

Transfer of The National Capital From a Comparative Legal Perspective: A Comparative Study of Brazil (Brasilia), Malaysia (Putrajaya), and Indonesia (Nusantara) Following Constitutional Court Decision Number 71/PUU-XXIV/2026

¹Santoso, ²Gusti Muhammad Abdul Kadir Jailani, ³Muslimin Al Maarif, ⁴Kriswanto, ⁵Ahmad Badru, ⁶Indah Dewi Mengasari
Sultan Adam College of Law, Banjarmasin, Indonesia
e-mail: dickypratamap698@gmail.com

Article History

Submission : 27-06-2026
Received : 25-07-2026
Revised : 22-08-2026
Accepted : 22-08-2026

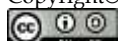
Abstract

The relocation of a nation's capital is the most strategic constitutional decision a government can take. This article comparatively examines three models of capital relocation: Brazil from Rio de Janeiro to Brasilia (1960), Malaysia from Kuala Lumpur to Putrajaya (1999), and Indonesia from Jakarta to Nusantara in East Kalimantan, which is still in process. The study focuses on the comparative legal dimension, particularly the constitutional basis, legal mechanism for activating the relocation, and the role of judicial institutions, with emphasis on the Constitutional Court Decision Number 71/PUU-XXIV/2026, which was read on May 12, 2026. The decision affirmed that Jakarta remains legitimate as the nation's capital until a Presidential Decree (Keppres) is issued, while also resolving the conflict of norms between the IKN Law and the DKJ Law. Using the functional comparative legal method and the historical-comparative approach, this article finds that: (1) the Brazilian model relies on a constitutional mandate that has existed since 1891, making its activation the strongest; (2) the Malaysian model opted for a partial transfer that was constitutionally safe and administratively successful; (3) the Indonesian model had ambitions like Brazil's but faced constitutional challenges that were resolved by the Constitutional Court through the interpretation of the Presidential Decree as a constitutive requirement. This article recommends that Indonesia immediately issue a Presidential Decree to end the prolonged constitutional uncertainty.

Keywords: Capital City Relocation, Comparative Law, Brasilia, Putrajaya, Nusantara, & Constitutional Legal Certainty

Abstrak

Pemindahan ibu kota negara merupakan keputusan konstitusional paling strategis yang dapat diambil oleh pemerintah. Artikel ini mengkaji secara komparatif tiga model pemindahan ibu kota: Brasil dari Rio de Janeiro ke Brasilia (1960), Malaysia dari Kuala Lumpur ke Putrajaya (1999), dan Indonesia dari Jakarta ke Nusantara di Kalimantan Timur, yang saat ini masih dalam proses. Studi ini berfokus pada dimensi hukum komparatif, khususnya landasan konstitusional, mekanisme hukum untuk pelaksanaan pemindahan, dan peran lembaga peradilan, dengan penekanan pada Putusan Mahkamah Konstitusi Nomor 71/PUU-XXIV/2026 yang dibacakan pada tanggal 12 Mei 2026. Putusan tersebut menegaskan bahwa Jakarta tetap sah sebagai ibu kota negara hingga Keputusan Presiden (Keppres) diterbitkan, sekaligus menyelesaikan konflik norma antara Undang-Undang IKN dan Undang-Undang DKJ. Dengan menggunakan metode hukum perbandingan fungsional dan pendekatan sejarah-komparatif, artikel ini menemukan bahwa: (1) model Brasil bersandar



pada mandat konstitusional yang telah ada sejak tahun 1891, sehingga dasar pelaksanaannya menjadi yang paling kuat; (2) model Malaysia memilih pemindahan parsial yang aman secara konstitusional dan sukses secara administratif; (3) model Indonesia memiliki ambisi serupa dengan Brasil namun menghadapi tantangan konstitusional yang diselesaikan oleh Mahkamah Konstitusi melalui penafsiran bahwa Keputusan Presiden merupakan syarat konstitutif. Artikel ini merekomendasikan agar Indonesia segera menerbitkan Keputusan Presiden guna mengakhiri ketidakpastian konstitusional yang berkepanjangan.

Kata Kunci: Pemindahan Ibu Kota, Hukum Perbandingan, Brasilia, Putrajaya, Nusantara, & Kepastian Hukum Konstitusional

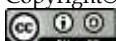
Introduction

Relocating a nation's capital is not simply a geographical or administrative event. It is a fundamental constitutional decision that reflects a nation's development vision, national identity, and the design of its governance system. Throughout history, various countries have chosen to relocate their capitals for various reasons: equitable development, urban density and overcrowding, geopolitical and protection considerations, and national symbolism. In the modern era, the three most widely studied and compared capital city relocations are Brazil (from Rio de Janeiro to Brasilia in 1960), Malaysia (from Kuala Lumpur to Putrajaya in 1999), and Indonesia, which is currently relocating to East Kalimantan. All three offer distinct legal, constitutional, and institutional models, making them rich subjects for comparative legal studies. (Constituição da República dos Estados Unidos do Brasil, 1891, art. 3; Fausto & Fausto, 2014, pp. 142–144; Sumarno, 2020, p. 27)

What distinguishes Indonesia's case from its predecessors is the involvement of constitutional judicial institutions in resolving normative conflicts arising from the relocation process. On May 12, 2026, the Constitutional Court of the Republic of Indonesia pronounced Decision No. 71/PUU-XXIV/2026, rejecting all judicial review requests for the National Capital City Law and firmly stating that Jakarta remains legitimate as the nation's capital as long as a Presidential Decree (Keppres) regarding the relocation is not issued. This historic decision presents a crucial legal point to examine in the context of comparing the three models for relocating the capital. (Mahkamah Konstitusi Republik Indonesia, 2026a, 2026b). This article aims to: (1) comparatively examine the legal basis and constitutional mechanisms for capital relocation in Brazil, Malaysia, and Indonesia; (2) analyze the role of judicial institutions in each model of relocation; (3) examine Constitutional Court Decision No. 71/PUU-XXIV/2026 in this comparative context; and (4) formulate comparative legal lessons for Indonesia based on the experiences of Brazil and Malaysia

Methods Research

This article employs normative legal research methods with statutory, conceptual, historical, and comparative approaches. The legal materials are analyzed qualitatively, emphasizing the function of legal norms in addressing the issue of relocating the nation's capital, as developed. (Lutfianto Hapsoro, 2022.) This approach compares legal institutions and mechanisms not solely from the perspective of their formal texts, but also from the perspective of the social functions performed by each regulation. The primary comparative question is: how do each legal system address the same constitutional challenge: relocating the nation's capital? The primary legal materials used include: Constitutional Court Decision No. 71/PUU-XXIV/2026, Law No. 3 of 2022 concerning the National Capital Region, Law No. 2 of 2024 concerning the Jakarta Financial Services Authority (DKJ), the 1945 Constitution, the Brazilian Constitutions of 1891 and 1988, and the Federal Constitution of Malaysia (Pasal 154).



Secondary legal materials include comparative legal literature, constitutional history, and policy reports from the three countries.

Results and Discussion

Brazilian Model: Total Constitutional Displacement (Brasilia, 1960)

a. Background and Constitutional Basis

Brazil is the most classic example of a complete and total capital relocation. The idea of moving the capital from Rio de Janeiro was not a spontaneous idea; it was a long process rooted in centuries of Brazilian political, economic, and geographical dynamics. Rio de Janeiro has been the capital of Brazil since 1763, replacing Salvador, the capital of the Portuguese colonial era. However, Rio's location on Brazil's southeastern coast was considered unrepresentative for a country of 8.5 million square kilometers. The city was also increasingly crowded, chaotic, and considered vulnerable from a defense standpoint. The idea of moving the capital inland emerged during the Brazilian independence movement in the late 18th century, when statesman José Bonifacio de Andrada e Silva proposed a new capital city called Brasilia.

The most significant legal milestone came in 1891, when the newly ratified Constitution of the Brazilian Republic explicitly mandated the relocation of the capital to the highlands in the heart of Brazil. (Constituição da República dos Estados Unidos do Brasil, 2014) This was a unique feature of the Brazilian model that no other country had: the mandate for capital relocation was enshrined in the constitution, making its legitimacy undeniable. Thus, the relocation of Brazil's capital is not merely a political decision of the government, but a binding constitutional mandate.

b. The Legal Process and the Construction of Brasília

Although the constitutional mandate had existed since 1891, its realization took nearly seven decades. It wasn't until the era of President Juscelino Kubitschek de Oliveira (1956-1961) that this discourse became a reality. Kubitschek, with the ambitious motto "Fifty Years in Five," made the construction of Brasília a symbol of national modernization.

In September 1956, the Brazilian Congress approved the Brasília development project. This legislative decree provided the executive branch with the legal framework to begin construction. Brasília was built from scratch in a previously virtually uninhabited area, approximately 1,000 kilometers from Rio de Janeiro. The construction process took an astonishingly short time: just 41 months, from 1956 to completion.

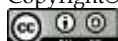
On April 21, 1960, Brasília was inaugurated as the new capital of Brazil, replacing Rio de Janeiro. The date was chosen symbolically: it commemorated the death of Tiradentes, a hero of the Brazilian independence movement. The inauguration of Brasilia also constitutes a legal act to activate the relocation of the capital, and no additional decisions are required because the constitutional basis is already very strong.

c. Weaknesses: Costs, Disparities, and Population Explosion

a) Strength: An Undeniable Constitutional Mandate

The greatest advantage of the Brazilian model is that the capital relocation was based on a constitutional mandate that had existed since 1891. This meant there was no room for legal challenges to the decision to relocate; it was a constitutional mandate, not simply government policy. Not a single case has successfully challenged the constitutionality of the capital relocation to Brasilia in Brazil's Supreme Court, as the basis for the relocation rests with the constitution itself.

b) Weaknesses: Cost, Inequality, and Population Explosion



However, the Brazilian model also has weaknesses that must be addressed. Fiscally, Brasília's hasty construction resulted in significant cost overruns compared to the original plan. The Brazilian government was forced to rely on foreign debt and money printing, which contributed to rising inflation. Socially, Brasília failed to realize its egalitarian ideals: class gaps remained sharp, satellite cities expanded rapidly without adequate planning, and the population of Brasília, originally designed for 500,000, now exceeds 3.3 million. (Jared Kelly, *The City Sprouted: The Rise of Brasilia* (Rio de Janeiro: Nova Fronteira, 2020), 188–190; bandingkan Tirto.id, “Sejarah Pemindahan Ibu Kota Baru Brasil yang Tidak Sesuai Harapan,” 21 April 2022, <https://tirto.id>; dan Kompas.id, “Perpindahan Ibu Kota Negara (IKN): Belajar dari Brasil,” 3 Maret 2022, <https://kompas.id>.) Nevertheless, Brasília was generally considered a success as a new capital city, and was even designated a UNESCO World Heritage Site in 1987.

Malaysian Model: Partial Removal Without Constitutional Conflict (Putrajaya, 1999)

a. Background and Uniqueness of the Malaysian Model

Malaysia offers a fundamentally different model from Brazil. It relocated not the constitutional capital, but only the administrative capital. This was a legally sound choice: by leaving Kuala Lumpur's constitutional status as the capital unchanged, Malaysia successfully relocated the entire government apparatus without requiring constitutional amendments or facing judicial challenges. Article 154 of the Federal Constitution (Malaysian Constitution) explicitly states that Kuala Lumpur is the federal capital. This provision remained unchanged. Mahathir Mohamad's move was to move the Prime Minister's office and most ministries to Putrajaya an executive decision that did not require constitutional amendment.

b. Putrajaya Decision and Development Process

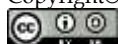
The idea of moving the seat of government to Putrajaya arose from Prime Minister Mahathir Mohamad's concern over Kuala Lumpur's increasingly unmanageable traffic and congestion. Mahathir believed that separating the seat of government from the economic and financial centers would significantly improve bureaucratic efficiency. On June 2, 1993, the Malaysian government officially decided to move the seat of government from Kuala Lumpur to Putrajaya. The Malaysian Parliament approved the project despite initial opposition from the opposition, who called it unrealistic and wasteful. The Putrajaya master plan was approved on February 2, 1995, and the groundbreaking ceremony was held by Prime Minister Mahathir on August 29, 1995. Just four years later, in June 1999, the Malaysian Prime Minister's office officially opened in Putrajaya. (Kumparan, 2022; Sumarno, 2022) The entire process took place in a planned and controlled manner. Putrajaya was designed as a city in the garden and an intelligent city, with a layout that blends Malay and Islamic cultural values, including the main axis of Putrajaya Boulevard, which is oriented towards the Qibla.

c. The Comparative Legal Dimension of the Malaysian Model

a) Strength: Free from Constitutional Conflict

The Malaysian model's greatest advantage is its ability to avoid all potential constitutional conflicts. By simply moving the seat of government (not the capital), no constitutional norms are compromised, there is no need for constitutional review, and there is no debate over the legal status of the old city. Kuala Lumpur remains the constitutionally legitimate capital, while Putrajaya becomes the center of bureaucratic efficiency.

In terms of fiscal management, Malaysia is also more planned than Brazil. Putrajaya's development is financed using almost the entire state budget, allocated in a structured



manner, without triggering the inflation crisis experienced in Brazil. The resulting bureaucratic efficiency is also evident; the mere travel distance between ministries, which is only a few minutes, measurably increases the productivity of state officials.

b) Weakness: Putrajaya is not developing rapidly

The weakness of the Malaysian model is that Putrajaya has not developed into a dynamic city. With a population of only around 110,000 out of Malaysia's total population of 32 million (approximately 0.34%), Putrajaya is often portrayed as a sleepy and socio-economically unviable city. (CNBC Indonesia, 2022; Kumparan, 2022) Because it serves only as an administrative center without significant economic and trade activity, Putrajaya has failed to become the migration attraction it was hoped for. This serves as a warning to Indonesia: if the archipelago is designed solely as a government city without a robust economic ecosystem, a similar fate could be repeated.

Indonesian Model: Total Transfer with Constitutional Challenges (Nusantara, 2022)

a. Background and Regulatory Architecture

Indonesia has chosen a Brazilian-style total relocation model, moving the nation's capital city, along with all government functions, to the Indonesian archipelago, in Penajam Paser Utara and Kutai Kartanegara Regencies, East Kalimantan. The government's stated reasons include: Jakarta's already excessive population density and environmental burden, equitable development outside Java, and realizing Indonesia's vision of becoming a developed nation by 2045.

The legal basis for Indonesia's capital relocation is established through a series of laws: Law Number 3 of 2022 concerning the National Capital, which designates the Indonesian archipelago as the new capital, Law Number 21 of 2023 as its amendment, and Law Number 2 of 2024 concerning the Special Region of Jakarta Province, which normatively changes Jakarta's status from the capital city to the Special Region of Jakarta. However, this regulatory architecture contains a mechanism that has subsequently sparked a constitutional dispute: Article 39 paragraph (1) of the National Capital Law requires a Presidential Decree (Keppres) as a constitutive condition for the capital relocation to take effect. Without a Presidential Decree, even though the DKJ Law has normatively revoked Jakarta's status, the transfer has not yet taken effect constitutively.

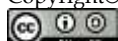
b. Norm Conflict and the Birth of Constitutional Court Cases

This situation creates a serious constitutional paradox: the Jakarta Capital City Law states that Jakarta is no longer the capital, but the Presidential Decree, a constitutive requirement for the transfer to the Indonesian archipelago, has never been issued. In the absence of a Presidential Decree, a fundamental question arises: where exactly is Indonesia's capital? This paradox prompted applicant Zulkifli to file a judicial review petition with the Constitutional Court. The applicant argues that Article 2 paragraph (1) of the Jakarta Capital City Law, which states that Jakarta is no longer the capital, is inconsistent with Article 39 paragraph (1) of the National Capital City Law, which requires a Presidential Decree. This inconsistency, according to the applicant, creates a constitutional void in the status of the nation's capital, which has implications for the legitimacy of all state administration actions.

c. Constitutional Court Decision Number 71/PUU-XXIV/2026: Constitutional Resolution

a) Verdict

On May 12, 2026, in a plenary session chaired by Chief Justice Suhartoyo at the Constitutional Court Building in Jakarta, Decision Number 71/PUU-XXIV/2026 was



read: "Rejecting the applicant's petition in its entirety." The legal considerations were read by Constitutional Justice Adies Kadir.

b) Consideration and Ratio Decidendi

The Court resolved the conflict of norms using a systematic interpretation method: Article 2 paragraph (1) of the DKJ Law must be read and interpreted in conjunction with Article 73 of the DKJ Law. When both are read systematically, it becomes clear that the legal force and binding force of the relocation of the national capital only occurs when the Presidential Decree is issued by the President.

The Court also referred to the legal considerations in Constitutional Court Decision Number 38/PUU-XXIV/2026, which affirms that the timing of the relocation of the national capital depends on the issuance of the Presidential Decree. Therefore, Jakarta remains legitimate as the national capital, both normatively and constitutively, until the President issues a Presidential Decree on the relocation. (Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 71/PUU-XXIV/2026, dibacakan 12 Mei 2026, amar putusan: "Menolak permohonan Pemohon untuk seluruhnya"; lihat juga Putusan Nomor 38/PUU-XXIV/2026; Antara News, "Pakar Sebut Jakarta Ibu Kota Sah RI sampai Keppres IKN Diterbitkan," 13 Mei 2026; dan Detik News, "MK Tegaskan Ibu Kota Negara Tetap Jakarta hingga Ada Keppres Pemindahan," 12 Mei 2026.)

This decision also confirms that the Presidential Decree mechanism as a constitutive requirement is constitutional and does not conflict with the 1945 Constitution. Development of the Indonesian archipelago can continue without needing to wait for a Presidential Decree. The Presidential Decree is only necessary to effectively activate the status of the Indonesian archipelago as the national capital.

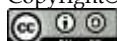
c) Constitutional Implications

Constitutional Court Decision No. 71/PUU-XXIV/2026 has several significant constitutional implications. First, it ends uncertainty about the legal status of Jakarta and the Indonesian archipelago: Jakarta is the legitimate capital, while the Indonesian archipelago is a prospective capital, with development continuing. Second, it positions the Presidential Decree as a highly strategic legal instrument; a single-page signature by the President will change Indonesia's constitutional landscape. Third, it provides legal certainty for investors and developers in the Indonesian archipelago that their activities have a valid legal basis.

d) Indonesia's Challenges: Fiscal, Time, and Presidential Decree

Beyond the constitutional dimension, Indonesia faces equally significant practical challenges. The capital city development budget has drastically decreased: from IDR 43.4 trillion in 2024, to IDR 15.3 trillion in 2025, and to just IDR 6 trillion in 2026. While total needs are estimated to reach IDR 440 trillion, absorption by the end of 2024 is only around IDR 71.8 trillion. (Berandaindonesia.id, "MK Putuskan Jakarta Tetap Ibu Kota hingga Keppres Terbit, OIKN: Pembangunan Fisik Jalan Terus," 15 Mei 2026; bandingkan CNBC Indonesia, "Melihat Nasib Ibu Kota Baru 2 Tetangga RI, Sepi dan Kota Hantu," 20 Januari 2022.) This fiscal pressure complicates the realization of development targets and, in turn, weakens the urgency of issuing a Presidential Decree.

The Capital City Authority, through its spokesperson, Troy Pantouw, emphasized that the Constitutional Court's ruling provides a strong legal framework for the transition period, and that development of basic infrastructure, government areas, and the business ecosystem continues to proceed consistently. However, without certainty



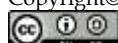
about the timing of the Presidential Decree, investment uncertainty in the archipelago will continue to lurk.

Comparative Analysis: Similarities, Differences, And Lessons

a. Comprehensive Comparison Table

Table 1. A Comprehensive Comparison of Capital City Relocation Models: Brazil, Malaysia, and Indonesia (compiled from various sources)

Aspect	Brasil (Brasilia)	Malaysia (Putrajaya)	Indonesia (Nusantara)
Decision Year	1956 (Congress approves) / 1960 (enacted)	1993 (Mahathir cabinet decision) / 1999 (officially operational)	2022 (IKN Law passed) / not yet effective (waiting for Presidential Decree)
Legal Basis	Constitution of 1891 (transfer mandate); Special law of the Kubitschek era of 1956	Article 154 Association Institutions; PM Mahathir's executive decisions; 1993 Parliamentary approval	Law No. 3 of 2022; Law No. 21 of 2023; Law No. 2 of 2024 (DKJ); depending on the Presidential Decree
Displacement Model	Full relocation: the nation's capital and seat of government moved to Brasilia	Partial relocation: seat of government to Putrajaya; constitutional capital remains Kuala Lumpur	Full (planned) relocation of the capital and center of government to the archipelago is not yet effective
Activation Mechanism	The Presidential Decree came into effect immediately on the inauguration date of April 21, 1960.	PM's executive decision; does not require constitutional change due to partial model	The Presidential Decree as a constitutive requirement (Article 39 of the IKN Law in conjunction with Article 73 of the DKJ Law) has not yet been issued.
Role Of The Court	The Presidential Decree as a constitutive requirement (Article 39 of the IKN Law in conjunction with Article 73 of the DKJ Law) has not yet been issued.	There is no constitutional test of the partial model that does not interfere with the constitution.	Constitutional Court Decision No. 71/PUU-XXIV/2026 (May 12, 2026): rejects judicial review, confirms Jakarta remains the capital until the Presidential Decree is issued
Budget	A major overrun from the original plan; financing through foreign debt and rising inflation	Efficient; almost the entire state budget; not much private investment	Rp 43.4 T (2024) down to Rp 6 T (2026); total requirement Rp 440 T; new absorption Rp 71.8 T



Old City Status	Rio de Janeiro remains the economic and cultural center of Brazil	Kuala Lumpur remains the constitutional capital and economic/financial center	Jakarta becomes the DKJ Province; remains the de jure capital until a Presidential Decree is issued
Main Challenges	Social disparity; cities becoming class segregated; population explosion in the suburbs	Putrajaya is quiet and too small (110,000 inhabitants of Malaysia's 32 million)	Constitutional vacuum; drastic budget cuts; Presidential Decree not yet issued; development delayed
Results	Success: Brasilia becomes the 4th largest city; Brazil's interior economic growth is increasing	Administratively successful: bureaucratic efficiency increased; however, Putrajaya did not develop rapidly.	Not yet assessable: construction continues but effective transfer has not yet occurred

Functional Analysis: Three Functions of the Law on the Relocation of the Capital City

a) Legitimacy Function

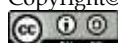
From a functional comparative law perspective, the three capital city relocation models serve different legitimating functions. Brazil uses supreme constitutional legitimacy: the mandate of the 1891 Constitution provides unchallengeable legitimacy. Malaysia uses democratic-legislative legitimacy: the 1993 parliamentary approval provides sufficient political support without the need for constitutional amendments. Indonesia uses legislative-judicial legitimacy: the National Capital City Law provides the legislative foundation, while Constitutional Court Decision No. 71/PUU-XXIV/2026 provides judicial confirmation of its constitutionality.

Of the three models, Brazil's legitimacy is the strongest because it is rooted in the constitution. However, this requires that the relocation mandate be enshrined in the constitution from the outset, something Indonesia and Malaysia lack. Indonesia replaces constitutional legitimacy with a combination of legislative and judicial legitimacy, which is sufficient in theory but more vulnerable to challenge in practice.

b) Function of Legal Certainty

Legal certainty is the most critical function in capital city relocation. Brazil has the highest legal certainty because the relocation is activated immediately on the inauguration date without additional conditions. Malaysia has good legal certainty because the partial model does not raise questions about the status of the old city. Indonesia, following Constitutional Court Decision No. 71/PUU-XXIV/2026, has significantly increased legal certainty, but it still depends on one variable: when the President will sign the Presidential Decree.

In Gustav Radbruch's theory of legal certainty, good law must be clear, consistent, and predictable. Constitutional Court Decision No. 71/PUU-XXIV/2026 has clarified the consistency of norms between the IKN Law and the DKJ Law. However, until the



Presidential Decree is issued, the "anticipatability" component remains weak, and there is no certainty about when the relocation will take effect.

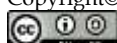
c) Equity and Development Function

The three models had different equalization motivations. Brazil moved its capital inland to stimulate development in the interior, which had previously lagged behind, and this worked: Brazil's interior grew significantly post-Brasilia. Malaysia did not aim for equalization geographically, but rather simply increased administrative efficiency. Indonesia combined both: geographic equality (outside Java) and government efficiency.

Comparative Lessons Table for Indonesia

Table 2. Comparative Lessons from Brazil and Malaysia for Indonesia (processed)

Dimensions	Positive Lessons	Warning
Legal Basis	Brazil: A constitutional mandate since 1891 provides strong and undeniable legitimacy.	Indonesia: Relying on a Presidential Decree creates uncertainty; a more definitive activation mechanism is needed.
Transfer Model	Malaysia: A partial model (only the central government) avoids constitutional conflicts and is more realistic.	Brazil: Total relocation is very ambitious; Indonesia is choosing a similar model to Brazil, but with more limited fiscal capacity.
Budget & Fiscal Policy	Malaysia: Structured financing, does not overburden the state budget.	Brazil: Cost overruns and debt; Indonesia needs to learn from this; the capital city budget has decreased drastically.
Public Participation	Brazil: Extensive public debate before the decision; Brasilia becomes a national symbol.	Indonesia: The rapid legislative process for the capital city law has been criticized for lacking meaningful public participation.
Role of the Court	Indonesian Constitutional Court: Provides constitutional certainty through Decision 71/PUU-XXIV/2026.	Brazil & Malaysia: No role for the courts because the legal basis was more solid from the start.
Phased Development	Malaysia: The four-year phased development (1995-1999) was highly successful.	Indonesia: Ambitious but budget continues to shrink. Gradual development requires a realistic alternative financing strategy.



The Role of the Constitutional Court: The Distinctive Nature of the Indonesian Model

One dimension that fundamentally distinguishes the Indonesian model from Brazil and Malaysia is the active role of the Constitutional Court in determining the constitutionality of the relocation process. Brazil did not require a constitutional review because the mandate for relocation was already enshrined in the 1891 Constitution. Malaysia did not face a constitutional review because its partial model did not violate the constitution. Indonesia, on the other hand, chose a total relocation model, which gave rise to a conflict of norms between the National Capital City Law and the Jakarta Capital City Law – a conflict that could only be resolved by the Constitutional Court. Constitutional Court Decision No. 71/PUU-XXIV/2026 is therefore not simply an ordinary legal decision but a constitutional act that determined the fate of Indonesia's capital relocation. In the comparative context examined in this article, the Indonesian model is unique because the capital relocation process received constitutional confirmation through a Constitutional Court decision.

From a comparative perspective, this involvement of the Constitutional Court can be seen as both an advantage and a disadvantage. The advantage: the relocation received the highest judicial confirmation, conferring strong constitutional legitimacy. The disadvantage: the judicial process slowed certainty and indicated that the initial regulatory design was not thorough, resulting in ambiguities that must be resolved by the court.

Discussion: Towards An Ideal Capital City Relocation Model for Indonesia

a. Why Did Indonesia Not Choose the Malaysian Model?

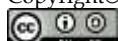
A frequently asked question is: why doesn't Indonesia adopt the Malaysian model, which is more constitutionally sound and administratively successful? The answer lies in a fundamental difference in objectives. Malaysia relocated its seat of government to improve bureaucratic efficiency – a goal that could be achieved with a partial model. Indonesia has more ambitious goals: equitable national development, reduced dependence on Java, and the creation of a "city of the future" that would symbolize Indonesia Emas 2045. These goals require a total relocation model, not a partial one.

Furthermore, political factors also play a role. A total (rather than a partial) relocation sends a stronger and more unambiguous signal of the government's commitment to national equity. The Malaysian model, which maintains Kuala Lumpur as the constitutional capital, would not have a strong enough symbolic effect to encourage migration and investment to East Kalimantan.

b. Will the Presidential Decree be issued soon?

Following Constitutional Court Decision No. 71/PUU-XXIV/2026, the attention of all stakeholders has focused on one question: when will President Prabowo Subianto sign the Presidential Decree on the relocation of the capital? Indrajaaya, a member of Commission II of the Indonesian House of Representatives (DPR RI), emphasized that the Presidential Decree is within the President's full authority, based on strategic, administrative, and infrastructure readiness considerations in the new capital city. The Constitutional Court ruling does not require the President to issue the Decree within a specific timeframe.

From a state administrative law perspective, the President's authority to issue a Presidential Decree is bound discretion (*gebonden discretie*): the President has a constitutional obligation to eventually issue a Presidential Decree (because the New Capital City Law already mandates it), but the timing of issuance is at the discretion of the executive, dependent on an assessment of readiness. The problem is that there is no clear deadline, a



weakness in the regulatory design that differs from Brazil (which takes effect immediately on the inauguration date) and Malaysia (which has a structured plan and schedule).

c. Legal Recommendation: A Way Out of Uncertainty

Based on this comparative study, this article formulates several legal recommendations for Indonesia: Immediately issue a Presidential Decree (Keppres) on the capital relocation, setting a realistic effective date at least after the basic infrastructure (the presidential palace, key ministerial buildings, and government facilities) is fully operational. This would end constitutional uncertainty and provide a signal of certainty to investors. Consider the Malaysian-style phased activation model: Presidential Decrees could be issued to transfer certain functions in stages, rather than all at once. This would provide earlier legal certainty while still considering infrastructure readiness.

Strengthen alternative financing for the new capital city: given the continuously shrinking state budget (APBN), the government needs to design more creative financing schemes such as public-private partnerships, issuing new capital city sovereign bonds, or collaborating with international investors, learning from Brazil's experience of over-reliance on state debt. Develop the Nusantara economic ecosystem in parallel: learning from the shortcomings of Putrajaya's overly quiet situation, Indonesia needs to ensure that Nusantara becomes not only a government city but also a vibrant center for economics, education, research, and culture. Consider legal guarantees for the relocated civil servants: one of the biggest obstacles to the capital relocation is the reluctance of civil servants to relocate. Regulations that provide attractive incentives and strong legal guarantees for civil servants willing to move to the archipelago need to be strengthened.

Conclusion

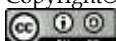
A comparative study of capital relocation laws between Brazil (Brasilia), Malaysia (Putrajaya), and Indonesia (Nusantara) yields several important findings.

First, there is no single, universal model for capital relocation. Each model is shaped by its unique constitutional, political, economic, and cultural context. Brazil chose a total model with a strong constitutional mandate. Malaysia chose a constitutionally sound partial model. Indonesia chose a total model without an explicit constitutional mandate, requiring judicial confirmation, as provided by Constitutional Court Decision No. 71/PUU-XXIV/2026.

Second, Constitutional Court Decision No. 71/PUU-XXIV/2026 represents a unique historical moment in the history of capital relocations worldwide: a capital relocation that received constitutional confirmation through a Constitutional Court ruling. This ruling resolved the conflicting norms of the National Capital City Law and the Jakarta Capital City Law through systematic interpretation, affirming that Jakarta remains the legitimate capital until a Presidential Decree is issued.

Third, from a comparative perspective, the Indonesian model is closer to Brazil's (total relocation) but more legally complex due to its lack of an explicit constitutional mandate. The most important lesson from Brazil is the importance of a clear legal mandate from the outset, and from Malaysia the importance of realistic and structured planning.

Fourth, the greatest remaining uncertainty in the Indonesian model is the lack of a deadline for issuing a Presidential Decree. Until the Presidential Decree is issued, legal certainty regarding the relocation of Indonesia's capital, even if confirmed by the Constitutional Court, remains dependent on a single discretionary presidential decision. This is the most important challenge following Constitutional Court Decision No. 71/PUU-XXIV/2026.



Suggestion

To the President of the Republic of Indonesia: immediately conduct an in-depth study of the readiness of the archipelago's infrastructure and administration, and issue a Presidential Decree with a measurable and realistic effective date. To the House of Representatives (DPR): consider revising the National Capital City Law to include provisions on a deadline for issuing a Presidential Decree or an accountability mechanism if the Decree is not issued within a certain period.

To the National Capital City Authority: develop a more aggressive plan for developing the archipelago's economic ecosystem to avoid the stagnant fate of Putrajaya, and increase transparency of the budget and development progress to the public. To legal academics: conduct further research on the specific implications of Constitutional Court Decision No. 71/PUU-XXIV/2026 on various legal aspects of the capital city relocation, including land law, civil service law, state finances, and investment law in the archipelago.

Bibliography

- Antara News. "Pakar Sebut Jakarta Ibu Kota Sah RI sampai Keppres IKN Diterbitkan." 13 Mei 2026.
- Berandaindonesia.id. "MK Putuskan Jakarta Tetap Ibu Kota hingga Keppres Terbit, OIKN: Pembangunan Fisik Jalan Terus." 15 Mei 2026. [Artikel Beranda Indonesia](#)
- CNBC Indonesia. "Melihat Nasib Ibu Kota Baru 2 Tetangga RI, Sepi dan Kota Hantu." 20 Januari 2022. <https://cnbcindonesia.com>.
- Detik News. "MK Tegaskan Ibu Kota Negara Tetap Jakarta hingga Ada Keppres Pemindahan." 12 Mei 2026.
- Fausto, Boris, dan Sergio Fausto. *A Concise History of Brazil*. Edisi ke-2. Cambridge: Cambridge University Press, 2014.
- Kelly, Jared. "The City Sprouted: The Rise of Brasília." *Consilience*, no. 22 (2020): 73–85.
- Kompas.id. "Perpindahan Ibu Kota Negara (IKN): Belajar dari Brasil." 3 Maret 2022. <https://kompas.id>.
- Kumparan. "Menyusuri Kota Pemerintahan Malaysia, Putrajaya, Setelah 27 Tahun Berdiri." 4 Juli 2022. Artikel Kumparan tentang Putrajaya
- Mahkamah Konstitusi Republik Indonesia. (2026a). Putusan Nomor 71/PUU-XXIV/2026. Mahkamah Konstitusi Republik Indonesia.
- Mahkamah Konstitusi Republik Indonesia. (2026b). Putusan Nomor 38/PUU-XXIV/2026. Mahkamah Konstitusi Republik Indonesia.
- Mahkamah Konstitusi Republik Indonesia. Putusan Nomor 38/PUU-XXIV/2026. 2026.
- Mahkamah Konstitusi Republik Indonesia. Putusan Nomor 71/PUU-XXIV/2026. 2026.
- Marzuki, P. M. (2017). *Penelitian hukum* (Edisi revisi). Kencana.
- Republik Indonesia. (2022). *Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Negara*.
- Sumarno. *Pembelajaran dari Malaysia dalam Pemindahan Ibu Kota Negara*. Surakarta: UMS Press, 2020.
- Tirto.id. "Sejarah Pemindahan Ibu Kota Baru Brasil yang Tidak Sesuai Harapan." 21 April 2022. <https://tirto.id>.
- Zweigert, K., & Kötz, H. (1998). *An introduction to comparative law* (T. Weir, Trans.; 3rd ed.). Clarendon Press.

