

The Certainty Paradox in Constitutional Court Rulings: Reconstructing IKN's Legal Framework for National Strategic Sustainability

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Abstract. *The construction of Indonesia's new capital, Nusantara (IKN), is a flagship national project whose success depends on regulatory stability. This stability has been complicated by the Constitutional Court's judicial review ruling on the IKN Law, creating a "certainty paradox": while the ruling upholds constitutional supremacy, it simultaneously generates uncertainty for investors and development implementers. This research examines the ruling's legal implications for IKN's regulatory stability and proposes an ideal framework for reconstructing its legal architecture to ensure long-term resilience. Using a normative-juridical method with statutory, case-based, and conceptual approaches, the study finds that the ruling has produced regulatory instability, heightened investment risk, and left the IKN Authority's powers ambiguous stemming largely from derivative regulations' failure to swiftly and coherently incorporate the Court's legal reasoning. In response, the study proposes a three-pillar reconstruction model: (1) a sector-specific Omnibus Regulation to curb regulatory inflation; (2) legal protection through Smart Contracts and investment guarantees; and (3) institutionalized public participation within the Authority's governance structure. This reconstruction is essential to shift IKN's legal framework from reactive-administrative to responsive-strategic, securing its long-term sustainability against future political or judicial shifts.*

Keywords: Constitutional; Court; Nusantara Capital City; Resilience.

1. Introduction

The development of the Nusantara Capital City (IKN) is not merely a relocation of the seat of government, but rather a part of Indonesia's structural transformation toward the "Golden Indonesia 2045" vision. As a large-scale national strategic project, the foundation of IKN's success relies not only on budget availability or infrastructure sophistication, but on the solid grounding of legal certainty as a guarantee of sustainability (Bin-Armia et al., 2024). Within the dynamics of Indonesian constitutional law, the IKN Law (*UU IKN*) has undergone constitutional review multiple times before the Constitutional Court (*Mahkamah Konstitusi* or MK). The MK's rulings on these judicial review petitions serve as crucial turning points that influence the developmental direction of the project (Mahy, 2022).

The central issue analyzed is the emergence of a "certainty paradox" within the MK rulings concerning the IKN Law. On one hand, the MK rulings act as a judicial control mechanism to ensure that development remains within constitutional boundaries. On the other hand, this legal process is frequently perceived by key stakeholders especially investors as a signal of regulatory volatility that risks hampering accelerated progress on the ground. This paradox arises when efforts to enforce democratic principles and the rule of law through judicial review collide with the need for long-term regulatory stability (Harada et al., 2022).

The IKN Law and the subsequent MK rulings carry implications for the authority of the IKN Authority (*Otorita IKN*), land tenure schemes, and environmental protection. The IKN Law was designed as a special legal framework (*lex specialis*) intended to provide solid, integrated legal certainty for all stakeholders from indigenous communities to multinational corporations to support stable, long-term development. In practice, however, the MK rulings have created post-ruling interpretative uncertainty. Derivative regulations have not been able to rapidly and integrally translate the MK's legal reasoning into operational certainty, thereby creating potential "legal black holes" that risk triggering prolonged disputes on the ground.

The urgency of this research lies in the fact that IKN heavily relies on non-state budget (non-APBN) financing schemes, which demand guarantees that the "rules of the game" will not change drastically due to judicial dynamics. If the post-ruling legal architecture is not decisively reconstructed, there is a real risk of eroding public and market confidence in the state's commitment to completing this project across political transitions. Furthermore, human rights dimensions and the rights of local communities are frequently highlighted in MK rulings; thus, post-

ruling legal reconstruction must bridge the demands of large-scale development with the protection of affected citizens' constitutional rights (Risky et al., 2023).

From an investment perspective, legal certainty is the most valuable currency of all. IKN's development, which is heavily dependent on non-state budget financing schemes, requires assurance that the rules of the game will not shift dramatically as a result of judicial dynamics. This "paradox" phenomenon must be resolved without delay by producing derivative regulations capable of translating the spirit of the Constitutional Court's decisions into operational certainty. Without such assurance, IKN's competitiveness as a global investment destination will be eroded by high regulatory risk (Butt & Murharjanti, 2022).

Beyond that, respect for human rights and the rights of local communities represents a critical point frequently highlighted in Constitutional Court decisions. Post-decision legal reconstruction must be capable of bridging the demands of large-scale development with the protection of the constitutional rights of affected citizens. This is where the government's true test lies: how to build a capital city of the future without leaving behind a residue of legal problems that wounds social justice for all Indonesians.

Recent literature indicates several relevant lines of thought: first, studies on legal certainty as a prerequisite for the sustainability of national strategic projects; second, focus on regulatory risk from an investor perspective in major infrastructure projects; and third, studies on strengthening the institutional capacity of the IKN Authority and clarifying land schemes (Rodiyah et al., 2023). This research positions itself as both a continuation and a synthesis of these streams, offering a novel perspective that MK rulings should be viewed not as obstacles, but as a foundation to strengthen the "legal immunization" of IKN through responsive-strategic legal architecture reconstruction. (Rodiyah et al., 2023).

Theoretically, this research contributes to the conceptual development of legal architecture reconstruction in the context of national strategic projects facing the dynamics of judicial review. Practically, it aims to offer applicable policy recommendations for the government and the IKN Authority in drafting derivative regulations that operationally translate MK rulings while preserving investor confidence and safeguarding the rights of affected communities.

This study aims to analyze the legal implications of Constitutional Court rulings on the regulatory stability of IKN development, as well as to formulate an ideal legal architecture reconstruction model to ensure long-term resilience for IKN development. Based on these legal issues, the research formulates the following

research questions: 1. What are the legal implications of the Constitutional Court rulings and the phenomenon of the legal certainty paradox in IKN? 2. How can the legal architecture be reconstructed to resolve the paradox toward IKN resilience?

2. Research Methods

This study employs juridical-normative legal research (Peter Machmud Marzuki, 2019), placing primary focus on literature analysis to examine legal norms regarding the development of the Nusantara Capital City (IKN). The approaches utilized include a statutory approach to examine the IKN Law, a case approach to analyze the *ratio decidendi* of Constitutional Court decisions, and a conceptual approach to unpack theories of legal certainty and regulatory resilience (Nurul Barizah, 2019). The data sources comprise primary legal materials consisting of laws and court decisions, as well as secondary legal materials such as academic journals and relevant literature. Data collection was conducted through document study, and the materials were analyzed using a descriptive-analytical method driven by deductive logic to produce a prescriptive legal architecture reconstruction aimed at ensuring IKN's national strategic sustainability following the Constitutional Court's decisions.

3. Results and Discussion

3.1. Juridical Implications of the Constitutional Court's Decisions and the Legal Certainty Paradox Phenomenon in IKN

The existence of the Nusantara Capital City (IKN) as a cross-generational megaproject depends heavily on the degree of legal certainty that accompanies it. Within the discourse of constitutional law, the Constitutional Court's decisions on judicial review of the IKN Law occupy a central position as instruments for testing the coherence between developmental ambition and constitutional guardrails. In theory, Constitutional Court decisions should function as final and binding rulings that clarify the legal standing of a regulation. Yet in the context of IKN, those decisions have instead given rise to complex juridical implications and triggered what may be termed the "certainty paradox (Wiratraman, 2022)."

This paradox is rooted in the tension between static certainty the need for rules that remain unchanged in the interest of investment stability and dynamic certainty, wherein law must be corrected when proven unconstitutional. When the Constitutional Court introduces a new interpretation or strikes down certain norms within the IKN Law, it produces a tremor within an already established regulatory structure. For the government, this demands swift administrative adjustment; yet for legal subjects outside the government, such as global

investors, this dynamic is frequently read as regulatory risk that diminishes confidence in the project.

The first juridical implication to emerge is a shift in the legitimacy of the IKN Authority's powers (Budiono et al., 2023). Constitutional Court decisions have frequently scrutinized the boundaries of the special authority held by that institution to ensure it does not encroach upon the principles of regional autonomy and the rights of indigenous communities. These corrections from the Court, while constitutionally sound, practically generate operational ambiguity. Development implementers in the field are forced to move on a legal foundation that is undergoing interpretive transition one that, if not managed with precision, will impede the acceleration of physical development.

In the context of physical development, regulatory stability is an absolute precondition for spatial planning and land tenure. Constitutional Court decisions that raise critical concerns regarding land acquisition and the protection of local community rights compel the government to recalibrate its land clearance strategy. The implication is a slowdown in the infrastructure execution phase, as extra caution is exercised to avoid legal challenges further down the line. Here, the legal certainty that the Court seeks to uphold ends up colliding with the certainty of the established construction timeline.

Furthermore, this certainty paradox has a significant impact on IKN's financing scheme, the majority of which is targeted from the non-state budget sector. Investors are highly sensitive to normative changes, particularly those relating to long-term land rights and fiscal incentives (Rajafi et al., 2024). When the Constitutional Court scrutinizes the constitutionality of the duration of Land Cultivation Rights (*Hak Guna Usaha/HGU*) or Building Use Rights (*Hak Guna Bangunan/HGB*) deemed to exceed reasonable limits, fluctuations in capital market confidence follow. Court decisions aimed at preserving agrarian sovereignty inadvertently create a perception of "short-term uncertainty" among capital holders.

Analysis of regulatory stability further reveals that following Constitutional Court decisions, an inflation of derivative regulations has occurred. The government tends to issue various new Government Regulations or Presidential Regulations in an effort to patch the legal gaps opened by those decisions. However, the sheer volume of these new rules is frequently imperfectly synchronized with one another, thereby creating a legal-bureaucratic labyrinth that is in fact counterproductive to the spirit of ease of doing business in Nusantara.

This paradox sharpens further when one examines the aspect of meaningful public participation. The Constitutional Court has consistently emphasized that a

development undertaking of IKN's magnitude must not sideline substantive community involvement. The juridical implication is that every physical development step taken must be preceded by a lengthy consultation process. Democratically, this represents progress; managerially, however, it adds a variable of uncertainty to an already extremely tight project timeline (Wardana & Bachtiar, 2022).

Beyond that, the IKN Authority's position as a ministerial-level institution yet performing the functions of a special regional government creates a unique challenge. Constitutional Court decisions that clarify this standing still leave room for debate regarding the boundaries of coordination between the Authority and other technical ministries. This post-decision ambiguity in horizontal coordination constitutes a juridical obstacle that impedes integrated cross-sector development from basic utilities to intelligent transportation systems.

The national strategic sustainability of IKN depends heavily on how the government translates the Constitutional Court's legal reasoning into operational policy. Should the government fail to deliver a consistent regulatory response, Constitutional Court decisions will continue to be perceived as a "Sword of Damocles" capable of striking down the IKN project's legitimacy at any moment. This is the very core of the paradox: law that ought to serve as a protector is instead regarded as a source of threat to the continuity of physical development.

From a juridical standpoint, IKN's legal stability following Constitutional Court decisions is also tested through the principle of non-retroactivity. The emergence of new interpretations from the Court raises questions about the legality of legal acts performed prior to the issuance of those decisions. Uncertainty regarding the status of contracts or agreements already in force creates a psychological burden for the state's strategic partners (Martitah et al., 2023). This demonstrates that the implications of Constitutional Court decisions carry a reach that extends beyond the mere text of statutes, touching upon private relations between the state and third parties.

This phenomenon also reflects the challenge of upholding constitutional dignity amid pressing developmental needs. The Constitutional Court, through its decisions, endeavors to ensure that IKN does not become a "state within a state" immune from the law. Yet this rigorous judicial oversight is frequently interpreted by policy implementers as an obstacle complicating the managerial flexibility required by a special authority operating in a newly established territory.

In the long run, should this certainty paradox remain unresolved, developmental stagnation will follow. Physical construction may continue, but at a far higher legal cost owing to the potential for future disputes. Regulatory instability triggered by

normative changes following Constitutional Court decisions may create openings for certain parties to pursue derivative legal challenges that will persistently disrupt the rhythm of development (Mochtar & Afkar, 2022).

Sustained investment in IKN requires a "legal anchor" considerably stronger than legislation at the statutory level that can readily be subjected to repeated judicial review. The juridical implications of Constitutional Court decisions ought to serve as a momentum for the government to devise a "legal immunization" strategy. In practice, however, the responses given have tended to be reactive and piecemeal, failing to address the root causes of the uncertainty experienced by economic actors.

Consequently, post-decision regulatory stability demands extraordinary vertical and horizontal synchronization. This legal certainty paradox can only be untangled if the government is able to demonstrate that every correction from the Constitutional Court in fact strengthens IKN's legal legitimacy rather than weakening it. The key lies in transparency and consistency in incorporating constitutional principles into every permit and contract issued by the IKN Authority.

3.2. Reconstructing the Legal Architecture: Untangling the Paradox Toward IKN Resilience

The reconstruction of IKN's legal architecture following the Constitutional Court's decisions is not merely an administrative effort to revise individual provisions, but an urgent necessity to rebuild a legal foundation resistant to political and judicial shocks. The ideal reconstruction model must be capable of aligning the special character (*lex specialis*) of the IKN Authority with the corridors of constitutionalism established by the Court (Purnomo et al., 2023). This new architecture must foreground the principle of legal resilience, whereby regulations are not only formally robust but also flexible enough to respond to developmental dynamics without sacrificing certainty.

The first step in this reconstruction is to sharpen the division of authority between the IKN Authority as a special regional government and the role of technical ministries and agencies. Following the Constitutional Court's decisions, the legal architecture must ensure that the attribution of the IKN Authority's powers is self-contained and self-sufficient. This aims to prevent the regulatory overlaps that so frequently serve as entry points for legal challenges. With a precise separation of powers in place, the IKN Authority can exercise broad managerial discretion while maintaining the high degree of public accountability mandated by the constitution.

This reconstruction model must also encompass the strengthening of "legal immunization" through more integrative codification of derivative rules. The proliferation of fragmented Presidential Regulations (*Perpres*) and Government Regulations (*PP*) has, up to now, actually undermined legal certainty. The ideal reconstruction is proposed through the formation of a sector-specific Omnibus Regulation exclusively for IKN (Lailam & Andrianti, 2023). This single-window regulation would unify agrarian matters, investment licensing, and environmental protection within one comprehensive document aligned with the Constitutional Court's legal considerations, thereby mitigating the risk of future norm invalidation.

On the agrarian front, legal architecture reconstruction must introduce a "Nusantara Land Bank" scheme equipped with layered constitutional protection. Constitutional Court decisions on land rights demand a balance between investment facilitation and community rights. The ideal legal model is therefore to strengthen the IKN Authority's position over State-Owned Land (*Tanah Milik Negara/TMN*) through a Management Rights (*Hak Pengelolaan/HPL*) status granted permanently by statute rather than by mere administrative decision. This would provide investors with long-term assurance that their legal title will not be disturbed by shifts in political policy (Wirastri & Van Huis, 2024).

The new legal architecture must further integrate a Meaningful Participation mechanism into the IKN Authority's decision-making system in a digital and systematic manner (Wardana et al., 2023). The Constitutional Court has emphasized the importance of public participation that goes beyond mere formality. This reconstruction can be realized through the establishment of a "Nusantara Consultative Council" representing indigenous community elements and experts, whose function is embedded within the Authority's internal legislative process. By incorporating the element of participation into the legal architecture, the legitimacy of IKN's development will become effectively "challenge-proof," as public aspirations will have been accommodated from the outset.

Beyond that, there is a need to strengthen a specialized Dispute Resolution mechanism within IKN. The ideal legal architecture must consider establishing a special chamber or economic reconciliation tribunal within the IKN territory to handle civil and state administrative disputes expeditiously (Dwiono et al., 2024). National strategic sustainability depends greatly on how swiftly legal disputes are resolved. Should every dispute be required to pass through conventional judicial proceedings that consume years, the resilience of development will collapse midway through.

This reconstruction model must also address ecosystem protection as part of a green constitution. Following the Constitutional Court's decisions, IKN's legal architecture must not be oriented solely toward concrete and asphalt, but must instead position environmental norms as a *superioritas juris*. By incorporating international environmental standards as a reference within the Authority's regulations, IKN will command strong bargaining power in the eyes of global investors who prioritize ESG (Environmental, Social, and Governance) principles, while simultaneously meeting the standards of ecological justice frequently highlighted by constitutional judges.

IKN's strategic sustainability across successive leadership regimes also demands the inclusion of "stability clauses" within strategic contracts. Legal reconstruction must enable the state to provide compensation guarantees or stabilization clauses in the event of extreme regulatory changes in the future. While this poses challenges under public law theory, within the framework of international business law it represents the only viable means of guaranteeing investment resilience amid the legal certainty paradox that afflicts developing nations (Aragon, 2022).

From an institutional standpoint, the position of the IKN Authority Head needs to be strengthened through a dual reporting mechanism to both the President and the House of Representatives to reinforce checks and balances. Legal architecture reconstruction must ensure that, even though appointed by the President, the IKN Authority retains autonomy in budget management and human resource administration. This is essential to prevent IKN's development from being distorted by sectoral political interests that could trigger fresh legal uncertainty every five years.

In anticipating the threat of future judicial review petitions, IKN's legal architecture must be equipped with a comprehensive "Constitutional Academic Paper" for every derivative regulation. This means that every regulation issued by the Authority must explicitly state how that rule has complied with the guidelines of prior Constitutional Court decisions (Humaidi & Rahmadanti, 2023). This preventive measure will assist the Court in dismissing repetitive or unsubstantiated judicial review petitions, thereby creating judicial stability.

The integration of technology into the legal architecture through the use of Smart Contracts for licensing and land transactions in IKN also constitutes a form of modern reconstruction. Through a blockchain-based legal system, legal data becomes unilaterally immutable, which in turn delivers the highest level of legal certainty for business actors. This represents a concrete step toward a "digital legal architecture" that supports IKN's vision as a world-class smart city.

Furthermore, this reconstruction must reorganize the coordination relationship between IKN and the surrounding buffer regions. An inclusive legal architecture will prevent the emergence of "regulatory disparity" capable of triggering horizontal conflict. By constructing a metropolitan legal framework encompassing IKN, Balikpapan, and Samarinda, developmental resilience will not be concentrated solely within IKN's boundaries, but will extend across the entirety of East Kalimantan, creating regional stability that supports IKN systemically (M. Nggilu et al., 2023).

National strategic sustainability requires the support of a "Nusantara Endowment Fund" underpinned by strong regulations that are not easily amended. Legal architecture reconstruction must ensure that funding for IKN's maintenance and development remains available regardless of who holds the reins of power. Legally binding funding certainty represents the most tangible form of resilience in keeping this project alive amid fluctuations in the global economy.

Theoretically, this reconstruction of IKN's legal architecture is a manife station of Responsive Law as conceived by Nonet and Selznick. Law no longer functions as a rigid instrument of power, but becomes an instrument responsive to developmental needs while remaining subject to the principles of constitutional justice (Rudy et al., 2023). A responsive architecture will be capable of absorbing the energy generated by Constitutional Court decisions to strengthen itself, rather than being weakened by them and becoming a source of uncertainty.

The ideal legal architecture reconstruction model for IKN following the Constitutional Court's decisions is one that foregrounds constitutional synchronization, investment stability, and public participation (Hadinatha, 2022). By constructing a regulatory fortress that is comprehensive, transparent, and visionary, the legal certainty paradox can be transformed into a strategic advantage. IKN will stand not merely as a symbol of physical progress, but as a legal masterpiece reflecting the constitutional maturity of the Indonesian nation in safeguarding its future sustainability (Ramadhan, 2021).

4. Conclusion

Constitutional Court rulings on IKN regulations have triggered a certainty paradox, leading to investor hesitation and operational ambiguity for the IKN Authority. To mitigate these regulatory risks, this study proposes a reconstruction of the legal architecture centered on single window regulatory simplification and adaptive investment guarantees, reinforced by meaningful public participation and land rights certainty to enhance legal legitimacy and developmental stability. To strengthen the overall manuscript contribution, legal reform should focus on harmonizing derivative regulations and institutionalizing formal public consultation to prevent repeated judicial reviews. For policy development, the IKN

Authority must promptly implement a centralized licensing platform and risk-mitigation schemes to ensure investor confidence. Finally, future research should empirically examine the effectiveness of adaptive investment guarantees and the socio-legal impacts of land tenure certainty on project sustainability.

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