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Discourse on State Capture and Legislative Corruption in the Formation of the National Capital City Law

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Abstract

This study examines state capture as a form of legislative corruption in the enactment of Law Number 3 of 2022 concerning the National Capital. Both procedural and substantive aspects of the IKN Law are evaluated against established principles of legislative formation, Constitutional Court jurisprudence, and the foundations of popular governance under the rule of law. Employing a socio-legal approach, the research integrates normative juridical analysis with qualitative empirical methods. The methodology includes analysis of legislation, Constitutional Court decisions, legislative documents, and reports from monitoring institutions, as well as document analysis and interviews with academics and civil society activists to gather empirical insights. The findings indicate that the IKN Law was expedited, providing minimal opportunity for meaningful public participation. This process contravened the transparency and participation principles outlined in the Law on the Formation of Legislation and reaffirmed in Constitutional Court Decision Number 91/PUU-XVIII/2020. Furthermore, the law grants the IKN Authority extensive powers without instituting sufficient checks and balances. The evidence demonstrates state capture, in which legislation is used to legitimize particular interests and undermine democratic oversight. These developments present significant threats to the rule of law, government accountability, and the principle of popular sovereignty within Indonesia's constitutional framework.

Keywords:
Korupsi Legislasi ; Perebutan Kekuasaan Negara ; Pembentukan Hukum ; Undang-undang Ibu Kota Nasional

Abstract

Studi ini meneliti penguasaan negara sebagai bentuk korupsi legislatif dalam pemberlakuan Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Nasional. Baik aspek prosedural maupun substantif dari Undang-Undang Ibu Kota Nasional dievaluasi berdasarkan prinsip-prinsip pembentukan legislatif yang telah ditetapkan, yurisprudensi Mahkamah Konstitusional, dan dasar-dasar pemerintahan rakyat di bawah supremasi hukum. Dengan menggunakan pendekatan sosio-legal, penelitian ini mengintegrasikan analisis yuridik normatif dengan metode

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empiris kualitatif. Metodologinya meliputi analisis legislasi, putusan Mahkamah Konstitusional, dokumen legislatif, dan laporan dari lembaga pemantauan, serta analisis dokumen dan wawancara dengan akademisi dan aktivis masyarakat sipil untuk mengumpulkan wawasan empiris. Temuan menunjukkan bahwa Undang-Undang Ibu Kota Nasional dipercepat, memberikan kesempatan minimal untuk partisipasi publik yang bermakna. Proses ini bertentangan dengan prinsip transparansi dan partisipasi yang diuraikan dalam Undang-Undang tentang Pembentukan Legislasi dan ditegaskan kembali dalam Putusan Mahkamah Konstitusional Nomor 91/PUU-XVIII/2020. Lebih lanjut, undang-undang tersebut memberikan wewenang yang luas kepada Otoritas Ibu Kota Nasional tanpa menerapkan mekanisme pengawasan dan keseimbangan yang memadai. Bukti-bukti menunjukkan adanya penguasaan negara, di mana legislasi digunakan untuk melegitimasi kepentingan tertentu dan melemahkan pengawasan demokratis. Perkembangan ini menghadirkan ancaman signifikan terhadap supremasi hukum, akuntabilitas pemerintah, dan prinsip kedaulatan rakyat dalam kerangka konstitusional Indonesia.

1. Introduction

Corruption occurs not only at the policy implementation and budget management stages. While academic discourse often treats corruption merely as an administrative pathology during budget execution, this study narrows the focus to analyze structural legislative corruption through the precise paradigm of state capture in the formation of Law Number 3 of 2022 concerning the National Capital (IKN Law). State capture in legislation occurs when elite groups exert control over the legislative process to shape laws that advance private interests at the expense of the public.[1, 2] The explicit novelty of this research lies in its focused interrogation of the IKN Law's non-transparent and accelerated drafting as a calculated operational tactic of state capture.[3, 4] This analytical approach builds on contemporary legal scholarship, such as findings in the journal *Yustisia*, which demonstrates that fast-track legislation under the current administration systematically eliminates opposition and lacks necessary public participation.[1] By hollowing out these democratic procedures, the process of forming the IKN Law creates a critical legal problem where legal norms are manipulated to encode private advantages into the formal legal structure. Legal and public policy literature refers to this practice as legislative corruption[2]. The World Bank categorizes legislative corruption as part of state capture, a situation in which interest groups influence the legislative process to secure political or economic benefits. The impact of state capture is far more systemic, as it undermines the legal foundations that bind all of society. In Indonesia, the legislative function of the House of Representatives (DPR) is highly vulnerable to corruption[3]. Since 2013, the Corruption Eradication Commission

[1] Huda, N. M., Rishan, I., & Pratiwi, D. K. (2024). *Fast-Track Legislation: The Transformation of Law-Making Under Joko Widodo's Administration*. Yustisia, 13(1), 117-133.
[2] Anggono, B. D., & Wahanisa, R. (2022). Corruption prevention in legislative drafting in Indonesia. *WSEAS Transactions on Environment and Development*, *18*, 172-181.
[3] Hermanto, B., et.al. (2025). Legislative planning and quality of legislation: the case of Prolegnas in Indonesia lawmaking. *The Journal of Legislative Studies*, 1-29.

(KPK) has emphasized that corruption hotspots in the DPR lie not only in its budgetary function but also in its lawmaking function—legal products created without transparency and public participation risk producing biased, constitutionally problematic regulations. Law Number 3 of 2022 concerning the National Capital provides a key example for examining legislative corruption. The National Capital Law was deliberated and passed in approximately 42 days with limited transparency. Numerous academics, civil society representatives, and legal researchers have criticized the process, arguing that it failed to meet the transparency standards set out in Article 5 of the Law on the Formation of Legislation. The potential risk of state capture heightens these concerns. The National Capital Law establishes a National Capital Authority with extensive powers, allows for the appointment of leaders without elections, and supersedes various existing legal protections. Such an institutional framework raises significant concerns regarding accountability, democratic oversight, and the possibility that influential interests could dominate critical decisions about the state's future.

The concept of state capture has evolved from business domination of the state to state capture, where state actors manipulate the legislative process to secure long-term elite interests, as Yakovlev analyzed in his study of post-Soviet Russia. In 1990s Russia, oligarchs initially "captured" parliament through illegal lobbying for privatization, but post-2000, the central regime reversed the dynamic to business capture, where the state forced corporate compliance through tailored regulations, resulting in centralized corruption that weakened checks and balances—a pattern similar to the formation of the National Capital Market Law in Indonesia, where the House of Representatives and the executive branch expedited deliberations to 42 days without substantial public participation, creating a National Capital Market Authority that overrides other laws. Meanwhile, Sitorus emphasized that state capture is not merely a transactional crime, but rather a systemic threat where private groups influence rule-makers for rent-seeking, often without a direct money trail, as in the BLBI and Lapindo cases in Indonesia. The implication for the IKN Law is the loss of democratic legitimacy because the closed process allows elites to encode personal gain into legal norms, threatening the sovereignty of the people (Article 1 paragraph 2 of the 1945 Constitution) and the principle of the rule of law. This analysis underscores the vulnerability of the DPR as a hotspot for legislative corruption, where the absence of effective sanctions allows for repeated state capture, as the Corruption Eradication Commission (KPK) has noted since 2013, so that the formation of the IKN Law is not merely a political controversy, but rather evidence of structural corruption that undermines the foundation of national law.

Within this analytical framework, the accelerated deliberation of the IKN Law in just approximately 42 days must be understood not merely as a matter of political controversy, but as a profound legal problem that directly contravenes the mandatory principles of forming legislation. Under Law Number 12 of 2011, principles such as transparency, openness, and public participation are not dispensable formalities but strict procedural benchmarks required to maintain the legitimacy of any legal product. When these statutory dictates are bypassed through an aggressively compressed timeline, it creates a testable legal defect concerning the law's formal constitutionality. Constitutional Court Decision No. 91/PUU-XVIII/2020 emphasized the necessity of authentic public participation in the legislative process. However, the drafting of the National Capital City Law replicates patterns observed in previous problematic legislation, particularly by prioritizing formal procedures over substantive engagement. These recurring issues indicate that legislative corruption persists as a structural problem within Indonesia's national legislative process.

Research by Haga and Sany (2023) demonstrates that the IKN Law remains unsatisfactory from its initial formulation through to its implementation. It has been shown that the IKN Law is incompatible with the Constitution in several areas of legal politics; this incompatibility is often termed 'unconstitutional'. The results of this study suggest the need to evaluate and review the IKN Law to increase public involvement. This would allow for the implementation of Legal Politics in accordance with the objectives of the Indonesian State as stipulated in the Constitution.[4] This legal tension is captured in contemporary scholarship, such as an article by Benia and Nabilah (2022) in the **Lex Generalis Law Journal**, which analyzes the legal politics behind the IKN Law's formation and highlights how skipping substantive deliberative stages compromises the law's normative quality.[5] For instance, studies by Haga and Sany (2024) and Benia and Nabilah (2022) have successfully identified that the IKN Law's formation lacked sufficient public participation and demonstrated theoretical incompatibilities with the 1945 Constitution, ultimately categorizing parts of the law's policy direction as unconstitutional or highly controversial. However, these studies function largely as disconnected inventories of legal flaws without identifying the underlying gap that binds them. They describe the lack of public engagement and the short duration without explaining how these procedural violations serve as the deliberate operational tactics of state capture. This research fills that gap by demonstrating that the procedural deviations are not accidental failures of governance but are structural instruments designed to shield the substance of the law from democratic friction.

Recent studies on legislative corruption and state capture emphasize a shift in focus from transactional to structural corruption, which legitimizes specific interests through legal norms. International literature and studies by institutions such as the World Bank and Transparency International define state capture as a phenomenon in which private actors or elite groups influence the formation of rules for their own long-term benefit. Locally, studies on legislative corruption highlight the weakness of public participation mechanisms and the absence of an effective sanctions regime for manipulation of the legislative process. Recent empirical research proposes implementing Corruption Risk Assessments at every stage of regulatory development as a preventive tool. In the Indonesian context, academic studies link this phenomenon to patterns of restricting access to public deliberation and to the strengthening of institutional instruments that reduce checks and balances. Therefore, this study situates the case of the National Capital City Law within a stream of research that shifts attention to how law can function as an instrument of state capture, rather than simply as an object of corruption. While previous literature focused on measurable bribery within administrative procurement, contemporary data from organizations like the World Bank and Transparency International emphasize that the most dangerous forms of capture occur when private actors manipulate the formation of rules for long-term benefit. Domestically, studies have correctly pointed to the weakening of public participation mechanisms and the absence of an effective sanctions regime for such manipulations. The explicit gap identified by this study lies in the lack of an integrated socio-legal and

[4] Haga, CSL, & Sany, AM (2024). Legal Review of Law Number 3 of 2022 Concerning the National Capital (IKN) in a Constitutional Legal Politics Perspective. *Citizenship Journal*, 8(1), 310-317

[5] Benia, E., & Nabilah, G. (2022). Legal Politics in the Process of Moving the National Capital Through the Formation of the National Capital Law (IKN Law). *Lex Generalis Law Journal*, 3(10), 806-825

normative analysis that maps specific violated articles of the Law on the Formation of Legislation directly against the empirical evidence of elite intervention in the IKN Law.

Based on the identification of the problem, the formulation of the problem in this paper is as follows: (1) What are the characteristics of the process of forming the National Capital Law when viewed from the principles of forming statutory regulations? (2) How is the practice of legislative corruption in the form of state capture reflected in the process and substance of the formation of the IKN Law? and (3) What are the legal and democratic implications of this practice for the principles of the rule of law and popular sovereignty?

This study aims to comprehensively analyze legislative corruption in the formation of the National Capital Law (IKN). The first objective is to examine the legislative process of the IKN Law in light of positive legal standards and Constitutional Court decisions. The second objective is to identify indicators of state capture in the formation of the IKN Law using a conceptual approach and international comparisons. Our third objective is to critically examine the impact of these practices on Indonesia's constitutional democracy. Theoretically, this research advances understanding of constitutional law and legislative drafting, with particular attention to legislative corruption and state capture. By integrating sociolegal approaches and employing international comparisons, we offer new analytical perspectives to the field. Practically, our findings aim to inform lawmakers pursuing reforms that enhance openness and civic participation. We also seek to equip academics and civil society with a robust legal foundation for future monitoring and critique of strategic lawmaking. Therefore, this study aims to deliver a comprehensive normative and empirical critique of the legislative process that birthed the IKN Law. Moving beyond the broad purpose of analyzing legislative corruption, this inquiry aggressively evaluates the normative violations committed during the drafting process, specifically measuring the IKN Law against the mandatory standards of Article 5 of Law Number 12 of 2011 as amended by Law Number 13 of 2022. The core contribution of this research is its explicit focus on the articles allegedly violated within the Law on the Formation of Legislation and the erga omnes requirements of Constitutional Court Decision Number 91/PUU-XVIII/2020. By proving that the absence of meaningful participation constitutes a direct breach of these positive legal norms, the analysis establishes a robust legal baseline for civil society and academics to monitor and challenge future strategic lawmaking.

2. Research Methods

This study adopts a socio-legal approach, integrating normative juridical methodologies with qualitative empirical methods. To understand the subtle and often obscured dynamics of state capture, a traditional, purely doctrinal approach to legal analysis is insufficient. Classical normative legal research concentrates exclusively on the written text of laws and their internal consistency, which often fails to capture the extralegal pressures, lobbying efforts, and elite negotiations that precede the formal drafting of legal norms.

The socio-legal approach adopted by this research aligns with the interdisciplinary, doctrinal methodological framework outlined by Hutchinson and Duncan, where traditional doctrinal analysis focuses on the consistency of legal norms such as the P3 Law and the Constitutional Court Decision No. 91/PUU-XVIII/2020, combined with qualitative empirical elements to uncover hidden dynamics such as elite

lobbying in the formation of the IKN Law. Hutchinson emphasizes that the doctrinal method is not merely textual in isolation, but must integrate social, economic, and political insights for effective legal reform. In this context, interviews with academics and activists and analysis of documents by the House of Representatives Special Committee are crucial for data triangulation, revealing how the acceleration of the DIM (Inventory of Problems) within 3 days during the House recess reflects information asymmetry that facilitates state capture. Meanwhile, Siems in "Mapping legal research" maps the spectrum of legal research from purely doctrinal to interdisciplinary, emphasizing the taxonomy that allows for mapping the originality of analyses such as socio-legal for the IKN case, where positive norms are evaluated against socio-political realities. This approach is reinforced by Andri Wibisana in his article in the Journal of Law & Development (2019), which advocates a normative-empirical method as a "middle ground" for Indonesian legal reform, combining normative juridical with qualitative empirical methods to test the procedural compliance of the IKN Law with the principle of meaningful participation. This integration ensures the robustness of the findings, where content analysis of the Special Committee minutes and the PSHK report identifies patterns of interest intervention, making this study not only descriptive but also prescriptive in recommending a Corruption Risk Assessment (CRA) at the legislative planning stage.

Consequently, this study adopts a robust socio-legal approach that seamlessly integrates normative juridical methodologies with qualitative empirical methods. This dual approach is essential because legislative corruption leaves few traces in conventional criminal paper trails, requiring researchers to read between the lines of official records and cross-reference them with the sociopolitical realities of the parliamentary process.[6] The normative component of the inquiry systematically evaluates primary and secondary legal sources against the established principles of legislative formation. These sources include the 1945 Constitution, the Law on the Formation of Legislation, and monumental judicial precedents such as Constitutional Court Decision Number 91/PUU-XVIII/2020.1 By contrasting the formal procedural requirements stipulated in these instruments with the actual sequence of events during the IKN Law's deliberation, the analysis can objectively measure the extent of procedural deviation. An empirical study of the legislative process examined special committee meeting documents, official DPR minutes, and monitoring institution reports.

1. Constitutional Court of the Republic of Indonesia. "Constitutional Court Decision Number 91/PUU-XVIII/2020 concerning the Judicial Review of Law Number 11 of 2020 against the 1945 Constitution of the Republic of Indonesia." Jakarta: MKRI, 2020.

2. The 1945 Constitution of the Republic of Indonesia.

3. Law Number 3 of 2022 concerning the National Capital.

4. Law Number 12 of 2011 concerning the Formation of Legislation, as last amended by Law Number 13 of 2022.

[6] Hutchinson, T. (2015). The doctrinal method: Incorporating interdisciplinary methods in reforming the law. *Erasmus L. Rev.*, *8*, 130.

5. Law Number 2 of 2018 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law).

6. Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (Corruption Law).

Additionally, semi-structured interviews were conducted with constitutional law academics, civil society activists, and legislative practitioners to collect evidence on decision-making practices and the influence of interest groups. Qualitative data were analyzed using content analysis to identify patterns of interest, intervention indicators, indicators of state capture, and points of vulnerability in legislative corruption. Findings from the normative and empirical analyses were triangulated to ensure robust legal grounding and support for the research process. This approach is particularly relevant given the complex nature of legislative corruption, which necessitates synthesizing statutory text analysis with the investigation of socio-political practices within the legislative sphere.

3. Result and Discussion

3.1 The Legislative Process of the IKN Law

The progression of the IKN Law before its enactment commenced on Wednesday afternoon, 29 September 2021. On that day, the Indonesian House of Representatives (DPR RI) received a presidential letter (Surpres) requesting deliberations on the Draft Law on the National Capital (RUU IKN). The Surpres was submitted by Minister of State Secretary, Pratikno, and Minister of National Development Planning/Head of Bappenas, Suharso Monoarfa, to the DPR RI leadership. Subsequently, on November 3, 2021, the draft regulation of the IKN Bill was officially discussed at a meeting of the DPR RI's Consultative Body (Bamus), which assigned the formation of a special committee (Pansus) to conduct deliberations on the draft law. Then, at the Plenary Session on December 7, 2021, the leadership and membership of the IKN Bill Special Committee were determined. The initial number of 56 members was reduced to 30 in accordance with the Law on MD3. The process of the IKN Law before its enactment commenced on September 29, 2021, when the House of Representatives received a presidential letter requesting immediate deliberations on the Draft Law on the National Capital (RUU IKN). Shortly thereafter, on November 3, 2021, the draft regulation was formally discussed at a meeting of the DPR's Consultative Body, which assigned the formation of a Special Committee. By December 7, 2021, the leadership and membership of the Special Committee were finalized, and in accordance with the Law on MD3, the initial number of 56 members was significantly reduced to a concentrated group of 30. This reduction in committee size is analytically significant, as it effectively centralized decision making power and minimized the potential for broad, contentious debate among a wider array of parliamentary factions.

Fazekas and Tóth's (from corruption to state capture, 2016) analytical framework provides an empirical lens to classify the IKN Law process as advanced state capture, where transactional corruption evolves into institutional control by elites through business manipulation, similar to the reduction of the IKN Special Committee from 56

to 30 members which centralizes power, minimizes faction debate, and allows the executive to dominate the DIM in 3 days during recess. Indicators include asymmetry in access to information (closed meetings) and minimal public participation, which in the IKN results in an Authority without regional elections, overriding the DPRD and the principle of Article 18 of the 1945 Constitution; this study measures state capture via the tender and lobbying corruption index, showing systemic impacts such as the weakening of checks and balances, as PSHK criticized the IKN Law which overrides the Regional Government Law. This analysis enriches the empirical findings of this study, where the working visit to Kazakhstan (January 2022) appeared to be a facade of consultation, whereas the acceleration to the plenary session on January 18 (only PKS rejected it) reflected a political cartel that sacrificed prudence (the principle of unity), so that the process was not an administrative failure but an operational tactic of state capture to legitimize investor interests.[7]

Before the recess, the Special Committee on the National Capital City Bill in the Indonesian House of Representatives (DPR RI) had formed a working committee (Panja) to discuss the inventory of problems (DIM). The Panja RUU IKN also held three meetings on December 13, 14, and 15, 2021. From December 17, 2021, to January 10, 2022, the DPR RI entered recess. Deliberations on the RUU IKN were temporarily postponed. From Sunday, January 2, to Wednesday, January 5, the Special Committee on the RUU IKN conducted comparative studies at several locations in Indonesia and abroad related to the development of the new national capital. At least three members of the House of Representatives (DPR RI) participated in a working visit to Kazakhstan in early 2022 at the invitation of the National Development Planning Agency (Bappenas). On January 17, 2022, the Special Committee met until the early hours of Tuesday, January 18, 2022. The Special Committee agreed that the National Capital City would be named Nusantara, which was later changed to Ibu Kota Nusantara.[8]

The legislative process for the IKN Law exhibits strong signs of state capture. First, the ratification process was swift and secretive. The PSHK noted that the revision of the IKN Law (October 2023) was carried out "in a short time, with minimal transparency and participation," a pattern similar to the ratification of the original IKN Law. The House of Representatives (DPR) and the government seldom conduct comprehensive public hearings, thereby limiting opportunities for various societal groups to express their concerns. Civil society organizations supporting this analysis argue that this lack of transparency indicates potential legislative corruption, or state capture, during the IKN Law deliberations. In the absence of public oversight, elite interests are more likely to influence the law's content to advance their own agendas. Furthermore, the substance of the IKN Law raises significant constitutional concerns. The 1945 Constitution recognizes only three forms of regional government: provinces, districts, and cities. In contrast, the IKN Law establishes a new entity, the IKN Authority, as a special region "appointed by the President after consultation with the DPR" and not through local elections. The PSHK asserts that this provision contradicts Article 18 of the Constitution because it creates a form of regional government not regulated by the

[7] Fazekas, Mihály, and István János Tóth. "From corruption to state capture: A new analytical framework with empirical applications from Hungary." Political Research Quarterly 69, no. 2 (2016): 320-334. https://journals.sagepub.com/doi/10.1177/1065912916639137.

[8] The Indonesian Institute. (2022). *Legislative corruption in the formation of laws and regulations*. Jakarta. The Indonesian Institute.

Constitution. The IKN Authority has broad authority (regulating regional affairs, creating regional regulations, collecting taxes, etc.), but without a local legislative oversight mechanism. In other words, the DPRD's function has been curtailed, weakening checks and balances.[9].

Furthermore, Article 42, paragraph (1) of the IKN Law states that all regulations contrary to IKN policy are void. This radically elevates the Authority's policies above other laws; even the Regional Government Law and the Central-Regional Financial Relations Law are declared null and void in relation to the IKN. As the PSHK criticized, the Authority's policies "can deviate from all other provisions of laws and regulations." Third, the lack of public participation is further exacerbated by the implementation of regulations. For example, the Explanation to Article 96 of the P3 Law (the article establishing the law) limits the groups entitled to provide input. The applicant's legal counsel in a judicial review at the Constitutional Court (2025) even stated that this provision violates the constitution because it limits citizens' rights to participate. Constitutional articles (28C/28E) are used as a guideline that "every individual/group concerned with a policy must be involved in its formation." The widespread application of these rights suggests a systemic effort to curtail public sovereignty in the legislative process, consistent with the phenomenon of state capture. Empirical evidence demonstrates Indonesia's persistent vulnerability to corruption. Transparency International ranked Indonesia 99th out of 180 countries in the 2024 Corruption Perception Index (CPI), assigning a score of 37 out of 100. This result indicates that public perceptions of corruption remain significantly high. The 2020 Global Corruption Barometer survey further supports this concern, with approximately 92% of respondents identifying government corruption as a serious issue. These findings are consistent with the Corruption Eradication Commission's (KPK) analysis, which emphasizes the need to conduct corruption risk assessments during the regulatory formulation process. Although not explicitly related to the National Capital City Law, the KPK emphasized that corruption at the policy level can be minimized through regulatory corruption risk assessments (CRA). The failure to implement this method in the discussion of the IKN Law increases the opportunity for intervention by specific interests.[10]

The deliberations moved at an unprecedented pace, resolving the highly complex Inventory of Problems (DIM) in just a few days, even while the DPR was technically in recess. On January 18, 2022, the Plenary Session of the House of Representatives, yielding to overwhelming executive pressure, approved the ratification of the IKN Law. All factions, with the sole exception of the PKS faction, expressed approval of the bill. This lack of robust opposition suggests the existence of a cartelized parliamentary structure where the executive and major political factions align to bypass traditional deliberative frictions.[11] Roughly speaking, these activities should take several

[9] Wadipalapa, R. P., Nainggolan, P. P., & Katharina, R. (2023). Authority or Authoritarian? The Democratic Threats behind Indonesia's New Capital City. *Contemporary Southeast Asia*, *45*(3), 520-543.

[10] World Bank. (2020). *State capture. Concepts, causes, and consequences*. Washington DC. World Bank.

[11] Tambunan, Derwin. (2023). The intervention of oligarchy in the Indonesian legislative process. Asian Journal of Comparative Politics. 8. 10.1177/20578911231159395.

months to several years to develop a comprehensive picture of the capital relocation plan[12].

Table 1. Process on Deliberate Legislative Process on IKN

Process Indicator	Standard Deliberative Benchmark	Pragmatic-Political Reality (IKN Era)
Average Deliberation Time	180 Days	42 to 45 Days
Fast-Track Modality Usage	Reserved for Emergencies	300% Increase via *Perppu/Omnibus*
Public Consultation Window	Minimum 30 Days Pre-Discussion	Often Non-Existent or Post-Facto
Stakeholder Inclusivity	Mandatory Multi-Sector Hearings	Restricted to Favorable Groups

Source: analyzed by authors, 2026.

3.2 Principles of Establishing Legislation

The main principles for the formation of legislation include clarity of purpose, openness, public participation, accountability, and prudence. The principles of transparency and involvement require public access from the planning stage through deliberation and enactment, so that aspirations and scientific evidence can be taken into account in the substance of the regulation. The Constitutional Court emphasized that public participation must be meaningful, encompassing the right to be heard, the right to have opinions considered, and the right to receive an explanation for input provided. The prudence principle mandates that strategic regulations undergo comprehensive review, impact analysis, and multi-tiered public testing before enactment. From a corruption-prevention standpoint, the application of Corruption Risk Assessments at each stage of the legislative process exemplifies both prudence and accountability. Consistent implementation of these principles enhances legislative resistance to manipulation by vested interests, as an open and evidence-based process hinders covert intervention. Conversely, failure to uphold these principles elevates the risk of legislative corruption and state capture.

Law Number 12 of 2011, as amended by Law Number 13 of 2022, establishes the principles guiding the formation of effective legislation. Article 5 highlights the importance of clarity of purpose, transparency, and public participation. The transparency principle explicitly requires that every stage of the legislative process, from planning through enactment, remain accessible to the public. The Constitutional Court, through Decision Number 91/PUU-XVIII/2020, expanded the meaning of public

[12] Zschocke, W. (2024). *IKN, Indigeneity and Indonesia: Patterning Dynamics between Adat People and Urban Development* (Master's thesis).

participation to include meaningful participation. The Court formulated three leading indicators: the right to have one's opinion heard, the right to have it considered, and the right to receive an explanation. This ruling is erga omnes and binding on all legislators. From the perspective of deliberative democracy theory, public participation is not merely a procedural formality, but rather a substantive mechanism for ensuring the quality of legal norms. Legal legitimacy arises from an inclusive and open process of rational discourse. If the legislative process closes off this space for discourse, then the law loses its normative legitimacy.

According to the historical-comparative analysis with data of 50 Bills from 2014-2024 era from DPR.go.id, triangulation of interviews with 10 members of the Special Committee, and ASEAN benchmark (Singapore vs Thailand), revealing the transformation of the legislative process from deliberative to pragmatic-political under the Jokowi-Prabowo transition, where the fast-track via Perppu/omnibus increased by 300% resulting in "elitist" laws with an average discussion time of 45 days vs the ASEAN standard of 180 days; theoretical findings highlight violations of the precautionary principle of Article 5 letter e of the P3 Law and the Constitutional Court Decision 91/PUU-XVIII/2020 which mandates meaningful participation (heard, considered, explained), resulting in conservative laws that maintain party cartels and oligarchies such as in the IKN Law Article 18 of the form of non-constitutional Authority contradicts Article 18 of the 1945 Constitution; Practical implications in the form of a reform model: (1) a minimum limit of 90 days for strategic legislation, (2) mandatory DPD involvement for regional issues such as the IKN, (3) preventive judicial review by the Constitutional Court on draft bills initiated by the Corruption Eradication Commission, (4) a 30-day pre-discussion public socio-economic-environmental impact assessment; the case of the IKN Law as a prime example of fast-track (30-member Special Committee, fast DIM Working Committee, plenary session on 18 January 2022 to reject PKS only), similar to Thailand's 2014 emergency law.

3.3 Legislative Corruption Practices in the Form of State Capture in the IKN Law

An analysis of the process and substance of the IKN Law reveals several typical patterns of state capture in legislation. First, the rapidity of deliberation and ratification without adequate public review mechanisms created asymmetric information that favored actors with exclusive access to policymakers. Second, the establishment of the IKN Authority with broad authority and the appointment of leaders without local legislative oversight mechanisms weakened checks and balances. Third, provisions that place the Authority's policies above other regulations provided a normative framework that shielded specific policy decisions from ordinary scrutiny. The combination of closed processes, concentrated institutional design, and restrictions on public participation fulfills the indicators of state capture: legislation is produced to secure particular interests with formal legal legitimacy. Such practices are difficult to address with criminal law because they are not always accompanied by measurable bribery. Grzymala-Busse ("Beyond clientelism: Incumbent state capture", 2008) and Richter & Wunsch ("Money, power, glory", 2020) illustrate how incumbent elites in transitional countries like Eastern Europe "capture" the state through legislation that consolidates power, where not clientelism but institutional control weakens democratic state

formation in the Western Balkans. EU conditionality fails to prevent state capture because elites manipulate regulations for personal glory, similar to the IKN Law that creates a super authority with Article 42 that nullifies other laws, reduces the oversight of the Regional Parliament and opens the door to rent-seeking. Grzymala-Busse shows that incumbent capture occurs when the ruler uses parliament for reforms that centralize power, eliminating competitors through expedited procedures. In the IKN Law, this is evident in the lack of public hearings and the overriding of the Regional State Finance Law, creating a threat to democracy as in Serbia where tailor-made election laws dominate parliament. Richter added that the EU conditionality linkage failed because money power defeated reform. The implication for Indonesia is the need for lobbying transparency like Australia. This finding reinforces that the IKN Law is not an isolated case, but a global pattern where strategic legislation becomes a tool of capture, threatening popular sovereignty and recommending mandatory CRA and preventive judicial review.[13] Therefore, prevention efforts must focus on procedural reforms, including strengthening the principle of transparency, mandating the CRA (Creative Action Plan), mandating the publication of draft and deliberation minutes, and expanding stakeholder participation, including indigenous communities and local governments. Empirical findings from the IKN Law process reinforce the hypothesis that manipulating legislative procedures can produce norms that solidify particular interests in the long term, consistent with the characteristics of state capture described in the international literature and local studies.

The hierarchy of regulations, the principles of their formation based on Law No. 10/2004 which was improved by Law No. 12/2011 (UU P3), as well as the doctrine of constitutional law to identify the vulnerability of legislative corruption which is defined as corrupt behavior in the process of forming legal norms that leads to abuse of authority for personal or group interests, different from executive or judicial corruption because of its structural and long-term impact on the quality of national legal products. The main findings show that of the five stages of regulation formation—planning, drafting, discussion, determination/ratification, and promulgation—the planning and discussion stages have the highest vulnerability due to minimal external supervision, asymmetric access to information, and the potential for covert lobbying that allows external actors such as corporations or political elites to influence the substance of norms for economic-political gain, while the final stage is safer thanks to the formal procedures of the DPR and the president; theoretically, the principle of the rule of law of Pancasila and the 1945 Constitution Article 1 paragraph 2 which demands people's sovereignty through a transparent deliberative process, where legislative corruption violates the principles of legality, clarity of formulation, and suitability of function as stipulated in Article 5 of the P3 Law, resulting in laws that are formally and materially flawed, such as pro-business regulations that weaken checks and balances. The weighty practical implications include four main prevention principles, namely governance (neat and documented process management), professionalism (competence of law drafters through integrity training), justification (scientific evidence and mandatory impact studies before discussion), and meaningful public participation (open hearings, publication of draft bills, and real-time meeting minutes), which if implemented can minimize risks by up to 70% based on normative simulations; direct relevance to the case of the IKN Law which was discussed

[13] Grzymala-Busse, Anna. "Beyond clientelism: Incumbent state capture and state formation." Comparative Political Studies 41, no. 4-5 (2008): 638-673. https://journals.sagepub.com/doi/10.1177/0010414007313118.

quickly in 42 days with minimal public participation as criticized by the PSHK and the Constitutional Court Decision 91/PUU-XVIII/2020, where the establishment of the IKN Authority with broad authority (Article 42 of the IKN Law which overrides other laws) reflects the vulnerability of the discussion stage being exploited for state capture by executive and investor interests. Based on a historical-comparative approach, this study criticizes the legislative transformation of the Jokowi era, which relies on Perppu as a fast-track.[14]Meanwhile, the phenomenon of state capture as systemic political corruption in Indonesia, with qualitative data from cases of pro-business regulations, finds a cycle of high political costs that create debt for investors, so that rules benefit them. Theoretically, state capture refers to corporate influence on legislation, administration, and the judiciary; in practice, prevention requires campaign transparency, political donation limits, and CRA oversight of strategic bills, such as the IKN Law, that could be exploited to relocate the capital for the benefit of confident investors.

3.4 International Comparison of State Capture Practices in Legislation

Experience in other countries shows that legislative corruption often occurs in strategic national projects. In Albania, the government passed a special law for a toll road project that explicitly favored one particular company without an open tender process.[15]. The law was later overturned after public and international pressure, as it was found to violate competition principles.[16] In Serbia, the election law was designed to strengthen the ruling party's control over parliament by allowing it to replace legislators unilaterally. This practice constitutes a form of state capture legalized through positive law.[17]. When compared to the National Capital City Law, a similar pattern is evident. Legislation is used as an instrument to secure long-term political projects while minimizing public control and representative institutions. This comparison strengthens the argument that the formation of the National Capital City Law cannot be separated from the analytical framework of state capture. Madonsela's critical reflections ("Critical reflections on state capture in South Africa", 2019) on the Zuma scandal highlights state capture as an institutional degradation where elites use legislation to secure corruption networks, with broad ethical legal implications in South Africa, the Judicial Zondo report reveals how tailor-made procurement regulations benefit the Gupta family via a "captured" parliament, similar to the Jokowi era in Indonesia with its fast-track IKN Law with minimal participation, creating an IKN Authority without electoral accountability.[18]

Compared with certain literature studies (World Bank, Transparency International, EBRD BEEPS survey) and the case of Indonesia to define state capture as a systemic threat where private actors such as oligarchs or corporations influence state makers (legislature, executive) to create rent-seeking regulations that benefit themselves,

[14] Huda, N. M., Rishan, I., & Pratiwi, D. K. (2024). Fast-Track Legislation: The Transformation of Law-Making Under Joko Widodo's Administration. *Yustisia*, *13*(1), 117-133.
[15] Tahiraj, R. (2014). Law and corruption in Albania and in the south-eastern European countries: a comparative analysis. *Mediterranean Journal of Social Sciences*, *5*(7), 136-147.
[16] Transparency International. (2020). Examining state capture. Undue influence on law-making and the judiciary in the Western Balkans and Turkey. Berlin. Transparency International.
[17] Keil, S. (2018). The business of state capture and the rise of authoritarianism in Kosovo, Macedonia, Montenegro and Serbia. *Southeastern Europe*, *42*(1), 59-82.
[18] Madonsela, Sanet. "Critical reflections on state capture in South Africa." Insight on Africa 11, no. 1 (2019): 113-130. https://econpapers.repec.org/RePEc:sae:inafri:v:11:y:2019:i:1:p:113-130.

often overlapping with corruption but broader because it is institutional rather than just transactional; the methodology includes analysis of the cases of Russia-Ukraine (post-Soviet oligarchs control the Duma for illegal privatization), the Balkans (lobbying tailor-made laws), and Indonesia such as the BLBI case, Lapindo, and money politics which called as state capture corruption; theoretical findings emphasize the difference between state capture (long-term influence on legal norms) versus ordinary corruption (direct bribery), with BEEPS data showing that transition countries such as Indonesia are vulnerable due to weak rule of law, where the low ranking of the 2010 TI CPI reflects public perception; In practice, the prevention strategy is similar to anti-corruption but is focused on lobbying transparency (such as IDEA International), reducing political costs (campaign donation limits), and strengthening institutions such as the Corruption Eradication Commission (KPK) to monitor legislation, with successful examples from Australia and the US through the disclosure of officials' fat accounts; weighty implications for Indonesia include labeling the Lapindo case as state capture due to the corporate bailout policy via special regulations, as well as recommendations from seminars such as the NYU CIC for reform[19]; the link with the IKN Law is very strong because the fast-track process has minimal opposition (only the PKS faction rejected it) and the substance that secures the IKN project for the elite (appointment of Authorities without regional elections, overriding the Regional Government Law), similar to the Russian pattern where Putin in early 2000 acknowledged oligarchic capture of parliament.[20]

One of the main problems with legislative corruption is the lack of a firm sanctions regime. The Corruption Crimes Law still focuses on state financial losses and concrete bribes. Structural legislative bribery is difficult to prosecute because it doesn't always involve direct monetary transactions. As a result, the practice of state capture in legislation is often only challenged through the judicial review mechanism at the Constitutional Court. This mechanism is corrective, not preventive. Without legal reforms to the legislative process and to strengthen public participation, legislative corruption will continue to recur in the formulation of strategic laws. The practice of legislative corruption in the formation of the National Capital Law directly impacts the quality of constitutional democracy. The law no longer reflects the will of the people, but rather the result of elite compromise. In the long term, this condition has the potential to undermine public trust in state institutions and the law itself. A state based on the rule of law demands that just and democratic laws limit power. When the law becomes a means of concentrating power, the principle of a state based on the rule of law transforms into a state of power in a legal form. This phenomenon is the essence of state capture in the context of the formation of the National Capital Law.

4. Conclusion

The case of the IKN Law illustrates the serious risks of legislative corruption: the law-making bodies (the House of Representatives and the President) appear to ignore the principles of transparency and participation. At the same time, the substance of the

[19] Sitorus, Lily Evelina. "State Capture: Is It a Crime? How the World Perceives It." Indonesian Law Review 1, no. 2 (2011): 189-212.
[20] Rochlitz, M., Kazun, A., & Yakovlev, A. (2020). Property rights in Russia after 2009: from business capture to centralized corruption?. *Post-soviet affairs*, *36*(5-6), 434-450.

law opens the door for political power to be controlled by a handful. From a legal perspective, the design of the IKN Law and its amendments contradict the principles of the 1945 Constitution (particularly Article 18 and the guarantee of participation). Conceptually, this practice aligns with the definition of state capture – laws drafted to serve narrow interests. Various global (TI) and local (KPK) data show that Indonesia still faces serious challenges in transparency and public accountability. The main recommendation is to strengthen mechanisms for truly meaningful public engagement (public summons, improvements to the P3 Law) and uphold the role of supervisors (the Constitutional Court, the media, and civil society) so that the drafting of the IKN Law (and other strategic laws) is subject to the principles of the rule of law and the interests of the wider community. It is incumbent upon the government to enhance the transparency of the legislative process by publishing academic papers, draft bills, article amendment matrices, and meeting minutes from the planning stage through ratification. The government should ensure meaningful public participation through documented, measurable public consultation forums to keep the lawmaking process open. A Corruption Risk Assessment should be conducted for each strategic bill, including those related to the new capital city (IKN), to identify potential conflicts of interest and revise problematic provisions early. A transparent lobbying registration system must be established to record all meetings with interest groups, allowing for precise tracking of their influence on legislation. Officials involved in drafting laws should declare any conflicts of interest, and strict sanctions should apply for procedural violations that affect the substance of the law. The IKN Authority's powers should be revised to uphold checks and balances. Legal oversight by the House of Representatives (DPR) and the Supreme Audit Agency (BPK), as well as the participation of affected communities, should be mandatory. All strategic IKN policies must meet transparent and verifiable public accountability standards. Socio-legal studies should be required for strategic bill deliberations, with analyses of social, environmental, and economic impacts, including indigenous peoples' rights, made publicly available before decisions are made. Regulatory drafters should receive training on state capture, conflicts of interest, and legislative integrity, with practices updated based on empirical research. These measures will help prevent state capture in lawmaking, strengthen regulatory legitimacy, and ensure that national capital policies are transparent, participatory, and accountable.

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