



Problem Identification and Policy Network on Law Number 21 Year 2023 on National Capital City

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Abstract

This research aims to analyze the identification of issues during the policy formulation process of law number 21 of 2023 concerning the national capital and to conduct a network analysis of policy formulation pertaining to the same law. The research employs a descriptive method with a qualitative approach, utilizing data collection techniques through interviews and literature studies. The findings indicate several identified issues, including environmental sustainability, long-term financing, and governance efficiency. The government has implemented several improvements, such as ensuring legal certainty, long-term financing, flexible and responsive regulations to change, and the sustainability of national capital development. This process reflects the government's efforts to address shortcomings in previous policies, particularly regarding the strengthening of legal and socio-cultural positions. Nevertheless, in areas related to economic aspects, funding management, and environmental issues, there is limited public criticism or input accommodated. Furthermore, the interaction patterns among actors (policy networks) indicate an increase in public participation space, although the central government's dominance as an aggregator of interests still significantly influences other actors in the policy formulation process, leading to a closure in policy options. The policy formulation process of law number 21 of 2023 concerning the national capital has not achieved a balance among the stakeholders involved.

Keywords: Problem Identification; Policy Network; Law of National Capital City

Introduction

There are three crucial reasons for the policy of relocating the national capital from Jakarta to Penajam Paser Utara on the island of Kalimantan, ecological, sociological, and historical. Ecologically, Jakarta's environmental carrying capacity decreases every year, resulting in the threat of flooding, water quality, and land subsidence. Sociologically, the very high level of urbanization has an impact on air quality and congestion, and historically the proposal to move the capital city has always been an unrealized issue by Ministry of National Development Planning/BAPPENAS (2020).

This condition is supported by the level of inequality between java and outside java, the distribution of Indonesia's population is 54% or 150 million on the island of Java, 58% of Indonesia's gross domestic product (GDP) is concentrated on the island of java (Herdiana, 2022). Additionally, the centralization of activities in Jakarta and the aspiration to distribute development more evenly, improve the quality of life for citizens, and maintain a better environment are significant considerations (Haryanti, 2022). Historically, the proposal to move the capital has always been a longstanding issue that has yet to be realized (Monoarfa, 2022).

For that reason, the government followed up by making the agenda of moving the capital city one of the national strategic projects through government regulation number 18 of 2020 concerning the national medium-term development plan (RPJMN) 2020-2024 which is contained in the second attachment concerning the national strategic

project point 10 concerning the national capital city (IKN). Furthermore, the government submitted a proposal for the national capital city law (UU) which was ratified as law number 3 of 2022 concerning the national capital city. In the context of policy networks as described by Klijn and Koppenjan (2000), the process of relocating the capital involves a diverse network of actors, including the central government, local governments, communities, academicians, and the private sector, all of whom have different interests and contributions towards achieving this policy.

Reflecting on the capital relocation policy in myanmar, there was a tendency for the policy to inadequately accommodate public engagement. After the decision was made to relocate the capital from yangon to naypidaw, which began in 2001 and was completed in 2005, naypidaw was established as an administrative city. All government functions were moved to this city in 2006. Despite the construction of complete infrastructure, including hotels and shopping centers, the capital remains largely deserted. This failure can be attributed to minimal public involvement in the design, establishment, and relocation processes of the capital (Rivandi & Pramono, 2024).

Additionally, according to Dunn (2000), various policy alternatives have been evaluated to alleviate the pressures in Jakarta, such as the development of new infrastructure or the decentralization of economic activities. However, the relocation of the capital has been selected as a comprehensive solution that can simultaneously address multiple issues (Pramono, 2024). Furthermore, the policy network emphasizes the importance of synergy between these actors to address complex challenges in planning and implementation, including infrastructure provision, environmental management, and mitigation of socio-economic impacts in the new location and in Jakarta. This approach indicates that the relocation of the capital is not merely a technical step, but also a dynamic process that requires cross-sector coordination and mutual agreement to achieve more inclusive and sustainable national development goals.

Public policy, as cited by Fermana (2009), essentially focuses on a public issue. This means that public policy addresses how an issue and its associated problems are articulated and presented within the policy agenda, leading the government to decide on actions for resolution. Referring to Anderson (2006) public policy is designed to achieve a predetermined goal or to resolve a specific problem. This problem-solving can be achieved by regulating the actions of actors, whether individuals or institutions. A distinguishing feature of policy is that it is formulated from several previously available alternatives. In reality, the implementation of the IKN Law has received support and criticism from various elements, both within and outside the government.

This was revealed in an investigation which revealed that moving the nation's capital city is not as simple as moving a physical building from Jakarta to East Kalimantan because this policy will involve many actors and stakeholders (Rahman, 2022). The Covid-19 pandemic in Indonesia has also become a reason for various parties for the government to rethink the plan to move the capital city which seems rushed, such as the prosperous justice party (PKS) faction which asked the government to focus on the state budget/APBN to deal with covid-19, also supported by economists, one of which is from the institute for development economics and finance (INDEF), which said that the hasty transfer of the IKN would further burden the APBN which is currently critical (Benia & Nabilah, 2022).

Another public response in responding to law number 3 of 2021 concerning the IKN is by submitting a judicial review to the constitutional court, during 2022 there were 3 (three) applications for a judicial review of the IKN law during 2022 to the constitutional court (2024). One of them is from the Indonesian professors forum registered under the names of Prof. Azyumardy Azra and Prof. Din Syamsudin

registered with case number 34/PUU-XX/2022, several important points highlighted include not hearing the opinions of experts who questioned the material of the IKN law and the hasty formation process, the position of the authority which is contrary to applicable regulations (Ariyanti & Pramono, 2024).

Tabel 1. Policy Cycle

Process	Activity	Actors
Problem Identification	Problems necessitating governmental intervention or action for resolution	Public initiative interest groups public opinion mass media
Agenda Setting	Selection of Issues for discussion	Government (executive, legislative, judicial) mass media
Policy Formulation	Developing alternative policy solutions for problem resolution	Executive legislative think tank institutions, academics, researchers, interest group
Ratification	Providing legal legitimacy to the selected policy	Executive Legislative Judicial
Implementation	Organizing government institutions for policy implementation	Executive
Evaluation	Performing a policy review	Executive Legislative Think Tank Mass Media

Source: Dye, 2008, Processed by Researcher

After approximately one year of implementation, and following significant public input, the government, through the National Development Planning Ministry/ BAPPENAS and the IKN authority, has been tasked with preparing revisions to law number 3 of 2022 concerning IKN in august 2023. Several key points underpinning the changes to the IKN law include differing interpretations regarding the status of the IKN authority and its budget allocation, specific regulations for recognizing land rights held and controlled by the community, targeted regulations for investors and land developers, housing, and land rights to enhance investment competitiveness, as well as ensuring the sustainability of IKN development and active involvement of the DPR in oversight.

Furthermore, the relatively short legislative process, which has created an impression of hastiness in policy formulation, has also been a subject of scrutiny (Primadhyta, 2023). A policy can be considered a set of instructions from policymakers to policy implementers, detailing the objectives and means to achieve those objectives. The policy formulation process consists of a series of phases, which include creating proposal alternatives, selecting alternatives, assessing alternatives, and choosing a preferred option (Muadi et al., 2016). The policy process is a complex interactive process that involves and influences various stakeholder actors. The aim of the policymaking process is to address public issues by breaking them down and applying rules that can achieve specific objectives (Winarno, 2016).

As a national strategic policy, the process of proposing the IKN law and its amendments was presented by the government within a relatively short timeframe. This

dynamic opened up a space for discussion regarding the policy process and formulation. Ideally, the policy process includes problem identification, agenda setting, adoption, formulation, implementation, and evaluation of policies (Howlett and Mukherjee, 2014). Referring to the experience surrounding the enactment of law no. 3 of 2022 regarding the IKN, at that time there was a fundamental alignment with the principles of legislative formation as regulated in law no. 12 of 2011. Politically and legally, the policy actors were able to aggregate interests, resulting in a law that was politically, legally, and sociologically acceptable (Maku et al., 2023).

The initial stages of policy formulation represent efforts to solve problems through various policy alternatives that may or may not be implemented. This process involves the government (both executive and legislative), think tanks, academics/researchers, and interest groups (Dye, 2013). This process began with the preparation of the academic paper and draft law (RUU) on amendments to the IKN law by OIKN and BAPPENAS, which were then submitted to the president on June 12, 2023. Furthermore, the president submitted the draft to the house of representatives (DPR) on June 19, 2023.

The discussion from level one to plenary in the DPR lasted for two months until it was passed into law on October 3, 2023, which was approved by 7 factions (PDIP, Golkar, Gerindra, PKB, Nasdem, PKB, and PPP), the Demokrat party faction agreed with the note that it would be discussed further, while the PKS faction rejected it. All proposed changes submitted by the government were accommodated by the DPR (Aditya, 2023). The PKS faction rejected the revision of the IKN law for several reasons, one of which was related to the position and authority of the IKN authority. In addition, they highlighted the term of the right to cultivate (HGU) which can reach up to 90 years and the right to build (HGB) up to 95 years.

However, the term is not given all at once, but through a gradual extension mechanism in accordance with applicable provisions. This is considered contrary to the principle of justice in land management. The PKS faction also criticized the IKN development funding scheme. The dynamics of the legislative process show a change in attitude from the Nasdem party which initially abstained to agreeing, the Demokrat party which rejected to accepting with notes. Since it was first proposed to the DPR, the government has been actively conducting public consultations and socialization regarding the main points of the changes to the IKN law.

Public consultations were carried out by BAPPENAS and the IKN authority by involving local governments, community organizations, and related industries which were carried out offline and online. Not only during the formulation and legislation process, public consultations were also carried out after the changes to the IKN law were passed. In total, the government carried out 4 public consultation activities which focused on East Kalimantan. The public response to the changes to the IKN law received support and criticism. The East Kalimantan Provincial government strongly supports the ratification of the changes to the IKN law because it resolves the problems that have been obstacles to the development of the IKN so as to create a fair and equitable solution for all parties (Swartika, 2023).

Meanwhile, criticism was conveyed by community groups such as formappi who considered the process of formulating changes to the IKN law to confirm the public's assessment that the previous drafting of the IKN law was carried out on the principle of being quick and just to finish (Rahayu, 2023). Ideally, the formulation process is an interaction between the government and various elements to design policies that can resolve issues that have been scheduled. The IKN amendment law should be able to accommodate all interests, so that it can be implemented properly. The formulation of

the IKN amendment law policy is ideally an intense interaction between the government (executive, legislative, and judiciary) and the wider community to present quality policies. According to Dunn (2012), policy formulation involves a series of steps, one of which is identifying problems that are an important starting point in the policy formulation process. This problem identification allows policymakers to understand the context and complexity of the existing issues, so that they can determine effective and targeted strategies or in other words, policy formulation emphasizes the contents of the policy of law number 21 of 2023. Ideally, the formulation process is an interaction between the government and various elements to design policies that can resolve issues that have been scheduled. The IKN amendment law should be able to accommodate all interests, so that it can be implemented properly.

The formulation of the IKN amendment law policy is ideally an intense interaction between the government (executive, legislative, and judiciary) and the wider community to present quality policies. According to Dunn (2012), policy formulation involves a series of steps, one of which is identifying problems that are an important starting point in the policy formulation process. This problem identification allows policy makers to understand the context and complexity of the existing issues, so that they can determine effective and targeted strategies or in other words, policy formulation emphasizes the content of the policy of law number 21 of 2023. Another approach utilized is the policy network that emphasizes the involvement of groups or individuals in the public policy-making process.

In this network, the actors are interdependent because each has its own limitations. However, despite their interdependence, each actor maintains their own autonomy, meaning that no single party can fully control or dictate what another actor should do, as each actor has their own goals and interests (Marta & Agustino, 2019). This concept engages various actors in the formation of public policy, framing public policy as a result of interactions among these actors. Therefore, based on this explanation, it is necessary to identify specific and in-depth problems regarding the policy of law number 21 concerning the national capital, as well as to analyze the interactions between actors involved in the stages of policy formulation that interact with each other to present an aggregation of interests so that they can overcome problems and achieve the objectives of the policy of moving the Indonesian capital.

Method

The method of this research aligns with the type and objectives of the study, particularly within the context of public policy research, which aims to analyze the steps involved in policy formulation to achieve high-quality policy outcomes. This research adopts a post-positivist approach that involves a series of tests and verifications of a theory that is subsequently refined. Specifically, the study examines the process of formulating amendments to law number 3 of 2022 concerning the national capital law, utilizing a theoretical framework integrated with empirical observations for problem identification. A qualitative methodology is employed, with data collection involving primary data from interviews with stakeholders involved in the policy formulation process, supplemented by secondary data from relevant literature reviews. The research follows an inductive reasoning approach, starting with the objectives and research statements rather than hypotheses, treating theory as a descriptive tool that can evolve throughout the research process (Liliweri, 2018). The objective of this study is to analyze the identification of problems in the policy formulation stage of the amendments to law number 3 of 2022 regarding the national capital, using policy network theory as an analytical tool.

Results and Discussion

From the results of the identification of the problems in the formulation of law number 21 of 2023, the refinement of the policy became the first material that could be broken down into several discussions, namely legal, economic, social and environmental aspects. In a legal context, the issues that arise include the position and authority of the IKN authority, legal certainty regarding the continuation of the capital relocation, land tenure, and financial management. The discussion surrounding the position and authority of the IKN authority is a constitutional matter that needs clarification, as the previous regulation, namely law number 3 of 2022, offers ambiguous interpretations.

Article 5, paragraph (4) states that the head of the national capital authority is the head of the special regional government who holds a ministerial-level position, appointed, inaugurated, and dismissed by the President after consulting with the DPR. It is ambiguous because this provision implies that the IKN is fully under the central government regime considering that the authority to manage regional households is initiated by ministerial-level officials selected by the president. This is reflected in the critical notes submitted by the PKS Faction at the long-term working committee meeting of law number 21 of 2023 regarding the position of the OIKN which overlaps with other laws and regulations related to regional government.

In the discussion of legal certainty, the continuation of the transfer of the national capital city also received attention, especially because law number 6 of 2022 did not provide an affirmation. Kamarusamad from the Gerindra faction explained that in the previous law, the continuation was not discussed specifically, as a long-term project, there needs to be an affirmation of the continuity of the development of the IKN. Furthermore, Kamrussamad explained that the national capital city law (UU IKN) provides a long time frame for the government to carry out the process of moving the national capital city with a gradual approach for 23 years. These stages include four main phases planning, construction, relocation, and operation.

Starting in 2022 and targeted for completion in 2045, this policy aims to ensure that each phase can be carried out maturely and sustainably. In the discussion of agrarian issues, there are overlapping regulations related to the concept of land rights. Therefore, legal certainty regarding land is also the subject of the government's proposed changes. Secretary of the ministry of national development planning, BAPPENAS, Widuriyanti explained that the agrarian problem that needs to be evaluated is the lack of availability of norms and regulations that cover it. The limited provisions regarding land have an impact on the legal uncertainty of individual land ownership and control. The principle of *lex specialis* should be applied to avoid direct binding to the agrarian law.

This aims to ensure that the community does not suffer material losses and that no violations of applicable regulatory provisions occur. Based on this, agrarian provisions as *lex specialis* could be incorporated into legislation specifically governing the national capital. In the discussion of financial management, it is closely related to the discussion of the position of OIKN, which in other words financial management is a consequence of the position of OIKN. Referring to law number 21 of 2022, the management of OIKN is regulated as a ministry-institutional budget, with changes to strengthen the OIKN institution on par with regional governments in budget and asset management. This change in legal status to OIKN makes its authority wider in carrying out tasks in the initial stages of moving the capital city which previously had to go through a long bureaucratic mechanism, making it ineffective.

Furthermore, in economic aspects, the funding issues for the IKN that will burden the state budget (APBN) are identified as major concerns. Investors play a crucial role in the development of the national capital (IKN). A significant portion of the financing for

IKN development is expected to rely on private investment, with estimates suggesting that it will account for up to 80% of the total required costs. This indicates that the private sector is anticipated to be the primary driver of IKN development, while the state budget is projected to contribute only about 20%. Thus, collaboration between the government and investors is crucial to realizing this major project, considering the large financing needs that cannot be fully covered by the state budget.

In the social aspect, the involvement of the surrounding community in the IKN authority, respect for local wisdom, and the lack of input from the public in law number 3 of 2022 are key topics. Dialogues with indigenous leaders in East Kalimantan are crucial for fostering a sense of ownership over this project and ensuring that local culture is preserved and respected in development planning. This aspect is highly relevant to inclusive development policies, where key stakeholders, such as indigenous leaders and local communities, are actively engaged. In the formulation of the revised policy of law number 3 of 2022, it involves a network of actors including the Ministry of National Development Planning/BAPPENAS, the Indonesian house of representatives, the IKN authority, local governments, NGOs, the business world, universities and indigenous community groups.

However, in this network, there is a pattern of interaction that is not entirely harmonious, where conflicts of interest arise, especially between the central government which focuses on accelerating development and community groups who are concerned about social and environmental impacts. In addressing the previously mentioned problem identification, there is a distinct divide, particularly between governmental institutions and local communities. As a result, not all the aforementioned issues can be accommodated, especially in the social, economic, and environmental aspects. According to the recognition of government elements, they have conducted dialogues in various forms to accommodate criticism and input.

Ali revealed that there are 70 indigenous community groups that play a role as key actors. This is clear evidence that the government involves the role of indigenous communities as actors in policy formulation. Community involvement from the start is considered crucial so that they are not only spectators in development, but also participate actively. Teni also emphasized that the involvement of local actors has become a procedure that must be carried out. Nevertheless, one interviewee explained that in the policy shift regarding the relocation of the IKN, the interactions among actors display a dominance of the government and the DPR as the primary decision-makers, while the involvement of civil society and local groups remains limited.

This shows that the policy-making process tends to focus on the internal aspects of state institutions without involving all elements that are directly affected. The lack of transparency in communication between the government and the community, as well as the lack of inclusivity in the consultation and decision-making process, can cause problems with policy legitimacy. This situation has the potential to trigger resistance from community groups who feel unaccommodated or disadvantaged. Pascal, a civil society member and member of the IKN youth forum, said something similar that the community was not involved enough in the formulation of the IKN law. The limited participation of the community in policy-making shows the importance of more complex collaboration between various government institutions and stakeholders.

For example, the Ministry of National Development Planning/BAPPENAS has a strategic role in designing national development plans, while the IKN Authority is responsible for implementing projects with high flexibility. In this case, the interests of the community are often adjusted based on established government regulations and policies. As explained by Agung, director of supervision and audit, the policy-making

process for the IKN is heavily influenced by the existing government structure, so that adjustments to community needs must go through mechanisms that are in accordance with these government regulations. This shows that, despite efforts to bring policies closer to the interests of the community, the process is still heavily influenced by government regulations and bureaucracy, which require synergy and coordination between various actors in the national policy system. In formulating and implementing policies, there is an unavoidable interaction among various parties with different interests, objectives, and strategies (Scharpf, 1978). Hence, in reality, the interactions among actors involved in the amendment of this law are predominantly dominated by the government. As previously described, spaces for dialogue, whether through seminars or informal meetings with local communities and indigenous leaders, serve merely as formalities to accommodate community aspirations without making them a primary variable to be incorporated into the policies to be implemented.

The policy formulation that has been prepared essentially resides within the primary domain of the government. The Indonesian house of representatives uses a deliberation strategy through a working meeting with the government (Ministry of PPN/BAPPENAS) as the proposer of the amendment to the IKN law on august 22, 2023, followed by a level 1 (one) working meeting on september 19, 2023, a working meeting of the DPR working committee on september 18-19, 2023, and a plenary meeting to ratify the amendment to the IKN law on october 3, 2023. Meanwhile, the government is implementing a policy advocacy strategy by providing justification for the revision as a step to optimize the transfer of the IKN by conducting 4 (four) public consultation activities. The first public consultation was held on december 12, 2022 in Balikpapan, East Kalimantan by inviting regional policy makers and university academics in East Kalimantan. The second public consultation was held on february 1, 2023 in Balikpapan, East Kalimantan with more participants including community groups, indigenous peoples' organizations, youth, and the business world. The third public consultation was held on july 27, 2023 in Balikpapan with the same composition of participants as before. The fourth consultation was held online on september 15, 2023 (BAPPENAS, 2023). In other words, while in a broad sense the various elements of the government have indeed conducted efforts to absorb aspirations, the engagements have mainly been a formality to comply with regulations that mandate the existence of such dialogue spaces.

The main changes are strengthening institutional aspects, strengthening the authority of the OIKN as a manager of goods and services, strengthening land management, spatial and regional planning, accelerating development and providing housing, ensuring the sustainability of the 4Ps. Only the fifth point facilitates community aspirations related to sustainable development by considering aspects of local wisdom, indigenous communities, and affected communities. Even in this fifth point, it is not fully accommodated. According to community members who served as sources for this research, the limitations of transparency and inclusivity in this process have the potential to undermine the legitimacy of the policy and evoke resistance from the community, who may feel unrepresented or disadvantaged.

This is also reflected in the notes from the government faction showing the government's strong determination to be able to ratify the amendment to the IKN law even though there are still crucial points that have not been fully accommodated in the discussion. The strength of the governmental coalition has established itself as the highest structure in decision-making, while the legislative body primarily functions to provide critical observation and ratify national strategic projects, including the amendments to the IKN law. It is important to note that not all criticisms and suggestions from the community, as one of the policy actors, can be accommodated especially

regarding legal, economic, and environmental aspects. In the legal aspect, the lack of criticism from the community has caused the issue to arise precisely from experts such as questions about the position of OIKN in the state structure which tends to be confusing. On the one hand, OIKN is considered to be at the ministerial level but on the other hand it is also a regional head who theoretically has regional autonomy. Likewise, the derivative problems in determining the position of OIKN, namely budget management which is not mentioned in detail in the previous law, so that it becomes an issue that appears on the surface in order to get a clear explanation. From an economic perspective, the community's desires tend to go unaccommodated due to the interests of investors, who prioritize investment security.

This necessitates legal certainty, including plans for the development of the IKN and the availability of regulations pertaining to agrarian issues, which substantively do not align with the community's aspirations. To note, in terms of regulations so as not to burden the APBN, IKN financing will be funded 80 percent by the private sector and 20 percent by BUMN so that investor interests will be closely guarded so as not to cause investors to hesitate to invest their capital. So directly, this also has an impact on environmental interests that are not in accordance with the wishes of the local community. Although the government maintains its position that the forest around the development of the IKN will not be damaged, it will actually become a forest city. The government through BAPPENAS said that the IKN is a future city that is advanced and green, with 70 percent of it being a green area.

However, what is not realized is that there is actually 30 percent of the forest area that will experience deforestation for infrastructure development and so on. Referring to the united states aeronautics and space administration or NASA, it revealed a picture of changes in forest areas in Kalimantan after the construction process of the Indonesian capital city. The explanation states that since the summer of 2022, the forests in East Kalimantan have experienced rapid changes. By comparing the forest area of Kalimantan in February 2024 with the conditions in April 2022, it shows that the green forest area appears to be shrinking. Meanwhile, according to Greenpeace Indonesia, the threat of deforestation is not only in the core area of the IKN, but also in the expansion area. According to him, there will be 31,000 hectares or half the area of Jakarta that will potentially be lost due to the opening of the IKN.

Conclusion

The analysis of problem identification within the policy formulation stage of law number 21 of 2023, concerning the national capital city (IKN), is driven by fundamental issues such as the need for more flexible regulations, adaptability to change, and the sustainability of IKN development. The primary challenges include ensuring environmental sustainability, securing long-term funding, and enhancing governance efficiency. This process highlights the government's efforts to rectify deficiencies in previous policies, particularly in strengthening legal and socio-cultural frameworks. Conversely, aspects concerning economic and financial management, as well as environmental considerations, have not substantially incorporated criticism or public input. The policy network analysis of law number 21 of 2023 involves diverse stakeholders engaged in a complex policy network. Key participants include the central government, legislative bodies, local governments, civil society organizations, and the private sector. Despite collaborative efforts, the central government continues to function as a policy aggregator, influencing legislative institutions through the governmental political party coalition's composition. However, findings also indicate an increase in participatory spaces for policy actors to contribute input.

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