

REKONSTRUKSI HUKUM PENGAWASAN TERHADAP DISKRESI PEJABAT PEMERINTAHAN DALAM RANGKA MENCEGAH PENYALAHGUNAAN WEWENANG DAN MELINDUNGI KEPENTINGAN UMUM

Legal Reconstruction of the Oversight of Government Officials' Discretion in the Context of Preventing Abuse of Authority and Safeguarding the Public Interest

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Abstrak

Penelitian ini bertujuan untuk menganalisis pengaturan dan pelaksanaan pengawasan terhadap diskresi pejabat pemerintahan dalam sistem hukum administrasi negara di Indonesia, mengidentifikasi permasalahan yang menghambat efektivitas pencegahan penyalahgunaan wewenang, serta merumuskan model rekonstruksi hukum pengawasan diskresi guna memberikan perlindungan yang optimal terhadap kepentingan umum. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan dan pendekatan konseptual melalui analisis terhadap peraturan perundang-undangan, doktrin, dan teori hukum administrasi negara. Hasil penelitian menunjukkan bahwa pengawasan terhadap diskresi masih menghadapi berbagai permasalahan berupa belum jelasnya parameter penyalahgunaan wewenang, tumpang tindih kewenangan antara Aparat Pengawasan Intern Pemerintah (APIP), Ombudsman Republik Indonesia, Peradilan Tata Usaha Negara, dan aparat penegak hukum, serta belum terintegrasinya sistem pengawasan yang menyebabkan ketidakpastian hukum. Kondisi tersebut berpotensi menimbulkan maladministrasi, kerugian negara, dan pelanggaran terhadap hak-hak masyarakat. Rekonstruksi hukum yang diusulkan dilakukan melalui penguatan pengawasan preventif, harmonisasi kewenangan lembaga pengawas, penetapan indikator yang jelas mengenai penyalahgunaan wewenang, pemberian perlindungan hukum bagi pejabat yang bertindak dengan iktikad baik, serta pengembangan sistem pengawasan berbasis teknologi informasi. Model tersebut diharapkan mampu mewujudkan kepastian hukum, keadilan, kemanfaatan, dan perlindungan terhadap kepentingan umum dalam penyelenggaraan pemerintahan.

Kata Kunci:

Diskresi
Pengawasan Pemerintahan
Penyalahgunaan Wewenang
Kepentingan Umum

Keywords:

Discretion
Government Oversight Legal
Abuse of Authority
Public Interest

Abstract

This study aims to analyze the regulation and implementation of discretionary supervision of government officials in the Indonesian state administrative law system, identify problems that hinder the effectiveness of preventing the abuse of authority, and formulate a legal reconstruction model for discretionary supervision to provide optimal protection of the public interest. The study uses a normative juridical method, employing a statutory and conceptual approach through analysis of laws and regulations, doctrines, and theories of state administrative law. The results of the study indicate that discretionary supervision still faces various problems in the form of unclear parameters for abuse of authority, overlapping authority between the Government Internal Supervisory Apparatus (APIP), the Ombudsman of the Republic of Indonesia, the State Administrative Court, and law enforcement officials, and a lack of integration of the supervisory system that causes legal uncertainty. These conditions have the potential to lead to maladministration, state losses, and violations of public rights. The proposed legal reconstruction is carried out through strengthening preventive supervision, harmonizing the authority of supervisory institutions, establishing clear indicators regarding abuse of authority, providing legal protection for officials who act in good faith, and developing an information technology-based supervisory system. This model is expected to be able to realize legal certainty, justice, benefit, and protection of public interests in the administration of government.

INTRODUCTION

As a country based on law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia has the consequence that all actions of government officials must be based on law and may not be done arbitrarily (Arliman, 2020). The principle of the rule of law positions the law as the primary instrument for controlling power while protecting citizens' rights from government actions that exceed its authority. Modern governance is not only required to be oriented toward legal certainty but must also be capable of realizing justice and utility, as articulated by Gustav Radbruch as the objectives of law (Rais, 2022). The evolution of the concept of the rule of law from the "night-watchman state" to the "welfare state" has expanded the government's role in various sectors of society, thereby demanding swift, effective, and responsive government action to address diverse public needs. This situation means that the principle of legality is not always sufficient to address all the challenges of a dynamically evolving government, as not all concrete situations are fully regulated by existing laws and regulations. It is this need for flexibility in government action that gave rise to the concept of discretion as a legal instrument allowing government officials to make decisions or take actions under certain circumstances to ensure the delivery of public services and the realization of public welfare (Pamungkas, 2020).

The principles of good governance further reinforce the need for discretion in the government administration system. The principles of accountability, transparency, effectiveness, efficiency, participation, professionalism, and the rule of law require the government to not only act in accordance with the law but also to provide optimal public services. The normative basis for this can be found in Article 10 of Law Number 30 of 2014 concerning Government Administration, which regulates the General Principles of Good Governance (AUPB), including the principles of legal certainty, benefit, impartiality, accuracy, non-abuse of authority, openness, public interest, and good service (Darumurti, 2015). The regulation regarding discretion is specifically contained in Article 1 number 9 of Law Number 30 of 2014 as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law, which defines discretion as a decision and/or action determined and/or conducted by government officials to address concrete problems faced in the administration of government if the laws and regulations provide options, do not regulate, are incomplete or unclear, and/or there is government stagnation (Ashfiya, 2023). The existence of discretion is thus an inseparable need for the function of modern government, because without space for discretion, the government may encounter paralysis in carrying out its public service duties.

The development of government administration practices shows that the use of discretion is increasingly widespread at both the central and regional levels. Various strategic policies in the fields of public services, disaster management, procurement of goods and services, infrastructure development, bureaucratic reform, and handling emergencies are often implemented through the use of discretionary authority. The experience of administering government during the COVID-19 pandemic is a concrete example of how government officials are required to make quick decisions even though the available regulations are not completely able to anticipate the conditions that occur (Agustino, 2020). The broad scope for the use of discretion on the one hand provides flexibility for the government in resolving community problems, but on the other hand, it also opens opportunities for abuse of power. The requirements of Article 17 paragraph (2) of Law Number 30 of 2014 expressly prohibit government agencies and/or officials from abusing their authority, including exceeding their authority, mixing up their authority, and acting arbitrarily. In reality,

various cases of maladministration, administrative deviations, and even criminal acts of corruption often originate from the use of discretion that is not in accordance with the purpose for which the authority was granted (Kumalaningdyah, 2019). This situation demonstrates the ambivalent nature of discretion, as it can be both an instrument of government effectiveness and potentially a means of abuse of power if not adequately monitored.

A more complex problem arises when the oversight system for the use of discretion lacks an integrated legal design that provides legal certainty. Oversight of discretion is currently scattered across various legal instruments, including Law Number 30 of 2014 concerning Government Administration, Law Number 23 of 2014 concerning Regional Government, Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials, and various regulations concerning the Government Internal Supervisory Apparatus (APIP). This fragmented regulation raises a number of normative issues, including overlapping supervisory authority, unclear parameters for testing discretion, and the lack of an effective coordination mechanism between internal and external supervisory institutions (Sarah Adinda Putri, Agus Triono, 2025). The vague norm is evident in the lack of a clear standard for distinguishing between administrative errors, abuse of authority, and corruption in the use of discretion. The legal vacuum is evident in the lack of a preventive oversight model capable of providing guidance to officials before exercising discretion. This situation ultimately has the potential to create legal uncertainty for both government officials and the public, who are affected by the use of discretion.

The dualism of oversight between administrative and judicial mechanisms further highlights the systemic problems in the oversight of government discretion. Assessments of discretionary actions can be conducted by the Public Service Supervisory Agency (APIP) as an internal supervisor, the Ombudsman through its public service oversight mechanism, the State Administrative Court under Law Number 5 of 1986, as amended several times, most recently by Law Number 51 of 2009, and even by law enforcement officials in the context of corruption. The differing approaches and parameters used by each institution often result in inconsistent assessments of the same government action. A policy may be deemed a legitimate administrative action by internal oversight, but may be considered a form of abuse of authority by another agency (Arifin, 2025).

This lack of synchronicity creates legal uncertainty and gives rise to the phenomenon of bureaucratic fear, a situation where government officials are reluctant to use discretion for fear of facing legal proceedings later. This impact not only hampers the effectiveness of government administration but also has the potential to reduce the quality of public services, which are the public's right, as guaranteed by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia concerning the guarantee of fair legal certainty.

The weak oversight system for discretion ultimately has a direct impact on the protection of public interests and the quality of governance. Abuse of discretion can result in state financial losses, violations of citizens' rights, a decline in the quality of public services, an increase in maladministration, and a decline in public trust in government institutions. Current regulations tend to be repressive, focusing on taking action after irregularities occur, while prevention has not received adequate attention. This paradigm is not aligned with the values of Pancasila, the principles of the rule of law, the theory of administrative justice, and the concept of good governance, which places the protection of public interests as the primary goal of governance. The experiences of several countries, including the Netherlands, Germany, the United Kingdom, Australia, and Singapore, show that effective discretionary oversight relies on the integration of internal oversight, judicial oversight, ombudsman mechanisms, and the establishment of clear guidelines for assessing the abuse of authority. This reality demonstrates the urgency of reconstructing the law on discretionary oversight of government

officials in Indonesia through the establishment of a preventive, integrated, accountable, and public interest-based oversight system, thereby preventing abuse of authority while providing legal protection for officials who act in good faith to achieve legal certainty, justice, and benefit the community.

METHOD

This study employs a normative juridical research method that aims to examine and analyze legal norms governing the supervision of government officials' discretion from the perspective of preventing abuse of authority and protecting public interests. Normative juridical research is research that positions law as a system of norms consisting of legal principles, legal rules, doctrines, legal theories, and laws and regulations related to the research object. The approaches used include a statute approach and a conceptual approach. The statutory approach is carried out by systematically examining various regulations related to discretion and supervision of government administration, including the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 2014 concerning Government Administration as amended by Law Number 6 of 2023, Law Number 23 of 2014 concerning Regional Government, Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, and various relevant implementing regulations. The conceptual approach is used to examine various concepts, doctrines, and theories that have developed in state administrative law, particularly regarding discretion, abuse of authority, government oversight, general principles of good governance, the rule of law, and protection of public interests. The analysis is conducted through a literature study of primary legal materials, secondary legal materials, and tertiary legal materials using prescriptive and interpretative legal analysis methods to find weaknesses in norms, conflicts of norms, and legal gaps in the current discretionary oversight system, so that an ideal legal construction can be formulated to realize legal certainty, justice, and benefits in the administration of government.

RESULT AND DISCUSSION

Regulation and Implementation of Discretionary Supervision of Government Officials in the Indonesian State Administrative Law System

The concept of a state based on law is the main foundation in the administration of government in Indonesia, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state based on law (Fauzia, 2022). This condition implies that every government action must be based on legitimate authority and subject to the principles of accountability and oversight. The doctrine of the modern rule of law no longer views the government as merely a passive enforcer of laws, but rather as a provider of public service functions responsible for realizing the welfare of the community. The development of the welfare state concept has expanded the government's scope of action in various sectors of life, thus demanding legal instruments that allow government officials to act quickly and effectively in dealing with concrete problems that cannot always be anticipated by legislation. The demand raises the concept of discretion as a form of administrative flexibility that must remain within the law. The existence of discretion is essentially the embodiment of the principle of government effectiveness, which must be balanced with the principle of legality to prevent abuse of power by government officials (Asyhari, 2019).

The principle of good governance serves as a philosophical foundation that strengthens the legitimacy of the use of discretion in government administration. This principle demands that government administration be transparent, accountable, effective, efficient, participatory, and oriented towards the public interest. Recognition of these principles is normatively reflected in Article 10 paragraph (1) of Law Number 30 of 2014 concerning Government Administration,

which regulates the General Principles of Good Governance (AUPB), including the principles of legal certainty, benefit, impartiality, accuracy, non-abuse of authority, openness, public interest, and good service. These principles serve as both guidelines and limitations in the use of discretion by government officials. The benefit of discretion that ignores the AUPB may result in legally flawed administrative actions and harm the public. The relationship between discretion and the AUPB shows that the freedom of action granted to government officials is not absolute. Instead, it is a freedom that must be justified legally, morally, and administratively to ensure the protection of citizens' rights (Munaf, 2018).

The specific provisions regarding discretion are contained in Article 1, number 9 of Law Number 30 of 2014 concerning Government Administration, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law. This provision defines discretion as a decision and/or action determined and/or carried out by government officials to address concrete problems faced in the administration of government in cases where laws and regulations provide options, do not regulate, are incomplete or unclear, and/or government stagnation occurs. The provisions concerning the purpose of discretion are detailed in Article 22, paragraph (2), which asserts that discretion is employed to enhance governmental administration, address legal gaps, ensure legal certainty, and resolve governmental stagnation in specific situations for the public benefit. This provision indicates that lawmakers perceive discretion as a legitimate and essential legal tool within a contemporary government administration framework. The position of discretion in state administrative law is basically an exception to the principle of legality, which is given in a limited manner to maintain the effectiveness of government administration and the sustainability of public services (Saputra, 2018).

The requirements for the use of discretion are regulated in detail in Article 24 of Law Number 30 of 2014, which stipulates that discretion must be in accordance with the purpose of the discretion, not contrary to the provisions of laws and regulations, in accordance with the AUPB, based on objective reasons, not giving rise to a conflict of interest, and carried out in good faith. These regulations indicate that Indonesian administrative law does not grant absolute free authority to government officials. These restrictions are a form of implementation of the principle of checks and balances in the realm of state administration to prevent abuse of authority. The provisions of Article 30 and Article 31 of the State Administration Law also regulate the procedures for the use of discretion that can result in changes to budget allocations or impact state finances, namely through the approval of the official's superior. This mechanism shows that the use of discretion is not only subject to legal oversight but also falls within an administrative control system aimed at maintaining accountability and transparency in government decision-making (Nalle, 2016).

The oversight system for the exercise of discretion in government administrative practices is implemented through internal and external oversight mechanisms. Internal oversight is carried out by the Government Internal Oversight Agency (APIP) as stipulated in Government Regulation No. 60 of 2008 on the Government Internal Control System. The functions of APIP include audits, reviews, evaluations, monitoring, and other oversight activities regarding the implementation of government duties. The role of APIP is crucial as it serves as a preventive mechanism to prevent the abuse of authority in the exercise of discretion. External oversight is carried out by the Ombudsman of the Republic of Indonesia under Law No. 37 of 2008, which grants the authority to oversee the delivery of public services and investigate allegations of maladministration committed by government officials. This oversight framework indicates that the exercise of discretion is not only monitored from the perspective of formal legality but also from the perspective of the quality of public services and adherence to the principles of good governance (Pujiyono, 2018).

The mechanism for overseeing discretionary authority is also carried out through judicial review by the Administrative Court pursuant to Law No. 5 of 1986 on the Administrative Court, as last amended by Law No. 51 of

2009. The authority to review abuse of authority is more specifically regulated in Article 21 of Law No. 30 of 2014, which grants courts the competence to assess the presence or absence of elements of abuse of authority committed by government officials. Supervision of the use of discretion may also intersect with the authority of law enforcement officials when discretionary actions result in financial loss to the state or involve elements of criminal corruption, as regulated in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption (Ibad, 2026). The existence of these various oversight mechanisms demonstrates that the Indonesian legal system has established a relatively comprehensive oversight framework for the use of discretion.

Problems in Oversight of Government Officials' Discretion in Preventing Abuse of Authority and Protecting Public Interest

The provisions regarding discretion in Law Number 30 of 2014 concerning Government Administration, as amended by Law Number 6 of 2023, essentially provide a legal basis for government officials to make decisions or act under certain circumstances. Issues that arise in practice indicate that the provisions regarding discretionary oversight still contain various normative weaknesses that have implications for legal uncertainty. Article 17, paragraph (2) of the Government Administration Law stipulates that abuse of authority includes actions exceeding authority, mixing up authority, and acting arbitrarily. This formulation conceptually limits the use of government authority but does not provide clear operational parameters regarding the legal criteria that can be used to determine when a discretionary action is categorized as a legitimate use of authority and when it becomes an abuse of authority. The absence of measurable indicators leaves room for wide interpretation for supervisory institutions and law enforcement officials. This situation results in inconsistent assessments of the same administrative actions, potentially creating legal uncertainty for government officials and the public affected by these decisions.

The next problem relates to overlapping supervisory authority between various institutions responsible for overseeing government actions. The Indonesian legal system grants supervisory authority to the Government Internal Supervisory Apparatus (APIP), the Ombudsman of the Republic of Indonesia, the State Administrative Court, the Supreme Audit Agency (BPK), and even law enforcement officials in the context of corruption. Each institution has a different legal basis, authority, and approach in assessing the discretionary actions of government officials. The APIP tends to use an administrative and managerial approach based on Government Regulation Number 60 of 2008 concerning the Government Internal Control System, while the Ombudsman focuses on aspects of public service and maladministration based on Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia. The State Administrative Court conducts judicial reviews based on the legality of state administrative decisions, while law enforcement officials assess these actions from a criminal law perspective. These differing approaches often lead to differing conclusions regarding the same object, leading to conflicts of authority and unclear resolution mechanisms when there are differing assessments between supervisory bodies.

Another normative weakness is evident in the lack of adequate harmonization between the administrative law regime and the criminal law regime in assessing discretionary actions. The State Administration Law actually provides legal protection to officials who exercise discretion in good faith and in accordance with the objectives of the granting authority. Article 21 of the State Administration Law authorizes the State Administrative Court to determine whether or not government officials have abused their authority. Law enforcement practice shows that in some cases, law enforcement officials continue to initiate criminal proceedings against government officials before an administrative assessment of the abuse of authority has been made. This situation creates a conflict of norms between the administrative law approach, which views abuse of authority as an administrative matter, and the criminal law approach,

which views such actions as actions that can give rise to criminal liability. This lack of synchronization creates bureaucratic fear, causing government officials to be reluctant to use discretion even when such actions are necessary for the public interest and the smooth running of government.

Empirical problems in the oversight of discretion are reflected in the various findings of maladministration reported to the Indonesian Ombudsman and the results of various internal government oversight audits. Numerous cases demonstrate that discretion is used as a justification to override applicable legal procedures without clear objective reasons and public interest. These deviations occur in various sectors, such as government procurement of goods and services, licensing, regional financial management, official appointments, and public services. Several decisions by the State Administrative Court also demonstrate the actions of government officials who use discretionary authority disproportionately, resulting in losses for the public. This reality demonstrates that existing oversight mechanisms are not fully capable of preventing abuse of authority in the early stages of decision-making. Current oversight remains more repressive after a violation occurs rather than preventive, preventing administrative irregularities from emerging.

The legal vacuum is also evident in the absence of regulations specifically integrating discretionary oversight mechanisms into a single, integrated system. Existing laws and regulations do not provide guidelines for coordination between the Public Service Agency (APIP), the Ombudsman, the State Administrative Court, and law enforcement officials in handling alleged abuses of discretion. The absence of such a coordination mechanism results in the oversight process being carried out sectorally, according to the authority of each institution. As a result, a government action can be repeatedly examined by various institutions without any uniform assessment standards. This condition not only creates inefficiency in the oversight system, but also has the potential to violate the principle of legal certainty guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The absence of an integrated oversight model reveals that the Indonesian administrative law system still faces challenges in building an effective, proportional oversight mechanism and providing legal protection for all interested parties.

Regulatory weaknesses in the form of vague norms, conflicting norms, and a legal vacuum ultimately impact the protection of the public interest, the primary objective of governance. The unclear boundaries between legitimate discretion and abuse of authority result in low legal predictability in the implementation of government functions. Overlapping supervisory authority leads to inconsistent law enforcement processes, while the lack of a coordination mechanism hinders the effectiveness of oversight of state administrative actions. The resulting impacts include not only state financial losses and increased maladministration but also a decline in the quality of public services, disruption of the protection of citizens' rights, and diminished public trust in government institutions. These conditions demonstrate that the current legal framework for discretionary oversight is not fully capable of ensuring the achievement of the goals of the rule of law and the principles of good governance. The need for reform and reconstruction of the discretionary oversight system is increasingly urgent to strike a balance between flexibility in government actions, accountability in the use of authority, and optimal protection of the public interest.

Legal Reconstruction of Discretionary Supervision of Government Officials Based on Preventing Abuse of Authority and Protecting the Public Interest

The legal reconstruction of discretionary supervision of government officials must begin with a paradigm shift in supervision from a repressive model to a preventive model that prioritizes preventing abuse of authority. The current supervisory system focuses too much on taking action after a violation has occurred, often failing to prevent state losses, maladministration, and violations of public rights. Legal reform is needed through amendments to Articles 22 to 32 of Law Number 30 of 2014 concerning Government Administration, as amended by Law Number 6 of 2023, by adding a

preventive review mechanism for discretionary actions that have a strategic impact on state finances, public services, and public rights. Government officials who intend to exercise discretion under certain circumstances are required to first obtain a legal opinion from the Government Internal Supervisory Apparatus (APIP) before issuing a decision. This mechanism is not intended to hinder the speed of decision-making, but rather to ensure that the exercise of discretion meets the requirements of legality, proportionality, and the public interest. This type of preventive oversight will strengthen the government's internal control function while reducing the risk of deviations from the policy planning stage.

Subsequent reforms should be directed at establishing clearer legal parameters regarding the boundaries between legitimate discretion and abuse of authority. The provisions of Article 17, paragraph (2) of the State Administration Law, which regulate acts exceeding authority, mixing authority, and acting arbitrarily, remain general and open to varying interpretations. Lawmakers need to formulate measurable normative indicators through legislative amendments and the creation of government regulations that detail the elements of abuse of authority. These parameters should at least cover the purpose of the authority, conformity with the public interest, the factual basis for consideration, the impact on community rights, compliance with the AUPB, and the existence of conflicts of interest. Clear assessment standards will create uniformity in the oversight process and the testing of discretionary actions, thereby reducing the potential for differences in interpretation between supervisory institutions. Certainty regarding the limits of discretion will also provide clearer guidelines for government officials in carrying out their duties.

The ideal oversight model also requires harmonization of authority between the Public Accountability Agency (APIP), the Ombudsman of the Republic of Indonesia, the State Administrative Court, and law enforcement officials through the establishment of an integrated oversight system. Legal reconstruction can be achieved by establishing a mandatory institutional coordination mechanism through regulations governing the handling of alleged abuse of discretion. The APIP should be positioned as the primary institution to conduct administrative audits of discretionary actions. The Ombudsman's role is to oversee the impact of these decisions on public services and public rights. The State Administrative Court serves as the institution that provides legal assessments of elements of abuse of authority, as stipulated in Article 21 of the State Administration Law. Law enforcement officials may only initiate criminal proceedings after a clear conclusion has been reached regarding the abuse of authority that has resulted in state losses or meets the elements of a crime. This model will eliminate overlapping authority while strengthening inter-institutional coordination in overseeing the use of discretion.

Legal protection for government officials who exercise discretion in good faith must also be a crucial part of the proposed legal reconstruction. Bureaucratic fears in making decisions often arise from the lack of adequate legal protection when discretion is used in the public interest. Reformulation of the State Administration Law needs to include provisions explicitly stating that officials who exercise discretion in accordance with procedures, comply with the AUPB (Authorized Public Order Regulation), do not have a conflict of interest, and act in the public interest cannot be held criminally liable unless there is evidence of malicious intent (*mens rea*) or deliberate unlawful acts. Establishing such a legal protection mechanism is crucial for fostering administrative courage in governance. Certainty regarding legal protection will encourage officials to make swift and accurate decisions without being overshadowed by excessive concerns about the risk of policy criminalization.

The use of information technology also needs to be part of a modern and accountable model for reconstructing discretionary oversight. The government needs to establish a national information system on the use of discretion that integrates ministries, institutions, local governments, the Public Service Agency (APIP), the Ombudsman, and the State

Administrative Court. Every discretionary action that meets certain criteria must be recorded and documented in the system, along with the rationale, purpose, legal basis, and impact analysis. This mechanism will increase transparency and facilitate real-time oversight. This digital system can also be used as a national database to identify patterns of abuse of authority, evaluate the effectiveness of discretionary practices, and strengthen the accountability of government officials. Strengthening technology-based oversight will reduce the potential for irregularities and increase public access to information regarding government administration.

The proposed legal reconstruction model for discretionary oversight must ultimately be based on the values of Pancasila, the principles of the rule of law, the theory of administrative justice, the principle of proportionality, the principle of accountability, and the principles of good governance. Concrete implementation of this model includes the establishment of a preventive oversight mechanism that must be implemented before strategic discretion is used, the development of clear legal indicators for abuse of authority, the integration of the oversight functions of the APIP, the Ombudsman, the PTUN, and law enforcement officials, the provision of legal protection for officials acting in good faith, and the development of a transparent and integrated information technology-based oversight system. This reconstruction aims not only to strengthen legal certainty in the use of discretion but also to strike a balance between the need for government flexibility and the protection of public rights. The success of this model will result in a more effective discretionary oversight system in preventing abuse of authority, improving the quality of public services, strengthening public trust in the government, and realizing governance that is just, beneficial, and oriented towards the public interest.

CONCLUSION

Based on the discussion, it can be concluded that the regulation of discretionary supervision of government officials in the Indonesian state administrative law system has obtained a legal basis through Law Number 30 of 2014 concerning Government Administration, as amended by Law Number 6 of 2023, but its implementation still faces various normative and empirical problems that hinder the effectiveness of preventing abuse of authority and protecting public interests. These weaknesses are evident in the absence of clear parameters in determining the boundaries between legitimate discretion and abuse of authority, overlapping supervisory authority between APIP, the Ombudsman of the Republic of Indonesia, the State Administrative Court, and law enforcement officials, and the lack of integration of administrative supervision mechanisms, judicial supervision, and public supervision in one harmonious system. These conditions create a legal vacuum, conflict of norms, and vague norms that impact low legal certainty, increased potential for maladministration, the emergence of bureaucratic fear in decision-making, and less than optimal protection of community rights. Legal reconstruction of discretionary oversight needs to be carried out by strengthening the preventive oversight model, harmonizing authority between supervisory institutions, establishing measurable legal parameters regarding abuse of authority, and providing legal protection for officials who exercise discretion based on good faith and the public interest. This reconstruction constitutes a form of reform of state administrative law aimed at creating a balance between the flexibility of government actions and accountability in the use of authority within a democratic, rule-of-law framework.

Based on these conclusions, it is recommended that legislators amend Law Number 30 of 2014 concerning State Administration by incorporating a preventive oversight mechanism for the use of discretion, formulating clearer normative indicators for abuse of authority, and establishing an integrated coordination system between the Public Administration Apparatus (APIP), the Ombudsman of the Republic of Indonesia, the State Administrative Court, and

law enforcement officials. The government must formulate implementing regulations governing standard procedures for the use and oversight of discretion, including the use of information technology in transparency- and accountability-based oversight. Strengthening the capacity of APIP and enhancing the role of the Ombudsman in public service oversight must be carried out continuously to strengthen the preventive function against government administrative irregularities. The judiciary needs to develop uniform testing standards for abuse of authority to ensure legal certainty in the practice of enforcing state administrative law. This effort is expected to create a more effective, accountable, and equitable discretionary oversight system that can prevent abuse of authority, improve the quality of public services, strengthen the protection of the public interest, and support the realization of good governance principles in government administration in Indonesia.

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