

## The Imaginary Capital: Legal Uncertainty Surrounding Sofifi as North Maluku Center of Regional Government

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### Abstract

For more than twenty-five years since its establishment, the central government has been unable to resolve the fundamental issue concerning the designation of the capital of North Maluku Province. As a result, governance and regional development have remained stagnant due to persistent legal uncertainty surrounding the status of the provincial capital. This issue is particularly critical, as it constitutes a structural and systemic problem that continues to hinder effective administration in the region. This article seeks to examine the legal and institutional complexities involved in the proposed establishment of Sofifi as a new autonomous region and its designation as the capital of North Maluku Province, as well as to interpret the legal framework set out in Article 9 paragraph (1) of the Law on North Maluku Province. The study argues that, under the current legal framework, Sofifi does not meet the requirements to function as a provincial capital, and its ambiguous status generates significant legal uncertainty, particularly in the absence of a law formally establishing Sofifi City as a new autonomous region. Accordingly, a comprehensive re-evaluation of Sofifi's current status is necessary. To address what has been described as the problem of an "imaginary capital," this article proposes the designation of Tidore Islands City as the center of government or the provincial capital of North Maluku Province through the enactment of a Third Amendment to the Law on North Maluku Province.

**Keywords:** *North Maluku Province; Tidore Islands City; Sofifi; Capital City; Regional Government.*



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## 1. INTRODUCTION

### 1.1. Background

Article 9 paragraph (1) Law Number 46 of 1999 concerning the Formation of North Maluku Province, Buru Regency and West Southeast Maluku as amended by Law Number 6 of 2000 concerning Amendments to Law Number 46 of 1999 concerning the Establishment of the Maluku Province North, Buru Regency, and West Southeast Maluku (North Maluku Law), stipulates that: "The capital city of North Maluku Province is located in Sofifi". In reality, Sofifi's area or "urban village (*kelurahan*)" is included in the jurisdiction area of the North Oba Sub-District, in the City of Tidore Islands. The implementation of the transfer of government activities of North Maluku Province, from the transitional capital of Ternate City to the Sofifi area, began in stages since the formation of North Maluku Province in Eastern Indonesia until officially on August 4 2010, even though the draft law on the new autonomous region (*DOB*) of Sofifi city has not yet been formed. Previously, between the time of the transfer, on February 23, 2003, Law Number 1 of 2003 was promulgated concerning the Establishment of North Halmahera Regency, South Halmahera Regency, Sula Islands Regency, East Halmahera Regency, and Tidore Islands City in North Maluku Province (Tidore Islands Law), within which a new autonomous region was formed; Tidore Islands City, whose administrative area includes Sofifi as the centre of government for North Maluku Province. The intended transfer is a big deal for the public who have received the expansion of the North Maluku Province autonomous region from previously Maluku Province.

The transfer of government activities negates one of the essential factors, namely the absence of establishing a central government area or a provincial capital with legal certainty. Explicitly, Article 20 of the North Maluku Law states: "(1) *While waiting for the readiness of adequate infrastructure and facilities for the capital of North Maluku Province as referred to in Article 9 paragraph (1), the temporary capital is set in Ternate; and (2) Within five years at the latest, the definitive Capital City of North Maluku Province has been functioned.*" The meaning of the word "facilities" in the phrase "facilities and infrastructure" above can be interpreted as the formation of a public legal entity or regional government unit that is positioned as a central government area or the provincial capital, while the phrase "has been enabled" can be interpreted as a limitation on the time aspect. This norm has the consequence that, by October 4, 2009, five years after the North Maluku Law was promulgated, the Government and the People's Representative Council (DPR) are obliged to establish a central government area or provincial capital with legal certainty. Sadly, for 25 (twenty-five) years, since the province was formed, the legal certainty aspect referred to is still incomplete. The two main factors that hindered the momentum for the formation of the government area or capital referred to in the first five years of North Maluku were the emergence of chronic social conflicts with ethnic, religious, racial and inter-group motives, and in the second five years, in the form of acute conflicts over the Election of Governors which caught the attention of the Government and local community, plus the complexity of other socio-cultural problems.

When examined further, in short, Article 20 paragraph (1) of the North Maluku Law above is a prerequisite for implementing paragraph (2). In other words, as long as the central government area or provincial capital with legal certainty has not been formed, the transfer of the centre of government from Ternate to "Sofifi" should not be implemented. This legal logic was maintained by the Regional Government and the Government at least until August 4, 2010, when President Susilo Bambang Yudhoyono officially inaugurated "Sofifi City" as the seat of government for North Maluku, 11 (eleven) years after the province was formed.<sup>1</sup> The inauguration was too premature because the President then inaugurated a regional central government concept that was still abstract. An "imaginary capital" whose reality does not yet have definite boundaries, a clear local government structure, and adequate sources as a provincial capital. The consequence of such premature relocation of the governmental centre impacts the quality of public services and "more or less" contributes negatively to the acceleration of regional development. Based on the 2014 Indonesia Governance Index (IGI), North Maluku is at the bottom of the Worst Province standings, scoring 4.45 out of 33 provinces.<sup>2</sup> In the same year, the composite index of infrastructure development rated the province as having inadequate infrastructure, with a score of -0.269.<sup>3</sup> Not to mention in other aspects, such as the 2019-2020 Human Development Index (HDI), apart from sinking in the bottom third with a score of 68.18, the North Maluku HDI even experienced a growth deficit of -0.31.<sup>4</sup> In 2021 it was 68.76;<sup>5</sup> in 2022, it experienced a minor increase of 69.47,<sup>6</sup> meanwhile, in 2024, North Maluku's HDI reached 71.84, an increase of 0.86 points (1.21 percent) compared to the previous year (70.98).<sup>7</sup>

Since the promulgation of North Maluku Law on October 4, 1999, until now, approximately 25 (twenty-five) years, the Government has been unable to resolve the fundamental problem of the capital of North Maluku Province with "legal certainty," as mandated in Article 9 paragraph (1), and Article 20 paragraph (2) of the North Maluku Law, which stipulates: Article 9 paragraph (1): "*The capital of North Maluku Province is located in Sofifi.*" Elucidation of Article 9 paragraph (1): "*What is meant by Sofifi as the capital of North Maluku Province in this paragraph is part of the area in Oba District, Central Halmahera Regency.*" Article 20 paragraph (2): "*No later than within five years the definitive capital of North Maluku Province has functioned.*" The delay or incompetence of the

<sup>1</sup> Kompas.com, "SBY Resmikan Perpindahan Ibu Kota Maluku Utara," 2010, <https://regional.kompas.com/read/2010/08/04/06471942/regionalindonesia20timur?page=all>.

<sup>2</sup> Kemitraan.or.id, "Indeks Tata Kelola Pemerintah Daerah Versi IGI," accessed October 3, 2022, <https://igi.kemitraan.or.id/news/indeks-tata-kelola-pemerintah-daerah-versi-igi>.

<sup>3</sup> Royhan Faradis and Uswatun Nurul Afifah, "Indeks Komposit Pembangunan Infrastruktur Provinsi-Provinsi Di Indonesia," *Jurnal Ekonomi Dan Pembangunan Indonesia* 20, no. 1 (2019): pg.4, <https://doi.org/10.21002/jepi.v20i1.1108>.

<sup>4</sup> Said Ali, *Indeks Pembangunan Manusia (IPM) Tahun 2020* (Jakarta: Badan Pusat Statistik, 2020).

<sup>5</sup> Margo Yuwono, *Indeks Pembangunan Manusia 2021* (Jakarta: Badan Pusat Statistik, 2022), pg.102.

<sup>6</sup> Margo Yuwono, *Indeks Pembangunan Manusia 2022* (Jakarta: Badan Pusat Statistik, 2023), pg.112.

<sup>7</sup> Badan Pusat Statistik Provinsi Maluku Utara, "Indeks Pembangunan Manusia (IPM) Maluku Utara 2024" (Ternate, 2024), pg.1.



intended Government has caused legal uncertainty regarding the regulation of the capital city of North Maluku Province. Moreover, with the promulgation of the Tidore Islands Law, a new autonomous region (*DOB*) was formed for the Tidore Islands City, which based on Article 7 of the Tidore Islands Law, has an administrative area originating from "part of the Central Halmahera Regency, which consists of a. Tidore District; b. North Oba District; c. Oba District; d. South Tidore District; and e. North Tidore District." Previously, it should be stated that the capital of Central Halmahera Regency is located in Tidore. With the formation of Tidore Islands City, the area of Central Halmahera Regency was reduced to that of Tidore Islands City.

The shift in the administrative area from the entity "Sofifi" as the "area" of the capital of North Maluku Province, which was initially determined to be in Oba District, Central Halmahera Regency based on the North Maluku Law, then shifted to North Oba District, Tidore City Islands (by the Government of Central Halmahera Regency, Oba District was divided became Oba District, and North Oba District) based on the Tidore Island Law led to a conflict or norm so that the regulation regarding the Capital City of North Maluku Province did not have legal certainty. Moreover, Article 22 of the Tidore Islands Law states: *"At the time this Law comes into effect, all laws and regulations inconsistent with this Law are declared null and void."* This conflict of norms has led to different interpretations between the Provincial Government of North Maluku and the Regional Government of Tidore Islands, which has severely impacted the degree of quality of public services that is not optimal and the stability of the regional government. The Provincial Government, in this case, interprets the Sofifi entity in Article 9 paragraph (1) of the North Maluku Law as the provincial capital still valid, even though the Sofifi City Autonomous Region Law has yet to be formed. In several official documents, official electronic portals, and even public attributes (regional nameplates), the Provincial Government consistently uses the phrase "Kota Sofifi."<sup>8</sup> The Tidore Islands City Government opposed these actions on the grounds that as long as the Sofifi City Autonomous Region Law had not been formed, the provincial capital would be located in Tidore Islands City, bearing in mind that the Sofifi area is within the administrative area of Tidore Islands City.

This situation creates gaps and weak political communication between the Provincial Government and the City Government, causing less than optimal public services in the Sofifi area. For example, in environmental cleaning services and urban planning in government areas, the construction of public facilities, such as government buildings, the Great Mosque of Sofifi: Shaful Khairaat, housing for state civil servants built by the Provincial Government in Sofifi, North Oba District does not have a building approval (*PBG*) from the City Government of Tidore Islands.<sup>9</sup>

<sup>8</sup> Haliyora.id, "Kemendagri Lanjut Bahas Kota Sofifi," 2021, <https://haliyora.id/2021/11/01/kemendagri-lanjut-bahas-kota-sofifi/>.

<sup>9</sup> Abadikini.com, "Ali Ibrahim Tegaskan Pemkot Tidore Tidak Segel Masjid Raya Sofifi, Tapi Minta Pemprov Malut Tertib Administrasi," 2021, <https://www.abadikini.com/2021/10/22/ali-ibrahim-pemkot-tidore-tidak-segel-masjid-raya-sofifi-tapi-minta-pemprov-malut-tertib-administrasi/>.



This problem does not include disruptions to investment and construction of regional infrastructure development projects in the Sofifi region as the center of government for North Maluku Province.

North Maluku Province needs a provincial capital based on Article 9 paragraph (1) of the North Maluku Law, which is determined to be in the Sofifi area, Oba District, Central Halmahera Regency. It should be noted, Article 9 paragraph (1) of the North Maluku Law does not use the phrase "located in the City of Sofifi" but only mentions the entity "Sofifi," which the Elucidation states: What is meant by Sofifi as the capital of North Maluku Province in this paragraph is part of the Oba District, Central Halmahera Regency, so the use of the word "Sofifi" clearly refers to a regional entity, not to a government unit, but it is possible to develop the Sofifi area as a new autonomous region within the scope of North Maluku Province.

As long as legal certainty regarding establishing a provincial capital has not been fulfilled, governance and regional development are stagnant, and North Maluku is increasingly far behind in development compared to other provinces in the Nusantara archipelago. Legal certainty for establishing a provincial capital city with a definite area coverage with a detailed spatial layout plan (*RDTR*) design for a separate area is a crucial pre-requisite for development in all sectors, especially in matters of governance, infrastructure development, and investment in the regions. Ownership of a separate *RDTR* is an essential factor because it is related to the spatial planning of an area, with the existence of an *RDTR* in the Provincial Capital; besides facilitating the licensing process, it also provides legal certainty for investors who will invest, or for budget users who will work on physical development projects at some point, in the provincial capital area.

Apart from the problem of legal uncertainty, what is no less important is the reality of neglect of the welfare of the Sofifi community due to political issues at the regional elite level.<sup>10</sup> In short, the 25-year Problem of the "Imaginary Capital of Sofifi" is the main challenge for the Governor of North Maluku, the Minister of Home Affairs, and other stakeholders. This statement is relevant considering that the legal uncertainty surrounding the regulation of the provincial capital is a fundamental problem in the region that needs to be resolved. If the persistent issue with systemic impacts remains unresolved, regional development across the provinces will stagnate. Currently, Sofifi within Tidore Islands City is more of an imaginary capital—something perceived to exist, but lacking a legal foundation. "Sofifi City" is nothing more than a concept held by a few, existing in a vacuum without any concrete legal reality.

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<sup>10</sup> Risman A M Djen and Zuly Qodir, "Conflict of Interest in the Expansion of Sofifi City in North Maluku, Indonesia," *Journal of Contemporary Governance and Public Policy* 4, no. 1 (2023): pg.91, <https://doi.org/10.46507/jcgpp.v4i1.101>.



## 1.2. Research Problem

Based on the explanation above, the authors formulate the problem formulation to be answered in this study, namely, what is the complexity of the formation of the Sofifi new autonomous region as the capital of North Maluku Province? how should the legal construction of Article 9 paragraph (1) of the North Maluku Law be interpreted?

## 1.3. Method

This research is a normative legal research, accompanied by statutory and conceptual approaches. The statutory approach is used to analyze the regulation of the provincial capital in the North Maluku Law and the Tidore Islands Law, especially in the regulation regarding "Sofifi" as the center of government of North Maluku. The conceptual approach is used to help understand the concept of the regulation of Sofifi as the center of regional government to complement the analysis of legislation, formulate alternative meanings of the entity of the center of government of North Maluku Province, and offer solutions to solve the problem. As a normative legal research, the data sources used in this study are several relevant legal materials. The author identified and analyzed several related regulations and relevant secondary legal materials to obtain a construction of thought about the complexity of the formation of the new autonomous region of Sofifi and the uncertainty of the law regulating Sofifi, both in the conceptual order and the practice of regional government in North Maluku Province in Eastern Indonesia.

# 2. RESULT AND DISCUSSION

## 2.1. The Complexity of The Formation of Sofifi New Autonomous Region

North Maluku changed its status from the previously North Maluku Regency, Central Halmahera Regency, and Ternate City, which were merged into the North Maluku Province's new autonomous region as a form of regional division of the Maluku Province region. Development disparities between regions, and the historical splendor of Moloku Kie Raha in the past, were used as a historical-political justification for demanding regional expansion and to ensure accelerated development of regions considered left behind, especially with other provinces in the archipelago. The swift aspirations that developed within the people of North Maluku convinced the Government & DPR so that without significant problems, on October 12, 1999, issued Law Number 46 of 1999 concerning the Establishment of North Maluku Province, Buru Regency, and West Southeast Maluku Regency. Based on this regulation, North Maluku Province was created, with its capital determined to be located in Sofifi, Oba District, Central Halmahera Regency.

Geographically, North Maluku is an archipelago, clearly encompassing numerous small islands scattered throughout its territory. Sofifi itself, located at the tip of Halmahera Island, is



considered the most strategically located, dan berhadapan langsung dengan Kota Ternate.<sup>11</sup> Situated in the center of North Maluku Province, Sofifi is believed to be a hub for connecting the surrounding small islands.<sup>12</sup> When positioned as the capital, Sofifi has absolutely no advantages as a city area; even in the context of supporting urban life, it has absolutely no feasibility. Sofifi is described as an area on the mainland of Halmahera Island, which, prior to the transfer of the center of government and development of government infrastructure, was just a quiet rural area with very low population density and did not show any characteristics of an urban area. This has caused North Maluku Province to collide with various central problems, such as consolidating the political economy as a consequence that must be faced by a new provincial area and developing this vacant land as an area that deserves to be used as the center of the regional administration.<sup>13</sup> Even today, it can be said that the "city" of Sofifi does not yet have adequate regional facilities and infrastructure to be positioned as the capital or center of regional government for North Maluku Province.<sup>14</sup>

When examined further in Law Number 23 of 2014 concerning Regional Government (Regional Government Law), as amended several times, most recently by Law Number 6 of 2023, there are indeed several alternative steps to accelerate the development of "Sofifi" while waiting for the formation regulation of the center of government or the provincial capital of North Maluku which has legal certainty, including Special Areas, and Urban Areas. There is also the concept of an Administrative City/Regency, which does not have autonomy when reflecting on Law Number 2 of 2024 concerning the Government of the Special Region of Jakarta as the National Economic Center and Global City of the Republic of Indonesia, which can only be applied in Jakarta Special Region. The Sofifi special area option as emerged in 2021, which was discussed by the Government through the formation of a Draft Government Regulation on the Sofifi Special Area but was finally canceled,<sup>15</sup> was not possible to implement because there were no specific governmental functions that were strategic for the national interest in Sofifi.

Unlike the case with the Morotai Special Economic Zone (KEK), which was stipulated through Government Regulation Number 50 of 2014, the development of Morotai Island Regency in North Maluku Province fulfills national strategic interests as an underdeveloped, outermost and

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<sup>11</sup> Windya Dirgantari and Lita Sari Barus, "Inovasi Pengembangan Infrastruktur Wilayah Kepulauan Maritim Di Maluku Utara (Kota Ternate--Kota Tidore Kepulauan)," in *Inovasi Dalam Percepatan Pemetaan Ruang Di Indonesia 2021*, 2021, pg.160.

<sup>12</sup> Ghefira Nurul Qolbi and others, "Kota Pulau Abad-21: Tantangan Perencanaan Pembangunan Kota Sofifi Sebagai Kawasan Khusus Ibukota Provinsi Maluku Utara," *JMPKP: Jurnal Manajemen Publik & Kebijakan Publik* 4, no. 1 (2022): pg.42.

<sup>13</sup> Armin Zakaria and Drs Nasrudin, "Strategi Peningkatan Motivasi Kerja Pegawai Melalui Pendekatan Reward and Punishment Pasca Pemindahan Ibukota (Studi Perpindahan Aktivitas Pemerintahan Di Provinsi Maluku Utara)," *Eqien: Jurnal Ekonomi Dan Bisnis* 4, no. 2 (2018), <https://doi.org/10.34308/eqien.v4i2.45>.

<sup>14</sup> Rudiya Muhammad and Ingerid L Moniaga, "Faktor-Faktor Penyebab Tidak Optimalnya Fungsi Kawasan Pusat Pemerintahan Provinsi Maluku Utara Di Kecamatan Oba Utara," *Jurnal Spasial* 7, no. 1 (2020): pg.23, <https://ejournal.unsrat.ac.id/v3/index.php/spasial/article/view/27168>.

<sup>15</sup> Malutpost, "Pempus Ambil Alih Sofifi," 2021.



frontier (3T) region in Indonesia, and national defense as Armed Forces Area (Integrated Military Base). The Urban Area Option is also unrealistic, considering that based on Article 355 paragraph (3) of the Regional Government Law, urban areas can only be developed as part of a Regency area. Suppose the government is serious about handling this polemic. In that case, a more suitable option is to issue a Presidential Regulation on the Acceleration of Sofifi Development or a Presidential Decree on the Sofifi Special Area in the City of Tidore Islands. However, in the writer's opinion, this Perpres does not solve the problem as a whole but is only temporary.

The current use of "Sofifi" in local government administration refers to "Sofifi Urban Village" in North Oba District, Tidore Islands City. If deemed necessary, one possible option to pursue is through "regional expansion" in the form of "splitting" a portion of the Tidore Islands City area to become two new regions (Sofifi City and Tidore Islands City). In this context, stakeholders need to understand the socio-cultural conditions of society carefully. The writer's savings, in principle, the formation of the city of Sofifi under any circumstances may not be at the expense of the Tidore Islands City, so proper restitution needs to be obtained by the Tidore Islands City, both in terms of a legal community (*masyarakat hukum*) unit, as well as an indigenous community unit. The intended restitution can be in the form of special treatment through the establishment of the Special City of Tidore through a statutory legal umbrella with supporting financial rights (special autonomy privileges), as a form of innovation and appreciation by the Government for the historical splendor of the Tidore Sultanate in North Maluku, despite the implementation of asymmetrical decentralization in the practice of the Republic of Indonesia, based on the provisions in force, it is only determined to be at the provincial level.<sup>16</sup>

In addition, in the opinion of the author, the best forms of restitution or alternative compensation by the Government for the City of Tidore Islands can also be in the form of a. special fiscal treatment through the allocation of special allocation funds (*DAK*) in an "appropriate amount" for 25 (twenty-five) years since the formation of the city of Sofifi through the legal umbrella of government regulations; b). construction of the *Temadore* (Ternate, Maitara, Tidore) bridge by the Government connects the islands of Tidore, Maitara island, and Ternate island. This compensation is intended to accelerate the development of the Tidore Archipelago area with the City of Ternate, which currently has the status of the most advanced city in North Maluku Province;

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<sup>16</sup> Legally, asymmetrical decentralization has strong roots in the constitution and is inherent in the practice of decentralization in Indonesia. Asymmetric decentralization can be interpreted as the imposition/transfer of special authority that is only given to specific regions within a country, which is considered as an alternative to solving the problem of relations between the central government and regional governments in the context of Indonesia in order to maintain the existence of regions within the Unitary State of the Republic of Indonesia. Ni'matul Huda, *Desentralisasi Asimetris Dalam NKRI: Kajian Terhadap Daerah Istimewa, Daerah Khusus Dan Otonomi Khusus* (Bandung: Nusa Media, 2015), pg.55; Gunawan A Tauda, "Desain Desentralisasi Asimetris Dalam Sistem Ketatanegaraan Republik Indonesia," *Administrative Law & Governance Journal* 1, no. 4 (2018): pg.415, <https://doi.org/10.14710/alj.v1i4.413-435>.



or c. appropriate development of modern infrastructure projects for the Soa Sio urban area in the Tidore Islands.

The above compensation is necessary, bearing in mind that history records in "golden ink" the Tidore Sultanate in North Maluku, besides having a stake in the establishment of the Unitary State of the Republic of Indonesia, the territory of the Tidore Sultanate prior to the independence of the Republic of Indonesia including Papua, Maluku, Seram, and parts of Sulawesi, which was then handed over, including its sovereignty to the Republic of Indonesia. President Soekarno took the time during his state visit to come to Tidore to meet the 35th Sultan of Tidore, Zainal Abidin Syah. The fighting spirit of the Tidore Sultanate also continued when West Papua was returned to the bosom of the Republic of Indonesia. On that basis, the Soekarno government, through Law Number 15 of 1956 concerning the Establishment of the Autonomous Region of West Irian Province, established Soasio-Tidore as the capital of the province of the Struggle for West Irian on September 23, 1956, and at the same time appointed the Sultan of Tidore Zainal Abidin Sjah as the first Governor of West Irian at that time. Furthermore, according to Presidential Decree No. 220 of 1961, dated May 4, 1962, he was appointed permanent Governor of West Irian Province. Without the contribution of Sultan Zainal Abidin Syah, Papua may not be an integral part of the Republic of Indonesia at this time.<sup>17</sup> In this context, it is reasonable to say that Sultan Zainal Abidin Syah gave one-third of the territory of the Republic of Indonesia.

At the time of enactment of Law No. 1 Pnps. 1962 concerning the Establishment of the New Form of West Irian Province, the Tidore region includes the Tidore District which includes the Tidore, Oba, and Wasile districts which later fall within the scope of the Level II Autonomous Region of North Maluku. Furthermore, based on Law Number 6 of 1990 concerning the Establishment of a District Level II Region of Central Halmahera, Soa Sio-Tidore has the status as the capital, whose territory includes the Districts of Tidore, Oba, Wasile, Weda, Patani-Gebe, and Maba. After the formation of North Maluku Province, Central Halmahera Regency was then divided into three new autonomous regions, namely East Halmahera Regency, Central Halmahera Regency, and Tidore Islands City based on Law Number 1 of 2003 concerning the Establishment of North Halmahera Regency, South Halmahera Regency, Sula Islands Regency, East Halmahera Regency, and the City of Tidore Islands in North Maluku Province. In short, the administrative area of Tidore in 2003 shrank drastically to only cover the Districts of Tidore, North Oba, Oba, South Tidore, and North Tidore.

The shrinking of the administrative area above has become one of the main concerns of the community, Sultanate institutions, the City Government, and the Tidore Islands City Council, which have one voice in responding to the issue of the formation of Sofifi City. This concern, at least, reflected in the absence of the DPRD's Joint Agreement with the Mayor of Tidore as one of

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<sup>17</sup> King Faisal Sulaiman, *Maluku Utara Menuju Otonomi Khusus Dalam NKRI* (Yogyakarta: Kaukaba Dipantara, 2017), pg.228.



the administrative requirements for the division of the Sofifi area, as stipulated in Article 37 of the Regional Government Law, the stipulation of *Idin* (Declaration) of the Sultan of Tidore Number 1/KT/2010 by Sultan Djafar Syah which is still valid today, and Letter of Sultan Tidore Husain Alting Syah Number 03/KST/IV/2021 to the Minister of Home Affairs of the Republic of Indonesia dated 16 April 2021 regarding the Special Capital Region of North Maluku Province. Many things will be at stake with the division of the Tidore City Islands region, such as the potential for changing the area's name to just "Tidore City" without the word "Islands," which has been a symbol of cultural prestige. This scenario is very likely to happen if the entire land of Oba is divided into the city of Sofifi, thereby causing a reduction in special allocation funds, a decrease in the potential for local revenue, and so on, not to mention the impact on the socio-cultural aspects related to the grandeur of the Tidore people's identity which is full of historical riches, and especially the critical role of the Tidore Sultanate in caring for and maintaining the territorial integrity of the NKRI territory in the eastern region of the archipelago.

These matters should be carefully considered by the Government and other interested parties in the discourse on the formation of the Sofifi new autonomous region (*DOB*), bearing in mind that after the national agenda for General Elections & Simultaneous Regional Head Elections in 2024, the moratorium on new autonomous region may be revoked. This condition means that, in the coming years, the mechanism for forming the Sofifi new autonomous region can be carried out within the framework of legal politics. The moratorium referred to and the failure of stakeholders to come up with a political compromise in the form of proper compensation for Tidore Islands City has become the main obstacle to the formation of Sofifi City, not in the matter of commitment from the Government of the City of Tidore Islands or the Provincial Government of North Maluku. The first thing that needs to be compromised is the boundaries of the administrative area of the city of Sofifi, which ideally is limited to the North Oba District (13 villages/urban-villages) refer to Tidore Islands City Regional Regulation Number 4 of 2022 concerning the Tidore Islands City Spatial Planning Plan for 2022-2042. Then the form of restitution or compensation intended to ensure that after the expansion of the city of Sofifi, the City of Tidore Islands can still carry out regional autonomy. This restitution is essential because, based on Article 47 paragraph (1) of the Regional Government Law, regions that cannot implement regional autonomy can be deleted or merged with other regions. This fate clearly cannot happen to the Tidore Islands City.

Based on the descriptions above, especially regarding the moratorium policy on the expansion of new autonomous regions by the Government, the discourse on the formation of the city of Sofifi "for now" clearly has complexities that need to be reviewed, primarily based on the Final Report on the Feasibility Academic Study of the Formation of Sofifi City, North Maluku Province with the title: "Completing the Consensus on Building Sofifi," 2011, which was carried out by the Department of Politics and Government (DPP) of the Faculty of Social and Political Sciences, Gadjah Mada University, concluded that: "the formation of the Sofifi City is needed but currently



does not meet the existing requirements, both political conditions, as well as regulatory requirements." In more detail, it is explained as follows:

"This study found that the formation of Sofifi City was needed, but currently, it has not met the existing political and regulatory requirements. Therefore, for Sofifi City to be formed, these conditions must be fulfilled immediately. At the same time, efforts to develop the Tidore Islands City as a mother region must also receive serious attention from all parties so that if Sofifi is later developed as a new autonomous region, the Sofifi City and the Tidore Islands City must both develop and prosperous."<sup>18</sup>

Regarding the conclusion about the formation of Sofifi City, which still does not meet the political and administrative requirements above, the DPP Fisipol UGM outlines that three aspects need to be considered in this regard:

"a. Weak Political Communication. Political communication in forming Sofifi City is fragile. There is no visible effort from government authorities to bridge various political interests. Interested parties exchanged opinions in the public sphere and competed with each other to take political steps, but substantively these parties needed to meet each other and discuss matters thoroughly; b. Lack of Facilities and Infrastructure. Sofifi's facilities and infrastructure were inadequate for forming a city government. The spatial layout of this area is still far from ideal, and not all of the land uses meet the ideal spatial planning rules. Supporting infrastructure as a city is still far from adequate. Moreover, this area's occupation pattern and economic structure still do not show the character of an urban society [even to this day; Writer]; and c. Procedural Violations. The process of forming Sofifi City that has been going on so far has not fully complied with the procedures stipulated in Government Regulation Number 78 of 2007 concerning the Formation, Abolition, and Merger of Regions, emphasizing that the formation of a new autonomous region must meet regional administrative, technical and physical requirements. ...So far, it has been concluded that forming the City of Sofifi was very top-down. Most ideas for forming this city originate and are managed at the regional elite level."<sup>19</sup>

Furthermore, in another academic study, Gufron Marsaoly & M. Baiquni stated that:

"Based on Government Regulation Number 78 of 2007 concerning Formation, Abolition, and Merger of Regions, regarding Sofifi's plan to become a new autonomous region, the most important things that must be prepared include adequate infrastructure and superstructure, in addition to regional financial and economic capabilities, because this is very supportive in achieving a reasonable degree of quality of public services, following the objectives of regional autonomy. Assessing Sofifi's

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<sup>18</sup> Departemen Politik dan Pemerintahan FISIPOL UGM, "Menuntaskan Konsensus Membangun Sofifi" (Yogyakarta, 2011), pg.1.

<sup>19</sup> *Ibid.*, pg.3.



condition with objective considerations, it can be concluded that the formation of a new autonomous region in Sofifi was very forced, given the conditions that must be possessed by the area to be divided, such as population density, economic and financial capabilities, infrastructure and superstructure, have not been owned by Sofifi. The discourse on Sofifi expansion is more influenced by the political steps of elite groups at the provincial level. Political considerations tend to be more dominant than aspects of consideration in improving public services according to the goals and spirit of regional autonomy.”<sup>20</sup>

## 2.2. Legal Uncertainty Regulating the Capital of North Maluku Province

The law is a rule or guideline in the life of the state and society. In their formation by legislators, laws must consider three things: a. laws cannot conflict with generally accepted legal principles; b. the presence of semantic clarity; and c. there is coherence or linearity between one law and another. If this is considered, the law can avoid many problems in its application.<sup>21</sup> In the context of regulation of the capital city of North Maluku Province, it is clear that the use of the word "Sofifi" is only semantic because the meaning is not clear, and there is incoherence between the Tidore Islands Law and the North Maluku Law, causing problems in implementation, especially in terms of legal certainty. Because of this, there is an opportunity to examine the intended legal norms, in this case, the regulation of the capital city of North Maluku Province with related laws and regulations. According to Jimly Asshiddiqie, testing of legal norms can be focused on the formulation of articles, verses, or parts of the text and on the content of meaning or contextual notions of a textual formulation. The textual formulation referred to is the formulation of norms or rules contained in a. the sound of the articles; b. paragraph; c. phrase; words; or even e. formulation or explanatory sound; and the annex to the law.<sup>22</sup>

As previously described, concerning the division of Central Halmahera Regency, in the opinion of the author, with the provisions in Article 9 paragraph (1) of the North Maluku Law, which, in its Elucidation: "*What is meant by Sofifi as the capital of North Maluku Province in this paragraph is a part of the area in the Oba District, Central Halmahera Regency,*" causing legal uncertainty, even though, both *de jure* and *de facto*, the Sofifi entity as the capital area or the center of government of North Maluku Province based on the applicable laws and regulations is located in the North Oba District, Tidore Islands City. Through the promulgation of the Tidore Islands Law, a new autonomous region was formed for Tidore Islands City, which based on Article 7 of the Tidore Islands Law, has an administrative area originating from a part of Central Halmahera Regency, which includes Oba District and North Oba District. With the formation of Tidore Islands City, the area of Central Halmahera Regency was reduced to Tidore Islands City. The shift

<sup>20</sup> M Gufron Marsaoly and M Baiquni, "Studi Tentang Rencana Pembentukan Kota Otonom Sofifi," 2011, pg.1.

<sup>21</sup> Peter M Marzuki, *Teori Hukum* (Jakarta: Kencana, 2020), pg.124.

<sup>22</sup> Jimly Asshiddiqie, *Pengujian Formil Undang-Undang Di Negara Hukum* (Jakarta: Konstitusi Press, 2020), pg.85.



in the administrative area from the entity "Sofifi" as the "area" of the capital of North Maluku Province, which was initially determined to be in Oba District, Central Halmahera Regency, then shifted to North Oba District, Tidore Islands City, caused a conflict of norms so that the regulation regarding the North Maluku Provincial Capital have no legal certainty. Moreover, when examining Article 22 of the Tidore Islands Law, it is stated that: "At the time this Law comes into effect, all laws and regulations that are not in accordance with this Law are declared no longer valid." This arrangement means the legal construction of Article 9 paragraph (1) of the North Maluku Law should be interpreted: "*The capital of North Maluku Province is domiciled in Sofifi, the City of Tidore Islands*," as shown in the following table.

**Table 1.** Clarification of the interpretation of Article 9, paragraph (1) of the North Maluku Law.

Law Number 46 of 1999	Law Number 1 of 2003	Analysis
Article 9 paragraph (1): " <i>The capital of North Maluku Province is located in Sofifi</i> ".	Article 2: " <i>By this Law, ... and the City of Tidore Islands in the Province of North Maluku in the Unitary State of the Republic of Indonesia are established.</i> "	In cases of differing regulations or conflicting norms within equivalent laws, the legal principle of <i>lex posterior derogat prior</i> applies. <sup>23</sup> In this context, the phrase in Article 9, paragraph (1) of the North Maluku Law needs to be revised to state: " <i>in North Oba District, Tidore Islands City.</i> " When the Tidore Islands Law was enacted, the Central Halmahera Regency Government expanded Oba District into two districts: Oba District and North Oba District. This indicates that Article 9, paragraph (1) of the North Maluku Law can be clarified as follows: " <i>The capital of North Maluku Province is located in Sofifi, Tidore Islands City.</i> "
Elucidation of Article 9 paragraph (1): <i>What is meant by Sofifi as the capital of North Maluku Province in this paragraph is part of the area in Oba District, Central Halmahera Regency.</i> "	Article 7: " <i>The City of Tidore Islands originates from part of the Central Halmahera Regency area consisting of: a. Tidore District; b. North Oba District; c. Oba District; d. South Tidore District; and e. North Tidore District.</i> "	
	Article 22: " <i>At the time this Law comes into effect, all laws and regulations that are inconsistent with this Law are declared null and void.</i> "	

Source: Processed Data, 2025.

In addition, with the enactment of the Tidore Islands Law, it has consequence that the legislators indirectly or implicitly positioned the Tidore Islands City as a new autonomous region,

<sup>23</sup> The latest law (*lex posterior*) overrides the old law (*lex prior*). Henry Campbell Black, *Black's Law Dictionary* (St. Paul, MN: West Publishing Co., 2009).



where within its administrative area, there is the Sofifi area, in North Oba District as the central government area of North Maluku Province or provincial capital city. This arrangement, accompanied by the impossibility or uselessness of relocating the provincial capital to other regions, and with the construction of most of the provincial government facilities and infrastructure in North Oba District, Tidore Islands City, it is quite reasonable to conclude that Tidore Islands City is *de facto* the centre of the regional government of North Maluku Province.

Moreover, it needs to be understood that Article 9 paragraph (1) of the North Maluku Law stipulates that the capital of North Maluku Province is in the Sofifi area, Oba District, Central Halmahera Regency. It should be noted that this article does not use the phrase "*located in the City of Sofifi*" but only mention the entity "Sofifi", which in the Elucidation states: Central Halmahera Regency," so that the use of "Sofifi" clearly refers to the regional entity of the central government area only, not to the "city" as the administrative unit. This regulation differs from a similar arrangement in Gorontalo Province, which was formed as a new autonomous region almost simultaneously with North Maluku Province. Article 7 of Law Number 38 of 2000 concerning the Establishment of the Gorontalo Province states that: "*The Capital of the Gorontalo Province is located in the Gorontalo City.*" However, as previously explained, it is possible to develop the Sofifi area as a new autonomous region within the scope of North Maluku Province.

If Article 9 paragraph (1) of the North Maluku Law "has" been constructed to become: "The Capital City of North Maluku Province is domiciled in Sofifi, Tidore Islands City", then the arrangement of the Sofifi entity as part of the Tidore Islands City also needs to be determined, so that the local government administration can run optimally. In this context, several policy options can be pursued, including:

- a. Establishment of Presidential Regulation on Acceleration of Sofifi Development in Tidore Islands City. This Presidential Regulation is intended to avoid stagnation of certain public services, stagnation of regional development, and primarily to provide legal certainty for investment and infrastructure development in the region by state-owned enterprise (*BUMN*) in Sofifi. This Presidential Regulation also needs to regulate the establishment of the Sofifi Management Agency, which is intended to manage certain public service affairs that function like agencies in Tidore Islands City, which carry out sub-government affairs such as parks, cleanliness, city planning, clean water, and so on, as something that the people in Sofifi most need.
- b. Establishment of Sofifi Special Region Authority (*Otorita Kawasan Khusus Sofifi*). This model can be formed through a Presidential Regulation or Presidential Decree as a form of governmental innovation, as implemented in the Batam City area, Riau Province. Consequently, the Government determine the management of Sofifi as the central government area of North Maluku Province. This arrangement is possible, although difficult to implement because there is no national strategic interest in Sofifi;
- c. Establishment of Sofifi Management Agency (*Badan Pengelola Sofifi*). The Provincial Government of North Maluku can establish this model by establishing a Regional Regulation concerning the Establishment of the Sofifi Management Body as a form of implementing regulation of Article 9 paragraph (1) of the North Maluku Law. The formation of the regional



- regulation above requires written approval from the Minister of Home Affairs, following the Regulation of the Minister of Home Affairs (Permendagri) regarding the Sofifi Area Management Agency, which serves as a special regulation (*lex specialist*). In this context, the Governor must engage with the Minister of Home Affairs to facilitate the creation of the Regulation concerning the Sofifi Area Management Agency. As a consequence, the Provincial Government funds and carries out the management of Sofifi as the Central Government area of North Maluku Province. This Provincial Regional Apparatus can be formed as a governmental innovation, considering the Provincial Government has relatively adequate fiscal space compared to the Tidore Islands City Government. It is quite possible to implement this arrangement if the Government & DPRD of the Tidore Islands City express their approval on this matter; and
- d. Sofifi Area Management Agency (*Badan Pengelola Kawasan Sofifi*). The Tidore Islands Municipal Government can establish this model by establishing a Regional Regulation concerning the Establishment of the Sofifi Area Management Board as a form of implementing regulation of Article 9 paragraph (1) of the North Maluku Law. As a consequence, the City Government funds and carries out the management of Sofifi as the Central Government area of North Maluku Province. This municipal apparatus was formed as the most likely governmental innovation to be elected, considering that the Tidore Islands City Government has jurisdiction over Sofifi as part of the administrative area of North Oba District. The Regional Apparatus Secretariat Office must be established in Sofifi to carry out its duties and functions as a "host" in supporting the administration of North Maluku Province.

In the author's view, it would be better if legislators immediately reconstructed Article 9 paragraph (1) of the North Maluku Law and made the capital of the North Maluku province located in Tidore Islands City. This suggestion is especially valid given the unclear legal status of Sofifi, which has come under scrutiny, including by local actors and the Tidore Sultanate, who are demanding that the interpretation of the North Maluku Law refer to Oba District, a part of Central Halmahera Regency, as was the historical context in which the North Maluku Law was enacted.<sup>24</sup> Sofifi faces challenges as the provincial capital due to the lack of certainty regarding government administration and adequate facilities and infrastructure.<sup>25</sup> This assumption is not entirely valid, considering that the City Government and the Regional People's Representative Council (DPRD) have even agreed to the establishment of "Sofifi New City," with the note that its administrative area is limited to the delineation of 13 (thirteen) villages/sub-districts (North Oba) by Tidore Islands City Regional Regulation Number 4 of 2022 concerning the Tidore Islands City Spatial Planning for 2022-2042.

<sup>24</sup> Fizri Nurdin, "Soal Status Ibu Kota Provinsi Maluku Utara, Tito Karnavian: Pemkot Tidore Berat Lepas Sofifi," 2025, <https://ternate.tribunnews.com/2025/07/12/soal-status-ibu-kota-provinsi-maluku-utara-tito-karnavian-pemkot-tidore-berat-lepas-sofifi>.

<sup>25</sup> Syamsul Bahri Abd. Rasyid and Titin Purwaningsih, "Tuntutan Aktor Daerah Dan Analisis Kelayakan Dalam Wacana Otonomi Khusus Maluku Utara," *JIIIP: Jurnal Ilmiah Ilmu Pemerintahan* 6, no. 2 (2021): pg.205, <https://doi.org/10.14710/jiip.v6i2.11650>.



In the view of local actors, it would be unfair and ahistorical for Tidore Islands if the entire Oba Land, from Kayasa village to Nuku village, were to be expanded into the Sofifi Autonomous Region, as this would potentially harm its parent region, Tidore Islands City. Due to its perceived inability to implement regional autonomy, the entity of Tidore City will disappear as it becomes the addition of four new sub-districts to 'Sofifi City'. Therefore, the Sultan of Tidore wants the capital of North Maluku Province to be adjusted from 'Sofifi' to Tidore Islands City.<sup>26</sup> According to the author, this visionary idea deserves serious consideration by both local and central governments, as it could solve the stagnation of provincial capital development. Furthermore, the proposal has strong and realistic historical, geographical, political, and administrative reasons. From a historical perspective, along with Ternate, Tidore City has a long track record as a centre of government and civilization in the eastern region of the archipelago. Restoring Tidore's position as an administrative centre honours the historical legacy and contributions of the Tidore Sultanate, which have been a vital part of national identity, particularly in maintaining the territorial integrity of Eastern Indonesia.<sup>27</sup> In fact, Soa Sio Tidore served as the provincial capital of the West Irian Struggle in 1956, with the 35th Sultan of Tidore, Zainal Abidin Syah, as its Governor.<sup>28</sup>

Administratively and functionally, relocating the capital to Tidore Islands will strengthen the effectiveness of provincial governance and, in particular, provide legal certainty regarding the regulation of the capital of North Maluku Province. Of course, if this is realized, several adjustments will need to be made, particularly the construction of a new Mayor's Office in North Oba, to optimally accommodate local community interests and shorten the span of government control in the Oba Mainland. It should be emphasized that this adjustment does not mean building a new governor's office on Tidore Island but instead maintaining the current location in North Oba District. Instead, a new Mayor's Office needs to be built in North Oba. Only the name of the provincial capital will change. In 25 years, if "Sofifi" is indeed highly developed and modern, the option of a new autonomous region will naturally open up.

As part of a tribute to history, the term 'Tidore' is indeed more appropriate and fitting than 'Sofifi', which has no historical significance.<sup>29</sup> From a cultural and local identity perspective, Tidore offers a solid collective narrative as a symbol of the unity and glory of Moloku Kie Raha. Placing the capital city in Tidore Islands is not merely an administrative relocation but a strategic step to consolidate regional identity and strengthen the symbolic appeal of North Maluku at the national

<sup>26</sup> Gunawan A Tauda, "Relevansi Reposisi Ibu Kota "Imajiner" Sofifi Ke Kota Tidore Kepulauan," n.d., <https://www.ceremat.co.id/relevansi-reposisi-ibu-kota-imajiner-sofifi-ke-kota-tidore-kepulauan/>.

<sup>27</sup> Abdul Haris Fatgehipon and Satriono Priyo Utomo, "Sultan Zainal Abidin Syah: From the Kingdom of Tidore to the Republic of Indonesia," *TAWARIKH: Journal of Historical Studies* 12, no. 1 (2020): 49–92, <https://www.journals.mindamas.com/index.php/tawarikh/article/view/1370/0>.

<sup>28</sup> Febi Anggono Suryo, "Irian Barat Di Mata Sultan Zainal Abidin Syah: Dari Konferensi Malino Hingga Operasi Trikora," *Historis: Jurnal Kajian, Penelitian & Pengembangan Pendidikan Sejarah* 8, no. 1 (2023): pg.36, <https://doi.org/10.31764/historis.v8i1.15259>.

<sup>29</sup> Wuri Handoko and Syahrudin Mansyur, "Kesultanan Tidore: Bukti Arkeologi Sebagai Pusat Kekuasaan Islam Dan Pengaruhnya Di Wilayah Periferi," *Berkala Arkeologi* 38, no. 1 (2018): pg.18, <https://doi.org/10.30883/jba.v38i1.246>.



and international levels, something that in reality cannot be achieved by the Sofifi entity, or any other entity in North Maluku, except Ternate. In short, placing the capital city in the Tidore Islands will be a monumental decision that reflects historical justice and addresses the practical and strategic needs to develop North Maluku in a more focused and civilized future. This adjustment is necessary to strengthen regional autonomy in North Maluku Province, as regional autonomy based on state dynamics is constantly evolving and adapting to changes in national government regulations, including those affecting the regional government.<sup>30</sup>

### 3. CONCLUSION

Based on the descriptions above and considering the realities of contemporary regional developments, it is quite reasonable to conclude that "currently", Sofifi is not feasible and creates legal uncertainty to be placed as the provincial capital of North Maluku in Eastern Indonesia. It takes an indeterminate time to develop this region so that it has eligibility as a provincial capital, especially without promulgating the Sofifi City New Autonomous Region Law, which is almost impossible to achieve politically and administratively. Because of this, Sofifi's status quo as the capital city of North Maluku province, as stipulated in Article 9 paragraph (1) of the North Maluku Law and its Explanation, needs to be reconstructed for legal certainty. This description, and reinforced by the argument that the Tidore Islands City is de facto the centre of government of North Maluku Province, as well as the existence of legal uncertainty in the form of conflicts of norms related to the shift in the administrative area of the entity "Sofifi" as the "area" of the North Maluku Province capital convinced the author to conclude that in order to solve the problem of the "imaginary capital" of North Maluku Province in Eastern Indonesia which for 25 (twenty-five) years unravelled, the concrete solution is to establish Tidore Islands City as the capital of North Maluku Province. Therefore, in this context, the Government or DPR needs to propose and discuss for joint approval of the Third Amendment Bill to the North Maluku Law. One of the contents of which, in particular Article 9 paragraph (1), is adjusted: "Capital of North Maluku Province located in Tidore Islands City,". It can also be subject to a constitutional review of the Article referred to by interested parties, especially the Regional Government & DPRD of North Maluku Province, or the Regional Government & DPRD of Tidore Kepulauan City to the Constitutional Court of the Republic of Indonesia.

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