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Unlawful Acts of Governance: Characteristics and Limits of Discretion

Muklis Al'Anam[a], Lolita Fitriyana[a], Luthfillah Arrizqi Zainsyah[a]

[a] Faculty of Law, Universitas Negeri Surabaya, Indonesia
Corresponding Email: muklisalanam@unesa.ac.id

Abstract

Unlawful conduct by government authorities represents a core problem in administrative law, as it directly intersects with the doctrines of legality and the rule of law. In principle, any action taken by the government must be grounded in legitimate and properly granted authority, but in practice there is room for the necessary use of discretion to fill legal gaps, resolve emergency situations, or provide more effective public services. The characteristics of illegal actions by the government can be seen in actions taken without legal basis, exceeding authority, abusing authority, or contradicting the principles of good governance (AUPB). Meanwhile, discretion has strict normative limitations, namely that it must be in accordance with the purpose of the authority granted, not conflict with laws and regulations, and consider proportionality, accountability, and the protection of citizens' rights. So, the study of illegal government actions and the limit of discretion is important to maintain the principle of legal certainty while maintaining a balance between the effectiveness of government administration and the protection of people's rights.

Keywords: Illegal Government Actions, Discretion, Principles of Good Governance.

INTRODUCTION

Understanding between two legal terms, "government" and "governance", both of which have different legal powers. The term government means that the institution carries out administrative tasks. Meanwhile, the term governance means that the operational or functional aspects in the implementation of administrative functions.[1] It is important to emphasise this distinction because it has a direct impact on legal analysis, particularly in determining the subject responsible for an administrative action. The term "government" focuses on state institutions or organs such as the President, Ministers, or Regional Heads as policy makers. Meanwhile, the term 'governance' refers to the process or mechanism of carrying out functional state tasks, such as public ser-

[1] Tatiek Sri Djatmiati, "Prinsip Izin Usaha Industri Di Indonesia" (Disertasi, Doktor, Fakultas Hukum Universitas Airlangga, Surabaya, 2004).

vices, enforcement of regulations, and administrative decision-making. In the context of state administrative law, this distinction helps to define the boundaries between institutional authority and administrative responsibility arising from the implementation of governmental functions through its actions.[2]

Article 1 point 8 of Law No. 30 of 2014 on Government Administration defines government administrative actions referred to as Actions as the conduct of Government Officials or other state administrators in carrying out or abstaining from carrying out specific, tangible acts within the framework of administering governmental affairs. Thus, the government has limitations on its authority when performing administrative activities. In terms of administrative law, government actions are divided into two categories:

1. Bound actions are norms that are already specified in the basic rules regarding the content of a government action to be implemented;[3]
2. Free actions are the freedom of the government to carry out administrative matters without being bound by laws and regulations.

Free actions, commonly referred to as discretion, are the government's freedom to act in certain circumstances. The government should be able to produce more effective policy products that are oriented towards the goals desired by the community. However, the problem lies in the government's policymaking if the actions are not on target or are detrimental to the community, thus rendering the discretion ineffective. meaning that such decision-making also does not preclude the use of discretion to cover up interests outside the public interest.[4]

Discretion is a form of government action that is very important not only for the executive branch, but also for the legislative and judicial branches. Discretion, in essence, should only be exercised when truly necessary due to urgent and reasonable circumstances. These urgent circumstances (emergencies) should not be interpreted as a state of emergency (*staat nood recht*).[5] Discretionary measures may give rise to legal consequences and, in certain circumstances, can amount to unlawful conduct by the government (*onrechtmatige overheidaad*). One example is the issuance of an Administrative Decision during the Covid-19 pandemic. The meaning of government actions in Indonesia has been expanded through Article 87 of Law No. 30 of 2014, which states that:

a. written directives, which also encompass concrete administrative actions;

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[2] Muklis Al'anam, *Pemerintah, BUMN, Dan Hukum Administrasi: Uji Tuntas BUMN Sebagai Badan Hukum Publik Atau Privat* (Surabaya: Airlangga University Press, 2025).

[3] Agus Budi Susilo, "Makna Dan Kriteria Diskresi Keputusan Dan/Atau Tindakan Pejabat Publik Dalam Mewujudkan Tata Pemerintahan Yang Baik," *Jurnal Hukum Dan Peradilan* 4, no. 1 (2015): 140.

[4] Nehru Asyikin, "Freies Ermessen Sebagai Tindakan Atau Keputusan Pemerintah Ditinjau Dari Pengujiannya," *Diversi Jurnal Hukum* 5, no. 2 (2019): 188.

[5] Tatiek Sri Djatmiati, et-al. *Hukum Administrasi Sebuah Bunga Rampai* (Yogyakarta: Laksbang Pressindo, 2020).

b. determinations issued by Agencies and/or State Administrative Officials within executive, legislative, judicial, or other state administrative institutions;
c. grounded in statutory provisions and the General Principles of Good Governance (AUPB);
d. final in a broader or extended sense;
e. decisions that may give rise to legal consequences; and/or
f. decisions that are applicable to members of the public.

Government actions (*handeling*), particularly those carried out in the public domain, can at times clash with the interests of individuals and may even lead to harm or disadvantages for citizens. In such cases, there is a clash between public interests and private interests.[6]

This then gives rise to potential conflict this occurs because, on one hand, the government possesses the authority to regulate matters for the benefit of the public (*bestuursdaad*), while on the other hand citizens have private rights that are guaranteed by law. To preserve this equilibrium, administrative law functions as a mechanism governing the interactions between governmental authorities and the citizenry. Administrative law not only provides legitimacy for government actions, but also provides control mechanisms to ensure that the use of authority does not deviate or become arbitrary. Thus, in this context, there are two important principles:

1) The principle of public interest, which requires that every government action be aimed at the common good.
2) The principle of protecting the rights of citizens, which ensures that private interests are not unfairly sacrificed for the sake of public interests.

If there is a conflict between the two, there are mechanisms for resolution, either through administrative efforts (objections, administrative appeals) or through the administrative court system.

This mechanism reflects efforts to balance legal certainty with social justice, so that both the government and citizens are subject to a fair and proportional legal framework. In practice, conflicts between public and private interests are inevitable. For example, when the government undertakes the construction of toll roads, reservoirs, or other public facilities. From the viewpoint of the public, this framework represents a strategic imperative aimed at advancing the interests of the broader society. However, from the private perspective, citizens whose land or property is affected by the construction project may potentially suffer losses. At this point, administrative law becomes essential, as it offers the legal mechanisms needed to maintain equilibrium between these competing interests.

These instruments may take the form of administrative decisions issued by administrative bodies or officials, general principles of good governance such as the principles of legal certainty, proportionality, openness and accountability, as well as judicial mechanisms that enable citizens to challenge government actions if they are

[6] Bagus Oktafian Abrianto, dkk, "Perkembangan Gugatan Perbuatan Melanggar Hukum Oleh Pemerintah Pasca-Undang-Undang Nomor 30 Tahun 2014," *Negara Hukum* 11, no. 1 (2020): 46.

deemed to violate their rights. With these control mechanisms in place, it is hoped that the government will act not only on the basis of the legitimacy of power (macht), but also on the basis of the legitimacy of law (*recht*). Thus, every government action must always be accountable, both from a legal and a public administration moral standpoint. So, the meeting of public and private interests is essentially a dialectic space between collective needs and the protection of individual rights. The government's success in managing this space will be an important indicator of the upholding of the principle of the rule of law (*rechtsstaat*), where power is exercised not solely on the basis of the will of the ruler, but is limited, directed, and controlled by law in order to create justice for all citizens.

RESEARCH METHODS

This research employs a normative legal methodology utilizing conceptual, comparative, and statutory approaches. The conceptual approach is applied to examine legal notions concerning governmental unlawful acts and the boundaries of discretion within administrative law, including scholarly perspectives and the general principles of good governance. The statutory approach, on the other hand, is conducted by reviewing various relevant legal instruments, such as Law Number 30 of 2014 on Government Administration, Law Number 5 of 1986 on State Administrative Courts along with its amendments, the *Algemene Wet Bestuursrecht*, and other pertinent regulations. To ensure the validity and reliability of the data, this study applied source triangulation, which involved comparing primary, secondary, and tertiary legal materials to test doctrinal consistency and accuracy. Validation was also reinforced through:

1. Authoritative validation, which prioritised applicable laws and regulations and credible academic publications;
2. Doctrinal consistency analysis, by testing the suitability of interpretations against applicable legal principles and expert opinions;
3. Testing the synchronisation and harmonisation of norms, to ensure there are no conflicts between regulations; and
4. Logical and systematic legal argumentation testing, so that the conclusions produced are academically accountable.

With these validation techniques, this research is expected to have methodological accuracy, consistency of analysis, and legal arguments that are scientifically accountable.

ANALYSIS AND DISCUSSION

A. Characteristics of Unlawful Acts by the Government in the Practice of Governance

Unlawful acts by the government are essentially actions by officials or state administrative bodies that deviate from legal norms, both written and unwritten, thereby causing harm to the public. The main characteristics of these acts can be seen in the abuse of authority (*detournement de pouvoir*), acting beyond one's authority (excess of power), or acting arbitrarily without a clear legal basis. Unlawful conduct by the government may also be identified through violations of the general principles of good governance, including the principles of legal certainty, prudence, and the prioritization of the public interest. Thus, these characteristics become important indicators for assessing whether a government action can be categorised as an unlawful act in the context of state administrative law.[7]

Pursuant to Article 3 of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 on Guidelines for Resolving Disputes Concerning Government Actions and the Jurisdiction to Adjudicate Unlawful Acts by Government Agencies and/or Officials (*Onrechtmatige Overheidsdaad*), it is stipulated that "citizens may file a written lawsuit against government actions to the competent court by stating the following reasons:

a. Contrary to laws and regulations; and
b. Contrary to the general principles of good governance.

Based on the expansion of the requirements for State Administrative Court (PTUN) lawsuits as mentioned above, which are not only limited to decisions (*beschikking*) that are the result of government legal actions, but also encompasses any governmental conduct that contravenes statutory provisions and/or runs counter to the general principles of good governance.

In a state governed by the rule of law, every legal action taken by the government must be based on the principle of legality, which means that the government must comply with the law. In relation to the performance of its duties, the government must comply with the principle of legality as formulated separately in the principle of the rule of law. The concept of government action based on administrative decisions, as learned from the Algemene Wet Bestuursrecht in Chapter 1 Article 3, states that:

1. A decision is defined as: a written decision by an administrative body, which contains public legal actions.
2. A decision means: a decision that is not generally applicable, including the rejection of the request for such a decision.
3. A request means: a request from an interested party to make a decision.
4. Policy rules mean: general rules established through decisions, not generally binding regulations, concerning the balance of interests, determination of facts or interpretation of legal provisions when exercising the powers of an administrative body.

In the Netherlands, in order to anticipate unlawful actions by the government, a law on open government or *wet openbaarheid van bestuur* was enacted. A key feature of this new legislation is the transition from a system in which government documents are disclosed only upon citizen request (passive disclosure) to a model where public au-

[7] Muklis Al'anam, "Perbandingan Sistem Peradilan Administrasi Indonesia Dan Jerman," *Proceeding of Airlangga Faculty of Law Colloquium* 1 (2024): 400.

thorities themselves take the initiative to release such information (proactive disclosure). Under the Dutch Open Government Act, administrative bodies that are directly involved are required to proactively make available to the public any information contained in documents under their control, provided this can be done reasonably without imposing excessive burden or cost. Disclosure may be withheld only when justified exceptions apply such as considerations of national security or the protection of privacy or when releasing the information would not serve a legitimate public interest.[8] So, the Netherlands adheres to the principle of *Lex Silencio Positivo*, or what is known in Indonesia as fiktif positif, which means that a request is automatically granted by the administrative authority if there is no response within the time limit specified by law. This rule is a concept from European law that promotes efficiency, transparency, and the eradication of corruption in public services, with the aim of ensuring that the government makes timely decisions.

The legality principle requires that all governmental actions be grounded in lawful authority, a requirement that, within administrative law, is embodied in the notion of administrative decisions as regulated in Article 1:3 of the *Algemene Wet Bestuursrecht* (General Administrative Law Act), namely: a decision (*besluit*) as a written decision of an administrative body containing a public legal act, a *beschikking* as a decision that is individual-concrete and not generally applicable, including the rejection of an application, *aanvraag* as a request by an interested party for an official to make a decision, and *beleidsregel* as a policy rule in the form of general rules established through a decision, not a generally binding regulation, but rather guidelines for the use of authority; These four categories indicate that government actions must be recorded in writing, their legality can be tested, they provide space for public participation, and they limit the potential for abuse of authority, thereby ensuring legal certainty and the protection of citizens' rights within the framework of the principle of the rule of law.[9]

Legal protection for citizens against governmental measures is exemplified by the Surabaya Administrative Court Decision No. 11/G/2025/PTUN.SBY, involving the parties: the Regional Leadership Council of the KAHUTINDO Workers' Union Federation (DPD FSP KAHUTINDO) versus the Governor of East Java Province. The dispute concerned the Governor's Decree No. 100.3.3.1/775/KPTS/013/2024 dated 18 December 2024 regarding the 2025 minimum wage for regencies/cities in East Java. The Plaintiff argued that the Defendant violated and disregarded the Minister of Manpower Regulation No. 16 of 2024 on the 2025 Minimum Wage, pointing out that several regencies/cities listed in the disputed decree set 2025 minimum wages with increases below or less than the 6.5 percent threshold from 2024 minimum wages (specifically for Surabaya City, Gresik Regency, Sidoarjo Regency, Pasuruan Regency, Mojokerto Regency, Malang Regency, and Malang City). The Surabaya Administrative Court judge in the case stated in his legal considerations that, "the subject of the dis-

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[8] Johan Wolswinke, "Public Disclosure of Administrative Decisions in the Netherlands: New Avenues for Transparent DecisionMaking?," in *Proceedings EGOV-CeDEM-EPart Conferenc* (Ghent University and KU Leuven, Ghent/Leuven, Belgium, 2024), 5.

[9] Lanny Ramli & Muklis Al'anam, "Pergeseran Eksistensi Putusan Niet Ontvankelijk Verklaard Pada Sistem Peradilan Tata Usaha Negara," in *Dinamika Hukum Administrasi, Hukum Keuangan, Dan Tanggung Jawab Pemerintah* (Jakarta: Kencana, 2025), 33.

pute is proven to be substantively flawed in terms of the intention to determine the amount of the minimum wage." So, the lawsuit filed by the DPD FSP KAHUTINDO was granted, and the Surabaya Administrative Court ordered the cancellation of Head of the East Java Provincial Government decision.

The Surabaya PTUN judge stated in his legal considerations that:

a. Considering that the object of the dispute is the Defendant's decision containing the amount of the Minimum Wage for Regencies/Cities in East Java Province, and that this is not specifically aimed at a specific individual but rather at a specific general decision; that although the subject matter of the dispute relates to the determination of the minimum wage for regencies/cities in East Java Province, it does not specifically determine the names of individuals or civil law entities, but after the Court examined the intended impact of the subject matter of the dispute, it was found to be specifically aimed at workers and companies that employ labour;

b. Considering that, in addition, in the application of the subject matter of the dispute, the losses incurred by both workers and employers can be measured with certainty, therefore the Court concluded that although the subject matter of the dispute is a concrete general decision, the losses arising from the implementation of the decision are clearly measurable, so the subject matter of the dispute must be interpreted as a decision that can be challenged and falls under the jurisdiction of the State Administrative Court;

This ruling illustrates the concept of repressive legal protection in administrative law as a mechanism of protection provided to citizens after a violation of rights has occurred as a result of an action or decision by a government official.[10] This protection aims to restore the rights that have been violated and to uphold the principle of the rule of law through dispute resolution efforts.[11] In the Indonesian legal system, repressive legal protection is realised through judicial mechanisms, specifically through the filing of lawsuits with the PTUN against State Administrative Agencies (KTUN) deemed to have violated the law, as stipulated in Law No. 5 of 1986 on State Administrative Courts and its amendments. In addition to judicial channels, repressive protection can also be pursued through administrative efforts such as objections and administrative appeals in accordance with the provisions of Law Number 30 of 2014 concerning Government Administration. Thus, repressive legal protection functions as an instrument of judicial control over government actions and as a means of restoring the rights of aggrieved citizens.

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[10] Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia* (Surabaya: Bina Ilmu, 1987), 5.

[11] Muh. Ali Masnun, et-al "Perlindungan Hukum Atas Vaksin Covid-19 Dan Tanggung Jawab Negara Pemenuhan Vaksin Dalam Mewujudkan Negara Kesejahteraan," *DIH: Jurnal Ilmu Hukum* 17, no. 1 (2021): 39.

B. Limits of Discretion That Can Distinguish Between Legitimate Government Authority and Unlawful Acts

The development of administrative law is essentially a reflection of the dynamic relationship between the state and its citizens within the framework of the rule of law.[12] In the early stages, there was a strong tendency to place government officials under the same general rules of law as citizens, giving rise to scepticism about the creation of special rules for state administration. However, as the role and functions of government in the social, economic and public welfare spheres expanded, the need for greater administrative authority became inevitable. This expansion of authority then required the establishment of control and procedural regulation mechanisms to ensure accountability, prevent abuse of power and guarantee the protection of citizens' rights in all government actions.

In the history of American administrative law consists largely of a game of catching up procedurally. The courts and legislature sought to control the autonomy of agencies only after those agencies had gained substantive authority. This delay stemmed initially from the Anglo-American jurisprudence's fundamental antipathy towards administrative law: adherence to the rule of law demanded that government officials be subject not to special rules created for their benefit, but to the same general rules that governed private individuals. This attitude eventually collapsed under the weight of New Deal administrative activity. Ten years after the New Deal granted broad powers to federal agencies, Congress established procedural standards governing the use of those powers through the enactment of the Administrative Procedure Act (APA) in 1946.[13]

Discretion refers to the power to make choices in situations where no objectively correct or incorrect answer can be determined. [14] Issues involving discretion may arise not only after a decision has been taken and implemented, but also when discretionary authority is misused. Any discussion on discretion must begin with an understanding of its origins and the extent to which it is permitted within a country's administrative legal framework. Discretion, understood as discretionary authority, can generally be grouped into two categories, namely: (1) the authority to decide independently; and

[12] Maalikatussofa, et-al "The Principle Erga Omnes and Legal Certainty in the Execution of Administrative Court Decisions," *Indonesian Journal of Administrative Law and Local Government (IJALGOV)* 3, no. 1 (2026): 4.

[13] Martin Shapiro, "Administrative Discretion: The Next Stage," *The Yale Law Journal* 92, no. 8 (1983): 1487.

[14] .H. Grey, "Discretion in Administrative Law," *Osgoode Hall Law Journal* 17, no. 1 (1979): 108.

(2) the authority to interpret vague norms.[15] he scope of discretion that needs to be understood is as follows: [16]

1. Discretion as the power to render individual determinations when applying legal rules to specific cases.
2. Discretion as the latitude to address gaps or ambiguities within delegated authority for the purpose of carrying out assigned administrative duties (executive discretion).
3. Discretion as the competence to undertake actions oriented toward achieving collective objectives (policy-making discretion).

In Indonesia, the boundaries of discretionary authority are set out in Article 175 paragraph (2) of Law Number 6 of 2023 on Job Creation, which revises Article 24 of Law Number 30 of 2014 along with its explanatory provisions. The requirements that must be met by government officials in exercising discretion are:

a. grounded in the purpose for which the discretion is granted and aligned with the General Principles of Good Governance;
b. supported by objective considerations, meaning reasons derived from factual conditions, impartial judgment, and rational assessment consistent with the General Principles of Good Governance;
c. free from any conflict of interest; and
d. exercised in good faith, namely through decisions and/or actions taken with honest intent and in conformity with the General Principles of Good Governance.

Legitimate discretion may be exercised only by Government Officials who are duly authorised, both in terms of the source of their authority whether obtained through attribution or delegation and in relation to territorial, substantive, and temporal competence.[17] The officials in question are those performing governmental functions within the executive, judicial, and legislative branches, as well as other state officials who carry out governmental duties as mandated by the 1945 Constitution and relevant legislation. Discretion is vested solely in the government (executive) at both the national and regional levels, including their respective agencies, because when discretionary measures are used in a way that violates or infringes upon citizens' rights, the executive branch can be subjected to judicial review and held accountable before the courts.[18]

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[15] Philipus M.Hadjon et al., *Pengantar Hukum Administrasi Indonesia*, cet. IX (Yogyakarta: Gadjah Mada University Press, 2005).

[16] Victor Imanuel W. Nalle, "The Scope of Discretion in Government Administration Law, Constitutional or Unconstitutional?," *Hasanuddin Law Review* 4, no. 1 (2018): 5.

[17] Muklis Al'anam & Hendro Prabowo, "Reforming the Administrative Court Decision Execution Mechanism : Lessons from the Dutch Administrative Justice System," *Reformasi Hukum* 29, no. 2 (2025): 186.

[18] Suparto, et-al "Administrative Discretion in Indonesia & Netherland Administrative Court: Authorities and Regulations," *Journal of Human Rights, Culture and Legal System* 4, no. 1 (2024): 84.

An illustration of the use of discretion can be seen in Presidential Instruction No. 1 of 2016 on the Acceleration of National Strategic Project Implementation. This directive was issued to address challenges and obstacles encountered in carrying out National Strategic Projects, as well as to provide support for their expedited completion. The measures include: exercising discretionary authority to resolve concrete and urgent matters, and revising, revoking, or replacing regulatory provisions that fail to facilitate or even impede the acceleration of these National Strategic Projects.

Government actions to take legitimate discretionary measures are essentially legal instruments granted to government officials to ensure the smooth running of government when legal norms do not explicitly regulate or even create obstacles in practice.[19] However, their implementation must remain within the corridor of law, taking into account the objectives of authority, public interest, and the principles of proportionality and accountability. as exemplified in Presidential Instruction No. 1 of 2016, which provides scope for relevant officials to overcome concrete and urgent obstacles in National Strategic Projects, even to the extent of refining, revoking, or replacing provisions of laws and regulations that do not support acceleration, shows that discretion is used as a means to maintain the effectiveness of governance, but at the same time emphasises that its use must be legally accountable so that it does not shift into unlawful acts of governance.

In Dutch administrative law, discretionary power is the power that gives administrative bodies, either partially or entirely, the freedom to make decisions in specific cases as they deem appropriate. This power is distinct from binding power and is also referred to as the concept of discretion. When an administrative body has discretionary power (which can be recognised, for example, by the use of words such as may, can, is permitted, and the like), there is room for policy within the relevant limits of authority, and the administrative body can choose whether, and if so, how it uses that authority. The characteristic of policy space is that the council must always consider the interests in a particular case when interpreting it.[20] There is no such thing as completely free or completely bound authority, but there are many levels in between. Therefore, the assessment of discretionary actions is:[21]

a) conducting a comprehensive review of the legality of an order and interpretation of legal provisions;
b) conducting a controlled assessment of the considerations that led to the decision.

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[19] Hananto Widodo & Fradhana Putra Disantara, "Problematik Kepastian Hukum Darurat Kesehatan Masyarakat Pada Masa Pandemi COVID-19," *Jurnal Suara Hukum* 3, no. 1 (2021): 200.

[20] Republic of Latvia Supreme Court Senate, "Seminar Organized by the Supreme Court of the Republic of Latvia in Cooperation with ACA-Europe," 2023.

[21] *Ibid.*

In Dutch administrative law, discretion is not understood as absolute authority that is completely free without restrictions, but rather as a policy space granted by law to administrative bodies to choose the best course of action in a given situation, as long as it remains within the framework of lawful authority. Discretion arises from the need to provide flexibility in the administration of government, so that government officials can tailor decisions to the dynamics of the interests of the community they serve. However, this flexibility remains subject to the principles of legality and proportionality, as well as the obligation to consider all relevant interests before making a decision, so that the use of discretion is not an exception to the law, but part of the law itself.

The mechanism for reviewing discretionary actions is important to ensure that administrative bodies do not abuse their policy space. The assessment is carried out through two main aspects, namely a full review of the legality and interpretation of the underlying legal norms, and a limited review of the considerations of interest chosen by officials in making decisions. With this model, administrative courts maintain a balance between the government's need for flexibility and its obligation to guarantee the protection of citizens' rights. Ultimately, discretion in Dutch administrative law shows that modern constitutional states emphasise not only legal certainty, but also substantive justice through controlled policy space.

CONCLUSION

Unlawful conduct by the government represents a deviation from the principle of legality, which is intended to serve as the fundamental basis for all actions taken within state administration. First, from a conceptual standpoint, government wrongdoing in administrative practice is characterized by actions taken without legal authority, acts that exceed or misuse delegated powers, and failures to comply with the general principles of good governance. Such misconduct generates legal uncertainty and undermines public confidence in governmental institutions. Second, the restrictions placed on the use of discretion serve as a crucial mechanism for distinguishing between the lawful exercise of governmental authority and actions that fall outside its permissible scope. Discretion may only be invoked in situations involving legal gaps, urgent circumstances, or the necessity of maintaining public services, and must still adhere to the purpose for which the authority was granted, remain consistent with statutory provisions, and uphold the principles of proportionality, accountability, and the protection of citizens' rights. Thus, normative limits on discretion serve as a fence to ensure that the government remains flexible in its actions but stays within the corridor of the law, thereby creating a balance between the effectiveness of government administration and the protection of citizens' rights within the framework of the rule of law.

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