

Deficiencies in Regulatory Formulation: An Evaluation of the IKN Law through the Corruption Risk Assessment Framework

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Abstract

The government-led move of the capital from Jakarta to Nusantara has sparked substantial public debate, encompassing legal drafting, institutional issues, and the construction and relocation process. This study aimed to assess the potential corruption risk associated with the drafting and content of Law Number 21 of 2023, which modifies Law Number 3 of 2022 on the State Capital (IKN), utilizing the Corruption Risk Assessment framework. The research identified three significant deficiencies: First, the formulation of the IKN Law did not adhere to the CRA's administrative standards, particularly concerning the sub-criteria of accessibility and openness, due to the absence of meaningful participation. Second, the Ibu Kota Nusantara Authority (IKN Authority) needed to effectively differentiate between the functions of planning, development, and relocation of the capital and the responsibilities of the Special Regional Government of IKN. Third, the IKN Law needed to define the special authorities granted to the IKN Authority. This situation enables the government to obtain additional powers as special authority for the IKN Authority without oversight, potentially leading to the misuse of power in favor of certain parties. The research suggests that the IKN should separate its roles as a project implementer from its government function. According to Article 18 of the 1945 Constitution, the treatment of government implementation should be consistent with that of other local governments. Also, the government must implement substantial limitations in the State Capital Relocation Law concerning its exclusive authority. The House of Representatives must authorize further authority if necessary.

Keywords: *IKN, Corruption Risk Assessment, Law Formulation*

INTRODUCTION

President Joko Widodo announced the plan to move the State Capital (IKN) from Jakarta to Nusantara in his State Address to the People's Consultative Assembly (MPR) on August 16, 2019. This plan to relocate the capital is an innovation to promote economic equity and justice in Indonesia. European Commission, (2013) The definition states, "*Innovation in the public sector can be defined as the process of generating new ideas and implementing them to create value for society, covering new or improved processes (internal focus) and services (external focus)*". Thus, this innovation should create better conditions for society in various sectors, particularly public services. Moreover, as proposed by the Indonesian Government, this innovation can be categorized as disruptive. Hartley (2005) States, "*Disruptive innovation in the public sector can involve radical changes to services or processes that challenge existing paradigms and often require new skills, capabilities, and structures to implement effectively*". According to what the government aims to achieve with the relocation of the State Capital, this project involves physical relocation and the formation of new institutional structures with different authorities and coordination patterns compared to previous institutions.

Collaboration is also necessary in formulating and implementing a large and complex policy, such as relocating the State Capital. Emerson et al., (2012) Stated, "*Collaborative governance involves engaging people constructively across the boundaries of public agencies, levels of government, and the public, private, and civic spheres to carry out a public purpose that could*

not otherwise be accomplished.” Thus, the successful implementation of a policy requires cross-sectoral cooperation and involves various institutions and actors inside and outside the government.

The House of Representatives (DPR) demonstrated the first collaboration by quickly responding to this plan and requesting the Government to immediately submit a Draft Law (RUU) on the relocation of IKN. Through the Minister of National Development Planning/Head of the National Development Planning Agency (Bappenas), the government submitted the academic manuscript and draft law to the leadership of the DPR on September 29, 2021. Based on this submission, a Special Committee for the Draft Law on the State Capital (IKN) was established by the DPR on December 7, 2021. Within four months, the Government and the DPR agreed to pass the IKN Draft Law into the IKN Law, which the President later enacted as Law Number 3 of 2022 in the State Capital on February 15, 2022.

Although innovation and collaboration have many positive aspects for driving policy change, according to Cinar et al. (2019), innovation is also highly vulnerable to corruption risks if obstacles (resources, technology infrastructure, and bureaucracy) are misused to create opportunities for abuse of power. Additionally, according to Emerson et al. (2012), collaboration also carries corruption risks when there is a lack of transparency and hidden information between collaborating actors, leading to decisions that could result in conflicts of interest or favoritism.

Based on these considerations, this study aims to evaluate whether the government's innovation and collaboration in relocating the State Capital have fulfilled its objectives or created corruption risks in its governance. The assessment was conducted using the Corruption Risk Assessment (CRA) framework developed by the Corruption Eradication Commission (KPK) in adaptation to the Anti-Corruption and Civil Rights Commission (ACRC) of South Korea to evaluate regulations related to the relocation of IKN.

THEORETICAL STUDY

Definition, Measurement Barriers, and Risk of Innovation in the Public Sector

The European Commission, (2013) Defines “*Innovation in the public sector as the process of generating new ideas and implementing them to create value for society, covering new or improved processes (internal focus) and services (external focus)*”. Although innovation is necessary, numerous barriers in the public sector can slow down or hinder the innovation process. Cinar et al., (2019) Several primary barriers were identified, including limited resources, inadequate technological infrastructure, and resistance from employees and management. If adequate control mechanisms are not in place to ensure that the innovation process is transparent and accountable, these barriers can create opportunities for corruption.

Furthermore, Cinar et al., (2021) Elaborate that limited resources often prompt organizations to seek quick solutions or shortcuts to accelerate innovation. This situation can create opportunities for certain officials or individuals to misuse public resources for personal gain. For example, when innovation requires rapid procurement of goods and services, officials may award contracts to certain parties without transparent and competitive processes. Similarly, weak information technology infrastructure can hinder public sector innovation. A fragile IT system makes the innovation process less transparent. Decisions that should be openly monitored through digital platforms become difficult to access or follow, opening opportunities for officials to conceal information or make unmonitored decisions. Inadequate IT infrastructure also limits oversight of procurement processes and budget allocation. Without

an efficient system for recording transactions and monitoring innovation processes, the misuse of public funds and corrupt practices can go undetected.

Therefore, oversight is crucial during the innovation process. One method is to measure innovation against the policy's objectives. Poorly monitored innovation can create corruption opportunities, especially when the data necessary to support innovation is unavailable or inaccurately measured. Arundel et al. (2019) Emphasize that measuring innovation in the public sector is often inadequate because it does not fully collect the data necessary to monitor innovation progress in a way that supports policy objectives. Measuring innovation in the public sector involves various approaches, such as case studies, innovation awards, managerial surveys, and broader innovation surveys. These approaches allow for evaluating how innovative a public institution is in various contexts, including health, local administration, and others. (Şandor, 2018).

Insufficient data collection can lead to poorly designed innovations that do not meet public needs or fail to assess their actual impact. If stakeholders have discretion without solid oversight mechanisms, it can create opportunities for abuse of power and corruption. Moreover, non-transparent measurement in innovation can be exploited by certain parties to strengthen their political position or influence at the expense of public service efficiency and quality. Therefore, Arundel et al., (2019) Emphasize the importance of transparency and accurate data collection in measuring innovation to ensure that the benefits of public innovation truly reach society. Without such transparency, the risk of abuse of power and data manipulation becomes high, creating opportunities for corruption.

In addition, relocating the State Capital from Jakarta to Nusantara can be categorized as a disruptive innovation. According to Hartley (2005), "*Disruptive innovation in the public sector can involve radical changes to services or processes that challenge existing paradigms and often require new skills, capabilities, and structures to implement effectively*" because the relocation of the State Capital is not merely the physical relocation or construction of new buildings but also involves changes in the institution who responsibilities of the Special Regional Government, its authority, coordination patterns, and oversight mechanisms. The characteristics of disruptive innovation include:

- a. **Changing Institutional Structures:** Disruptive innovation can radically alter the government's institutional governance structures and established practices. This includes decision-making processes, policy formulation, and government and public interactions.
- b. **Introducing New Technologies or Approaches:** Disruptive innovation often involves adopting new technologies or methods previously unapplied in government institutions. These include digitization, artificial intelligence, and more advanced data management systems.
- c. **Facing Bureaucratic Resistance:** Disruptive innovation in the public sector typically encounters resistance from actors with vested interests in maintaining the status quo. Therefore, disruptive innovation requires strong leadership and political support to overcome bureaucratic barriers.
- d. **Changing the Way the Government Interacts with the Public:** Disruptive innovation in the public sector affects internal organizations and changes how the government interacts with the public. This can mean more transparent, participatory, and responsive service systems that address citizens' needs better.

Despite these positive aspects, disruptive innovation can also create new risks, including corruption risks, if not appropriately managed. Previous studies have shown that corruption risks can increase significantly when significant innovations occur without adequate oversight.

The Role of Collaborative Governance and Its Risks in IKN Development

Collaboration is necessary to address the complexity of the State Capital relocation, which involves various actors from different backgrounds and social and economic challenges. Cross-sectoral collaboration is critical in ensuring innovation's success in the public sector. Emerson et al., (2012) It defines collaborative governance as the process in which various actors from the public, private, and civil society sectors work together to achieve a public purpose that a single party cannot accomplish. Similarly, Ansell & Gash, (2018) Explains that collaborative governance enables better resource management and policy implementation by combining knowledge, skills, and resources from various actors, both from the government and civil society. The critical characteristics of collaborative governance include:

- a. **Formal and Consensus-Based Processes:** Collaborative governance is a formal process with clear rules and structures, where decisions are made through an approach that seeks to reach consensus among the involved actors.
- b. **Involvement of Non-State Actors:** A key feature of collaborative governance is the involvement of various non-state actors, such as local communities, civil society organizations, business sectors, and interest groups, in the decision-making process. They have a significant voice in decisions, not merely symbolic participation.
- c. **Deliberative Processes:** This model emphasizes transparent deliberative processes where all parties can provide input, exchange information, and work together to find mutually beneficial solutions.
- d. **Collective Problem-Solving:** The primary objective of collaborative governance is to solve complex public problems that require cross-sector solutions and collaboration among multiple stakeholders.

Applying the collaborative governance model in the State Capital relocation project can help reduce corruption risks by involving various stakeholders in decision-making. This model encourages transparency, accountability, and broader participation, all essential for preventing abuse of power. It can also be applied to ensure that the decisions reflect the broader public interest, thus reducing the opportunities for corruption.

Although the cross-sectoral collaborative framework developed by Emerson and Nabatchi is recognized as an effective method for addressing complex issues in public governance, collaboration can also pose corruption risks if not conducted with sufficient transparency and accountability. For example, collaboration between the public and private sectors often involves large-scale resource allocation, which can incentivize certain actors to leverage their positions for personal gain. In collaboration processes involving the private sector, corruption risks can arise through non-transparent contract awarding mechanisms or the neglect of accountability standards. Conflict of interest is also one of the main risks in cross-sectoral collaboration. When government officials or other actors involved in collaboration have personal interests that conflict with the public interest, it can lead to corrupt decisions. For instance, in developing the new State Capital (IKN), officials collaborating with private developers may be motivated to enrich themselves by awarding contracts to specific parties.

State Capture Corruption

The State Capital relocation involves many elite government actors with significant power, making it highly susceptible to state corruption. State corruption occurs when government institutions no longer serve the public interest but are instead used to serve the personal or group interests of internal actors (public officials) or external actors (entrepreneurs or other non-state actors). In this context, state corruption is not just a legal violation but also a form of administrative deviation that manipulates state power for specific benefits. (Caiden, 1988). According to Heidenheimer et al. (1989), state corruption refers to the abuse of power by individuals or groups who hold authority within government institutions to gain personal, political, or financial advantages. State corruption can occur through various mechanisms such as bribery, nepotism, conspiracy, or embezzlement of state resources. According to Caiden (1988), The characteristics of state corruption are as follows:

- a. Institutionalized Corruption: State corruption tends to become institutionalized and part of standard practices within government, where public officials and bureaucrats view corruption as a usual way of conducting administrative activities. This makes corruption challenging to eradicate because it has become part of the bureaucratic culture.
- b. Structural Nature of Corruption: State corruption is structural, meaning it occurs due to systemic weaknesses in governance. This includes weak regulations, ineffective oversight, and a lack of accountability mechanisms that allow public officials to abuse their authority without fear of consequences. Caiden emphasizes that in a corrupt governance system, patterns of power abuse occur at all organizational levels, from high-ranking officials to lower-level employees, as the organizational structure encourages corrupt behavior.
- c. Control by a Small Group or Elite (Oligarchy): State corruption occurs when a small group of people or elites control the state and use their power to maintain dominance over state resources and energy. This can include control over legislative processes, fiscal policy, or law enforcement, allowing them to enrich themselves and their cronies.
- d. Manipulation of Regulations and Legal Systems: State corruption involves manipulating regulations and legal systems to align with the interests of specific actors. In this context, regulations are not made to protect public interests but rather to create benefits for groups that have the power to influence legislative and regulatory processes. For example, laws or regulations may be amended to grant special concessions to specific companies or groups, secure large contracts for development projects, or remove existing legal barriers.

State corruption involving the manipulation of regulations and legal systems is referred to as state capture. This occurs when corrupt actors can control policies, laws, and rules and gain access to state resources through collusion with high-ranking officials or political leaders. This phenomenon usually involves large corporations, political elites, or oligarchic groups working together to dominate legislative and administrative processes for personal gain. State capture, defined by Caiden (1988), encompasses situations where public policies and regulations are engineered. Policies and regulations are no longer formulated based on broader public interests. Still, they are instead designed to accommodate the interests of actors who have the power to influence legislative and regulatory processes. For instance, laws or regulations can be made or modified to provide special concessions to companies or specific groups, secure large contracts for development projects, or remove legal barriers that were previously in place.

The actors involved in state capture typically control state institutions such as parliament, the judiciary, and the executive branch. They can influence who is appointed to essential positions or ensure the formulated regulations favor them. Public officials or politicians involved in this corruption often benefit from financial support, career guarantees, or access to further power.

State capture also involves collusion between public officials and non-state actors such as corporations or business elites. This collusion allows corporations or elites to control policy-making, administrative decisions, or the allocation of state resources. For example, large companies can influence the process of granting mining permits or infrastructure development through bribes to officials with authority, ensuring that the decision-making process always favors their interests. According to Caiden, the characteristics of state capture include:

- a. **Influence over Policy-Making Processes:** State capture occurs when certain parties can influence public regulations and policies from start to finish. This includes influence over the drafting, implementation, and enforcement of rules. Officials involved in state capture may actively modify policies, regulations, or government programs to benefit those who pay them or with whom they have close relationships.
- b. **Distortion of Public Policy:** State capture creates distortions in public policy because decisions are no longer based on objective policy analysis but on the interests of certain actors. This leads to misallocating resources, where government budgets and programs are directed to benefit specific groups.
- c. **Integration of Political and Economic Corruption:** State capture demonstrates strong integration between political and economic corruption. In other words, the actors involved in state capture exploit their political positions and use financial power to secure their positions. Business elites involved in state capture usually have a symbiotic relationship with political actors, where they mutually benefit through policies that favor both parties.

METHOD

Research Design

This study aims to assess the potential corruption risks within the innovation and collaboration process related to the relocation of the State Capital (IKN) using the Corruption Risk Assessment (CRA) framework. The relocation of the State Capital includes activities ranging from planning, development, and relocation to the administration of the State Capital government. The relocation of the State Capital involves numerous elite government actors with significant power, making it susceptible to state capture corruption risks. CRA is a framework that helps detect state capture risks by identifying elements vulnerable to influence or control by actors with vested interests in specific regulations or policies.

CRA is an anti-corruption prevention instrument developed by the Corruption Eradication Commission (KPK) as an adaptation from the Anti-Corruption and Civil Rights Commission (ACRC) of South Korea. CRA can systematically analyze and assess the factors that cause corruption in a regulation, whether it is still in draft form or has already been enacted (Direktorat Litbang KPK, 2020). This framework is used to achieve several objectives, including:

- a. **Preventing Corruption.** CRA aims to prevent corruption by eliminating loopholes in regulation, such as ambiguous provisions, lack of certainty, and unrealistic standards.
- b. **Establishing a Strong Anti-Corruption Policy Foundation.** CRA helps establish a solid anti-corruption policy foundation by analyzing and assessing the root causes of corruption within a regulation.
- c. **Improving Anti-Corruption Policy Reliability.** CRA can enhance the reliability of anti-corruption policies by applying assessment criteria and increasing the transparency of administrative procedures in regulatory drafting.
- d. **Reducing Economic and Social Costs.** CRA aims to prevent economic and social costs caused by corruption by eliminating the root causes of corruption in a regulation.

- e. Enhancing Transparency in Regulation Implementation. CRA considers various perspectives from policymakers and stakeholders to increase the transparency of regulation implementation.

Research Framework

CRA is conducted by evaluating a regulation through several aspects and criteria that have been established. These aspects and criteria are potential opportunities for certain parties to commit corruption. The risk assessment aspects in the CRA framework include:

1. The Compliance Aspect has three criteria: compliance burden, Adequacy of Compliance Sanctions and special treatment.
2. The Implementation Aspect has three criteria: an objective decision-making basis, transparency and accountability in assigning tasks to other parties, and the risk of misallocation or misuse of government assistance.
3. The Administrative Aspect has three criteria: accessibility, openness, and clarity in providing public services and administrative processes.
4. The Corruption Control Aspect has two criteria: conflict of interest and the reliability of anti-corruption mechanisms.

This study focuses on identifying corruption risks in the innovation and collaboration processes related to the relocation of the State Capital (IKN), particularly in formulating the law and establishing an institution and special authority of the IKN Authority. Therefore, the appropriate CRA framework for evaluating these processes is the Administrative Aspect, which is precisely the accessibility criteria, and the Implementation Aspect, particularly the requirements of objective decision-making basis.

Research Variables and Indicators

Based on the CRA framework, the variables and indicators used in this research are as follows:

1. Accessibility

This criterion is used to assess whether there are sufficient opportunities for stakeholders (individuals, business entities, and organizations) to participate in the regulatory drafting process (e.g., public hearings, proposal submission, feedback provision, and other participatory processes), express their opinions and whether all relevant stakeholders are adequately represented in the administrative regulatory process. Involving stakeholders and relevant experts can increase transparency and accountability in the administrative process of regulatory drafting and prevent regulators from violating procedures or abusing their authority. This criterion is part of the risk prevention mechanism for corruption. The Accessibility criterion examines the following aspects:

a. Provisions Regulating Public Participation

This aspect evaluates whether public participation mechanisms have been incorporated into the administrative procedures of policy drafting. The assessment reviews the methods, timing, and content of provisions regulating public participation in the policy-making process.

b. Adequacy and Effectiveness of Public Participation

This aspect reviews whether public participation is quickly conducted in regulatory drafting and assesses its effectiveness by examining whether participation is limited to specific stakeholders.

c. Need to Establish Public Participation Mechanisms

When no public involvement mechanisms exist for participating in regulatory drafting, the assessment reviews whether there is a justification for the absence of public participation mechanisms.

Critical questions for evaluating whether a regulation meets the Accessibility criteria are as follows:

- Does a mechanism allow citizens to participate in the regulatory drafting process?
- If such a mechanism exists, is it easily accessible to the public?
- If such a mechanism exists, does it provide adequate opportunities for participation?
- Is public participation limited to specific groups? If so, should public participation be expanded?
- Is there a justification for not organizing public participation?
- Should a public participation system be implemented shortly to enhance the transparency of the administrative procedures in regulatory drafting?

Policymakers may not provide sufficient access to the regulatory drafting process because of concerns over negative impacts such as data and information leaks. They may also argue that policy formulation is urgent and that public input has already been sufficiently obtained.

2. Objective Decision-Making Basis

This criterion assesses whether discretionary authority regulations have been clearly, concretely, and objectively stated. For example, whether the regulation clearly defines who holds discretionary jurisdiction, the scope of discretionary power, the standards and procedures for exercising discretionary authority, and other relevant details. This criterion also determines whether a control mechanism is in place to prevent excessive or overreaching use of discretion.

Some regulations allow public officials to exercise discretion due to the increasing complexity and diversification of public administration functions. However, ambiguous and abstract regulations enable public officials to interpret the provisions arbitrarily, leading to potential abuse of discretionary power for personal gain from bribing parties. The Objective Decision-Making Basis criterion examines the following aspects:

a. Clarity Regarding the Authority with Discretionary Power

This aspect reviews whether the government or authorized agency in charge of exercising discretion has been clearly defined in the legal provisions or regulatory drafts.

b. Concreteness of Conditions under Which Discretion Is Permitted and How Discretion is Exercised

This aspect examines whether the conditions, standards, and processes for exercising discretion have been explicitly defined in the draft regulation. It also reviews whether primary discretionary criteria and processes should be specified in regulatory articles and whether derivative regulations (such as guidelines or administrative regulations) are needed.

c. Adequacy of Regulations Regarding Various Types of Discretion

This aspect compares the implementation of discretion and its impact on other similar regulations to ensure that no excessive discretion is granted under the reviewed regulation.

d. Clarity of Regulations Concerning Discretionary Authority

This aspect evaluates the potential for corruption arising from abuse or arbitrary interpretation of a discretionary provision. Suppose the assessment shows that discretionary provisions lack clarity. In that case, it should be examined whether the protection of

fundamental rights can be guaranteed in exercising discretion or whether a mechanism to prevent excessive discretionary authority needs to be formulated in the future.

e. Existence of Control Mechanisms to Prevent Excessive Use of Discretion

This aspect examines whether public participation mechanisms (e.g., public notification processes, public hearings, etc.) have been established to monitor the exercise of discretionary authority. It also reviews whether a public information disclosure system is available to provide data and information related to exercising discretionary authority.

Critical questions for assessing the corruption risks in the Objective Decision-Making Basis criterion are as follows:

- Does the draft regulation state who is authorized to exercise discretionary power?
- Does the draft regulation clearly state the conditions, standards, and procedures for exercising discretionary power?
- Are the significant standards for discretion and its procedures regulated through derivative administrative regulations (such as guidelines and instructions), and is it necessary to control certain types of discretion at a higher legal level?
- Is there a common understanding regarding the standards for discretion in interpreting the relevant discretionary regulations? Does this shared understanding and interpretation also apply to public officials in interpreting regulations concerning discretionary authority?
- Can the discretionary standards/criteria outlined in the legal provisions be applied directly without additional explanations?
- When regulations allow for discretion, have the factors for consideration been determined specifically?
- Is the scope of discretionary authority excessive?
- Do derivative regulations allow for new discretionary powers to be granted to public officials when the legal basis for such discretionary authority is not provided in higher regulations?
- Is there a risk of public officials abusing or arbitrarily exercising discretion due to ambiguous legal provisions governing discretion?
- Are control mechanisms in place to mitigate the negative impacts of regulations containing unclear discretionary content?

Data Collection Method

The data for this research were collected through document analysis, reviewing various related regulations and legal frameworks, reports, and previous studies that pertain to the relocation of the State Capital (IKN). Additionally, interviews were conducted with experts and stakeholders involved in the planning and implementation of IKN relocation to gather insights and opinions on the corruption risks and the policies' effectiveness.

Data Analysis

The data were analyzed using qualitative methods to identify potential corruption risks within the regulation of the IKN relocation framework and institutional setup. Each aspect and criterion of the CRA was systematically evaluated against the content of the IKN's Law and its supporting regulations to determine whether they adhere to sound governance principles and prevent opportunities for corruption.

RESULTS AND DISCUSSION

Legislation Formation

Public participation is guaranteed as a constitutional right under the 1945 Constitution of the Republic of Indonesia. (Undang-Undang Dasar Negara Republik Indonesia 1945), as stipulated in Article 27 paragraph (1), which states, *“All citizens shall be equal before the law and government and shall be obligated to uphold the law and government without exception,”* and Article 28C paragraph (2), which reads, *“Every person shall have the right to advance themselves in striving for their rights collectively to build their community, nation, and country.”* Article 5 point (g) of Law Number 12 of 2011 (Undang-Undang Nomor 12 Tahun 2011), The Formulation of Legislation, It states that the principles of good legislative drafting must be adhered to in forming legislation, one of which is openness. Furthermore, Article 96, paragraph (1) of the same law explains that the public can provide input in forming legislation, either orally or in writing. Article 96, paragraph (4) further stipulates that to facilitate public input, every draft regulation must be easily accessible.

During the discussion and drafting of the State Capital (IKN) law, 26 parties were heard as expert witnesses (scholars) from December 8, 2021, to December 12, 2021. However, while hearing expert opinions, several experts did not have their views considered (suitable to be considered). They did not receive an explanation for why their input was not included in drafting the regulation (right to be explained).

Referring to the Decision of the Constitutional Court of the Republic of Indonesia (Mahkamah Konstitusi) No. 91/PUU-XVIII/2020 regarding the Formal Review of Law Number 11 of 2020 on Job Creation (Cipta Kerja), the meaning of public participation has been formulated. At a minimum, public participation in the formation of law must fulfill three prerequisites: (1) the right to be heard, (2) the right to be considered, and (3) the right to be explained (receive an explanation or response to the opinions provided). Thus, to qualify for a law formation that has been carried out with adequate and meaningful participation, the requirements for the right to be heard, the right to be considered, and the right to be explained must be met.

According to Ansell & Gash, (2018), combining knowledge, skills, and resources from various actors, both from the government and civil society, can be applied to ensure that decisions made reflect broad public interests and reduce opportunities for corruption. However, the policy formulation process did not fully implement collaborative governance regarding the IKN law. When viewed from the aspects and criteria of the CRA framework, the description above demonstrates conditions that do not align with the Administrative Aspect in the requirements of Accessibility and Transparency. Not all stakeholders interested in the regulation were given full access to participate.

The lack of public involvement/participation violates citizens' fundamental rights as guaranteed under the principle of people's sovereignty. In addition, breaches against Law No. 12 of 2011 on the Formulation of Legislation and the Constitutional Court Decision No. 91/PUU-XVIII/2020 concerning "meaningful participation" in the drafting of the IKN law create further vulnerabilities, increasing the risk of corruption in the IKN law that was jointly drafted by the Government and the House of Representatives (DPR). Failure to build transparency with the public at every stage of law-making—from drafting, deliberation, and material and formal ratification to promulgation—can lead to suspicions of hidden agendas that may benefit specific parties.

Institutional Framework of Ibu Kota Nusantara Authority

The institutional framework of the Ibu Kota Nusantara Authority (IKN Authority) is regulated under Law Number 3 of 2022 on the State Capital (Undang-Undang Nomor 3 Tahun 2022) As follows:

1. The Ibu Kota Nusantara Authority is a regional government entity with a special status equivalent to a province (Article 1, Point 2 of the IKN Law).
2. The Ibu Kota Nusantara Authority is the implementing agency for the planning, development, and relocation of the State Capital and the administration of the Special Regional Government of Ibu Kota Nusantara (Article 1, Point 9 of the IKN Law).
3. The Ibu Kota Nusantara Authority is a ministry-level institution that administers the Special Regional Government of Ibu Kota Nusantara (Article 4, Paragraph 1, Point B of the IKN Law).
4. The Head of the Ibu Kota Nusantara Authority serves as the head of the Special Regional Government of Ibu Kota Nusantara. It is of ministerial rank, appointed and dismissed by the President after consultation with the DPR (Article 5, Paragraph 4 of the IKN Law).

Based on the description above, the Ibu Kota Nusantara Authority is a unique regional government entity equivalent to a province. The phrase "equivalent to a province" indicates that the Ibu Kota Nusantara Authority is not a province. It is also stated that the Ibu Kota Nusantara Authority is a ministry-level institution that administers the particular regional government. This is inconsistent with Article 18B, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (Undang-Undang Dasar Negara Republik Indonesia 1945), which stipulates that particular regional governments should be provinces, either as unique regions or regions with special autonomy. Four provinces have unique and autonomous regional statuses: the Yogyakarta Special Region, the Special Capital Region of Jakarta, Aceh, and Papua.

Since the IKN Authority is a ministry-level institution, its governance of the unique regional government, led by the Head of the Authority, differs from other regional governments in two key aspects:

1. Lack of a Representative Body (Regional House of Representatives)
The IKN Authority does not have an institution that represents the people of "Nusantara" to oversee the administration of the government (Regional House of Representatives/DPRD). This is not aligned with Article 18, Paragraph (3) of the 1945 Constitution, which states that regional governments have a DPRD whose members are elected through general elections.
2. Direct Appointment of the IKN Authority Head by the President
The Head of the Ibu Kota Nusantara Authority is appointed directly by the President rather than through a democratic election process. This contradicts Article 18, Paragraph (4) of the 1945 Constitution, which mandates that regional heads must be elected directly in a democratic manner.

The institutional framework of the Ibu Kota Nusantara Authority (IKN Authority) can be categorized as a form of disruptive innovation, according to Hartley, (2005) for the following reasons:

1. Structural Organizational Changes. The IKN Authority is a new institution that was formed to manage IKN with a governance model different from other cities in Indonesia. Disruptive innovation can manifest in the institutional design, mainly if this institution adopts a more flexible and efficient governance system than existing city government bureaucracies.
2. Utilization of Advanced Technology. Nusantara State Capital is designed as an intelligent city that adopts advanced technologies such as the Internet of Things (IoT), artificial intelligence (AI), and data-based management systems. Integrating these technologies can create disruptive innovation and a more effective and efficient government that is also more responsive to the needs of its residents.

3. **New Approaches in Public Service Delivery.** The IKN Authority has the potential to offer more innovative and modern public service models that may not be common in conventional government administrations. For example, using digital systems for all government services can radically transform how citizens access services and participate in decision-making processes.

However, this disruptive innovation also can create new risks, including corruption risks, if not appropriately managed. Previous research indicates that corruption risks can increase significantly when major innovations occur without adequate oversight. (Hartley, 2005).

Moreover, from the perspective of the CRA framework, the above issues are inconsistent with the Implementation Aspect, particularly in the Objective Decision-Making Basis criterion. The absence of a Regional House of Representatives in the governance structure of the Nusantara State Capital, the direct appointment of the Head of the Authority, and the dual roles of the Head of the IKN Authority as both the project implementer (planning, development, and relocation state capital) and government function of the State Capital creates the potential for abuse of power due to the lack of separation between regulatory and operational functions (minimal control function). In democratic norms, the separation of powers between the executive and legislative branches aims to minimize the misuse of power or authority.

Ibu Kota Nusantara Special Authority

Based on Article 12, Paragraph (2) of Law Number 21 of 2023 (Undang-Undang Nomor 21 Tahun 2023), which amends Law Number 3 of 2022 on the State Capital, the authority of the Ibu Kota Nusantara Authority (IKN Authority) is stated as “including, but not limited to.” This phrase indicates that the special authority granted to the IKN Authority is not limited to the provisions stated in Article 12, Paragraph (2) of the IKN Law (issuance of investment permits, ease of doing business, and granting special facilities to parties supporting the financing for the Planning, Development, and Relocation of the Nusantara State Capital as well as the development of State Capital Nusantara and its partner regions). Even Article 12, Paragraph (3) implies that the Government can add more authority beyond what is stipulated in the law without needing approval from the House of Representatives (DPR).

Annex II, Point 210 of Law Number 12 of 2011 on the Formulation of Legislation states that there should not be any blanket delegation when delegating regulatory authority. Blanket delegation refers to the practice in public administration or law where a senior official or institution delegates authority or power to another party to perform specific actions without clear instructions or details. The term “blanket” refers to “empty” or “without content,” meaning that the delegated party has broad discretion in determining how to execute the tasks or authority granted. Blanket delegation can be controversial because it may lead to abuse of authority if the delegated party acts beyond expected limits or lacks adequate oversight.

An example of blanket delegation occurred in Law Number 28 of 2007 (Undang-Undang Nomor 28 Tahun 2007), which amended Law Number 6 of 1983 on General Provisions and Taxation Procedures (KUP). Article 48 of this law states that matters not adequately regulated in this law would be further controlled by government regulations. Based on this provision, several articles within Government Regulation No. 74 of 2011 (Peraturan Pemerintah Republik Indonesia Nomor 74 Tahun 2011), The Procedures for Implementing Taxation Rights and Obligations, explain matters not regulated in the KUP Law, but with broader limitations than those stipulated in it.

This led the Indonesian Chamber of Commerce and Industry (KADIN) to file for a judicial review with the Supreme Court (MA) against several articles in Government Regulation No. 74 of 2011. Based on the Supreme Court Decision (Putusan Mahkamah Agung Nomor) No.

73P/HUM/2013, the MA stated that it was inappropriate for Government Regulation No. 74 of 2011 to position itself as a supplement to the KUP Law and that the government's action legitimized material matters that should have been included in the content of the law, even under the pretext of "complementing" the law. This decision clarified that material matters should be defined within the content of the law, and the law must clearly define the boundaries or scope of such material without delegating substantive issues to be regulated further by government regulations.

The issues described above demonstrate non-compliance with the CRA framework's Compliance Aspect and the criterion of Special Treatment as well as the Implementation Aspect with the criterion of Objective Decision-Making Basis. Blanket delegation allows the government to insert additional authorities as extraordinary powers of the IKN Authority without sufficient control from the DPR, thereby creating opportunities for abuse of power that could benefit specific parties.

CONCLUSIONS AND RECOMMENDATIONS

The drafting of regulations, the formation of institutions, and the authority structure of the Ibu Kota Nusantara (IKN) Authority are examples of collaborative governance and disruptive innovation. However, based on an assessment using the Corruption Risk Assessment (CRA) framework, several weaknesses could potentially lead to corrupt practices in the future. The identified weaknesses are as follows:

1. **Inadequate Compliance with Relevant Regulations**
The formulation of the IKN Law did not comply with the principles stipulated in Law Number 12 of 2011 on the Formulation of Legislation and the Constitutional Court's Decision Number 91/PUU-XVIII/2020 regarding meaningful public participation. A lack of transparency and public involvement in the legislative process led to suspicions of hidden agendas that could benefit specific parties.
2. **Inconsistent Institutional Structure**
The IKN Authority, a ministry-level institution that also administers a particular regional government, does not align with local government principles stipulated in the 1945 Constitution. The IKN Authority does not have a Regional House of Representatives (DPRD) to represent the people of IKN, and the head of the IKN Authority is appointed directly by the President rather than through a democratic election process. This setup undermines the principles of checks and balances and can lead to the abuse of power.
3. **Ambiguity in the Scope of Authority**
4. **The IKN Law provides the IKN Authority with "blanket" or undefined special authorities that can be expanded without the approval of the House of Representatives (DPR).** This creates a risk of unchecked and excessive discretionary power, which could open opportunities for corruption and favoritism.

To address the weaknesses mentioned earlier and reduce the potential for corrupt practices, several recommendations are proposed as follows:

1. **Improve Transparency and Public Participation**
To reduce non-compliance in the legislative drafting process of the IKN Law, the government and DPR should provide clear and detailed explanations to the public and experts regarding expert opinions that were not accommodated in the IKN Law (right to be explained). This will ensure meaningful participation and adherence to the principles of transparency and accountability in legislative processes.

2. Align the IKN Governance Structure with the 1945 Constitution

To ensure a system of checks and balances and guarantee the representation of local public interests in Nusantara State Capital, it is recommended that the IKN Authority's role be limited to implementing the project (Preparation, Development, and Relocation) process of State Capital. The government function of Nusantara State Capital should be adjusted to conform to the autonomous regional government structure as mandated by the 1945 Constitution and other related regulations. This includes the establishment of a local parliament (DPRD) for Nusantara State Capital.

3. Limit Special Authorities of the IKN Authority

The government should refrain from adding special authorities to the IKN Authority beyond what is explicitly stated in the IKN Law. If additional special authorities are deemed necessary, they should be enacted through amendments to the law, subject to approval by the DPR. This will ensure proper legislative oversight and prevent potential misuse of power.

Implementing these recommendations will improve transparency, accountability, and the effectiveness of the IKN governance framework. It will also prevent potential corruption risks associated with drafting regulations, forming institutions, and allocating authority, thereby supporting the successful relocation and development of Ibu Kota Nusantara under sound governance principles.

REFERENCE

- Ansell, C., & Gash, A. (2018). Collaborative platforms as a governance strategy. *Journal of Public Administration Research and Theory*, 28(1), 16–32. <https://doi.org/10.1093/jopart/mux030>
- Arundel, A., Bloch, C., & Ferguson, B. (2019). Advancing innovation in the public sector: Aligning innovation measurement with policy goals. *Research Policy*, 48(3), 789–798. <https://doi.org/10.1016/j.respol.2018.12.001>
- Caiden, G. E. (1988). Toward a General Theory of Official Corruption. *Asian Journal of Public Administration*, 10(1), 3–26. <https://doi.org/10.1080/02598272.1988.10800195>
- Cinar, E., Trott, P., & Simms, C. (2019). A systematic review of barriers to public sector innovation process. *Public Management Review*, 21(2), 264–290. <https://doi.org/10.1080/14719037.2018.1473477>
- Cinar, E., Trott, P., & Simms, C. (2021). An international exploration of barriers and tactics in the public sector innovation process. *Public Management Review*, 23(3), 326–353. <https://doi.org/10.1080/14719037.2019.1668470>
- Direktorat Litbang KPK. (2020). *Metode CRA Dalam Pencegahan Korupsi Melalui Perbaikan Regulasi - Pembelajaran dari Korea Selatan* (Issue Komisi Pemberantasan Korupsi). https://www.kpk.go.id/images/pdf/Pedoman_CRA_Unduh.pdf
- Emerson, K., Nabatchi, T., & Balogh, S. (2012). An integrative framework for collaborative governance. *Journal of Public Administration Research and Theory*, 22(1), 1–29. <https://doi.org/10.1093/jopart/mur011>
- European Commission. (2013). *European Public Sector Innovation Scoreboard 2013 – A Pilot Exercise*. <https://doi.org/10.2796/27492>

- Hartley, J. (2005). Innovation in governance and public services: Past and present. *Public Money and Management*, 25(1), 27–34. <https://doi.org/10.1111/j.1467-9302.2005.00447.x>
- Peraturan Pemerintah Republik Indonesia Nomor 74 Tahun 2011 tentang Tata Cara Pelaksanaan Hak dan Pemenuhan Kewajiban Perpajakan, Pub. L. No. PP No. 74 Tahun 2011 (2011). <https://peraturan.bpk.go.id/Details/5207/pp-no-74-tahun-2011>
- Putusan Mahkamah Agung Nomor 73P/HUM/2013, Pub. L. No. 73P/HUM/2013 (2013). https://jdih-new.kemenkeu.go.id/api/download/d0b48502-0e26-405b-9a1b-eba15dcd6f02/2.%2073_P_HUM_2013.pdf
- Putusan Mahkamah Konstitusi RI No. 91/PUU-XVIII/2020, Pub. L. No. Putusan MKRI No. 91/PUU-XVIII/2020 (2020). https://jdih.maritim.go.id/cfind/source/files/putusan/putusan_mkri_8240_1637822490.pdf
- Şandor, S. D. (2018). Measuring public sector innovation. *Transylvanian Review of Administrative Sciences*, 14(54E), 125–137. <https://doi.org/10.24193/tras.54E.8>
- Undang-Undang Dasar Negara Republik Indonesia 1945, Pub. L. No. UUD Negara Republik Indonesia 1945 (1945). <https://jdih.bapeten.go.id/unggah/dokumen/peraturan/4-full.pdf>
- Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Negara, Pub. L. No. UU No.3 Tahun 2022 (2022). <https://jdih.maritim.go.id/cfind/source/files/uu/uu-no-3-2022/uu-nomor-3-tahun-2022.pdf>
- Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan, Pub. L. No. UU 12 Tahun 2011 (2011). <https://peraturan.bpk.go.id/Details/39188/uu-no-12-tahun-2011>
- Undang-Undang Nomor 21 Tahun 2023 tentang Perubahan atas Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Negara, Pub. L. No. UU No.21 Tahun 2023 (2021). <https://peraturan.bpk.go.id/Details/269494/uu-no-21-tahun-2023>
- Undang-Undang Nomor 28 Tahun 2007 tentang Perubahan Ketiga atas Undang-Undang Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan, Pub. L. No. UU NO. 28 Tahun 2007 (2007). <https://peraturan.bpk.go.id/Details/39916/uu-no-28-tahun-2007>

