

## **THE IMPORTANCE OF STRUCTURING RELATIONSHIPS BETWEEN LOCAL GOVERNMENTS AND BUSINESS ENTITIES IN THE PERSPECTIVE OF STATE ADMINISTRATIVE LAW IN BATAM CITY, RIAU ISLANDS**

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### **Abstract**

*This article explains the importance of structuring the relationship between local government and local business entities from the perspective of state administrative law in Batam City, Riau Archipelago. This study used a qualitative research method, in which several relevant sources obtained were analyzed using descriptive analysis to be able to explain and answer the research questions as a whole. The findings of this study indicate that the dynamics of the dualism of authority that occurs between the Batam City Government and the Batam Concession Agency have violated several principles of good governance, namely those relating to the principle of legal certainty, the principle of not mixing authority, and the principle of implementing the public interest. In the process, to overcome the dualism of authority that occurs, it is necessary to integrate the Free Trade Areas (FTA) of Batam, Bintan, and Karimun with the Free Port Concession Agency (FPCA) by placing the authority of the FPCA under the control of the Governor of the Riau Archipelago Province. Therefore, to adopt a better possibility of the findings of this study, it is very important to immediately amend Government Regulation Number 46 of 2007 concerning the Free Trade Zone and Free Harbor of Batam as amended several times, most recently by Government Regulation Number 62 of 2019 concerning the Second Amendment on Government Regulation Number 46 of 2007 concerning Free Trade Zones and Free Ports.*

**Keywords: Business Entities; Local Government; Structuring;**

### **1. INTRODUCTION**

Since the promulgation of the Constitution, Indonesia has recognized asymmetry as a vital instrument for tolerating and managing the complexities of society and regional diversity, while maintaining its unitary character. Even though asymmetric decentralization adds to the complexity of Indonesia's state administration, it maintains the unity of the country by providing constitutional space for regional diversity, thereby dealing with the growing tensions in a divided society. Indonesia's blend of symmetries and asymmetries provides unique lessons for other nations trying to strike a balance between recognition of unity and diversity.<sup>1</sup> The chosen of concept of the unitary state by the founders of the state is none other due to the diversity of ethnicities, religions, languages,

<sup>1</sup> Saldi Isra, Bertus de Villiers, and Zainal Arifin, "Asymmetry in a Decentralized, Unitary State: Lessons from the Special Regions of Indonesia," *Jemie: Journal on Ethnopolitics and Minority Issues in Europe* 18, no. 2 (2019), pg. 43-71.

and ethnicities within the state of the Republic of Indonesia. Then the concept of the Unitary State is the right choice for an idea of unity, with the power to govern the entire territory of the country in the hands of the central government.<sup>2</sup> Which is then confirmed in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which reads that “The State of Indonesia is a Unitary State in the form of a Republic”. As a large and complex organization, therefore thus the Unitary State of the Republic of Indonesia is further divided into several provinces and districts as stated in the Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which reads “The Unitary State of the Republic of Indonesia is divided into Provinces and Provinces are divided into regencies and cities, each of which has a regional government, which is regulated by law.

Departs from Moving on from the idea that if all authority, both political and administrative, are placed at the top of the organizational hierarchy or only at the central government, it will not run effectively because the central government will bear a heavy burden and the administration of the government will be inefficient.<sup>3</sup> Thus, for this authority to be implemented efficiently and accountably, part of the political and administrative authority needs to be delegated to a lower level of organization (*local government*).<sup>4</sup> The local government itself is interpreted as the administration of government affairs by the regional government and Local People’s Representative Council (DPRD) according to the principles of autonomy and duties assistance with the broadest possible autonomy principle in the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.<sup>5</sup>

<sup>2</sup> Tomi Setiawan, “Building Convergence of Ethnicity in the Unitary State of the Republic of Indonesia,” in *Conference Second (2nd): International Conference on Social Transformation, Community and Sustainable Development (ICSTCSD)* (Magelang: Universitas Tidar, 2019), pg. 34–42.

<sup>3</sup> Shelly Elvira Kurniawan Demson Tiopan, “The Suitable Concept of the Relationship of Authority between the Center and the Regions for the Unitary State of the Republic of Indonesia According to the 1945 Constitution of the Republic of Indonesia,” *International Journal of Social Science and Human Research* 05, no. 07, 2022, pg. 2939–2943. which consists of many provinces, regencies, and cities, always strives to realize the goals of the state as contained in the Preamble to the 1945 Constitution of the Republic of Indonesia. The consequences of the form of an archipelagic state make its implementation through the application of the principles of centralization, decentralization, deconcentration, and co-administration. The application of the four principles is carried out simultaneously which is adjusted proportionally.”, “author”: [“dropping-particle”: “”, “family”: “Demson Tiopan”, “given”: “Shelly Elvira Kurniawan”, “non-dropping-particle”: “”, “parse-names”: false, “suffix”: “”], “container-title”: “International Journal of Social Science and Human Research”, “id”: “ITEM-1”, “issue”: “07”, “issued”: [“date-parts”: [“2022”]], “page”: “2939-2943”, “title”: “The Suitable Concept of the Relationship of Authority between the Center and the Regions for the Unitary State of the Republic of Indonesia According to the 1945 Constitution of the Republic of Indonesia”, “type”: “article-journal”, “volume”: “05”}, “uris”: [“http://www.mendeley.com/documents/?uuid=9d4390b2-16dc-46f6-9155-16f9c6802de8”]], “mendeley”: {“formattedCitation”: “Shelly Elvira Kurniawan Demson Tiopan, “The Suitable Concept of the Relationship of Authority between the Center and the Regions for the Unitary State of the Republic of Indonesia According to the 1945 Constitution of the Republic of Indonesia,” < i > International Journal of Social Science and Human Research < /i > 05, no. 07 (2022

<sup>4</sup> Yohanes Pattinasarany, “Responsibilities of Regency/Municipal Governments in Managing Basic Education Affairs,” *Sasi* 28, no. 1, 2022, pg. 168–181.

<sup>5</sup> Anwar Nasution, *The Government Decentralization Program in Indonesia, ADBI Working Paper Series: Government Decentralization Program in Indonesia* (Tokyo, 2016) pg. 1-23. Indonesia, in 2000, at a stroke replaced the previous system of centralized government and development planning with a wide range of decentralization programs. The reforms gave greater authority, political power, and financial resources directly to regencies and municipalities, bypassing the provinces. The powers transferred include those of executing a wide range of responsibilities in the areas of health, primary and middle-level education, public works, environment, communication, transport, agriculture, manufacturing, and other economic sectors. At the same time, the government replaced the antiquated cash-based, single-entry system of public finance with a modern double-entry accounting system that uses a single treasury account; is performance based; and has transparent management of the public treasury, tight expenditure

This transfer of some authority to local governments is what is known as decentralization.<sup>6</sup> According to Pattinasarany,<sup>7</sup> decentralization is interpreted as granting authority from the state government to local governments to regulate and manage certain affairs as their domestic affairs. Because decentralization is always related to the independent or autonomous status, any discussions about decentralization automatically talk about autonomy (*the essence of decentralization is an economic process*). In other words, decentralization and autonomy are two sides of one coin. Decentralization in Indonesia should be heralded as an important policy for advancing Indonesia's development by giving local governments the ability to adopt regulations that are appropriate to their regions, use general allocation funds in a manner deemed appropriate to their regions, and experiment with development and welfare policies.<sup>8</sup> But unfortunately, the idea of distributing power through decentralization which is implemented uniformly for all regions is carried out without considering the uniqueness or specificity of the regions, and without considering the national interests in each region.<sup>9</sup> This has an impact on the city of Batam as one of the many autonomous regions within the territory of the Unitary State of the Republic of Indonesia, which also received the delegation of governmental authority.

If moving from the history of the formation of Batam City, Batam was initially treated as a national strategic area that intended to become an international-class industrial and investment area, which enable ton competed with Singapore, Johor, and Malaysia.<sup>10</sup> Therefore, through Presidential Decree No. 41 of 1973, Batam was designated to be an industrial area entrusted with the management of the Batam Island

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and financial controls with performance indicators, computerized reporting, and a tightly scheduled auditing system. On the positive side, unlike in many developing and transition countries, the decentralization program in Indonesia has not caused major political or economic problems. However, the decentralization program was ill prepared and not carried out in a logical order for two reasons. First, the capacity of subnational governments to produce public and private goods, increase productivity and employment, and promote economic growth in their jurisdictions, was not increased. Because of the long tradition of centralization, local government never built the capacity to carry out economic planning and undertake initiatives to promote local economic growth. Before the reform, the local governments had mainly functioned as implementing agencies of national policies and programs. Second, the number of good financial managers, as required by the new laws of public treasury and auditing, was also limited and needed to be trained. The rising revenues of local governments do not follow their increasing government functions to promote economic development that could potentially cause fiscal imbalances.”, "author": [{"dropping-particle": "", "family": "Nasution", "given": "Anwar", "non-dropping-particle": ""}, {"parse-names": false, "suffix": ""}], "container-title": "ADBI Working Paper Series: Government Decentralization Program in Indonesia", "id": "ITEM-1", "issue": "601", "issued": [{"date-parts": [{"2016"}]}, {"number-of-pages": "1-23", "publisher-place": "Tokyo", "title": "The Government Decentralization Program in Indonesia", "type": "report"}, {"uris": [{"http://www.mendeley.com/documents/?uuid = 732cc592-5dc2-4def-9d38-82d9cc7bcdff"}]}, {"mendeley": {"formattedCitation": "Anwar Nasution, < i > The Government Decentralization Program in Indonesia < /i > , < i > ADBI Working Paper Series: Government Decentralization Program in Indonesia < /i > (Tokyo, 2016

<sup>6</sup> J Jumadi, "The Position and Functions of Local Regulations (District Regulation) District/Municipality as an Instrument of Regional Autonomy Within a System of Legislation in Indonesia," *Journal of Humanity* 4, no. 1, 2016, pg. 10–21.

<sup>7</sup> Pattinasarany, "Responsibilities of Regency/Municipal Governments in Managing Basic Education Affairs."

<sup>8</sup> Maria M. Wihardja Thomas B. Pepinsky, "Decentralization and Economic Performance in Indonesia," *Journal of East Asian Studies* 11, no. 3, 2011, pg. 168–181.

<sup>9</sup> Rachmad ED Darmawan, "The Practices of Decentralization in Indonesia and Its Implication on Local Competitiveness," *Public Administration-Public Governance Study School of Management and Government* (University of Twente Enchede the Netherlands, 2008), pg. 1-59. but very little research has examined the process by which model information is collected from subject-matter experts. The goal of this research was to develop and evaluate an alternative process to the traditional sequence of interviews or the increasingly common use of JAD (Joint Application Design

<sup>10</sup> Batam.go.id, "Why Invest in Batam," accessed October 5, 2022, <https://bpbatam.go.id/en/investment/investment-opportunities/investment-advantages/why-invest-in-batam/>.

Industrial Development Authority (Otorita Batam). However, in its development, after the issuance of Law Number 22 the Year 1999 concerning Regional Autonomy, several regions have had the opportunity to be expanded into autonomous regions. One of them is the Batam Municipality which changed its status to an autonomous region based on Law Number 53 of 1999. And since then, Batam has been managed by two government agencies, namely the Batam City Government and the Batam Authority (now the Batam Concession Agency).<sup>11</sup>

Referring to the Law on the formation of Batam City, that in article 21 paragraph (1) states that “with the formation of Batam City as an autonomous region, the Batam City Government in administering governance and development in its region includes the Batam Authority Agency”. And further in paragraph (3) of the article states that “the working relationship between the Batam City Government and the Batam Authority Agency is further regulated by a Government Regulation”. However, the reality is that until now the government has not issued the legal product regulation yet. The absence of a Government Regulation that regulates the working relationship between the Batam City Government and the Batam Concession Agency has resulted in a dualism of authority in managing Batam City itself. In addition, the existence of the two institutions which are supported by different legal structures and substances causes the Batam Island management policy to be disharmonious.<sup>12</sup> Therefore, based on the author’s summary of several previous related studies, there are several slices of authority that cause dualism namely:

- a. The issue of investment in which Batam City Government and the Batam Concession Agency simultaneously have the authority to take care of licensing for investment. So that the dualism of investment management will confuse potential investors because there is no legal certainty as to which agency the investment should be managed.
- b. The issue of Spatial and Territorial Layout, where article 27 of Law Number 26 of 2007 concerning Spatial Planning, explicitly states that the planning of a spatial plan in a Regency and City is stipulated by a Local Regulation. However, the Batam Concession Agency also determines spatial plans for Batam City because of its status as a Free Trade and Free Port Zone.
- c. The environmental issues, where in Article 4 of Law Number 32 the Year 2009 concerning Environmental Protection and Management regulates 5 (five) things, namely: planning, utilization, control, maintenance, supervision, and law enforcement. Based on this scope, the five of them should fall under the authority of the local government because the environment in Article 12 paragraph (2) is categorized as one of the mandatory government affairs that are not related to basic services. However, the Batam Concession Agency also feels authorized to take care of the environment by its authority as stipulated in Presidential Decree Number 41 of 1973 in conjunction with Presidential Decree Number 25 of 2005.

<sup>11</sup> Law Number 44 of 2007 Dated November 1, 2007 Concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2007 Concerning Amendment to Law Number 36 of 2000 Concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2000 Conc” Indonesia, 2007.

<sup>12</sup> Alexander Yanuard Dalla and Friska Natlia Hutabarat, “Tumpang Tindih Kewenangan Pengembangan Kawasan Ekonomi Khusus Batam,” *Matra Pembaruan* 2, no. 2, 2018, pg. 139–148.

- d. The problem of providing facilities and infrastructure as well as public facilities in the Batam City area, where the Batam Concession Agency has the authority to provide facilities, while the City Government as an autonomous region is also obliged to provide public services. One of the dynamics is seen when there is a bridge construction process from Batam City to Bintan Regency as one of the projects to be carried out by the Batam Concession Agency, but on the other hand, the Batam City Government is also working on a road addition project in the Nagoya area of Batam.
- e. In terms of land management which is fully under the authority of the Batam Concession Agency, this obliges the City Government to transfer its authority in managing land in Batam City. However, this transfer of authority does not abolish the Batam City Government from collecting Land and Building Tax (PBB), which raises problems in terms of imposing taxes on land in Batam City. This means that land in Batam City will be subject to two taxes at the same time, namely the Annual obligatory money of the authority, as well as the Property tax which is also one of the local incomes through local taxes which is the authority of the Batam City Government.

Departing from the phenomenon of a dualism of authority that occurs, this has made the central government several times pay attention to immediately resolve this problem.<sup>13</sup> Among them is the declaration of the transfer of the Batam Free Trade Area into a Special Economic Zone, so that the appointment of the Head of the Batam Free Trade Area and Free Port Concession Agency is held *ex-officio* by the Mayor of Batam.<sup>14</sup> However, in practice, the transfer of Batam's Free Trade Zone (FTZ) as a Special Economic Zone with the initial plan to set 2 (up two) areas first, namely the Special Economic Zone for aircraft maintenance and repair at Hang Nadim Airport as well as the Nongsa Special Economic Zone Digital Park.<sup>15</sup> This has not been realized, considering that until now no Government Regulation stipulates the 2 (two) areas as Special Economic Zones. Then, the Mayor of Batam has officially served as Head of the Batam Free Trade Area and Free Port Concession Agency on September 17, 2019, but in practice, it does not imply the completion of the dualism of power that has occurred. The reason is the *ex-officio* of the Mayor of Batam did not result in an institutional merger between the Batam City Government and the Batam Concession Agency. Where until now the two institutions are still independent and carry out the same authority as before the implementation of *ex-officio*.

One of the latest discourses from the Central Government (National) as a form of attention to the management and development of Batam City is to integrate the Batam, Bintan, and Karimun Free Trade Areas (FTZ), which became one of the main agendas requested directly by President Joko Widodo which was then charged with to the Local

<sup>13</sup> Batamnews.co.id, "Batam Jadi Kawasan Ekonomi Khusus, Ini Kelebihan dan Kekurangannya," Accessed March 19, 2021, <https://www.batamnews.co.id/berita-10619-batam-jadi-kawasan-ekonomi-khusus-ini-kelebihan-dan-kekurangannya.html>.

<sup>14</sup> Sindobatam.com, "FPK Dukung Wali Kota Ex-Officio Kepala BP Batam," Accessed March 22, 2021, <http://sindobatam.com/fpk-dukung-wali-kota-ex-officio-kepala-bp-batam/>.

<sup>15</sup> Cnnindonesia.com, "BP Batam Menanti Keputusan Kawasan Ekonomi Khusus Dari Jokowi," Accessed March 19, 2021, <https://www.cnnindonesia.com/ekonomi/20191021175928-92-441579/bp-batam-menanti-keputusan-kawasan-ekonomi-khusus-dari-jokowi/>.

People's Representative Assembly for immediate implementation.<sup>16</sup> The main reason for the integration of the Free Trade Areas (FTZ) of Batam, Bintan, and Karimun is due to several administrative and regulatory procedures that have been considered to hold business interests in Riau Islands so that if they are integrated into one, they will be able to run efficiently.<sup>17</sup> Based on the background described above, the problem in this paper is how ideally the relationship between the Batam city government and Batam business entities is structured from the perspective of State Administrative Law. Therefore, this research article uses a qualitative research method, in which some of the relevant sources obtained will be analyzed using descriptive analysis to be able to explain and answer the research questions thoroughly and aims to explain the importance of structuring the relationship between local government and business entities from the perspective of state administrative law in Batam City, Riau Archipelago Province.

## 2. ANALYSIS AND DISCUSSION

### 1.1. Phenomenon of Dualism of Authority Between City Government and Batam Concession Agency

In state administrative law, an autonomous region will not be able to successfully achieve its goals without the creation of good governance (good governance).<sup>18</sup> This is because in developing a region, the participation of stakeholders who are involved as a whole is needed, and not only depending on the government. The term good governance as an adjective is defined as “ways of administering government efficiently and effectively”.<sup>19</sup> According to Mahmud, said that good governance means a high level of organizational effectiveness in the policy formulation and policies that are implemented, especially in the implementation of economic policies and their contribution to the growth, stability, and welfare of the people.<sup>20</sup>

Furthermore, in the framework of governance in Indonesia, some principles are the principles of the implementation of good governance,<sup>21</sup> namely: the principle of legal

<sup>16</sup> Batampos.id, “FTZ di Batam, Bintan, Karimun dan Tanjungpinang Disatukan,” Accessed March 23, 2021, <https://batampos.id/2020/08/28/ftz-di-batam-bintan-karimun-dan-tanjungpinang-disatukan/>.

<sup>17</sup> Infokepri.com, “BP Batam Gelar Webinar Persiapan,” Accessed March 22, 2021, <http://www.infokepri.com/2020/08/bp-batam-gelar-webinar-persiapan.html/>.

<sup>18</sup> Roy Marthen Moonti, “Regional Autonomy in Realizing Good Governance,” *Substantive Justice: International Journal of Law* 2, no. 1, 2019, pg. 43–53.

<sup>19</sup> Eva Rachmawati and Joanna Fountain, “Role of External Stakeholders in Tourism Development and Community Empowerment,” *International Journal of Applied Sciences in Tourism and Events* 4, no. 1, 2020, pg. 25–36.

<sup>20</sup> Nik Ahmad Kamal Nik Mahmud, “Good Governance and the Rule of Law,” *UUM Journal of Legal Studies* 1, no. 1, 2013, pg. 45–55. accountability, participatory and rule of law. Rule of law is the focus of this paper. The principle in itself is problematic because of multifarious interpretation. Nonetheless, the consensus has been that rule of law is essential in any government and breach of its principles may lead to arbitrariness and breach of fundamental rights. The paper will expound the roles of rule of law in ensuring good governance and how abuse of power and corruption have undermined rule of law seriously and subsequently affect good governance.”author:{{“dropping-particle”:””,“family”:”Nik Mahmud”,“given”:”Nik Ahmad Kamal”,“non-dropping-particle”:””,“parse-names”:false,“suffix”:””}},“-container-title”:”UUM Journal of Legal Studies”,“id”:”ITEM-1”,“issue”:”1”,“issued”:{{“date-parts”:[[“2013”]]}},“page”:”45-55”,“title”:”Good Governance and the Rule of Law”,“type”:”article-journal”,“volume”:”1”},“uris”:{{“http://www.mendeley.com/documents/?uuid=6d8cf638-9561-4f51-bbea-f410131ef11e”}},“mendeley”:{{“formattedCitation”:”Nik Ahmad Kamal Nik Mahmud, “Good Governance and the Rule of Law,” <i>UUM Journal of Legal Studies </i> 1, no. 1 (2013

<sup>21</sup> M Rafi et al., “Transformation of Public Services through Digital Services in the Covid-19 Era: Efforts Towards Good Governance in Indonesia,” in *Proceedings of the International Conference on Public Organization (ICONPO 2021)*, vol. 209 (Yogyakarta: Atlantis Press, 2022), pg. 168–176.

certainty, the principle of balance, the principle of equality in decision-making, the principle of careful action, the principle of motivation for every decision, the principle of not mixing authority, the principle of fair play, the principle of justice and fairness, the principle of trusting and responding to reasonable expectations, the principle of nullifying the consequences of a void decision, the principle of protection of one’s views or way of life, the principle of wisdom, and the principle of maintaining the public interest.<sup>22</sup> In the process, there were several issues of the dualism of authority that occurred between the Batam City Government and the Batam Concession Agency which indicated violations of several principles of good governance as shown in table 1 below:

Table 1. Dynamics of Dualism of Authority Between Batam City Government and Batam Concession Agency

Dynamics	Principle	Explanation
Dualism of Authority Between Batam City Government and Batam Concession Agency	The Principle of Legal Certainty	There is no definite basis of authority and legal basis for investors to deal with licensing issues and the problem of double taxation on land for the people of Batam City.
	The Principle of Not Mixing Up Authority	There is a dualism of authority between the Batam City Government and the Batam Concession Agency which is a central government institution in the region but has a focus on authority in the industrial sector, besides that it also determines the spatial layout of Batam City through the issuance of its penological fatwa. Therefore, there are dynamics related to the existence of 1 (one) area managed by 2 (two) agencies (Batam City Government and Batam Concession Agency).
	Principles of Implementation of Public Interest	The existence of a violation of these two principles (the Principle of Legal Certainty and the Principle of Not Mixing Up Authority) has implications for the life of the people of Batam City to become uncertain and makes the people of Batam experience confusion as to who has the authority and authority to take care of matters related to licensing and tax issues multiple shares of land for the people of Batam City, thereby violating the principle of organizing public interest.

Source: Author Processed Data, 2023.

<sup>22</sup> M. Zamroni, “General Principles of Good Governance in Indonesia: What Are The Legal Bases?,” *Varia Justicia* 15, no. 1, 2019, pg. 1–8.

Based on table 1 above, it can be seen that the dynamics of the dualism of authority that occurs between the Batam City Government and the Batam Concession Agency have violated several principles of good governance, namely those related to the principle of legal certainty, the principle of not mixing up authority, and the principle of implementing public interest. Regarding the principle of legal certainty, it is characterized by the absence of an equal basis of authority and a definite legal basis for investors to deal with licensing issues and the problem of double taxation on land for the people of Batam City. Then on the principle of not mixing up authority, it is marked by the existence of dualism of authority between the Batam City Government and the Batam Concession Agency which is a central government institution in the region but has a focus on authority in the industrial sector, besides that it also determines the spatial layout of Batam City through the issuance of its penological fatwa. Thus, there are dynamics related to the existence of 1 (one) area managed by 2 (two) agencies (Batam City Government and Batam Concession Agency). Furthermore, the existence of a violation of the two principles (the Principle of Legal Certainty and the Principle of Not Mixing Up Authority) has implications for the life of the people of Batam City become uncertain and makes the people of Batam experience confusion as to who authority and authority to take care of matters relating to permits and double tax issues. for the people of Batam City, so there are indications of violating the principle of implementing public interest.

Therefore, a solution as a form of resolution of the dualism of authority that has been dragging on in Batam City is needed in its journey. Moving on from its history, in addition to the Batam Concession Agency, there are also Bintan Concession Agencies and Karimun Concession Bodies in the Riau Islands Province which are respectively determined through Government Regulation Number 47 of 2007 and Government Regulation Number 48 of 2007. As the other two designated areas become a Free Trade Area and Free Port, some things need to be considered, namely related to the existence of the Bintan Regency and Karimun Regency Governments which have been formed earlier than the Bintan and Karimun Concession Agencies. So that spatial planning and its territory are still entirely in the hands of the respective regency governments. Then, for matters which fall under the authority of the Regency Government, it is not limited by the presence of the Bintan and Karimun Concession Agencies, and quite the opposite. This was later made clear by the formation of the Bintan and Karimun Zone Councils which were appointed by the President from the relevant district governments. For these two Concession Agencies (Bintan and Karimun), the Zone Council is directly chaired by the Governor of the Riau Islands. And at the Bintan Concession Board, the representatives of the Zone Council are occupied by the Regent of Bintan and the Mayor of Tanjung pinang.<sup>23</sup> Likewise, the Karimun Concession Board, of which the Regent also serves as the representative of the Karimun Zone Council.<sup>24</sup> With the existence of an organizational structure of the Zone Council like this, finally, harmonization

<sup>23</sup> Presidential Decree, "Presidential Decree Number 10 of 2008" (Indonesia, 2008).

<sup>24</sup> Presidential Decree, "Presidential Decree Number 20 of 2013" (Indonesia, 2013).

between the Regency Government and the Bintan and Karimun Concession Agency can be achieved, because the Concession Board is directly responsible to the Zone Council which is also the Regency Government.

### **1.2. The Urgency of Arrangement of Relationships Between Regional Governments and Regional Business Entities Based on the Perspective of State Administrative Law**

In the case of Batam City, the process is fundamentally much different because the Batam area has far more complex problems so if only the Batam area management structure restructured it would not be able to solve the problem of the dualism of authority that had occurred for approximately 19 (nineteen) years. This is because the management of the Batam area is also led by the Governor of the Riau Islands (similar to the structure of the Bintan and Karimun Regional Councils) before finally being led by the coordinating minister for Economic Affairs.<sup>25</sup> However, this does not have an impact on the resolution of the dualism of authority that occurs. Because based on historical records, Batam Island which in its journey was designated as an industrial area from the start, and its management was entrusted to the Batam Industrial Development Authority which later strengthened its existence through the designation of Batam as a Trade Area Free and as a Free Port based on Government Regulation Number 46 of 2007 at the same time also caused the change of name from Batam Industrial Development Authority to Free Trade Area and Free Port of Batam, as well as the addition of several tasks that have been carried out.

The management carried out by the Batam Authority from the beginning has an impact on the limited authority possessed by the Batam City Government. More precisely, the steps of the Batam City Government are limited by all existing regulations, namely regulations owned by the Batam Authority. Then the harmonization between the Batam City Government and the Concession Board itself in the process is very difficult to do, because of the strong sectoral ego between the two institutions. The dualism of authority that occurs between the two institutions reflects the size of the authority, forms of interdependence, and bargaining over the arrangements that go hand in hand.<sup>26</sup> So that solutions and collaborations are needed from the government (National and Local) as a form of concern for the management and development of Batam Island. Several attempts have been made to resolve the dualism of authority that has occurred. However, among the solutions that have been carried out by the government, namely by declaring the transfer of the Batam Free Trade Zone (FTZ) to the Special Economic Zone (SEZ) and the appointment of an ex-officio Head of the Batam Concession Agency. In practice, it turns out to be null and void and has no implications for resolving the dualism of authority. Now following the discourse on the integration of the Free Trade Areas and Free Ports of Batam, Bintan, and Karimun (FTZ BBK) through the latest legal product, namely Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports.

<sup>25</sup> Presidential Decree, "Presidential Decree Number 8 of 2016" (Indonesia, 2016).

<sup>26</sup> Lola R. Dodge, "Intergovernmental Relations and the Administrative Enforcement of Equal Employment Opportunity Laws," *Public Administration Review* 57, no. 5 (1997): 431-440.

Through Government Regulation Number 41 of 2021 which later became the legal umbrella for the establishment of a Business Entity for 1 (one) or more Regions,<sup>27</sup> and gave authority to a Business Entity of a region to form an Enterprise for 1 (one) year or more in Free Trade Areas and Free Ports (FTAFP).<sup>28</sup> Therefore, it can be interpreted that the discourse on implementing the integration of the Free Trade Areas and Free Ports (FTAFP) of Batam, Bintan, and Karimun in the process will lead to the integration of an Area Council as well as the Free Trade Area Concession Agency (FTACA) and the Free Port Concession Agency (FPCA). Previously, each Free Trade Area and Free Port (FTAFP) had its own Zone Council and Concession Board, and now it will be integrated into the Batam, Bintan, and Karimun Free Trade Area Concession Agency (FTACA) and the Free Port Concession Agency (FPCA) Batam, Bintan, and Karimun.

The order for the establishment of the Batam, Bintan, and Karimun Regional Councils is the responsibility of the minister who coordinates government affairs in the economic sector no later than 6 (six) months after this Government Regulation Number 41 of 2021 comes into force and is then stipulated by the President.<sup>29</sup> Based on these provisions, the Batam, Bintan, and Karimun Regional Councils will form the Batam, Bintan, and Karimun Concession Agency by taking into account the terms of office of the Chairman, Deputy Head, and members of the Batam, Bintan, and Karimun Concession Agency as well as the Concession Agency that have been established before the entry into force this Government Regulation.<sup>30</sup> Indeed, the integration that is intended to be carried out is one of the most effective ways to foster stability, overcome regional challenges and increase the dynamic rate of growth to achieve inclusive and sustainable development.<sup>31</sup>

In the context of the importance of structuring the relationship between local government and regional business entities from the perspective of state administrative law in the City of Batam, Riau Archipelago, where according to the author's opinion, the following crucial views can be taken into consideration in the steps for establishing the Batam, Bintan, and Karimun Concession Boards, namely:

1. Given the implication of no ex-officio designation by the Mayor of Batam in eliminating the dualism of authority to manage and develop Batam Island between the Batam City Government and the Batam Concession Agency. This is based on the facts in the field which see that after the mayor's appointment, the two agencies are still independent and with their respective powers, the same as before the appointment of the ex-officio. This is also because there is still a sectoral ego on the part of the Batam Concession Agency which has been controlled by professionals appointed by the Central Government, so it becomes reluctant/objectionable if it is now controlled by a Regional Head.
2. Considering that the Batam Free Trade Zone (FTZ), Bintan Free Trade Zone (FTZ), and Karimun Free Trade Zone (FTZ) are still in one development area, namely in a single area of the Riau Islands Province. So that later the Free Trade Zone and Free Port

<sup>27</sup> Article 4 paragraph (1) "Government Regulation Number 41 of 2021" (Indonesia, 2021).

<sup>28</sup> *Ibid.* Article 8 paragraph (1).

<sup>29</sup> *Ibid.* Article 74 paragraph (3).

<sup>30</sup> *Ibid.* Article 75 paragraph (5).

<sup>31</sup> Farhad Taghizadeh-hesary et al., "Regional Economic Integration in Asia :," *Journal of Economic Integration* 35, no. 1, 2020, pg. 1-9.

in the Riau Islands Province will no longer be separated. This also has implications for the creation of excise exemptions from Batam-Bintan-Karimun. Because so far, getting goods between regions (Batam-Bintan-Karimun) is more complicated than importing goods from Singapore.

3. Aims to establish business diversification in the respective Free Trade Zones and Free Ports. With a focus on each business such as Batam which will focus on international logistics relations, the aerospace industry, light and valuable industries, digital and creative industries, and trade and financial centers. Meanwhile, Bintan will develop international tourism, the Maintenance Repair and Overhaul (MRO) industry, the transportation industry, the food processing industry, the maritime defense industry, and the sports industry. And finally, in Karimun, the focus will be on developing the maritime industry, the oil and gas industry, the Agri-Tech industry, the marine product processing industry, and tourism.
4. Avoiding the potential for overlapping and disharmony so that efficiency can be achieved. With the integration of the Free Trade Zone and Free Port, of course, it is necessary to re-arrange the rules of the game regarding the Batam, Bintan, and Karimun Free Trade Zone and Free Port Exploitation Zone, starting from bureaucracy, duties, work areas, authority, positions, remuneration others. Then there will be a unification of regulations which at the same time cuts the long bureaucratic chain. Especially the Batam FTZ, with this integration will be able to eliminate the overlapping/dualism of authority that has emerged between the Batam Concession Agency and the Batam City Government.
5. Creating equitable development throughout the Riau Islands. Because so far, only Batam FTZ is dominant, its development is faster. This is because the Central Government has poured more funds into Batam, while FTZ Bintan and FTZ Karimun still have to go through the Governor first. With the integration of the Free Trade Zones and Free Ports of Batam, Bintan, and Karimun, it is hoped that various investment support facilities can be built evenly in every corner of Batam, Bintan, and Karimun.
6. Accelerate the implementation of development and enhancement of competitiveness that can increase economic growth and expand employment.

Thus, based on the description in points 1 (one) to 6 (six) above, to resolve the issue of a dualism of authority, as well as accelerate the implementation of development and increase the competitiveness of Free Trade Areas and Free Ports (FTA/FP) in Batam, Bintan, and Karimun, the author considers it necessary to reorganize the relationship between the Batam City Government and the Batam Concession Board by integrating the Free Trade Area (FTA) and the Batam, Bintan, and Karimun Free Port Concession Agency (FPCA), which then placed the Riau Islands Province Governor as the Head of the Batam Business Entity, Bintan, and Karimun. Therefore, after the realization of the establishment of the Batam, Bintan, and Karimun Concession Boards, the Governor of the Riau Islands Province will become the new Regional Head as well as the new Head of the Concession Board. Related to this position, it is hoped that a hierarchical relationship of authority can be created between the Regional Council and the Governor

as the Head of the administrative area because the Regional Council as the supervisor and supervisor of the Concession Board cannot simply be separated from the Governor as the regional head who understands the potential of the Riau Islands Province.

Therefore, this research is in line with the findings of Pioner,<sup>32</sup> who explained that essentially the issue of the dualism of authority between regional governments and concession agencies in an area needs to be structured through a balanced decentralization of authority to accelerate the implementation of development and increase competitiveness in an area. Then, the adoption of decentralization in question must give regional governments the ability to adopt regulations that are by their regional potential so that policies that are oriented towards sustainable development and public welfare can be achieved.<sup>33</sup>

### 3. CONCLUSION

This study concludes that the dynamics of the dualism of authority that occurs between the Government of Batam City and the Batam Concession Agency has violated several principles of good governance, namely those relating to the principle of legal certainty, the principle of not mixing up authority, and the principle of implementing the public interest. Therefore, in overcoming the dualism of authority that occurs, it is necessary to integrate the Free Trade Areas (FTA) of Batam, Bintan, and Karimun with the Free Port Concession Agency (FPCA) by placing the authority of the FPCA under the control of the Governor of the Riau Archipelago Province. Therefore, to adopt a better possibility of the findings of this research, it is crucial to make immediate changes to Government Regulation Number 46 of 2007 concerning Batam Free Trade Zone and Free Port as amended several times, most recently by Government Regulation Number 62 of 2019 concerning the Second Amendment to Government Regulation Number 46 of 2007 concerning Free Trade Areas and Free Ports.

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<sup>32</sup> Lany Pionier S, Jun Matsunami, and Bakti Setiawan, "The Institutional Dualism and Its Impact on Economic Development The Case of Dualism in Batam," *Journal of Applied Geospatial Information* 3, no. 2, 2019, pg. 244–252.

<sup>33</sup> Thomas B. Pepinsky, "Decentralization and Economic Performance in Indonesia."

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