paper of the IKN Bill describes in detail how to apply the theories, principles/principles and ideas of the management of the IKN which will solve urban problems that can meet the needs of society in general in terms of economics and business, spatial planning, land use stewardship, government clean from corruption, better living environment and higher disaster resilience.<sup>13</sup> From a juridical perspective, the IKN Bill will address the legal vacuum regarding the transfer of the capital of the Unitary State of the Republic of Indonesia for which there is no legal basis. After the state address delivered by President Joko Widodo on 16 August 2022 which stated that there would be a transfer of the capital of the Republic of Indonesia, there was no legal certainty. Through the NA, the government has set targets for the formation of the IKN Law which consists of 3 things namely: 1) IKN as a sustainable city in the world; 2) IKN as an economic driver in the future; and 3) IKN as a symbol of identity.<sup>14</sup>

The ratification of the IKN Law does not necessarily abolish the special status of DKI Jakarta. In its transitional provisions, Article 39 paragraph (1) states that "The position, function and role of the State Capital will remain in the Province of the Special Capital Region of Jakarta until the date the transfer of the State Capital from the Special Capital Region of Jakarta to the Capital City of the Archipelago is determined by a Presidential Decree". This means that Jakarta is still carrying out special autonomy as the national capital until the issuance of a presidential decree moving the capital of the Republic of Indonesia. The period for the issuance of the Presidential Decree is regulated in Article 41 paragraph (2) which states that "No later than 2 (two) years from the promulgation of this Law, Law Number 29 of 2007 concerning Provincial Government of the Special Capital Region of Jakarta as the Capital of the Unitary State of the Republic of Indonesia." Republic is amended in accordance with the provisions of this Law". Therefore, the special status of DKI Jakarta is still valid for up to 2 (two) years after Law Number 3 of 2022 was promulgated.

Currently, the DKI Jakarta government is sending the Jakarta specificity bill draft to the DPRD in May 2023. The Jakarta specificity bill was created in order to maintain the special status of Jakarta so that it continues to have special autonomy even though it does not have the status of the Republic of Indonesia's capital. The submission of the bill is also an effort to maintain and improve the welfare of Jakarta residents after the transfer of the capital of the Republic of Indonesia. Even though until now discussions are still being carried out regarding the bill that regulates the specifics of Jakarta by the Ministry of Home Affairs taking into account the opinion of the Provincial Government of DKI Jakarta, there are several important things in the draft bill which cover the functions and authorities of Jakarta as the center of the economy to the management of state property.<sup>15</sup> It is planned that the Jakarta Specificity Bill will be submitted to the DPR in June 2023 if it has received approval from the President. The government, through the bill, is preparing Jakarta to become the center of the economy, business and global city after the Presidential Decree moved the capital of the Republic of Indonesia. The formulation of the Jakarta Specificity Bill also encountered problems when the formulation of the Bill was based on Law Number 23 of 2014 concerning Regional Government which made it impossible for Jakarta to become the center of the national and global economy, especially with regard to the absolute and concurrent authority of the government. Therefore, the Jakarta Specificity Bill requires the transfer of 12 authorities belonging to the central government to become the property of the Jakarta government to support Jakarta's specificity as an economic center. Even though the formulation of the Jakarta Specificity Bill is not an urgent matter, the government must still pay attention to the province of Jakarta in order to have a clear development direction for the future.

## IV. CONCLUSION

Based on the discussion in this study, it can be concluded as follows;

Whereas the determination of Jakarta to become the capital of the Republic of Indonesia was through Law Number 10 of 1964 while the Specialties of DKI Jakarta are regulated in 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, which revoked Law Number 34

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<sup>13</sup> Anwar Kurniadi, "Selection of the New Republic of Indonesia Capital City based on the Level of Disaster", *JMB: Journal of Disaster Management*, Vol.5, No.2, 2019. Pg 1-12.

<sup>14</sup> See the Academic Paper of the State Capital Bill.

<sup>15</sup> Agus Susanto, "After Not Being the Capital City, Jakarta is Projected to Become the Center for the Economy and Global City", *Kompas.id.*, 2023. Accessed via: <https://www.kompas.id/baca/metro/2023/05/12/Jakarta-is-projected-to-become-center-of-economy-and-global-city> on 26 June 2023.



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of 1999. Existence The Special Autonomy of DKI Jakarta will still apply before the issuance of a Presidential Decree regarding the transfer of the State Capital from the Province of the Special Capital Region of Jakarta to the Capital of the Archipelago within a period of 2 (two) years after the ratification of the IKN Law, this is in accordance with Article 41 paragraph (2) of the Law IKN. Therefore, currently the Government of DKI Jakarta is formulating the special bill for Jakarta so that it will continue to have special status even though it is not the capital of the Unitary State of the Republic of Indonesia.

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