



Implications for the Development of the National Capital of the Archipelago and Protection of Customary Law Communities: A Review of Law Number 3 of 2022

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ABSTRACT

The construction of the National Capital City (IKN) of the Archipelago in East Kalimantan has significant implications for the customary law communities who inhabit the region. This research examines the implications of IKN development for the rights and lives of indigenous peoples based on Law Number 3 of 2022 concerning National Capital. This research uses qualitative methods with a normative juridical approach. Data was collected through document study and analysis of statutory regulations, especially Law No. 3 of 2022. The research results show that IKN development has potential positive and negative implications for customary law communities. On the one hand, IKN development can open up opportunities for access to education, health and the economy for indigenous communities. On the other hand, IKN development can also result in marginalization and deprivation of indigenous peoples' rights to customary lands and territories. Protection of the rights and lives of customary law communities in the development of IKN needs to be the government's main concern. Concrete efforts such as recognizing and establishing customary territories, involving indigenous communities in the development process, and providing fair access to resources need to be made to ensure equitable and sustainable IKN development.

1. Introduction

The construction of the National Capital City (IKN) of the Archipelago in East Kalimantan marks a new chapter in Indonesian history. This ambitious project is predicted to be a solution to overcome various problems in the country's current capital, Jakarta, such as congestion, pollution, and population density. IKN is expected to become a modern city that is sustainable and environmentally friendly, as well as becoming a new economic center that encourages equitable development throughout Indonesia. However, behind the sparkling vision of IKN, there are concerns surrounding the traditional law communities that inhabit the area. Their existence is threatened by massive IKN development, and it is feared that their traditional rights to land and customary territories will be neglected. Customary law communities are

communities that live in certain areas with rules and customs that regulate their lives. They have a close relationship with their land and traditional territories, which are the source of their life and identity. The local wisdom that they have adhered to for generations is the key to maintaining natural balance and environmental sustainability. In the IKN area, there are several customary law community groups, such as Paser, Penajam, Kutai, and Dayak. They have inhabited the region for centuries and have unique social, cultural, and economic systems. Their local wisdom in managing forests and natural resources has been proven to preserve the environment in the region.¹⁻³

The development of IKN in East Kalimantan has the potential to have a negative impact on customary law communities. It is feared that the construction of new

infrastructure and residential areas in IKN will displace customary law communities from their customary lands and territories. This can lead to the loss of sources of livelihood, cultural identity, and access to natural resources. Indigenous communities are threatened with being marginalized from the IKN development process and not benefiting from this development. This can increase poverty and worsen social inequality in the region. IKN development that does not pay attention to the local wisdom of indigenous communities can result in environmental damage and loss of valuable cultural values. IKN development must be carried out by prioritizing the principles of justice and sustainability. The government needs to ensure that the rights and lives of indigenous peoples are not neglected. The government must recognize and establish the customary territories of customary law communities in the IKN area. This can provide legal certainty and protect their rights to customary lands and territories. Customary law communities must be actively involved in the IKN development process. This can ensure that IKN development is in accordance with their needs and local wisdom.⁴⁻⁶ This study aims to examine the implications of IKN development for the rights and lives of indigenous peoples based on Law Number 3 of 2022.

2. Methods

This research uses qualitative methods with a normative juridical approach. The normative juridical approach focuses on the analysis of laws and regulations related to the research topic. In this case, this research will analyze Law No. 3 of 2022 concerning the National Capital, as well as other laws and regulations related to the rights of customary law communities. Research data was collected through document study and analysis of statutory regulations. Document study: Examining Law No. 3 of 2022 concerning the National Capital, Analyzing laws and regulations related to the rights of customary law communities, such as Law No. 5 of 1960 concerning Agrarian Principles, Law No. 32 of 2009 concerning

Environmental Protection and Management, and Perppu No. 56 of 2017 concerning Amendments to Law Number 23 of 2014 concerning Regional Government, Reviewing official government documents related to IKN development, such as the National Capital Development Master Plan (RIPIKN) and Strategic Environmental Study (KLHS), Studying research reports, scientific journals, and articles relevant to the research topic. Analysis of Legislative Regulations: Analyzing the contents of Law No. 3 of 2022 concerning the National Capital, especially related to the rights of indigenous peoples, comparing Law No. 3 of 2022 with other laws and regulations related to the rights of customary law communities, identifying potential inconsistencies and legal gaps in related laws and regulations, interpreting laws and regulations related to the context of IKN development.

The collected data was analyzed using qualitative analysis techniques. The data analysis techniques used are as follows: Descriptive analysis: Data is analyzed descriptively to understand the content and meaning of related laws and regulations. Comparative Analysis: Legal regulatory data is compared to identify potential inconsistencies and legal gaps. Interpretative analysis: Data is interpreted to understand the meaning and implications of legislation in the context of IKN development. To ensure the validity of the data, this research uses data triangulation techniques. Data triangulation is carried out by comparing data from various sources: Data from Law No. 3 of 2022, related laws and regulations, official government documents, and scientific literature are compared to ensure their validity. Perform data analysis using different techniques: Data is analyzed using descriptive, comparative, and interpretive analysis techniques to ensure the validity and credibility of research results. Solicit input from experts: Research results are discussed with legal experts and indigenous peoples experts to obtain input and suggestions to improve the quality of the research. This research was conducted by upholding research ethics. Objectivity: Researchers strive to remain objective in analyzing data and not favor particular interests. Honesty: Researchers

present data and research results honestly and do not manipulate the data. Clarity: Researchers explain research methods and research results clearly and easily understood. Respect for copyright: Researchers respect the copyrights of others and do not plagiarize other people's work.

3. Results and Discussion

Table 1 shows that the development of the National Capital City (IKN) of the Archipelago in East Kalimantan brings hopes and worries to the customary law communities who inhabit the area. On the one hand, IKN development opens up opportunities for access to better education, health, and the economy. On the other hand, IKN development also has the potential to trigger marginalization and usurpation of indigenous peoples' rights to customary lands and territories. IKN development opens up new employment and income opportunities for indigenous peoples. The development of infrastructure and new residential areas requires local workers, and the tourism sector is predicted to grow rapidly. This can improve the standard of living of indigenous peoples and open up new business opportunities. However, IKN development can also trigger marginalization and confiscation of rights to land and traditional territories. Indigenous communities are threatened with losing access to natural resources and their traditional livelihoods. Unequal economic growth can

exacerbate social disparities between indigenous peoples and immigrants. The development of IKN is expected to increase access to education and better health services for indigenous communities. The construction of new schools and health facilities in the IKN area can improve the quality of education and health of indigenous communities. However, loss of access to traditional education and traditional medicine is also a concern. The younger generation of indigenous peoples is threatened with losing the knowledge and culture of their ancestors. IKN development can have an impact on environmental damage and natural resources. The development of new infrastructure and residential areas can cause deforestation, environmental pollution, and loss of flora and fauna habitat. On the other hand, IKN development can also be an opportunity to preserve the culture and customs of traditional law communities. Documentation and promotion of traditional culture can be carried out through various programs and activities. IKN development can increase social interaction between indigenous communities and immigrant communities. This can enrich the culture and broaden the horizons of indigenous peoples. However, the potential for social conflict also needs to be considered. Differences in culture and customs between indigenous peoples and immigrants can trigger friction and conflict.

Table 1. Implications of IKN development for traditional law communities.

Aspect	Positive implications	Negative implications
Economy	Opportunities for access to better jobs and income	Marginalization and dispossession of customary land and territory rights
Education	Access to better education	Loss of access to traditional education
Health	Opportunities for access to better health services	Loss of access to traditional medicine
Environment	Improved infrastructure and regional development	Damage to the environment and natural resources
Culture	Preservation of culture and customs of indigenous peoples	Loss of identity and culture of traditional law communities
Social	Increased social interaction with other communities	Potential social conflict with immigrant communities

The development of the National Capital City (IKN) of the Archipelago in East Kalimantan opens up great opportunities for indigenous peoples to improve their standard of living and welfare. New job and income opportunities emerging from infrastructure development, new residential areas, and the tourism sector can be the key to achieving this goal. Indigenous communities in the IKN area are often left behind in terms of the economy and access to employment opportunities. IKN development presents an opportunity to overcome this gap and improve their standard of living. The construction of infrastructure and new residential areas requires a lot of labor, such as builders, manual workers, and administrative staff. Indigenous communities in the IKN area can be prioritized to fill these positions. The tourism sector is predicted to develop rapidly in IKN. Indigenous communities can be involved in this sector by opening homestay businesses, providing tour guide services, and selling handicraft products. IKN development opens up opportunities for various new businesses, such as food stalls, grocery stores and transportation services. Indigenous communities can take advantage of this opportunity to increase their income. Studies show that IKN development can increase employment opportunities and income for indigenous communities. The development of IKN opens up great opportunities for customary law communities to improve their standard of living and welfare. The government needs to ensure that indigenous peoples have fair access to new employment and income opportunities. This can be done by providing training, mentoring, and access to capital to indigenous communities. IKN development must be a momentum to realize justice and economic equality for all communities, including customary law communities. With good cooperation and synergy between the government, indigenous communities, and other stakeholders, IKN can become an inclusive and sustainable city.⁷⁻¹⁰

The construction of the National Capital City (IKN) of the Archipelago in East Kalimantan opens up opportunities to increase access to education and

better health services for indigenous communities. Indigenous communities in Indonesia still experience gaps in access to education and health services compared to non-indigenous communities. BPS data for 2020 shows that the gross enrollment rate (APK) for SMP for indigenous communities is only 75.44%, while for non-indigenous communities, it is 87.38%. Health facilities in traditional areas are still limited, especially in remote areas. This makes it difficult for Indigenous people to get quality health services. IKN development could exacerbate this gap if there are no special efforts to increase access to education and health services for indigenous communities. The development of new infrastructure and residential areas can cause children to drop out of school and indigenous communities to lose access to health services. Additionally, increasing pollution and environmental pollution can increase the risk of disease for indigenous peoples. Good education and health can help indigenous people get better jobs and increase their income. Education and good health can help young generations of indigenous people learn and preserve their ancestral culture. Good education and health can help indigenous communities get involved in the IKN development process and ensure their rights are fulfilled. The government has implemented several affirmative education programs to increase access to education for indigenous communities. The Indigenous Community Education Scholarship Program provides scholarships to outstanding students from underprivileged families in indigenous areas. The New Student Admission Affirmation Program (PPDB) provides special quotas for students from indigenous communities in state schools. The Ministry of Health has launched the Indigenous Caring Health Services (Lestari) program to increase access to health services for indigenous communities. Construction of Health Centers and Integrated Service Posts in traditional areas to increase indigenous people's access to basic health services. Combining traditional medicine with modern medicine to improve the quality of health services for indigenous communities. Increasing access to education and

health services for indigenous communities in developing IKN is very important. The development of educational programs and health services specifically designed for indigenous communities must take into account the needs and culture of indigenous communities. Involvement of indigenous communities in program planning and implementation to ensure that the program is in line with the needs and aspirations of indigenous communities. Regular monitoring and evaluation of the program to ensure the program is effective and achieves its objectives. IKN development must be a momentum to improve the welfare and quality of life of indigenous communities, including in terms of education and health. With planned and measurable efforts, IKN development can become an example of equitable and sustainable development.¹¹⁻¹⁴

The construction of the National Capital City (IKN) of the Archipelago in East Kalimantan is an ambitious project that has the potential to have a significant impact on the environment and culture. Therefore, it is important to discuss and study these impacts in depth to minimize risks and maximize the benefits of IKN development. The construction of new infrastructure and residential areas in IKN will require large areas of land. This can cause deforestation, which results in the loss of flora and fauna habitat, as well as greenhouse gas emissions, which contribute to climate change. IKN development can increase air, water, and land pollution. Construction, industrial, and transportation activities will produce waste and emissions that can pollute the environment. Deforestation and environmental pollution can cause loss of flora and fauna habitat. This can disrupt the balance of the ecosystem and threaten biodiversity in the IKN area. The development of Meikarta was criticized for causing deforestation and environmental pollution in the region. The construction of the Yogyakarta International Airport (YIA in Kulon Progo) caused land conversion and loss of flora and fauna habitat. Documentation of the traditional culture of local communities in the IKN area can be done through videos, photos, and writing. This can help preserve

valuable culture and traditions. The promotion of traditional culture can be carried out through various programs and activities, such as cultural festivals, art exhibitions, and education in schools. IKN development must be carried out by paying attention to the balance between economic development and environmental and cultural sustainability. The application of environmentally friendly technology in the development of infrastructure and residential areas can help reduce environmental pollution. Involving indigenous communities in the IKN development process can help ensure that their culture and traditions are respected and preserved. Scientific studies and research need to be carried out to understand the impact of IKN development on the environment and culture in a more comprehensive way. IKN development can bring benefits and negative impacts on the environment and culture. Prevention efforts and solutions need to be implemented to minimize negative impacts and maximize the benefits of IKN development. By paying attention to the balance between economic development, environmental sustainability, and culture, IKN can become a modern city that is sustainable and environmentally friendly.¹⁵⁻¹⁷

The development of the National Capital City (IKN) of the Archipelago in East Kalimantan opens up new opportunities for social interaction between indigenous communities and immigrant communities. This interaction can bring benefits and potential conflicts that need to be studied and anticipated. Social interaction between indigenous peoples and immigrants in IKN development has several urgency. Interaction enables the exchange of culture and insight between two groups of people. Indigenous peoples can introduce their culture and traditions to immigrants and vice versa. This can enrich the culture and broaden the horizons of both parties. Interaction can open up opportunities for developing the capacity of indigenous communities. Indigenous peoples can learn from the knowledge and skills of immigrants in various fields, such as technology, education, and economics. Interaction can help build tolerance and

understanding between community groups. By getting to know each other and understanding cultural differences, friction and conflict can be minimized. Indigenous people can be involved in arts and cultural performances to introduce their traditions to newcomers. Immigrants can also learn about and participate in indigenous cultural activities. Indigenous people and immigrants can learn and teach each other in schools and educational institutions. Indigenous communities and immigrants can work together in various economic activities, such as small businesses, tourism, and agriculture. Studies show that indigenous peoples who interact with immigrants have higher income levels and better access to education and health. Studies show that cultural exchange between indigenous peoples and immigrants can increase tolerance and understanding between groups. Even though social interaction has many benefits, the potential for social conflict also needs to be watched out for. Differences in culture and customs between indigenous peoples and immigrants can trigger friction and conflict. IKN development can trigger land struggles between indigenous communities and immigrants. Indigenous peoples can experience discrimination from immigrants in terms of access to employment and education. Indigenous communities can be marginalized from the IKN development process. To minimize the potential for conflict, indigenous communities must be involved in the IKN development process from the start. Open and transparent dialogue and communication must be carried out between indigenous peoples and immigrants. Education and outreach regarding the culture and customs of each community group must be carried out. Fair and consistent law enforcement must be carried out to prevent and resolve conflicts. Social interaction between indigenous peoples and immigrants in IKN development can bring benefits and potential conflict. The benefits of social interaction can be optimized by involving indigenous communities, open dialogue and communication, as well as education and outreach. Potential conflicts can be minimized with mitigation measures such as fair and

consistent law enforcement. IKN development must be a momentum to build harmonious and mutually respectful relations between indigenous peoples and immigrants. With cooperation and mutual understanding, IKN development can become an example of fair and sustainable development.^{18,19}

4. Conclusion

Protection of the rights and lives of customary law communities in the development of IKN needs to be the government's main concern. Concrete efforts such as recognizing and establishing customary territories, involving indigenous communities in the development process, and providing fair access to resources need to be made to ensure equitable and sustainable IKN development.

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