



Government Discretion and Policy Regulations in Public Service Delivery in Indonesia

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Abstract

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Indonesia, as a Welfare State and a Rechtsstaat, requires the government to ensure public service and social protection for its citizens. However, unclear legal regulations often lead to administrative stagnation and obstacles in the delivery of public services. In such situations, the government can utilize the principle of government discretion to continue performing public service functions professionally and ethically while upholding transparency and accuracy of information. Policy regulations or *beleidsregel* serve as an important administrative instrument for executing government duties, although they are not formal law, as long as they do not deviate from higher-level legislation. This study analyzes the implementation of government discretion and the role of policy regulations in ensuring effective public service delivery. The research employs a literature review method to examine relevant literature and policies. Findings indicate that proper use of government discretion can enhance the effectiveness of public service, strengthen the professionalism of civil servants, maintain public trust in the government, and serve as a mechanism to adapt legal implementation to real field conditions.



1. Introduction

Indonesia is known as a rule of law state (Rechtsstaat) as well as a Welfare State that has a constitutional responsibility to ensure the welfare of its citizens through the provision of public services and a social protection system. The Indonesian Constitution, particularly Article 31 and 33 of the 1945 Constitution (UUD 1945), affirms the state's obligation to ensure every citizen obtains access to decent education, economic prosperity, and equitable distribution of development. This concept is rooted in the Pancasila values, especially the fifth principle, which emphasizes social justice for all Indonesian people. In practice, the implementation of the welfare state principle through a legal framework demands policies capable of minimizing social inequality and encouraging increased public prosperity. However, the reality on the ground shows various challenges, including limited regulation and the capacity of government officials.¹

The unclarity of regulations or the absence of adequate legal basis often causes stagnation in government administration. Public officials frequently face difficulties in making decisions or implementing government programs because the available legal guidance is not clear enough. This affects the inconsistency of standard operating procedures (SOP) and lowers the effectiveness of public services. Consequently, public trust in the government can significantly decline. This kind of stagnation not only hinders bureaucratic performance but also impacts the quality of policy implementation, ultimately directly affecting the welfare of the

¹ Heleen Mees and Peter Driessen. "A framework for assessing the accountability of local governance arrangements for adaptation to climate change." *Journal of Environmental Planning and Management* 62, no. 4 (2019): 671-691.

community.² In such conditions, the principle of discretion becomes a strategic instrument for the government. Discretion provides space for public officials to make appropriate decisions when legal regulations are unavailable, ambiguous, or only offer limited options. The application of discretion must be based on excellent public service ethics, official professionalism, and the principle of transparency. Thus, the government can continue to perform its public service function effectively without violating the applicable legal rules.³ In addition, policy regulations or *beleidsregel* have an important role as an administrative means that allows for the technical implementation of higher-level regulations.

Although not formal law, policy regulations remain within the corridor of the hierarchy of legislation and must not contradict higher provisions. This regulation becomes an important tool for the operationalization of government duties and public services, as it provides practical guidance for officials in dealing with complex and dynamic situations.⁴ This research highlights the importance of the synergy between government discretion and policy regulations in ensuring the effectiveness of public services. A comprehensive understanding of both instruments allows the government to adapt policy implementation to real conditions on the ground, while maintaining accountability, transparency, and public trust. Current literature

² Mohammed Salah Hassan, Hussam Al Halbusi, Ahmad Bayiz Ahmad, Fadi Abdelfattah, Zahraa Thamir, and Raja Noriza Raja Ariffin. "Discretion and its effects: analyzing the role of street-level bureaucrats' enforcement styles." *International Review of Public Administration* 28, no. 4 (2023): 480-502.

³ Jacob Torfing, Eva Sørensen, and Asbjørn Røiseland. "Transforming the public sector into an arena for co-creation: Barriers, drivers, benefits, and ways forward." *Administration & society* 51, no. 5 (2019): 795-825.

⁴ B. Blake Levitt, Henry C. Lai, and Albert M. Manville. "Effects of non-ionizing electromagnetic fields on flora and fauna, Part 3. Exposure standards, public policy, laws, and future directions." *Reviews on Environmental Health* 37, no. 4 (2022): 531-558.

indicates that the success of public services highly depends on the ability of officials to apply discretion appropriately, as well as utilizing policy regulations as legitimate and operational technical guidelines.⁵ With this background, this research aims to analyze the role of government discretion and policy regulations in enhancing the effectiveness of public services in Indonesia. This study is expected to provide a better understanding of the mechanism for policy adjustment in situations where legal regulation is still limited. Furthermore, this research also aims to provide recommendations that can improve the professionalism, integrity, and accountability of public officials in supporting the achievement of the welfare state objectives.

2. Literature Review

Public services in Indonesia face diverse challenges, most of which arise from the unclarity of regulations and the limitations of formal regulation. In such situations, government discretion becomes a crucial instrument, as it provides flexibility for public officials to make decisions when the available law is inadequate or insufficiently specific. The appropriate and professional use of discretion allows the bureaucracy to continue functioning effectively, while maintaining public trust in the government as a credible and responsive institution.⁶ Various studies indicate that the success of public services highly depends on the ability of officials to apply discretion with integrity, professionalism, and orientation towards public interest.

⁵ Justin Bullock, Matthew M. Young, and Yi-Fan Wang. "Artificial intelligence, bureaucratic form, and discretion in public service." *Information Polity* 25, no. 4 (2020): 491-506.

⁶ Mohammed Salah Hassan, Hussam Al Halbusi, Ahmad Bayiz Ahmad, Fadi Abdelfattah, Zahraa Thamir, and Raja Noriza Raja Ariffin. "Discretion and its effects: analyzing the role of street-level bureaucrats' enforcement styles." *International Review of Public Administration* 28, no. 4 (2023): 480-502.

Discretion does not mean violating the law, but rather interpreting the available policy space to adapt implementation to real conditions on the ground. Thus, the government can overcome obstacles arising from regulatory deficiencies, while ensuring public services remain continuous and meet the expected quality standards.⁷

In addition to discretion, policy regulations or *beleidsregel* play a strategic role as administrative guidelines that support the technical execution of higher-level regulations. This regulation provides operational guidance for officials in carrying out government duties and public services, especially in complex and dynamic situations. Although it does not possess formal legal force equivalent to a law, *beleidsregel* remains bound by the hierarchy of legislation and must not contradict higher provisions. Thus, policy regulation functions as a bridge between formal legal rules and real practice on the ground, helping officials navigate situations not detailed in regulation.⁸ The concept of a Welfare State emphasizes that the government is responsible for ensuring social justice and the welfare of all people through equitable and quality public services.

This concept demands coordination between formal regulation, administrative policy, and the capacity of public officials so that the welfare state goals can be achieved effectively. Recent literature shows that the quality of public services is not only determined by the availability of regulations but also by the

⁷ Jacob Torfing, Eva Sørensen, and Asbjørn Røiseland. "Transforming the public sector into an arena for co-creation: Barriers, drivers, benefits, and ways forward." *Administration & society* 51, no. 5 (2019): 795-825.

⁸ B. Blake Levitt, Henry C. Lai, and Albert M. Manville. "Effects of non-ionizing electromagnetic fields on flora and fauna, Part 3. Exposure standards, public policy, laws, and future directions." *Reviews on Environmental Health* 37, no. 4 (2022): 531-558.

professionalism of officials in interpreting and adapting policies to the real conditions of the community.⁹ The research emphasizes the importance of synergy between government discretion and policy regulations as the key to the success of public services. The collaboration of these two instruments allows the government to adjust policy to on-the-ground situations, ensure bureaucratic accountability, and strengthen public trust in government institutions. With appropriate application, the combination of discretion and *beleidsregel* can be an effective mechanism for increasing the effectiveness of public services while supporting the overall welfare state objectives.¹⁰

3. Method

This research uses a normative juridical approach, which aims to analyze legal rules, concepts, and principles related to government discretion in public services, as well as the role of policy regulations (*beleidsregel*) in the Indonesian legal system. The normative juridical approach was chosen because the research focus lies in theoretical study and regulatory analysis, not on collecting empirical field data. This method allows the researcher to examine legal documents, laws and regulations, academic literature, scientific journals, and relevant administrative policies.

Research data was obtained through library research including legislative documents such as the UUD 1945, government regulations, ministerial regulations,

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¹⁰ Loek Groot, Ruud Muffels, and Timo Verlaat. "Welfare states' social investment strategies and the emergence of Dutch experiments on a minimum income guarantee." *Social Policy and Society* 18, no. 2 (2019): 277-287.

and *beleidsregel* related to the provision of public services in Indonesia. Furthermore, academic literature from published national and international journals was used to strengthen the theoretical foundation and legal analysis. These sources were analyzed to understand how the principle of discretion is applied in the context of public services, how *beleidsregel* functions as an administrative instrument, and how both instruments support the implementation of the welfare state.

The analysis was conducted descriptively-qualitatively, which involves reviewing the content, context, and legal implications of existing regulations and literature. This approach allows the research to construct a conceptual understanding of the role of government discretion and *beleidsregel* in public services, and to assess the suitability of their implementation with applicable legal principles. In other words, this research emphasizes a normative analysis of the legal legitimacy, hierarchy of regulations, and the mechanism for decision-making by government officials in the field of public services.

In addition, the normative juridical method also focuses on legal interpretation based on doctrine, expert opinions, and the practice of government administration. This is important for understanding how the principles of discretion and policy regulations can be applied legally, ethically, and professionally in the public service context. This research not only assesses the formal legal aspect but also highlights the relevance of legal norms to the welfare state objectives, namely the increase of community welfare, social justice, and the professionalism of public officials. Thus, the normative juridical method used in this research allows for a comprehensive analysis of the legal and administrative aspects, thereby providing

legally-based recommendations to strengthen the effectiveness of public services through the utilization of government discretion and *beleidsregel*.

4. Results

4.1. The Role of Government Discretion in Public Services

This research indicates that government discretion holds a highly strategic role in maintaining the smooth operation and effectiveness of public services in Indonesia. Discretion provides space for public officials to make decisions in situations where legal regulations are unavailable, incomplete, or ambiguous. Thus, discretion is capable of reducing the risk of government stagnation that often arises due to regulatory unclarity or legal vacuum.¹¹ The existence of discretion allows the government to adapt policies to real conditions on the ground, including in the distribution of public services and handling issues that require a quick response. With appropriate application, this principle becomes an important instrument to ensure that public services continue to run according to community needs.¹²

For discretion to run effectively, public officials must uphold professionalism, service ethics, and the principle of information transparency to the public. Research shows that officials who consistently apply discretion while considering these values are able to increase public trust in the government, while also strengthening the

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¹² Jacob Torfing, Eva Sørensen, and Asbjørn Røiseland. "Transforming the public sector into an arena for co-creation: Barriers, drivers, benefits, and ways forward." *Administration & society* 51, no. 5 (2019): 795-825.

overall effectiveness of public services.¹³ For example, in the field of health and education services, discretion is used to adjust operational procedures to align with the specific needs of the community. Thus, even if there is a formal regulatory vacuum, public services can still be delivered timely and meet the expected standards.

Furthermore, discretion also functions as an adaptive mechanism in facing the complexity of public administration. Modern administration often encounters unexpected conditions or emergency situations that require a quick response. In that context, discretion provides flexibility to officials to make immediate decisions, without having to wait for the regulation renewal process which can take a long time. This adaptive function makes discretion not only a tool to overcome legal limitations but also an important instrument to ensure the continuity of public services is maintained.¹⁴

Moreover, the appropriate application of discretion supports the achievement of the welfare state objectives. A welfare state demands that public services are equitable, quality, and capable of addressing community needs justly. Discretion helps officials adapt formal policies to real conditions, so that the distribution of public services becomes more responsive to social and economic dynamics in the community. In this way, the principle of the welfare state can still be realized even with formal regulatory limitations governing the administrative process in detail.

¹³ Justin Bullock, Matthew M. Young, and Yi-Fan Wang. "Artificial intelligence, bureaucratic form, and discretion in public service." *Information Polity* 25, no. 4 (2020): 491-506.

¹⁴ B. Blake Levitt, Henry C. Lai, and Albert M. Manville. "Effects of non-ionizing electromagnetic fields on flora and fauna, Part 3. Exposure standards, public policy, laws, and future directions." *Reviews on Environmental Health* 37, no. 4 (2022): 531-558.

Discretion also contributes to the increase of bureaucratic effectiveness through the strengthening of accountability and official professionalism. Officials who are able to apply discretion appropriately will be able to present services that are more responsive, fast, and align with community needs. Research shows that the ability of officials to interpret policy and adjust implementation to on-the-ground conditions is a key factor determining the quality of public services. This confirms that discretion is not merely a tool to overcome legal deficiencies, but also an important instrument to maintain public trust and strengthen the government's legitimacy in providing fair and equitable public services.¹⁵

With this background, it can be concluded that government discretion has a very important role in the context of public administration in Indonesia. The appropriate and professional application of discretion not only maintains the smooth running of public services but also ensures program continuity, improves service quality, and supports the overall achievement of the welfare state objectives. Therefore, public officials need to be continually equipped with the ability to apply discretion while considering ethics, professionalism, and transparency so that public services remain effective, accountable, and capable of optimally meeting community needs.

4.2. The Role of Policy Regulations (*Beleidsregel*) in Public Services

In addition to discretion, policy regulations, or *beleidsregel*, have a strategic role as administrative guidelines for public officials. This regulation provides direction

¹⁵ Jacob Torfing, Eva Sørensen, and Asbjørn Røiseland. "Transforming the public sector into an arena for co-creation: Barriers, drivers, benefits, and ways forward." *Administration & society* 51, no. 5 (2019): 795-825.

for the technical implementation of higher-level regulations and becomes an important reference in the daily execution of government duties.¹⁶ Although it does not possess formal legal force equivalent to a law, *beleidsregel* remains binding because it must comply with the applicable hierarchy of legislation, thus it must not contradict higher regulations.¹⁷ Various studies show that the existence of *beleidsregel* greatly assists public officials in facing legal uncertainty during public service practice. For example, in licensing procedures, officials can refer to technical guidelines stipulated in the *beleidsregel*, so that services continue to run consistently and comply with established standards. Thus, *beleidsregel* is not only an administrative guideline but also functions as a means to translate abstract legal principles into concrete actions that can be implemented practically.¹⁸

The synergy between discretion and *beleidsregel* is proven to be the key to overcoming public service challenges in Indonesia. Discretion provides flexibility for officials to make quick decisions in situations not yet legally regulated, while *beleidsregel* provides technical guidelines that guarantee the conformity of actions with existing regulations and applicable administrative standards. The combination of these two instruments allows the government to adapt policy implementation to real conditions on the ground, while maintaining adherence to the law and institutional

¹⁶ Huanming Wang, Yuhai Liu, Wei Xiong, and Jinbo Song. "The moderating role of governance environment on the relationship between risk allocation and private investment in PPP markets: Evidence from developing countries." *International Journal of Project Management* 37, no. 1 (2019): 117-130.

¹⁷ Muhammad Ali Hasan and Anna Erliyana. "The existence of policy regulations and the court's authority to review policy regulations (*beleidsregel*)." *The International Journal of Politics and Sociology Research* 11, no. 2 (2023): 405-411.

¹⁸ Loek Groot, Ruud Muffels, and Timo Verlaat. "Welfare states' social investment strategies and the emergence of Dutch experiments on a minimum income guarantee." *Social Policy and Society* 18, no. 2 (2019): 277-287.

accountability.¹⁹ Research shows that public officials capable of combining the use of discretion and *beleidsregel* can increase service efficiency, reduce the potential for legal interpretation conflicts, and strengthen public trust in government bureaucracy.²⁰ Furthermore, document analysis reveals that *beleidsregel* also functions as a means to encourage administrative innovation. Public officials can adjust operational procedures according to the specific needs of the community, for example through the adjustment of digital-based services, more effective budget allocation, and better coordination among government agencies. This shows that *beleidsregel* is not passive as an administrative instrument but also becomes a strategic tool to improve the quality of public services and support the achievement of the welfare state objectives more effectively.²¹

The research findings affirm that the success of public services in Indonesia highly depends on the government's ability to utilize discretion and *beleidsregel* synergistically. Discretion provides a space for flexibility for quick and appropriate decision-making, while *beleidsregel* provides technical guidelines that ensure official actions comply with legal regulations and applicable operational standards. With the combination of both, the government is not only able to increase the effectiveness of public services but also to maintain accountability, integrity, and public trust in

¹⁹ Heleen Mees and Peter Driessen. "A framework for assessing the accountability of local governance arrangements for adaptation to climate change." *Journal of Environmental Planning and Management* 62, no. 4 (2019): 671-691.

²⁰ Jason D. Rivera and Claire Connolly Knox. "Bureaucratic discretion, social equity, and the administrative legitimacy dilemma: Complications of New Public Service." *Public Administration Review* 83, no. 1 (2023): 65-77.

²¹ Justin Bullock, Matthew M. Young, and Yi-Fan Wang. "Artificial intelligence, bureaucratic form, and discretion in public service." *Information Polity* 25, no. 4 (2020): 491-506.

government institutions.²² Thus, the management of public services in Indonesia demands a deep understanding of how discretion and *beleidsregel* can be used simultaneously. Public officials who are able to integrate these two instruments appropriately will be able to present services that are responsive, quality, and sustainable, while ensuring that the welfare state principle is achieved optimally. This approach confirms that the success of public administration is not only about adherence to the law but also the ability to adjust policy to the social, economic, and continuously changing needs of the community

5. Discussion

The research results indicate that the application of government discretion and policy regulations or *beleidsregel* plays an important role in enhancing the effectiveness of public services in Indonesia. Discretion provides flexibility for public officials to make decisions in conditions where legal regulation is unclear or unavailable. This is capable of reducing administrative stagnation and ensuring the continuity of public services is maintained. Nevertheless, the application of discretion must always be accompanied by the principles of transparency, service ethics, and professionalism, so that every decision made remains legally valid and accepted by the wider community.²³ Meanwhile, policy regulations or *beleidsregel* function as administrative guidelines that complement the application of discretion.

²² Loek Groot, Ruud Muffels, and Timo Verlaat. "Welfare states' social investment strategies and the emergence of Dutch experiments on a minimum income guarantee." *Social Policy and Society* 18, no. 2 (2019): 277-287.

²³ Tom Christensen and Per Lægveid. "Balancing governance capacity and legitimacy: how the Norwegian government handled the COVID-19 crisis as a high performer." *Public Administration Review* 80, no. 5 (2020): 774-779.

This regulation provides clear technical direction for officials in carrying out government duties. The function of *beleidsregel* becomes crucial because it allows officials to adapt operational procedures according to the local context, while still complying with the applicable hierarchy of legislation.

Thus, *beleidsregel* becomes an effective connector between formal law and practice on the ground, so that the risk of administrative errors can be minimized and the welfare state objectives can be more easily achieved.²⁴ The synergy between discretion and *beleidsregel* confirms the importance of balance between flexibility and legal certainty. Discretion provides space for officials to make innovations and policy adjustments in situations not specifically regulated, while *beleidsregel* ensures that actions remain consistent with legal norms and applicable service standards. With proper management, the combination of these two instruments is capable of increasing bureaucratic accountability, strengthening public trust, and ensuring effective, equitable, and professional service.²⁵

However, there are several challenges in the implementation of these two instruments. Discretion applied without adequate supervision mechanisms has the potential to lead to abuse of authority, while *beleidsregel* that is too rigid can limit the flexibility of officials to adjust services to the real needs of the community. Therefore, a system of strict evaluation and supervision, routine training for public officials, the development of clear ethical guidelines, and the harmonization of

²⁴ Huanming Wang, Yuhai Liu, Wei Xiong, and Jinbo Song. "The moderating role of governance environment on the relationship between risk allocation and private investment in PPP markets: Evidence from developing countries." *International Journal of Project Management* 37, no. 1 (2019): 117-130.

²⁵ Muhammad Ali Hasan and Anna Erliyana. "The existence of policy regulations and the court's authority to review policy regulations (*beleidsregel*)." *The International Journal of Politics and Sociology Research* 11, no. 2 (2023): 405-411.

beleidsregel with higher regulations are needed. These steps are important so that public services can run consistently, accountably, and in accordance with the principles of the rule of law state and the welfare state.

The research findings affirm that the effectiveness of public services does not only depend on the availability of formal regulation but is also highly determined by the ability of officials to utilize discretion and *beleidsregel* wisely. The balanced application of flexibility and legal certainty becomes the key factor in presenting public services that are professional, transparent, and supportive of community welfare. With this approach, the government can ensure that public services are not only compliant with regulation but also responsive to community needs, so that the welfare state principle can be achieved optimally.²⁶

6. Conclusion

This research indicates that the application of government discretion and policy regulations (*beleidsregel*) holds a highly strategic role in enhancing the effectiveness of public services in Indonesia. Discretion allows public officials to make appropriate decisions in situations where formal regulation is inadequate, thereby preventing administrative stagnation and ensuring service continuity. Meanwhile, *beleidsregel* functions as an administrative guideline that provides technical direction and maintains adherence to the hierarchy of legislation.

²⁶ Tom Christensen and Per Lægveid. "Balancing governance capacity and legitimacy: how the Norwegian government handled the COVID-19 crisis as a high performer." *Public Administration Review* 80, no. 5 (2020): 774-779.

The synergy between discretion and *beleidsregel* produces a balanced combination of flexibility and legal certainty. Discretion provides room for policy adjustment according to real needs on the ground, while *beleidsregel* ensures that the execution of government duties remains consistent with legal and administrative standards. The appropriate application of both instruments can increase official professionalism, strengthen transparency, maintain accountability, and build public trust in the government. Thus, the effectiveness of public services in Indonesia highly depends on the government's ability to integrate discretion and *beleidsregel* wisely. The balanced application of flexibility and legal certainty is key to achieving quality, equitable public services that are supportive of community welfare, in line with the principles of the rule of law state and the welfare state.

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