

## LEGAL IMPLICATIONS ON THE MOVING OF THE STATE CAPITAL TO EAST KALIMANTAN

HUSNI THAMRIN

*Awang Long School of Law, Samarinda, Indonesia*  
*husnithamrin180865@gmail.com*

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### Abstract

This paper aims to analyze the relationship between moving the state's capital city and regional government, and the legal implications of moving the state's capital city to East Kalimantan. This type of research is normative using a statutory approach and a conceptual approach. The data used is secondary data obtained through library research. All data collected were then analyzed qualitatively. The results show that the relationship between moving the state's capital city and regional government is the implementation of regional government which according to the Law of the Republic of Indonesia Number 23 Year 2014 concerning Regional Government regulates 9 (nine) aspects, namely: Central and Regional Government Relations, Regional Government Administration, Government Affairs, the Role of the Governor as Representative of the Central Government in the Regions, Regional Planning, Regional Apparatus, Regional Finance, Regional Regulations, and Regional Innovation. The legal implications of relocating the country's capital city to East Kalimantan include integration of settlement functions, education centers, research centers, service industrial areas, and recreation as well as being supported by adequate transportation systems, settlement infrastructure and city facilities (Revised Law No. 29 Year 2007 concerning the National Capital), has a strong city management concept and is able to control the utilization of city spaces and its territory effectively (Implementation of the Spatial Planning Law Number 26 Year 2007), has an integrated inter-modal public transportation system and integrated with city activity centers based on the concept of TOD (Transit Oriented Development), having a ready-to-build area and a ready-to-build environment (Implementation of Law Number 4 Year 1992 and Government Regulation Number 80 Year 1999), and capacity building and institutional development (capacity building and institutional development) management of the capital of the Unitary State of the Republic of Indonesia.

**Keywords:** *East Kalimantan, legal implications, moving of the state capital.*

### INTRODUCTION

The proposed agenda for relocating the capital city to Kalimantan-as part of the contents of the Vision Indonesia 2033 is not a reactive idea that simply departs from the congestion and congestion of the city of Jakarta. The problem of chronic congestion, the threat of flooding, etc. in Jakarta, is only a small part of the basis for the proposed relocation of the State Capital to Kalimantan. That small side alone is very important, because it must be seen as a sign that the real problem in the City of Jakarta is too serious because there is no visionary policy that has become a reference in the last thirty years. In other words, the proposed agenda for relocating the capital city to Kalimantan is a concrete proposal to reverse the development paradigm that is currently proven to have inherited a bunch of problems. By emphasizing the principles of "biggest, centered, highest, fastest, and as" in the race to pursue growth, this old paradigm has left behind a number of major problems at both the city and national level. One of the bad legacies left by this paradigm is the congestion of traffic flows on arrival and departure of air and sea transportation, at airports and ports, and chronic congestion on the roads of Jakarta and its surroundings today. Overall, the proposal to relocate the capital city by the Indonesian Vision 2033 Team since 2008 has been based more on the interests of the Indonesian nation in the future, just as

President Soekarno planned to relocate the capital in 1957. Looking at the development of the last thirty years, including the low quality of policies and policy implementation strategic in the management of national development, the proposal we have put forward since 2008 departs from complex considerations by taking into account underlying causes and key drivers as a whole. Based on the complexity of the considerations behind this proposal, we can also confirm that the proposed area for the location of the new capital city of the Republic of Indonesia is the most appropriate in the Kalimantan region, but not in a location that has grown into a busy city. The main objective of moving the capital city to Kalimantan is so that every government in the future can move consistently and avoid various paradoxical steps in achieving the ideals of a nation that wants to create a prosperous, just, and economically sustainable Indonesia. On the one hand, relocating the central city of the Indonesian government and the center of activities of state institutions to a location in Kalimantan will give birth to a new epicenter approaching most of the underdeveloped and peripheral areas that have never been effectively generated through development projects, such as transmigration. The acceleration of development in underdeveloped areas, the acceleration of development in eastern Indonesia and so on. On the other hand, moving the capital city to Kalimantan will make it easier for the government to organize the city of Jakarta and other big cities in Java which continue to be the destination of new migrants from villages in Java and from various areas outside Java, and avoid tensions that are getting higher due to the decreasing carrying capacity of nature in Java, faced with the increasing population in Java which currently has reached 59 percent of the total national population. The estuary of these two sides will lead to the ultimate goal of the management of the Indonesian nation state in the future, namely quality economic growth, equitable and sustainable welfare improvement, and the birth of an Indonesian face to be proud of. In other words, relocating the capital city to Kalimantan is a strategic action among several strategic actions needed to realize a new development paradigm which so far has only been present as a hanging discourse, because it has a clear estimated effect.<sup>1</sup> This is a serious concern of the central government, because the higher the result of decreasing natural carrying capacity in Java, faced with the increasing population in Java, is something that cannot be postponed.

President Joko Widodo on 26 August 2019 announced the relocation of the nation's capital to East Kalimantan Province. As a first step, the National Development Planning Agency has conducted a number of studies related to the stages of relocating the country's capital city. Bappenas considers a number of factors, including economic impact, regional readiness, and the possibility of developing industrial estates.<sup>2</sup> Following up from the speech, the Ministry of National Development Planning/Bappenas held the 4th National Dialogue for the Transfer of the State Capital with the theme "Investment and Financing Strategies for Moving the State Capital in the Djunaedi Hadisumarto Room, Saleh Afiff Building, Ministry of National Development Planning/Bappenas, Monday, 16 September 2019. In his speech, the Minister of National Development Planning/Head of Bappenas Bambang Brodjonegoro emphasized that the relocation of the State Capital to East Kalimantan is a more serious investment outside Java Island in reducing economic disparities between regions in Indonesia. The construction of this new government center is an investment in reducing the excessive domination of several islands in Indonesia. Investment is an instrument that can accelerate economic growth as well as accelerate the resolution of various development problems that lead to reducing poverty and inequality by creating jobs. Therefore, investment should be prioritized in the national development scheme, especially in accelerating national development. Minister Bambang gave an example of his experience in calculating the economic impact of moving the capital city of Kazakhstan from Almaty to Astana and moving the capital city of Brazil from Rio de Janeiro to Brasilia, which shows economic strengthening and poverty reduction and inequality after the relocation of the national capital. The relocation of the nation's capital city of Kazakhstan spurs national and regional development. The poverty rate fell from 46.7% in 2001 to 2.5% in 2017. GDP growth in Kazakhstan has become more stable, the poverty rate and the Gini index tend to decline. Meanwhile, the relocation of Brazil's capital city in 1960 made Brasilia, which was previously empty land, a relatively large city with a population of 136,643 at the beginning of the relocation of the capital to 4,558,991 in 2019. In addition, in the first ten years after the relocation of the capital, population growth Brasilia per year reaches 14.4 percent compared to Rio de Janeiro which is only 4.2 percent per year. The resulting multiplier effect is 2.93, while the employment multiplier effect is 1.7 on private jobs created from each additional job in the

<sup>1</sup> Andrinof A Chaniago, et.al., *Pemindahan Ibu Kota ke Kalimantan Lorong Keluar dari Berbagai Paradoks Pembangunan, Menuju Indonesia yang Tertata*, Tim Visi Indonesia 2033, without year, p. 1-3

<sup>2</sup> Sahat Aditua Fandhitya Silalahi, *Dampak Ekonomi dan Risiko Pemindahan Ibu Kota Negara*, Pusat Penelitian Badan Keahlian DPR RI, *Info Singkat Bidang Ekonomi dan Kebijakan Publik*, Vol. XI, No.16/III/Puslit/Agustus/2019, p. 19

public sector.<sup>3</sup> Of course, on the one hand, every strategic policy that is taken has other impacts, such as new land clearing and uncontrolled development, this is a frightening specter for the people of Kalimantan.

A capital city (a capital; capital city; political capital) is a city that is designed as the center of government of a country; physically, the national capital generally functions as an office center and a gathering place for government leaders. Derived from Latin *caput* which means head and then associated with the word *capitol*, which means the location of the main government center building. Historically, capitals were formed through conquest or amalgamation. The capital city as the main economic center of an area is always used as the focal point of political power, so that it has a special attraction needed for the efficiency of government administration such as legal experts, journalists and public policy researchers. The capital is an economic, cultural or intellectual center.<sup>4</sup> It is estimated that the relocation of the national capital in Kalimantan will have a direct and indirect impact on the Indonesian economy. The direct impact, additional economic activity through government investment for the development of supporting infrastructure and operational governance in new locations will drive the economy. Indirect impact, namely the second round effect which occurs due to a multiplier effect on the economy, which causes job creation, economic growth, and additional income. So that the total impact of relocating the State Capital will contribute to GDP growth / economic growth and people's welfare. From the time phase, relocating the National Capital will have a positive economic impact that will be felt not only in the short term, but also in the long term. Short term, namely in the construction phase, which of course the number is not small. In this phase, the main and supporting infrastructure investment will create jobs, supply materials in the capital city development process which will create economic growth and increase trade between regions in Kalimantan and its surroundings. Meanwhile, in the medium to long term, namely the operational phase of the new capital city and increased economic activity, among others, increased government services and non-traditional sectors, increased productivity, decreased inequality between income groups between regions. It is projected that in the short term the relocation of the State Capital will have an impact on increasing real investment in East Kalimantan by 47.7%, Kalimantan Island 34.5% and Indonesia 4.7% which will encourage economic growth (real GDP) in East Kalimantan to grow by 7, 3%, Kalimantan Island 4.7% and Indonesia 0.6% and the increase in employment opportunities in Kalimantan Island 10.5%, and national 1.0%. Meanwhile, in the medium-long term, the increase in economic growth has two scenarios, with the first scenario being East Kalimantan 6.8%, Kalimantan Island 4.3%, National 0.02%. The second scenario is East Kalimantan 7.6%, Kalimantan Island 4.9%, National 0.1%. KPBU and private financing schemes are expected to be the main sources of financing. The benefits of using the KPBU scheme are:<sup>5</sup>

- 1) Maintain the country's fiscal sustainability,
- 2) Quality infrastructure
- 3) Risk sharing risk sharing between the government and the private sector, this risk sharing can increase risk activity
- 4) Project Delivery
- 5) Investment potential is an entry point for private investment
- 6) Investment Return, there is certainty of investment return through payment by the government
- 7) Project financing.

Based on this description, the problem discussed in this paper is how is the relationship between moving the state's capital city and regional government? and what are the legal implications of moving the state's capital city to East Kalimantan?

## METHOD

This type of research is normative<sup>6</sup> by using a statutory approach and conceptual approach.<sup>7</sup> The data used is secondary data obtained through library research.<sup>8</sup> All data collected were then

<sup>3</sup> National Planning and Development Agency of the Republic of Indonesia, Dialog Nasional Pemindahan Ibu Kota Negara, Menteri Bambang Paparkan Investasi dan Strategi Pembiayaan, Berita Utama Bappenas, September 17, 2019

<sup>4</sup> H.M. Yahya, Pemindahan Ibu Kota Negara Maju dan Sejahtera, *Jurnal Studi Agama dan Masyarakat*, Vol. 14, No. 1, 2018, p. 25

<sup>5</sup> National Planning and Development Agency of the Republic of Indonesia, 2019, *Loc.Cit.*

<sup>6</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, Jakarta: Rajawali Pers, 2011, p. 14

<sup>7</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, 2010, p. 96

<sup>8</sup> Kadarudin, *Riset Sederhana di Bidang Ilmu Hukum*, Ponorogo: Uwais Inspirasi Indonesia, 2020, p. 63

analyzed qualitatively.

## RESULTS AND DISCUSSION

### The Relationship Between Moving the State's Capital City and Regional Government

Many countries have carried out the relocation of the country's capital city, for various reasons. The following example illustrates that the relocation of the nation's capital is an event that is not taboo and is carried out with the aim of solving problems for the good and progress of the nation and state. As one example, firstly, the capital city of Brasilia is located in the interior, because the old capital city of Rio Jenairo is too crowded. Second, in 2004 the South Korean government moved its capital city from Seoul to Sejong, even though Seoul means capital in Korean. Third, traditional capitals that have been fading economically due to competing cities, such as Nanjing, which were faded by Shanghai. Fourth, due to the decline of a dynasty or culture, eventually the existing capital city became faded and outdated, as happened in Babylon and Cahokia.<sup>9</sup> Regional autonomy is a model of governance that is quite familiar to several countries in the world. Regional autonomy is also the model chosen by Indonesia in running its government. The logical consequence of the decentralization policy was that autonomous regions were formed. An autonomous region is a legal community unit having certain territorial boundaries that have the right, authority and obligation to regulate and manage its own household within the ties of the Unitary State of the Republic of Indonesia, in accordance with the prevailing laws and regulations. Thus, what is the problem in the region is then given the authority to regulate it autonomously.

In the general explanation of Law of the Republic of Indonesia Number 23 Year 2014 concerning Regional Government, there are 9 (nine) aspects of the problem that are regulated, namely:

#### 1. Hubungan Pemerintah Pusat dan Daerah

The relationship between the Central Government and the Regions can be traced from the third and fourth paragraphs of the Preamble to the 1945 Constitution of the Republic of Indonesia. The third paragraph contains the statement of the independence of the Indonesian nation. While the fourth paragraph contains a statement that after declaring independence, the first to be formed is the Government of the Indonesian State, namely the National Government which is responsible for regulating and managing the Indonesian nation. It is further stated that the duty of the Indonesian State Government is to protect the entire nation and spill Indonesia's blood, promote public welfare and educate the nation's life and participate in maintaining world order based on independence, eternal peace and social justice.

Furthermore, Article 1 of the 1945 Constitution of the Republic of Indonesia states that the State of Indonesia is a unitary state in the form of a republic. The logical consequence of being a unitary State is the formation of the Government of the State of Indonesia as the national government for the first time and then the national government which then forms the Region according to the provisions of the legislation. Then Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that the Regional Government has the authority to regulate and administer Government Affairs by itself according to the Principles of Autonomy and Co-administered Tasks and is granted the widest possible autonomy.

The granting of the widest possible autonomy to the regions is directed at accelerating the realization of community welfare through improved services, empowerment and community participation. In addition, through broad autonomy, in a strategic globalization environment, regions are expected to be able to increase competitiveness by taking into account the principles of democracy, equity, justice, privileges and specialties as well as the potential and diversity of Regions in the system of the Unitary State of the Republic of Indonesia.

The granting of the widest possible autonomy to the regions shall be implemented based on the principle of a unitary state. In a unitary state the sovereignty only exists in the state government or national government and there is no sovereignty in the Region. Therefore, no matter how wide the autonomy is granted to the Regions, the final responsibility for the administration of the Regional Government will remain in the hands of the Central Government. For this reason, Regional Government in a unitary state is an integral part of the National Government. In line with that, policies made and implemented by regions are an integral part of national policies. The difference lies in how to utilize the wisdom, potential, innovation, competitiveness and creativity of the Region to achieve these national goals at the local level which in turn will support the achievement of the overall national goals.

A region as an autonomous legal community unit has the authority to regulate and administer its region according to the aspirations and interests of its people as long as it does not conflict with the national legal order and public interest. In order to provide wider space for the Regions to regulate and

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<sup>9</sup> Ikhbal A. *Perang-perang Paling Berpengaruh di Dunia*, Yogyakarta: Jogja Bangkit Publisher, 2010.

manage the lives of their citizens, the Central Government in forming policies must pay attention to local wisdom and vice versa when forming Regional policies in the form of Regional Regulations and other policies, they should also pay attention to national interests. Thus a balance will be created between synergistic national interests and still paying attention to conditions, peculiarities, and local wisdom in the overall administration of government.

In essence, Regional Autonomy is granted to the people as a legal community unit which is given the authority to regulate and manage the Government Affairs given by the Central Government to the Regions and in its implementation it is carried out by the regional head and DPRD assisted by Regional Apparatus. Government affairs transferred to the Regions come from the governmental power in the hands of the President. The consequence of a unitary state is that the ultimate responsibility for government is in the hands of the President. In order for the implementation of Government Affairs transferred to the Regions to run in accordance with national policies, the President is obliged to provide guidance and supervision to the implementation of Regional Government.

The president as the holder of government power is assisted by the state minister and each minister is responsible for certain Government Affairs in the government. Some of the Government Affairs which are the responsibility of the minister are actually autonomous to the regions. The consequence of the minister as assistant to the President is the obligation of the minister on behalf of the President to carry out guidance and supervision so that the administration of Regional Government runs according to the provisions of the legislation. In order to create synergy between the Central and Regional Governments, ministries/non-ministerial government agencies are obliged to formulate norms, standards, procedures and criteria (NSPK) to serve as guidelines for regions in carrying out Government Affairs submitted to the Regions and serve as guidelines for ministries/non-ministerial government agencies to provide guidance and supervision. The President delegates authority to the Minister as the coordinator of guidance and supervision carried out by the ministries/non-ministerial government agencies on the implementation of Regional Government. Ministries/non-ministerial government agencies carry out technical guidance and supervision, while the Ministry carries out general guidance and supervision. This mechanism is expected to be able to create harmonization between ministries/non-ministerial government agencies in providing guidance and supervision of the implementation of Regional Government as a whole.

## 2. Regional Government Administration

Theoretically-empirically, government affairs that become the competence of autonomous regions are manifested in public services for local communities in the spirit of welfare (welfare state) according to the direction and mandate of the 1945 Constitution.<sup>10</sup> In contrast to the administration of government at the center which consists of the executive, legislative and judicial branches, the administration of Regional Government is carried out by the DPRD and the regional head. DPRD and regional heads have the positions as elements of regional government administrators who are given the mandate of the people to carry out Government Affairs assigned to the Regions. Thus, the DPRD and the regional head are positioned as equal partners who have different functions. DPRD has the function of forming regional regulations, budgeting and monitoring, while regional heads carry out the function of implementing regional regulations and regional policies. In regulating and managing Government Affairs which fall under the authority of the Region, DPRD and regional heads are assisted by Regional Apparatus.

As a consequence of the DPRD's position as an element of Regional Government administrators, the composition, position, roles, rights, obligations, duties, powers and functions of DPRD are not regulated in several laws but are sufficiently regulated in this Law as a whole to facilitate integrated regulation.

## 3. Government Affairs

As mandated by the 1945 Constitution of the Republic of Indonesia, there are Government Affairs which fully fall under the authority of the Central Government, known as absolute government affairs and there are concurrent government affairs. Concurrent government affairs consist of Mandatory Government Affairs and Optional Government Affairs which are divided between the Central Government, Provincial Regions and Regency/City Regions. Mandatory Government Affairs are divided into Compulsory Government Affairs related to Basic Services and Compulsory Government Affairs that are not related to Basic Services. For Compulsory Government Affairs related to Basic Services, Minimum Service Standards (SPM) are determined to ensure the constitutional rights of the community.

<sup>10</sup> Faisal T., Analisis Implementasi Kebijakan Otonomi Daerah, *Jurnal Ilmu Administrasi*, Vol. X, No. 3, 2013, p. 344

Concurrent division of governmental affairs between provincial regions and regency/city regions even though the Government Affairs are the same, the difference will be seen from the scale or scope of the Government Affairs. Although the provincial and regency/city regions have their respective Government Affairs which are not hierarchical in nature, there will still be a relationship between the central government, provincial regions and regency/city regions in its implementation by referring to the NSPK made by the Central Government.

Apart from absolute governmental affairs and concurrent government affairs, this Law recognizes general government affairs. General government affairs are under the authority of the President as the head of government related to the maintenance of the Pancasila ideology, the 1945 Constitution of the Republic of Indonesia, Bhinneka Tunggal Ika, ensuring harmonious relations based on ethnicity, religion, race and between groups as pillars of national and state life and facilitating democratic life. The President in the implementation of general government affairs in the regions delegates to the governor as head of the provincial government and to the regent/mayor as the head of the regency/city government.

#### 4. The Role of the Governor as the Representative of the Central Government in the Regions

Given the very broad geographical conditions, for the effectiveness and efficiency of guidance and supervision over the administration of Government Affairs which is the authority of the regencies /cities, the President as the final person in charge of government as a whole delegates his authority to the governor to act on behalf of the Central Government to carry out guidance and supervision. Regency/city regions to carry out their autonomy in the NSPK corridor established by the Central Government. For the effectiveness of the implementation of his duties as the representative of the Central Government, the governor is assisted by the governor's apparatus as the representative of the Central Government. Because of his role as the representative of the central government, the relationship between the governor and the regency/city government is hierarchical.

#### 5. Regional Arrangement

One of the aspects in regional planning is the formation of new regions. The formation of regions is basically intended to improve public services in order to accelerate the realization of community welfare as well as as a means of political education at the local level. For this reason, the Establishment of a Region must consider various factors such as economic capacity, Regional potential, area size, population, and considerations from the socio-political, socio-cultural, defense and security aspects, as well as other considerations and conditions that enable the Region to carry out and realize the objectives of its formation. Area.

The formation of a region is preceded by a preparation period of 3 (three) years with the aim of preparing the region to become a region. If after three years the results of the evaluation indicate that the Preparatory Area does not meet the requirements to become a Region, its status is returned to its parent Region. If the Preparatory Area, after going through a guidance period of three years, meets the requirements to become a Region, then the Preparatory Area is formed by law to become a Region.

#### 6. Regional Devices

Each region according to its regional character will have different priorities from one region to another in an effort to improve the welfare of the community. This is an asymmetric approach, meaning that even though the regions are equally granted the broadest possible autonomy, the priority of Government Affairs carried out will differ from one region to another. The logical consequence of this asymmetric approach is that the regions will have different priorities for Government Affairs and institutions according to the character of the region and the needs of the community.

At this point, the implementation or policy implementation steps become very important but that does not mean that it has been separated from the previous formulation process, meaning that the macro policy formulation has an effect on the success of micro policy implementation, namely the implementers of policies and operational policies and the target group in observing the environment. besides that, the lack of clarity of policy is the main cause of the failure to implement.<sup>11</sup> The size of the regional apparatus organization both to accommodate Mandatory Government Affairs and Preferred Government Affairs at least takes into account the factors of population, area, workload, and regional financial capacity. To accommodate variations in the workload of each different Government Affairs in each region, the size of the regional apparatus organization is also not the same from one region to another. From these arguments, the typology of the service or regional agency is formed according to its size in order to form an effective and efficient regional apparatus.

To create synergies in developing superior potential between Regional Apparatus organizations with ministries and non-ministerial government agencies at the center, it is necessary to have a mapping of ministries/non-ministerial government agencies at the center to find out areas that have

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<sup>11</sup> Fadilah Putra, *Paradigma Kritis Dalam Studi Kebijakan Publik*, Pustaka Pelajar, Yogyakarta, 2001, p. 80

superior potential or priority in accordance with the task fields of ministries/government agencies non-ministerial authority whose authority is decentralized to the Regions. From the results of the mapping, the ministries/non-ministerial government agencies will know which regions have superior potential in accordance with the relevant ministries/non-ministerial government agencies in the field of duty. The area will then become the main stakeholder of the relevant ministries/non-ministerial government agencies.

#### 7. Regional Finance

The handover of regional financial resources in the form of regional taxes and levies as well as in the form of balance funds is a consequence of the handover of Government Affairs to Regions which is carried out based on the principle of autonomy To carry out Government Affairs which fall under its authority, a region must have financial resources so that the region is able to provide services and welfare to the people in its region. Provision of financial resources to the Region must be in balance with the burden or Government Affairs assigned to the Region. The balance of this financial source is a guarantee for the implementation of Government Affairs that are submitted to the Regions. When Regions have inadequate financial capacity to finance Government Affairs and especially Mandatory Government Affairs related to Basic Services, the Central Government can use the DAK instrument to assist the Regions according to the national priorities to be achieved.

#### 8. Regional Regulation

In carrying out Government Affairs which fall under the authority of the Region, the regional head and DPRD as the organizer of the Regional Government make Regional Regulations as the legal basis for the Regions in implementing Regional Autonomy in accordance with the conditions and aspirations of the community as well as the peculiarities of the region. Perda made by the Region only applies within the boundaries of the jurisdiction of the region concerned. However, the regional regulations stipulated by the regions may not contradict the provisions of laws and regulations of a higher level in accordance with the hierarchy of statutory regulations. Apart from that, the regional regulation as part of the statutory regulation system must not conflict with the public interest as stipulated in the rules for drafting the regional regulation.

Regions carry out Regional Autonomy which comes from the authority of the President who holds governmental power. Considering that the ultimate responsibility for administering the government rests with the President, the logical consequence is that the authority to cancel regional regulations rests with the President. It would be inefficient for the President to immediately cancel the regional regulation. The President delegates the authority to cancel the Provincial Regulation to the Minister as assistant to the President who is responsible for Regional Autonomy. Meanwhile, for the cancellation of Regency/City Regional Regulations, the President delegates his authority to the governor as the Deputy of the Central Government in the Regions.

To avoid arbitrariness in the cancellation of the regional regulation, the provincial government can file an objection to the cancellation of the provincial regulation by the Minister to the President. Meanwhile, regency/city regional governments may submit objections to the cancellation of regency/city regulations by the governor as the representative of the central government to the Minister. In terms of regional governance, decisions made by the President and the Minister are final.

According to Budi Winarno,<sup>12</sup> the factors that drive information ambiguity in public policy implementation are usually policy complexity, lack of consensus on public policy objectives, problems in initiating new policies and a tendency to avoid policy accountability. In order to create an orderly administrative reporting for Perda, each Perda to be promulgated must first obtain a register number. Provincial Regulations must obtain a register number from the Ministry, while Regency/City Regulations obtain a register number from the governor as the representative of the Central Government. With the provision of this register number, information will be collected about the entire regional regulation established by the region as well as information on the national law.

#### 9. Regional Innovation

The progress of a nation is largely determined by the innovations that the nation has made. For this reason, it is necessary to protect innovative activities carried out by state civil servants in the regions in advancing their regions. There needs to be an effort to spur regional creativity to increase regional competitiveness. For this reason, it is necessary to have objective criteria that can be used as guidance for Regional officials to carry out innovative activities. In this way, innovation will be spurred and developed without any fear of being the object of violating the law.

Basically, the amendment to Law Number 32 Year 2004 concerning Regional Government is aimed at encouraging the creation of more effective and effective results for the implementation of Regional Government in the welfare of the community, both through improving public services and

<sup>12</sup> Budi Winarno, *Kebijakan Publik: Teori dan Proses*, Yogyakarta: Media Pressindo, 2005, p. 128

through increasing regional competitiveness. This change aims to spur synergies in various aspects of the implementation of Regional Government with the Central Government.

Through this Law an affirmative arrangement is carried out starting from the mapping of Government Affairs which will become Regional priorities in the implementation of the widest possible autonomy. This mapping will create a synergy between ministries/non-ministerial government agencies whose Government Affairs are decentralized to the regions. Synergy of Government Affairs will create institutional synergy between the Central and Regional Governments because each non-ministerial government ministry/institution will know who the stakeholders are from the ministries/non-ministerial government agencies at the provincial and regency/city levels nationally. The synergy of government and institutional affairs will create synergy in development planning between ministries/non-ministerial government agencies and regions to achieve national targets. A further benefit is that there will be targeted distribution of assistance from ministries/non-ministerial government agencies to regions that are the main stakeholders for accelerating the realization of these national targets.

The synergy between the Central and Regional Governments will be difficult to achieve without the support of adequate personnel both in numbers and competency standards needed to carry out Government Affairs which are the authority of the Regions. In this way the local government will have a strong and adequate career bureaucracy in terms of numbers and competencies.

The next step is the guarantee of public services provided by the Regional Government to the community. For this reason, each Regional Government is obliged to make public service announcements so that the people in the area know the types of public services provided, how to get access and clarity in the procedures and costs for obtaining these public services and the existence of a complaint channel when the public services obtained do not comply with the standards has been determined.

The final step to strengthen Regional Autonomy is the existence of a clear and firm guidance, supervision, empowerment mechanism and sanctions. The existence of guidance and supervision as well as clear and clear sanctions requires clarity of guidance tasks, supervision from the Ministry that carries out general guidance and supervision as well as non-ministerial government ministries /agencies that carry out technical guidance. The synergy between general guidance and supervision with technical guidance and supervision will empower Regions in the administration of Regional Government. For the guidance and supervision of regency/city regions, clear and firm roles and authorities of the governor as the representative of the central government are required to carry out the duties and functions of guidance and supervision of regency/city regions.

### **The Legal Implications of Moving the State's Capital City to East Kalimantan**

The capital city has become a symbol of government and statehood, as well as a place where political, economic and cultural content develops. In medieval cities, the selection and establishment of a modern capital took shape on an emotional basis. Examples are as follows:<sup>13</sup>

1. Athens, which was devastated and almost uninhabited, was made the new capital for Greece, as a symbol of its past glory. The same thing happened during the Cold War and German Reunification, where Berlin became the capital again for Germany.
2. Russia moved its government from Mosko to Sain Petersburg to give Russia a west-oriented greatness, it was a symbolic relocation from the capital to geographic and demographic locations for economic or strategic reasons (often called the future capital or pioneer capital).
3. Kemal Atarturk moved the seat of government from the Ottoman Istanbul to Ankara.
4. Emperor Ming moved the capital from Nanjing to Beijing to stay away from the Mongols and Manchus.

The multi-function of Jakarta is the impact of a centralized government system and a multi-functional system that is centralized in Jakarta. As a result, a number of social, political, economic and ecological impacts are borne by Jakarta, along with the intended impacts:<sup>14</sup>

1. A centralized government that is controlled in an authoritarian and uniform manner has ignored the socio-cultural pluralism of the people and the uniformity of the territorial ecosystems of an archipelago nation. A centralized power system makes the regional government system lose its independence and the function of the bureaucracy cannot develop to serve and facilitate public participation, but rather serve their superiors or elite leaders.

<sup>13</sup> Burger D.H., *Sejarah Ekonomis Indonesia*, Jakarta: Pradnya Paramita, 1962.

<sup>14</sup> Baiquni M., *Membangun Pusat-pusat di Pinggiran*, Yogyakarta: Ideas, 2004.

2. The proximity of central government sources and economic centers that are focused on the elite and almost without control from the people, constitutionally or publicly, has led to an outbreak of corruption, collusion and nepotism.
3. This centralization of functions ultimately carries a burden on Jakarta, which is marked by an explosion in population, traffic jams, economic inequality, social insecurity, violence and crime.
4. These problems are followed by an ecological crisis, in the form of air pollution, groundwater pollution, clean water, routine flooding, chaotic spatial planning, the emergence of slum areas, and an uncomfortable living environment.
5. Conflicts easily occur between economic and ecological interests, short-term and long-term interests, interests of the elite and society. Based on the condition of Jakarta and the various impacts, it is necessary to question whether Jakarta is still the state capital, and whether relocating the capital is a necessity or just a discourse.

This is a shift away from the fact that the current capital already bears the burden of being the center of government as well as the center of business. The relocation of the national capital has the potential to increase national economic growth while maintaining a low inflation rate. In addition, the growth of industrial areas with the downstream value chain will increase people's income which in turn will reduce economic inequality between Java and outside Java. The relocation of the national capital also has risks, mainly from financial needs. The financing scheme for the development of a 'new city' and its infrastructure carries a long-term risk, especially as a center of government. The government should pay attention to the aspects of planning and spatial planning so that land use can be effective and minimize the possibility of inflation from uncontrolled land price increases. The House of Representatives (DPR RI) as an IKN departs continuously for the development of a new national capital with supervision involving Commission V (infrastructure), Commission XI (finance), and other related commissions.<sup>15</sup> Starting from the goal of relocating the capital like that, the capital of the new Government of Indonesia has the following legal implications:<sup>16</sup>

1. Integrated between the functions of settlements, education centers, research centers, service industrial areas, and recreation and supported by adequate transportation systems, settlement infrastructure and city facilities (Revision of Law Number 29 Year 2007 concerning the State Capital);
2. Has a strong city management concept and is able to control the utilization of city spaces and its territory effectively (Implementation of the Spatial Planning Law Number 26 Year 2007);
3. Has a public transportation system that is intermodal and integrated with city activity centers based on the TOD (Transit Oriented Development) concept;
4. The development is based on integrated urban infrastructure management;
5. Having a ready-to-build area and a ready-to-build environment (Implementation of Law Number 4 Year 1992 and Government Regulation Number 80 Year 1999);
6. Providing adequate housing for all its citizens, through the development of mixed multi-level settlements that are free from the exclusivism of the settlement environment;
7. Development of community-based settlements (community housing);
8. To apply the concept of green building, sustainable landscape and also sustainable settlements;
9. Capacity building and institutional development for the management of the capital city of the Republic of Indonesia;
10. Have a clear social and cultural development agenda for realizing citizenship and democratic societies;
11. Protecting and guaranteeing the reservation of the entire length of the coastal area, or the river bank, or the bank of the lake and there, as a public space, where no one is prevented from accessing it freely;
12. City Government in the form of a Special Administrative Region whose mayor is appointed and dismissed by the President by passing the Feasibility Test stage by a Team or City Council.

## CONCLUSION

The relationship between moving the state's capital city and regional government is the

<sup>15</sup> Sahat Aditua Fandhitya Silalahi, 2019, *Loc.Cit.*, p. 23

<sup>16</sup> Andrinof A Chaniago, et.al., *Loc.Cit.*, p. 21-22

implementation of regional government which according to the Law of the Republic of Indonesia Number 23 Year 2014 concerning Regional Government regulates 9 (nine) aspects, namely: Central and Regional Government Relations, Regional Government Administration, Government Affairs, the Role of the Governor as Representative of the Central Government in the Regions, Regional Planning, Regional Apparatus, Regional Finance, Regional Regulations, and Regional Innovation.

The legal implications of relocating the country's capital city to East Kalimantan include integration of settlement functions, education centers, research centers, service industrial areas, and recreation as well as being supported by adequate transportation systems, settlement infrastructure and city facilities (Revised Law No. 29 Year 2007 concerning the National Capital), has a strong city management concept and is able to control the utilization of city spaces and its territory effectively (Implementation of the Spatial Planning Law Number 26 Year 2007), has an integrated inter-modal public transportation system and integrated with city activity centers based on the concept of TOD (Transit Oriented Development), having a ready-to-build area and a ready-to-build environment (Implementation of Law Number 4 Year 1992 and Government Regulation Number 80 Year 1999), and capacity building and institutional development (capacity building and institutional development) management of the capital of the Unitary State of the Republic of Indonesia.

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