

Misreading the Court Decision: Reflecting on Constitutional Interpretation In Nusantara Capital Law Formation

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Abstract

This study examines the use of Constitutional Court decisions in the academic manuscript of the Draft Law on the National Capital (RUU IKN) and evaluates its consistency with the 1945 Constitution, while drawing comparisons with governance models of other national capitals. The establishment of Ibu Kota Nusantara raises constitutional concerns because its governance design as an Authority excludes direct elections for regional leaders and the existence of a Regional House of Representatives. This design risks subordinating constitutional norms to political will, thereby undermining democratic principles. Using a normative juridical approach combined with comparative legal analysis, the research finds that the academic manuscript employs Constitutional Court rulings selectively, weakening constitutional guarantees of local democracy. Although the Court has recognized special governance status for certain regions, such as Papua and DKI Jakarta, these precedents have never eliminated democratic institutions, since both regions still maintain electoral and representative mechanisms. A comparison with Putrajaya, Malaysia, shows that centralistic governance may offer administrative efficiency but comes at the expense of political accountability and public participation. The study concludes that implementing the IKN Law without amendment will endanger constitutional legitimacy and set a harmful precedent for democratic governance. The novelty of this research lies in its critical perspective on how constitutional interpretation is instrumentalized in strategic policymaking, combining judicial analysis with comparative insights. Normatively, it recommends revising the IKN Law to align with constitutional principles of local democracy and strengthen safeguards for public participation and accountability.

Keywords: Authority; Constitutional Interpretation; Local Democracy; Nusantara Capital City

1. INTRODUCTION

The designation of Ibu Kota Nusantara (IKN) as Indonesia's new capital marks a critical moment in the nation's constitutional development. First announced by President Joko Widodo in 2019¹ IKN is framed as a national strategic project, funded through a mix of state budget, public-private partnerships, and investment.² Beyond infrastructure, however, the IKN Law (Law No. 3/2022, amended by Law No. 21/2023) introduces a new governance model under an *Authority* that excludes direct elections for regional leaders and the establishment of a Regional House of Representatives (DPRD),³ raising serious constitutional concerns.

¹ Kementerian Sekretariat Negara RI, "Presiden Jokowi Tegaskan Rencana Pemindahan Ibu Kota Di Hadapan Anggota Dewan," 2019, <https://www.presidentri.go.id/siaran-pers/president-jokowi-tegaskan-rencana-pemindahan-ibu-kota-di-hadapan-anggota-dewan/>; BBC News Indonesia, "Presiden Jokowi Umumkan Ibu Kota Baru: Mengapa Banyak Negara Memindahkan Ibu Kotanya?," 2019, <https://www.bbc.com/indonesia/majalah-49469253>.

² Mhd. Jundi Zia Ulhaq, Muhammad Darwis, and Rudiadi, "Analisa Pemindahan Ibu Kota Negara Republik Indonesia Berdasarkan Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara," *Journal of Sharia and Law* 2, no. 1 (2023).

³ Rizki Mulyaningsih, "Kedudukan Kepala Otorita Ibu Kota Nusantara Dalam Perspektif Hukum Otonomi Daerah," *Jurnal Lex Renaissance* 7, no. 2 (2022): 296–309, <https://doi.org/10.20885/jlr.vol7.iss2.art6>.

This raises a key question: to what extent can IKN's special status be justified under Articles 18 and 18B(1) of the 1945 Constitution? While the Draft Law's academic manuscript emphasizes constitutional flexibility, it neglects the historical context and principle of autonomy underlying these norms. By privileging formal over substantive reasoning and selectively citing Constitutional Court precedents, the law risks reflecting political will disguised as constitutional interpretation, turning legislation into a tool of legitimation rather than democratic deliberation.⁴

The academic manuscript of the IKN Draft Law (RUU IKN) explicitly references Constitutional Court decisions as its argumentative basis. Yet, it fails to thoroughly explain the constitutional meaning of Articles 18A and 18B of the 1945 Constitution. The manuscript simplifies complex interpretations into a normative justification for a policy that substantially involves redesigning a centralized government system. This issue becomes even more critical when considering the swift legislative process and the minimal substantive public debate⁵. There is no thorough legal study exploring how the capital relocation will impact the distribution of power, the function of regional autonomy, or the structure of government adhering to the structure of a unitary state. Instead of reinforcing constitutional norms, this legal product risks marginalizing them. When Constitutional Court decisions are used selectively, the values they embody lose meaning. The law is cited, but not respected.

The fundamental question underpinning this research is whether incorporating Constitutional Court decisions into the Draft Law on the National Capital (RUU IKN) academic manuscript is methodologically sound and constitutionally legitimate. Does the legal model employed reflect prudence in interpreting fundamental norms, or does it instead demonstrate a tendency towards instrumentalizing law? What legal harmonization strategies can be applied through comparative studies of how other countries establish, govern, and regulate their capital cities within a democratic constitutional framework?

This article re-examines the legal foundations of the State Capital Law, not through the lens of developmental politics, but with the discipline of constitutional analysis. Its primary objective is to evaluate the validity of utilizing Constitutional Court decisions as a normative basis in the academic manuscript of the Draft Law on the State Capital (RUU IKN), and to assess the extent to which this interpretation remains consistent with the normative structure of the 1945 Constitution. Furthermore, this article aims to compare governance models of other national capitals, encompassing both legally analogous and distinct constructions, to explore alternative approaches that better align with principles of democracy and good governance. By approaching this issue through a combination of normative analysis and comparative study, this research not only elucidates the core problems but also offers avenues for improvement. The aspiration is not

⁴ Ulhaq, Darwis, and Rudiadi, "Analisa Pemindahan Ibu Kota Negara Republik Indonesia Berdasarkan Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara."

⁵ Zidan Alrifqy Putra Arianto and Syofyan Hadi, "Analisis Kesesuaian Pengangkatan Kepala Otorita Dan Wakil Kepala Ototrita Ibu Kota Nusantara Dalam Perspektif Demokrasi," *Iuris Studia: Jurnal Kajian Hukum* 5, no. 3 (2025).

merely to rectify a single law but to demonstrate how law should function constitutionally, rationally, and responsibly in responding to the nation's grand ambitions.

Previous local articles examining the issue of forming Indonesia's state capital government, known as the Nusantara Capital City Authority (Otorita Ibu Kota Nusantara/OIKN), have so far not given adequate attention to how the state interprets the constitution in the context of strategic policy. This is especially true when such policies reshape governmental structures geographically and institutionally. Existing studies focus solely on formal legality, without delving deeper into how constitutional interpretations are utilized, selected, or distorted to serve political development agendas. Few studies genuinely question the methodological validity of using Constitutional Court Decisions as the primary basis for legislation.

The same applies to comparative studies. Research on national capitals in other countries is often framed from an urbanistic or administrative perspective, rather than a constitutional one. Yet, in many cases, capital relocation necessitates a conceptual shift in central-local relations, distribution of authority, and even democratic structures. Currently, no systematic studies compare Indonesia's capital relocation with other constitutional models, in both presidential and parliamentary systems, to assess the strengths and weaknesses of the IKN Law's normative arguments.

Firstly, prior research by Nugraha et al. (2023) conducted a legal analysis and interpretation specifically pertaining to the IKN Law. Their investigation particularly scrutinised the regulatory powers and the established governance framework of the IKN Authority, positioned within Indonesia's overarching legislative hierarchy. This analysis encompassed examining the law's provisions, identifying ambiguities, and proposing clarifications to ensure legal certainty and alignment with the Indonesian legal system. The paper also explored legal interpretation, specifically the role of the Supreme Court in reviewing legislation.⁶ Nevertheless, they did not specifically analyze how the Constitutional Court's decisions, cited as references in the academic manuscript of the IKN Draft Law, were interpreted. Furthermore, their research did not undertake a constitutional comparative study of national capitals in other countries.

Secondly, similar research has also been conducted by Ulhaq et al. (2023), who analyzed the philosophical, sociological, and juridical aspects of Indonesia's new capital city law formation. They highlighted that the intellectual foundations concerning Pancasila values had not been thoroughly elaborated, concluding that these foundations require re-evaluation. In their research, Ulhaq contended that implementing the IKN Law might not align with constitutional requirements.⁷ However, they did not specifically analyze how the interpretation of Constitutional Court decisions, which serve as references in the academic manuscript of the IKN

⁶ Harry Setya Nugraha, M. Yasin Al Arif, and Mhd Zakiul Fikri, "Examining the Legal Standing of IKN Authority Regulations within Indonesian's Legislation System," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 261–80, <https://doi.org/10.24090/volksgeist.v6i2.9394>.

⁷ Nugraha, Al Arif, and Fikri.

Bill, was conducted. Furthermore, their study did not undertake a constitutional comparative analysis of national capitals in other countries.

Third, similar research has been conducted by Sembiring et al. (2023), who found that the capital relocation poses legal challenges due to the implications of Law No. 3/2022. According to their research, the formation of the IKN Law insufficiently adheres to democratic principles due to a lack of transparency, accountability, and public participation. They argue that the law must comply with sound legislative tenets, such as clarity of purpose, an appropriate institutional framework, and public involvement.⁸ Nevertheless, their research did not specifically analyze the interpretation of Constitutional Court decisions referenced in the academic manuscript of the Draft IKN Law, nor did it undertake a constitutional comparative study of national capitals in other countries.

The aforementioned shortcomings in previous research present a significant gap that this article aims to address: critiquing the state's approach to utilizing constitutional interpretations in formulating strategic policies, particularly concerning the relocation of the capital city. Hitherto, discussions surrounding the Law on the State Capital have been predominantly characterized by technocratic arguments and development narratives. At the same time, its constitutional dimensions have not been considered as if they do not necessitate a normative re-evaluation. However, when Constitutional Court interpretations are positioned as the primary basis in the academic manuscript of the Draft Law, the pertinent question is whether such use is legally valid and whether it is methodologically appropriate.

The approach employed in this research uniquely integrates two aspects rarely combined within a single framework: an evaluation of juridical interpretation and a cross-country comparative study. Consequently, this article demonstrates flaws in the application of law, elucidates their significance, and illustrates how other nations have addressed similar issues with a more constitutionally reflective approach. Such an approach remains underexplored, mainly in existing literature, within national and regional legal scholarship. The novelty of this research stems not from its subject matter, but from its analytical perspective: that the relocation of a capital city is not merely a matter of spatial planning, but fundamentally concerns how law comprehends itself when confronted with the state's ambitions. Therefore, the purpose of this study is to critically examine the constitutional consistency of the Draft Law on the National Capital through the lens of Constitutional Court decisions and to assess its implications by comparing governance models of other national capitals.

2. METHOD

This research employs a normative juridical approach combined with a comparative legal method. The normative juridical approach is utilized to examine the prevailing legal norms,

⁸ Frans Yudistira Sembiring, Lendy Siar, and Josepus Jullie Pinori, "Analisis Yuridis Terhadap Pembentukan Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara," *Lex Privatum* XI, no. 4 (2023), <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/47766>.

encompassing those found in the constitution, statutes, and other official documents pertinent to the formation and regulation of the State Capital.⁹ This method facilitates an analysis of the juridical arguments presented in the academic manuscript and the constitutional interpretations underpinning the enactment of the IKN Law. Concurrently, the comparative legal method is applied to draw comparisons with governance models of other national capitals, such as Putrajaya, Malaysia, each possessing distinct legal frameworks and constitutional designs for regulating capital functions and their relationship with the central government.

The research employs a data set characterized as secondary, encompassing both primary and secondary legal sources. The primary legal sources examined for this study include the Constitution of the Republic of Indonesia, Law Number 3 of 2022 on the State Capital (as amended by Law Number 21 of 2023), and relevant jurisprudence articulated in the decisions of the Constitutional Court of the Republic of Indonesia. Secondary legal sources encompass academic studies/manuscripts prepared by Bappenas in June 2021 concerning the Draft Law on the State Capital (RUU IKN), legislative session records, government reports, and scholarly literature from reputable journals, reference books, and reports from relevant institutions.¹⁰ However, this study is limited by its reliance on literature and legal documents, without incorporating empirical field data, which may constrain its ability to capture practical dynamics of implementation and public response.

3. RESULTS AND DISCUSSION

3.1 The Controversy of the Nusantara Capital City Legislation

The hierarchy of legal norms is essential to the coherence of a legal system. It ensures that lower rules remain valid only if they are consistent with higher ones.¹¹ Hans Kelsen's *Stufenbau des Rechts* illustrates this as a pyramid, with the *Grundnorm* at the apex,¹² from which all norms derive legitimacy, not only by procedure but also by conformity. At the top of this hierarchy stands the constitution, the framework for all legislation and the guarantor of juridical cohesion. A sound constitution secures legal certainty, enabling society to anticipate and rely on consistent legal practices (*verwachten*), in line with Macaulay's maxim: "Unity of law if possible, diversity if necessary, but most importantly, legal certainty."¹³

Within the Indonesian legal framework, this normative hierarchy is explicitly delineated in Article 7, paragraph (1) of Law No. 12 of 2011 *juncto* Law No. 13 of 2022, which systematically

⁹ Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (May 31, 2016): 201–7, <https://doi.org/10.1016/J.SBSPRO.2016.05.006>.

¹⁰ Alan Mabin and Philip Harrison, "Contemporary Planning and Emergent Futures: A Comparative Study of Five Capital City-Regions on Four Continents," *Progress in Planning* 169 (March 1, 2022), <https://doi.org/10.1016/J.PROGRESS.2022.100664>.

¹¹ Sembiring, Siar, and Pinori, "Analisis Yuridis Terhadap Pembentukan Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara."

¹² P.M. Rondonuwu, *Teori Hukum Dari Eksistensi Ke Rekonstruksi, Hukum*, 1st ed. (Depok: Rajawali Pers, 2021).

¹³ Rondonuwu, 186.

orders legal instruments commencing with the 1945 Constitution as the paramount legal authority, followed sequentially by MPR Decrees, Acts (Laws)/Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, and Regional Regulations. The 1945 Constitution serves as the national *grondwet* (fundamental law), requiring all legal products, including the Law on the State Capital (IKN Law), to conform.¹⁴ This is not merely a matter of formality; any norm contradicting the 1945 Constitution potentially loses its legal legitimacy. Through this mechanism, the hierarchy of norms ensures that Indonesian law remains consistent with the spirit of the constitution.

In addition to maintaining consistency, the hierarchy of legal norms ensures legal certainty and upholds constitutional supremacy.¹⁵ The *lex superior derogat legi inferiori* principle affirms that a higher norm supersedes a lower norm.¹⁶ This principle guides the Constitutional Court (MK) when reviewing laws against the 1945 Constitution. The case of the IKN Law presents a serious challenge when provisions governing the IKN Authority's administration are deemed to contradict the principle of local autonomy enshrined in the Constitution. Here, the hierarchy is not merely a theoretical construct, but a concrete tool for assessing the legality of policies and ensuring that lawmakers do not violate the constitution in the name of administrative specificity.

The IKN Law designs the governance structure of the Nusantara Capital City with an approach that deviates from the general pattern of regional/local government stipulated in the constitution.¹⁷ The President directly appoints the Chief of the IKN Authority without going through an election mechanism, and a local legislative body, such as the Regional House of Representatives (DPRD), is not established.¹⁸ This condition elicits constitutional inquiries, particularly given that Article 18, paragraphs (3) and (4) of the Constitution explicitly underscore the crucial significance of democratically elected local government leaders and the mandated establishment of a DPRD. The absence of local elections in this design potentially reduces the application of local democratic principles guaranteed by the constitution, thereby creating a normative tension between the IKN Law and the 1945 Constitution.

This inconsistency is also apparent when the IKN Law is compared with Law No. 23 of 2014 concerning Local Government. The Local Government Law explicitly stipulates that autonomous regions must have directly elected local government leaders and members of the DPRD to ensure the principles of autonomy and public participation.¹⁹ Conversely, the IKN

¹⁴ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara Jilid 1*, vol. 1 (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006).

¹⁵ Suyeni, Wahyu Rahmadani, and Slim Oktapani, "Peran Mahkamah Konstitusi Dalam Menjamin Konstitusionalitas Pembentukan Undang-Undang Di Indonesia," *Jurnal Niara* 18, no. 1 (2025): 202–16.

¹⁶ Agus Riewanto et al., *Hukum Tata Negara*, 1st ed. (Depok: Rajawali Pers, 2023).

¹⁷ Nugraha, Al Arif, and Fikri, "Examining the Legal Standing of IKN Authority Regulations within Indonesian's Legislation System."

¹⁸ Pemerintah Indonesia, *Undang-Undang Republik Indonesia Nomor 3 Tahun 2022 Tentang Ibu Kota Negara, Lembaran Negara RI Tahun 2022 Nomor 41* (Jakarta: Sekretariat Negara, 2022).

¹⁹ Pemerintah Indonesia, *Undang-Undang Republik Indonesia Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah, Lembaran Negara RI Tahun 2014 Nomor 244* (Jakarta: Sekretariat Negara, 2014).

Authority resembles a vertical institution under the President rather than an independent regional government. By abolishing the mechanism of autonomous regional government, the IKN Law has disregarded the principle of decentralization, which is intended to bring public services closer to the people and enhance community involvement.

In Indonesia's complex legal system, clashes frequently arise between legal norms of varying hierarchy and scope. Three fundamental principles are recognized to address these conflicts: “*lex superior derogat legi inferiori*”, “*lex specialis derogat legi generali*”, and “*lex posterior derogat legi priori*.”²⁰ These serve as interpretive guidelines, enabling judges, legislators, and legal practitioners to determine which norm should take precedence when contradictions occur. However, in practice, the application of these three principles is not always straightforward, as the context and substance of each norm can generate intricate tensions. This situation is clearly evident in the case of the IKN Law, which has sparked extensive legal debate concerning its consistency with fundamental constitutional principles.

The principle of “*lex superior derogat legi inferiori*” dictates that a norm of higher legal standing must prevail over a lower-ranking norm in the event of a conflict.²¹ The 1945 Constitution holds the supreme position in the Indonesian legal hierarchy, followed by statutes, government regulations, and regional regulations. The application of this principle to the IKN Law becomes critically important because if any provision within the IKN Law contradicts Article 18 of the 1945 Constitution, which pertains to regional/local autonomy and democratic elections, then such a provision would be rendered invalid. The Constitutional Court, as the guardian of the 1945 constitution, plays an important role in upholding this principle through the mechanism of judicial review.²² Practical experience in Indonesia demonstrates that the Constitutional Court frequently annuls laws that violate the constitution, thereby illustrating that the *lex superior* principle is not merely a theoretical concept but also a concrete corrective instrument.

Meanwhile, the “*lex specialis derogat legi generali*” principle dictates that a specific rule overrides a general rule when both are of equal hierarchical standing and govern the same subject matter.²³ The IKN Law is often regarded as *lex specialis* because it regulates the unique characteristics of the State Capital, differentiating it from other regions.²⁴ This principle is frequently used to justify the distinct governmental design of the IKN compared to autonomous regions in general. However, it maintains a crucial limitation: a special norm cannot violate a

²⁰ Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H. Noho, and Aga Natalis, “The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems,” *Cogent Social Sciences* 8, no. 1 (2022), <https://doi.org/10.1080/23311886.2022.2104710>.

²¹ Riewanto et al., *Hukum Tata Negara*.

²² Petra Mahy, “Indonesia’s Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments,” *Asian Journal of Comparative Law* 17, no. 1 (2022): 51–75, <https://doi.org/10.1017/asjcl.2022.7>.

²³ Nurfaqih Irfani, “Asas Lex Superior, Lex Specialis, Dan Lex Posterior: Pemaknaan, Problematika, Dan Penggunaannya Dalam Penalaran Dan Argumentasi Hukum,” *Legislasi Indonesia* 16, no. 3 (2020): 305–25.

²⁴ Mahy, “Indonesia’s Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments.”

higher norm in the legal hierarchy. This consequently implies that the IKN Law, notwithstanding its distinct characteristics, is strictly prohibited from contravening the 1945 Constitution, which serves as the paramount legal instrument of the state.

The “*lex posterior derogat legi priori*” principle stipulates that a newer law supersedes an older one if both are equivalent in hierarchy and regulate the same subject matter.²⁵ Theoretically, the IKN Law, a more recent legal product than the Regional Government Law (UU Pemda), could override the latter. However, applying this principle is only valid if it does not contravene a higher norm, such as the 1945 Constitution. Therefore, despite its recency, the IKN Law cannot abrogate the obligation to conduct regional governance democratically, which is guaranteed by the 1945 Constitution and elaborated in the Local Government Law. This principle underscores the importance of comprehensively evaluating the relationship between norms rather than solely based on their enactment date.

The interaction of these three principles within the IKN Law engenders a conflict that cannot be resolved merely by applying one principle. While the IKN Law might be considered *lex specialis* and *lex posterior* to the Regional Government Law, if its substance contravenes the 1945 Constitution, then the principle of *lex superior* must be applied. This demonstrates that legal harmonization is not merely a discourse but an urgent necessity to maintain the consistency of the national legal system. Harmonization further demands an in-depth analysis of every conflicting norm to ensure that the resulting solutions are legally formal, constitutional, and in accordance with the spirit of democracy.

In such instances of conflict, the constitutional interpretation by the Constitutional Court (MK) becomes crucial to ensure that every legal norm remains within the constitutional framework. The interpretations rendered by the Constitutional Court must not be confined merely to the textual provisions of articles. Nevertheless, it is imperative that they concurrently account for the entirety of the legal framework and the fundamental objectives enshrined within the constitution, including core tenets such as the principles of a rule of law state, democracy, and decentralization.²⁶ Through applying a systemic and teleological methodology, the Constitutional Court can guarantee that the stipulations of the IKN Law, despite regulating special characteristics, do not contravene the fundamental principles of the 1945 Constitution.²⁷ This underscores the paramount importance for all stakeholders, the government, legislators, and civil society alike, to comprehend and safeguard against any legal product deviating from the constitutional path.

²⁵ Irfani, “Asas *Lex Superior*, *Lex Specialis*, Dan *Lex Posterior*: Pemaknaan, Problematika, Dan Penggunaannya Dalam Penalaran Dan Argumentasi Hukum.”

²⁶ Riris Ardhanariswari et al., “Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 183–207, <https://doi.org/10.24090/volksgeist.v6i2.9565>.

²⁷ Irfan Ardyan Nusanto, “Analisis Terhadap Dualitas Peraturan Menteri Dalam Sistem Peraturan Perundang-Undangan Di Indonesia,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 1 (June 1, 2021): 53–68, <https://doi.org/10.24090/VOLKSGEIST.V4I1.4245>.

3.2 Interpreting Article 18B(1) of the 1945 Constitution for Special Regional Governance

The establishment of Ibu Kota Nusantara (IKN) through Law Number 3 of 2022 has sparked serious debate within constitutional law, particularly regarding the principles of decentralization and local democracy as regulated in Articles 18 and 18B paragraph (1) of the 1945 Constitution.²⁸ Many views assert that the IKN Law does not contradict the 1945 Constitution and the Regional Government Law, by referencing Article 18B paragraph (1) of the 1945 Constitution.

This provision is often used as an argumentative basis to justify the formation of governmental entities that do not conform to the general pattern of regional government, as is the case with IKN. However, the understanding of this article cannot be conducted partially or merely textually. The interpretation of Article 18B paragraph (1) must be systemic, contextual, and teleological, considering the entire structure and spirit of the constitution.

Article 18B paragraph (1) of the 1945 Constitution recognizes the diverse systems of regional governance in Indonesia.²⁹ This provision allows the state to designate a special or autonomous status for specific regions based on historical, cultural, or strategic needs.³⁰ Tangible examples of this article's implementation include the Special Region of Yogyakarta (DIY), the Special Capital Region of Jakarta (DKI), and Papua Province.

However, the acknowledgment of special status does not justify the abrogation of fundamental principles of local governance enshrined in Article 18 of the 1945 Constitution, such as regional autonomy, the democratic election of regional heads, and the existence of a Regional House of Representatives (DPRD). It is crucial to note that Article 18B paragraph (1) does not negate these principles, as Article 18 paragraph (4) explicitly guarantees the democratic election of regional heads, Article 18 paragraph (5) affirms the division of governmental affairs, and Article 18 paragraph (2) emphasizes the recognition of regional autonomy.

Articles 18 and 18B constitute an integrated system of regional government within the 1945 Constitution. Article 18 stipulates the general principles of regional governance, while Article 18B provides scope for regulating special statuses. Therefore, Article 18B should ideally be interpreted as expanding the state's recognition of regional diversity, rather than permitting the establishment of non-democratic governmental entities, such as the IKN Authority, which lacks both a Regional House of Representatives (DPRD) and a directly elected regional head. Article 18B paragraph (1) must be read systemically in conjunction with the entirety of Article 18 of the 1945 Constitution, particularly paragraphs (2), (3), and (4), which affirm that regional

²⁸ Febbiola Rizka Marteen, "Menakar Pengaturan Tentang Ibu Kota Nusantara Melalui Pasal 18 UUD 1945," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 5 (July 2, 2024): 1083–96, <https://doi.org/10.38035/JIHHP.V4I5.2167>.

²⁹ Ismu Gunadi Widodo, "Sistem Penetapan Gubernur Kepala Daerah Istimewa Yogyakarta Dalam Sistem Pemilihan Kepala Daerah Berdasarkan Pasal 18 Ayat (4) UUD 1945," *Jurnal Dinamika Hukum* 11, no. 2 (2011), <https://doi.org/10.20884/1.jdh.2011.11.2.190>.

³⁰ T Triwahyuningsih and I N S Saleh, "Rekognisi Sistem Pemerintahan Daerah Di Indonesia Perspektif Konstitusional," *UNESA Law Review* 6, no. 1 (2023): 3486–95.

governments manage and administer their own affairs based on the principle of autonomy, that regional governments possess a DPRD elected through general elections, and that regional heads are democratically chosen.

This implies that the recognition of special or autonomous regions does not justify the abolition of democratic principles and regional autonomy. Therefore, the special status acknowledged in Article 18B must remain within the framework of the principles stipulated in Article 18. Constitutional Court Decision No. 11/PUU-VI/2008 affirms that Article 18B is not an exception to Article 18, but rather a complement that expands the scope of state recognition of regional diversity. Consequently, special status cannot be utilized to circumvent the principles of local democracy and decentralization. Special status must remain within the constitutional corridor that guarantees public participation and governmental accountability.

Special Status Does Not Imply an Exception to Democratic Principles

In constitutional practice, regions with special or autonomous status consistently uphold the principle of local democracy.³¹ The Special Region of Yogyakarta (DIY), for example, maintains a mechanism for determining its regional head based on historical prerogative, yet it still possesses a Regional House of Representatives (DPRD) that performs legislative and oversight functions.³² Similarly, the Special Capital Region of Jakarta (DKI Jakarta) has unique governmental structures but continues to conduct democratic elections for its regional head and has its own DPRD. Therefore, special status does not equate to an exemption from democratic principles. Special status must be regulated proportionally, consistently ensuring public participation and governmental accountability.

The special status of IKN can indeed be predicated on specific strategic needs or political realities, as recognized in Constitutional Court Decision No. 81/PUU-VIII/2010,³³ Rather than solely on historical or cultural grounds. However, the rationale of strategic necessity cannot serve as a pretext for abrogating the principles of local democracy. Without a DPRD mechanism or the democratic election of the Authority head, IKN's special status risks contravening the principles of the rule of law as guaranteed by the 1945 Constitution.³⁴

If the abolition of regional elections (Pilkada) and the DPRD in IKN is justified solely on the basis of its "special" status, without regard for constitutional limitations, then other regions could demand similar treatment. This risks fragmenting democratic principles within the regional governance system and weakening the consistency of the rule of law. While the recognition of

³¹ Triwahyuningsih and Saleh.

³² Widodo, "Sistem Penetapan Gubernur Kepala Daerah Istimewa Yogyakarta Dalam Sistem Pemilihan Kepala Daerah Berdasarkan Pasal 18 Ayat (4) UUD 1945."

³³ Mahkamah Konstitusi Republik Indonesia, "Putusan MK Nomor 81/PUU-VIII/2010," 2010, www.mkri.id/public/content/persidangan/putusan/putusan_sidang_Putusan No. 81-PUU-VIII-2010.pdf.

³⁴ Mulyaningsih, "Kedudukan Kepala Otorita Ibu Kota Nusantara Dalam Perspektif Hukum Otonomi Daerah"; Restu Gusti Monitasari, Danial, and Fatkhul Muin, "Authority Of The Board Of Regional Representatives To Monitor And Evaluate The Design Of Local Regulations And Local Regulations In Constitutional Perspective," *JHR (Jurnal Hukum Replik)* 10, no. 1 (2022): 84–110, <https://doi.org/10.31000/jhr.v10i1.5689>.

special status is indeed constitutionally permissible, it must be safeguarded to prevent it from becoming a loophole to disregard public participation, accountability, and democratic principles.

Article 18B paragraph (1) of the 1945 Constitution provides scope for the regulation of special or autonomous regions, whether due to historical, sociological, or strategic reasons. However, this scope does not imply absolute authority to disregard the fundamental principles of democratic local government. The regulation of special status must be explicitly stipulated in a law because legislation is a product of a material policy process, with technical and ethical constructions within the framework of checks and balances and public participation.³⁵ Article 18B paragraph (1) cannot be used as justification for negating local democratic principles guaranteed in Article 18 paragraphs (3) and (4).

The drafting of laws and regulations must be participatory-populist, rather than merely representative-elitist. This means that legal policymakers must reflect the public's will to achieve justice and welfare. The participatory-populist paradigm emphasizes the importance of analyzing the formulation and implementation of legislation within the broader context of public-private life.³⁶ Therefore, the IKN Law still needs to be critically reviewed and harmonized so as not to contradict the spirit of the constitution and the national legal system. As a region with strategic special status, IKN must still guarantee public participation through mechanisms equivalent to, or at least commensurate with, the principles of local democracy.

3.3 Critical Analysis of the Interpretation of Constitutional Court Decisions in the Academic Manuscript of the Draft IKN Law

In the academic manuscript of the Draft Law on the Nusantara Capital (Rancangan Undang-Undang Ibukota Nusantara/RUU IKN), several Constitutional Court (MK) decisions are referenced to legitimize the governance design of the IKN Authority, which deviates from the general pattern of regional government. These include, among others, Constitutional Court Decision No. 81/PUU-VIII/2010, Constitutional Court Decision No. 11/PUU-VI/2008, and Constitutional Court Decision No. 37/PUU-XIV/2016.³⁷ However, the use of these decisions to legitimize IKN's special status requires re-analysis from an academic and constitutional perspective, as there may be errors in their interpretation and application.

3.3.1 Constitutional Court Decision No. 81/PUU-VIII/2010: Papua's Special Autonomy within the Framework of Decentralization

In its analysis, the academic manuscript of the IKN Draft Law refers to Constitutional Court Decision Number 81/PUU-VIII/2010, particularly paragraph [3.19]. From this provision, the manuscript concludes that the Court allowed a region to be granted special status based solely on

³⁵ Rondonuwu, *Teori Hukum Dari Eksistensi Ke Rekonstruksi*, 185.

³⁶ Rondonuwu, 185.

³⁷ Kementerian Perencanaan Pembangunan Nasional/Bappenas, "Naskah Akademik Rancangan Undang-Undang Tentang Ibu Kota Negara" (2021).

pressing political realities and needs, even without a historical background.³⁸ However, this interpretation is only partial.

In fact, the case in Decision No. 81/PUU-VIII/2010 concerned the judicial review of the abolition of the Papua Regional Parliament's (DPR Papua) authority to elect the Governor and Deputy Governor, as regulated under the Papua Special Autonomy Law. In paragraph [3.25], the Court emphasized that the election of the Governor and Deputy Governor is not in itself a special characteristic that distinguishes Papua from other provinces. Instead, the mechanism for electing regional heads falls within the scope of general legal policy that must remain aligned with the principles of local democracy as guaranteed under Article 18 paragraph (4) of the 1945 Constitution.

Therefore, the Constitutional Court never positioned special status as a justification to override or eliminate local democratic principles. On the contrary, the decision clarifies that while certain regions may be granted special status due to historical or political considerations, such status cannot negate the constitutional mandate for democratic governance at the local level.

Indeed, this decision acknowledges that special status does not always have to be historically based but can also be grounded in real or strategic needs that necessitate special treatment for a region. However, it is crucial to note that even when based on strategic needs, such a special status cannot be employed to negate local democratic principles. Papua, for instance, maintains a democratic governmental structure: a Regional House of Representatives (DPRD), popularly elected regional heads, and autonomy mechanisms that guarantee public participation. In contrast, the IKN Law's establishment of the IKN Authority effectively abolishes the DPRD and direct regional head elections, creating a non-provincial governmental entity led by an Authority Head directly appointed by the President. This demonstrates a fundamental difference from Papua, which retains its democratic regional governmental structure.

Therefore, although Constitutional Court Decision No. 81/PUU-VIII/2010 opens the possibility of special status based on strategic needs, using this decision as a legitimate basis for negating local democratic principles in IKN remains constitutionally and academically irrelevant. Any special status, whether historical or strategically based, must invariably respect the local democratic principles guaranteed by Article 18 of the 1945 Constitution.

3.3.2 Constitutional Court Decision No. 11/PUU-VI/2008: The Special Status of DKI Jakarta as a Province

In its analysis, the academic manuscript of the IKN Draft Law also excerpts part of paragraph [3.18] of Constitutional Court Decision No. 11/PUU-VIII/2008.³⁹ Based on this excerpt, the academic manuscript of the IKN Draft Law subsequently concludes that, according to the Constitutional Court, Article 18B (including Article 18A) is not intended as an exception to

³⁸ Mahkamah Konstitusi Republik Indonesia, "Putusan MK Nomor 81/PUU-VIII/2010."

³⁹ Mahkamah Konstitusi Republik Indonesia, "Putusan MK Nomor 11/PUU-VI/2008," 2008.

Article 18. Consequently, the provision in Article 18B paragraph (1) is independent and has no linkage to Article 18, thus implying that the establishment of special regions through a Law based on Article 18B paragraph (1) is not obligated to adhere to the provisions of Article 18 of the 1945 Constitution.

This conclusion warrants critical analysis. When read in its entirety, Constitutional Court Decision No. 11/PUU-VI/2008 examined the autonomy regulation of the Special Capital Region (DKI) Jakarta, which operates solely at the provincial level, without autonomous regencies/cities. In that decision, the Constitutional Court affirmed that the division of DKI Jakarta into administrative cities and regencies with appointed regional heads does not contradict the 1945 Constitution, as Article 18 and Article 18B can apply independently and equivalently.⁴⁰ In other words, the Constitutional Court stated that Jakarta's special status as the national capital can be regulated differently from other provinces, and this does not contradict Article 18 of the 1945 Constitution because it is guaranteed by Article 18B paragraph (1). Nevertheless, DKI Jakarta still maintains a Regional House of Representatives (DPRD) and democratically elected regional heads. Jakarta's special status does not abolish the principle of local democracy but merely regulates a different form of autonomy. IKN, as a non-provincial entity without a DPRD and elected regional heads, cannot, in this regard, be equated with DKI Jakarta.

While the Constitutional Court indeed mentioned three alternative relations between Article 18 and Article 18B, it did not explicitly state that Article 18B could be implemented without regard for Article 18. In the excerpt from paragraph [3.18], the Constitutional Court stated: "*...that both are 'in an equivalent relationship and do not subordinate each other...'*" The phrase '*equivalent relationship*' should ideally be interpreted not as full freedom, but rather as coherence and mutual complementarity. Again, Article 18B of the 1945 Constitution provides room for special status, but it does not abolish the principle of local democracy and the structure of regional government. Furthermore, in a modern constitutional system, norms within a single supreme legal document cannot contradict each other or be implemented partially.⁴¹ Article 18 and Article 18B of the 1945 Constitution must be read as an integral part of the regional governance system. Article 18B paragraph (1) does state that special status is regulated by law. However, that law itself must still be subject to the 1945 Constitution as a whole, including Article 18.

Therefore, the use of Constitutional Court Decision No. 11/PUU-VI/2008 in the academic manuscript of the IKN Draft Law as a basis for legitimizing the argument that Article 18B paragraph (1) is independent and unrelated to Article 18 is constitutionally less relevant, as it

⁴⁰ Riskayati Subandi, "Konstitusionalitas Proses Pemilihan Kepala Otorita Ibu Kota Nusantara Berdasarkan Undang-Undang Nomor 3 Tahun 2022 Tengan Ibu Kota Negara," *Jurnal Konstitusi Dan Demokrasi* 3, no. 2 (2023), <https://doi.org/10.7454/jkd.v3i2.1307>.

⁴¹ Taufik Hidayat, Resti Dian Luthviati, and Suwiat Jenvitchuwong, "Disharmonization of Supreme Court Regulations in Material Judicial Rights," *Journal of Human Rights, Culture and Legal System* 2, no. 3 (2022): 149–66, <https://doi.org/10.53955/jhcls.v2i3.34>.

disregards the fundamental principles of regional governance in Article 18 of the 1945 Constitution, and contradicts the spirit of decentralization and local democracy.

3.3.3 Constitutional Court Decision No. 37/PUU-XIV/2016: The Two-Round Election Mechanism in DKI Jakarta

In its analysis, the academic manuscript of the Draft Law on the State Capital (RUU IKN) also quotes part of paragraph [3.10] of Constitutional Court Decision No. 37/PUU-XIV/2016.⁴² Although not explicitly stated, the academic manuscript of the RUU IKN appears to use this excerpt from Constitutional Court Decision No. 37/PUU-XIV/2016 as a legitimation regarding the parties entitled to file a judicial review against the IKN Law, namely, a government or regional government unit, and not individual citizens.

However, when read in its entirety, this decision reviewed Article 11 of Law No. 29 of 2007 concerning the Governance of DKI Jakarta, specifically regarding the two-round mechanism in the election of the Governor of DKI Jakarta. This decision focused on the technical aspects of the election, not on the structure of regional government. In this decision, the Constitutional Court affirmed that Article 18 paragraph (4) and Article 18B paragraph (1) of the 1945 Constitution do not regulate individual constitutional rights, but rather the general principle of democratic regional head elections and the recognition of special regional characteristics. Crucially, this decision does not justify the establishment of non-democratic governmental entities such as the IKN Authority. Therefore, using this decision as a constitutional basis to abolish regional head elections in IKN is inappropriate. The object and context of the decision are different, as it primarily addresses election mechanisms rather than the structure of government. Moreover, the Constitutional Court in this decision did not provide any justification for eliminating local democratic principles. In addition, IKN is not subject to the regional government system as regulated in Article 18 of the 1945 Constitution and Law No. 23 of 2014.

3.3.4 Critical Assessment of the Argumentation within the Academic Manuscript of the IKN Draft Law

The academic manuscript of the RUU IKN asserts that special status need not be historically based and can instead be determined by political necessity and strategic positioning. However, this argument overlooks the fact that special status must still comply with the fundamental principles of regional governance as stipulated in the 1945 Constitution, which encompass the form of regional government in the structure of provinces, regencies, and cities, the democratic election of regional heads, and the recognition of regional autonomy.

Special status not grounded in the constitutional values risks becoming a political tool to evade public accountability and participation.⁴³ Therefore, the arguments presented in the academic

⁴² Mahkamah Konstitusi Republik Indonesia, “Putusan MK Nomor 37/PUU-XIV/2016” (2016).

⁴³ wafiq Salsabilah And Rizca Yunike Putri, “Kekuasaan Dalam Ranah Kajian Politik Dan Organisasi,” *Jurnal Ilmu Sosial Dan Ilmu Politik* 2, no. 1 (2022): 29, <https://doi.org/10.30742/juispol.v2i1.2133>.

manuscript of the RUU IKN require academic and constitutional correction. The erroneous use of Constitutional Court decisions to legitimize IKN's special status potentially undermines the integrity of the national legal system. If unchecked, this could set a precedent where establishing special regions can occur without regard for democratic and rule-of-law principles. The Constitutional Court, as the guardian of the Constitution, must ensure that every form of special status remains within constitutional bounds.

3.4 Reflective Argumentation on the Practical Implications of Implementing the IKN Law Without Amendments

If the IKN Authority's governance design is allowed to proceed without review or refinement, a number of consequences warrant close scrutiny.⁴⁴ These are not merely theoretical legal issues but potentially have tangible impacts on the ground, affecting the lives of citizens and influencing the quality of our democracy.

Firstly, the absence of a Regional House of Representatives (DPRD) and local elections, for instance, could weaken the legitimacy of the IKN Authority. Society might perceive that policies are unilaterally determined, without their involvement. When public participation is not accommodated, the sense of ownership over policies can fade, ultimately opening the door to dissatisfaction and eroding trust in the government.

Secondly, there is concern that this approach could set an unwise precedent. Suppose IKN's special status is used to justify abolishing local democratic mechanisms. In that case, it is possible that other regions deemed "strategic," such as industrial zones, border areas, or districts with significant economic potential, might put forward similar demands. This can shift the standards of local democracy that we have painstakingly built since the reform era.

Thirdly, the absence of a DPRD potentially reduces mechanisms for public control. Policies adopted tend to be unilateral, as the Head of the Authority, directly appointed by the President, would govern without a regional institution serving as a check or oversight body. This could increase the risk of abuse of power. While not all officials would act corruptly, a system with minimal oversight still creates opportunities for less transparent and accountable practices.

Fourthly, without active public participation, there is a concern that IKN might represent a regression in democratic practice. As a new capital, IKN should reflect the nation's progress, including transparency, accountability, and public engagement. If the process is overly centralized and insufficiently involves the people's voice, there is a risk that the spirit of reform, which has been jointly struggled for, could be neglected.

Fifthly, the consistency of the rule of law principles could face challenges. A sound state should apply rules uniformly across all its territories. If democratic principles are upheld in one region

⁴⁴ Rhendy Harnaloustamy Caesar, "Existence of Authority Nusantara Capital City in Perspective of Local Government Law," *Constitutionale* 5, no. 2 (January 30, 2024): 99–110, <https://doi.org/10.25041/CONSTITUTIONALE.V5I2.3557>.

but set aside in IKN, this could create the impression of differential treatment, potentially diminishing the sense of justice and, in the long term, leading to disparities in perception among regions.

Lastly, and no less significantly, changes in central government policy, such as a presidential transition, could directly impact the direction of governance in IKN without the involvement of local democratic processes. This uncertainty could cause unrest, not only for IKN residents but also for investors and stakeholders who expect long-term stability. Without a DPRD and local democratic mechanisms, we risk sowing the seeds of future problems. The IKN Law should not merely be an instrument for physical development, but also a means to safeguard democratic values. If this is ignored, IKN could reflect our failure to realize the spirit of reform.

3.5 A Brief Comparison with Putrajaya, Malaysia

As previously mentioned, the governance design of IKN, structured as an authority directly under the President without a democratically elected regional head or a Regional House of Representatives (DPRD), precipitates significant constitutional and democratic debate. This governmental structure deviates from the typical regional governance model in Indonesia, which is founded on principles of decentralization and local democracy as stipulated in Article 18 of the 1945 Constitution and Law No. 23 of 2014 concerning Regional Government. The interpretation of various Constitutional Court decisions within the academic manuscript of the Draft IKN Law is also deemed biased and insufficiently comprehensive. The absence of direct election mechanisms and local legislative bodies in IKN consequently raises the question: can "special" status justify an exception to the principles of democracy and public representation? To address this question, it is crucial to examine international practices. Several countries with democratic systems also have capital cities with special administrative status, such as Washington D.C. (United States), Canberra (Australia), Brasília (Brazil), and Putrajaya (Malaysia). But this article will focus on a comparison with Putrajaya, Malaysia.

Putrajaya serves as the federal administrative center of the Malaysian government, formally established through the Putrajaya Corporation Act 1995.⁴⁵ This territory is designated as one of the three Federal Territories, alongside Kuala Lumpur and Labuan, as specified in Article 1(4) of the Federal Constitution of Malaysia (hereinafter referred to as the Federal Constitution). Although many governmental functions were relocated to Putrajaya, the constitutional capital of Malaysia remains Kuala Lumpur. This is affirmed in Article 154(1) of the Federal Constitution, which states that the Parliament of Malaysia is situated in Kuala Lumpur. Thus, Putrajaya functions as an administrative center, rather than the constitutional capital of the nation.

Legally, Putrajaya is administered by the Putrajaya Corporation, a body established under the Putrajaya Corporation Act 1995, specifically Part II Article 3, which defines its structure and

⁴⁵ Ho Siong Chin, "Putrajaya – Administrative Centre of Malaysia -Planning Concept and Implementation-," in *Sustainable Urban Development and Governance Conference at SungKyunKwan University Seoul*, 2006, 1–20.

functions.⁴⁶ The Putrajaya Corporation operates under the oversight of the Ministry of Federal Territories and is responsible for the administration, development, and public services within the territory. Regional leaders in Putrajaya are not elected directly; the chief executive is appointed by the federal government.⁴⁷ This model demonstrates a centralistic administrative approach, with the central government exercising full control. This contrasts with other regions in Malaysia that possess local governance and general elections.

In Malaysia's constitutional monarchy system, executive power rests with the Yang di-Pertuan Agong, or the King of Malaysia.⁴⁸ However, in practice, the Prime Minister and the Federal Cabinet, whose headquarters are located in Putrajaya, exercise executive power.⁴⁹ The King appoints the Prime Minister based on the majority support in the House of Representatives (*Dewan Rakyat*) and leads the implementation of national policies. In Putrajaya, various ministries and executive agencies carry out daily governmental functions, making the territory the hub of administrative decision-making.⁵⁰ Consequently, Putrajaya symbolizes Malaysia's executive power.

From a legislative perspective, Malaysia adopts the Westminster parliamentary system, with legislative power exercised by the Federal Parliament, comprising the House of Representatives (*Dewan Rakyat*) and the Senate (*Dewan Negara*).⁵¹ This Parliament is situated in Kuala Lumpur, not Putrajaya, meaning Putrajaya does not have direct legislative functions. There is no local legislative council in the Federal Territory of Putrajaya, and the federal government determines all policies applicable within the territory. This indicates that Putrajaya is not an autonomous political entity but an administrative territory subject to central policy. This model eliminates mechanisms for checks and balances at the local level.

Putrajaya also lacks a local election system, unlike other states in Malaysia.⁵² Nevertheless, its residents participate in the election of members of the *Dewan Rakyat* every five years, utilizing a first-past-the-post system.⁵³ The Putrajaya Corporation and relevant ministries make all administrative and development decisions. This has drawn criticism from some quarters, who argue that Putrajaya's governance model insufficiently reflects participatory democratic

⁴⁶ Shahoran Bin Johan Ariffini, "Putrajaya, Malaysia," *Australian Planner* 40, no. 3 (2003): 40–42, <https://doi.org/10.1080/07293682.2003.9995277>.

⁴⁷ Siew Nooi Phang, "Decentralisation or Recentralisation? Trends in Local Government in Malaysia," *Commonwealth Journal of Local Governance*, April 28, 2008, 126–32, <https://doi.org/10.5130/CJLG.V11I0.759>.

⁴⁸ Nafi' Mubarak, "Sistem Pemerintahan Di Negara-Negara Rumpun Melayu," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial*, 2021, <https://doi.org/10.15642/MASTEROFCONSTITUTIONALLAW.V1I1.66>.

⁴⁹ Alifia Mumtazati Saleha, "Perbandingan Antara Sistem Pemerintahan Di Indonesia Dan Malaysia," *Datuk Sulaiman Law Review (DaLRev)* 4, no. 2 (September 27, 2023): 47–60, <https://doi.org/10.24256/DALREV.V4I2.4758>.

⁵⁰ Noor Aimran Samsudin et al., "A Comparative Study of Smart City Initiatives in Malaysia: Putrajaya and Iskandar Puteri," *Planning Malaysia* 20, no. 4 (2022): 14–28, <https://doi.org/10.21837/pm.v20i24.1180>.

⁵¹ Saleha, "Perbandingan Antara Sistem Pemerintahan Di Indonesia Dan Malaysia."

⁵² Haji Mohd Hamdan, Haji Adnan, and Mahat Jamal, "Pilihan Raya Umum Malaysia Ke-13: Faktor-Faktor Penentuan Kemenangan Di Sabah," *Jurnal Komunikasi Borneo* 1 (2014): 55–76.

⁵³ Ahmad Kamal Ariffin Mohd Rus, Mohamad Khairul Anuar Mohd Rosli, and Aqillah Johar, "Pilihan Raya Di Persekutuan Tanah Melayu, 1948-1959 Dan Pengenalan First Past the Post," *Akademika*, 2021.

principles. However, the Malaysian government maintains that this approach is more efficient for managing the national administrative center.

Overall, the governance model in Putrajaya reflects a centralized administrative approach, underpinned by a robust legal framework through its constitution and specific laws. Although it does not hold the status of a constitutional capital, Putrajaya plays a crucial role in exercising Malaysia's executive power. The absence of legislative power and local elections indicates that the territory is designed for bureaucratic efficiency rather than political representation. Thus, Putrajaya is an example of how a state can separate administrative functions from constitutional functions in capital city management. This model offers advantages in control and efficiency but also presents challenges concerning accountability and public participation.

However, the Putrajaya model cannot serve as a constitutional justification for Indonesia's IKN. Malaysia is a federal state where federal territories are constitutionally recognized as directly administered by the central government. By contrast, Indonesia is a unitary state with decentralization and local democracy embedded in Article 18 of the 1945 Constitution. Therefore, adopting a governance design for IKN that excludes DPRD and elected regional heads contradicts Indonesia's constitutional framework and risks undermining the very principles of local democracy that form the foundation of its unitary state system.

4. CONCLUSION

This research concludes that the primary objective, evaluating the constitutional consistency of the Draft Law on the State Capital (RUU IKN), reveals that the academic manuscript tends to employ Constitutional Court decisions selectively, particularly concerning Articles 18 and 18B paragraph (1) of the 1945 Constitution. Such partial interpretation risks marginalizing core democratic principles, including regional head elections and the existence of a Regional House of Representatives, which are integral to regional autonomy. The findings further emphasize that although the Constitutional Court has recognized special status based on strategic needs, as in the cases of Papua and DKI Jakarta, this recognition never implied the elimination of democratic institutions, since both regions still uphold electoral and representative mechanisms. A comparative perspective with Putrajaya illustrates that centralistic governance may achieve administrative efficiency but often sacrifices political accountability and public representation. The novelty of this research lies in its critical reframing of capital relocation not as a matter of spatial or administrative design, but as a constitutional test of how state ambitions interact with democratic values. By combining normative constitutional analysis with comparative study, this research underscores the dangers of instrumentalizing constitutional interpretation for political ends. Based on these findings, the research recommends a normative revision of the IKN Law that reinstates mechanisms for public representation and accountability. Additionally, it urges the Constitutional Court to reaffirm its role as the guardian of democratic principles by clarifying the limits of special regional status and preventing its misuse as a justification for centralization. Harmonizing the IKN Law with the spirit of the 1945 Constitution is essential to safeguard

public participation, uphold the rule of law, and prevent the erosion of democratic governance in Indonesia's strategic policymaking.

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