

Foreign Investment In The Indonesian Capital City From The Perspective Of The Constitutional Economic Concept In Indonesia

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Abstract

Keywords:

Foreign Investment, IKN, Economic Constitution.

Development must continue to be carried out in order to create equity, the development carried out today aims to sustain life in the present and the future. If we feel the impact of development today, it means that our predecessors managed the country successfully. And all that is done today is for the good of the world. This study is a research literature. Activities are carried out systematically to collect, process, and conclude data using certain methods/techniques to find answers to the problems faced. This study uses a qualitative approach, a research process to understand human or social phenomena by creating a comprehensive and complex picture that can be presented in words, reporting detailed views obtained from source informants, and carried out in a natural setting. The data of this study were obtained from library sources consisting of books, journals, Scientific Papers, legislation, documents, and so forth. The results showed that the transfer of the state capital missed the complete process and mechanism, seen the most dominant executive in the process of moving the capital. The transfer, which was established in conjunction with the covid-19 response, caused a negative reaction from the public. Then the investment mechanism carried out by the government is considered contrary to the constitutional economic system because the government ignores the interests of the people.

Abstrak

Kata kunci:

Investasi Asing, IKN, Ekonomi Konstitusi

Pembangunan harus terus dilakukan agar terciptanya pemerataan, pembangunan yang dilakukan hari ini bertujuan untuk menopang kehidupan pada masa sekarang dan masa yang akan datang. Jika kita merasakan dampak pembangunan hari ini, berarti pendahulu kita berhasil melakukan pengelolaan terhadap negara. Maka segala upaya pembangunan yang dilakukan hari ini adalah demi kesejahteraan di masa mendatang. Penelitian ini merupakan penelitian kepustakaan. Kegiatan dilakukan secara sistematis untuk mengumpulkan, mengolah, dan menyimpulkan data dengan menggunakan metode/teknik tertentu guna mencari jawaban atas permasalahan yang dihadapi. Penelitian ini menggunakan pendekatan kualitatif, suatu proses penelitian untuk memahami fenomena-fenomena manusia atau sosial dengan menciptakan gambaran yang menyeluruh dan kompleks yang dapat disajikan dengan kata-kata, melaporkan pandangan terinci yang diperoleh dari sumber informan, serta dilakukan dalam latar setting yang alamiah. Data penelitian ini diperoleh dari sumber-sumber kepustakaan yang terdiri dari buku-buku, jurnal, karya ilmiah, peraturan perundang-undangan, dokumen, dan lain sebagainya. Hasil penelitian menunjukkan bahwa pemindahan ibu kota negara melewati proses dan mekanisme yang lengkap, terlihat eksekutif yang paling dominan dalam proses pemindahan ibu kota. Pemindahan yang ditetapkan bersamaan dengan penanggulangan covid-19 menimbulkan reaksi negatif dari masyarakat. Kemudian mekanisme investasi yang dilakukan oleh pemerintah dianggap bertentangan dengan sistem ekonomi konstitusi sebab pemerintah mengabaikan kepentingan rakyat.

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INTRODUCTION

Development is a historical process. It's a process that rolls on over time, never stopping, and change itself never changes. Development has a very broad meaning. Simply put, development is change for the better and more advanced than before. Development can also be defined as an idea to realize a dream. This idea is born from efforts to direct and implement the development, advancement, and development of the nation.¹

Development is a concept that is loaded with values (Value loaded) meaning that development is related to what is considered good and bad according to the historical experience of a nation. Therefore, development is culture specific, if so, development can be defined differently from one country to another, depending on the environment and culture, in addition, development is also time specific, meaning that in a country anywhere, development can be defined differently in different periods of time.² Although there is no one standard definition for development, but basically development has urgency for the progress of a nation, so that all of that is achieved, a mature strategy is needed to make it happen.

The balancing strategy is intended to advance the balancing process, therefore the balancing strategy has two components, namely the goal (balancing) and the tool (strategy). The modern balancing theory from the beginning is normative and instrumental, this means that: (a) theorists have various views on how balancing should be; (b) there is an assumption that balancing is a process that can be controlled and steered by the actors, namely the state.³

The balance implemented today will support the lives of people in the future. The balance we experience today is the result of efforts to balance that have been encouraged by our predecessors. No progress in civilization occurs instantly; it certainly requires performance that is carried out periodically and over a very long time. Therefore, efforts to balance now will improve civilization and the quality of life of this nation in the future.

¹ Adon Nasrullah Jamaludin, "*development sociology*", (Bandung: Pustaka Setia, 2016), hlm. 5-6.

² Suaib, "*Community Development and Empowerment*", (Indramayu: Adanu Abimata, 2020), hlm. 3.

³ Rahayu Sulistiowati, "*Third World Development Theory and Its Influence on National Development*", *Publica*, Vol. 1, No. 1, 2011, hlm. 5.

Every policy related to the desire for balance along with other aspects will always give rise to pros and cons. No policy can please everyone, but the point that needs to be underlined is that all balancing policies must be oriented towards the welfare of the people.

Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "Everyone has the right to live in prosperity, both physically and mentally, to have a place to live, and to have a good and healthy environment and the right to receive health services." Another article that regulates the environment is Article 33 paragraph (4) which reads, "The national economy is organized based on economic democracy with the principles of equality, efficiency, justice, sustainability, environmental awareness, independence, and the desire to maintain the balance of progress and unity of the national economy."⁴

Balance will occur sustainably and comprehensively if supported by a healthy economic system. Therefore, if we want a continuous, rolling balance, all aspects that can boost the national economy must be pursued. Indonesia has sufficient natural resources that can encourage improvements in the economic sector. This does not mean that our economy has been weak; it just seems that so far the country has not been able to maximize its existing potential for economic progress.

It is generally known that economic growth is one indicator of the success of economic restructuring. The most important goal of economic restructuring is poverty reduction, which can be achieved through economic growth and/or income redistribution. The trickle-down effect theory explains that progress achieved by a group of people will naturally trickle down to the lower classes, thus creating jobs and various economic opportunities, which in turn will foster various conditions for the creation of an even distribution of the results of economic growth.⁵

Given the increasingly complex balance of the global economic system, governments should focus on maximizing resource management for the best interests of the wider community. Every policy taken must be considered in terms of its effectiveness and

⁴ Ferina Ardhi Cahyani, "Efforts to Increase Environmental Carrying Capacity Through the Implementation of the Principles of Sustainable Development Based on Law Number 32 of 2009 Concerning Environmental Protection and Management", Indonesian State Law Review, Vol. 2 No. 2, April 2020, hlm. 169.

⁵ Ahmad Soleh, "Economic Growth and Poverty in Indonesia", Ekombis Review: Scientific Journal of Economics and Business, Vol. 2 No. 2, 2014, hlm. 197-198.

implications, both in the short, medium, and long term. It is a fact that we must acknowledge that many government policies have subsequently sparked controversy and are questionable in their ability to sustain the national economy after the COVID-19 pandemic. One worrying government policy is the relocation of the country's capital, which was implemented at a time when Indonesia was struggling to cope with the pandemic.

Discussions regarding the relocation of the nation's capital remain a hot topic among all groups. Various wild assumptions abound among the public, suggesting that the new capital city is a failed or forced project. This policy raises doubts about the effectiveness of the capital relocation for national balance. This uncertainty is exacerbated by various procedures that were neglected during the rebalancing process, leading to concerns that investment bargaining power will be lower than the planned target.

RESEARCH METHODS

This research is a library research, library research is a research activity carried out by collecting information and data with the help of various materials available in the library such as review books, previous research results of the same type, articles, notes, and various journals related to the problem to be solved. Activities are carried out systematically to collect, process, and conclude data by using certain methods/techniques in order to find answers to the problems faced.⁶ This research uses qualitative approach, a research process to understand human or social phenomena by creating a comprehensive and complex picture that can be presented in words, reporting detailed views obtained from informant sources, and conducted in a natural setting.⁷ The data for this research was obtained from library sources consisting of books, journals, scientific works, laws and regulations, documents, and so on.

RESEARCH RESULTS AND DISCUSSION

Results

The capital of a country is a significant component that depicts national identity, as the location of a country's power or represents the extent of a country's power, and also as the focal point of the existence of supporting groups, conflicts and cohesion between groups that form a country/nation. The capital of a country is also a political center,

⁶ Milya Sari dan Asmendri, "*Library Research in Science Education Research*", Natural Science: Jurnal Penelitian Bidang IPA dan Pendidikan IPA, Vol. 6 No. 1, 2020, hlm. 44.

⁷ Muhammad Rijal Fadli, "*Understanding Qualitative Method Design*", Humanika, Scientific Study of General Subjects, Vol. 21. No. 1, 2021, hlm. 35.

having an important function in power debates in order to legitimize that power.⁸ The placement of the country's capital must be carefully considered so that the development process and implementation of national life can run smoothly.

The capital of a country has a very important influence on a country, it can be said that the capital is the face of the country, so if we pay attention to the capital region of any country in the world, it has its own special characteristics. The capital is an investment attraction that will create a cycle of economic activity, in addition, the capital city becomes the center of government and intra-business, so any policy related to the capital city will certainly attract public attention. If we read history, in many areas the capital city is the most protected area, because if the capital city is successfully conquered by the enemy, the country can be said to be finished.

During the struggle, Indonesia had moved its capital or center of government several times, this was done because of concerns that the enemy would invade and control the capital. The capital of Indonesia was once moved to Yogyakarta, in addition the center of government was also moved to the West Sumatra region, precisely Bukit Tinggi with the term emergency government, this was intended to keep the government stable despite the attacks of the Dutch who wanted to control the Indonesian region again. When the situation was under control, the government was returned to Jakarta, since then DKI Jakarta has become the face of Indonesia and this region has become the center of the economy that can attract many investors.

The capital city is a city designed as the center of government of a country; physically, the capital city of a country generally functions as an office center and a gathering place for government leaders. In the legislation there is no standard definition of the capital city in Indonesia. However, if interpreted implicitly based on Law Number 29 of 2007, which in the explanation of Article 5 states that the government administration in the capital city is intended as the seat of the central institutions, both executive, legislative, and judicial, the seat of foreign country representatives, and the seat of representative offices of international institutions.⁹

⁸ BAPPENAS, *“Academic Manuscript of the Draft Law Concerning the National Capital”*, (Jakarta: BAPPENAS, 2020), hlm. 11.

⁹ Manda Kumoro Saraswati dan Emmanuel Ariananto Waluyo Adi, *“The relocation of the capital city of Kei State, East Kalimantan Province, based on a SWOT analysis”*, Journal of Social Sciences and Education (JISIP), Vol. 6, No. 2, Maret 2022, hlm. 4045.

Over the past few years, the capital city has become a hot topic of discussion for all groups. Many parties have encouraged dialogue regarding the capital city, each expressing their own perspectives. This came about after the government decided to relocate the country's capital, previously located in Jakarta, to Kalimantan. The new capital city was given the name "Nusantara" (Nusantara). This decision was only legitimized in 2022, following the enactment of Law Number 3 of 2022 concerning the Country's Capital City.

Upon closer examination, it turns out that the discourse on relocating the nation's capital has existed since the administration of President Soekarno. This discourse continued into subsequent presidencies, even into the administration of President Susilo Bambang Yudhoyono, also known as SBY. However, at that time, there were still many priorities that took precedence, so the capital relocation remained merely a discussion without any definite consolidation among the country's high institutions. President Joko Widodo seems very serious and committed to making various efforts to achieve the goal of moving the capital city. The public seems very shocked by the sudden separation of the capital city transfer. The discussion process until the separation of the capital city transfer has drawn various sharp criticisms.

As we know, all decisions and policies have both positive and negative sides. Likewise, in the public's view, there are those who are for and against the decision to move the country's capital. Those who believe that relocating the capital is a solution believe that Jakarta is no longer considered conducive to bearing the burden of being a national capital. Furthermore, Indonesia's vast territory should have a capital city located in the heart of its territory, so the government's decision to choose Kalimantan feels appropriate. The rationale for equalizing the balance also supports the pro-government group's argument. After the relocation, they hope that the balance will reach wider areas, reaching even the most remote regions. This is in addition to other reasons deemed relevant to the policy of relocating the country's capital.

On the other hand, the attempt to move the nation's capital from Jakarta to Kalimantan has also drawn sharp criticism as arguments against the decision. Many aspects were ignored in the capital relocation process, from regulations to execution, which were deemed to violate the law. Moreover, the ignored constitutional mechanisms made the public furious with the government's desire to move the country's capital in such

a hurry. Those against the decision believe that discussions on moving the capital must be conducted openly and transparently, as the capital's location will determine Indonesia's long-term future.

One of the problems arising from the relocation of Indonesia's capital city is the lack of a clear definition of the capital city itself. Is the capital merely a symbol of the country, the center of executive power, or the center of government as a whole? Furthermore, there are three other legal issues:

- a. First, constitutionally, there are no regulations governing the mechanics of moving the capital of the Republic of Indonesia in the constitution or in Indonesian legislation.
- b. Second, the determination of the new location for the capital of the Republic of Indonesia preceded the establishment of its legal basis.
- c. Third, there is minimal involvement from other branches of government, particularly the legislature, regarding the capital relocation. Judging from the current balance of discourse on capital relocation, it appears that the Executive branch of government is the most dominant in the replanning.¹⁰

Furthermore, the decision to move the capital city came at an inopportune time. 2022 was a critical time for all Indonesians, impacted by the pandemic that had lasted for more than two years. The handling of the outbreak was still incomplete, and the threat of famine everywhere was incomplete. Many families suffered from unemployment, and social assistance was unevenly distributed due to state financial constraints. At the same time, the government was moving the capital, which clearly required a massive budget, resulting in many aspects being overlooked due to this policy. It would be better if the government allocated the capital city relocation budget for pandemic management evenly until conditions return to normal, after which discussions on the capital city could be resumed.

1. The Legitimacy of Foreign Investment Potential in the National Capital in the Constitutional Economic Framework

¹⁰ Fikri Hadi dan Rosa Ristawati, “*The Relocation of the Capital of Indonesia and the Powers of the President from a Constitutional Perspective*”, *Journal Constitution*, Volume 17, Nomor 3, September 2020, hlm. 532.

The Indonesian government has been carrying out the relocation of the Indonesian capital as a form of implementation of Law Number 3 of 2022 concerning the Indonesian Capital. The long journey of the discourse on relocating the capital was finally realized during the administration of President Joko Widodo. Of course, this capital relocation was carried out facing significant challenges because the costs required are not small but can be said to require a fantastic budget. Furthermore, the time to complete the relocation is estimated to be very long, even to this day, the work on government buildings has not been completed.

From the outset, the government has announced the budget required to balance the country's capital. According to Media Indonesia, "In the government's re-planning, balancing the new capital city requires Rp 466 trillion. Of that total budget, the government has decided that the State Budget (APBN) can finance approximately 19% of the total financing needs, or around Rp 89.4 trillion. The remainder will be financed by investors."¹¹ It is clear that if the IKN balancing costs are fully absorbed from the APBN, the country will certainly be overwhelmed in completing the balancing.

In addition to domestic funding, the planned rebalancing of the new capital city will also involve foreign investors through investment activities. The government ensures that the majority of the capital city's rebalancing budget will not come from the state budget, but from the private sector, including investors from outside the country. Rebalancing the new capital city will be more optimal if funding sources come not only from within the country but also from outside. Therefore, the government needs to establish good cooperation with foreign investors in rebalancing the new capital city. Furthermore, the country also needs to balance the investment ecosystem that benefits both Indonesia and investors. Currently, according to the BKPM, several countries have expressed their interest in becoming investors in developing the IKN, such as the United Arab Emirates (UAE), China, South Korea, Japan and European countries.¹²

If calculated based on the government's replanning, which only allocates 19% of the state budget for the capital city's development, the remaining 81% relies on assistance

¹¹ Fetry Wuryasti, "IKN Projects Adapted to State Budget Capabilities", Media Indonesia, published Wednesday, August 7, 2024, hlm. 1.

¹² Siswanto, "Analysis of the Level of Budget Readiness and Financing in Indonesia in Moving the Capital City of the Country: Literature Study", Journal of Public Policy Studies, Volume 1 Nomor 1, tahun 2022, hlm. 38.

from both domestic and international investors. Such a significant figure will undoubtedly complicate the bidding process. Will the government be able to meet investors' demands? Or will there be more victims of this capital city development project? As we know, PT Freiport, the world's largest gold mine, has only recently been optimized, while for decades we have only received a fraction of the revenue from this mine's management. We certainly do not want this IKN project to sacrifice Indonesia's natural resources, which should be managed for the prosperity of the people in general.

Judging from the current state of the IKN project, we are quite skeptical about the investment opportunities expected to support it. This situation creates a false sense of urgency. If the IKN project is withdrawn or discontinued, it will generate negative international media coverage, suggesting Indonesia's failure. Conversely, if the project is continued, it has been forced from the outset. We can see that even the office environment has not yet reached its full potential. Another concern that has surfaced is the investment climate, which has potential to deviate from Indonesia's constitutional economic principles.

The concept of the economic constitution is based on law as the basis for the implementation of economics, so that economics is not only implemented as an effort and endeavor as economics. Based on the principle of the constitution, the implementation of the national economy is made as a policy in the form of regulation, so that the practice of economics is a re-presentation of legal provisions both through the constitution and regulations as a form of legal policy. The dynamics of the national economy in order to realize social welfare will always be influenced by political power factors that have implications for the direction of national legal political policies. Therefore, what is the direction of national legal politics as the identity of the economic constitution and what are the characteristics of political power in realizing social welfare within the framework of the economic constitution.¹³

As a legal state, the Indonesian economic system within the framework of the written state is in Article 33 of the 1945 Constitution which contains the National Economy and Social Welfare. If we look at the contents of Article 33 of the 1945 Constitution, it shows that the market economy cannot run alone, meaning that based on Article 33 of the 1945

¹³ Fuqoha, "The Direction of National Legal Politics Towards Social Welfare Within the Framework of the Economic Constitution in Indonesia", *AJUDIKASI : Journal Law Science*, Volume 5 Nomor 2, Desember 2021, hlm. 195.

Constitution, the Indonesian economy cannot be left to the whims of the market, but rather requires state influence in managing and instructing the economic system for the greatest prosperity of the people.¹⁴ The economic provisions of the constitution in Indonesia are not only oriented towards profit alone, but there are other aspects that need to be considered, namely the prosperity of the people.

Article 33 of the 1945 Constitution rejects market fundamentalism. The market is an expression of the desires and actions of the wealthy who own purchasing power. Therefore, in a pro-market economic system, production patterns (and subsequently consumption patterns) will be shaped according to the desires of the wealthy and by calculations of economic profit and loss. Therefore, to avoid a free market and to realize the prosperity of the people, the economic system is formulated in the constitution as the grundnorm or supreme law. Basically, law and economics influence each other. Every country in the world uses law as a tool to regulate and limit economic activities, with the aim that the economic balance does not harm the rights and interests of society.¹⁵

Returning to the discussion of investment in the country's capital, even though conditions require assistance from investors to support the new capital, the government must continue to consider the welfare of the people. The people are the primary beneficiaries who should benefit from the development of this new capital. Relations with investors should not lead to the nation being shackled and treated like guests in its own home. These are the factors that should be considered before deciding to move the capital; it cannot be simply a matter of desire without considering all the potential risks.

Public discontent has resurfaced, as President Joko Widodo offered a 190-year HGU (land use permit) to attract investors to invest in the development of the nation's capital. This offer opens up the opportunity for land grabbing for decades, or 38 presidential changes before it can be returned to the nation. We cannot imagine 190 years of our fertile land being managed and exploited by foreigners. If this were to happen, the people would receive nothing.

The proposed financial system proposed by this government clearly contradicts the principles of the economic constitution. Instead of leading to prosperity for the people, it will actually create difficulties for them. The suffering caused by this chaotic investment

¹⁴ Dewi Astutty Mochtar, "The Indonesian Economic System Within the Framework of the Constitution", *Journal Lex Publica*, Vol. 3, No. 2, Mei 2017, hlm. 526.

¹⁵ *Ibid.*

mechanism will affect the next generation, as they will experience difficulties due to the current system. Not to mention the burden of inherited debt, which has become increasingly burdensome over the years. Beyond the investment mechanism, the government is also once again in the spotlight with environmental issues that are hampering the development of the capital city in Kalimantan.

The area designated for the country's capital is a tropical rainforest that has long been projected as the lungs of the world, similar to the Amazon rainforest. Moving the capital will require the destruction of the forest ecosystem that is home to hundreds of thousands of species. This will exacerbate the conflict between humans and animals as their homes are forcibly demolished. Communities along the relocation route will also experience the impact of the haze generated by construction vehicles passing through residential areas. Therefore, the numerous problems that arise will increase the government's homework in completing the relocation of the country's capital. We certainly hope that there will be policies that can provide peace and fresh air for the people, at least the people will be given certainty that the relocation of the capital city will bring prosperity to the nation and the country.

CONCLUSION

Based on the discussion as mentioned above, the following conclusions can be drawn, The decision to move the nation's capital from Jakarta to Kalimantan has sparked both pros and cons among the wider public. Those who agree with the move believe that Jakarta is no longer conducive to carrying the burden of being the capital. Equalization of capital is one reason why the capital must be moved. On the other hand, many consider the capital relocation to be hasty and ignore proper mechanisms, especially since this policy was made during efforts to combat the COVID-19 outbreak.

The government's balanced investment mechanism to attract investors in the capital city planning process is considered to be contrary to constitutional economics as mandated by Article 33 of the 1945 Constitution. The government's approach and offers to prospective investors are considered to be detrimental to the public in the long term. Furthermore, environmental issues have added to the negative record in the process of planning the new capital city.

REFERENCE

- Ahmad Soleh. 2014. *“Economic Growth and Poverty in Indonesia”*. Ekombis Review: Scientific Journal of Economics and Business. 2(2), hlm. 197-198.
- BAPPENAS. 2020. *“Academic Manuscript of the Draft Law on the National Capital City”*. Jakarta: BAPPENAS.
- Dewi Astutty Mochtar. 2017. *“The Indonesian Economic System Within the Framework of the Constitution”*. Jurnal Lex Publica. 3(2), hlm. 526.
- Ferina Ardhi Cahyani. 2020. *“Efforts to Increase Environmental Carrying Capacity Through the Implementation of the Principles of Sustainable Development Based on Law Number 32 of 2009 Concerning Environmental Protection and Management”*. Indonesian State Law Review. 2(2), hlm. 169.
- Fetry Wuryasti. *“IKN Projects Adapted to State Budget Capabilities”*. Media Indonesia, Wednesday Issue 7 Agustus 2024, hlm. 1.
- Fikri Hadi dan Rosa Ristawati. 2020. *“The Relocation of the Capital of Indonesia and the Powers of the President from a Constitutional Perspective”*. Journal Constitution. 17(3), hlm. 532.
- Fuqoha. 2021. *“The Direction of National Legal Politics Towards Social Welfare Within the Framework of the Economic Constitution in Indonesia”*, AJUDIKASI : Journal Law Science. 5(2), hlm. 195.
- Jamaludin, Adon Nasrullah. 2016. *“Sociology of Development”*. Bandung: Pustaka Setia.
- Manda Kumoro Saraswati dan Emmanuel Ariananto Waluyo Adi. 2022. *“The relocation of the capital city of Kei State, East Kalimantan Province, based on a SWOT analysis”*. Jurnal Ilmu Sosial dan Pendidikan (JISIP). 6(2), hlm. 4045.
- Milya Sari dan Asmendri. 2020. *“Library Research (Library Research) in Science Education Research”*. Natural Science: Journal of Science Research and Science Education. 6(1), hlm. 44.
- Muhammad Rijal Fadli. 2021. *“Understanding Qualitative Research Method Design”*. Humanika, Scientific Study of General Subjects. 21(1), hlm. 35.
- Rahayu Sulistiowati. 2011. *“Third World Development Theory and Its Influence on National Development”*. Publica. 1(1), hlm. 5.

- Siswantoro. 2022. *“Analysis of the Level of Budget Readiness and Financing of Indonesia in Moving the Capital City of the Country: Keip Studyustakaan”*. Journal of Public Policy Studies. 1(1), hlm. 38.
- Suaib. 2020. *“Community Development and Empowerment”*. Indramayu: Adanu Abimata.