

AUTONOMY THAT DOES NOT REACH THE TAX BASE: ACEH AND A GENERAL FISCAL STATUTE

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ABSTRACT

Special autonomy is commonly assumed to displace general legislation within its field. This article shows that the assumption fails for taxation in the clearest Indonesian case and explains why. Law No. 11 of 2006 on the Governing of Aceh confers extensive autonomy, an enhanced share of natural resource revenue, and a special autonomy fund. It does not confer autonomy over the tax base. Article 180(2) provides that the management of Aceh's own-source revenue from taxes and levies is carried out in accordance with legislation, and Article 7(2) reserves national fiscal affairs to the central government. When Law No. 1 of 2022 reassigned two thirds of provincial vehicle taxation to regencies and cities, Aceh was therefore subject to the reassignment on the same terms as every other province, and its special autonomy supplied no carve-out. The article argues that the point of resistance, if there is one, lies not in the fiscal articles but in two procedural provisions: Article 8(2), requiring consultation with the Aceh legislature on bills relating directly to the governing of Aceh, and Article 269(3), requiring the same before amendment of the autonomy statute itself. It compares this with the Constitutional Court's treatment of Papuan special autonomy, where a general-legislation reference was read down in favour of a special instrument, and asks why the two cases differ.

1. INTRODUCTION

A special autonomy statute is a promise about the future conduct of the legislature that enacted it. It says that some field will be governed differently for some territory, and it implies, without always stating, that later general legislation will not simply override the arrangement. How far that implication holds is a question of construction, and it is answered differently in different systems and different fields.

Indonesia provides an unusually clean occasion to test it. Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments reassigned 66 per cent of provincial motor vehicle tax and vehicle transfer duty to regencies and cities with effect from 5 January 2025. The reassignment is general: it applies to every province, reduces the own-source revenue of each, and was enacted without any provision addressing territories governed by special autonomy statutes.

Aceh is governed by such a statute. Law No. 11 of 2006 on the Governing of Aceh was enacted following a peace settlement, confers autonomy across most fields of government, and gives Aceh a share of natural resource revenue and a dedicated fund unavailable to other provinces. If special autonomy displaces general fiscal legislation anywhere, this is where it should. The article asks whether it does, and finds that it does not — for reasons written into the autonomy statute itself.

The research gap is that Indonesian special autonomy is studied as a settlement of political conflict and as a constitutional arrangement, but rarely as a set of provisions with a determinate reach that can be traced field by field. This article traces it for one field.

2. LITERATURE REVIEW

2.1 *What asymmetry is and what it protects*

Comparative scholarship treats asymmetric arrangements as a family rather than a type, and the differences within the family matter for the present question. Osipov (2022) maps non-territorial autonomy arrangements and shows that the label covers instruments with very different legal force. Ladner, Keuffer and Bastianen (2025), presenting the extended Local Autonomy Index, disaggregate autonomy into dimensions of which fiscal discretion is one and legal protection another, and demonstrate that systems score high on some and low on others.

That disaggregation is the point of entry. An autonomy statute may confer wide policy discretion and narrow fiscal discretion, or the reverse, and the two are not inferable from each other. Yimenu (2023) shows for Ethiopia that regions in a formally symmetrical federation exercise markedly different de facto autonomy, and Heyi (2026) extends the comparison, finding that formal grants and practical capacity diverge. Arzoz (2019), analysing the extent and limits of Spanish devolution, shows that the boundary of a devolved competence is usually settled by later litigation rather than by the founding instrument.

Popelier (2025) supplies the normative frame this article uses. Her account of loyalty in federal systems treats autonomy and cohesion as held together by obligations that are frequently procedural rather than substantive — duties to consult, to inform, to have regard — and argues that these obligations do the work that a substantive carve-out would otherwise do. Poirier and Hartery (2022) document the same phenomenon empirically, showing that intergovernmental agreements achieve informal constitutional change in systems whose written instruments say little about the relationship.

2.2 *Autonomy over what: the tax base as a distinct object*

Fiscal autonomy is a compound. A government may have autonomy over the rate of a tax, over its base, over its administration, over the disposition of its yield, or over none of these while receiving a guaranteed share of someone else's revenue. The literature is clear that these come apart.

Siwinska-Gorzela, Bukowska and Wojcik (2020) find for Polish municipalities that revenue autonomy changes the composition of local spending, distinguishing autonomy over own revenue

from receipt of transfers. Sethia (2021) separates the vertical question of how much a federation shares from the horizontal question of how it distributes, and shows that the two are governed by different instruments. Nakatani (2024) finds that revenue decentralisation relates non-monotonically to fiscal crisis risk, which presupposes that the content of decentralisation, not merely its extent, is what matters. Harikrishnan and Hiremath (2026) find that fiscal asymmetry between Indian states shapes their social spending.

For a special autonomy statute the practical question is therefore which component it grants. A statute guaranteeing an enhanced revenue share has granted something real without granting anything about the tax base; a statute conferring power to define the base has granted something quite different. Anton (2024), on the design of the European Union's revenue side, and Bonvecchi, Calvo and Stein (2020), on how the Argentine Congress used tax policy to entrench fiscal decentralisation, both show that the choice between these is deliberate and consequential.

2.3 Lex specialis and its limits

Where a special statute and a general statute both address a field, the maxim that the special prevails is a rule of construction, not a rule of hierarchy. Both instruments are statutes of the same rank, so the question is what the legislature is taken to have intended, and the maxim yields to a contrary indication in either text.

Hameed (2023) examines the related problem of implied repeal and shows that legislatures can and do disrupt the ordinary presumptions by express provision. Henriquez Vinas (2025), analysing constitutional derogatory clauses and pre-constitutional legislation, demonstrates that what survives an ordering rule depends on how the ordering rule itself is drafted. Singh (2023), on pre-constitutional laws in India, makes the parallel point that a presumption of continued validity is defeasible. Feldman (2025), exploring the idea of unenacting legislation, and Adams (2025), on criteria of validity, both direct attention to the text that determines the relationship rather than to the abstract maxim.

The implication for the present case is methodological. Establishing whether Law No. 11 of 2006 displaces Law No. 1 of 2022 in Aceh is not a matter of asserting that the special prevails. It requires reading what Law No. 11 of 2006 says about its own relationship to later general legislation, which is what Section 4 does.

2.4 The research gap

The gap is that Indonesian special autonomy has been examined as a political settlement and as a constitutional category, but its fiscal provisions have not been traced against a specific general statute to determine whether they in fact carve anything out. The general assumption that they do is untested for taxation, and this article tests it.

3. METHOD

The study is doctrinal. Its materials are Law No. 11 of 2006 on the Governing of Aceh (State Gazette of 2006 No. 62, Supplement No. 4633), read in full from the promulgated text; Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments (State Gazette of 2022 No. 4, Supplement No. 6757); Law No. 12 of 2011 on the Formation of Legislation as amended; and the decisions of the Constitutional Court identified below.

The method is to read the autonomy statute for provisions bearing on three questions in turn: what fiscal powers it confers, whether it addresses its own relationship to later legislation, and what procedural obligations it imposes on the national legislature. Each provision relied on is quoted by article number from the promulgated text. Comparative material is drawn from the Constitutional Court's treatment of Papuan special autonomy, which is the nearest domestic analogue.

Three limitations apply. The Aceh regional instrument enacted under Law No. 1 of 2022 — Qanun of Aceh No. 4 of 2024 on Aceh Taxes and Aceh Levies, Aceh Gazette of 2024 No. 4, Supplement No. 142 — is in force but its promulgated text is not publicly retrievable, so this article makes no claim about what rates Aceh set. The analysis is confined to the relationship between the two statutes and does not examine administration. And the Constitutional Court has not decided a case on the fiscal articles of Law No. 11 of 2006, so the reading offered here is unconfirmed by authority.

4. RESULTS AND DISCUSSION

4.1 What Law No. 11 of 2006 confers in the fiscal field

The fiscal provisions occupy Chapter XXIV, Articles 178 to 195, and their structure repays attention because what they grant is precise and what they omit is equally so.

Article 178(1) and (2) establish that funding follows function, so devolved affairs are charged to the Aceh and district budgets. Article 179(1) and (2) identify the sources of revenue as own-source revenue, balancing funds, the special autonomy fund, and other lawful receipts. Article 180(1) enumerates the components of own-source revenue: regional taxes, regional levies, the proceeds of separated regional assets, zakat, and other lawful own-source revenue. The inclusion of zakat is distinctive and has no counterpart elsewhere in Indonesian regional finance.

The substantial grants are in Articles 181 to 183. Article 181 confers enhanced shares of shared revenue — 90 per cent of land and building tax, 80 per cent of duty on acquisition of land and building rights, 20 per cent of income tax, 80 per cent of forestry, fishery, general mining and geothermal revenue, 15 per cent of oil and 30 per cent of gas — and Article 181(3) adds a further 55 per cent of oil and 40 per cent of gas revenue. Article 182 governs the management of that additional petroleum revenue and earmarks at least 30 per cent of it for education. Article 183 establishes the special autonomy fund at 2 per cent of the national general allocation fund ceiling for fifteen years and 1 per cent for the following five.

These are large grants and they are real. Every one of them, however, concerns the share of revenue Aceh receives or the fund it is allocated. None concerns the definition of a tax base or the power to set a rate.

4.2 The provision that decides the question

Article 180(2) is the provision on which the analysis turns. It provides that the management of the sources of own-source revenue referred to in paragraph (1)(a) and (b) — that is, regional taxes and regional levies — is carried out with reference to legislation.

The clause does two things at once. It confirms that Aceh has regional taxes and levies, which paragraph (1) had already established. And it subordinates their management to legislation generally, without qualification, without a saving for later enactments, and without any reference back to Law No. 11 of 2006 itself. On its face it is a deference clause: whatever the general law of regional taxation provides, that is what governs Aceh's regional taxes.

Article 7 supports the same reading from a different direction. Article 7(1) confers on Aceh and its districts authority to regulate and administer all public sectors except those reserved to the central government, and Article 7(2) reserves matters that are national in character, foreign policy, defence, security, justice, national monetary and fiscal affairs, and certain religious matters. National fiscal affairs is thus an enumerated central reservation within the autonomy statute itself.

The conclusion follows without strain. Law No. 11 of 2006 does not confer on Aceh any power over the definition or assignment of a tax base that could resist a later general statute. When Law No. 1 of 2022 reassigned two thirds of provincial vehicle taxation, it operated in a field that Law No. 11 of 2006 had expressly left to general legislation. There is no *lex specialis* question to resolve, because the special statute declined the field.

4.3 Where resistance would have to be located instead

If the fiscal articles supply no carve-out, the question becomes whether anything else in Law No. 11 of 2006 constrains the enactment of a statute like Law No. 1 of 2022. Two provisions do, and both are procedural rather than substantive.

Article 8(2) provides that a plan by the House of Representatives to form a law relating directly to the governing of Aceh is undertaken with consultation of, and consideration by, the Aceh legislature. Article 269(3) provides that in the event of a plan to amend Law No. 11 of 2006 itself, that is done by first consulting and obtaining the consideration of the Aceh legislature. The two differ in scope: the second is confined to amendment of the autonomy statute, the first extends to any law relating directly to the governing of Aceh.

Whether Law No. 1 of 2022 relates directly to the governing of Aceh is arguable in both directions. Against: it is a general fiscal statute addressed to all regions, it does not name Aceh, and it does not amend Law No. 11 of 2006. For: it alters the composition of Aceh's own-source revenue, a matter Article 180(1) of the autonomy statute expressly enumerates, and it does so by removing two

thirds of two taxes. The article does not resolve the argument, and notes that the published record does not disclose whether consultation occurred.

This is where Popelier's (2025) account of federal loyalty becomes directly applicable rather than merely illustrative. Her claim is that cohesion in asymmetric systems is maintained by procedural obligations that operate before a conflict crystallises, and that these obligations bear the weight a substantive carve-out would otherwise carry. Law No. 11 of 2006 is drafted in exactly that pattern: it declines to protect the tax base and instead requires that Aceh be heard before laws touching its governance are made. Whether that protection is worth as much depends entirely on whether the requirement is observed and whether it is enforceable.

4.4 The one clause that does carve something out

There is a genuine *lex specialis* clause in Law No. 11 of 2006, and it is instructive that it concerns a different object. Article 235(2) provides that the central government may annul a qanun that is contrary to the public interest, to another qanun, or to higher legislation, except as otherwise provided in this Law. The final phrase is the carve-out.

Article 235(3) and (4) complete the arrangement: qanun are reviewable by the Supreme Court, and qanun implementing Islamic law may be annulled only through judicial review by that Court, not by executive act. So the protection Law No. 11 of 2006 does supply is protection of Aceh's legislative product against executive annulment, channelling any challenge into a court.

The contrast with the fiscal articles is sharp and, on the face of the statute, deliberate. Where the drafters wished to displace the ordinary rule they said so, using an express exception. Where they wished to defer to it, as in Article 180(2), they said that instead. Adams (2025) and Edgar and Stack (2019) both proceed from the premise that the authority of a norm is read from what its text does; on that premise the two provisions are doing opposite things, and the fiscal one is deferring.

4.5 The Papuan comparison

The nearest domestic analogue points the other way, and the divergence is worth stating precisely because it shows the outcome here was not inevitable.

In Decision No. 116/PUU-VII/2009 the Constitutional Court partly granted a challenge to Article 6(2) of Law No. 21 of 2001 on Special Autonomy for the Papua Province. The provision referred a matter to determination in accordance with legislation, and the Court held the phrase unconstitutional unless read as referring instead to a special regional regulation — the Papuan instrument. That is a reading down of a general-legislation reference in favour of a special-autonomy instrument, and it is the strongest available authority for the proposition that Indonesian special autonomy can displace general law.

Two features distinguish it from the present case. The Papuan provision concerned the composition and functioning of an autonomy institution, which is at the core of what an autonomy statute exists to protect; Article 180(2) of the Aceh statute concerns the management of taxes, which the same statute's Article 7(2) has already placed within a central reservation. And the phrase read

down in the Papuan case appeared in the special statute as a referral outward, whereas Article 180(2) is a general deference clause covering an entire revenue category.

The subsequent Papuan jurisprudence reinforces the limit rather than extending the principle. In Decision No. 47/PUU-XIX/2021, decided 31 August 2022, challenges to the 2021 amendments centralising aspects of Papuan special autonomy were either declared inadmissible or rejected, so the centralising amendments survived review. A reading of Indonesian special autonomy as robustly resistant to later general legislation is not supported by the decided cases taken as a whole.

4.6 What follows for the surcharge in Aceh

The practical consequences can be stated shortly. Aceh is subject to the reassignment on the same terms as every other province. Its regencies and cities levy the surcharge at 66 per cent, as elsewhere. Its provincial revenue from the two vehicle taxes fell by the same statutory mechanism.

One consequence is specific to Aceh and cuts against it. Because Article 183 fixes the special autonomy fund as a percentage of the national general allocation fund ceiling rather than as a function of Aceh's own revenue, the fund does not adjust when Aceh's own-source revenue falls. The enhanced shares in Article 181 likewise attach to natural resource and property-related revenue, not to vehicle taxation. Neither of the two large fiscal grants in the autonomy statute responds to a loss of the kind Law No. 1 of 2022 imposed.

This is not a drafting oversight so much as a consequence of what the autonomy statute chose to guarantee. A guarantee expressed as a share of a specified national aggregate is stable and predictable, which is presumably why it was chosen; the price of that stability is that it does not compensate for movements elsewhere in the recipient's revenue. Nakatani (2024) and Harikrishnan and Hiremath (2026) both find that the composition of a subnational government's revenue conditions its response to fiscal change, and Aceh's composition is unusually rigid at both ends.

One further point belongs here because it bears on how the reassignment should be characterised. The principle of legality, as Varuhas (2020) formulates it, is a presumption about how statutes are read where they bear on established rights: general words are not lightly taken to abrogate a right unless the legislature has confronted the question. Van der Vlught (2023) traces the fiscal form of the principle and shows that its bite depends on how much a tax statute leaves to be settled elsewhere. Applied to Aceh, the presumption would ask whether Law No. 1 of 2022 confronted the position of a province holding a special autonomy statute. Nothing in the enacted text indicates that it did; the statute contains no provision addressing special autonomy territories at all. That silence does not make the reassignment ineffective, because Article 180(2) of the autonomy statute had already deferred the field. But it does mean the outcome rests on the earlier statute's deference rather than on any deliberate later choice, which is a weaker foundation than it may appear.

4.7 Two objections

The first objection is that Article 180(2) refers to management, not to assignment, and that a provision about how Aceh administers its taxes says nothing about whether those taxes may be taken

away. The distinction is real and the objection is the strongest available. Two considerations answer it. Article 7(2) independently reserves national fiscal affairs to the centre, so the argument does not rest on Article 180(2) alone; and the enumerated list in Article 180(1) is drafted as a description of categories rather than as a guarantee of any particular tax, so nothing in it fixes which taxes fall within the category of regional taxes.

The second objection is that the analysis proves too much: if special autonomy does not protect the tax base, it is unclear what fiscal protection it offers at all. The article accepts the implication and regards it as the finding rather than a difficulty. Law No. 11 of 2006 offers substantial fiscal protection of a particular kind — guaranteed shares and a dedicated fund — and no protection of another kind. Distinguishing the two is the contribution, and the disaggregated view of autonomy that Ladner and colleagues (2025) advance is what makes the distinction expressible.

4.8 Limitations

Three limitations qualify the argument. The reading of Article 180(2) is unconfirmed by authority, since the Constitutional Court has not decided a case on the fiscal articles of Law No. 11 of 2006; the decided Aceh cases concern electoral and candidacy provisions, not finance. The Papuan comparison rests on a decision about an autonomy institution rather than about revenue, so its transferability is limited and the article has said so.

The third limitation is evidential. Whether the consultation required by Article 8(2) was undertaken before the enactment of Law No. 1 of 2022 is not disclosed in the published record, and the article therefore cannot say whether the procedural protection it identifies was engaged, observed, or ignored. That question is answerable from parliamentary records and is proposed as an extension.

4.9 Summary of findings

The documentary findings are four. Law No. 11 of 2006 confers enhanced revenue shares in Article 181 and a special autonomy fund in Article 183, both defined by reference to national aggregates. Article 180(2) subordinates the management of Aceh's regional taxes and levies to legislation generally. Article 7(2) reserves national fiscal affairs to the central government. And Article 235(2) contains an express exception clause protecting qanun from executive annulment, demonstrating that the drafters used explicit language where they intended to displace the general rule.

The interpretive claims are three. Aceh's special autonomy confers no power over the tax base capable of resisting a later general fiscal statute, so Law No. 1 of 2022 applied to Aceh without a *lex specialis* question arising. Any constraint on the enactment of such a statute is procedural, residing in the consultation requirements of Articles 8(2) and 269(3). And the Papuan precedent in Decision No. 116/PUU-VII/2009, though it read a general-legislation reference down in favour of a special instrument, concerned an autonomy institution rather than revenue and does not extend to this case.

5. CONCLUSION

The statute that governs Aceh gives it more revenue than other provinces receive and less protection of the tax base than is commonly assumed. Article 180(2) hands the management of Aceh's taxes to general legislation in terms, and Article 7(2) places national fiscal affairs among the central reservations. When a general statute reassigned two thirds of two provincial taxes, there was no special provision for it to yield to.

The general claim is that fiscal autonomy is a compound, and that a special autonomy statute may grant one component generously while declining another entirely. Assessing what an autonomy arrangement protects therefore requires reading it component by component rather than inferring from its overall generosity. Aceh is a case in which the guarantees are large, the fiscal carve-out is absent, and the difference is written into the text.

Two extensions follow. Parliamentary records would establish whether the consultation required by Article 8(2) was undertaken, which would show whether the procedural protection identified here operates in practice. And a comparison with the Papuan special autonomy statute, examining whether its fiscal articles are drafted in the same deferential form, would establish whether the finding is peculiar to Aceh or general to Indonesian asymmetric arrangements.

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