



## Legal review of port management by regional governments from the perspective of regional autonomy

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### ABSTRACT

Port management occupies a strategic position in supporting transportation systems, trade, and regional development, particularly in an archipelagic state such as Indonesia. Nevertheless, the legal regulation of port management still demonstrates the dominance of Central Government authority, which has the potential to weaken the principle of regional autonomy. This article aims to critically analyze the normative disharmony between *lex sectoralis* in the port sector and *lex generalis* in regional government law, as well as its implications for the effectiveness of regional autonomy. This study employs a normative legal research method using statutory, conceptual, and comparative approaches. The findings indicate that the legal construction of port management in Indonesia is not yet fully aligned with the principles of decentralization and the development of international practices that position port authorities as relatively autonomous entities. This article recommends the harmonization of regulations and the reformulation of the division of authority in port management in order to strengthen the role of regional governments without neglecting national interests.

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### 1. Introduction

Ports play a highly strategic role in supporting shipping activities, trade, and the distribution of goods and services, both in national and global contexts, as they function as key nodes for the integration of logistics and intermodal transportation (Baccelli & Morino, 2020; Brooks et al., 2017; T. Notteboom et al., 2022; T. E. Notteboom & Haralambides, 2020). As gateways connecting maritime routes with inland transportation networks, ports significantly influence supply chain efficiency, trade competitiveness, and regional economic connectivity. Their role has become increasingly critical in the era of globalization, where the performance of ports directly affects a country's position within global value chains.

Beyond their economic relevance, ports in an archipelagic state such as Indonesia possess broader strategic significance due to their geographic dispersion and role in linking islands and regions. Ports serve not only as infrastructure for mobility and commerce but also as instruments of national integration and territorial cohesion. In this context, port governance cannot be reduced to technical or commercial management alone; rather, it must be understood as an integral component of state administration that intersects with issues of sovereignty, security, and regional development (Christodoulou & Echebarria Fernández, 2021; Yang & Zou, 2024).

In Indonesia, ports also carry important legal and political functions as instruments of territorial control, equitable development, and the realization of state sovereignty. From the perspective of maritime transport law, ports constitute an integral part of the legal regime governing sea transportation, encompassing regulatory, operational, and supervisory dimensions (Purba, 2005). Given the country's maritime character, the distribution and management of ports directly influence spatial justice, access to markets, and the balance of development between central and peripheral regions. Consequently, port management is inherently linked to public authority and regulatory power exercised by the state at various levels of government.

However, the legal regulation of port management in Indonesia reveals a persistent normative tension between the sectoral legal regime governing ports and the legal regime of regional government. Laws in the field of shipping and ports tend to concentrate strategic authority in the hands of the Central Government through technical ministries, while regional government legislation mandates decentralization and broad regional autonomy. This duality generates disharmony between *lex sectoralis* and *lex generalis*, resulting in legal uncertainty and weakening the institutional position of regional governments in port governance (Karim, 2020; Prayantama et al., 2025).

Theoretically, regional autonomy is understood as the original authority of regions to regulate and manage local interests based on their own initiatives within the framework of a unitary state. This concept reflects the principle of local self-government, which emphasizes subsidiarity, democratic participation, and administrative efficiency by bringing decision-making closer to affected communities (Bergström et al., 2021; Faguet, 2014; Hidjaz, 2010; Hooghe et al., 2010). Within this framework, regional governments are expected to play an active role in managing strategic resources, including transportation and port infrastructure.

In practice, however, decentralization in Indonesia has often been implemented in a limited and selective manner. As observed by Shoesmith & Franklin (2020), sectors considered strategic by the central government such as ports, energy, and natural resources tend to remain under strong central control. Similar patterns have been identified in other developing countries, where port infrastructure is treated primarily as a national asset rather than a shared governance domain (Lagoudis et al., 2017). This condition undermines the substantive realization of regional autonomy and creates a gap between constitutional principles and administrative practice. The dominance of the central government over ports legally implies a restriction of regional selfgoverning authority, weakening the principles of decentralization by reducing local discretion, democratic accountability, and the effectiveness of local self-government in managing strategic public assets.

International experience demonstrates that port authorities in many countries have undergone significant institutional transformation toward more autonomous, professional, and commercially oriented models. These models emphasize managerial independence, financial sustainability, and integration with regional development strategies, while maintaining public oversight to safeguard national interests (de Langen & van der Lugt, 2017; Marques Soares & Paixão Casaca, 2022; Tijan et al., 2021). Such transformations illustrate that decentralization in port governance can coexist with effective state supervision.

Moreover, contemporary legal scholarship increasingly recognizes port law as an autonomous and interdisciplinary field that

transcends classical administrative law. Port governance today intersects with environmental law, competition law, spatial planning, and international trade law, reflecting the complex regulatory environment in which ports operate (Nowak et al., 2023; Rodriguez & Omaira, 2024). This evolution highlights a growing divergence between global regulatory trends and Indonesia's national legal framework, which remains predominantly centralized and sectoral in orientation. Based on this background, the novelty of this article lies in its critical analysis of the normative disharmony between the *lex sectoralis* of port regulation and the *lex generalis* of regional government law, as well as its implications for the effectiveness of regional autonomy in port management. This article not only describes the distribution of authority but also offers a reinterpretation of the legal position of regional governments by employing perspectives from state administrative law and contemporary decentralization theory. This study offers novelty by integrating state administrative law and port law to reveal normative disharmony between *lex sectoralis* of port regulation and *lex generalis* of regional government law, while proposing a reinterpretation of regional authority based on decentralization principles rather than merely mapping institutional competencies.

## **2. Method**

This research constitutes normative legal research focusing on the examination of legal norms governing port management and the authority of regional governments. Normative legal research emphasizes the analysis of legal norms, principles, and doctrines as a coherent system of meaning, requiring interpretation and reconstruction of legal concepts (Ibrahim, 2005; McCrudden, 2017; Soemadiningrat, 2009). The approaches used include the statutory approach, by examining relevant legislation, and the conceptual approach, by analyzing legal doctrines and theories related to regional autonomy and governmental authority. The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 17 of 2008 on Shipping, Law No. 23 of 2014 on Regional Government, and Government Regulation No. 61 of 2009 on Ports. Secondary legal materials comprise textbooks, scientific journals, and relevant research findings, while tertiary legal materials include legal dictionaries and encyclopedias. The analysis of legal materials is conducted qualitatively using a descriptive-analytical method, namely by describing the applicable legal provisions and then systematically analyzing them to identify consistency or inconsistency between port regulations and the principles of regional autonomy. The selected primary legal materials represent conflicts between central and regional authority because they simultaneously regulate port governance and decentralization, thereby serving as normative points of intersection where overlaps, inconsistencies, and hierarchical tensions between sectoral port law and regional government law become legally observable.

## **3. Analysis and Results**

The findings indicate that port management under Indonesia's positive law continues to position the Central Government as the dominant actor in the governance structure. This dominance is evident in key regulatory domains, including licensing authority, the formulation of strategic port policies, and the supervision of port operations. Such concentration of authority reflects a legal design that prioritizes central coordination over distributed governance.

This centralized pattern is deeply embedded within sectoral regulatory frameworks governing ports, particularly through implementing regulations that operationalize the Shipping Law. These regulations consistently reinforce ministerial control and limit discretionary space for subnational actors. As a result, port governance remains largely hierarchical, with regional governments functioning primarily as administrative extensions rather than autonomous decision-makers.

This finding aligns with international literature identifying a common tendency among developing states to retain firm central control over port infrastructure due to its strategic

economic and political importance (T. E. Notteboom & Haralambides, 2020). While such an approach is often justified on grounds of national interest and uniformity, it frequently comes at the expense of local adaptability and governance effectiveness.

From the perspective of state administrative law, the dominance of the Central Government generates complex issues related to the allocation and exercise of public authority. The overlapping roles of central ministries and regional governments create ambiguity regarding decision-making responsibility, particularly in operational and developmental aspects of port management.

Provincial and regency/municipal governments are granted only limited authority, mainly restricted to the management of local feeder ports. Even within this narrow scope, their discretion is often constrained by central approval requirements and detailed technical standards. This condition diminishes the practical significance of regional autonomy in the port sector.

Theoretically and empirically, however, strengthening local authority has been shown to enhance governance effectiveness, institutional responsiveness, and policy innovation (Marques Soares & Paixão Casaca, 2022). The Indonesian case thus demonstrates a clear disharmony between the general norms of regional governance and the specific regulatory regime governing ports. Normatively, the disharmony between *lex sectoralis* and *lex generalis* undermines legal certainty by creating ambiguity in the allocation of authority, leading to overlapping mandates, inconsistent implementation, and weakened accountability in port governance. This study contributes to the development of authority theory in Indonesian administrative law by demonstrating how sectoral centralization reshapes the exercise of attributed and delegated authority, and by offering a normative framework to realign authority distribution with decentralization principles and constitutional governance.

Comparative analysis further highlights the distinctiveness of Indonesia's port governance model. In countries such as Italy and Brazil, port authorities are endowed with relatively autonomous legal status while remaining subject to strategic oversight by the state. This institutional arrangement enables ports to function as semi-independent entities capable of responding to market demands and regional development priorities (Baccelli & Morino, 2020).

These governance models facilitate closer integration between transportation policy, logistics systems, and regional spatial planning. Port authorities are not merely operators but also strategic coordinators that align port development with broader economic and territorial objectives (Marques Soares & Paixão Casaca, 2022).

By contrast, in Indonesia, fragmented authority and strong ministerial control weaken the capacity of regional governments to act as effective managers of local interests. The absence of institutional autonomy limits innovation and constrains the strategic use of ports as drivers of regional development.

Critical analysis reveals that limitations on regional authority in port management may undermine the achievement of sustainable development objectives. Ports are central to national infrastructure strategies, yet their effectiveness depends on coordination between central planning and local implementation capacities.

Priyanta & Zulkarnain (2023) emphasize that the success of national strategic infrastructure projects is highly dependent on synergy between central and regional governments. Without meaningful regional participation, infrastructure policies risk being misaligned with local needs and socio-economic conditions.

Moreover, legal effectiveness in promoting regional development requires clarity of authority, institutional accountability, and local ownership of policy outcomes (Wijatmoko et al., 2023). Ambiguous governance structures weaken implementation and reduce the transformative potential of port infrastructure.

In addition to economic considerations, port management in Indonesia encompasses significant security and geopolitical dimensions. As an archipelagic state located along major international shipping routes, Indonesia's ports play a vital role in safeguarding maritime sovereignty and national security interests.

The study by Yang & Zou (2024) on the Natuna Islands illustrates how limited regional authority can result in weak local responses to nationally strategic challenges. Centralized decision-making may delay responses and overlook local knowledge critical to effective governance.

This condition strengthens the argument that excessive centralization may be counterproductive, particularly in peripheral and border regions. Empowering regional governments within a clear legal framework can enhance both governance effectiveness and national security outcomes.

The synthesis of national and international findings underscores the necessity of reformulating the regulatory framework governing port management authority. Current arrangements reflect an imbalance that privileges sectoral control over constitutional principles of decentralization. A more harmonious legal approach between *lex sectoralis* and *lex generalis* is required to strengthen regional autonomy without undermining national interests. Such harmonization would reduce normative conflict and enhance legal certainty within the port governance regime.

Ultimately, ports should be managed as instruments of development rather than merely objects of central administrative control. A cooperative governance model grounded in subsidiarity, accountability, and coordination offers a more sustainable and constitutionally consistent path forward.

#### **4. Conclusions**

Based on the results and analysis, it can be concluded that the regulation of port management in Indonesia remains dominated by a centralized approach rooted in the sectoral legal regime of port governance. This condition creates normative disharmony with the principles of regional autonomy as regulated under regional government law, resulting in the limited role of regional governments in managing ports as strategic regional assets. Normatively, the disharmony between *lex sectoralis* and *lex generalis* generates legal uncertainty and has the potential to weaken the objectives of decentralization, particularly in the context of equitable development and the strengthening of regional government capacity. These findings underscore that ports should not merely be viewed as objects of central administrative control but as instruments of development that require collaborative management between central and regional governments. Accordingly, this article recommends the harmonization of laws and regulations through the restructuring of a more proportional division of authority in port management. Regional governments should be granted more substantive authority, accompanied by clear oversight and accountability mechanisms. This approach is expected to create effective and equitable port governance that is aligned with the principles of regional autonomy and international best practices. The appropriate reform direction is a proportional redistribution of port authority based on subsidiarity, granting regional governments substantive managerial and developmental powers while maintaining central government oversight over strategic, security, and international functions in line with international port governance practices. Future research should explore empirical and comparative analyses of port governance practices at the regional level, including case studies on selected ports, to assess the practical impact of authority distribution and to refine normative models of decentralization in port management.

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