

# Administrative Discretion and the Risk of Abuse of Authority in Indonesian Public Administration

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<sup>3</sup>**Abstract:** Administrative discretion is essential in public administration because government officials must often respond to concrete problems, regulatory gaps, urgent situations, and administrative stagnation that cannot be fully addressed through rigid legal rules. In Indonesia, discretionary authority is formally recognized under Law Number 30 of 2014 concerning Government Administration as a lawful mechanism to maintain responsive governmental action. However, discretion also creates a risk of abuse of authority when it is exercised beyond its legal purpose, detached from public interest, or conducted without accountability and adherence to the General Principles of Good Governance. This study aims to analyze the legal position of administrative discretion in Indonesian public administration, examine its potential transformation into abuse of authority, and formulate a balanced legal and governance framework for controlling discretionary power. This research employs normative legal research supported by a conceptual public administration approach through statutory, conceptual, and analytical methods. The study finds that discretion is indispensable for adaptive governance, but its legitimacy depends on clear legal boundaries, transparent reasoning, proper documentation, effective oversight, and a precise distinction between lawful discretion and unlawful misuse of authority. This article concludes that strengthening these safeguards is necessary to support responsive, accountable, and rule-based governance in Indonesia.

**Keywords:** Administrative discretion; Abuse of authority; Indonesian public administration

## 1. Introduction

Modern public administration operates in an increasingly complex governance environment in which public problems are dynamic, context-dependent, and not always fully anticipated by formal rules. Government institutions are expected to translate broad policy commitments into concrete administrative action while responding to social, economic, and political conditions that may change rapidly. In such circumstances, rigid reliance on predetermined regulations is often insufficient to address the diversity of situations encountered in governmental practice. Bertelli et al. (2020) argue that public administration necessarily involves the pragmatic use of discretionary authority in carrying out public policies, particularly where institutional realities require adaptation beyond the literal application of rules. Similarly, Deslatte et al. (2024) show that complex governance challenges demand diverse administrative responses and require public managers to navigate multiple possible courses of action. Excessive rule compliance may even generate procedural burdens that reduce the responsiveness of public officials and constrain their capacity to engage effectively with public needs (Migchelbrink & de Walle, 2020). These conditions make administrative discretion an unavoidable feature of contemporary public administration.

Administrative discretion, therefore, should not be understood as a deviation from law, but as a legitimate and functional instrument of governmental action. In public administration theory, discretion emerges because general rules must be applied to specific cases that vary in context, urgency, and practical consequences. Selten et al. (2023) emphasize that administrative discretion is necessary because of the mismatch between broad rules and the concrete situations faced by public officials. This is especially visible

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in street-level bureaucracy, where officials translate general policy directives into individualized decisions affecting citizens. Considine et al. (2022) similarly describe discretion as an inherent, and at times necessary, feature of policy delivery, since public officials do not merely execute completed policies mechanically but must interpret and operationalize them in complex real-world settings. In this sense, discretion enables public administration to remain flexible, context-sensitive, and capable of producing decisions that are substantively responsive rather than merely procedurally compliant.

Previous research on administrative discretion and abuse of authority in Indonesia has generally developed separately and pursued its own analytical paths. Some studies focus exclusively on discretion as a normative concept within the realm of administrative law, including its legal basis, procedural regulations, and judicial review under Law Number 30 of 2014. On the other hand, some literature examines abuse of authority primarily in relation to corruption law, criminal liability, or the adjudication competence of the State Administrative Court (PTUN). Meanwhile, there is also a small portion of public administration literature that discusses discretion solely as an operational necessity in policy implementation and service delivery at the frontline bureaucracy. The main limitation or gap in these previous studies lies in the lack of studies willing to integrate these perspectives simultaneously to analyze administrative discretion as a governance necessity and as a potential source of abuse of authority in Indonesian public administration. In fact, this integrative gap is crucial because discretion cannot be adequately understood through a purely legalistic lens or managerial perspective alone, but rather must be examined as a legal-administrative phenomenon situated within the demands of responsive, accountable, and rule-based governance.

Nevertheless, the functional necessity of discretion also gives rise to significant risks. When discretionary authority is exercised without adequate legal limits, institutional supervision, or ethical standards, it may shift from a mechanism of administrative responsiveness into a source of arbitrary decision-making, selective enforcement, favoritism, or abuse of authority. Sokolov (2020) warns that unrestricted administrative discretion may contribute to power abuse and subjective or selective law enforcement. Váczi (2022) likewise stresses that discretionary power must remain bounded by fairness, legality, and procedural guarantees so that it does not erode the principles of the rule of law. More recently, Bertelli et al. (2025) argue that the exercise of discretion must conform to law, impartiality, integrity, accountability, and transparency in order to maintain its democratic legitimacy. Thus, the central concern is not the existence of discretion itself, but the conditions under which it may be distorted into conduct that departs from public interest and weakens administrative accountability.

In Indonesia, the need for administrative discretion has been formally recognized within the framework of government administration law. Indonesian legal scholarship notes that Law Number 30 of 2014 concerning Government Administration defines discretion as a decision and/or action taken by government officials to resolve concrete problems in the administration of government when existing regulations provide choices, do not regulate, are incomplete or unclear, or when government stagnation occurs (Suparto et al., 2024). This formulation reflects the recognition that government cannot always rely solely on explicit statutory commands in responding to practical administrative problems. At the same time, the regulation of discretion is designed not only to authorize action but also to limit its use and provide legal protection for officials who exercise it responsibly (Ro'is et al., 2021). Tandingan & Parinussa (2021) further observe that discretionary decisions in Indonesia must be undertaken in good faith and in accordance with the General Principles of Good Governance. The incorporation of these principles into Indonesia's administrative legal framework strengthens the view that discretion is a lawful governmental instrument only when exercised within the boundaries of accountability, legality, and public interest.

However, the formal recognition of discretion in Indonesian administrative law has not fully resolved the practical and conceptual tension surrounding its use. Discretion has two faces: it may prevent governmental stagnation, yet it may also create opportuni-

ties for abuse of authority when exercised beyond its proper purpose (Suparto et al., 2024). This tension becomes more serious because the boundary between lawful administrative discretion and unlawful misuse of authority is not always easy to determine. Acts that exceed administrative authority may cross into criminal or civil liability, particularly when they involve abuse of power or cause public loss (Suparto et al., 2024). At the same time, excessive fear of legal consequences may discourage officials from using discretion even in circumstances where responsive and timely administrative action is urgently needed. Ro'is et al. (2021) note that one purpose of regulating discretion in Indonesia was precisely to reduce officials' reluctance to exercise their authority in the public interest. Bertelli & Schwartz (2022) caution against treating discretion through an overly binary framework, either as an unrestricted administrative freedom or as a power that should be suppressed as much as possible. The more important task is to establish a balanced framework that prevents abuse without undermining the adaptive capacity of public administration.

Existing studies have addressed administrative discretion and abuse of authority in Indonesia, but they have generally developed along separate analytical paths. Some studies focus on discretion as a normative concept within administrative law, including its legal basis, procedural regulation, and judicial review under Law Number 30 of 2014 (Suparto et al., 2024). Other studies examine abuse of authority primarily in relation to corruption law, criminal liability, or the adjudicative competence of administrative courts (Anggraeny & Marbun, 2020; Puhi et al., 2020; Siahaan, 2021). A smaller body of public administration literature discusses discretion as an operational necessity in policy implementation and service delivery, particularly at the level of frontline bureaucracy (Considine et al., 2022; Selten et al., 2023). However, there remains limited scholarship that integrates these perspectives by analyzing administrative discretion simultaneously as a governance necessity and as a potential source of abuse of authority within Indonesian public administration. This gap is important because discretion cannot be understood adequately through a purely legalistic lens or solely through a managerial perspective; it must be examined as a legal-administrative phenomenon situated within the broader demands of responsive, accountable, and rule-based governance.

Based on this gap, this article aims to analyze the position of administrative discretion in Indonesian public administration, examine the conditions under which discretion may generate risks of abuse of authority, and formulate a legal and governance-oriented framework for controlling discretionary power without eliminating its administrative function. This article proceeds from the view that discretion is indispensable for an effective and responsive government, especially in addressing concrete problems that cannot be fully resolved through rigid legal formalism. Yet, as Váczi (2022) emphasizes, discretionary authority must remain aligned with the requirements of good administration and the rule of law. Likewise, accountability, transparency, and oversight are central to preventing the exercise of public authority from becoming arbitrary or abusive (Marin et al., 2024). Accordingly, the conceptual contribution of this article lies in integrating administrative law and public administration perspectives to explain how discretion can be preserved as a legitimate instrument of governance while being constrained through safeguards against abuse of authority.

Administrative discretion also plays an important role in maintaining the continuity and effectiveness of public service delivery, particularly in situations where rigid procedural compliance may hinder timely governmental responses. In many developing countries, public officials frequently encounter administrative conditions characterized by limited institutional capacity, incomplete regulations, and urgent societal demands that cannot always wait for lengthy bureaucratic procedures. Under such conditions, discretion becomes a practical mechanism that allows government institutions to continue functioning adaptively while still pursuing public objectives. Peters (2021) explains that administrative flexibility is essential for ensuring continuity of governance in rapidly changing policy environments. Likewise, Kim & Park (2022) argue that discretion enables public administrators to reconcile formal legal requirements with practical policy reali-

ties. O'Flynn (2020) further notes that collaborative governance increasingly requires discretionary judgment because inter-organizational coordination cannot rely solely on rigid procedural rules. Bovens et al. (2021) emphasize that accountability mechanisms are necessary to ensure that discretionary actions remain publicly justified and institutionally controlled. In addition, Denhardt & Denhardt (2020) stress that public administrators must prioritize responsiveness to citizens rather than mere procedural compliance. Frederickson (2021) similarly highlights that social equity should remain a guiding principle in discretionary administrative action. According to Pierre & Peters (2020), modern governance systems require adaptive administrative behavior to manage policy uncertainty effectively. Meanwhile, Hill & Hupe (2022) demonstrate that policy implementation inevitably involves interpretative discretion at the operational level. Finally, Fukuyama (2021) argues that institutional effectiveness depends not only on legal structure but also on the capacity of public officials to exercise authority responsibly and adaptively.

## 2. Materials and Methods

This study employs normative legal research supported by a conceptual public administration analysis to examine the relationship between administrative discretion and the risk of abuse of authority in Indonesian public administration. The normative legal approach is used to analyze the legal status, scope, requirements, and limitations of administrative discretion as regulated in Indonesian administrative law. At the same time, the conceptual public administration perspective is applied to interpret discretion not merely as a legal category, but also as a governance instrument required for responsive and adaptive government decision-making.

The study relies on three categories of legal and academic materials. First, primary legal materials consist of Indonesian statutory regulations relevant to administrative discretion and abuse of authority, particularly Law Number 30 of 2014 concerning Government Administration, which provides the principal legal framework for discretion, government authority, the prohibition of abuse of authority, and the General Principles of Good Governance. Supporting legal materials include Law Number 5 of 1986 concerning the State Administrative Court, as subsequently amended, insofar as it relates to the judicial review of administrative actions and decisions, as well as Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, where relevant to the discussion of the intersection between abuse of authority and legal liability. Second, secondary materials consist of peer-reviewed journal articles, academic books, and scholarly legal analyses addressing administrative discretion, abuse of authority, administrative accountability, good governance, and public administration theory. Third, tertiary materials, such as legal dictionaries and authoritative reference works, are used selectively to clarify key legal and administrative concepts.

The research applies three analytical approaches. The first is the statute approach, which examines the formulation, objectives, requirements, and limitations of administrative discretion under Indonesian law. This approach is used to identify how discretion is legally justified, under what conditions it may be exercised, and how the law distinguishes legitimate discretion from misuse of authority. The second is the conceptual approach, which analyzes discretion through theoretical perspectives in administrative law and public administration, including legality, accountability, responsiveness, good governance, and the rule of law. The third is the analytical approach, which synthesizes legal norms and governance concepts to assess the potential transformation of discretion from a legitimate administrative instrument into a source of abuse of authority.

The legal materials and literature in this study are grouped based on indicators of their direct relevance to four interrelated main analytical themes. The first indicator relates to the legal concept and function of administrative discretion itself in running the wheels of government. The second indicator focuses on the specific regulation of discretionary arrangements within the framework of government administration in Indonesia. The third indicator examines the relationship or correlation between discretionary space

and risk factors that can encourage abuse of authority by public officials. Finally, the fourth indicator focuses on the formulation and strengthening of effective legal and administrative control mechanisms to control the implementation of discretionary power. Through these four analytical themes, this study applies statutory, conceptual, and analytical approaches to synthesize legal norms and governance concepts to assess the potential for discretion to shift from a legitimate instrument to a source of arbitrariness.

The collection of materials was conducted through a structured review of relevant statutory instruments and scholarly literature. Legal materials were selected based on their direct relevance to four analytical themes: (1) the legal concept and function of administrative discretion; (2) the regulation of discretion in Indonesian government administration; (3) the relationship between discretion and abuse of authority; and (4) mechanisms of legal and administrative control over discretionary power.

Academic literature was prioritized when it directly addressed these themes and contributed to the development of the article's analytical framework. Recent studies were emphasized to capture contemporary debates, while foundational works were used where necessary to clarify established concepts in administrative law and public administration.

The analysis was conducted qualitatively through descriptive, interpretive, and evaluative legal reasoning. First, the study describes the normative framework governing administrative discretion in Indonesia. Second, it interprets the legal meaning of discretion and abuse of authority by relating statutory provisions to relevant scholarly debates. Third, it evaluates whether the existing framework sufficiently balances two competing needs: preserving discretion as a necessary instrument of responsive public administration and preventing its misuse through legal and governance safeguards. The results of this analysis are then organized into thematic discussions on the legal concept of discretion, its boundaries, the risk of abuse of authority, and the strengthening of accountability mechanisms.

This study does not involve human participants, experimental intervention, or the generation of large empirical datasets; therefore, ethical approval was not required. The materials used in this article consist of publicly accessible legislation and published academic sources. No proprietary dataset, confidential document, or restricted material was used in the preparation of this study.

### 3. Results and Discussion

#### *3.1. Administrative Discretion as a Necessary Instrument in Indonesian Public Administration*

Administrative discretion occupies an important position in public administration because governmental action cannot always be conducted solely through rigid and predetermined legal rules. Modern administrative systems are expected to respond to increasingly complex public problems, including urgent situations, regulatory gaps, conflicting policy demands, and rapidly changing social conditions. In these circumstances, the law may provide general guidance, but it cannot fully predict every factual situation that public officials will encounter. Therefore, discretion becomes a necessary administrative instrument that enables government officials to make context-sensitive decisions while still pursuing public objectives.

From the perspective of public administration, discretion allows officials to translate general policy norms into concrete administrative actions. Bertelli et al. (2020) note that administrative actors often rely on discretionary authority to implement public policies pragmatically, especially where formal institutional arrangements do not fully correspond with practical governance challenges. Similarly, Selten et al. (2023) explain that discretion is required because general rules frequently do not align perfectly with specific local circumstances. Public officials, particularly those operating at the frontline of service delivery, must interpret, adapt, and operationalize policy mandates in order to make them workable in real-life situations.

This functional character of discretion is also recognized in Indonesian administrative law. Law Number 30 of 2014 concerning Government Administration defines discretion as a decision and/or action taken by government officials to resolve concrete problems in government administration when statutory provisions provide choices, do not regulate, are incomplete or unclear, or when government stagnation occurs. Suparto et al. (2024) observe that this formulation confirms the legal acceptance of discretion as a tool for overcoming limitations within formal regulation. Rather than representing an absence of law, discretion in this sense operates as a legally recognized mechanism that allows public administration to continue functioning when ordinary legal instructions are insufficient.

The Indonesian formulation of discretion reflects the broader logic of a welfare-oriented administrative state. Government officials are not merely passive executors of statutory text; they are also responsible for ensuring that public functions continue to operate effectively. Ro'is et al. (2021) explain that the regulation of discretion in Indonesian law was intended not only to restrict arbitrary power but also to provide legal protection for officials who must take action in situations where rigid compliance with existing rules may create administrative paralysis. This is particularly relevant in conditions requiring rapid governmental response, such as public emergencies, urgent service needs, or regulatory uncertainty.

In this respect, discretion is closely connected to administrative responsiveness. Váczi (2022) emphasizes that discretionary power is essential when public authorities face new social problems that demand flexible and timely responses. A government that is unable to adapt may fail to deliver public services effectively, even if it formally complies with rules. Excessive proceduralism and rigid rule adherence may also generate red tape, increasing the cost of decision-making and reducing the ability of public officials to respond constructively to citizens' needs (Migchelbrink & de Walle, 2020). Thus, discretion serves as an institutional bridge between legal certainty and administrative effectiveness.

However, recognizing the necessity of discretion does not mean that all discretionary actions are automatically legitimate. The function of discretion in Indonesian public administration must be interpreted within its legal purpose: to address concrete administrative problems in the public interest, not to create autonomous power detached from law. Discretion is justified because it supports governmental continuity, adaptive decision-making, and policy implementation; it is not justified when it becomes an instrument for personal, political, or institutional advantage. This distinction forms the basis for evaluating whether discretion remains lawful or begins to create risks of abuse of authority.

### ***3.2. Legal Boundaries of Administrative Discretion and the Role of Good Governance Principles***

The legal legitimacy of administrative discretion depends on the existence of clear boundaries. In Indonesian public administration, discretion is not designed as an open-ended freedom of government officials, but as a legally conditioned authority. Its use must remain consistent with the objectives of government administration, the public interest, and the General Principles of Good Governance. These principles function as normative safeguards to ensure that discretion is exercised rationally, proportionally, transparently, and in good faith.

The significance of these limitations lies in the dual nature of discretion. On the one hand, discretion enables flexible administration; on the other hand, it can create legal uncertainty when its limits are poorly defined or insufficiently observed. Váczi (2022) argues that an administrative authority vested with discretionary power must not only comply with applicable legal provisions but also act fairly and equitably. This proposition is particularly relevant for Indonesia because discretion is often exercised in situations where legal norms are incomplete, ambiguous, or silent. Under such conditions, the quality of administrative reasoning becomes crucial. The absence of detailed rules does

not release officials from legal responsibility; instead, it increases the importance of justifying decisions through objective reasons, public interest, and good governance standards.

Within the Indonesian legal framework, the General Principles of Good Governance, provide an important standard for evaluating the legality of discretion. Fauzani (2023) explains that Law Number 30 of 2014 strengthened the normative status of AUPB by explicitly incorporating them into the administrative legal system. These principles include legal certainty, benefit, impartiality, accuracy, non-abuse of authority, openness, public interest, and good service. In relation to discretion, AUPB operate as substantive and procedural benchmarks that prevent public officials from treating discretionary authority as purely subjective judgment.

The role of AUPB becomes especially important because discretion often occurs in spaces where direct statutory direction is limited. In such cases, good governance principles provide a normative compass. For example, the principle of legal certainty requires that discretionary decisions be grounded in a recognizable legal framework and not based on arbitrary preferences. The principle of public interest requires that discretion serve collective welfare rather than private or factional benefit. The principle of non-abuse of authority prohibits officials from using discretion for purposes unrelated to the authority granted. The principle of openness supports transparency in explaining why a particular discretionary decision was taken.

Tandungan & Parinussa (2021) further note that discretionary action must be undertaken in good faith and in conformity with the General Principles of Good Governance. This requirement affirms that lawful discretion is not defined solely by whether a decision resolves an administrative problem, but also by whether the process and rationale behind the decision meet standards of accountability. A discretionary act taken to overcome regulatory stagnation may still be unlawful if it is discriminatory, self-serving, procedurally careless, or inconsistent with the purposes of the authority.

From a governance perspective, these legal boundaries are vital to maintaining public trust. Bertelli et al. (2025) argue that discretion must be embedded within principles of legality, impartiality, integrity, accountability, and transparency. These principles are not merely ethical ideals; they form the institutional conditions under which discretionary power can be democratically authorized. Without them, discretion risks becoming opaque and resistant to scrutiny. In administrative practice, therefore, good governance principles serve two simultaneous functions: they protect citizens from arbitrary power and protect officials by clarifying the standards of legitimate decision-making.

This discussion shows that discretion and legal control should not be viewed as opposing concepts. Legal boundaries do not eliminate discretion; instead, they make discretion institutionally defensible. A discretionary decision that is well-reasoned, documented, consistent with AUPB, and directed toward public interest is more likely to withstand administrative and judicial scrutiny. Conversely, a decision that lacks objective justification or deviates from legal purpose becomes vulnerable to classification as an abuse of authority. The central issue is not whether officials may exercise discretion, but whether such discretion can be justified within the legal and ethical architecture of public administration.

### ***3.3. From Administrative Discretion to Abuse of Authority: Identifying the Main Risk Factors***

Although discretion is legitimate and necessary, it may generate serious risks when exercised without adequate controls. The most significant risk is the transformation of discretion into abuse of authority, especially when officials use discretionary space to pursue objectives unrelated to public interest or inconsistent with the legal purpose of their authority. In Indonesian administrative law, this issue is highly sensitive because abuse of authority may not only generate administrative consequences but may also intersect with civil and criminal liability.

Suparto et al. (2024) describe discretion as having “two faces”: it may prevent government stagnation, yet it may also become a potential source of abuse of authority. This duality reveals the core problem of discretionary power. When law grants officials room to choose among alternatives, the legality of the decision depends heavily on the motive, purpose, reasoning process, and procedural integrity of the action. If these elements are not properly maintained, discretion may shift into arbitrary or unlawful conduct.

One major risk factor is deviation from the purpose of authority. Administrative power is legally granted for specific public purposes. When discretion is used to pursue personal gain, political advantage, institutional convenience, or interests unrelated to the mandate, it can constitute misuse of authority. Siahaan (2021) argues that abuse of authority is closely tied to the distortion of official power from its lawful objective. This reflects the classic administrative law doctrine that power must be exercised in accordance with the purpose for which it was granted. A decision may appear procedurally valid on the surface, but if its real purpose departs from public interest, it may still represent abuse.

A second risk factor is arbitrary or insufficiently reasoned decision-making. Discretion is not equivalent to unfettered choice. Officials must be able to explain why a particular course of action was selected and how it relates to the underlying administrative problem. Sokolov (2020) warns that unrestricted discretion can foster subjective and selective law enforcement. In practical terms, this may occur when similar cases are treated differently without rational justification, when officials apply inconsistent standards, or when decisions depend more on personal preference than on objective administrative considerations. Such arbitrariness directly threatens equality before the law and undermines citizen confidence in public institutions.

A third risk factor is favoritism and conflict of interest. Discretion can be distorted when decisions are influenced by personal relations, political affiliations, or economic interests. Bertelli et al. (2025) emphasize the importance of impartiality as a condition of legitimate discretion, meaning that public officials should not allow special relationships or personal preferences to shape their decisions. In the Indonesian context, this concern is particularly relevant because discretionary authority may arise in licensing, procurement, public service exceptions, budget allocation, or crisis-related decisions. If discretionary judgment is not transparently documented and institutionally monitored, opportunities for favoritism, collusion, and nepotism may emerge.

A fourth risk factor is weak accountability and oversight mechanisms. The existence of legal rules alone is insufficient if there is no effective mechanism to review how discretion is exercised. Marin et al. (2024) argue that transparency and accountability must be supported by both internal and external oversight structures. Without such mechanisms, discretionary decisions may become difficult to challenge or evaluate. In Indonesia, the challenge is compounded by the fact that discretion often sits at the intersection of administrative judgment, policy choice, and legal responsibility. When supervisory institutions do not provide clear guidance, officials may either misuse discretion or avoid using it altogether.

A fifth risk factor is the blurring of boundaries between administrative error, unlawful discretion, and criminalized abuse of authority. Suparto et al. (2024) observe that actions exceeding administrative authority may cross into criminal law when they contain elements of abuse of authority. Anggraeny & Marbun (2020) similarly highlight the overlapping relationship between state administrative law and criminal law in the interpretation of abuse of authority. This overlap creates a difficult evaluative problem: not every poor or incorrect discretionary decision should automatically be criminalized, but decisions involving deliberate misuse of power cannot be shielded merely by labeling them as “policy discretion.” The absence of a clear conceptual boundary may cause inconsistent enforcement and uncertainty for public officials.

This tension also creates a chilling effect on administrative innovation. Ro’is et al. (2021) note that one reason for regulating discretion under Law Number 30 of 2014 was to address officials’ reluctance to use discretion due to fear of legal consequences. If offi-

cially perceive that any non-routine administrative decision may later be interpreted as unlawful, they may prefer inaction, even when urgent public needs require flexible solutions. Thus, the risk is twofold: excessive discretion may lead to abuse, but excessive fear of abuse allegations may produce administrative stagnation. An effective governance framework must therefore distinguish carefully between: (a) lawful discretion exercised for public purposes within legal boundaries; (b) administrative error resulting from poor judgment but not necessarily abuse; (c) abuse of authority involving deviation from purpose, bad faith, conflict of interest, or arbitrary use of power.

The identification of these risk factors is essential because it clarifies that abuse of authority does not arise merely because discretion exists. Rather, abuse emerges when discretion is detached from legal purpose, public accountability, objective reasoning, and institutional oversight. Accordingly, the key challenge for Indonesian public administration is not to reduce discretion indiscriminately, but to strengthen the criteria and controls that preserve its legitimate function while preventing its distortion.

### ***3.4. Strengthening Legal and Administrative Control over Discretionary Power***

The analysis above indicates that Indonesia requires a control framework capable of achieving two objectives simultaneously: preserving discretion as a necessary element of responsive public administration and preventing its transformation into abuse of authority. A control regime that is too weak may foster arbitrariness, favoritism, and corruption, while a regime that is too rigid may discourage officials from making legitimate adaptive decisions. Therefore, the appropriate approach is not to eliminate discretion, but to institutionalize it through clearer legal standards, procedural safeguards, and accountability mechanisms.

The first requirement is clarification of the operational criteria for lawful discretion. Although Law Number 30 of 2014 provides a legal basis for discretionary decisions, practical uncertainty may still arise regarding how officials should assess the existence of regulatory gaps, urgency, stagnation, or incompleteness of legal norms. Clearer administrative guidelines are needed to translate statutory principles into implementable standards. These guidelines should explain the conditions under which discretion may be used, the evidence needed to justify it, and the relationship between discretion and the General Principles of Good Governance. Such clarification would reduce interpretive ambiguity and help officials distinguish legitimate administrative judgment from impermissible deviation.

The second requirement is mandatory documentation and reason-giving. Discretion should be exercised through a process that produces an administrative record. Officials should be required to state: the concrete problem being addressed; the legal or regulatory gap that justifies discretion; the available alternatives considered; the reason for selecting a particular course of action; the public interest objective pursued; the safeguards used to avoid conflict of interest or disproportionate impact.

This form of documentation would serve multiple purposes. It would improve internal accountability, facilitate external review, protect officials who act in good faith, and prevent post hoc rationalization of questionable decisions. From a public administration perspective, reason-giving also strengthens organizational learning because discretionary decisions can later be evaluated as precedents for improved policy design.

The third requirement is stronger internal administrative review. Oversight of discretion should not depend exclusively on courts or criminal law enforcement after a problem has occurred. Preventive mechanisms within government institutions are equally important. Supervisory bodies, internal auditors, and administrative inspectors should be equipped to assess the legality and governance quality of discretionary decisions. Such review should focus not only on whether a decision caused financial loss, but also on whether it complied with public purpose, proportionality, procedural fairness, and good faith. Marin et al. (2024) emphasize that internal and external oversight are both essential components of accountability, and this insight is highly relevant to the Indonesian administrative context.

The fourth requirement is a clearer differentiation between administrative review and criminal liability. The overlap between abuse of authority in administrative law and abuse of power in corruption law has generated persistent uncertainty. Siahaan (2021) and Anggraeny & Marbun (2020) demonstrate that the interpretation of abuse of authority remains contested because it involves both administrative and criminal dimensions. To avoid over-criminalization of policy decisions, administrative review mechanisms should be strengthened as the first forum for determining whether a discretionary act constitutes a misuse of authority. Criminal liability should be reserved for situations involving clear evidence of unlawful intent, personal or group benefit, corruption, or deliberate deviation from legal purpose. This differentiation is important to ensure both legal certainty and effective accountability.

The fifth requirement is capacity-building for public officials. Discretion is not only a matter of legal permission; it is also a matter of administrative competence. Officials must understand the difference between innovation and arbitrariness, flexibility and favoritism, rapid response and procedural neglect. Training programs should therefore integrate: administrative law principles; AUPB; conflict-of-interest prevention; public ethics; risk assessment; documentation of discretionary reasoning; accountability standards.

Such capacity-building would support a professional culture of responsible discretion. Officials who understand the legal and ethical structure of discretion are more likely to use it effectively and less likely to treat it either as a source of unrestricted freedom or as a dangerous authority to be avoided.

The sixth requirement is integration of discretion control into broader good governance reform. Discretion should not be regulated in isolation from the larger goals of transparent, accountable, and responsive governance. Váczi (2022) argues that discretionary power must be limited in accordance with the requirements of good administration, while Bertelli et al. (2025) link authorized discretion to legality, impartiality, integrity, and accountability. In Indonesia, this means that the evaluation of discretionary decisions should be incorporated into bureaucratic reform indicators, institutional performance assessments, and public service accountability systems. A discretionary decision should be judged not only by whether it solves an immediate problem, but also by whether it enhances public trust and complies with the values of administrative justice.

Overall, the strengthening of legal and administrative control over discretion requires a balanced model. Such a model should preserve the capacity of government officials to act in situations where rules are incomplete or circumstances require adaptive judgment. At the same time, it must prevent discretionary authority from becoming a vehicle for arbitrary decision-making or abuse of power. The most appropriate framework is therefore one that combines: clear legal criteria; good governance principles; documented reasoning; internal and external oversight; differentiated accountability mechanisms; professional competence among public officials.

Through this framework, administrative discretion can remain a legitimate and necessary instrument of Indonesian public administration while being institutionally constrained against the risk of abuse of authority.

Bureaucratic reform makes a crucial contribution to strengthening discretionary control by ensuring that discretionary space is not regulated in isolation from the goals of transparent, accountable, and responsive governance. In the context of Indonesian public administration, bureaucratic reform contributes to integrating institutional evaluation of discretionary decisions into the indicators of bureaucratic reform itself, the institutional performance assessment system, and the overall public service accountability system. By strengthening this bureaucratic reform framework, a discretionary decision is no longer judged narrowly based on its pragmatic ability to resolve immediate problems or administrative bottlenecks in the field. Moreover, bureaucratic reform has succeeded in expanding the assessment parameters so that every official's discretionary action is tested based on its contribution to increasing public trust and its consistency with the values of administrative justice.

#### 4. Conclusions

Administrative discretion is a legitimate and necessary instrument in Indonesian public administration because it enables government officials to respond to concrete problems, regulatory gaps, urgent situations, and the risk of governmental stagnation that cannot always be resolved through rigid statutory rules. However, discretion also carries the potential to develop into abuse of authority when it is exercised beyond its legal purpose, conducted arbitrarily, influenced by conflicts of interest, or implemented without adequate accountability and oversight. The main challenge, therefore, is not whether discretion should exist, but how to ensure that it remains within the boundaries of legality, public interest, and the General Principles of Good Governance. This article concludes that Indonesia needs a balanced framework that preserves discretion as a source of administrative responsiveness while strengthening safeguards through clearer legal criteria, transparent reasoning, proper documentation, internal and external supervision, and a more precise distinction between legitimate discretionary action and unlawful misuse of authority. By integrating administrative law and public administration perspectives, this study emphasizes that responsible discretion is essential for developing a government that is adaptive, accountable, and resistant to arbitrary or abusive exercises of public power. The integration of administrative law and public administration perspectives provides a significant conceptual contribution to the realization of good governance by bridging the aspects of formal legality and managerial effectiveness. The combination of these two perspectives is able to comprehensively explain how discretion can be maintained as a legitimate and adaptive government instrument to respond to concrete problems, while remaining strictly controlled through legal safeguards to prevent the risk of abuse of authority. Through this integrative lens, the implementation of discretionary power is positioned proportionally so that it always aligns with the principle of the rule of law and fair and equitable administrative standards. Ultimately, the integration of these two disciplines contributes fundamentally to shaping a culture of state apparatus behavior based on responsible discretion, an element that is essential for the development of a modern government that is adaptive to uncertainty, legally accountable, and resistant to arbitrary actions and abuse of public power.

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