



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> ✉ dinasti.info@gmail.com ☎ +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v5i2>
<https://creativecommons.org/licenses/by/4.0/>

The Principle of People's Sovereignty in the Presidential Appointment of the Head of the Nusantara Capital Authority

Elvia Rahmawati¹, Miftakhul Huda², Ian Firstian Aldhi³.

¹Departement of Law, Narotama University, elviarahma14@gmail.com.

²Departement of Law, Narotama University, miftahul.huda@narotama.ac.id.

³Human Resource Development, Postgraduate School, Universitas Airlangga, ian.firstian.aldhi-2021@pasca.unair.ac.id.

Corresponding Author: elviarahma14@gmail.com¹

Abstract: This study explores the appointment mechanism of the Head of the Nusantara Capital Authority (IKN Authority) and its implications for the principle of people's sovereignty as enshrined in the 1945 Constitution. The Indonesian state, structured as a unitary system with decentralized governance, grants certain regions special status, including the newly established Nusantara Capital. Unlike other regions with locally elected leaders, the Head of the IKN Authority is appointed directly by the President, reflecting an asymmetric decentralization model. The findings indicate that while the special appointment mechanism aims to streamline governance and ensure efficient leadership for the capital's development, it significantly limits local political representation and public participation. The study highlights that this mechanism contrasts with democratic principles outlined in the Constitution, where sovereignty is vested in the people and manifested through elections. The reliance on a merit-based appointment system underscores the need for professional leadership in managing the complex and multi-sectoral environment of the new capital. However, it also raises concerns about the diminishing role of public consent and local political engagement, which are vital to democratic governance. The study concludes that while the mechanism facilitates the capital's development, it simultaneously weakens democratic values by curbing the practical exercise of people's sovereignty at the local level.

Keyword: Nusantara Capital Authority, People's Sovereignty, Asymmetric Decentralization, Presidential Appointment, Democratic Governance.

INTRODUCTION

Since the inception of the Indonesian state, the choice of a unitary system of government has been enshrined in the 1945 Constitution, particularly in Article 1, Paragraph 1, which clearly states that Indonesia is a unitary state. According to Daud Busroh (2009), a unitary state does not consist of federated states, meaning it is a singular entity with no state within a state. A unitary state with a decentralized system allows regions to have the authority to manage their

own affairs, referred to as autonomous regions (Smith, 2023). The provisions regarding local government are outlined in Articles 18, 18A, and 18B of the 1945 Constitution. Article 18, Paragraph 1, stipulates: “The Unitary State of the Republic of Indonesia shall be divided into provinces and those provinces shall be divided into regencies and municipalities, each of which shall have regional governments regulated by law.” Indonesia recognizes regions with special or distinctive statuses, as articulated in Article 18B, Paragraph 1 of the 1945 Constitution, which states: “The state recognizes and respects units of regional government that are special or distinctive, as regulated by law.” Currently, several regions, including the newly established Nusantara, hold such special status. Article 1, Clause 2 of the Capital City Law (UU IKN) states:

“The State Capital named Nusantara, hereinafter referred to as the Nusantara Capital, is a special regional government unit equivalent to a province whose area is designated as the seat of the State Capital as stipulated and regulated by this Law.”

The head of this special region, the Head of the Nusantara Capital Authority, as defined in Article 1, Clause 10 of the UU IKN, represents a new institutional model within Indonesia's regional governance system. Unlike other special regions such as DKI Jakarta, Papua, DI Yogyakarta, and DI Aceh, which are led by governors at the provincial level, the Nusantara Capital is governed by a specially appointed authority head. The appointment of the Nusantara Capital Authority Head by the President warrants careful consideration. The 1945 Constitution mandates democratic elections for regional heads, reflecting the principle of people's sovereignty. This principle is also manifested in the creation of laws through deliberative processes grounded in democratic values. Moreover, people's sovereignty is institutionalized through mechanisms and structures of governance and state organizations, ensuring the functioning of a legal system and democracy. Consequently, this principle is organized through the separation or distribution of powers (Sakwa, 2024). Based on the aforementioned background, this study investigates the presidential appointment of the Head of the Nusantara Capital Authority, examining its implications in light of the people's sovereignty principle as embedded in the 1945 Constitution and under Law No. 3 of 2022 concerning the State Capital.

METHOD

Research methodology is a systematic approach to achieving objectives through careful and thorough analysis. This process involves searching, recording, formulating, analyzing, and compiling a report. To obtain the necessary data and results for this study, a qualitative research method is employed. This type of research aims to describe and analyze phenomena, events, social activities, attitudes, beliefs, perceptions, and thoughts of individuals or groups. Unlike quantitative research, qualitative research focuses on verbal data rather than numerical data. The approach used in this study is normative legal research, which examines legal issues by reviewing applicable laws, legal theories, and legal principles as the basis for analysis. This method allows the researcher to address legal problems from a theoretical and regulatory perspective. The research employs a prescriptive method, which aims to describe specific issues in a particular place and time by explaining and interpreting textual data to solve the problems under study.

RESULTS AND DISCUSSION

Appointment Mechanism of the Nusantara Capital Authority Head Based on Legislation

The principle of regional autonomy is implemented through the decentralization of power, initially centralized in the central government. This creates a significant shift in authority between different levels of government (Simatupang et al., 2024). Decentralization in regional autonomy can be either asymmetric or symmetric. Asymmetric decentralization refers to the delegation of specific powers to certain regions within a country, while symmetric

decentralization involves the uniform delegation of power from the central government to all regions (Johan, 2021). Indonesia currently employs both asymmetric and symmetric decentralization. Asymmetric regions include Jakarta, Aceh, Yogyakarta, Papua, and the newly established Nusantara Capital. Symmetric decentralization applies to regions outside these areas (Pane, 2024). The special status granted to regions like Jakarta as the state capital means there is no local election for the heads of regencies or cities and no regional legislative councils at those levels.

The Jakarta Governor is elected through a conditional majority mechanism. Similarly, the Head of the Nusantara Capital Authority is given special treatment under the Capital City Law (UU IKN). The special mechanism for appointing the Head of the Nusantara Capital Authority is outlined in Article 5(4) and Article 9(1) of the UU IKN, which state that the President appoints, inaugurates, and can dismiss the Head and Deputy Head of the Authority after consulting with the House of Representatives (DPR). However, the initial appointment of Bambang Susantono as Head and Dhony Raharjo as Deputy Head did not involve consultation with the DPR (Feulner, 2024). The mechanism for appointing the Head of the Nusantara Capital Authority includes:

1. The President appoints, inaugurates, and may dismiss the Head and Deputy Head at any time.
2. The initial appointment must occur within two months after the enactment of the UU IKN.

The Presidential Regulation No. 62 of 2022 further regulates this process, emphasizing the President's authority to appoint, dismiss, and determine the tenure of the Head and Deputy Head for a term of five years, subject to reappointment (Ahliyan, 2022). However, this regulation does not detail the appointment process, reflecting a need for more public participation and representation. Historically, the appointment of regional heads by the central government has roots in Indonesia's early independence period, such as under Law No. 1 of 1945, which implicitly regulated the appointment of regional heads from local national committee members (Nugrohosudin, 2022). This appointment mechanism persists in transitional periods, such as during simultaneous national and local elections, to fill vacancies (Palupi et al., 2023). The specific nature of Jakarta and Nusantara as capitals reflects asymmetric decentralization politically, differing from other regions in Indonesia, where power is more evenly distributed between central and local governments. Jakarta's Governor is elected directly, but city administration heads are appointed by the Governor (Nurdin, 2022).

The Head of the Nusantara Capital Authority holds a ministerial-level position, appointed based on merit rather than political affiliation, gender, race, religion, or other personal factors. The merit system, as defined by McCourt, involves appointing the best person for a job based on competence and performance (Afrianto & Prasojo, 2020). This ensures that individuals with relevant expertise, such as infrastructure and management, lead significant projects like the capital relocation. The Nusantara Capital, without local political institutions, is administratively focused, with national elections being the sole democratic process conducted in the region, as specified in Article 5(3) of the UU IKN. This arrangement minimizes local political activities and maintains centralized administrative control (Piyo, 2023).

Consequences of the Presidential Appointment of the Nusantara Capital Authority Head Based on the Concept of People's Sovereignty in the 1945 Constitution

The institutional structure of the Nusantara Capital Authority (IKN Authority) plays a unique role in administering the new capital, impacting the political and governance dynamics in Indonesia. The establishment of the IKN Authority is based on principles outlined in the academic text of the Capital City Law (UU IKN). These principles emphasize that effective capital development cannot be conducted through sectoral approaches, as they impose

significant coordination burdens. The management of the capital involves cross-sectoral issues, affecting legal, ministerial, and regional functions. Additionally, modern and effective capital management requires governance that ensures certainty, flexibility, and sound financial management (Purba et al., 2023). Long-term asset management is essential, aligning with organizational and policy cycles. The complexity of the new capital's governance necessitates a special authority with a clear mandate, capable of producing policies involving multiple agencies and organizations.

The institutional framework emphasizes a unified grand design to ensure interconnected systems for the development and management of the capital. A single organization is tasked with preparing and implementing project components and managing the capital, with a unified planning and execution schedule to prevent inconsistencies. Flexible transactions are also emphasized to facilitate accessible public services and efficient fund flows across projects involving central and local governments, state-owned enterprises, and the private sector. From a political standpoint, the IKN Authority only conducts national elections for the President, Vice President, DPR, and DPD, while local legislative elections (DPRD) and direct regional head elections are not held. This arrangement limits local political representation and democratic processes. According to the UU IKN and its academic text, the institutional design aims to minimize local political intervention, with the IKN Authority acting as a "city manager" responsible for preparing, executing, and managing the new capital. This structure aims to streamline governance but poses challenges for local democratic participation and representation.

Sovereignty is defined as the supreme authority within a state, encompassing both the domain (who holds sovereignty) and the scope (activities included in sovereignty). In Indonesia, sovereignty is manifested through general elections, where the people directly elect the President, Vice President, DPR, DPD, and regional heads (Rahayu, 2022). Typically, government positions are filled either through elections or appointments. The appointment of the IKN Authority Head by the President centralizes power at the national level, reduces public participation in selecting local leaders, and undermines the essence of people's sovereignty in democratic governance. This centralization diminishes local political activity, limiting public participation and political rights at the local level, which contrasts with Indonesia's democratic practices that prioritize maximizing public political participation. The principle of people's sovereignty asserts that legitimate governance must be based on the consent of the governed, granting moral legitimacy to the government to enact binding policies. The absence of public consent in appointing the IKN Authority Head highlights a critical weakness in the institutional design, despite its goal of facilitating smooth capital relocation and development.

CONCLUSION

The appointment mechanism for the Head of the Nusantara Capital Authority, as outlined in the Capital City Law (UU IKN) and Presidential Regulation No. 62 of 2022, reflects an asymmetric decentralization approach, centralizing significant authority at the national level. This mechanism, which bypasses local elections and relies on presidential appointments, aims to streamline governance and ensure competent leadership for the capital's development. However, it also reduces public participation and local political representation, highlighting a shift towards administrative efficiency at the expense of broader democratic engagement. The reliance on a merit-based system underscores the need for professional and qualified leadership, particularly in the complex and multi-sectoral environment of the new capital.

The presidential appointment of the Nusantara Capital Authority Head, based on the Capital City Law and rooted in the concept of people's sovereignty in the 1945 Constitution, introduces a centralized governance model that minimizes local political participation and representation. While this structure aims to streamline the administration and development of the new capital

through a unified and efficient framework, it challenges democratic principles by limiting the public's role in leadership selection. The focus on administrative efficiency and merit-based appointments underscores the need for professional leadership but simultaneously highlights a significant departure from broader democratic engagement, thereby diminishing the practical application of people's sovereignty at the local level.

REFERENCE

- Undang Dasar Negara Republik Indonesia Tahun 1945
Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Negara
Peraturan Presiden Nomor 62 Tahun 2022 tentang Otorita Ibu Kota Nusantara
Busroh, Daud. (2009). *Hukum Pemerintahan Daerah*. Nusamedia.
- Purba, O., Syamil, A., Nooraini, A., Sepriano, S., & Gunawan, A. F. (2023). *Dasar Hukum & Analisis Tata Kelola Ibu Kota Negara Dari Berbagai Bidang*. PT. Sonpedia Publishing Indonesia.
- Rahayu, A. S. (2022). *Pengantar Pemerintahan Daerah: kajian teori, hukum dan aplikasinya*. Sinar Grafika.
- Sakwa, R. (2024). Federalism, sovereignty and democracy. In *Regional politics in Russia* (pp. 1-22). Manchester University Press.
- Smith, B. C. (2023). *Decentralization: The territorial dimension of the state*. Taylor & Francis.
- Afrianto, R., & Prasojo, E. (2020). Analisis Proses Pengisian Jabatan Administrasi Berbasis Merit System di Kementerian Energi dan Sumber Daya Mineral. *Jurnal Reformasi Administrasi: Jurnal Ilmiah untuk Mewujudkan Masyarakat Madani*, 7(1), 17-28.
- Ahliyan, Y. (2022). Political Will Sistem Otorita IKN (OIKN) dalam Pasal 4 Undang-Undang Nomor 3 Tahun 2022. *Jurnal Hukum Kenegaraan dan Politik Islam*, 2.
- Feulner, F. (2024). The Indonesian House of Representatives and its role during democratic regression. *The Theory and Practice of Legislation*, 1-23.
- Johan, A. M. (2021). Sistem Pemilihan Kepala Daerah pada Daerah yang Memberlakukan Desentralisasi Asimetris. *Al-Qisth Law Review*, 5(1), 70-98.
- Nugrohosudin, E. (2022). Kedudukan Kepala Otorita Ibu Kota Nusantara dalam Undang-Undang Nomor 3 Tahun 2022. *Jurnal Legislatif*.
- Nurdin, M. R. (2022). Desentralisasi Dan Kekhususan Pelaksanaan Otonomi Daerah Otorita Ibu Kota Nusantara. *Lex Renaissance*, 7(3), 617-633.
- Palupi, A. A., Septaviana, D., & Airlangga, R. (2023). MEKANISME PEMBENTUKAN PERATURAN KEPALA OTORITA IBU KOTA NUSANTARA BERDASARKAN PERATURAN PERUNDANG-UNDANGAN YANG BERLAKU. *Jurnal Kawruh Abiyasa*, 3(2), 147-161.
- Pane, I., & Hsb, M. O. (2024). Politik Dinasti Ancaman terhadap Demokrasi Pancasila. *Perfecto: Jurnal Ilmu Hukum*, 2(1), 13-24.
- Piyo, S. (2023). Analisis Yuridis Jenis Dan Kedudukan Peraturan Kepala Otorita Dalam Hirarki Peraturan Perundang Undangan. *JIM: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8(3), 1001-1007.
- Simatupang, S. A. P., Talenta, I. S., Hutajulu, H. M. R., Siahaan, R. K., & Hadiningrum, S. (2024). Efektifitas Pembentukan Daerah Berdasarkan UU No 8 Tahun 2023 Guna Mendukung Otonomi Daerah Di Indonesia. *Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora*, 1(2), 162-174.