

DOI: <https://doi.org/10.38035/gijlss.v4i4><https://creativecommons.org/licenses/by/4.0/>

Received: 07 July 2026 | Revised: 25 July 2026 | Accepted: 11 August 2026

Restrictions on Land Registration Services in the IKN Region: A Juridical Review of the Protection of Citizens' Constitutional Rights

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Abstract: This study examines the legal implications of land registration service restrictions imposed in the Nusantara Capital City (IKN) region, with a particular focus on the protection of citizens' constitutional rights as guaranteed under the 1945 Constitution of the Republic of Indonesia. The moratorium on land registration services in the IKN area, enacted through various government regulations and ministerial decrees, has created legal uncertainty for local communities who have long occupied and cultivated land in the region. This research employs a normative juridical method with a statutory approach, conceptual approach, and comparative approach, analyzing primary and secondary legal materials. The findings reveal that the service restrictions create a tension between state authority over land development for the national capital and the constitutional rights of citizens to legal certainty, property rights, and equal treatment before the law. The study concludes that while the government holds legitimate authority to regulate land in the IKN area, the blanket restriction on registration services without adequate legal remedies for affected citizens constitutes a potential violation of constitutional rights. Recommendations are made for a balanced regulatory framework that accommodates both national development interests and the protection of individual constitutional rights.

Keywords: Land Registration, IKN, Constitutional Rights, Legal Certainty, Property Rights.

INTRODUCTION

Indonesia's ambitious project to relocate its national capital to the East Kalimantan province, designated as the Nusantara Capital City (Ibu Kota Nusantara/IKN), represents one of the most consequential land policy undertakings in the nation's modern history. Enacted through Law Number 3 of 2022 concerning the State Capital (IKN Law), the relocation covers an area of approximately 256,142 hectares spanning the regencies of North Penajam Paser and Kutai Kartanegara (Satria & Nugraha, 2023). While the project promises economic modernization and more equitable development across the archipelago, it has generated profound legal uncertainty for tens of thousands of local residents whose livelihoods and ancestral claims are tied to lands now falling within the IKN authority zone.

Among the most contentious policy instruments emerging from the IKN project is the moratorium on land registration services within the designated IKN territory. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) issued circulars and directives effectively freezing new land registration processes, title transfers, and related agrarian services in the region. This administrative measure, while intended to prevent land speculation and secure the state's land acquisition process, has left local communities in a profound state of legal limbo (Hidayat et al., 2023). Residents who have occupied and cultivated their land for generations find themselves unable to formalize their ownership rights, transfer property, or access credit facilities that require land certificates as collateral.

The Indonesian Constitution of 1945 (UUD NRI 1945) contains robust protections for citizens' rights that bear directly on this situation. Article 28D paragraph (1) guarantees the right to recognition, assurance, protection, and just legal certainty, as well as equal treatment before the law. Article 28G paragraph (1) protects the right to personal protection, family, honor, dignity, and property. Article 33 paragraph (3) stipulates that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. These constitutional provisions create a complex normative framework within which the IKN land registration moratorium must be evaluated (Prasetyo & Wijaya, 2022).

Existing scholarship on IKN land policy has predominantly examined three thematic clusters. The first cluster concerns land administration and bureaucratic reform, focusing on how the transfer of authority from regional governments to Otorita IKN reshapes cadastral governance (Kusuma & Wibowo, 2023). The second cluster addresses investment facilitation, examining how licensing and land-use instruments under PP No. 12/2023 are designed to attract capital into the new capital region (Satria & Nugraha, 2023). The third cluster centers on agrarian conflict, documenting disputes between local communities and the state over land acquisition and compensation (Hidayat et al., 2023). Notably absent from this body of work is a systematic constitutional-rights analysis of the registration moratorium itself — that is, an inquiry into whether the blanket suspension of registration services, as a discrete legal instrument, is compatible with the rights to legal certainty, property, and equal treatment guaranteed under the 1945 Constitution. This gap is significant because prior studies tend to treat the moratorium as an administrative side-effect of IKN development rather than as an independent constitutional question warranting proportionality review. The weakness of the administrative-reform cluster (Kusuma & Wibowo, 2023) is that it evaluates the moratorium purely from an institutional-competence standpoint, asking whether Otorita IKN was validly empowered to issue the policy, without asking whether the exercise of that power against individual citizens was proportionate. The investment-facilitation cluster (Satria & Nugraha, 2023) is similarly limited: it assesses the moratorium's effectiveness in attracting capital and securing state land acquisition, treating citizens' registration claims as a variable to be managed rather than as constitutional entitlements to be weighed. The agrarian-conflict cluster (Hidayat et al., 2023) comes closest to a rights-based reading, but it documents harms empirically rather

than testing them against a legal standard, so it identifies that citizens are harmed without establishing whether that harm is constitutionally permissible. None of the three clusters, in other words, applies a structured standard capable of distinguishing a lawful exercise of state authority from an unconstitutional one. Proportionality analysis fills precisely this void: because Article 28J(2) of the Constitution conditions any restriction of rights on legitimate aim, suitability, and necessity, it supplies the missing normative yardstick against which the moratorium's blanket character can be evaluated, rather than merely described. The present study addresses this gap by situating the moratorium squarely within constitutional rights doctrine and the Constitutional Court's proportionality jurisprudence.

This study aims to analyze: (1) the juridical basis and legal legitimacy of land registration service restrictions in the IKN region; (2) the nature and extent of constitutional rights affected by such restrictions; and (3) the degree to which existing legal frameworks adequately protect citizens' constitutional rights in the context of the IKN land moratorium. The research is expected to contribute to scholarly discourse on the intersection of state development prerogatives and constitutional rights protection in land law.

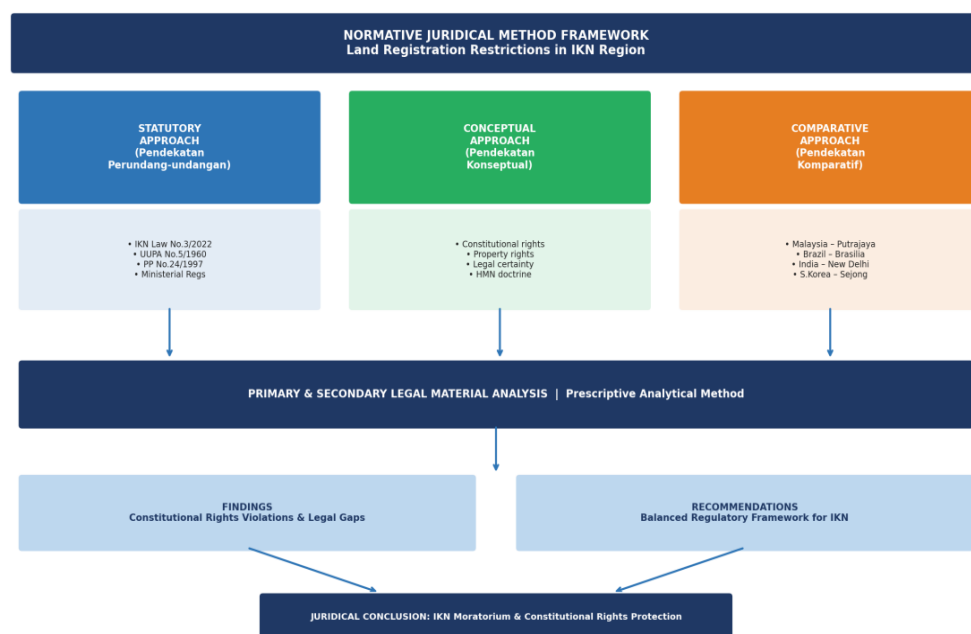


Figure 1. Normative Juridical Method Framework: Three-Approach Structure and Integration

METHOD

This research employs a normative juridical method (legal doctrinal research), which focuses on examining written law as found in statutes, regulations, judicial decisions, and legal doctrine. The normative approach is appropriate for this study because the primary concern is with the legal validity, coherence, and constitutional conformity of the land registration restrictions in the IKN area (Marzuki, 2019).

The three approaches were selected because each corresponds to a distinct research sub-question. The statutory approach is used to answer the first research question — the juridical basis and legal legitimacy of the moratorium — by tracing the hierarchy of norms from the Constitution down to the ministerial circular that operationalizes the policy. The conceptual approach is used to answer the second research question — the nature and extent of constitutional rights affected — by drawing on doctrinal concepts of legal certainty (*kepastian hukum*), the state's right of avail (*hak menguasai negara*), and proportionality, which are not exhaustively defined in positive law and therefore require doctrinal elaboration. The comparative approach is used to answer the third research question — the adequacy of existing

legal frameworks — by benchmarking Indonesia's regulatory response against comparable capital-relocation projects in Malaysia, Brazil, and South Korea, in order to test whether less rights-restrictive alternatives are practically achievable rather than merely theoretical. Malaysia, Brazil, and South Korea were selected using two cumulative criteria: each state relocated its national capital to a previously undeveloped or sparsely populated site through a state-led land acquisition process comparable in scale to IKN, and each has an accessible body of English- or Indonesian-language secondary literature documenting how its land registration and rights-protection regime operated during the relocation, allowing verifiable comparison rather than speculation. Other candidate cases were considered and excluded on this basis. Kazakhstan's relocation of its capital to Astana is structurally similar but was excluded because its land tenure system, rooted in Soviet-era state ownership with no private registration analogue to Indonesia's UUPA-based system, makes its registration framework not meaningfully comparable. Nigeria's relocation to Abuja was excluded because, notwithstanding well-documented land disputes, it lacks an accessible comparative record of how registration services specifically (as opposed to compensation and resettlement generally) were administered during the transition. Australia's establishment of Canberra was excluded as a comparator because it occurred within an early-twentieth-century common-law federation with land administration institutions and colonial land-tenure history too dissimilar from contemporary Indonesia's civil-law, post-agrarian-reform context to yield a like-for-like comparison. Malaysia, Brazil, and South Korea, by contrast, span a useful range of registration-service responses—from full continuity (South Korea) to selective continuity (Malaysia) to partial restriction (Brazil)—which allows the comparative approach to test, rather than assume, whether Indonesia's blanket suspension was the only available option.

The research employs three primary approaches: (1) the statutory approach (*pendekatan perundang-undangan*), analyzing relevant laws and regulations including the IKN Law No. 3/2022, the Basic Agrarian Law (UUPA) No. 5/1960, Government Regulation No. 24/1997 on Land Registration, and pertinent ministerial regulations; (2) the conceptual approach (*pendekatan konseptual*), drawing on legal theories concerning constitutional rights, property rights, legal certainty, and the state's authority over land; and (3) the comparative approach (*pendekatan komparatif*), examining how similar tensions between state development authority and citizens' land rights have been resolved in other jurisdictions.

Legal materials are classified into primary legal materials (the 1945 Constitution, Laws, Government Regulations, Presidential Regulations, Ministerial Regulations, and Constitutional Court decisions), secondary legal materials (legal textbooks, journals, dissertations, and expert opinions), and tertiary legal materials (legal dictionaries and encyclopedias). Data collection was conducted through library research and documentation studies. Legal material analysis employs prescriptive analytical methods, evaluating the law as it ought to be in relation to the constitutional rights framework.

Primary legal materials were selected on the basis of hierarchical relevance and direct bearing on land registration authority in the IKN area, comprising the 1945 Constitution, Law No. 5/1960 (UUPA), Law No. 3/2022 and its amendment (Law No. 21/2023), Government Regulation No. 24/1997, Government Regulation No. 12/2023, Presidential Regulation No. 75/2024, ATR/BPN Circular Letter No. 2/2022, and Constitutional Court Decisions No. 001-021-022/PUU-I/2003, No. 35/PUU-X/2012, and No. 2/PUU-VII/2009. Secondary legal materials — peer-reviewed journal articles, textbooks, and expert commentaries published between 2007 and 2024 — were selected using inclusion criteria requiring direct thematic relevance to agrarian law, constitutional rights, or IKN land governance, and were retrieved through targeted searches of national law journal databases (e.g., *Jurnal Hukum dan Pembangunan*, *Jurnal Konstitusi*, *Mimbar Hukum*). Tertiary legal materials, namely legal

dictionaries and encyclopedias, were used only to clarify technical terminology (e.g., *alas hak, beschikking*) where such terms lacked settled definition in the primary sources.

RESULTS AND DISCUSSION

Legal Basis and Legitimacy of Land Registration Restrictions in the IKN Region

The legal basis for restricting land registration services in the IKN region derives from a combination of national legislation and derivative regulations. At the apex of the regulatory hierarchy, Law No. 3 of 2022 on the State Capital (subsequently amended by Law No. 21 of 2023) grants the IKN Authority (Otorita IKN) broad powers over land administration and management within its jurisdiction. Article 16 of the IKN Law transfers land management authority from the existing regency governments to the IKN Authority, creating a *sui generis* land administration regime distinct from that applicable in the rest of Indonesia (Kusuma & Wibowo, 2023).

Government Regulation No. 12 of 2023 on Licensing and Ease of Investment in the IKN Region further elaborates the land management framework, while Presidential Regulation No. 75 of 2024 on Land Procurement for Development in the Public Interest within IKN provides the procedural framework for state land acquisition. These regulations collectively establish the normative architecture within which service restrictions are implemented. The ATR/BPN Ministerial Circular Letter No. 2/SE-100.HK.02/III/2022 effectively operationalized the moratorium at the administrative level, directing land offices in the affected regencies to suspend processing of land registration applications in defined zones (Rahardjo & Sumardjono, 2023).

From a legal positivist perspective, the restrictions possess formal legal validity insofar as they are grounded in enabling legislation and follow the prescribed hierarchy of norms (Kelsen, 1967). The state's right of avail (*hak menguasai negara/HMN*) as elaborated in Article 33(3) of the Constitution and operationalized through the Basic Agrarian Law provides a constitutional foundation for state intervention in land matters. Constitutional Court Decision No. 001-021-022/PUU-I/2003 confirmed that HMN encompasses not only ownership rights but also authority to regulate, manage, and supervise land use in the national interest (Constitutional Court of Indonesia, 2004). However, formal legal validity does not automatically confer substantive constitutional legitimacy, particularly when fundamental rights are implicated.

This formal validity, moreover, cannot be assessed in isolation from the instrument that actually operationalizes the restriction on the ground: ATR/BPN Circular Letter No. 2/SE-100.HK.02/III/2022. A circular letter (*surat edaran*) is, in Indonesian administrative law doctrine, a policy instrument (*beleidsregel*) issued by an official in the exercise of *freies Ermessen* (discretionary authority), not a statute (*undang-undang*) enacted by the legislature. Article 28J(2) of the Constitution, however, permits limitations on constitutional rights only "by law" (*dengan undang-undang*)--a textual requirement that codifies the principle of legality (*asas legalitas*) governing rights restrictions. Applying that principle here exposes a normative weakness that the preceding descriptive account does not, by itself, surface: even if the IKN Law and Government Regulation No. 12/2023 validly authorize Otorita IKN to manage land, neither instrument expressly delegates authority to suspend registration services outright, and the Circular Letter that supplies that missing operational content is not itself a "law" within the meaning of Article 28J(2). On a strict reading of the legality principle, the chain of delegation from statute to regulation to circular is therefore constitutionally under-inclusive at its final link: the instrument doing the actual rights-restricting work is the one furthest removed from legislative enactment and public accountability. This suggests that the moratorium's formal validity under administrative hierarchy-of-norms doctrine (Kelsen, 1967) should not be

mistaken for compliance with the stricter, rights-specific legality requirement of Article 28J(2), a distinction developed further in the proportionality analysis below.

Table 1. Hierarchy of Legal Instruments Governing Land Registration Restrictions in the IKN Region

No.	Legal Instrument	Subject Matter	Relevance to Moratorium
1	UUD NRI 1945 (Art. 28D, 28G, 33)	Constitutional provisions on rights and state control over land	Constitutional ceiling; defines limits of permissible rights restriction
2	Law No. 5/1960 (UUPA)	Basic Agrarian Law; hak menguasai negara (HMN)	Foundational authority for state land regulation and registration
3	Law No. 3/2022 (IKN Law)	Establishment of Nusantara Capital City Authority	Transfers land management authority to IKN Authority (Otorita IKN)
4	Law No. 21/2023 (IKN Amendment)	Amendments to IKN governance and land provisions	Expands IKN Authority's discretionary land administration powers
5	PP No. 24/1997 (Land Registration)	Procedures and legal effects of land registration	Primary mechanism through which land rights receive legal recognition
6	PP No. 12/2023 (IKN Investment)	Licensing and investment facilitation in IKN region	Reinforces sui generis land regime distinct from national standard
7	ATR/BPN Circular No. 2/2022	Administrative moratorium on registration services in IKN zone	Operational instrument implementing the blanket service suspension

Source: Analysis of Primary Legal Materials (2024)

Constitutional Rights Affected by the Land Registration Moratorium

The land registration moratorium in the IKN region implicates at least four categories of constitutional rights. First, the right to legal certainty (*kepastian hukum*), guaranteed under Article 28D(1) of the Constitution, is directly affected. Land registration under Government Regulation No. 24 of 1997 serves as the primary legal mechanism through which property rights are given juridical recognition and protection. Citizens who are unable to register their lands or complete registration transfers are denied access to the state's certification of their rights, leaving them with only unregistered (*alas hak*) claims that lack the evidentiary force of land certificates (Harsono, 2008). This reading is reinforced by Constitutional Court Decision No. 21-22/PUU-V/2007, in which the Court held that the constitutional guarantee of "just legal certainty" under Article 28D(1) requires legal norms to be clear, non-arbitrary, and consistently enforced rather than left to indefinite administrative discretion--a standard against which a blanket, repeatedly extended registration freeze sits uneasily, since it withholds precisely the clarity and predictability that the right to legal certainty is meant to secure. The rule-of-law dimension of this same guarantee was further elaborated in Constitutional Court Decision No. 3/PUU-XI/2013, which affirmed that state authority over land under Article 33(3) must be exercised through institutions and procedures answerable to law, not through discretionary administrative measures insulated from review--a principle equally applicable to citizens' correlative rights of access to those institutions.

Second, the right to property (*hak milik*), while not explicitly enumerated in the Constitution, is protected through Article 28G(1) which encompasses the right to personal property, and through Indonesia's ratification of the International Covenant on Economic,

Social and Cultural Rights. The Constitutional Court has interpreted property rights broadly, recognizing in Decision No. 35/PUU-X/2012 that indigenous and community land rights constitute constitutionally protected interests (Constitutional Court of Indonesia, 2013). The moratorium effectively suspends the legal pathway through which property rights are formally recognized and enforced.

Third, the right to equal treatment before the law under Article 28D(1) is implicated through geographic discrimination. Citizens in the IKN region are treated differently from citizens elsewhere in Indonesia who retain full access to land registration services. Fourth, the right to a livelihood and adequate standard of living, implicitly protected through Article 27(2) and Article 28H(1) of the Constitution, is jeopardized for communities whose economic activities depend on formal land rights (YLBHI, 2023).

Beyond these four categories of substantive rights, the moratorium also raises concerns under three cross-cutting legal principles. First, the principle of non-discrimination is implicated because the policy applies a uniform, blanket suspension to all residents within the IKN zone irrespective of the length, character, or legality of their occupation, thereby treating long-standing customary occupants (Dayak communities) and recent transmigrant settlers identically to speculative land purchasers — a failure to distinguish between materially different situations that itself constitutes a form of unequal treatment (Asshiddiqie, 2010). Second, the principle of due process of law is implicated because the moratorium was imposed through a ministerial circular rather than a legislative or regulatory instrument subject to public consultation, and affected residents were given no prior notice, hearing, or opportunity to register objections before the suspension took effect. Third, the principle of access to justice is implicated because, as elaborated further below, the administrative and judicial avenues nominally available to challenge the moratorium are, in practice, foreclosed to the communities most affected by it, leaving them without a meaningful forum in which to vindicate the rights set out in Table 2.

Table 2. Constitutional Rights Affected by the IKN Land Registration Moratorium

Constitutional Right	Constitutional Basis	Impact of Moratorium	Severity
Right to Legal Certainty	Art. 28D(1) UUD 1945	Denial of access to land certificate; legal status remains unrecognized	HIGH
Right to Property	Art. 28G(1); ICESCR	Suspends legal pathway for formal recognition and enforcement of property claims	HIGH
Right to Equal Treatment	Art. 28D(1) UUD 1945	Geographic discrimination vs. citizens elsewhere who retain full registration access	MEDIUM
Right to Livelihood	Art. 27(2); Art. 28H(1)	Blocks access to credit, agricultural programs, property-backed collateral	MEDIUM

Source: Analysis based on UUD NRI 1945 and YLBHI Field Report (2023)

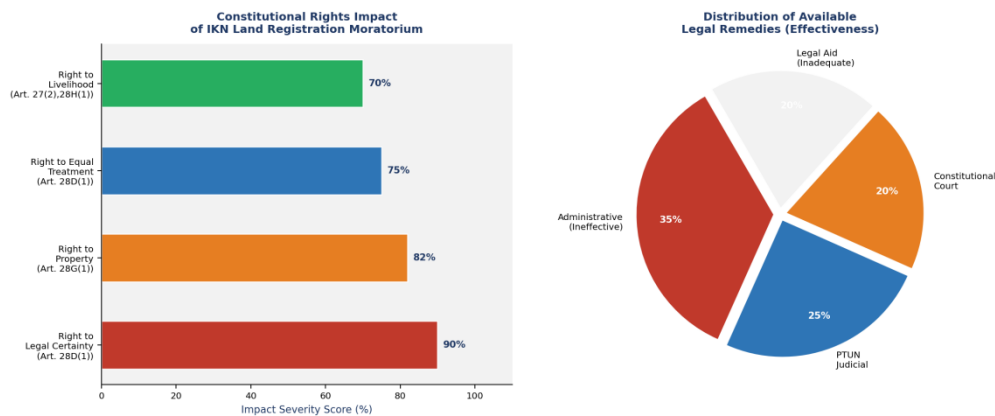


Figure 2. Constitutional Rights Analysis and Legal Remedy Framework

Figure 2. Constitutional Rights Impact Analysis and Legal Remedy Framework

Constitutional Analysis: Balancing State Authority and Individual Rights

The central constitutional question raised by the IKN land registration moratorium is whether the state's exercise of its right of avail in the service of the national capital relocation project is proportionate to the constitutional rights of citizens that it constrains. Article 28J(2) of the Constitution permits limitations on constitutional rights, but only "by law" and only insofar as limitations are necessary to guarantee recognition and respect for the rights and freedoms of others, and to fulfil just demands based on considerations of morality, religious values, security, and public order in a democratic society.

Applying a proportionality analysis modeled on the Constitutional Court's established methodology (as articulated in Constitutional Court Decision No. 2/PUU-VII/2009 and subsequent decisions), three sub-tests must be satisfied. The first sub-test — legitimate aim — is satisfied: the Constitutional Court has consistently recognized that securing orderly land acquisition for state development projects, and preventing speculative practices that would inflate acquisition costs or displace planning, constitute legitimate public interests falling within the state's right of avail under Article 33(3), as affirmed in Decision No. 001-021-022/PUU-I/2003. The second sub-test — suitability — is likewise satisfied: suspending new registrations and transfers is a rationally connected means of preventing speculative land transactions, since registration is the very mechanism through which speculative titles would otherwise be formalized and made marketable. The third sub-test — necessity — is not satisfied. Necessity requires that no less rights-restrictive measure would achieve the same aim with comparable effectiveness. Here, the moratorium applies uniformly to all registration activity — including first-time registration by long-standing occupants who present no speculative risk — rather than being calibrated to the specific conduct (speculative transfer) that the policy seeks to prevent. Because narrower instruments were available (see the four alternatives discussed below) and were not shown by the government to be inadequate or impractical, the blanket character of the moratorium exceeds what is necessary, and therefore fails the third sub-test of the proportionality analysis (Mahkamah Konstitusi, 2009).

Less restrictive alternatives exist that could achieve the state's objectives without imposing a blanket denial of registration services. These include: (1) a targeted moratorium covering only transfer transactions while permitting first-time registration by long-standing occupants; (2) a registration-with-caveat system, in which lands are registered but certificates are annotated reflecting the IKN authority's interest; (3) an expedited systematic registration program (PTSL) specifically for pre-existing occupants; and (4) a compensation escrow mechanism for citizens whose registration is deferred (Sumardjono, 2021). The failure to adopt such less restrictive alternatives suggests that the moratorium, in its current blanket form, does not satisfy the necessity requirement of proportionality analysis.

This conclusion is reinforced by comparative experience: Malaysia's Federal Territory of Putrajaya development maintained land registration services for pre-existing residents while implementing special transaction controls to prevent speculation. Brazil's Brasilia relocation project similarly attempted to distinguish between existing occupants and speculative transactions in its land control regime (Fernandes, 2007).

Table 3. Comparative Analysis of Capital City Relocation Land Policies

Country	New Capital	Registration Services	Speculative Controls	Rights Protection Approach
Indonesia (IKN)	Nusantara (Est. 2022)	Blanket moratorium (all registrations)	None specifically targeted	Constitutional rights potentially impaired
Malaysia	Putrajaya (Est. 1995)	Services maintained for pre-existing residents	Transaction controls for new purchases	Resident rights protected; controls targeted
Brazil	Brasília (Est. 1960)	Limited services; distinguished occupants	Regulation of new transactions	Partial protection; some displacement
South Korea	Sejong (Est. 2012)	Full services maintained	Zoning and price controls	Robust protection with compensation

Source: Fernandes (2007); Rahardjo & Sumardjono (2023); Author's compilation

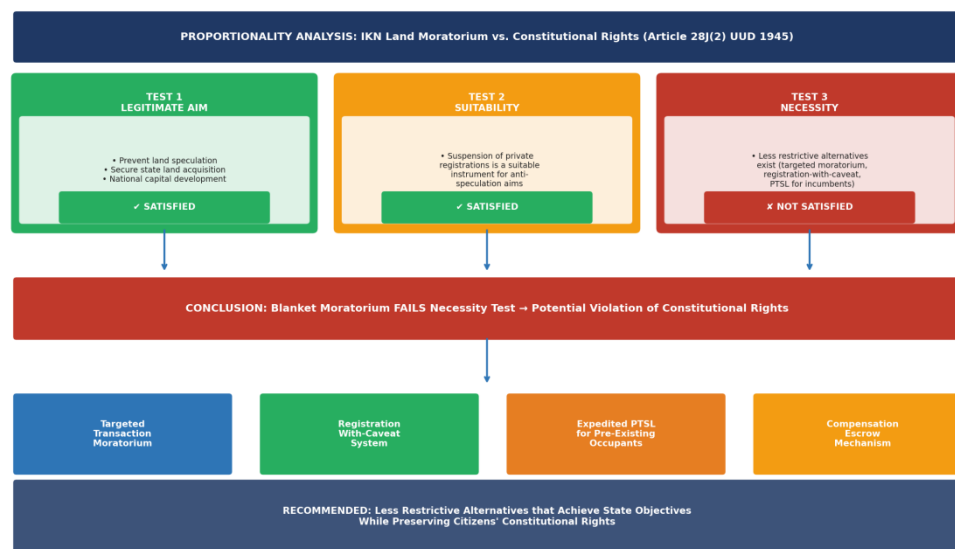


Figure 3. Proportionality Analysis Framework: IKN Land Moratorium vs. Constitutional Rights

Adequacy of Existing Legal Remedies

Citizens adversely affected by the IKN land registration moratorium theoretically have access to several legal remedies. Administrative remedies include filing objections (keberatan) with the ATR/BPN under Government Regulation No. 96 of 2012 on Public Services, and lodging complaints with the National Ombudsman (Ombudsman Republik Indonesia) for alleged maladministration. Judicial remedies include challenging ministerial circulars at the State Administrative Court (PTUN) and filing petitions at the Constitutional Court (Mahkamah Konstitusi).

In practice, however, these remedies are inadequate for several structural reasons. Administrative complaints to ATR/BPN have been systematically dismissed on grounds that the moratorium reflects governmental policy rather than individual maladministration. The

Ombudsman has limited enforcement capacity and cannot compel reinstatement of services. PTUN challenges face the obstacle that ministerial circulars (*surat edaran*) are not categorically classified as administrative decisions (*beschikking*) subject to administrative court review under Law No. 51 of 2009 (Arinanto, 2020).

These obstacles operate at two distinct levels. At the normative level, the legal classification of the circular letter as a policy instrument (*beleidsregel*) rather than a binding administrative decision (*beschikking*) removes it from the scope of review under Law No. 51 of 2009 on the State Administrative Court, leaving no statutory pathway for a direct judicial challenge to the moratorium itself; a petition to the Constitutional Court, meanwhile, can only test the constitutionality of the enabling statutes (the IKN Law or UUPA), not the ministerial circular that operationalizes the restriction, creating a normative gap between the instrument that causes the harm and the instruments that are actually reviewable. At the practical level, even where a remedy is formally available, affected residents face significant barriers to invoking it: geographic distance from PTUN and Constitutional Court forums located outside the IKN region, the cost and technical complexity of formal litigation, and low legal literacy among indigenous and transmigrant farming communities who may be unaware that avenues such as Ombudsman complaints exist at all. The combined effect of this normative gap and these practical barriers is that the nominal availability of remedies does not translate into effective legal protection.

The inadequacy of existing remedies is compounded by access-to-justice barriers facing affected communities. Many IKN-area residents are members of indigenous Dayak communities or transmigrant farming families with limited legal literacy and financial resources to pursue formal litigation. Legal aid organizations (*Lembaga Bantuan Hukum*) operating in the region report acute demand far exceeding their capacity to provide assistance (Budiardjo, 2021).

CONCLUSION

The restriction of land registration services in the IKN region occupies a constitutionally contested space. While the state holds legitimate authority under Article 33(3) of the Constitution and the right of avail doctrine to regulate land in the service of national development, the blanket moratorium on registration services in its current form does not satisfy the proportionality requirements of Article 28J(2) of the Constitution. It fails the necessity sub-test because less rights-restrictive alternatives such as targeted transaction moratoria, registration-with-caveat systems, and expedited PTSL programs for pre-existing occupants could adequately serve the state's anti-speculation and land-securing objectives without wholesale denial of citizens' constitutional rights to legal certainty, property, equal treatment, and livelihood.

Existing legal remedies, while nominally available, are structurally inadequate to provide effective constitutional rights protection for the communities most affected by the moratorium. Urgent legislative and administrative reforms are needed, including: (1) amendment of the IKN Law or its implementing regulations to establish a differentiated land services regime; (2) creation of a dedicated legal aid and dispute resolution mechanism for IKN land matters; (3) establishment of a compensation or interim benefit scheme for citizens whose registration is deferred; and (4) systematic documentation of pre-existing land rights through a joint IKN Authority-ATR/BPN mapping program. These reforms would bring the IKN land governance framework into alignment with Indonesia's constitutional rights obligations and contribute to a more just and sustainable foundation for the national capital project.

In sum, this study affirms three principal findings: (1) the IKN land registration moratorium possesses formal legal validity but does not withstand a substantive proportionality review, failing specifically at the necessity sub-test; (2) the moratorium implicates not only the

substantive rights to legal certainty, property, equal treatment, and livelihood, but also the cross-cutting principles of non-discrimination, due process, and access to justice; and (3) existing legal remedies are rendered ineffective by a combination of normative gaps in reviewability and practical barriers facing affected communities.

Theoretical Implications. The study contributes to agrarian and constitutional law scholarship by demonstrating that the state's right of avail (*hak menguasai negara*), while constitutionally robust, is not self-legitimizing: its exercise through subordinate administrative instruments remains subject to proportionality discipline under Article 28J(2), a discipline that this study operationalizes through a structured three-stage test applicable to future land-restriction policies beyond the IKN context. The study further contributes a legality-based critique--distinct from proportionality review--showing that a circular letter (*beleidsregel*) sits uneasily with Article 28J(2)'s "by law" requirement, a distinction future doctrinal work on Indonesian rights-limitation cases can build on.

Practical Implications. For affected communities and the agencies administering the IKN moratorium, the findings mean that continued reliance on a blanket circular-based freeze exposes the policy to a well-founded constitutional challenge and leaves residents without an effective forum to contest it in the meantime. Policymakers responsible for IKN land governance should move away from blanket administrative moratoria toward differentiated, evidence-based instruments capable of distinguishing speculative from non-speculative claimants, thereby offering a replicable model for other regions in Indonesia facing large-scale, state-led land acquisition.

Policy Recommendations. Building on the reforms identified above, four concrete steps merit priority: (1) amending the IKN Law or its implementing regulations to establish a differentiated land services regime rather than a blanket freeze; (2) creating a dedicated legal aid and dispute resolution mechanism for IKN land matters, situated within reach of affected communities; (3) establishing a compensation or interim benefit scheme for citizens whose registration is deferred; and (4) conducting systematic documentation of pre-existing land rights through a joint IKN Authority-ATR/BPN mapping program, so that any future restriction can be calibrated to actual risk rather than applied uniformly.

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