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Reconstruction of the Legal Status and Authority of the Indonesian Capital City Authority from the Perspective of the Indonesian Constitutional System Based on Siyasah Dusturiyyah

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Abstract: The establishment of the Nusantara Capital City Authority has raised constitutional issues, relating to its dual legal status as a ministerial-level institution and the administrator of a special regional government at the provincial level. This dual status creates uncertainty regarding legal legitimacy, the scope of authority, public representation, and accountability within Indonesia's constitutional system. This study aims to examine the legal status and authority of the Nusantara Capital City Authority within Indonesia's constitutional framework, assess its compatibility with the principles of siyasah dusturiyyah, and formulate an institutional reconstruction that upholds constitutional principles and justice. This research employs normative legal methods through statutory, case, conceptual, comparative, and Islamic constitutional law approaches. Legal materials are collected through literature and document studies and analyzed using qualitative-prescriptive analysis. The findings reveal that the Authority possesses formal legal legitimacy but faces structural constitutional problems, including the absence of a regional representative council, limited public participation, excessively broad authority, and inadequate accountability mechanisms. From the perspective of siyasah dusturiyyah, its institutional design has not fully reflected the principles of consultation, trustworthiness, justice, and public welfare. The novelty of this study lies in proposing the Authority as a transitional special regional government with a defined time limit, the establishment of a Special Regional Consultative Assembly, clearly delimited authority, and strengthened multi-layered oversight and accountability mechanisms.

Keywords: Legal Status, Authority, Nusantara Capital City Authority, Institutional Reconstruction, Siyasah Dusturiyyah

INTRODUCTION

The relocation of the national capital was stipulated in Law Number 3 of 2022 concerning the National Capital, as amended by Law Number 21 of 2023 (hereinafter referred to as the IKN Law). This policy not only relocates the center of government, but also creates

an institutional design previously unknown in Indonesian constitutional practice, namely the Archipelago Capital Authority (IKN Authority). The IKN Law qualifies the Archipelago Capital as a special regional government unit at the provincial level, while also positioning the IKN Authority as a ministerial-level institution that administers the Special Region of the Archipelago Capital. The Head of the Authority holds a ministerial position and is appointed, inaugurated, and dismissed by the President after consultation with the House of Representatives (DPR). Meanwhile, in the IKN region only national-level general elections are held, so there are no elections for regional heads or the Regional People's Representative Council (DPRD) (Law Number 3 of 2022).

This construction gives rise to a legal problem that is the focus of this thesis, namely that the IKN Authority bears two legal identities that conceptually negate each other. As a ministerial-level institution, the IKN Authority is a central government organ that operates within the logic of deconcentration and is responsible to the President as the holder of government power according to Article 4 paragraph (1) and Article 17 of the 1945 Constitution of the Republic of Indonesia. On the other hand, as the organizer of a special regional government at the provincial level, the IKN Authority should be subject to the constitutional design of regional government in Article 18, Article 18A, and Article 18B of the 1945 Constitution of the Republic of Indonesia which is based on autonomy, the existence of the DPRD (Article 18 paragraph (3)), and a democratically elected regional head (Article 18 paragraph (4)). The combination of these two identities raises a fundamental question: in which legal regime does the IKN Authority actually reside, namely the state ministry regime or the regional government regime, and from where does its authority obtain constitutional legitimacy.

This positional issue has direct implications for authority. The IKN Law grants special authority to the IKN Authority, further elaborated in Government Regulation Number 27 of 2023 concerning the Special Authority of the Indonesian Capital City Authority, including government affairs that in other regions fall under the authority of regional governments, as well as authority in the fields of business licensing, investment, and land. At the same time, the IKN Authority is also the executor of the preparation, construction, and relocation activities of the national capital. The accumulation of the functions of planner, developer, regulator, permit issuer, and regional government administrator in a single organ that is not balanced by regional representative institutions demonstrates the problem of delimitation of authority: where the attributive authority of the IKN Authority ends, and where the authority of ministries/agencies, the East Kalimantan Provincial Government, and surrounding district governments begins.

These design weaknesses are no longer hypothetical. Through Decision Number 185/PUU-XXII/2024, pronounced on November 13, 2025, the Constitutional Court partially granted the petition for judicial review of Article 16A paragraphs (1), (2), and (3) of the IKN Law, and declared that the two-cycle land rights scheme, which allows for cultivation rights of up to 190 years and building rights and use rights of up to 160 years, has no binding legal force. The Court assessed that this scheme has the potential to weaken state control over land and give rise to different treatment from other regions. This decision is important because it proves that the “specialness” of the IKN, including the IKN Authority’s evaluative role in granting land rights, has constitutional limits. On the other hand, previous Constitutional Court decisions on the IKN Law, including Decisions Number 25/PUU-XX/2022 and Number 34/PUU-XX/2022 which rejected the formal review, as well as several decisions declaring the petition inadmissible, have not, as far as the author's research has assessed the substantive constitutionality of the IKN Authority's position as a special regional government administrator (Constitutional Court, 2022; Sadiawati et al., 2025). Thus, the position and authority of the IKN Authority remain an open constitutional issue.

Uncertainty is also apparent in the status of the IKN itself. Article 39 paragraph (1) of the IKN Law stipulates that the position, function, and role of the nation's capital remain in Jakarta until the relocation of the nation's capital is determined by Presidential Decree. Law Number 2 of 2024 concerning the Special Region of Jakarta Province has revoked Jakarta's status as the capital, while the Presidential Decree regarding the relocation has not yet been issued, so the Constitutional Court through Decision Number 71/PUU-XXIV/2026 which was pronounced on May 12, 2026, needs to confirm that Jakarta remains the nation's capital until the Presidential Decree is determined. Simultaneously, Presidential Regulation Number 79 of 2025 concerning the Updating of the 2025 Government Work Plan targets the IKN to become the "political capital" in 2028, a term not recognized in the IKN Law (Presidential Regulation, 2025; Tirto.id, 2025). This means that the IKN Authority has been working as a development implementer and is being prepared to administer a special regional government over an area whose constitutional status as the nation's capital has not yet become effective. This transition period is taking place without a clear legal framework for institutional transition regarding the position and limits of the IKN Authority's authority.

From the perspective of siyasah dusturiyyah, the issue touches on three classic questions of Islamic state administration, namely the source of legitimacy of power (al-wilāyah), the limits and distribution of authority, and the mechanism of accountability of the ruler (muḥāsabah al-ḥukkām). Al-Mawardi differentiates public offices according to the extent of their mandate, including wizārat al-tafwīḍ (assistants with broad authority) and wizārat al-tanfīdz (executors of the head of state's policies), as well as imārah 'āmmah and imārah khāṣṣah for regional officials, each of which has different requirements, scope, and responsibilities (Al-Mawardi, 1989). The IKN Authority, which is structurally the implementer of the President's will, but is given broad territorial authority similar to the holder of imārah 'āmmah, shows a discrepancy between the form of mandate and the extent of authority. The principle of amanah (QS. An-Nisa' [4]: 58), shura (QS. Asy-Shura [42]: 38), and the principle of taṣarruf al-imām 'alā al-ra'iyyah manūṭun bi al-maṣlaḥah demand that broad public authority be balanced by clarity of mandate, participation, and accountability.

Based on the above description, the legal issues of this research can be formulated clearly, namely the ambiguity of position (dual status) and the absence of delimitation of authority of the IKN Authority which is not balanced by adequate legitimacy and accountability mechanisms, both according to the 1945 Constitution of the Republic of Indonesia and according to the principles of siyasah dusturiyyah. This issue cannot be answered sufficiently with a binary conclusion of "constitutional" or "unconstitutional", but rather requires reconstruction, namely a normative restructuring of the position, authority, and oversight mechanisms of the IKN Authority.

METHODS

This research is a normative legal study (normative juridical), namely, research that examines written laws, legal principles, court decisions, and doctrines to address legal issues (Soekanto and Sri, 2021). This research is prescriptive in nature, as it not only describes the position and authority of the IKN Authority as it exists but also assesses and formulates how that position and authority should be structured. The researchers did not collect field data; all analysis is based on legal materials.

This study uses five approaches, including the statute approach, the case approach, the conceptual approach, the comparative approach, and the siyasah dusturiyyah approach (normative-syar'i). Legal materials were collected through literature and document studies. The legal materials were analyzed qualitatively and prescriptively through four stages: inventory and systematization of norms, interpretation, multiple evaluation, and construction.

RESULTS AND DISCUSSION

The Legal Construction of the Capital City Authority of the Archipelago in the Indonesian Constitutional System

The idea of moving the national capital from Jakarta to East Kalimantan was not a discourse that was born suddenly, but rather had gone through a relatively long political and legislative process before finally being incorporated into Law Number 3 of 2022. However, studies that trace the relationship between the relocation of the national capital and the President's power from a constitutional perspective show that from the beginning there have been academic concerns regarding the potential for excessive strengthening of executive power (executive heavy) in the process, considering that strategic decisions regarding the IKN, ranging from location determination, institutional design, to the appointment of managing officials, are almost entirely under the control of the President without proportional involvement of the legislative and judicial branches of power in a substantive manner (Hadi and Rosa, 2020). These concerns then proved relevant when the IKN Law was actually enacted, especially in the provisions regarding the IKN Authority which is the focus of discussion in this sub-chapter.

1. Position and Authority of the IKN Authority

Normatively, Article 4 paragraph (1) letter b and Article 5 paragraph (4) of Law Number 3 of 2022 in conjunction with Law Number 21 of 2023 stipulate that the IKN Authority is a ministerial-level institution that organizes the Special Regional Government of the IKN, led by the Head of the Authority who holds a ministerial-level position, and is appointed, inaugurated, and dismissed by the President after consulting with the DPR. This special status is then emphasized by Government Regulation Number 27 of 2023 concerning the Special Authority of the Indonesian Capital City Authority, which gives the IKN Authority authority over almost all central government affairs and regional government affairs, except for absolute government affairs which include foreign policy, defense and security, justice, national monetary and fiscal, and religion. In other words, the IKN Authority is given a much broader scope of authority than the governor in general, as well as broader than the authority of the minister, because it combines the central executive function and the function of organizing regional government at the same time in a single organ.

This kind of construction, if examined critically, actually violates the logic of vertical separation of powers adopted by the 1945 Constitution of the Republic of Indonesia. The regional autonomy regime regulated by Article 18 of the 1945 Constitution of the Republic of Indonesia clearly distinguishes between the central government and regional governments, with regional heads being elected democratically as a constitutional prerequisite.

The author argues that the argument of the legislators who placed the IKN Authority on a par with the special status granted to the Special Capital Region of Jakarta is a false and forced analogy. The special status of DKI Jakarta was born from the historical-sociological fact as the nation's capital that has developed as a metropolitan city with a society and regional government infrastructure that has been established for a long time, while the special status of the IKN Authority was born from the absence of such a sociological basis: the IKN area at the time of the formation of the law was still a forest area and sparsely populated settlements that were administratively part of the North Penajam Paser Regency and Kutai Kartanegara Regency, East Kalimantan Province.

Another issue that should not be ignored is the relationship between the IKN Authority and the rights of indigenous communities who have long resided in the East Kalimantan region, particularly the Paser and Balik tribes. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia requires the state to recognize and respect

indigenous communities and their traditional rights as long as they are still alive and in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia. However, the broad authority granted to the IKN Authority in spatial planning and land management based on the provisions of spatial planning and land management in Law Number 3 of 2022 in conjunction with Law Number 21 of 2023 has the potential to override the customary land rights of indigenous communities without a consultation mechanism equivalent to the formal political representation mechanism. Studies examining the institutional status of the IKN Authority explicitly highlight the minimal protection of indigenous communities' rights in this institutional design, an omission that further reinforces the impression that the IKN project prioritizes the speed of physical development over fulfilling the constitutional rights of vulnerable community groups (Constitutional Court, 2025). Thus, the problematic position and authority of the IKN Authority is not merely a technical-administrative issue, but rather touches on the much more substantive dimensions of human rights and intergenerational justice.

2. Relationship between the IKN Authority and the Central and Regional Governments

The relationship between the IKN Authority and the central government is highly hierarchical and centralized. The Head of the Authority is directly responsible to the President, so his line of accountability is solely upward, fundamentally different from regional heads in general, who have a horizontal line of accountability to their constituents through the mechanism of regional head elections and oversight by the Regional People's Representative Council (DPRD) (Subandi, 2023). This relationship pattern makes the IKN Authority essentially an extension of the central executive power, given the "garb" of regional government, without the substance of true autonomy. The administrative character of this organ further emphasizes that what is occurring is not the decentralization of power as envisioned by regional autonomy reform, but rather a form of recentralization of power wrapped in the nomenclature of "specialization."

The basic principle of regional autonomy, which grants local governments the freedom to manage their own affairs, is disrupted by the presence of a new entity with broader authority and significantly greater fiscal resources than the local government, thus de facto creating a new hierarchy that is not clearly regulated in the Regional Government Law or the IKN Law itself. From a state financial perspective, funding for the preparation, construction, and relocation of the National Capital City, as stipulated in Articles 23 and 24 of Law Number 3 of 2022 in conjunction with Law Number 21 of 2023, is sourced from the State Budget (APBN), not from the Regional Budget (APBD).

Another issue worthy of criticism is the effectiveness of the consultation mechanism with the Indonesian House of Representatives (DPR RI) in the appointment and dismissal of the Head of the IKN Authority. Normatively, this consultation is intended as a check on the President's authority in determining the top leadership of the IKN Authority. However, this consultation differs from approval or a binding fit and proper test, which essentially does not provide the President with legal compulsion to follow the DPR RI's views. This situation further emphasizes that the entire cycle of power of the IKN Authority, from appointment and exercise of authority to accountability, revolves solely within the orbit of executive power, without any meaningful connection to the mechanisms of public representation, either at the national or local levels.

The absence of an internal checks and balances mechanism is further exacerbated by the position of the Head of the IKN Authority, who is also the head of the Special Capital Region of the Archipelago Government, based on Article 1 number 10 of the IKN Law. In the usual regional government structure, there is a functional separation between the regional head as the holder of executive power and the Regional People's Representative

Council (DPRD) as the holder of legislative power, which functions to oversee the administration of government, including conducting discussions and joint approval of draft regional regulations and draft regional budgets. In the IKN Authority, both functions of governance and supervision are in practice concentrated in the same figure, resulting in what in state administrative law is called self-regulating and self-supervising authority. This condition is structurally vulnerable to creating a conflict of interest, because the party formulating policy is also the party overseeing its own policy implementation, without an independent external body with electoral legitimacy to exercise external control.

3. Comparison of the Position of the Capital City Government: Jakarta and the Archipelago

Table 1. Comparison of the Government Position of the Capital City of Jakarta and the Capital City of the Archipelago

Aspect	Jakarta (Law 29/2007, continued by Law 2/2024)	Nusantara (IKN Law)	Analytical Notes
Constitutional basis	Article 18B paragraph (1): special provinces	Article 18B paragraph (1): regional government units are special at the provincial level.	Both rely on Article 18B paragraph (1)
Origin of specialization	The function of the capital city in a long-developed metropolitan city	The state policy is to build a new capital city from scratch	Jakarta's special status grew out of reality; the IKN's special status was created by law.
Form of government	Autonomous regional provinces; autonomy is placed at the provincial level; city and district administration	Special regional government organized by the IKN Authority as a ministerial-level institution	IKN does not have autonomous regional units
Head of government	The governor is democratically elected; the mayor and administrative regent are appointed by the governor.	The Head of the Authority is appointed, inaugurated and dismissed by the President after consulting with the DPR.	In Jakarta, the appointment only applies to administrative units below the province.
Representative institutions	The provincial DPRD is elected through general elections; there are no city and district DPRDs.	There is no DPRD	Jakarta still has representation at the autonomous level
General elections	National elections, gubernatorial elections, and provincial DPRD elections	Only national level elections	IKN residents lose their right to vote for local government
Regional settings	Regional regulations are formed by the governor together with the DPRD	Authority Regulations are determined by the Head of the Authority	The function of regulating the IKN without the approval of the representative institution
Finance and levies	APBD, special funds from the APBN; regional taxes are determined by regional regulations	APBN and other legitimate sources; taxes and special levies through Authority Regulations	Levies at the IKN without the approval of local representatives
Accountability	To the DPRD and the Central Government; to the people through elections	To the President; supervision by the DPR at the central level	IKN accountability is vertical
Current status of the capital	Remains the capital until the Presidential Decree on the relocation (Article 39 of	Waiting for the President's decision on the transfer	The authority works before the capital city status becomes effective

	the IKN Law; Constitutional Court Decision 71/PUU-XXIV/2026)		

Source: processed by the author from Law Number 29 of 2007, Law Number 2 of 2024, and the IKN Law

This comparison demonstrates several advantages of the IKN design. Development from the ground up allows for integrated planning through a master plan and a national strategic area spatial plan, something that is difficult to achieve in Jakarta, which has to contend with legacy issues such as overpopulation, flooding, and congestion. The Authority Design also avoids the tension that often arises in Jakarta between the elected governor's agenda and the central government's interests in the capital region, as authority rests within a single chain of command.

However, the same comparison undermines the argument that the IKN design is a continuation of Jakarta's special status. Jakarta's special status modifies the government structure below the province, with cities and administrative regencies led by appointed officials and lacking regional legislative councils (DPRDs). While maintaining the essential elements of regional governance at the provincial level, namely democratically elected governors and DPRDs, the appointment of mayors and regents is acceptable because these units are not autonomous regions, while public representation remains guaranteed at the provincial level. In the IKN, the elimination of representation occurs at the only existing level of government, leaving no other level to compensate.

Thus, the Jakarta precedent cannot be used as justification for the absence of a regional legislative assembly (DPRD) and an elected head of government in the capital city. Rather, it demonstrates the limits lawmakers have so far respected in designing the capital's special status: special status may reorganize structures below the autonomous level, but it does not eliminate representation at the autonomous level itself.

4. Constitutional Problems of the Position and Authority of the IKN Authority

The constitutional problems of the IKN Authority can be mapped into three layers of issues: (a) formal issues regarding the formation of laws; (b) material issues regarding the compatibility of the concept of authority with Article 18 of the 1945 Constitution of the Republic of Indonesia; and (c) the question of judicial consistency of the Constitutional Court in addressing these two issues. These three layers of issues are intertwined and indicate that the constitutional foundation of the IKN Authority is far from solid.

First, from a formal perspective, the National Capital Project Bill (IKN) was deliberated and passed by the Indonesian House of Representatives (DPR RI) in a very short time, approximately 43 days from submission to ratification, using a method known as fast-track legislation (Hadi and Rosa, 2020). The authors believe that the Constitutional Court's considerations in Decision Number 34/PUU-XX/2022 deserve sharp criticism because they demonstrate judicial inconsistencies that undermine the authority of the doctrine of meaningful participation, which the Court itself had just established less than a year earlier. If the Job Creation Law, which was deliberated over a period of months, was declared formally flawed because it did not meet the standards for meaningful participation, then it is difficult to understand, logically and legally, how the National Capital Project Law, deliberated over a much shorter period of 43 days, could be declared to have met the same standards for participation. This difference in treatment raises serious questions about the consistency of the application of the standards for meaningful participation, as without clear parameters, these standards risk being applied differently depending on the law being reviewed. However, it should be noted that each case has different arguments and trial

facts, so this criticism is directed at the lack of measurable parameters, not the Court's intentions.

Second, from a material aspect, the concept of "authority" as a form of regional government administration is not known at all in the 1945 Constitution of the Republic of Indonesia. Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia only recognizes the division of regions into provinces, regencies, and cities in a limited manner, while Article 18 paragraph (4) requires that governors, regents, and mayors be elected democratically. The original intent of the creators of the 1945 Constitution of the Republic of Indonesia regarding the phrase "regions of a special or exceptional nature" in Article 18B paragraph (1) was intended to accommodate the special features that arise from historical, socio-cultural factors, and the original rights of a region as reflected in the special features of the Special Regions of Yogyakarta, Aceh, Papua, and previously DKI Jakarta, not to create a new form of government that is completely controlled by the central executive without the involvement of local people's representation. The extension of the interpretation of Article 18B paragraph (1) to legitimize the IKN Authority thus constitutes a serious deviation in constitutional interpretation (constitutional misinterpretation), because it changes a norm that was originally intended to protect local uniqueness into an instrument of justification for the centralization of power.

Third, the Constitutional Court's judicial consistency in responding to the constitutionality of the IKN Authority is also questionable. After rejecting the formal judicial review petition in Case Number 34/PUU-XX/2022 and declaring the petition in Case Number 40/PUU-XX/2022 inadmissible, the Court again faced a petition for a material judicial review of Law Number 21 of 2023 in Case Number 79/PUU-XXII/2024, which ended with a decision that it was inadmissible (niet ontvankelijk verklaard) because it was deemed vague (obscuur libel) and did not clearly explain the conflicting norms. A similar stance was again seen in Decision Number 71/PUU-XXIV/2026, which rejected all petitions for material review of the IKN Law and affirmed that the constitutional status of the nation's capital city formally remains in DKI Jakarta until the issuance of a Presidential Decree regarding the relocation, so that once again the fundamental issue regarding the democratic legitimacy of the IKN Authority was not substantively addressed.

As a closing critical note on this sub-chapter, the author emphasizes that the issue of the constitutionality of the IKN Authority ultimately boils down to one fundamental question: to what extent can the people's sovereignty as guaranteed by Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia be set aside for the sake of efficiency and speed of state infrastructure development. People's sovereignty is not a principle that can be applied partially or conditionally only in politically established areas, but is set aside in areas that are considered still in the development stage. The argument that direct appointment by the President is temporary during the development transition period, as put forward by some groups who believe that this mechanism will later be replaced by direct elections after the IKN is truly functioning normally as the nation's capital, Santoso Az., 2022). is actually based on optimistic assumptions that lack legal certainty, because the IKN Law and Law Number 21 of 2023 do not include a binding deadline (sunset clause) for when the democratic election mechanism must be implemented. Without a clear sunset clause, the promise of a "temporary transition" has the potential to continue indefinitely, so that the democratic deficit inherent in the IKN Authority risks becoming a permanent condition, not just a transitional phase as the lawmakers argued.

5. Legal Assessment: Strengths and Weaknesses of the IKN Authority Design

Table 2. Strengths and Weaknesses of the IKN Authority Design

Aspect	Advantages (Worth Keeping)	Weaknesses (Need to be Corrected)	Evaluation
Legal basis	Formed by law in accordance with the requirements of Article 18B paragraph (1)	Dual status in the same law (Article 1 number 8 in conjunction with Article 4 paragraph (1) letter b of the IKN Law)	More serious weakness: concerns the certainty of the legal regime
Effectiveness	One-stop shop authority accelerates development	Broad authority without delimitation; potential overlap with ministries/agencies and local governments	More serious weakness: the principle of legality demands limits on authority
Filling of positions	Consultation with the DPR; officials who fail can be replaced immediately	No local mandate; non-binding consultation; can be dismissed before the term of office ends	More serious weaknesses: Article 18 paragraph (4)
Representation	The IKN Law regulates public participation	There is no DPRD; participation is not binding	More serious weakness: Article 18 paragraph (3)
Supervision	The BPK, MK, MA, and PTUN remain in effect; MK Decision 185/PUU-XXII/2024 proves that there has been a correction	Supervision is repressive and distant; there is no day-to-day local oversight.	Relatively balanced, tending towards weakness
Fiscal	Certainty of APBN financing; taxes and special levies as independent sources	Levies without the consent of local representatives; no regional budget	More serious weakness: Article 23A
Indigenous peoples	Affirmation of local elements in deputy positions	There is no mandatory consultation mechanism for indigenous peoples on land and space.	More serious weakness: Article 18B paragraph (2)
Transition period	Institutional flexibility in the early stages of development	There is no sunset clause towards definitive regional government.	More serious weakness: Article 28D paragraph (1)

Source: processed by the author

Based on the three layers of issues outlined above, the author believes that the position and authority of the National Capital Authority, as stipulated in Law Number 3 of 2022 in conjunction with Law Number 21 of 2023, harbors structural constitutional flaws, not merely technical-administrative flaws that can be remedied through partial revision. The primary issue lies in the institutional form of the "authority," which is fundamentally incompatible with the principles of democratic regional autonomy as mandated by Article 18 of the 1945 Constitution of the Republic of Indonesia, and the absence of adequate local political representation mechanisms for the people living in the National Capital Region.

Siyasah Dusturiyyah Analysis of the IKN Authority

The establishment of the Indonesian Capital City Authority (hereinafter referred to as the IKN Authority) as a special government institution at the ministerial level that organizes the special regional government of the Indonesian Capital City is a state phenomenon that has no precedent in the history of decentralization in post-reform Indonesia. The IKN Authority was established based on Law Number 3 of 2022 concerning the National Capital City as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022

concerning the National Capital City (Law, 2022; Meridian Hukum, 2026). As an entity that combines the executive functions of a ministry, regional government functions, and development corporation functions simultaneously, the IKN Authority presents a hybrid governance model that constitutionally and politically-legally still leaves much debate, especially regarding the principles of local democracy, public accountability, and community participation.

1. Legitimacy and Authority of Power

The legitimacy of power (masyru'iyyah al-sulthah) in the fiqh of siyasah dusturiyyah is basically based on two main pillars, namely religious legitimacy which originates from the nash syara' and social legitimacy which originates from the agreement of the people (al-ridha wa al-ikhtiyar) which is realized through the mechanism of bai'ah and ahlul halli wal 'aqdi. Allah SWT says in Surah An-Nisa': 58–59:

﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ ... يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ﴾

Meaning: "Indeed, Allah commands you to convey the message to those who are entitled to receive it, and when you determine a law between people, you must determine it fairly... O you who believe, obey Allah and obey His Messenger, and ulil amri among you." (QS. An-Nisa': 58–59).

This verse emphasizes two main points: first, power (amanat) must be handed over to those who are entitled and have the capacity (ahliyyah) to carry it out; second, obedience to the ulil amri is conditional, namely as long as the ulil amri upholds justice and does not deviate from the corridors of sharia.

From a supporting perspective, it can be argued that the mechanism for appointing the Head and Deputy Head of the IKN Authority by the President after consulting with the DPR (Subandi, 2023) does not necessarily contradict the doctrine of siyasah dusturiyyah, because in the history of classical Islamic government, the appointment of a leader (wali) in a region was not always carried out through direct elections by the people, but could also be through appointment (ta'yin) by the legitimate head of state, as long as it was accompanied by consultation with ahlul halli wal 'aqdi, namely representatives of figures who have the authority to represent the aspirations of the people. In this context, the mechanism of "consultation with the DPR" can be seen as a functional equivalent of shura with ahlul halli wal 'aqdi, because the DPR is a democratically elected representation of the people. This argument is also supported by the doctrine of siyasah syar'iyyah which emphasizes that the form and procedure for appointing leaders are based on ijtihadiyyah and can be adjusted to the interests and conditions of the times as long as the substance of justice and competence (kafa'ah) is maintained (Ansori, 2025).

However, the above argument cannot be accepted without critical considerations. First, the analogy between “consultation with the DPR” and shura with the ahlul halli wal 'aqdi is problematic because shura in siyasah dusturiyyah is not merely a one-way consultation formality, but rather contains elements of substantive exchange of opinions and is morally and politically binding on the decisions taken. In practice, the President's consultation with the DPR regarding the appointment of the Head of the IKN Authority tends to be ceremonial and does not provide room for the DPR to reject or substantively correct candidates, thus losing the essence of shura desired by the dusturiyyah principle itself. Second, if explored further, the absence of an election mechanism (either directly by the people of the IKN or indirectly through the DPRD) and the absence of a regional legislative body (DPRD) in the IKN region causes the IKN Authority's power to lose its basis of local popular representation (al-ummah al-mahalliyyah) (Dzurriyatul Quran Education Foundation, 2024). Third, a legal political study of the IKN Law found that there was very broad authority and extensive delegation to the IKN Authority which had the potential to

erode the accountability of the legislation itself, accompanied by a fast legislative process and minimal public participation (Abdullah, 2025).

2. Accountability and Limitation of Power

The principle of accountability (al-mas'uliyyah) and limitation of power (taqyid al-sulthah) is one of the main pillars of siyasah dusturiyyah which differentiates the conception of power in Islam from the concept of absolute power (al-mulk al-'adhud). Allah SWT says in Surah Shad [38]: 26:

﴿يَا دَاوُودُ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُمْ بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ الْهَوَىٰ فَيُضِلَّكَ عَنْ سَبِيلِ اللَّهِ﴾

Meaning: "O Dawud, indeed We have made you caliph (ruler) on the face of the earth, so judge (cases) between people fairly and do not follow your desires, because they will lead you astray from the path of Allah." (QS. Shad: 26).

This verse emphasizes that the power given to a caliph is binding (muqayyad), not value-free, and is always under moral-theological supervision so that it is not used to follow the desires or interests of certain groups. This principle is reinforced by Surah An-Nisa' [4]: 135 which orders the enforcement of justice (qawwamina bi al-qisth) even if it has to testify against oneself, relatives, or one's own group, and Surah Al-Hujurat [49]: 6 which orders tabayyun (clarification and verification) before making important decisions concerning the public interest. In the tradition of fiqh siyasah, these principles give rise to the mechanisms of hisbah (supervision of the organizers of power) and muhasabat al-hukkam (evaluation/accountability of the ruler), which structurally function as checks and balances on executive and administrative authority (Almuqarrom, 2026).

Defenders of the IKN Authority's institutional design argue that accountability is maintained through several formal channels: first, the Head of the IKN Authority is directly responsible to the President and can be dismissed at any time if proven to have committed irregularities; second, consultation with the DPR at the appointment stage provides an element of political oversight from the national legislative body; third, the IKN Authority remains subject to the state financial oversight mechanism by the Supreme Audit Agency (BPK) and legal oversight by law enforcement officials like other state institutions. This argument is in line with the principle of siyasah dusturiyyah which views vertical accountability to the head of state (al-mas'uliyyah al-'amudiyyah) as a legitimate form of muhasabah, just as governors (wali) during the classical Islamic era were directly responsible to the caliph who appointed them (Muzakkir, et al., 2024).

Thus, it can be critically concluded that the current accountability design of the IKN Authority is still partial and vertical-centralistic, not yet reflecting the principle of complete muhasabat al-hukkam in siyasah dusturiyyah, which ideally requires multi-directional supervision from both structural superiors, local legislative institutions, as well as active participation of civil society and indigenous communities directly affected by IKN development policies.

3. Syura, 'Adl and Mashlahah in the Implementation of IKN Authority

The trilogy of syura (deliberation), 'adl (justice), and mashlahah (benefit) are three core principles that are interrelated in the epistemological structure of siyasah dusturiyyah, and are the main benchmark for assessing whether a state policy or institution is in line with maqashid al-syari'ah in the field of siyasah. Allah SWT says in Surah Asy-Shura [42]: 38:

﴿وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَىٰ بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنْفِقُونَ﴾

Meaning: "...And (for) those who respond to the call of their Lord and establish prayer, and their affairs are (decided) by consultation among themselves, and they spend out of what We have provided for them." (QS. Asy-Shura: 38).

This verse places shura on a par with prayer as a characteristic of the community of believers, demonstrating how fundamental the position of deliberation in managing collective affairs (amr). This principle is reinforced by Surah Ali 'Imran: 159 which commands the Prophet Muhammad SAW, even the figure with the highest authority and credibility, to continue to consult with his companions in worldly affairs. The principle of 'adl is emphasized in Surah An-Nahl: 90, "Indeed, Allah commands (you) to act justly and do good...", while the principle of mashlahah is formulated by scholars of ushul fiqh as jalb al-manafi' wa daf' al-mafasid (attracting benefit and repelling harm) which is the spirit (goal) of all public policies in the view of maqashid al-shari'ah.

The application of the principle of 'adl' in the context of the IKN Authority also faces structural challenges, particularly regarding the relationship between macro national development interests and the micro rights of local communities and indigenous legal communities. Research findings indicate a lack of norms in the protection of indigenous peoples' rights and participation mechanisms in the IKN Law, which has the potential to create unequal distribution of development benefits (al-tawazun fi tauzi' al-manafi') (Abdullah, 2025). The principle of 'adl' in Surah An-Nisa [4]: 135 explicitly commands that justice be upheld even if it means sacrificing the interests of one's own relatives or group, a principle that should be translated into affirmative policies that protect indigenous peoples and native populations from potential marginalization due to large-scale development. Without explicit legal guarantees and equitable compensation mechanisms, the development of the IKN risks becoming a form of zulm (structural injustice) against politically weak groups, even though in aggregate this project is claimed to bring benefits to the nation as a whole.

On the other hand, it is also necessary to objectively acknowledge that the idea of equitable development and reducing Java-centric inequality is indeed a benefit that can be substantively justified within the framework of siyasa dusturiyyah, as long as its implementation is corrected through strengthening the mechanism of shura (meaningful public participation and local representation) and the enforcement of 'adl (protection of the rights of affected communities in a just manner). In other words, the main problem lies not in the legitimacy of the IKN development goals themselves, but in the institutional design of the IKN Authority which has not fully integrated the three pillars of shura, 'adl, and mashlahah in a balanced and mutually correct manner.

4. Siyasa Assessment: Point of Conformity and Point of Deviation

Table 3. Assessment of the IKN Authority According to the Principles of Siyasah Dusturiyyah

Principle	Appropriate Aspects	Aspects that are not yet appropriate	Evaluation
Al-wilāyah(legitimacy)	Appointed by the legitimate head of state through law (taqlīd)	The extent of authority equivalent to the 'imārah 'āmmah is not commensurate with the form of the implementing mandate; without the consent of the local population	Not yet substantively appropriate

Trust	Appointment can be based on competence (kafā'ah)	Can be dismissed before the term of office ends, so that loyalty is directed towards superiors rather than the people	Partially appropriate
Shura	Consultation with the DPR; public participation is regulated	There is no binding local shura; legislation proceeds quickly.	Not yet suitable
Al-'adl	The goal of equitable development outside Java	Protection of indigenous communities and compensation for surrounding areas has not been explicitly guaranteed.	Not yet suitable
Maslahah	The goals of development are general ('āmmah)	Mafsadah in the form of a democratic deficit and environmental risks have not been mitigated (dar' al-mafāsid)	Partially appropriate
Muḥāsabah al-ḥukkām	Vertical accountability to the President is like a guardian to a caliph; BPK audit	There is no equivalent of ḥisbah and maẓālim at the local level.	Not yet suitable

Source: processed by the author

Based on the analysis of the above-mentioned siyasah dusturiyyah, it can be concluded that the existence of the IKN Authority has a valid formal-juridical legitimacy based on the law, but is still fragile in terms of substantive legitimacy due to the lack of meaningful elements of shura and local political representation. From the aspect of accountability, the institutional design of the IKN Authority still relies on vertical-centralistic accountability to the President without adequate horizontal oversight from regional representative institutions or civil society participation, thus potentially creating a concentration of power that is contrary to the principle of taqyid al-sulthah in siyasah dusturiyyah. Meanwhile, claims of mashlahah in the development of the IKN, although having a justifiable argumentative basis according to ushul fiqh, must still be subject to strict mashlahah mursalah requirements and must not ignore the principle of 'adl towards vulnerable groups, especially indigenous legal communities. Thus, strengthening the shura mechanism through more substantive public involvement, affirming the boundaries of the IKN Authority's authority, and strengthening multi-directional accountability instruments are necessary steps to ensure that the implementation of the IKN Authority is increasingly in line with the principles of just siyasah dusturiyyah.

Reconstruction of the Legal Status and Authority of the Indonesian Capital City Authority

1. Reconstruction of the Position of the IKN Authority

a. Ambiguity in the Construction of the Position of the IKN Authority

This ambiguity is clearly visible in the formulation of Article 1 number 8, number 9, and number 10 in conjunction with Article 4 paragraph (1) letter b of Law Number 3 of 2022 concerning the National Capital as amended by Law Number 21 of 2023. On the one hand, the IKN Authority is stated as the organizer of the Special Regional Government of the Indonesian Capital City, which gives the impression that its position is equal to an autonomous regional government. On the other hand, it is also stated as a government institution at the ministerial level that is positioned under and directly responsible to the President, which actually gives the impression that its position is merely an element of the central executive (Nugrohosudin, 2022). This normative dualism is what a number of researchers call an "anomaly", because the concept of authority used does not correspond to a special regional government unit as is

commonly known in the Indonesian constitutional system (Nadhir, et al., 2024). Other research even confirms that the appointment of the Head of the IKN Authority as well as the Head of the Special Regional Government without going through a democratic election mechanism raises its own legitimacy issues, because regional heads generally obtain mandates through an electoral process, while the Head of the IKN Authority solely obtains a mandate through the President's appointment (Aisyah and N. Huda, 2024).

From the perspective of state institution theory, this ambiguity makes it difficult to categorize the IKN Authority into three standard classifications: primary state institutions, auxiliary state institutions, or administrative government institutions (Asshiddiqie, 2021). A review of Presidential Regulation Number 62 of 2022 concerning the Indonesian Capital City Authority actually reinforces the tendency that, in practice, the IKN Authority is treated as a non-ministerial government institution that carries out special regional government functions, without any local representation elements such as the Regional People's Representative Council (Al-Hamid and Ade, 2023). The absence of the DPRD is not merely a technical-administrative issue, but also touches on the constitutional substance regarding the political representation of residents in the region, as will be further explained in the pros and cons section below.

b. Pro and Con Debate on Existing Legal Status

Arguments in Support of Suis Generis Institutional Design (Pro)

The first group of views argues that the unique institutional design of the IKN Authority, which is not fully subject to the rules of ordinary regional government, is a rational and justifiable legal policy choice. Second, the formal constitutionality premise: the formation of a special government unit has an explicit basis in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Third, the transitional premise: a number of groups believe that the centralization of authority in the initial stage is temporary until the IKN reaches population and governance maturity, after which it is expected to transform into a full regional autonomy model.

This pro argument cannot be dismissed simply because it has a rational basis in the real need for large-scale infrastructure development. However, these three premises are actually pragmatic-functional and do not answer the more fundamental normative-constitutional question: can the special provisions referred to in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia be interpreted so broadly as to permanently eliminate the element of local democratic representation, or should these special provisions remain subject to the minimal limits of a democratic state under the rule of law?

Critical-Counter Arguments: Constitutional Inconsistencies and Distortions

The second group of views, which is quantitatively more dominant in the current constitutional law literature, raises more fundamental objections. First, the normative inconsistency argument: referring to the IKN Authority as both a "Special Regional Government" and a "ministerial-level institution" constitutes an internal contradiction that is not commonly found in mature legislative products, because the two statuses have different legal consequences regarding the source of legitimacy, lines of accountability, and oversight mechanisms (Harmer, 2024). Second, the representation deficit argument: the absence of a DPRD in the IKN region, which is a constitutive element of regional autonomy according to Article 18 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, causes IKN residents to lose the channels of formal political representation enjoyed by citizens in other autonomous regions, even though they are still subject to various Authority policies that have a direct impact on

their lives. Third, the conceptual anomaly argument: the term "authority" as the organizer of regional government is not known in the nomenclature of the 1945 Constitution of the Republic of Indonesia or the Regional Government Law, so that its presence creates a new institutional category that is outside the standard architecture of the unitary state of Indonesia, without adequate constitutional arguments why other special regional government forms (such as the Special Capital Region of Jakarta, the Special Region of Yogyakarta, or the Province of Papua with special autonomy status) are not used as a reference format (Nadhir, et al., 2024).

Reinterpretation of the Position of the IKN Authority According to Article 18B Paragraph (1) of the 1945 Constitution of the Republic of Indonesia

The reconstruction of the position of the IKN Authority proposed in this study departs from from re-interpretation (*reinterpretation*) to the phrase "special regional government unit" in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This provision does provide room for legislators to design regional government formats that deviate from the general guidelines of Article 18 of the 1945 Constitution of the Republic of Indonesia, as has been practiced in the special status of the Special Region of Yogyakarta and the special status of Papua Province (Baihaki and Rachman, 2022). However, a comparative study of the two precedents shows that "specialness" has never been interpreted as the total elimination of local representation, but rather as a modification of the representation mechanism—for example through the recognition of customary institutions, different appointment mechanisms for certain positions, or additional special powers without eliminating the existence of the DPRD as the representative organ itself.

IKN Authority in the Perspective of Industrial Policy: The Concept of al-Wilayah al-Khassah

From the perspective of Siyasah Dusturiyyah, the concept of establishing special territorial units (al-wilāyah al-khāṣṣah) is not unfamiliar. In the classical fiqh tradition of siyasah, the appointment of governors or guardians by the caliph to manage certain areas, including those strategically requiring special handling, is a common practice, but is always accompanied by the obligation to listen to and consult (shura) with the local population and is subject to accountability mechanisms to both the central government and the people they lead. This principle emphasizes that the specificity of administrative authority does not automatically negate the right of local people to participate in decision-making that affects their lives.

Formulation of Reconstruction of Status: Transitional Special Autonomous Region (Sui Generis Constitutional Body)

Table 4. Reconstruction of the Position of the IKN Authority

Aspect	Current Construction of the IKN Authority Position	Reconstruction Offered
Institutional position	The IKN Authority has a hybrid institutional position, because it carries out regional government functions but is not institutionally positioned explicitly as an autonomous region.	The IKN Authority is confirmed as a special regional government unit with the status of a transitional special autonomous region (sui generis constitutional body in transition).
Constitutional basis	The position of the IKN Authority has not been explicitly placed in the regional government construction as referred to in	The position is confirmed based on Article 18B paragraph (1) of the 1945 UUD NRI as a special/private region.

	Articles 18 and 18B of the 1945 NRI Constitution.	
Relationship with the President	The Head of the Authority is appointed and dismissed by the President so that there is a dominant central executive control over the IKN Authority.	The President retains a coordinating and developmental function during the transition period, but the Authority's authority is limited by law, oversight mechanisms, evaluation, and community representation.
Transition status	The period of existence and institutional form of the Authority has not yet fully provided a clear transition boundary towards a definitive form of regional government.	Transitional status is determined through a measurable periodization in law, so it does not last indefinitely.
Final direction of the institution	There is no design that explicitly regulates the stages towards a fully autonomous regional government with definitive representative institutions.	The authority is directed gradually towards full regional autonomy, including the formation of a definitive DPRD after meeting readiness indicators.
Representation of society	There is no regional representative institution that has a political representation function like the DPRD during the transition period.	A Special Regional Consultative Assembly was formed as a representation mechanism involving community leaders, indigenous communities, and groups affected by development.
The principle of shura	Community participation and representation have not been specifically institutionalized as part of the Authority's governance structure.	The Special Regional Consultative Assembly is a concrete instrument for the principle of shura as long as a definitive DPRD has not been formed.
Accountability	Accountability tends to be vertically oriented to the President/central government because of its strong institutional structure in the executive.	Accountability is expanded through central government oversight, periodic evaluations, community representation, and public accountability mechanisms.
Limitation of power	The concentration of government functions in the Authority has the potential to give rise to checks and balances issues, especially because there is no definitive DPRD yet.	Power is limited through transitional periods, periodic evaluations, community representation, supervision, and the formation of a definitive DPRD.
Siyasa Dusturiyyah Perspective	The institutional structure emphasizes the effectiveness of government (development issues), but representation and limitations on power need to be strengthened.	Balancing shura, 'adl, amanah, and maslahah with the need for effective development of the IKN.
Final destination	Ensuring the effectiveness of development and governance of the IKN with a special institutional model.	Creating a balance between development effectiveness, legitimacy, representation, accountability, and limitations on power.

Source: processed by the author

2. Reconstruction of the Authority and Supervision of the IKN Authority

a. The Problem of Authority: A Superbody Without Adequate Delimitation

In addition to the issue of position, the scope of the IKN Authority's authority is the second critical point requiring reconstruction. Government Regulation Number 27 of 2023 concerning the Special Authorities of the Indonesian Capital City Authority grants the IKN Authority a very broad scope of authority, including granting investment permits, facilitating business, providing special financing facilities, land management including the granting of Management Rights, and administering almost all concurrent government affairs in the IKN area except those expressly designated as absolute government affairs. This broad authority without clear, limited boundaries has the potential to create what some researchers call a tendency towards an administrative

"superbody," namely an institution with such broad authority that it is difficult to effectively monitor through existing checks and balances.

From the perspective of authority theory, the overlap between attribution, delegation, and mandate authority in the design of the IKN Authority has also not been fully mapped. Some of the Authority's authority comes directly from the law (attribution), while others are delegated from technical ministries/institutions (delegation or mandate), but derivative regulations have not consistently explained the boundaries and responsibilities of each category, thus potentially creating overlapping authority with the Ministry of ATR/BPN, the Ministry of PUPR, and the Investment Coordinating Board (Faculty of Law, Tarumanagara University, 2025). This problem is exacerbated by the provisions of Article 11 of Government Regulation Number 27 of 2023 which stipulates that if the IKN Authority is unable to carry out a governmental function, the function is carried out by the relevant ministry/institution, a provision that implicitly acknowledges the existence of a gray area of authority that has not been fully delimited.

b. The Pros and Cons Debate over the Span of Authority of the IKN Authority

1) Pro Argument: Broad Authority as a Prerequisite for Effectiveness Defenders of the existing authority design argue that the new capital city development project is a large-scale national strategic project that demands speedy decision-making, so that fragmentation of authority across ministries will actually slow down the achievement of development targets. The IKN Authority, in this view, functions as a one-stop authority that consolidates various technical authorities to prevent bureaucratic overlap and accelerate investment realization (Otorita Ibu Kota Nusantara, 2023). This argument is also supported by the premise that a modern welfare state does require broad administrative discretion to be able to respond adaptively to socio-economic dynamics, as long as its use is subject to the General Principles of Good Governance.
2) Counter-Argument: Delimitation Deficit and Risk of Abuse of Authority Conversely, critical groups believe that the effectiveness argument cannot justify authority that is not clearly delimited, because this contradicts the principle of legality, which requires every government authority to have definite limits (geen bevoegdheid zonder wet, there is no authority without clear legal limits). A study on the consequences of the regulation of the Head of the Indonesian Capital City Authority on the principle of checks and balances concluded that the design of authority concentrated in one official appointed directly by the President, without regional legislative oversight and without a clear evaluation time limit, has the potential to create a concentration of power that contradicts the principle of separation of powers (Pradnyawati, 2023). This concern is not merely theoretical speculation: field findings indicate concrete problems in the accounting records and asset management of the IKN Authority due to an incomplete financial administration framework, a direct consequence of broad authority that is not balanced by an adequate accountability system (Otorita Ibukota Nusantara, 2024).

c. Reconstruction of the Delimitation of Authority of the IKN Authority

Table 5. Reconstruction of the Delimitation of Authority of the IKN Authority

Aspect	Current Construction	Reconstruction Offered
Source of authority	The IKN Authority obtains authority from various legal sources and delegations of authority so that the boundaries of the sources of authority can cause confusion.	Each authority must be clearly classified as attribution, delegation, or mandate.

Attribution	Not all authorities are explicitly distinguished as original authorities granted directly by law.	Authority derived directly from the law must be stated as an attribution, while also determining the Authority's responsibility for its implementation.
Delegation	The delegation of authority from ministries/institutions to the Authority has the potential to create ambiguity regarding the boundaries of authority and accountability.	Delegation must be clearly stated regarding the giver, recipient, scope, and consequences of their responsibilities.
Mandate	The exercise of authority based on a mandate has the potential to be mixed with attribution and delegation.	A mandate is clearly distinguished as the exercise of authority on behalf of the mandate giver, so that responsibility remains with the mandate giver in accordance with the doctrine of administrative law.
Strategic authority	Special powers, including investment and land, can be in effect for a long time without a sufficiently clear evaluation mechanism.	Sunset clauses apply to certain special powers so that their validity must be evaluated periodically.
Evaluation of authority	Not all strategic authorities are linked to periodic evaluations based on changes in the development needs of the IKN.	Evaluations are conducted periodically, for example every five years, to determine whether the authority is still needed, changed, or terminated.
Regulatory function	The Authority carries out government functions while also having activities related to investment and cooperation with business entities.	The regulatory function is structurally separated from the business and investment functions.
Business-investment function	The Authority's involvement in investment cooperation has the potential to place the functions of regulator and business implementer in one structure.	A separation was created between the unit that forms/sets regulations and the business-investment implementing unit.
Conflict of interest	The combination of regulatory and business functions has the potential to create a structural conflict of interest.	Separation of functions is intended to prevent structural conflicts of interest and maintain policy objectivity.
Accountability of authority	Accountability for various types of authority has not been fully differentiated based on the source of the authority.	Each source of authority has different consequences of responsibility, so that the chain of responsibility becomes clearer.
The Principle of Siyasah Dusturiyyah	The breadth of authority is aimed at the benefit of development, but requires limits to prevent abuse of power.	Delimitation of authority is directed at the principles of trust, maslahah, 'adl, and limitation of power.

Source: processed by the author

d. Problems and Reconstruction of Supervisory Mechanisms

In line with its broad authority, the oversight mechanism for the IKN Authority also faces structural weaknesses. Because the IKN region does not have a Regional People's Representative Council (DPRD), the legislative oversight function can practically only be carried out by the DPR RI at the central level through the mechanism of hearings, the right of interpellation, the right of inquiry, and the right to express opinions (Aziz, 2023). However, oversight by the DPR RI is remote and does not have a direct relationship with the dynamics of the daily lives of IKN residents as is the case with DPRD oversight of regional governments in general. Therefore, the absence of DPRD and local oversight institutions creates a vacuum of checks and balances in this particular regional government system (Faculty of Law, Tarumanagara University, 2025).

Table 6. Reconstruction of the IKN Authority's Supervisory Mechanism

Aspect	Current Construction	Reconstruction Offered
Legislative oversight	Supervision is primarily carried out by the Indonesian House of Representatives (DPR RI) because the IKN does not yet have a definitive DPRD.	The DPR RI's oversight is strengthened through regular reporting by the IKN Authority every semester to the relevant commissions.
Closeness of supervision	The Indonesian House of Representatives (DPR RI) is at the central level, so supervision does not directly represent the daily dynamics of the IKN community as the DPRD does.	A monitoring mechanism was built that was closer to the community through local representation and public participation.
Checks and balances	The absence of a DPRD means that the checks and balances mechanism at the local level is not yet optimal.	Multi-layered oversight was established to prevent the concentration of power.
Oversight of strategic policies	Legislative oversight takes place through the DPR instrument, but there is no specific mechanism that directly controls each of the Authority's strategic policies.	Strategic policies that are determined in a limited manner in the law must be consulted with the DPR commission before being determined.
Independent supervisor	There is no specific independent supervisory body within the IKN Authority's supervisory structure.	An Independent Supervisory Board for the IKN Authority was formed, consisting of independent elements, academics, and local community leaders.
Supervisory position	Supervision is still predominantly through external and administrative mechanisms available within the government system.	The Supervisory Board is an independent internal supervisory instrument that functions as checks and balances.
Strategic policies	There is no specific mechanism that provides an independent supervisory role in the approval of certain strategic policies.	The Supervisory Board provides evaluations and recommendations that must be followed up, without the authority to issue permits (in line with MK Decision 70/PUU-XVII/2019).
Community participation	Public participation in the formation of the IKN Authority Regulation still needs to be strengthened.	Meaningful participation is implemented at the planning, drafting, and discussion stages of regulations.
Affected groups	Indigenous communities and groups directly impacted by development do not yet have a strong representation mechanism for oversight.	Affected groups, particularly indigenous communities, are given meaningful participation in policy formation.
Judicial oversight	The review of the IKN Authority Regulations is carried out through the available statutory regulatory review mechanisms, especially through the Supreme Court.	The position of the Authority Regulation is clarified in the hierarchy of norms, so that the testing mechanism can be clearer and more responsive.
Preventive supervision	Judicial review is basically more oriented towards testing after norms or policies have been established.	Preventive supervision through consultation with the DPR and recommendations from the Supervisory Board; judicial preview is not proposed because it is not based on Articles 24A and 24C of the 1945 Constitution of the Republic of Indonesia.
Accountability	Accountability is more administrative and vertical in nature.	Accountability is expanded to vertical, horizontal, judicial, and participatory.
Siyasa Dusturiyyah Perspective	Power as a mandate requires a monitoring mechanism so that it is not concentrated in one party.	Supervision is institutionalized through shura, muḥāsabah al-ḥukkām, hisbah, amanah, and maslahah.

Source: processed by the author

3. The Ideal Model of IKN Authority Based on the Constitution and Siyasah Dusturiyyah

a. Basic Principles of the Ideal Model

The synthesis of all the discussions in sub-topics A and B above leads to the formulation of an ideal model for the IKN Authority which is built on five basic principles which are cumulative in nature, namely: (1) constitutionality, in the sense that the position and authority of the IKN Authority must have a coherent interpretative basis for the 1945 Constitution of the Republic of Indonesia, especially Article 18B paragraph (1); (2) limited authority, in the sense that each authority must be clearly delimited in terms of its source and time limit; (3) layered checks and balances, including simultaneous legislative, independent, judicial and public oversight; (4) substantive participation (shura), in the sense that strategic policies must involve meaningful deliberation with affected residents; and (5) orientation to the welfare (maslahah), in the sense that every policy is tested based on its benefits and risks of harm to the wider community, in line with the principle of dar'ul mafāsid muqaddamun 'alā jalbil maṣāliḥ (rejecting harm takes precedence over attracting benefits). These five principles simultaneously integrate the grand theory of the State of Law and Siyasah Dusturiyyah with middle theory and applied theory.

b. Proposed Institutional Design

Based on these five principles, the institutional structure of the reconstructed IKN Authority is proposed to consist of four main organs that balance each other.

First, the Head and Deputy Head of the IKN Authority, who are still appointed by the President after consulting with the DPR as in the existing model, but with the addition of a mandatory consultation requirement with the Special Regional Consultative Assembly before the definitive appointment, in order to fulfill the element of local legitimacy that has been absent. The term of office is strictly limited to five years and can be extended for one term, with dismissal before the end of the term only for reasons specified in the law, following the pattern of term limits for public officials in general, in order to prevent the personalization of long-term power that is not measured.

Second, the Special Regional Consultative Assembly (MMDK), as an interim representative organ consisting of representatives of indigenous communities, affected community leaders, academics, and representatives of the local business sector, with the function of providing mandatory consideration (not just consultative) on the draft IKN Authority Regulation and strategic policies, and functioning as the forerunner of the definitive DPRD during the transition period towards full autonomy.

Third, the Independent Supervisory Board, consisting of independent elements and experts jointly proposed by the President and the DPR, has the authority to evaluate the IKN Authority's compliance with the General Principles of Good Governance, provide recommendations that must be followed up on high-risk policies, and issue an annual evaluation report that is published openly to the public.

Fourth, Secretariat and technical units that carry out day-to-day executive functions, with a clear structural separation between the regulatory/licensing unit and the investment/business unit as proposed to prevent structural conflicts of interest.

c. Delimitation and Periodization of Authority in the Ideal Model

This ideal model also explicitly regulates three categories of authority of the IKN Authority based on the nature of its interests. The first category is core permanent authority, covering the implementation of general governance, basic services, and

spatial planning, which remains held by the IKN Authority throughout the transition period without requiring a sunset clause because it is a basic government function that cannot be replaced. The second category is strategic transitional authority, covering the provision of large-scale investment facilities and strategic land management, which is subject to the sunset clause mechanism and must be re-evaluated every five years by the DPR together with the Independent Supervisory Board. The third category is residual authority that is gradually transferred (devolving authority), covering concurrent government affairs typically carried out by autonomous regional governments (basic education, primary health care, and population administration services), which is planned to be gradually transferred to the definitive regional autonomy structure once the Special Regional Consultative Assembly is transformed into a definitive DPRD.

d. Layered Accountability Mechanism in an Ideal Model

In line with the institutional design above, the accountability mechanism in the ideal model is formulated in a layered and complementary manner, including: political accountability to the President and the DPR through periodic performance reports and interpellation mechanisms; administrative accountability to the Independent Supervisory Board through annual compliance audits; legal accountability through judicial review of Authority Regulations in the Supreme Court and supervision of the State Administrative Court over concrete administrative decisions; social-participatory accountability to the Special Region Consultative Assembly and the public through information disclosure and complaint mechanisms; and as an additional dimension that is unique to the Siyasah Dusturiyyah framework, moral-ethical accountability places every authority holder in the awareness that public office is a mandate that will be accounted for not only in the worldly, but also in the afterlife, as emphasized repeatedly in the theoretical framework of this study.

e. Comparison Matrix of Existing Model and Reconstruction Model

Table 7. Comparison of Existing Model and Reconstruction Model

Institutional status	Dualism: simultaneously a Special Regional Government and a ministerial-level institution	Single: transitional special autonomous region (sui generis) based on Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia
Local representation	There is no DPRD; representation is only through the DPR RI at the central level.	The Special Regional Consultative Assembly as an interim organ towards the definitive DPRD
Term of office of the Head of the Authority	Five years and can be reappointed without a definite term limit; can be dismissed before the end of the term of office	Limited to five years, renewable once; termination only for limited reasons
Delimitation of authority	Broad authority without clear attribution-delegation-mandate classification and without sunset clause	Three categories of authority (permanent core, transitional strategic, residual devolving) with a five-year sunset clause
Supervision	Relying on the Indonesian House of Representatives; without a special independent supervisory board	Multi-layered oversight: the Indonesian House of Representatives, the Independent Supervisory Board, the judiciary, and the public

Public participation	At a minimum, limited to formal-procedural consultations	Meaningful and binding participation through the Special Regional Consultative Assembly
Basis of legitimacy	Formal legality (UU and PP)	Formal legality plus substantive legitimacy based on the principles of syura and maslahah

Source: processed by the author

f. Model Contribution to the Development of Indonesian Constitutional Law

The reconstruction model above provides at least three contributions to the development of Indonesian constitutional law. First, this model offers a methodological precedent for the formation of special government units in the future, namely that the special status based on Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia should not be interpreted as a reason to eliminate representation, but rather as a space for modifying the representation mechanism that still guarantees the substantive participation of citizens. Second, this model enriches the treasury of studies on the integration between positive constitutional law and Siyasah Dusturiyyah, by concretely demonstrating how the principles of syura, amanah, and maslahah can be translated into operational institutional designs rather than merely abstract normative values, thus being relevant as a reference for subsequent research on the reconstruction of state institutions. Third, this model offers a methodological middle ground between development pragmatism and constitutionalism, by showing that these two interests do not have to be diametrically opposed, but can be integrated through careful, measured, and layered institutional designs.

Based on the entire discussion in Chapter III, the three problem formulations have been answered. First, legally, the IKN Authority has a dual position as a ministerial-level institution and a special regional government administrator; this position has instrumental advantages, but raises constitutional problems regarding Article 18 paragraph (3) and paragraph (4), Article 18B, Article 23A, and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Second, according to siyasah dusturiyyah, the appointment of the IKN Authority by the head of state is basically acceptable, but the imbalance between the breadth of the mandate and the mechanisms of shura and muḥāsabah makes it not yet fulfill substantive legitimacy. Third, the reconstruction offered is the affirmation of the IKN Authority as a transitional special regional government unit with a sunset clause, delimitation and periodization of authority, and layered accountability.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. Legally, the IKN Authority has a dual status, namely as a ministerial-level institution responsible to the President (Article 4 paragraph (1) letter b and Article 5 paragraph (4) of the IKN Law) and as the administrator of the Special Capital Region of the Indonesian Archipelago at the provincial level (Article 1 number 2, number 8, and number 10 of the IKN Law). Its authority is attributive and very broad, covering central and regional government affairs except absolute matters, including licensing, land, regulations through Authority Regulations, as well as special taxes and levies. This design has instrumental advantages, namely a strong legal basis, one-door coordination, and continued openness to BPK supervision and testing at the Constitutional Court. However, its weaknesses are constitutional-structural and more serious, namely the absence of a DPRD (Article 18 paragraph (3)), a head of government who is not democratically elected (Article 18 paragraph (4)), levies without the consent of local people's representatives (Article 23A),

weak protection of indigenous legal communities (Article 18B paragraph (2)), and the absence of a transitional time limit (Article 28D paragraph (1)). A comparison with Jakarta shows that the special status of the capital city has never eliminated the elected governor and DPRD at the provincial level. Constitutional Court Decision Number 185/PUU-XXII/2024 proves that the special status of the IKN has constitutional limits, while the position of the IKN Authority itself has never been substantively tested.

2. From a legal perspective, the appointment of the head of the IKN Authority by the head of state is basically acceptable, because the fiqh of siyasah recognizes the appointment of regional officials (taqlīd) and places the appointment procedure as an area of ijtihad, while the goal of equitable development is a general maslahah. However, the applicable design does not yet fulfill substantive legitimacy because there is a discrepancy between the form of the implementing mandate (wizārat al-tanfīdz) and the extent of authority that resembles imārah 'āmmah, the absence of binding local shura, the lack of guaranteed justice (al-'adl) for customary law communities, and the absence of equivalent ḥisbah and maẓālim at the local level. According to the principle of dar' al-mafāsid muqaddamun 'alā jalb al-maṣāliḥ, these mafsadah must be addressed first before claims of development maslahah can be fully accepted.
3. The proposed reconstruction includes: (a) affirmation of the sole position of the IKN Authority as a transitional special regional government unit based on Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, with a sunset clause as a condition for its constitutionality; (b) the formation of a Special Regional Consultative Assembly as an interim representation towards the definitive DPRD; (c) delimitation of authority into three categories, namely permanent core authority, transitional strategic authority, and authority that is transferred in stages, accompanied by classification of attribution, delegation, and mandate as well as separation of regulatory functions from business functions; (d) layered accountability through mandatory consultation with the DPR on strategic policies that are determined in a limited manner (not veto rights), an Independent Supervisory Board with recommendation authority (not permits), testing in the Supreme Court and the State Administrative Court, meaningful public participation, and moral-ethical accountability; and (e) limiting the term of office of the Head of the Authority to a maximum of two terms with dismissal only for reasons determined in a limited manner.

Recommendations

1. The House of Representatives (DPR) and the President, as the lawmakers, are advised to amend the IKN Law comprehensively, not partially, by incorporating the key changes listed in Table 8, while also following up on Constitutional Court Decision Number 185/PUU-XXII/2024. These institutional transition norms should be established before or simultaneously with the Presidential Decree on the relocation of the national capital, so that the IKN Authority does not enter the capital city phase with an ambiguous institutional design.

Table 8. Main points of proposed changes to the normal IKN law

Material	Current Terms	Proposed Changes
Position	The authority at the ministerial level is also the organizer of special regional government (Article 1 number 8; Article 4 paragraph (1) letter b)	It is affirmed as a special transitional regional government unit based on Article 18B paragraph (1)
Transition period	There is no time limit for definitive regional government.	*Sunset clause*with a certain time period stipulated in the law and evaluation every five years

Filling of positions	Appointed, appointed, and dismissed by the President after consulting with the DPR; may be dismissed before the end of the term of office	Open fit and proper test in the DPR and consideration of the Special Regional Consultative Assembly; maximum two terms; dismissal for limited reasons; after the transition, the regional head is elected democratically
Representation	There is no DPRD	Special Regional Consultative Assembly as interim representation, then definitive DPRD
Authority	Broad special powers (PP 27/2023)	Three categories of authority and classification of attribution, delegation and mandate are stipulated in the law.
Taxes and levies	Taxes and special levies are regulated by the Authority Regulation (Article 24)	The types and limits of tariffs are stipulated in the law; the Authority Regulations must obtain consideration from the Special Regional Consultative Assembly.
Land	Article 16A as interpreted in Constitutional Court Decision 185/PUU-XXII/2024	Adjustment of norms in accordance with the ruling and mandatory consultation with customary law communities
Supervision	DPR, BPK, as well as testing at MK, MA, and PTUN	Plus Independent Supervisory Board (recommendations), semester reports to the DPR, and information disclosure

Source: processed by the author

2. The Government and the IKN Authority are advised to evaluate Government Regulation Number 27 of 2023 and Presidential Regulation Number 62 of 2022 to clearly map the source of each authority (attribution, delegation, or mandate) and its limits for ministries/agencies, the East Kalimantan Provincial Government, the Penajam Paser Utara Regency Government, and the Kutai Kartanegara Regency Government; draft Authority Regulations through meaningful participation; establish a permanent consultation forum with indigenous communities before establishing land policies; and open performance and financial reports to the public.
3. In carrying out its supervisory function, the DPR is advised to conduct consultations on the appointment of the Head of the Authority through an open fit and proper test, and that the relevant commission establish a periodic reporting mechanism every semester on the implementation of the authority of the IKN Authority.
4. It is recommended that the public and civil society organizations utilize the judicial review channels at the Constitutional Court and the Supreme Court, complaints to the Ombudsman of the Republic of Indonesia, and the participation mechanisms available in the IKN Law, as a form of self-reflection on the implementation of power in the IKN.
5. For academics and future researchers, it is recommended to conduct empirical research on the impact of the IKN Authority policy on indigenous legal communities and surrounding local governments, a more in-depth comparative study with the experiences of Canberra and Brasília in the transition from development agencies to elected governments, as well as a study of contemporary fiqh siyasah regarding al-wilāyah al-khāṣṣah as a special institutional model in the modern state.

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