



Legal and Administrative Analysis of Discretion in Public Policy Implementation in Indonesia

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Abstract

This study analyzes administrative discretion in public policy implementation in Indonesia from legal and administrative perspectives. Discretion is an essential instrument in government administration because public officials often face legal gaps, unclear norms, urgent public needs, and complex implementation contexts that cannot always be fully regulated by written laws. However, discretion also creates legal risks when it is exercised beyond the scope of authority, contrary to the purpose of authority, in violation of procedures, or without adequate accountability. This study uses normative juridical research with a qualitative approach, applying statutory and conceptual approaches. The analysis focuses on Law Number 30 of 2014 concerning Government Administration, administrative law principles, public policy implementation, abuse of authority, accountability, and the protection of citizens' rights. The findings show that discretion has a dual position. On the one hand, it functions as an instrument of administrative responsiveness in policy implementation. On the other hand, it may become a source of abuse of authority if it is not controlled by legality, public interest, proportionality, accountability, and the general principles of good governance. Therefore, administrative discretion must be regulated, documented, supervised, and open to legal and administrative review. This study contributes to administrative law and public policy studies by offering an integrated legal-administrative framework for understanding discretion as both a public authority and an administrative instrument in Indonesian public administration.

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Introduction

Public policy implementation is a central process in public administration because it transforms political decisions, legal norms, and government programs into concrete administrative actions. In practice, however, policy implementation does not occur in a neutral, linear, or fully predictable environment. Public officials, particularly those operating at the street level, frequently face complex social conditions, institutional constraints, technical limitations, and urgent public needs that are not always anticipated by formal regulations. Recent studies on street-level bureaucracy show that policy implementation is strongly influenced by the behavior, perception, and discretion of administrative actors rather than merely by formal policy design. Lee and Park (2021) emphasize that some degree of bureaucratic discretion is inevitable for successful implementation because frontline officials need room for autonomy to manage field conditions and limited resources. Similarly, Salah et al. (2021) show that bureaucratic discretion is related to the willingness of street-level bureaucrats to implement policy. In the Indonesian context, Nursalam et al. (2024) demonstrate that street-level bureaucrats occupy a strategic position in policy implementation because they directly translate public programs into services for citizens. Therefore, public policy implementation requires administrative flexibility, particularly when written rules are insufficient to address the practical complexity of governance.

In this context, administrative discretion becomes an essential instrument in modern government administration. Discretion enables public officials to make decisions or take administrative actions when legal norms are incomplete, unclear, provide several possible choices, or when urgent circumstances require immediate governmental response. In Indonesian administrative law, discretion is not merely a matter of personal judgment or bureaucratic freedom; rather, it is a legally recognized authority that must be exercised within the framework of public interest, legality, and accountability. Suparto et al. (2024) explain that Law Number 30 of 2014 concerning Government Administration defines discretion as a decision and/or action determined or carried out by government officials to address concrete problems in the administration of government when laws and regulations provide choices, do not regulate, are incomplete or unclear, and/or when governmental stagnation occurs. Similarly, Sabrina and Setiyono (2023) indicate that government officials, in carrying out their duties, are required to base their decisions and actions on existing laws and regulations. Therefore, discretion should be understood as a legal-administrative mechanism that allows government to remain responsive while still being bound by the principles of administrative law.

Although discretion is legally recognized, it cannot be understood as unlimited freedom of public officials. In administrative law, discretion must remain subject to legal boundaries and the general principles of good governance, including legality, public interest, proportionality, accountability, and protection of citizens' rights. Suparto et al. (2024) emphasize that discretionary authority in Indonesia is regulated with a clear legal basis, particularly to address governmental stagnation while still preventing unrestricted exercise of power. The importance of limiting discretion is also reinforced by studies on the General Principles of Good Governance in Indonesia. Fauzani (2023) explains that the regulation of the General Principles of Good Governance became more explicit after the enactment of Law Number 30 of 2014 concerning Government Administration. Sapada and Rezah (2021) also argue that the principles of good governance are important in the government administration system because they provide normative guidance for the exercise of public authority. Therefore, administrative discretion must be exercised not merely on the basis of governmental efficiency, but also within the framework of legality, accountability, and good governance.

The central problem arises when discretion, which is intended to support effective and responsive government, shifts into abuse of authority. Administrative discretion becomes legally problematic when it is exercised beyond the scope of authority, contrary to the purpose for which the authority was granted, in violation of procedures, or without adequate accountability. In the Indonesian context, this issue is particularly significant because the boundary between legitimate discretion and abuse of authority is often difficult to determine in practice. Sabrina and Setiyono (2023) show that the examination of abuse of authority by government officials in Indonesia creates a complex relationship between administrative law and criminal law, particularly in corruption-related cases. Similarly, Fransisca et al. (2025) emphasize that abuse of authority by state officials may occur either as intentional misuse of authority or as an error in the exercise of authority. This problem is further complicated by legal uncertainty surrounding the phrase “abuse of authority” in Indonesian legislation, as highlighted by Widyastuti et al. (2022). Therefore, discretion becomes problematic when it no longer functions as a legal-administrative instrument for solving governmental problems, but instead becomes an entry point for arbitrary action, maladministration, or unlawful exercise of public power.

The issue of discretion is not only concerned with the internal relationship between public officials and legal rules, but also with the protection of citizens’ rights. Discretionary administrative decisions may directly affect citizens’ access to public services, social assistance, business licensing, education, health services, environmental protection, and other administrative rights. For this reason, discretion must be placed within a framework of legal and administrative accountability. Di Martino (2024) explains that legal accountability of public officials requires them to comply with formal rules and to justify their actions within those rules, while maladministration may be addressed through administrative accountability mechanisms. In the Indonesian context, Sudiarawan et al. (2022) show that legal mechanisms such as citizen lawsuits are used to protect citizens’ rights from government arbitrariness and to demand the restoration of unfulfilled rights. Similarly, Leonard and Ramadhani (2023) highlight that the authority of the State Administrative Court to review factual actions of government officials is closely related to the protection of citizens’ rights after the enactment of Law Number 30 of 2014. Therefore, accountability in the exercise of discretion is essential to ensure that administrative decisions remain lawful, transparent, and oriented toward the public interest rather than harming citizens’ administrative rights.

Despite the growing body of literature on administrative discretion and public policy implementation, existing studies tend to examine these issues through separate analytical perspectives. Studies on administrative discretion in Indonesia have largely focused on normative administrative law issues, including the legal basis of discretion, limits of authority, abuse of authority, and judicial review of discretionary decisions. Suparto et al. (2024), for example, examine discretion mainly in relation to administrative court authority and regulatory arrangements, emphasizing that discretion remains a contested issue in Indonesian administrative law. Meanwhile, studies on public policy implementation in Indonesia more often focus on bureaucratic capacity, public service transformation, inter-agency collaboration, coordination problems, and policy outcomes, as reflected in studies on street-level bureaucracy, bureaucratic transformation, and institutional collaboration (Arnika et al., 2024; Iskandar & Alwi, 2021; Kurniawati, 2023). This indicates a research gap in the integration of administrative law and public policy perspectives. Existing studies have not sufficiently examined discretion as both a legal authority and an administrative instrument in the practical implementation of public policy. Therefore, this study seeks to bridge this gap by analyzing discretion through an integrated legal-administrative framework within Indonesian public administration.

Based on this research gap, this article focuses on the legal and administrative analysis of discretion in public policy implementation in Indonesia. This study does not merely examine the normative basis of discretion under Indonesian administrative law, but also analyzes how discretion is positioned in the practical process of policy implementation, how its legal limits are defined, and how accountability mechanisms can prevent discretion from turning into abuse of authority. Accordingly, this article aims to analyze the position of discretion in public policy implementation, examine the legal boundaries of discretion from the perspective of administrative law, identify the risks of abuse of authority in the exercise of discretion, and formulate the importance of legal and administrative accountability in guiding discretionary actions by government officials.

This article contributes to administrative law and public policy studies by offering an integrated legal-administrative framework for understanding discretion in public policy implementation. Theoretically, this article enriches the discussion of Indonesian administrative law by connecting discretion with policy implementation, legality, accountability, and the protection of citizens' rights. Practically, this study provides a conceptual basis for government officials, policymakers, supervisory institutions, and scholars to understand the proper limits of discretion so that discretionary actions remain lawful, proportional, transparent, and accountable. By placing discretion within both legal and administrative perspectives, this article argues that discretion should not be treated merely as bureaucratic flexibility, but as a public authority that must support effective governance without undermining legality, public interest, and citizens' administrative rights.

Methods

This study uses normative juridical research with a qualitative approach. Normative juridical research is appropriate because this article examines discretion as a legal concept and administrative authority within the framework of Indonesian administrative law. The analysis focuses on legal norms, statutory provisions, administrative law doctrines, and scholarly literature related to discretion, public policy implementation, abuse of authority, accountability, and the protection of citizens' rights. The study applies two main approaches: the statutory approach and the conceptual approach. The statutory approach is used to examine the legal basis of administrative discretion in Indonesia, particularly Law Number 30 of 2014 concerning Government Administration. This approach is important to identify how Indonesian administrative law defines discretion, regulates its scope, determines its legal limits, and connects it with government authority, administrative decisions, government actions, and accountability. Meanwhile, the conceptual approach is used to analyze key concepts such as administrative discretion, public policy implementation, legality, good governance, abuse of authority, administrative accountability, and citizens' administrative rights.

The data used in this study consist of primary and secondary legal materials. Primary legal materials include relevant statutory regulations, especially Law Number 30 of 2014 concerning Government Administration and other legal provisions related to public authority, administrative decisions, government actions, and abuse of authority. Secondary legal materials include peer-reviewed journal articles, academic books, and scholarly publications discussing administrative discretion, administrative law, public policy implementation, rule of law, good governance, accountability, and maladministration. The literature used in this study prioritizes credible academic sources published within the last five years to ensure the relevance and currency of the analysis.

Data collection was conducted through library research by identifying, selecting, and reviewing legal materials and academic literature relevant to the research topic. The literature selection focused on sources that discuss three main issues: first, the position of discretion in public policy

implementation; second, the legal limits of discretion under administrative law; and third, the relationship between discretion, abuse of authority, and accountability mechanisms. Sources were obtained from credible academic databases and scholarly search platforms, with attention to relevance, publication quality, and conceptual contribution to the study. The data were analyzed using qualitative legal analysis. The analysis was conducted by interpreting statutory provisions, comparing them with administrative law principles, and relating them to the practical context of public policy implementation. The analytical process involved identifying the legal position of discretion, examining its normative limits, assessing the risks of abuse of authority, and formulating an integrated legal-administrative framework for accountable discretion. Through this method, the study seeks to explain how discretion can support effective governance while remaining consistent with legality, public interest, accountability, and the protection of citizens' rights.

Results and Discussions

1. The Position of Discretion in Public Policy Implementation

Discretion occupies an important position in public policy implementation because it connects formal policy design with concrete administrative practices. In the implementation stage, public officials are not merely passive executors of legal rules or policy documents. They are administrative actors who interpret regulations, adjust policy instruments to field conditions, and respond to social realities that are often more complex than the written norms. This condition is particularly visible at the street-level bureaucracy, where public officials interact directly with citizens and make practical decisions that determine how public policies are experienced by the community. The findings of this study indicate that discretion is needed because public policy implementation rarely occurs in a fully predictable administrative environment. Formal regulations may provide general objectives, procedures, and institutional mandates, but they cannot always regulate every specific situation faced by government officials. In this sense, discretion functions as an administrative bridge between legal norms and practical governance. Lee and Park (2021) emphasize that bureaucratic discretion is inherent in policy implementation because public officials require autonomy to respond to field conditions. Similarly, Salah et al. (2021) show that discretion influences the willingness of street-level bureaucrats to implement policy. This confirms that discretion is not an external element in policy implementation, but part of the administrative process itself.

In the Indonesian context, the relevance of discretion can be seen in public service delivery, social assistance distribution, licensing, education, health services, and other administrative sectors. Nursalam et al. (2024), for instance, show that street-level bureaucrats in the implementation of non-cash food assistance programs have a strategic role because they directly translate public programs into services for citizens. This indicates that policy implementation requires flexibility in order to adjust central policy objectives to local administrative realities. Without such flexibility, government officials may be trapped in rigid procedures that are unable to respond to urgent public needs. However, the recognition of discretion in public policy implementation does not mean that public officials may act freely without legal control. Discretion must be understood as a functional necessity in governance, but also as a public authority that must remain accountable. Therefore, the position of discretion in public policy implementation is dual in nature. On the one hand, it serves as an instrument of administrative responsiveness. On the other hand, it must be controlled by legal norms and principles of good governance. This dual position becomes the basis for understanding discretion not only as a practical tool for implementing policy, but also as an object of legal and administrative accountability.

2. Legal Limits of Administrative Discretion in Indonesian Administrative Law

The legal recognition of discretion in Indonesia is primarily regulated under Law Number 30 of 2014 concerning Government Administration. This law provides a normative foundation for understanding discretion as a decision and/or action determined or carried out by government officials to address concrete problems in government administration. Suparto et al. (2024) explain that discretion under Indonesian administrative law may be used when laws and regulations provide choices, do not regulate a particular matter, are incomplete or unclear, or when governmental stagnation occurs. Therefore, discretion is not an arbitrary power, but a legally constructed authority with specific conditions and limitations. The results of this study show that administrative discretion in Indonesia is limited by several legal principles. First, discretion must be exercised based on public interest. This means that discretionary decisions must not be directed toward personal, political, or group interests. Second, discretion must remain consistent with the purpose of authority. A public official may not use discretion for purposes that deviate from the legal mandate attached to the office. Third, discretion must observe the principles of legality and proportionality. Even when regulations are unclear or incomplete, officials must ensure that their actions remain reasonable, necessary, and proportionate to the administrative problem being addressed. Fourth, discretion must be accountable, both legally and administratively.

These limits are closely related to the General Principles of Good Governance. Fauzani (2023) notes that the regulation of the General Principles of Good Governance became more explicit after the enactment of Law Number 30 of 2014. Sapada and Rezah (2021) also argue that these principles provide normative guidance for government administration. In this context, discretion must be evaluated not only on the basis of whether an official has formal authority, but also whether the decision reflects fairness, transparency, proportionality, carefulness, accountability, and orientation toward public interest. Thus, the legal limits of discretion function as a safeguard against arbitrary government action. They ensure that administrative flexibility does not undermine the rule of law. In a state governed by law, government officials may be given room to make judgments, but such room must remain within a legal framework. This is important because discretion without legal boundaries may lead to uncertainty, unequal treatment, and potential violation of citizens' rights. Therefore, the legal regulation of discretion in Indonesian administrative law must be understood as an effort to balance administrative responsiveness and legal certainty.

3. The Risk of Abuse of Authority in the Exercise of Discretion

Although discretion is necessary for effective governance, it also contains the risk of abuse of authority. This risk arises when discretion is exercised beyond the scope of authority, contrary to the purpose of the authority, in violation of procedures, or without sufficient accountability. In this condition, discretion no longer functions as an instrument for solving administrative problems, but becomes a mechanism for arbitrary action or unlawful exercise of public power.

The findings of this study indicate that one of the main problems in the exercise of discretion is the difficulty of distinguishing legitimate discretion from abuse of authority. In practice, public officials may justify certain decisions as discretionary actions, even though such decisions may deviate from legal purposes or procedural requirements. Sabrina and Setiyono (2023) show that the examination of abuse of authority by government officials in Indonesia creates a complex relationship between administrative law and criminal law, especially in corruption-related cases. This complexity demonstrates that abuse of authority is not only an administrative issue, but may also have broader legal consequences. Fransisca

et al. (2025) emphasize that abuse of authority by state officials may occur either as intentional misuse of authority or as an error in the exercise of authority. This distinction is important because not every mistake in administrative decision-making should automatically be treated as intentional abuse. However, when an official knowingly uses discretion for purposes outside the legal mandate, ignores procedures, or causes harm to public interest, the action may fall into the category of abuse of authority. Widyastuti et al. (2022) also highlight that legal uncertainty surrounding the phrase “abuse of authority” in Indonesian legislation complicates the assessment of government actions.

This risk becomes more serious in public policy implementation because discretionary decisions often directly affect citizens. For example, discretion in social assistance distribution may determine whether a citizen receives benefits; discretion in licensing may affect business opportunities; and discretion in public service delivery may influence access to basic rights. If such discretion is not controlled, it may create unequal treatment, maladministration, and violation of citizens’ administrative rights. Therefore, the exercise of discretion must be accompanied by clear standards, documentation, supervision, and mechanisms for legal challenge. The discussion shows that the main challenge is not to eliminate discretion, but to prevent its misuse. Eliminating discretion would make public administration rigid and less responsive. However, allowing discretion without accountability would create space for arbitrary governance. Therefore, the proper approach is to regulate, guide, and supervise discretion so that it remains consistent with legality, public interest, and good governance.

4. Accountability Framework for Administrative Discretion

Accountability is the key mechanism for ensuring that discretion remains lawful, transparent, and oriented toward public interest. Since discretion involves judgment by public officials, accountability is needed to ensure that such judgment can be explained, justified, reviewed, and corrected when necessary. In this sense, accountability does not eliminate discretion, but provides a framework for responsible discretion. The findings of this study indicate that accountability for administrative discretion should be developed through both legal and administrative mechanisms. Legal accountability requires public officials to base their actions on applicable laws and to justify their decisions within the legal framework. Di Martino (2024) explains that legal accountability of public officials requires compliance with formal rules and the ability to justify official actions. Administrative accountability, meanwhile, requires internal control, supervision, procedural compliance, documentation, and responsiveness to public complaints. These mechanisms are important to prevent discretion from becoming arbitrary action.

In the Indonesian context, accountability for discretion is also related to the protection of citizens’ rights. Sudiarawan et al. (2022) show that mechanisms such as citizen lawsuits may be used to protect citizens from government arbitrariness and to demand the restoration of unfulfilled rights. Leonard and Ramadhani (2023) also highlight that the authority of the State Administrative Court to review factual actions of government officials after the enactment of Law Number 30 of 2014 is closely related to the protection of citizens’ rights. These studies indicate that administrative discretion must be open to legal and institutional review when it affects citizens’ legal interests. Based on the analysis, an accountability framework for administrative discretion should include several elements. First, discretion must be based on a clear identification of the administrative problem. Officials must be able to explain why discretion is necessary in a particular situation. Second, discretionary decisions must be linked to public interest and the purpose of authority. Third, officials must observe proportionality and avoid excessive actions. Fourth, discretionary decisions must be documented to allow review and supervision. Fifth, citizens

must have access to complaint mechanisms, administrative objections, or judicial remedies when discretion harms their rights.

This framework shows that discretion should be understood as accountable flexibility. It allows government officials to respond to complex policy implementation problems, but at the same time requires them to remain within the boundaries of law and good governance. Therefore, accountable discretion is essential for strengthening effective governance, preventing abuse of authority, and protecting citizens' administrative rights in Indonesian public administration.

Conclusion

This study concludes that administrative discretion is an essential instrument in public policy implementation in Indonesia because it enables government officials to respond to complex administrative situations, legal gaps, unclear norms, and urgent public needs that cannot always be fully anticipated by written regulations. However, discretion cannot be understood as unlimited freedom, since under Indonesian administrative law, particularly Law Number 30 of 2014 concerning Government Administration, its exercise must remain within the framework of legality, public interest, proportionality, accountability, and the general principles of good governance. The main finding of this study shows that discretion has a dual position: it serves as an instrument of administrative responsiveness, but at the same time carries the risk of abuse of authority when exercised beyond legal limits, contrary to the purpose of authority, in violation of procedures, or without adequate accountability. Therefore, discretion must be regulated, documented, supervised, and open to legal and administrative review to prevent maladministration, arbitrary action, and violations of citizens' administrative rights. This article contributes to administrative law and public policy studies by offering an integrated legal-administrative perspective that places discretion not merely as bureaucratic flexibility, but as a public authority that must support effective governance without undermining legality, public interest, and citizens' rights. Future research may further examine the empirical practice of discretion in specific policy sectors, such as public services, social assistance, licensing, environmental governance, and digital government administration.

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