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# **DEMOCRATIC CRISIS IN** INDONESIA'S ADMINISTRATIVE LAW RELATED TO RUU DKJ PROPOSED BY DPR RI

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#### Article **Abstract**

### **Keywords:**

Crisis; Democracy; House of Representative; Government.

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The crisis is a critical situation and democracy is an idea or outlook on life that prioritizes equal rights and obligations as well as equal Rancangan Undang-Undang; treatment for all citizens. The democratic crisis in Indonesia is getting worse thanks to the passing of the Draft Law on the Special Region of Jakarta (RUU DKJ) on Tuesday, December 5 2023 by the House of Representatives. In the Draft Law on the Special Region of Jakarta (RUU DKJ) it is written that the Governor and Deputy Governor are appointed by the President and the Mayor and the Regent is appointed by the Governor. Draft laws should be made in the interests of the people with democratic values. However, it is very unfortunate that several decisions in the Draft Law on the Special Region of Jakarta (RUU DKJ) are not in line with this principle. This research will examine the problem by referring to the 1945 Constitution and Law Number 6 of 2020, using qualitative and evaluation methods to explore the impact and implications of the DKJ Bill on democracy in Indonesia.

#### 1. INTRODUCTION

National Capital or IKN is a term used in many discussions regarding the new national capital. As we all know, Jakarta will no longer be the capital of Indonesia, and willbe moved to the Kalimantan area which will later be called Nusantara, IKN itself is used as a term in various discussions. Starting from planning, development that has been that will be used in the archipelago in the future. Practically, this abbreviation is

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considered simpler and easier to pronounce so it is used by many people. Meetings and discussions held by the legislative section are also continuing to be discussed to finalize the IKN affairs. Unlike Jakarta, which has regional heads who serve for a period of office, later IKN will have whatis called the Head of the Nusantara IKN Authority. His duties will then be assisted by the Deputy Head of the IKN Nusantara Authority who holds the position for 5 years, and can be reappointed to the same position.<sup>1</sup>

The officials at IKN themselves will be selected directly by the president after consulting directly with the DPR, so that ideally the best candidate can be obtained from the options that have been given previously. However, many parties then disputed the various regulations proposed in the IKN Bill which were considered to be a shift from the democratic values that had been held up until now. The reason is that later the affairs of the new national capital will be handled by the central DPR-RI, and not the local DPRD. Affairs of the National Capital of the Archipelago will be managed by the central legislature so it is considered that mastery of data and practical decision making will be less comprehensive because it does not involve regional elements. IKN is the abbreviation used, and perhaps in the near future it will be replaced by the name Nusantara which has been proposed as the name of the new national capital.

The main background to the creation of the proposed draft law by the People's Representative Council is the ratification of the Indonesian Capital City (IKN) in Kalimantan at the 13th plenary session of the DPR on Tuesday 18 January 2023. This proposal is a response to Law Number 3 of 2022 concerning the National Capital (IKN) which established the new Indonesian capital in Kalimantan. However, even though Jakarta is a special region that has a lot of philosophy, history and interests, that doesn't mean it can have special privileges that bring away democratic values. Every Indonesian citizen has the constitutional right to choose who is worthy to be chosen and become head of a province. With the proposal of this draft, the spirit of reform in democracy has been taken away.

Indonesia's democratic system woven with threads of equality and justice, is currently undergoing significant testing. This law is intended to regulate Jakarta's special administrative status which poses a major challenge to the democratic principles that should underlie the

<sup>&</sup>lt;sup>1</sup> Aditya, Rifan. Suara. IKN adalah Singkatan untuk Ibu Kota Negara Baru Nusantara, Pengertian dan Fakta Uniknya. 2022. https://bit.ly/4aqMZlb diakses pada 14 Desember 2023.

legal construction. As Indonesia goes through difficult times, it becomes important to investigate the background of the Democratic Crisis which was exacerbated by the introduction of the DKJ Bill. This law not only established a government in Jakarta but also raised deep questions about the essence of democracy and transparency in our administrative law.

Administrative law in Indonesia Is the activity of carrying out state and government duties in order to serve citizens (citizens) to achieve goals state administration can realize. The legal functions of state administration consist of:<sup>2</sup>

- 1) Regulation (regelling) establishes regulations implementation/implementation of laws
- 2) Community development (government/bestuur), namely use power over people or society in order to carry out and achieve what is the function, task, obligations and goals of the state.
- 3) Police directly enforce the law, namely supervision, and maintaining order and security during implementation law, by acting directly against violators of the Constitution.
- 4) Dispute resolution (rechsplegging), namely resolving cases/disputes that cannot be resolved by justice. (court)

Democracy is a concept of government that is synonymous with popular sovereignty. Where the concept of democratic government places people as the highest power holder in implementing the government of a country. Democracy is first of all an idea that presupposes that power is of, by and for the people. In a more participatory sense, democracy is even referred to as the concept of power of, by for, and with the people. When democracy is defined as competition, participation and freedom then the process of democratization process (the change of political system from from a non-democratic to a more democratization), can be carried out in two ways that are withering essentials: the competition-focused path and the participation-focused path.competition and the path that focuses on participation. With the three dimensions of democracy competition, participation and freedom in a country, there will be more opportunities for the

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<sup>&</sup>lt;sup>2</sup>Universitas Sebelas Maret. Spada. 2 *Hukum Dan Administrasi Perencanaan*. 2023. <a href="https://spada.uns.ac.id/pluginfile.php/822499/mod\_resource/content/1/2%20HUKUM%20DAN%20ADMINIST">https://spada.uns.ac.id/pluginfile.php/822499/mod\_resource/content/1/2%20HUKUM%20DAN%20ADMINIST</a> RASI%20PERENCANAAN.pdf Diakses pada 17 Desember 2023.

democratization process to flourish. The creation of an ideal ideal democratic climate will have an impact on thestrengthening of citizens' rights in expressing their aspirations express their aspirations.

In fact, in upholding justice through democracy, transparency is also needed in making constitutional decisions. In order to increase public trust, law enforcement in Indonesia continues to be committed to providing openness and transparency of information to the public. One of the efforts made by law enforcers is through information disclosure. Openness of information and public involvement in government decisions must always be upheld to increase the electability of democracy in Indonesia.

In the context of Good Governance, transparency is an important requirement for creating a good government system. By providing transparency in every policy and decision in the organizational and government environment, fairness can be fostered. Thus, transparency means the government's openness in providing information related to public resource management activities to parties who need the information.

Transparency is a crucial requirement for creating a good governance system. This concerns openness in providing information related to public resource management to the public. In the Indonesian context, demands for greater transparency are increasing, and this is related to the acceleration and impact of various projects. The public's demand for transparency is reflected in the Indonesian government's commitment to implementing national development.<sup>3</sup>

The primary context of government activity must be believed to be based on transparency. There are public forces demanding greater transparency. In essence, it is related `to the acceleration and influence on national development as the population continues to increase. This means that public demands for transparency are getting stronger.

#### 2. RESEARCH METHODS

The research used "Normative Juridical Legal Research" in accordance with Soerjono Soekanto's opinion that legal research is carried out by examining secondary materials or library materials or library legal research, through searching for books, laws, literature, and other legal

<sup>&</sup>lt;sup>3</sup>Ridwan. Sekretariat Daerah Kabupaten Dompu. Pentingnya Transparansi Pelayanan Publik. 2023. <a href="https://bit.ly/470pNxv">https://bit.ly/470pNxv</a> Diakses pada 15 Desember 2023.

materials.4

#### 3. DISCUSSION

#### 3.1 TRANSPARENCY SANITIZES THE STRUCTURE OF GOVERNMENT

Openness of public information is one of the Indonesian government's commitments in implementing national development. It needs to be underlined that transparency cannot be separated from publicity. Based on monitoring on the website, the House of Representative has not yet attached the draft of DKJ. This indicates there is no transparency and even unwillingness to involve the public. In fact, a democratic draft is one that involves the people. If the DKJ draft is submitted to the Constitutional Court, this law could become a new problem. The law regarding the transfer of DKI Jakarta is controversial. The DKI Jakarta Billor the Special Region of Jakarta is not liked by the public, which is rejected by the public. Openness of public information is one of the Indonesian government's commitments inimplementing national development.<sup>5</sup>

In a democratic country, it is important for the government to encourage public participation to achieve transparency. This can be done by increasing the role of external supervisory bodies and ensuring the commitment of public officials to increase public access to information and enable them to monitor service processes.<sup>6</sup>

Transparency is part of the nutrition of participatory democracy. Transparent political discourse regarding access to information and constant public accountability regarding plans, facts and arguments in decision making and implementation. Transparency creates credibility, prevents misunderstandings, and confirms the legitimacy of political actions. Through transparency, political maneuvers can be monitored and verified. Transparency and participation are essential for political financial accountability. The lack of transparency and accountability raises concerns about potential abuse of power. Therefore, encouraging participation and transparency is essential to overcome this problem.

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<sup>&</sup>lt;sup>4</sup> Soerjono soekanto, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (RajaGrafindo Persada, Jakarta, 2011, hal.12)

<sup>&</sup>lt;sup>5</sup>Ridwan. Sekretariat Daerah Kabupaten Dompu. Pentingnya Transparansi Pelayanan Publik. 2023. https://bit.ly/470pNxv Diakses pada 15 Desember 2023.

<sup>&</sup>lt;sup>6</sup>Angker, Ridwan. *Sekretariat Daerah Kabupaten Dompu, Pentingnya Transparansi Publik.* 2022. https://setda.dompukab.go.id/pentingnya-transparansi-pelayanan-publik.html Diakses pada 16 Desember 2023.

Politics is a public matter; people should not allow themselves to be deprived of their constitutional rights for unclear reasons. Transparency in a democracy is not on the same level as the rule of law, human rights, national elections and power sharing, but it should not be sidelined. Transparency serves the performance of democracy. Democracy is not intrinsically a guarantee of transparency. The growth of a health democracy is also conditioned by a transparent modus operandi.

Democracy is based on popular sovereignty. Power comes from the people. In principle, it is the people who are in charge. Political and administrative executives act on behalf of the people and are accountable to them, consequently they owe the truth. Does the debt of truth imply unlimited transparency? A society with an updated transparency actually no longer needs rulers and representatives of the people. Everything must be transparent. Every moment and corner must be lightened up.

The Jakarta Special Region (DKJ) Bill and the National Capital City (IKN) Law are two legal initiatives that have significant social and political impacts. The DKJ Bill proposes changes in the existing democratic process, including the appointment of the Governor and Deputy Governor of DKJ by the President, which has drawn pros and cons regarding administrative efficiency, democracy, and regional autonomy. Meanwhile, the IKN Law became the legal basis for moving the national capital from Jakarta to East Kalimantan, with issues related to transparency, public participation, and accountability in the process of its passage. Some have criticized that the passage of the IKN Law was rushed, non-transparent, and lacked public participation. This shows a lack of transparency, public participation, and community involvement in the process of formulating legal policies that have social and political impacts on society.

In the context of society, it is important to ensure that public participation and transparency are included in the legal policy development process to ensure fairness, accountability, and public trust. This also reflects the democratic principle underlying the drafting of the law: that public participation in public decision-making is important. In the legal context, transparency

<sup>&</sup>lt;sup>7</sup> Utama, Virdika Rizky. Kompas. *Implikasi RUU DKJ bagi Masa Depan Jakarta*. 2023 <a href="https://nasional.kompas.com/read/2023/12/07/06134081/implikasi-ruu-dkj-bagi-masa-depan-jakarta?page=all">https://nasional.kompas.com/read/2023/12/07/06134081/implikasi-ruu-dkj-bagi-masa-depan-jakarta?page=all</a> Diakses pada 17 Desember 2023.

and public participation in the formulation of legal policy are democratic principles underlying the formation of laws. Public involvement in public decision-making is crucial to ensuring fairness, accountability, and public trust.

The Jakarta Special Region (DKJ) Bill has become a hot topic of debate in Indonesia. Article 10 Paragraph (2) of the DKJ Bill raises pros and cons. In terms of the positive side, the Jakarta Special Region Bill (DKJ Bill) regulates the change in the status of the capital city of Indonesia from Jakarta to the State Capital (IKN) and regulates local government in Jakarta. In the DKJ Bill, Jakarta will have a number of special authorities, such as being the center of the national economy, a global city, and an agglomeration area. This is regulated in Article 3, paragraph (2) of the DKJ Bill. In addition, the DKJ Bill also regulates changes in the boundaries of an area regulated in Article 7 paragraph (2) of the Regional Government Law, which is delegated to Government Regulations.<sup>8</sup>

Baleg DPR approved the bill for further discussion in a plenary meeting at the DPR Building. Of the nine factions that had submitted mini-views, eight agreed with the notes, and one faction rejected them. This is considered to reduce Jakarta's independence in determining its regional leaders. In addition, there are concerns that this article could contradict the principles of democracy and the right of Jakarta residents to choose their own regional leaders. However, Jakarta Information Commission Chairman Harry Ara Hutabarat highlighted the draft bill and called for public participation to be involved. In Law 17/2003, transparency is established as one of the principles that state that financial accountability is a necessity. Therefore, the DKJ Bill must pay attention to aspects of transparency in regional financial management. In the context of the DKJ Bill, DPR transparency must ensure that public participation is involved in the public policy-making process. Chairman of the DKJ Jakarta Information Commission, Harry Ara Hutabarat, emphasized that the discussion of the DKJ Bill must have the spirit of public information disclosure contained in the law. Therefore, the DPR

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<sup>&</sup>lt;sup>8</sup>Tim Detik.com. Detik. *Pro Kontra Gubernur Jakarta Ditunjuk Presiden Jika RUU DKJ Disahkan*. 2023. <a href="https://news.detik.com/pemilu/d-7076500/pro-kontra-gubernur-jakarta-ditunjuk-presiden-jika-ruu-dkj-disa">https://news.detik.com/pemilu/d-7076500/pro-kontra-gubernur-jakarta-ditunjuk-presiden-jika-ruu-dkj-disa</a> hkan Diakses pada 17 Desember 2023.

<sup>&</sup>lt;sup>9</sup>Tim Detik.com. Detik. *Ketua Komisi Informasi DKI Minta Publik Dilibatkan Terkait RUU DKJ*. 2023. <a href="https://news.detik.com/berita/d-7076829/ketua-komisi-informasi-dki-minta-publik-dilibatkan-terkait-ruu-dkj&sa="b&source=docs&ust=1702898051924349&usg=AOvVaw3XB\_5mqEpHwW1ilFqQRysl">https://news.detik.com/berita/d-7076829/ketua-komisi-informasi-dki-minta-publik-dilibatkan-terkait-ruu-dkj&sa=b&source=docs&ust=1702898051924349&usg=AOvVaw3XB\_5mqEpHwW1ilFqQRysl</a> Diakses pada 17 Desember 2023.

must pay attention to aspects of transparency in regional financial management.

#### 3.2 THE DWINDLING EXISTENCE OF DEMOCRACY

It cannot be denied that Jakarta has a great philosophy, history and interests inIndonesia. Jakarta's role as the capital city has been inherent in Indonesia for a long time, making Jakarta a special and special regional province after the inauguration of Kalimantanas IKN (Ibukota Nusantara). However, this cannot be used as an important basis for breaking down the democratic system that has long existed in Jakarta or even in our country, Indonesia. Jakarta's democracy index is the highest in Indonesia. In fact, Jakarta has received the Harmony Award from the Ministry of Religion. <sup>10</sup> By drafting this draft law or just thinkingabout the proposal to abolish regional elections by the DPR RI, it has damaged the democratic system within the government structure. This situation is very worrying and ironic, when several people with high positions in government desperately brag about democracy in public but they are also the ones who slowly erode it.

Indonesian citizens actually have constitutional rights and popular sovereignty through general elections in the formulation of positions occupying the government system. The system of government that is upheld is a system of government from the people, by the people, and for the people. Democracy allows citizens to participate—either directly or through representatives—in the formulation, development, and creation of laws. Democracy includes social, economic, and cultural conditions that enable the free and equal practice of political freedom.<sup>11</sup> The draft law proposed by the DPR regarding the Special Region of Jakarta takes away the democratic rights of the people in choosing their leaders.

Jakarta is not the only province that has special autonomy in making policies. There are many more regions that have special space for making political policies. Jakarta has a significant role among several regions. Political policies that do not think about the long term, such as the DKJ draft, genuinely are able to give an impact for other regions to do similar things which reduce the democratic values. Jakarta's harmony, security and peace in democracy can

<sup>&</sup>lt;sup>10</sup>JPNN. *Ivanhoe NasDem Sebut RUU DKJ Bentuk Kemunduran Demokrasi*. 2023. <a href="https://www.msn.com/id-id/berita/other/ivanhoe-nasdem-sebut-ruu-dkj-bentuk-kemunduran-demokrasi/ar-AA11 f9dw">https://www.msn.com/id-id/berita/other/ivanhoe-nasdem-sebut-ruu-dkj-bentuk-kemunduran-demokrasi/ar-AA11 f9dw</a> Diakses pada 16 Desember 2023.

<sup>&</sup>lt;sup>11</sup>Welianto, Ari. Kompas. *Sistem Demokrasi di Indonesia*. 2019. <u>Sistem Demokrasi di Indonesia (kompas.com)</u> Diakses pada 16 Desember 2023.

be a benchmark for other regions as a city that currently has an important role, especially in the administrative sector.

#### 3.3 LEGISLATIVE CORRUPTION POSSIBILITIES

Efriza, the Political Observer of the Image Institute, states that throughout the DKJ Bill's writing process, there is a chance that the article will be corrupted.<sup>12</sup> The People's Representative Council of the Republic of Indonesia (DPR RI) is susceptible to corruption, according to the findings of a study conducted by the Anti-Corruption Commission (KPK). This vulnerability extends beyond issues of oversight and budgeting to include legislative authority and legislation, which is sometimes referred to as legislative corruption.<sup>13</sup>

The World Bank distinguished between two categories of corruption in their analysis of corruption in the former communist nations of Eastern Europe and Central Asia: state capture and administrative corruption. Deliberate efforts to block the application of laws, rules, or policies in effect in order to further one's own interests are considered administrative corruption. State capture, on the other hand, describes the activities of people, organizations, or businesses in the public and private spheres to sway laws, choices, or government policies in favor of the person, organization, or business. State capture happens during the formulation policies, decisions, or legislative provisions; administrative corruption happens during the implementation of policies, decisions, or legislative provisions. Corruption that takes place during the drafting of laws, such as the DKJ Bill, can be classified as state capture. For, Article 10 Paragraph 2: The Governor and Deputy Governor are appointed, reappointed, and dismissed by the President, considering the suggestions of the DPRD.

There are two parties involved in state capture: lawmakers and interest groups. The goal of interest groups is to advance laws and regulations that create monopolistic practices in order to sustain their market dominance and produce supernormal profits. However, in exchange for this "service," the legislator anticipates receiving payment from the interest group or other opportunities for personal benefit. Legislative corruption can influence regulatory distortions that have detrimental consequences for society as a whole, making it more harmful

<sup>&</sup>lt;sup>12</sup>Tama. Titik Kata. *Website DPR RI Tak Memuat Draft RUU DKJ*, *Pengamat Duga Bakal Muncul Pasal Selundupan*. 2023. https://bit.ly/3tlL0Ek diakses pada 14 Desember 2023.

<sup>&</sup>lt;sup>13</sup>Fernandez, Hemi Lavour. The Indonesian Institute. *Korupsi Legislasi Dalam Pembentukan Peraturan Perundang-Undangan*. 2022. halaman 5, 19-20. <a href="https://bit.ly/4aplfDO">https://bit.ly/4aplfDO</a> diakses pada 14 Desember 2023.

than administrative corruption.

### 4. CONCLUSIONS

Rancangan Undang-Undang Daerah Khusus Jakarta (RUU DKJ) has been approved as a draft law. This decision was established during the 10th Plenary Session of the Indonesian People's Consultative Assembly (DPR RI) for the 2nd Session of the 2023-2024 Legislative Term at the Parliament Building in Senayan, Jakarta, on Tuesday, December 5, 2023. 1413

The implementation of the RUU DKJ can result in several factors. The positive factor that will occur is the preservation of the balance of the Unitary State of the Republic of Indonesia's governance. The centralized nature of governance will be maintained as the Special Capital Region (DKI) is replaced by the Special Region of Jakarta (DKJ). A city that serves as the capital naturally possesses specific tasks, rights, obligations, and responsibilities in the administration of government and as a location for the representation of foreign states, as well as the center/representation of international institutions. <sup>1514</sup>

The potential negative factor is that some regions that have long aspired to become special regions or even secede may intensify their efforts to achieve their goals. The approval of the RUU DKJ as law might prompt other autonomous regions to insist on becoming special regions similar to Jakarta. The public perception that Jakarta is being "privileged" by the Indonesian government may become more pronounced. Indonesian society may perceive that the government is not "objective" toward regions other than Jakarta. The essence of the State's foundation, "Pancasila," may not be felt by regions other than Jakarta and Kalimantan. <sup>1615</sup>

The People's Representative Council, in approving a draft law (RUU), should thoroughly review the positive and negative impacts of each article in the draft law. While the People's Consultative Assembly creates draft laws for the people, it is crucial to consider the negative impacts of the approval. Can these negative impacts be addressed with solutions that align with Indonesian national values? Are the articles consistent with democratic principles, transparency, and objectivity? The government is encouraged to be more objective in ensuring

<sup>&</sup>lt;sup>14</sup>Koran Sulindo. *RUU DKJ: Dari Mana dan Siapa Pengusulnya*. 2023. https://koransulindo.com/ruu-dkj-dari-mana-dan-siapa-pengusulnya/ diakses pada 15 Desember 2023.

<sup>&</sup>lt;sup>15</sup>Undang-Undang Nomor 29 Tahun 2007 Paragraf 4 "Pemerintahan Provinsi Daerah KhususIbukota Jakarta Sebagai Ibukota Negara Kesatuan Republik Indonesia." (Halaman 6).

<sup>&</sup>lt;sup>16</sup> Pancasila alinea kelima "Keadilan sosial bagi seluruh rakyat Indonesia."

fair treatment for Indonesian citizens throughout the country, thereby avoidingseparatist movements within the Unitary State of the Republic of Indonesia.

Even though the notion proposed by the People's Representative Council are only in draft form and have not yet been ratified, there must still be a reconstruction of the mindset in Indonesia's legislation. There must be independence for the legislative body itself in formulating new ideas that always maintain the existence of democracy regardless of how urgent the problem is. Therefore, through this article, we genuinely express our ideas through writing to commemorate things that could erode the constitutional rights of Indonesian citizens.

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