

Governmental Discretion under the General Principles of Good Governance: A Normative Analysis of the Abuse of Administrative Authority in Indonesia

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Abstract : Governmental discretion is an essential instrument of modern public administration, particularly when statutory law does not explicitly regulate specific circumstances. It allows public officials to respond flexibly to complex administrative situations while maintaining effective public services. This study examines governmental discretion in Indonesian administrative law, its relationship with the General Principles of Good Governance (Asas-Asas Umum Pemerintahan yang Baik/AUPB), and the potential for abuse of authority in administrative decision-making. Using normative legal research, the study applies statutory, conceptual, and case approaches to analyse legislation, legal doctrines, and judicial decisions. The findings show that discretion constitutes a legitimate legal mechanism when exercised according to the purpose of delegated authority, applicable legislation, and good governance principles. However, weak administrative supervision and limited institutional understanding of its legal boundaries may result in maladministration and abuse of authority. Therefore, stronger oversight, improved legal competence among public officials, and consistent implementation of good governance principles are required to ensure accountable, transparent, and citizen-oriented public administration.

Keywords : Governmental Discretion, Abuse of Authority, Administrative Law, Administrative Decision-Making, General Principles of Good Governance

Abstrak : Diskresi pemerintahan merupakan instrumen penting dalam administrasi publik modern, terutama ketika peraturan perundang-undangan belum mengatur keadaan tertentu secara tegas. Diskresi memungkinkan pejabat publik merespons situasi administratif yang kompleks secara fleksibel sekaligus menjaga efektivitas pelayanan publik. Penelitian ini mengkaji diskresi pemerintahan dalam hukum administrasi Indonesia, hubungannya dengan Asas-Asas Umum Pemerintahan yang Baik (AUPB), serta potensi penyalahgunaan wewenang dalam pengambilan keputusan administratif. Penelitian hukum normatif ini menggunakan pendekatan perundang-undangan, konseptual, dan kasus untuk menganalisis peraturan, doktrin hukum, serta putusan pengadilan. Hasil penelitian menunjukkan bahwa diskresi merupakan mekanisme hukum yang sah apabila digunakan sesuai tujuan pemberian wewenang, peraturan yang berlaku, dan prinsip pemerintahan yang baik. Namun, lemahnya pengawasan administratif dan

terbatasnya pemahaman kelembagaan mengenai batas hukum diskresi dapat menimbulkan maladministrasi dan penyalahgunaan wewenang. Oleh karena itu, diperlukan penguatan pengawasan, peningkatan kompetensi hukum pejabat publik, dan penerapan AUPB secara konsisten untuk mewujudkan administrasi publik yang akuntabel, transparan, dan berorientasi pada masyarakat.

Kata kunci: *Diskresi Pemerintahan; Penyalahgunaan Wewenang; Hukum Administrasi; Pengambilan Keputusan Administratif; Asas Pemerintahan Yang Baik.*

INTRODUCTION

The increasing complexity of contemporary governance requires governments to respond promptly and effectively to diverse public needs while maintaining compliance with the rule of law. In practice, public officials frequently encounter administrative situations that are not explicitly regulated by legislation, creating legal uncertainty in governmental decision-making. Under such circumstances, governmental discretion becomes an indispensable legal instrument that enables public officials to adopt administrative decisions and actions necessary to ensure the continuity of public services and the effectiveness of government administration (Hadjon, 2002; HR, 2020).

Within administrative law, discretion is understood as the legally recognized authority of public officials to make decisions where legislation provides alternatives, contains legal ambiguity, fails to regulate specific circumstances, or where governmental stagnation would otherwise occur. Rather than constituting unrestricted freedom, discretionary authority functions as a mechanism for reconciling the principle of legality with the practical demands of modern governance. Consequently, discretion plays a strategic role in promoting adaptive, efficient, and responsive public administration while remaining subject to legal accountability (Atmosudirdjo, 1994; Indroharto, 2004).

The legal foundation of governmental discretion in Indonesia is established under Law Number 30 of 2014 concerning Government Administration, which explicitly defines discretion as a governmental decision and/or action undertaken to resolve concrete administrative problems when legislation provides several alternatives, contains incomplete or unclear provisions, fails to regulate a particular issue, or when governmental stagnation occurs. The enactment of this legislation represents a significant reform in Indonesian administrative law because it not only recognizes discretionary authority but also establishes substantive and procedural safeguards governing its exercise (Najicha, 2021).

Despite its legal legitimacy, the exercise of governmental discretion continues to generate significant legal and administrative challenges. Broad discretionary authority may create opportunities for inconsistent interpretation, arbitrary decision-making, and abuse of authority, particularly where institutional oversight and accountability mechanisms remain ineffective. In Indonesia, misuse of discretionary authority has frequently been associated with maladministration, violations of the principles of legality, and corruption-related practices that undermine public confidence in government institutions. Consequently, discretion should not merely be viewed as an instrument of administrative flexibility but also as a potential source of legal liability when exercised beyond the limits prescribed by law (Yulius, 2015; Antoro, 2020; Rahman et al., 2024).

To prevent arbitrary administrative action, Indonesian administrative law requires every exercise of discretionary authority to comply with the General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik/AUPB*). These principles including legal certainty, expediency, impartiality, accuracy, prohibition of abuse of authority, transparency, prioritization of the public interest, and quality public service constitute normative standards for assessing both the legality and legitimacy of governmental decisions. Accordingly, AUPB functions not only as an ethical guideline but also as a legally enforceable benchmark for administrative accountability and judicial review of governmental actions (Hadjon, 2002; HR, 2020; Najicha, 2021).

Although previous studies have examined governmental discretion, most have concentrated on its statutory basis or the judicial review of abuse of authority under Law Number 30 of 2014. Comparatively limited attention has been devoted to analysing how the General Principles of Good Governance operate as preventive legal mechanisms capable of limiting discretionary authority before maladministration or abuse of power occurs. Existing scholarship also pays relatively little attention to the relationship between discretionary authority, administrative accountability, and preventive governance in the context of contemporary public administration (Najicha, 2021; Antoro, 2020).

This study therefore examines governmental discretion from the perspective of the General Principles of Good Governance by addressing three principal issues: (1) the legal concept of governmental discretion within Indonesian administrative law; (2) the application of the General Principles of Good Governance in regulating discretionary authority; and (3) the forms of abuse of authority arising from discretionary administrative decisions and the legal mechanisms available to prevent such abuse. Using normative legal research based on statutory, conceptual, and case approaches, this study contributes to the development of Indonesian administrative law by clarifying the legal boundaries of governmental discretion and strengthening the role of good governance principles in promoting accountable, transparent, and citizen-oriented public administration.

METHODS

This study employed normative or doctrinal legal research, which is appropriate for examining, interpreting, and systematising legal norms, statutory provisions, legal principles, and judicial reasoning relevant to a specific legal issue (Hutchinson & Duncan, 2012). The research aimed to evaluate the legal framework governing governmental discretionary authority and assess its consistency with the General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik/AUPB*). The study adopted three complementary legal approaches. First, the statutory approach was applied to examine the constitutional and legislative framework governing governmental discretion, particularly the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 2014 concerning Government Administration, Law Number 5 of 1986 concerning State Administrative Courts and its amendments, Law Number 28 of 1999 concerning State Administration Free from Corruption, Collusion, and Nepotism, and other relevant implementing regulations. This approach enabled the identification and systematic interpretation of legal norms regulating discretionary authority and the legal limitations imposed on its exercise.

Second, the conceptual approach was employed to analyse the legal doctrines and theoretical foundations of governmental discretion, abuse of authority, administrative accountability, and the General Principles of Good Governance. The conceptual analysis was based on established administrative law and governance literature to clarify the normative relationship between discretionary authority, administrative accountability, and the rule of law (Hadjon, 2002; HR, 2020; Craig, 2021). Third, the case approach was used to examine selected judicial decisions concerning governmental discretion and abuse of authority, including relevant decisions of the Supreme Court of the Republic of Indonesia. The examination of judicial reasoning provided practical insights into how statutory provisions and administrative law principles have been interpreted and applied in resolving disputes arising from discretionary administrative decisions.

The legal materials consisted of primary, secondary, and tertiary legal sources. Primary legal materials included constitutional provisions, legislation, government regulations, and judicial decisions. Secondary legal materials comprised scholarly books, peer-reviewed journal articles, and previous studies addressing administrative law, governmental discretion, abuse of authority, and good governance. Tertiary legal materials included legal dictionaries, encyclopaedias, and other reference materials used to clarify relevant legal terminology and concepts. The legal materials were collected through document and literature studies and analysed using a qualitative descriptive-analytical method. The analysis involved identifying relevant legal issues and norms, interpreting statutory provisions through systematic and doctrinal interpretation, comparing

applicable legal principles with judicial practice, and synthesising the findings. Judicial decisions were analysed using the IRAC framework, consisting of Issue, Rule, Application or Analysis, and Conclusion. This framework was used to identify the legal issue examined by the court, determine the applicable legal rules and principles, evaluate how those rules were applied to the relevant facts, and identify the legal conclusions reached in the decision (Sukiati et al., 2024).

The analytical process was directed at evaluating whether the exercise of governmental discretion conforms to the General Principles of Good Governance. It ultimately enabled the formulation of normative legal conclusions regarding the boundaries of governmental discretionary authority and the institutional mechanisms necessary to prevent abuse of authority in administrative decision-making.

RESULTS AND DISCUSSIONS

Governmental Discretion in Indonesian Administrative Law

Governmental discretion constitutes one of the fundamental instruments of contemporary administrative law, particularly within welfare state systems where governments are expected to respond effectively to increasingly complex social, economic, and political challenges. The expansion of governmental responsibilities has made it impossible for legislation to regulate every administrative circumstance in detail. Consequently, administrative officials require a certain degree of flexibility to make decisions when statutory provisions are incomplete, ambiguous, or incapable of addressing urgent public needs. This flexibility is legally recognized as governmental discretion, which serves as an exception to the strict application of the principle of legality while remaining subject to legal limitations (Hadjon, 2002; HR, 2020).

The concept of discretion has long been recognized in administrative law scholarship. Utrecht defines discretion as the freedom of administrative authorities to formulate policies and make decisions necessary to resolve concrete governmental problems within the framework of legal authority. Similarly, Atmosudirdjo (1994) argues that discretion represents the freedom of administrative action exercised within legally prescribed limits to achieve governmental objectives efficiently and effectively. These perspectives indicate that discretion should not be interpreted as unrestricted authority but rather as a complementary mechanism that enables public administration to function when positive law cannot anticipate every practical situation. Therefore, discretion operates as a legal instrument designed to reconcile administrative effectiveness with the rule of law (Atmosudirdjo, 1994; Indroharto, 2004).

The legal basis for governmental discretion in Indonesia is explicitly regulated under Law Number 30 of 2014 concerning Government Administration. Article 1 paragraph (9) defines discretion as a governmental decision and/or administrative action taken to resolve concrete administrative problems when legislation provides several alternatives, contains incomplete or unclear provisions, does not regulate a particular issue, or where governmental stagnation exists. Furthermore, Article 22 establishes that discretion may only be exercised to facilitate governmental administration, fill legal gaps, provide legal certainty, and overcome governmental stagnation in particular circumstances. These provisions demonstrate that Indonesian administrative law acknowledges discretion as a legitimate legal authority while simultaneously restricting its exercise through substantive and procedural safeguards (Hadjon, 2002; HR, 2020).

From a constitutional perspective, governmental discretion reflects the transformation of the Indonesian state from a traditional regulatory state toward a welfare state that actively guarantees public welfare. Under this model, public officials are expected not merely to enforce statutory provisions but also to ensure that administrative decisions effectively protect public interests. Consequently, discretion becomes an indispensable component of public administration because governmental effectiveness frequently depends upon the ability of officials to respond promptly to emerging societal needs. Nevertheless, this expanded administrative authority also increases the possibility of inconsistent interpretation and arbitrary decision-making when adequate legal safeguards are absent (Asshiddiqie, 2012; Manan, 2004).

Recent administrative practice demonstrates that discretionary authority has become increasingly important in responding to extraordinary circumstances, including disaster

management, emergency procurement, digital public services, and public health crises. During such situations, government officials often cannot rely exclusively on rigid statutory procedures because delays may jeopardize public safety or undermine the continuity of essential public services. Accordingly, discretion provides legal flexibility while ensuring that governmental functions continue to operate effectively. However, this flexibility must remain consistent with constitutional principles, statutory objectives, and administrative accountability (Marbun, 2011; HR, 2020).

Despite its practical necessity, governmental discretion simultaneously creates significant legal risks. Broad discretionary authority inevitably expands the possibility of abuse of authority when administrative decisions are motivated by personal interests, political intervention, or institutional pressures rather than public welfare. Such misuse not only violates statutory provisions but also undermines public confidence in government institutions and weakens the legitimacy of administrative decision-making. Consequently, modern administrative law no longer evaluates discretionary authority solely from the perspective of formal legality but also examines whether discretionary decisions conform to broader principles of justice, proportionality, transparency, and accountability (Sadjijono, 2008; Lotulung, 1994).

The foregoing analysis demonstrates that governmental discretion possesses a dual character. On the one hand, it constitutes an indispensable instrument for ensuring effective governance and adaptive public administration. On the other hand, inadequate legal control may transform discretion into an instrument of arbitrary governmental power. Therefore, the legitimacy of discretionary authority depends not merely upon statutory authorization but also upon the extent to which administrative decisions comply with the General Principles of Good Governance. These principles function as normative safeguards that ensure discretionary authority remains consistent with constitutional governance and democratic accountability (Hadjon, 2002; HR, 2020).

Application of the General Principles of Good Governance (AUPB) in the Exercise of Governmental Discretion

The General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik*—AUPB) constitute the normative foundation of Indonesian administrative law and serve as the principal legal standard governing the exercise of governmental discretion. Unlike statutory rules, which regulate specific governmental actions, AUPB provides general legal principles that guide administrative decision-making whenever legislation is incomplete, ambiguous, or requires further interpretation. Consequently, AUPB performs both preventive and corrective functions by ensuring that discretionary authority remains consistent with constitutional values, administrative ethics, and the protection of citizens' rights (Hadjon, 2002; Lotulung, 1994).

Law Number 30 of 2014 concerning Government Administration identifies several principles comprising AUPB, including legal certainty, expediency, impartiality, accuracy, the prohibition of abuse of authority, transparency, prioritisation of the public interest, and quality public service. These principles collectively establish objective legal standards for evaluating whether governmental discretion has been exercised legitimately. An administrative decision based on formal statutory authority may nevertheless be unlawful when its substance, purpose, procedure, or factual basis disregards these fundamental principles. Accordingly, AUPB broadens the concept of administrative legality by incorporating substantive standards of fairness, proportionality, accuracy, and accountability (HR, 2020; Manan, 2004).

Among these principles, the prohibition of abuse of authority occupies a particularly significant position because it directly limits discretionary power. Articles 17 and 18 of Law Number 30 of 2014 prohibit government bodies and officials from exceeding their authority, confusing or mixing different authorities, and acting arbitrarily. Administrative officials must therefore exercise discretion exclusively for the purposes for which the authority was legally granted and may not use it to pursue personal, political, or institutional interests that are inconsistent with the objectives of the relevant legislation. This principle reflects the doctrine of *détournement de pouvoir*, under which governmental action becomes unlawful when an

authorised power is exercised for a purpose other than that prescribed by law (Indroharto, 2004; Marbun, 2011).

The practical application of these limitations can be examined through Supreme Court Decision Number 42 K/TUN/2017. The case arose from an electoral administrative dispute involving Anwar, S.Sos., and others against the Chairperson of the General Elections Commission of North Konawe Regency (*Komisi Pemilihan Umum Kabupaten Konawe Utara*—KPU Konawe Utara) and the candidate pair represented by Ruksamin and others. The dispute concerned the legality of an administrative decision issued by KPU Konawe Utara in connection with the eligibility of a candidate for the 2015 North Konawe regency election, particularly the fulfilment of the resignation requirement applicable to Raup, who had held office as a member of the North Konawe Regency Regional House of Representatives.

The controversy arose because the candidate had submitted a statement of resignation, but the completion of the formal dismissal process involved actions by another competent institution. KPU Konawe Utara consequently had to determine whether the available resignation documents, the candidate's demonstrated intention to relinquish office, and the administrative process conducted by the competent authority were sufficient to satisfy the candidacy requirements. This situation created a limited area of administrative judgment because the KPU was required to apply mandatory electoral requirements to circumstances in which the completion of a document depended partly on an institution outside the candidate's direct control (Supreme Court Decision No. 42 K/TUN/2017).

The case demonstrates that the legality of governmental discretion cannot be assessed solely by determining whether the administrative authority formally possessed the competence to issue the disputed decision. The court was also required to examine the purpose for which the authority was exercised, the factual and documentary basis of the decision, the procedure followed by the KPU, and the consistency of the decision with the applicable electoral legislation. In this context, the KPU's evaluative authority was not unlimited discretion but a legally structured power that had to remain connected to its statutory responsibility to verify candidates, administer the stages of the election, and guarantee a fair and legally certain electoral process.

From the perspective of AUPB, Supreme Court Decision Number 42 K/TUN/2017 may be analysed through at least four interrelated principles. First, the principle of legal certainty required the KPU to apply candidacy requirements consistently and to establish a clear legal basis for accepting or rejecting the resignation documents. Second, the principle of accuracy required the KPU to verify the relevant documents, identify the competent institution responsible for processing the resignation, and distinguish between a delay attributable to the candidate and a delay caused by an external administrative process. Third, the principle of impartiality required the same evidentiary and procedural standards to be applied to every candidate without granting politically motivated preferential treatment. Fourth, the prohibition of abuse of authority required the KPU to exercise its evaluative authority exclusively for ensuring lawful candidate verification rather than for benefiting or disadvantaging a particular candidate pair.

Under this analytical framework, an abuse of authority would have occurred if the KPU had ignored a mandatory candidacy requirement, accepted incomplete documents without objective verification, selectively relaxed the requirements for one candidate, or based its decision on political considerations unrelated to the purpose of its electoral authority. Conversely, the exercise of administrative judgment could remain lawful when it was supported by verified evidence, conducted through the prescribed institutional procedure, and directed toward resolving an administrative obstacle that was not deliberately created by the candidate. Thus, the relevant legal question was not merely whether the final dismissal document was available at a particular moment, but whether the KPU had reasonably, accurately, and impartially assessed the candidate's compliance with the substantive and procedural requirements.

This case also illustrates the importance of proportionality in reviewing discretionary decisions. A rigid interpretation that automatically disqualified a candidate because of a delay caused by another administrative institution could produce an excessive consequence, particularly when the candidate had undertaken the legally required actions within the

prescribed period. Nevertheless, good faith alone could not replace mandatory statutory requirements. It could only be considered together with documentary evidence, procedural compliance, and verification by the authorised electoral institution. The proportionality assessment therefore required a balance between strict compliance with electoral rules, the candidate's right to participate in the election, and the public interest in maintaining the integrity and certainty of the electoral process.

The analysis of Supreme Court Decision Number 42 K/TUN/2017 confirms that judicial supervision of discretion encompasses both the legality of authority and the quality of the administrative reasoning supporting its exercise. The court's role is not to replace the policy judgment of the administrative body but to determine whether the decision remained within the statutory boundaries of authority, was based on relevant facts, followed the required procedure, and complied with AUPB. The case approach therefore demonstrates how abstract principles such as legal certainty, accuracy, impartiality, proportionality, and the prohibition of abuse of authority operate as concrete judicial standards for reviewing administrative decisions.

The principle of legal certainty more generally plays a central role in ensuring the legitimacy of discretionary decisions. Government officials must clearly identify the legal basis, factual considerations, administrative objectives, and relevant public interests supporting every discretionary action. Transparent legal reasoning enables judicial review, administrative supervision, and public accountability while reducing opportunities for arbitrary interpretation. Similarly, the principles of transparency and public interest require discretionary decisions to be accessible, objectively justified, and directed toward maximising public welfare rather than benefiting particular individuals or groups (Asshiddiqie, 2012; HR, 2020).

From the perspective of democratic governance, AUPB represents more than an administrative guideline; it functions as an institutional safeguard protecting citizens from arbitrary governmental action. The increasing complexity of contemporary governance requires public officials to possess sufficient administrative flexibility, yet such flexibility must remain balanced by stronger accountability mechanisms. Consequently, the consistent implementation of AUPB strengthens public trust, enhances governmental legitimacy, improves administrative performance, and supports continuing bureaucratic reform. Conversely, inconsistent application of these principles creates opportunities for maladministration, discriminatory policies, procedural irregularities, corruption, and declining public confidence in governmental institutions (Sadjijono, 2008; Manan, 2004; HR, 2020).

Therefore, the relationship between governmental discretion and AUPB should be understood as mutually reinforcing rather than contradictory. Discretion enables public authorities to respond effectively to complex circumstances that cannot always be regulated exhaustively in advance, whereas AUPB ensures that such flexibility remains compatible with constitutional governance, the rule of law, and the protection of fundamental rights. As demonstrated by Supreme Court Decision Number 42 K/TUN/2017, the legitimacy of discretion depends not only on the existence of formal authority but also on the legality of its purpose, the accuracy of its factual basis, the fairness of its procedure, and its conformity with the General Principles of Good Governance.

Implications of Governmental Discretion for Good Governance and the Protection of Citizens' Rights

The exercise of governmental discretion extends beyond the technical process of administrative decision-making and has significant implications for the quality of public governance and the protection of citizens' rights. Within a democratic state governed by the rule of law, discretion should function as a legal instrument that enables public authorities to respond effectively to societal needs while remaining accountable to constitutional principles. Accordingly, the legitimacy of governmental discretion depends not only on compliance with statutory provisions but also on adherence to broader principles of transparency, accountability, proportionality, and justice (Asshiddiqie, 2012; Hadjon, 2002).

The transformation of Indonesia into a welfare-oriented state has substantially expanded governmental responsibilities in delivering public services. This transformation inevitably

requires administrative officials to make timely decisions in situations where legislation cannot comprehensively regulate every practical circumstance. Consequently, discretionary authority has become increasingly important in disaster management, emergency procurement, digital public services, environmental governance, and public health administration. These developments demonstrate that governmental discretion is indispensable for ensuring administrative continuity and effective policy implementation under dynamic social conditions (HR, 2020; Marbun, 2011).

Nevertheless, increased administrative flexibility also introduces greater legal and institutional risks. Discretion exercised without adequate legal safeguards may generate uncertainty, inconsistent administrative practice, and unequal treatment of citizens. Administrative decisions lacking transparency frequently provoke legal disputes because affected individuals are unable to understand the legal reasoning underlying governmental actions. Such conditions undermine the principle of legal certainty and weaken public confidence in administrative institutions. Therefore, discretion should always be accompanied by comprehensive legal reasoning and documented administrative justification that enables judicial and public scrutiny (Indroharto, 2004; Lotulung, 1994).

Another important implication concerns the protection of citizens' fundamental rights. Administrative decisions directly influence access to public services, business licensing, environmental protection, land administration, taxation, and numerous other governmental functions. Consequently, arbitrary discretionary decisions may violate constitutional guarantees of equality before the law and due administrative process. The General Principles of Good Governance therefore operate as substantive legal safeguards by ensuring that discretionary authority remains proportionate, objective, impartial, and directed toward the public interest rather than private or political considerations (Hadjon, 2002; HR, 2020).

One of the persistent challenges in Indonesian public administration is the predominance of a bureaucratic culture emphasizing hierarchical authority rather than public service. Within such institutional environments, discretion is occasionally perceived as unrestricted executive power rather than legally constrained administrative authority. This perception increases opportunities for procedural manipulation, selective law enforcement, and unequal administrative treatment. Consequently, strengthening legal awareness among public officials is as important as improving statutory regulation because effective administrative governance ultimately depends upon institutional commitment to legal and ethical principles (Manan, 2004; Sadjijono, 2008).

Administrative accountability also requires meaningful public participation and institutional transparency. Citizens should have adequate access to administrative information, opportunities to challenge governmental decisions, and effective legal remedies when discretionary authority adversely affects their rights. In this regard, the Administrative Court, the Ombudsman of the Republic of Indonesia, and internal governmental supervisory bodies collectively perform essential oversight functions by reviewing the legality, proportionality, and procedural fairness of administrative decisions. Effective oversight reinforces democratic governance by preventing arbitrary governmental action while preserving necessary administrative flexibility (Marbun, 2011; Lotulung, 1994).

The practical importance of external administrative supervision is also reflected in the 2023 Annual Report of the Ombudsman of the Republic of Indonesia. The report documents the institution's handling of public complaints, prevention of maladministration, and supervision of public service delivery. These supervisory activities demonstrate that maladministration frequently arises not only from explicit violations of legislation but also from procedural delays, failure to provide services, inadequate administrative responses, and decisions that disregard citizens' rights. The Ombudsman's findings therefore reinforce the importance of applying AUPB as a preventive standard throughout the administrative decision-making process rather than relying exclusively on corrective measures after a violation has occurred (Ombudsman of the Republic of Indonesia, 2024).

The development of digital governance presents additional opportunities for improving discretionary accountability. Electronic administrative systems can record decision-making

processes, preserve supporting documentation, and facilitate institutional supervision. Digital documentation enhances transparency because every discretionary decision becomes traceable, thereby reducing opportunities for procedural irregularities and abuse of authority. Moreover, digital governance strengthens public confidence by increasing governmental openness and enabling citizens to monitor administrative performance more effectively. Accordingly, technological innovation should complement legal reform in promoting accountable public administration (Asshiddiqie, 2012; HR, 2020).

From a broader governance perspective, the effectiveness of governmental discretion should not be measured solely by administrative efficiency but also by its contribution to democratic legitimacy and public trust. Governments that consistently exercise discretion according to legal principles are more likely to establish institutional credibility and improve public service quality. Conversely, discretionary authority exercised without transparency or accountability undermines administrative legitimacy and weakens confidence in governmental institutions. Therefore, strengthening legal safeguards governing discretion represents an essential component of sustainable bureaucratic reform and democratic governance in Indonesia (Hadjon, 2002; HR, 2020).

Abuse of Authority in the Exercise of Governmental Discretion

Abuse of authority remains one of the most significant challenges within Indonesian administrative law because it directly concerns the lawful exercise of governmental power. Every public authority derives its legitimacy from statutory delegation and must therefore be exercised exclusively for the purposes intended by law. Administrative discretion does not authorize officials to act arbitrarily; rather, it provides limited flexibility for achieving lawful governmental objectives. Consequently, discretionary decisions exceeding legal boundaries constitute violations of administrative law and the General Principles of Good Governance (Hadjon, 2002; Indroharto, 2004).

Administrative law traditionally recognizes abuse of authority through the doctrine of *détournement de pouvoir*, which refers to the exercise of legal authority for purposes different from those prescribed by legislation. This doctrine emphasizes that the legality of governmental action depends not only upon formal competence but also upon the purpose for which authority is exercised. Consequently, administrative decisions may be declared unlawful even where officials formally possess legal competence if their actions pursue improper objectives or disregard public interest (Lotulung, 1994; Marbun, 2011).

Law Number 30 of 2014 classifies abuse of authority into several forms, including exceeding authority (exceeding competence), mixing authorities (misuse of delegated competence), and acting arbitrarily. Exceeding authority occurs when public officials adopt decisions beyond their legally prescribed jurisdiction. Mixing authorities refers to the exercise of administrative competence for purposes unrelated to its statutory objectives, whereas arbitrary action occurs when governmental decisions lack rational, objective, and legally justifiable grounds. These categories provide important legal standards for distinguishing legitimate discretion from unlawful administrative conduct (HR, 2020).

The legal consequences of abuse of authority are further elaborated in Government Regulation Number 48 of 2016, which regulates the procedures for imposing administrative sanctions on government officials. The regulation demonstrates that violations committed in exercising governmental authority may result in administrative accountability independently of, or prior to, other forms of legal responsibility. The availability of administrative sanctions strengthens the preventive and corrective functions of administrative law by ensuring that abuse of authority is addressed through structured institutional procedures (Government Regulation of the Republic of Indonesia Number 48 of 2016).

In practice, abuse of discretionary authority frequently arises in public procurement, licensing procedures, land administration, budget allocation, personnel management, and emergency governmental interventions. Although such decisions often appear formally lawful, closer examination may reveal conflicts of interest, procedural irregularities, selective treatment, or administrative manipulation designed to benefit particular individuals or groups. These

practices illustrate that abuse of authority frequently occurs through subtle procedural distortions rather than overt violations of statutory provisions, making legal supervision considerably more complex (Sadjijono, 2008; Manan, 2004).

The persistence of abuse of authority cannot be explained solely by deficiencies in statutory regulation. Institutional factors—including weak internal supervision, inadequate professional ethics, political intervention, limited legal competence, and organizational cultures that prioritize hierarchical obedience over accountability—substantially increase opportunities for discretionary misuse. Consequently, legal reform should be accompanied by institutional reform focusing on integrity, professionalism, and ethical administrative leadership. Without corresponding improvements in bureaucratic culture, additional legislation alone is unlikely to eliminate abuse of authority (Asshiddiqie, 2012; HR, 2020).

Preventing abuse of authority requires comprehensive institutional strategies. First, internal administrative supervision should be strengthened through inspectorates and effective compliance mechanisms capable of identifying procedural irregularities before discretionary decisions produce legal consequences. Second, external oversight exercised by the Administrative Court, the Ombudsman, auditing institutions, civil society organizations, and the media should be enhanced to ensure independent evaluation of governmental actions. Third, continuous legal education concerning administrative law, ethics, and the General Principles of Good Governance should become an integral component of professional development for public officials (Marbun, 2011; Hadjon, 2002).

At the level of internal governmental supervision, the integrated assessment of the maturity of the Government Internal Control System provides an institutional framework for evaluating risk management, control effectiveness, and the quality of internal supervision within ministries, agencies, and regional governments. This framework places internal control and the capacity of the Government Internal Supervisory Apparatus as essential components in preventing administrative irregularities and abuse of discretionary authority. BPKP's performance report further emphasises the strategic role of internal supervision in strengthening public-sector accountability and safeguarding the achievement of governmental objectives (Badan Pengawasan Keuangan dan Pembangunan [BPKP], 2021, 2024).

Transparency also represents a fundamental preventive mechanism. Every discretionary decision should be supported by written legal reasoning, objective factual analysis, and complete administrative documentation capable of withstanding judicial and public scrutiny. Such documentation not only facilitates accountability but also protects conscientious public officials acting in good faith from unwarranted allegations of misconduct. Balancing legal protection for good-faith decision-makers with effective sanctions against genuine abuse of authority is essential for maintaining administrative effectiveness without discouraging legitimate governmental innovation (Lotulung, 1994; HR, 2020).

The institutionalisation of good governance is also supported by broader bureaucratic and legal reform policies. The development and evaluation of integrity zones provide measurable standards for establishing corruption-free and service-oriented government institutions, while the Legal Reform Index assesses institutional efforts to improve regulatory quality, legal competence, regulatory management, and legal compliance. The National Legal Development Document further emphasises the need for coherence between national and regional legal policies in strengthening accountable government administration. Together, these policy instruments demonstrate that preventing abuse of authority requires coordinated reform involving administrative supervision, institutional integrity, regulatory quality, and legal development (Badan Pembinaan Hukum Nasional, 2022; Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2022; Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Republik Indonesia, 2021).

Overall, this study demonstrates that governmental discretion should neither be regarded as unrestricted administrative freedom nor as an inherent legal risk. Instead, discretion constitutes a legitimate constitutional instrument whose legality depends upon strict compliance with statutory objectives, the General Principles of Good Governance, and effective institutional oversight. When

these safeguards operate consistently, governmental discretion strengthens administrative responsiveness, improves public service delivery, and reinforces democratic governance. Conversely, where accountability mechanisms remain weak, discretion becomes vulnerable to abuse of authority, maladministration, and declining public trust. Accordingly, the future development of Indonesian administrative law should prioritize strengthening institutional accountability, promoting ethical administrative culture, and ensuring consistent implementation of the General Principles of Good Governance as the primary safeguard against abuse of governmental discretion.

CONCLUSION

This study argues that governmental discretion should be understood not as an exception to the rule of law but as an integral component of contemporary administrative governance that enables public institutions to respond effectively to complex and evolving societal needs. The legitimacy of discretionary authority depends on its consistent alignment with the General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik*—AUPB), which function as normative safeguards ensuring that administrative flexibility remains compatible with legality, accountability, transparency, and the protection of citizens' rights. Accordingly, discretion should be viewed as a mechanism for balancing administrative responsiveness with constitutional governance rather than as an unrestricted exercise of executive power.

From a theoretical perspective, this study contributes to Indonesian administrative law by reinforcing the position of AUPB as a substantive framework for evaluating the legality and legitimacy of discretionary administrative decisions beyond mere statutory compliance. Practically, the findings highlight the importance of strengthening institutional oversight, improving the legal capacity and ethical competence of public officials, expanding transparency through digital governance, and enhancing administrative accountability to reduce opportunities for abuse of authority while maintaining effective public service delivery.

This study is limited by its normative legal approach, which primarily analyses statutory provisions, legal doctrines, and judicial interpretations without incorporating empirical evidence regarding how governmental discretion is implemented across different administrative institutions. Consequently, future research should employ empirical, comparative, or socio-legal approaches to examine the practical implementation of discretionary authority, evaluate institutional compliance with AUPB, and explore how digital governance, public participation, and administrative culture influence accountability and the prevention of abuse of authority in contemporary public administration. Such investigations would provide a more comprehensive understanding of the relationship between legal norms and administrative practice in Indonesia.

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