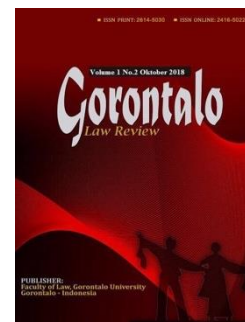


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Innovative Strategy for the Application of Discretion in Government Policy in Indonesia: An Analysis

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Abstract

The objective of this study is to recognise the following: discretion as a kind of innovation in government policy application; discretionary criteria as an innovation in government policy carrying the benefit principle; and discretionary models as an innovation in government policy seen to be ideal. This study used a statutory approach in conjunction with a normative legal strategy. The discussion's conclusions demonstrate that, in order to encourage official innovation, discretionary regulation—a kind of government policy innovation—must be implemented. This phase entails rejecting a passivity in the realisation of innovation and pursuing harmony between innovation and legislation. Four factors are taken into consideration while evaluating discretion as a novel government policy: power, constraints, testing, and judicial oversight. The welfare state's core principles must serve as the foundation for the discretionary model that is seen to be best for developing innovative policies that accomplish bureaucratic transformation. Discretionary policies should also encourage collaboration between authorities and adhere to Pancasila's tenets. Moreover, discretionary policies must abide with the fundamentals of good governance (AUPB).

Keywords: Discretion; Innovation; Government Policy; Discretion Criteria; Discretion Model;

1. INTRODUCTION

It is society's utmost priority to realise a democratic, clean, and authoritative government system via the creation of constitutional legislation. The bureaucratic reform agenda's execution is one of the most recent developments in constitutional law; it is seen as a pressing requirement that must be realised. Central and regional bureaucracy in Indonesia have both been the target of popular criticism throughout the country's history, particularly during the New Order era (Sudrajat, 2009). Bureaucratic behaviour was inconsistent with its public service duty at the time. Before the reform era, bureaucratic performance

issues included low-quality public services, licencing bribery, administrative complexity, inefficient organisational structures, and wasteful budget management (Dwiyanto, 2021). The government is reforming the bureaucracy to create a vibrant, competitive world-class bureaucracy. Implementation has improved certain things, but not much. Too much formality and uniformity leads to improvements that don't completely benefit society. To address these issues, federal and regional government organisations launched public sector innovations. However, public sector innovation must be accelerated to disseminate more equitably and massively and boost change.

Indonesian central and regional public sector innovation methods have issues. The biggest issue here is that current rules and regulations frequently conflict with innovation (Sunarti, 2017). Innovation policies have not yet adequately served society. Public officials' limited skill and motivation to innovate have led to the cancellation or revision of many public initiatives. Thus, policy innovation that improves community issue solutions is essential (Sururi, 2016).

It's always necessary to map public sector innovation and the constitutional legal framework to define discretion as freedom in power and public responsibility. from administrative law. Robert Klugaard says monopoly delivers authority without accountability, leading to corruption. Indonesia has been cautious and accountable. Since discretion is free authority and accountability is restricted to performance reports, both systems are flawed due to misperception. However, discretionary policy implementation may cause legal and administrative complications. Policy implementation sometimes exceeds authorities and breaks laws. Good governance requires public monitoring of government people and apparatus to guarantee clean and authoritative administration (Salsabila, 2022).

Former KPU Chairman Nazaruddin Sjamsudin was convicted in 2004 for charging public money without an auction. Commission head protected KPU personnel under insurance. Unfortunately, scheduling hindered open bidding for this project. Despite winning the general election, he was in court. Court condemned him to seven years for public purse harm (Wahyudi, 2017). Due to election workload, this policy should protect KPU staff health. The Voting Organising Group (KPPS)'s high workload caused 889 officer deaths in 2019 (Media, 2020). KPPS cops killed 889 people, yet the KPU did not give insurance (KPU Says There is No Health Insurance for KPPS Officers, nd).

Policymakers have extensive liberty to construct the optimal policy response for various scenarios. The core point of discretion as part of the ability to violate and/or overrule the law for short-term purposes or exigencies is still unclear. In emergencies, leaders employ judgement, which is subjective. This inequality has several merits and drawbacks in execution.

Finn Kydland and Edward Prescott were the first to propose a solution to discretionary policy-regulatory dilemma. They distinguished time-inconsistent and time-consistent rules in a 1977 classic. Time-inconsistent policies may appease the public temporarily but fail to achieve long-term aims. Time-consistent policies meet long-term policy objectives without causing short-term unrest (Wahyudi, 2017). Kydland and Prescott stress the necessity of knowing both the desirable policies for a given situation and the framework that would yield the optimal policies over time. They claim that regulations provide time-consistent outcomes by justifying policymakers' claims. Kydland and Prescott's focus on trustworthy regulatory structures and ideals.

In actuality, discretion has perks and downsides, and the legalistic approach implies that government activities obey statutes. Legal infractions include

government activities that violate statutes. Following Herbert Packer, legalists believe: "Wisdom is lawless in the strict sense." (www.dailyklik.id, 2022). In his book *Rule of Law*, Albert Venn Dicey introduced the notion of discretion, which asserts that any government system must be founded on statutory laws, that officials must have authority, and that power must be restricted (Darumurti, 2014). This contradicts Nonet and Selznick's view that internal dynamics move law from repressive law, where law is a crude political instrument, to autonomous law, where legal integrity and formality are central, to responsive law, where law serves substantive purposes and is related to policy (Taekema, 2019).

State administrative law connected to discretionary decisions and legal protection is essential to successful administration. Constitutional law advanced with Law Number 30 of 2014 on Government Administration (Sahputra, 2021). Statutes include discretionary arrangements. Article 1: "Discretionary policies can be taken by authorised government officials if the laws and regulations that provide choices are not regulated, incomplete or unclear, and government stagnation occurs." These restrictions show that government officials employ discretion because they are scared to experiment in bureaucratic change. Regional authorities generally worry about APBD fund distribution for innovation-related programmes, which slows budget absorption.

The Regent of Sragen was sentenced to 7 years in prison for corruption in the Sragen Regency APBD's One Stop Service (OSS) program's innovation policy. I Gusti Winasa, Regent of Jember, created a lean and effective regional apparatus structure to use the tiny APBD for free health and education services, but was caught off guard. In corruption trials and numerous regional leaders (Setyobudi, 2022). Former DKI Jakarta Governor Basuki Tjahaja Purnama (Ahok) also required developers to raise fees to continue reclamation projects for social programmes like building apartments for the poor. The DKI Jakarta Regional Revenue and Expenditure Budget (APBD) uses e-budgeting without a legal foundation (Khoirunnisak et al., 2018). Criminalising policy innovation prevents it from being supported, acknowledged, or implemented, which is disastrous for regional growth. This miscommunication will make local governments reluctant and afraid to undertake innovative strategies.

Klitgaard, one of the giants of anti-corruption academic research over the last half century, once briefly summarised his perspective on the causes of corruption in a "corruption formula": $C = M + D - A$, or "Corruption equals monopoly plus discretion minus accountability." Legal scholars have debated the closeness of corruption and discretion" (Address by Robert Klitgaard, nd). Corruption reduction reduces monopolistic power, discretion, and responsibility in numerous ways. Reduce monopolistic power to enable competition. Clarifying legal standards and making them public limits discretion. Increasing responsibility improves performance measurement.

Klitgaard also believes that corruption detectors and punishments (for givers and takers) must be raised. Klitgaard's corruption formula was criticised by Stephenson (2014) and others. Stephenson believes Klitgaard's corruption formula is outmoded, deceptive, and hazardous. Stephenson's argument addressed Klitgaard's formula:

1. Monopoly

Monopoly replacement does not necessarily reduce competition, according to this study. Sometimes, but sometimes competition increases corruption. A bribe-paying firm may recruit corrupt officials. However, jurisdictions may

compete to give the best corruption chances. And how privatising government services reduces corruption.

2. Discretion

Overly discretionary government officials may misuse power. However, government personnel with too little (formal) discretion may bend or overlook dumb, inefficient, and socially unacceptable regulations. Thus, certain kinds of corruption entail legally permissible discretion, while others violate formal discretion limitations. Tightening such regulations may lessen the former but increase the latter. Overemphasising severe constraints on official discretion may lead to weaker outcomes (discretion, despite its costs, allows officials to adjust their decisions to specific conditions and over time).

3. Accountability

This formulation has numerous issues: (1) responsible authorities are under pressure to provide visible short-term achievements, which might encourage corruption with long-term consequences (such as illegitimate campaign contributions); (2) When officials are subject to "hyper-accountability," meaning they expect to be removed from office as soon as a minor mistake occurs (even if it is not their fault), they may be less constrained by the desire to remain in office (because it may not happen) and more likely to enrich themselves while they can; (3) responsibility to bureaucratic superiors can only move corruption up the ladder, and if superiors (like politicians) are more corrupt than subordinates (like bureaucrats), raising the latter's responsibility for the former may worsen corruption.

According to the perspective above, discretion may lead to corruption, but not all discretion does. Regional chiefs' initiatives may succeed even if they lead to corruption. Those who perpetrate corruption demonstrate this. If the innovation programme is excellent, it pays to hire the proper individuals rather than administrative defects who breach rules and allege corruption. Law should be applied in formal positivist rules and in progressive, responsive ways to benefit.

After Law Number 11 of 2020 concerning Job Creation abolished the necessity for government workers to use discretion, discretion was applied differently. In order to comply with statutes, Article 24 of Law Number 30 of 2014 on Government Administration limits discretion. However, Article 175 of Law Number 11 of 2020 concerning Job Creation eliminates the need that government personnel use discretion "not in conflict with the provisions of statutory regulations". Because it might misuse discretion, this will impair government administration. This study seeks discretionary contexts, criteria, and models as government policy innovations that include the benefits principle.

2. RESEARCH METHODS

The research method used is normative legal research, namely legal research that places law as building a system of norms (Ishaq, 2017). Legal analysis, which is concerned with the examination of legislative products pertinent to the issues under investigation, forms the basis of this research's methodology. The library research or literature study paradigm is the one employed for gathering legal resources. After presenting the findings in narrative style, the study proceeds to analyse secondary data that includes previously collected legal information, and finally, the results are drawn to a conclusion. This study makes use of both descriptive and prescriptive methods of analysis. The purpose of this descriptive analysis is to provide a synopsis or explanation of the research item based on the study. The purpose of this viewpoint analysis is to give support for the findings of the investigation.

3. RESULTS AND DISCUSSION

A. Discretionary Government Regulations as a Form of Government Policy Innovation

Ratified The October 17, 2014, Government Administration Law Number 30 of 2014 marked a new administrative reform milestone in Indonesia. Authorised government officials may apply discretion (make judgements and take acts to address actual issues in administering government) to expedite administration, remedy legal loopholes, give legal clarity, and overcome government stagnation for the public benefit. Thus, Law Number 30 of 2014 on State Administration offers the foundation for government agencies, officials, the community, and others to improve administration.

Experts say this discretion develops owing to social changes that affect critical circumstances, preventing government officials, particularly those obliged (*gebonden bevoegheid*) to take appropriate legal and factual acts, from using their power (Mustamu, 2011). Benjamin Hoessen defines discretion as authorities' flexibility to make judgements based on their considerations (Hoessen, 2009). Thus, every public officer has discretion, he says. Discretion prioritises goal achievement (*doelmatigheid*) above legal compliance. This is linked to the quick dynamics of community demands, which are frequently unanticipated or inaccessible by formal processes governed by regulations.

To speed growth and public services, government officials are being asked and competing to innovate. The spirit of Law Number 30 of 2014 on Government Administration requires government administrators to follow clear norms and avoid abusing their power. The Government Administration Law regulates conditional and procedural discretion. Law 30 of 2014 on Government Administration states that Government Administrators' discretion includes:

Laws and regulations affect decision-making and action. Government officials have abilities, permissions, authorizations, rights, expectancies, and other expressions stated in laws and regulations to make judgements and acts. The word "choice of decision or action" refers to government officials' reactions or attitudes while performing administrative responsibilities in accordance with laws and regulations.

Without legal monitoring, decisions and acts are made. "Non-regulating laws and regulations." are those that do not regulate government administration in certain conditions or outside the norms. Incomplete or confusing rules and regulations affect decision-making and actions. The term "incomplete or unclear statutory regulations" refers to regulations that need further clarity, overlap, and need unformed implementation.

Inaction by the government stimulates decisions and activities for the public good. The term "broader interests" covers natural disasters, disease outbreaks, social conflicts, riots, defence, and national unity, with a focus on the livelihoods of many people, the preservation of humanity, and the integrity of the country. To handle actual problems, discretion must meet several circumstances, including alternatives, non-regulation, weak or inaccurate regulation, or government stagnation. Some commitments must be good faith, legal, and not conflict with interests. Financial allocation discretion must be revealed and authorised by superiors. Government officials must notify the Official Superior before and after using discretion if it

may cause public dissatisfaction, an emergency, or a natural disaster. Requests and discretionary reports must be filed five days before and after implementation under Government Administration Law 30 of 2014. This suggests Law Number 30 of 2014 on Government Administration discretion is difficult to implement and unsuitable. Government Administration Law 30 of 2014 describes discretionary action:

It is necessary to get consent from higher-ranking officials before exercising discretion that might affect budget allocations and cause legal issues that could cost the state. Government officers must notify their superiors before using discretion that might spark public disturbance. Government officers must notify their superiors when exercising discretion in crises, urgent situations, or natural catastrophes.

The Chief Official must authorise discretion that might change budget allocations and cause legal issues that burden state resources. This makes many authorities wary of discretion, especially with public funding. Some law enforcement agents feel Law Number 30 of 2014 on Government Administration does not support anti-corruption since discretion might lead to crime.

Law 31/1999, revised by Law 19 of 2019 and Constitutional Court Decision No. 25/PUU-XIV/2016, defines discretionary corruption as state financial losses, bribery, procurement conflicts of interest, and reward. Corruption occurs when an official's judgement has several of these criminal traits. A discretion that unlawfully enriches oneself and hurts the public budget.

Authorised officials use discretion but don't comply Law 30/2014, causing corruption. Law 30/2014 requires discretion to be used (1) for its intended purpose, (2) not in conflict with laws and regulations, (3) following the General Principles of Good Government or AUPB, (4) for objective reasons, (5) without conflict of interest, and (6) in good faith.

After the Job Creation Law, State Administration discretion under Law Number 30 of 2014 changed. The Job Creation Law modified government management, particularly article 175 discretion. This discretion shift is caused by the government's control concept. To encourage investment, this has reduced government officials' approval discretion. The Job Creation Law broadens discretion. Social disagreement results from this shift in discretion, but the Job Creation Law's discretion is too broad and may bring government administration instability (Nurmayani & Farida, 2021).

The authority holder's political views will influence this decision as deleting this criteria must not violate the Job Creation Law's legislative limits. It was critiqued for being excessively wide since Article 7 of Law Number 15 of 2019 amends Law Number 12 of 2011 on Legislative Regulations:

1. Potential for Unconstitutional Discretion

As stated in Article 1 paragraph (3) of the 1945 Constitution, Indonesia is a rule of law nation, hence government administration must be founded on law rather than government officials' authority and policymaking. The Job Creation Law might enhance local government officials' authority, which could be unlawful. Unconstitutional is creating a legal product that violates the 1945 Constitution (Wicaksono, 2019). Since eliminating this criterion must not violate with the Job Creation Law's legislative restrictions in providing this discretion, the authority holder's political inclinations will colour it. It has been criticised for being too broad because Article 7 of Law Number 15 of

2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Legislative Regulations states:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Decision of the People's Consultative Assembly;
- c. Laws/Government Regulations are not Laws;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regulations; And
- g. Regency/City Regional Regulations

Government discretion may be unlawful without constraints that comply with statutory norms. Indonesia's ultimate law is 1945's Constitution. The 1945 Constitution is a reference for government administration policies to guarantee that economic policies outlined by the Job Creation Law are not violated or ignored for economic purposes. According to Jimly Assidique, the 1945 Constitution's economic provisions manipulate market dynamics and economic growth to attain justice, prosperity, and freedom. The constitution balances government, society, and business (Elviandri, 2019). Every policy, including the Job Creation Law, must comply with the 1945 Constitution to develop the economy.

2. Contrary to General Principles of Good Governance (AUPB)

AUPB requires prudence. Government staff are monitored by AUPB to avoid abuse. Sumeleh (2017) Therefore, government discretion won't harm society. AUPB may examine honesty (fair-play), accuracy (zorgvuldigheid), purity of purpose, balance (evenwichtigheid), and legal certainty.

AUPB is legal certainty, usefulness, impartiality, accuracy, non-abuse of authority, openness, public interest, and outstanding service, under Article 10 of the Government Administration Law. Government officials' discretion is evaluated for public benefit. For AUPB infractions, discretion might be removed. Problems arise from Job Creation Law articles that allow discretionary legal certainty violations. Rule of law prioritises government administration initiatives' rules, appropriateness, firmness, and justice. Removing discretionary limits legally. Legal uncertainty regarding discretionary actions will hamper government administration. Gustav Radbruch defines legal certainty as law-related certainty. Gustav Radbruch says the Job Creation Law's discretion must fulfil four legal certainty conditions (Firdaus & Erliyana, 2020)

- a. Law is positive and based on statutory regulations (Gsetzliches Recht).
- b. That the law is based on facts (Tatsachen), not a formulation of decisions that the judge will later make, such as "good faith" and "decency".
- c. Facts must be formulated clearly to avoid errors in meaning (multiple interpretations) and be easy to implement.
- d. Positive law should not be changed too often.

These four criteria show that the Job Creation Law's discretion violates legislative requirements, distorting government legal clarity. Administrative personnel may abuse the Job Creation Law's wide discretion, violating the AUPB's power-abuse rule. AUPB infractions result from Job Creation Law discretion. Because the Job Creation Law's discretion is too wide, government officials still misuse their power and corrupt although the Corruption Eradication Commission provides statistical data on 143 regional heads till 2021. Corruption results from regional leaders' dishonesty. Government

Administration Law severely limits discretion. Lawsuits may result from discretion misuse. Criminal, civil, and administrative laws govern discretion abuse (Suteja, 2013).

No central government or community monitors this discretion. Increasing discretion under the Job Creation Law encourages misuse because government personnel may abuse discretion. If the Job Creation Law does not combine discretion with increased control, it will waste and corrupt government administration.

The Job Creation Law's discretion notion has to be fixed quickly to satisfy the law's investment aims. Ridwan HR said that discretion and policy norms are unlawful or deviant if they conflict with statutory regulations and legal principles (*rechtsbeginsel*), showing power abuse, arbitrariness, logic breaches, human rights violations, violations of the basic principles of good governance (*Goed Bestuur*), and maladministration because discretion is problematic (a solution must be found promptly) (Setiawan & Asyikin, 2020).

Law 30 of 2014 and its modifications until Law 11 of 2020 on Job Creation define discretion, although many government employees are still reluctant to use it administratively. The majority of government workers fear discretion would lead to mal-administration, which leads to crime and corruption. What may motivate government officials to use innovation policy discretion to change bureaucracy?

B. Discretionary Criteria as a Government Policy Innovation Containing the Principle of Benefit

Article 1 point 9 of Law Number 30 of 2014 on Government Administration defines discretionary power as a decision or action taken by government officials to solve specific difficulties, government with options, unregulated, incomplete, or confusing rules and regulations, and stagnation. Government officials' broad policymaking must be coupled with legal protection for policymakers and accountability for every policy produced.

In state administration, the law cannot govern everything, thus discretion is essential to supplement the concept of legality, which asserts that every deed or constitutional activity must be founded on the law. Everyday life (Irfan, 2000). Because discretion is part of the law, government officials' discretion is constantly supervised or regulated by legislation. Additionally, Syahrhan Basah noted that legal discretion has two limits: upper and lower. Following the compliance concept that lower rules must not clash with higher regulations, the maximum limit is set to meet statutory restrictions. Lower limits are state administrators' rules or attitudes (active and passive); they cannot violate people' rights and duties (Sahputra, 2021).

This indicates that government officials may draft and adopt policy rules based on subjective or personal considerations as long as they follow the basic rule of law. Because discretion in the rule of law is a legitimate requirement, government officials must be held responsible for their legality and execution. To implement the nation's lawful interests, government officials must be responsible for their discretion and supervise it to guarantee it doesn't deviate.

Government acts must be legal (*rechmatig*) and well executed. After the discussion that the rule of law limits government authority, the legitimacy (*rechmatigheid*) of government acts, particularly discretionary power, is chief concern. Testing government authority under regular circumstances (associated power) with discretionary power.

Legal conceptualization is the key difficulty in testing government discretionary action. Ration materials are tested using *wet*, *recht*, and *doel* methods. It ultimately develops legal concepts for testing (H, 2002). Legislation and regulations underpin *wetmatigheidstoetsing*. This testing technique is rule-based. Rule-based government activity is only effective within a narrow power/authority corridor. Legal definition of *rechtmatigheidstoetsing* is "a set of ideals, principles, and precepts for the adjustment of human relations and the order of their behaviour in society." (Strait, 1960, pp. 1940–1960)

This is called rights-based testing. Philosophical rights include "good or just law" that binds us (Fletcher, 1998). This rights-based test is a substantive rule of law test. Because English terminology does not distinguish between *ius* and *lex*, rule-based and rights-based legal discourse only happens in English-speaking nations. Two distinct notions are expressed by one word, law. Testing based on law, or testing based on rights, helps separate law in the sense of *lex* from law in the sense of *ius*.

Goal or purpose evaluates *doelmatigheidstoeting*. This exam is goal-oriented. Instrumental law's development substantially affects this. From actions related to goals, *doelmatigheidstoeting* has usability (efficiency and effectiveness) concerns. Rationality, usability, and usability may be measured before and after the action. Considering facts and circumstances, *ex nunc* entails changing action (Philipus M. Hadjon, 1987).

Discretion limits judicial oversight over government activity, including discretionary powers: "The judicial machinery should be used for real, current, or future issues, not hypothetical or remote ones (Davis, 1955). Wisdom-based restrictions apply to institutional ties between the court and government institutions in settling government-caused conflicts without interfering with government policy (Gellhorn & Boyer, 1981). Theories acknowledge the government's comparative advantage over other agencies, but actions matter. State Administrative Courts hold governments responsible for administrative decisions. Universal justice holds authorities responsible for unlawful government actions. British courts prioritise justice and reason in government discretionary action. Law benefits over discretion, says HWR Wade: Avoid discrimination, analyse just important criteria, accept variability, and make an impartial decision (Wade & Forsyth, 2014).

Comparatively, Dutch Administrative Law practice tends to separate the principle of preventing abuse of authority from the premise of prohibiting arbitrariness more clearly than English Administrative Law practice. English Administrative Law theory still confuses these two terms, as does the concept of reasonableness used to evaluate government discretionary decisions.

C. Discretion Model as an Ideal Government Policy Innovation

In the context of societal transformation, discretion as an innovation policy is crucial (羅森維 Phil Rosenzweig 著; 徐紹敏 譯. et al., 2007). After the New Order-period transfer of centralised control, the reform phase gave autonomous regional administrations several chances to run their own affairs. New policies are more probable than ever. Therefore, discretionary rules may also be applied constructively, particularly in situations that necessitate management outside of legal channels.

Low bureaucracy professionalism prevents it from using discretionary space to respond to community needs, causing innovation policy issues. Regional government bureaucratic discretion has not been appropriately used to fill policy gaps (particularly center-determined ones) with society's genuine

requirements in more dynamic areas. There are still numerous regional rules and laws that don't meet community needs. Because central government policies are primarily set, and local government officials have failed to effectively execute the vision and commitment to promote people's welfare, this difference exists (Warsito, 2003).

To make discretionary innovation policies a driver of community welfare, central and regional governments must be trained and focused. Excess bureaucratic authority without sufficient empowerment weakens the bureaucracy as a whole. Legally or administratively, the central government protects regional chiefs who take discretionary decisions to accelerate development for the people via innovative programmes. Thus, many legal norms or policies permit discretion in the national government system, making public officials' activities lawful.

Legality should show a public official's flexibility in administering government, especially in central and regional innovation, which is lawful. A government must follow people's laws to be lawful. The 1998 bureaucratic reform plan of Indonesia recommended innovation policy best practices in Jembrana Regency, Sragen Regency, Solok City, Surakarta City, Tarakan City, Gorontalo Province, and Tanah Datar Regency. The Jembrana Regency Government prioritises cost-effectiveness, primary and secondary school fee exemptions, and poor-based health insurance in its budget. To support ad hoc work units, Sragen Regency blends licencing and non-licensing services, virtual office software, and regional bureaucracy.

Jembrana and Sragen Regencies' second bureaucratic reform innovation plan was reproduced in other regions, therefore each region's innovation programme was comparable. Non-innovation by regional leaders creates duplication. To fix this, the government developed Presidential Regulation Number 81 of 2010, the Grand Design of Bureaucratic Reform, with five distinct principles: yearly achievement plan (roadmap), evident areas for improvement, and quantifiable world-class bureaucratic objectives and successes, yet unfulfilled. Surabaya has revolutionised government administration with e-governance in regional financial management systems, e-HR, e-education, e-office, disaster preparedness system-112, e-permits, e-health, e-dishub, and media centres since 2002.

Even if some regional heads have found corruption in these inventions, the key is the discretionary innovation programme. According to Satjipto Rahardjo's progressive law, the law is like a sword that a decent person uses to defend others from arbitrary acts. Conversely, a bad individual will use the sword to oppress or murder others (Roseffendi, 2018).

Regional heads implemented innovation policy before Law Number 23 of 2014 concerning Regional Government and Law Number 30 of 2014 concerning Government Administration, which guaranteed discretion by regional heads. However, regional heads continued to implement appropriate innovation discretionary policies. Legality keeps local government acts lawful. Since policies are founded on legal structures, they fall within the constitutional system. These rules are legally sound. Abuse of discretion, which Williams defines as corruption, occurs when a discretion is exercised by being unreasonable, irrational, hiding motives, setting inappropriate goals, failing to consider relevant or irrelevant factors, or acting in bad faith (Williams, 1994).

According to Fadel M, regional government innovation is a difficulty since it involves recreating regional government. In this view, local government

innovation is linked to numerous critical aspects, including leadership. Leadership must inspire change. A leader with a clear vision will inspire his people to be creative and inventive. Because public sector leadership is political, a visionary leader needs political will too. Without strong political will from local government officials, innovations seldom succeed (Setiyono, 2023).

This relates to organisational culture. Most public organisations still value group culture and hierarchy, which hinders innovation (Dwiyanto, 2013). Especially about incentives and rewards. The bureaucracy must be allowed to innovate to suit society's needs. Incentives and prizes for successful trials must encourage innovation. Innovation capacity—individual and system—is another problem. How organisations and their employees handle creative input in innovation depends on individual and organisational capacity.

Researchers identify at least three institutional capacity factors to strengthen regional government administration for creative policy activities. The regulatory system is first. The normative system provides the values needed by leaders and implementers of technical services to achieve innovation goals, the cognitive-cultural system creates good habits in employees to support innovative policy goals, and regulatory certainty is needed in its implementation. Leadership affects innovation. Leadership characteristics may realise ideal human ideals or assist people achieve their ideal future. Leadership in institutional capacity that implements creative government policy is consistent with governance..

Indonesian discretionary policies must promote welfare state ideas. Government wants a welfare state. Given their irregularity, discretionary policies need substantial justification. Legality and sufficient reasons for government discretionary action must be waited for. Discriminatory actions must justify themselves using Pancasila principles. Government discretionary acts are justified under Pancasila. Basic facts will justify government discretion. A researcher did not compare Pancasila to discretionary government power. This approach makes sense if discretionary government power is a legal concept and Pancasila is Indonesia's legal ideal, meaning the ideal state and the law as a prescription. Government and people of Indonesia. Authorities and specialists in organic and institutional discretionary policy execution should collaborate to integrate and lead them. Collaboration is needed throughout the company since it equals cooperation. Internal and external organisations or many organisations might collaborate to achieve goals (Suhartono & Sawitri, 2017).

Based on this cooperation, the discretion implementation must choose an implementing agency to provide expert policy vision and purpose guarantees. This integrated collaboration system must prioritise people resources and competencies to implement this discretionary approach. This approach institutionalises discretionary policy using technology. When implementing discretionary innovation policies, bureaucratic reform should entail cooperation across linked agencies to consider best practices. sector—social environment—globally and domestically. Thus, collaboration may improve this ideal model. The implementation process of innovative policies seldom involves cooperation and teamwork, making them seem to function without much success.

This relationship demands judgement to choose the implementing agency to assure professional policy vision and purpose. To execute this

discretionary technology strategy, this integrated collaboration system must prioritise human resources and skills. This strategy implements discretionary policies using institutions' technology. Since best-practice discretionary innovation strategies in bureaucratic reform need collaboration across related agencies, sector, internal and external social environment, integration is essential. Integrated cooperation may be necessary for this ideal paradigm. New policies fail because stakeholders seldom engage, hence the implementation process misses cooperation and collaboration, resulting in little results.

The general principles of good government (AUPB) as a welfare state, which holds the government accountable for citizens' general welfare and has the power to intervene, is the best model for implementing discretionary innovation policies in bureaucratic reform. In all sectors of public life, this action is based on legislative rules but may act on initiative in certain cases. However, government community welfare efforts must always follow good governance norms (Solechan, 2019). Traffic signs and travel guides like AAUPB help government ties with the governed and the community. AAUPB is then utilised for evaluation, administrative action, and government action as an unwritten legal standard (Solechan, 2019). The creation of AUPB rules accelerated with Law Number 30 of 2014 on Government Administration. UUAP calls it General Principles of Good Government. AUPB appears in Articles 1, 5, 7, 8, 9, 10, 24, 31, 39, 52, 66, and 87. Article 10, Paragraphs (1) and (2), and explanations, govern AUPB. Article 10 paragraph (1) lists eight AUPB principles: legal clarity, usefulness, impartiality, correctness, non-abuse of power, transparency, public interest, and excellent service (Aqmarani et al., 2021).

Researchers advise caution and reward for innovation, which needs a firm foundation. objective basis Be fair and transparent with discretionary rules. Justify your decision and follow policy. State administrators must defend their actions. Review non-profit discretionary policy. Second, fair play enables people appeal administrative decisions and seek discretionary justice. State officials cannot hinder interested parties' success. Citizens must have many justice chances from the government. This promotes State Administration conflict resolution transparency. State administrative institutions must observe laws and expose rights. The detournement de pouvoir restriction prohibits governmental officials from exploiting their authority for private gain. Private concerns. Constitution. The fourth principle is fair. The government cannot arbitrarily position items. Overcoming government abuses is possible. This method entails offering legal recipients anything.

Fifth, administrators require independence and no complaints. Sixth, administrative discretionary policies must be unbiased, identify, disclose, and address conflicts of interest, and respect government social standards. Seventh, discretionary policies require objectives, plans, programme direction, targets, and jurisdiction. Administration should be based on incumbent adjudication. Eighth, State Administrative Bodies or Officials must commit, analyse quality, accept and resolve every risk and financial complaint, and utilise discretionary power to achieve institutional objectives, develop potential, and maximise resource efficiency. Ninth, discretionary policy making must be open, engage many parties, encourage innovation and policy debate across institutions, and involve all stakeholders in programme execution.

Idea: ideal discretionary innovation policy leverages government legal operations on ideal ideals to avoid moral or policy concerns for creative policy. Justice, virtue, career. Since they share strength and interests, the welfare state, Pancasila, integrated collaboration, and fundamental principles in outside legislative provisions like incentive, fair play, detournement de pouvoir prohibition, and justice tie all components of this paradigm. The ideal discretionary model was meant to overcome state government public administration's dilemmatic thinking while promoting Indonesia's constitutional principles and welfare.

4. CLOSING

Government policy innovation requires regulatory freedom for creativity. Innovation and law should be balanced, not pushed by the Ministry of State Apparatus Empowerment and Bureaucratic Reform. Legal discretion is crucial. The legislation requires discretion because administrative staff make decisions to achieve legislative goals. Rule translation into activation processes makes wisdom unavoidable, converting abstractions into realities and involve people in interpretation and decision-making. The balance between discretion as freedom in authority and administrative law accountability must be evaluated in innovation and the state administrative legal system. Law Number 30 of 2014 governs discretionary power, a major breakthrough in government administration reform to simplify administration, bridge legal loopholes, give legal clarity, and overcome government stagnation in specific instances. Conditional, mechanical discretion is needed. (procedural). After Law 11 of 2020 on Job Creation expanded discretionary regulations, government management became unstable. This change's discretion may be illegal under rule-of-law Indonesia. Power holders' political goals may impact deletion criteria since they must comply with legislation. These changes undercut legal certainty by violating good governance.

Authority, limitations, testing, and judicial monitoring assess discretion as a government policy innovation. Authorities initiate discretionary authority. Statutory law allows discretion. Attribution, delegation, and mandate may give it. Because of welfare, discretion must be limited. Law should not limit discretion. Legal factors like legislation and the rule of law govern discretion. Judicial monitoring of government policy may test discretionary techniques. Society benefits from discretionary innovation strategies that start with a problem and then address other positive issues.

The ideal innovation policy discretionary model implements discretion for creative policies by basing government legal acts on ideal ideals to minimise moral conflicts in policy guarantees. Wisdom, honour, fairness, and competence. This model is neither hierarchical or structured, with each key part having the same strength and interests and uniting all components by strength and position from the welfare state, Pancasila, integrated cooperation, and welfare state ideals. Principles Other principles beyond written law include motivation, fair play, detournement de pouvoir prohibition, justice, freedom, honesty, true aims, effectiveness, and involvement. Based on this, an ideal discretionary model was established to overcome the dilemmatic mindset typically lacking in state government public administration when officials make discretionary judgements that serve Indonesia's constitutional ideals and welfare.

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