

# Analysis of Abuse of Authority by Government Apparatus in the State Administrative Legal System

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## Abstract

Abuse of authority by government officials is one of the crucial problems in the Indonesian state administrative legal system that can cause great losses to the state and society. This research aims to analyze the concept, form, and handling of abuse of authority from the perspective of state administrative law. Through a normative juridical approach, this study examines relevant laws and regulations, doctrines, and case studies. The results of the analysis show that abuse of authority occurs when government officials use their power not in accordance with the goals set by the law, either by exceeding the limits of authority, mixing authority, or acting arbitrarily. Law enforcement against abuse of authority is regulated in the Government Administration Law and is the authority of the State Administrative Court (PTUN). However, its implementation still faces various obstacles, such as weak supervision, overlapping regulations, and political intervention. For this reason, it is necessary to strengthen regulations, protect whistleblowers, and apply good governance principles in order to create clean, transparent, and accountable governance. This research emphasizes the importance of the commitment of all elements of government in preventing and cracking down on abuse of authority in order to realize an effective and reliable government.

**KEYWORDS:** *Abuse of Authority; Apparatus; Administrative Law.*

## Introduction

Indonesia adheres to a more progressive and dynamic system of legal state, or commonly known as a welfare state. In this legal concept, the role of the government is not only as a passive supervisor, but the government must also actively participate in community activities, so that the welfare of all people can be guaranteed. Thus, in the welfare state, the government is given the responsibility to manage and organize public welfare. In carrying out government duties, government apparatus has various functions such as regulation, service, development, empowerment, and protection, in order to improve the welfare of the people. To carry out these functions, government officials are given the authority to make

appropriate decisions or actions in handling government affairs, therefore government officials are strictly prohibited from abusing their authority incorrectly.<sup>1</sup>

Abuse of authority by government officials can cause great losses to the state, this is a serious matter that requires attention from the state administrative law. As the branch of law that regulates the governance and activities of state administration, state administrative law has a very crucial role in handling cases of abuse of authority. One of the legal roles of state administration in resolving this problem is to build a clear and firm legal framework to identify unlawful actions and establish sanctions for perpetrators of the crime of abuse of authority.<sup>2</sup>

In Indonesia itself, the authority to test government policies related to citizens' rights is placed in a special institution, namely the State Administrative Court (PTUN). The State Administrative Court (PTUN) is a manifestation of the commitment of the Indonesian nation in building a state of law while protecting the interests of its people. The determination of the position of the State Administrative Court (PTUN) expressly in the constitution is influenced by the thought of the importance of improving the quality of supervision of the government. This is due to the great potential for abuse of authority by government officials which will obviously be very detrimental to the interests of the wider community.<sup>3</sup>

Bagir Manan stated that administrative law can easily cross borders with other legal regimes so that it requires caution; For example, acts of exceeding authority in administrative law are very easy to cross boundaries with the rules of criminal law because acts of exceeding authority that contain abuse of authority can become a criminal act. Likewise, civil law where unlawful acts by the ruler that can cause losses will cross the border into civil disputes.<sup>4</sup>

The purpose of creating this journal is to find out what is the concept of abuse of authority according to state administrative law? What are the forms of abuse of authority committed by government officials? What is the law enforcement mechanism against abuse of authority in Indonesia? What are the obstacles faced in the law enforcement process? And what efforts can be made to overcome obstacles in eradicating abuse of authority to realize a clean, transparent, and accountable government?.

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Henny Juliani, "Akibat Hukum Penyalahgunaan Wewenang Administrasi Pejabat Pemerintahan yang Menimbulkan Kerugian Keuangan Negara," *Administrative Law and Governance Journal* 2, no. 4 (November 5, 2019): 598-614, <https://doi.org/10.14710/alj.v2i4.598-614>.

<sup>2</sup> Rian Ismi Wardana, Aldri Frinaldi, and Roberia Roberia, "Peran Hukum Administrasi Negara Dalam Penyelesaian Penyalahgunaan Wewenang Yang Menimbulkan Kerugian Negara," *Polyscopia* 1, no. 3 (June 28, 2024): 113-19, <https://doi.org/10.57251/polyscopia.v1i3.1361>.

<sup>3</sup> Firstnandiar Glica Aini Suniaprily, Muhammad Aziz Zaelani, and Erika Nur Vardani, "Analisa Hukum Administrasi Unsur Penyalahgunaan Wewenang Yang Dilakukuan Pejabat Ditinjau Dari Kompetensi Peradilan Tata Usaha Negara," *Jurnal Fakta Hukum (JFH)* 3, no. 2 (September 25, 2024), <https://ojsstihpertia.ac.id/index.php/jfh/article/view/120>.

<sup>4</sup> Enrico Parulian Simanjuntak, "Pengujian Ada Tidaknya Penyalahgunaan Wewenang Menurut Undang-Undang Administrasi Pemerintahan / Examination to Determine the Presence or Absence of Abuse of Authority According to Government Administration Law," *Jurnal Hukum Dan Peradilan* 7, no. 2 (July 29, 2018): 237-62, <https://doi.org/10.25216/jhp.7.2.2018.237-262>.

## Methods

The writing method used in writing this journal is a normative juridical method. This research was conducted by examining and analyzing various laws and regulations related to the abuse of authority by government officials in the state administrative legal system. In addition, the author also reviews the literature, doctrine, and opinions of state administrative law experts to strengthen the analysis.<sup>5</sup> The data used are secondary data obtained from primary legal materials in the form of laws, as well as secondary legal materials such as books, journals, and relevant scientific articles. The analysis is carried out in a descriptive-analytical manner, namely by describing and describing the problem of abuse of authority systematically, then drawing conclusions based on the applicable legal provisions and the underlying theories. This approach aims to provide a comprehensive overview of the concept, form, and handling of abuse of authority in state administrative law in Indonesia.

## Analysis And Discussion

### Rules Containing Abuse of Authority in Government Administration

The concept of abuse of authority comes from the French Conseil d'Etat, which means that the government must exercise its authority in accordance with the objectives set out in the law and take actions in line with those objectives. The opinions of Schrijvers and Smeets complement this concept by asserting that the organs of government may only use the authority granted for a predetermined purpose, and that it is forbidden to use such authority for purposes other than those specified by the legislator.<sup>6</sup>

Juridically, abuse of authority according to the Government Administration Law occurs when "government agencies and/or officials (Article 18 paragraph (2) of the Government Administration Law) make decisions and/or take actions that exceed authority, confuse authority, and/or act arbitrarily." However, the Government Administration Law does not provide a clear definition, definition, or concept of abuse of authority. Article 17 of Law No. 30 of 2014 only regulates the prohibition of abuse of authority along with three specific types of prohibitions, namely the prohibition of exceeding authority, the prohibition of mixing authority, and the prohibition of acting arbitrarily. According to experts and practitioners of State Administrative Law, including PTUN judges, the arrangement is conceptually and theoretically inappropriate and tends to cause ambiguity.

In Law Number 30 of 2014 concerning Government Administration, which provides a legal framework that covers many things, one of which is about the abuse of authority by government officials in carrying out government administrative duties. One of the main objectives of the Law is to create good, transparent, and accountable governance, as well as prevent abuse of authority by government officials who are subversive of various forms of irregularities in government. In this Law, the abuse of authority is clearly regulated regarding the concept of *détournement de pouvoir*, which is about the behavior of government officials who use their authority for purposes that deviate

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<sup>5</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Prenadamedia Group, 2014); Irwansyah Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020); Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum : Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

<sup>6</sup> Aju Putrijanti and Lapon Tukan Leonard, "Kompetensi Peratun Untuk Memeriksa Unsur Penyalahgunaan Wewenang," *Jurnal IUS Kajian Hukum dan Keadilan* 7, no. 1 (April 23, 2019): 107-27, <https://doi.org/10.29303/ius.v7i1.605>.

from the original purpose and purpose of which the authority was granted. The provisions governing the abuse of this authority are regulated in Articles 17 to 21, which require every state administrative official to act in accordance with the principles of legality, accountability and proportionality in making decisions regarding administration.

Article 17 of this Law stipulates that any administrative action taken by officials must be based on the authority granted by laws and regulations. In other words, the authority used by officials must have a clear legal basis and should only be used in accordance with the purpose for which the authority is granted. This article emphasizes the importance of the principle of legality, where public officials are not allowed to use their authority beyond the legally defined limits. In addition, Article 18 stipulates that if there is doubt about authority, officials are obliged to consult with superiors or authorities to ensure that the actions taken are still in accordance with the provisions of the law. This provision aims to prevent unilateral interpretations that can open up opportunities for subjective and detrimental abuse of authority. Furthermore, Article 20 explains the principles of discretion, which allow officials to exercise discretion in certain situations that are not explicitly regulated by law, provided that such use must be based on the principles of public interest, justice, and accountability. However, the use of this discretion should not be misused for the benefit of a particular individual or group. With these restrictions in place, the law provides flexibility for government officials to act in emergencies or situations that require special policies, but still limits the scope to prevent irregularities or violations of the law. Abuse of authority in the form of the use of discretion that is not in accordance with the purpose can be subject to administrative sanctions in accordance with Article 21, which states that officials who are proven to have committed abuse of authority will be subject to legal action according to the degree of error and the impact caused.<sup>7</sup>

Authority in the context of state administrative law is the official power possessed by state civil servants to take direct action or delegate the authority to other parties in accordance with laws and regulations. The power possessed by the government is part of this authority, so its implementation must always be based on positive laws. The implementation of authority in accordance with the provisions of laws and regulations will create a harmonious legal relationship between the government and the community, while avoiding conflicts of interest between the two. In the abuse of authority, there are three main elements, namely the element of intentionality, the element of diverting the purpose of the use of authority, and the element of negative personality.

According to state administrative law, abuse of authority can be divided into three categories. First, abuse of authority that is contrary to the public interest. Second, the abuse of authority that deviates from the laws and regulations even though it aims to realize the public interest. Third, abuse of authority that does not follow the correct procedures in achieving a goal. Of the three forms, abuse of authority can be simplified into two main types, namely *detournement de pouvoir* and *abuse of droit*. Excess of power or *excès de pouvoir* is an act taken outside the limits of authority that causes the legal action to be invalid, and the purpose of granting such authority is not achieved because the actions and decisions taken do not have a valid basis for authority. Meanwhile, acting arbitrarily

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<sup>7</sup> Philpus M. Hadjon, "Peradilan Tata Usaha Negara Dalam Konteks Undang-Undang No. Tanggal 30. Tentang Administrasi Pemerintahan 2014," *Jurnal Hukum Dan Peradilan* 4, no. 1 (2015): 51-64, <https://doi.org/10.25216/jhp>.

means exercising authority in the form of rights and powers beyond the limits that should be taken, resulting in actions and decisions taken contrary to applicable provisions.<sup>8</sup>

A civil servant can be said to have abused his authority if in the exercise of the authority given for a certain purpose there is a deviation from the purpose that should be achieved. In other words, the goals that have been set are not carried out as they should. This abuse of authority is not the result of negligence, but is done consciously and with the intention of diverting the original purpose into a beneficial goal of a particular individual, group, or group. The government or administrative officials who deliberately abuse their authority must be held accountable based on the level of their faults in accordance with the provisions of state administrative law.<sup>9</sup>

Therefore, it is important for the government to take concrete steps in an effort to address the issue in cases of abuse of authority. One of the steps that can be taken is for government officials to carry out their duties in accordance with the law and its objectives. The implementation of constitutional law duties aims to create a clean government system and in accordance with the principles of the rule of law. In carrying out all its activities, the government must conform to the applicable regulations and the principles of legality, using discretion that still adheres to general principles that can be understood morally and legally. If the government makes and implements legal instruments in accordance with formal and substantial provisions, then the use of these instruments will not harm the community. Thus, the protection of citizens can be well guaranteed. In Indonesia, the concept of Good Governance is very important because as a developing country, Indonesia faces various challenges in realizing good and effective governance. Therefore, the implementation of Good Governance and government accountability is crucial to overcome these problems while strengthening good and effective governance in Indonesia.<sup>10</sup>

### **Handling of Cases of Abuse of Authority According to State Administrative Law**

Abuse of authority is a term commonly used in the State Administration Law. According to Hadjon, quoted by Sahlan, abuse of authority is defined as the use of power that is not in accordance with its designation, namely when the official who is given the authority does not use the authority in accordance with the original purpose of granting it. Meanwhile, Jean Rivero and Walinekalle divide forms of abuse of authority into three categories:<sup>11</sup>

- a) Abuse of authority committed by taking actions contrary to the public interest for the benefit of individuals, groups, or certain groups;
- b) Abuse of authority that occurs when the actions of officials are not in line with the purpose of granting authority as stipulated in laws and regulations;

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<sup>8</sup> Alexandro R. Bujung, "Penerapan Hukum Atas Penyalahgunaan Wewenang Oleh Pejabat Pemerintah Ditinjau Dari Undang-Undang No 30 Tahun 2014 Tentang Administrasi Pemerintahan," *Lex Administratum* 11, no. 1 (January 9, 2023), <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/45360>.

<sup>9</sup> Salamatul Afiyah et al., *Buku Ajar Reformasi Administrasi Publik* (PT. Sonpedia Publishing Indonesia, 2024).

<sup>10</sup> Nedia Martha Resmadiktia, Yusuf Utomo, and Laode Aiman, "Pertanggungjawaban Pemerintah Dalam Mewujudkan Good Governance Sesuai Hukum Administrasi Negara," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 11 (June 30, 2023): 685–97, <https://doi.org/10.5281/zenodo.8097882>.

<sup>11</sup> Xie Libin and Haig Patapan, "Schmitt Fever: The Use and Abuse of Carl Schmitt in Contemporary China," *International Journal of Constitutional Law* 18, no. 1 (May 21, 2020): 130–46, <https://doi.org/10.1093/icon/moaa015>.

- c) Abuse of authority through the use of procedures that are not in accordance with applicable provisions in order to achieve certain goals.<sup>12</sup>

Thus, abuse of authority can be seen as a general category consisting of three different forms as described above. In terms of its meaning, every decision or action of an official must meet three conditions to be valid, namely determined by the authorized official, made according to procedures, and the substance of the decision or action must be in accordance with the object in question. The legality of decisions or actions of officials must also comply with the provisions of the law and general principles of good governance.<sup>13</sup>

Conceptually, abuse of office authority is an act that takes advantage of the position or opportunity that a person or a group of people in office have to take advantage that can benefit their own individuality. Based on Article 3 of Law Number 31 of 1999 jo. Law Number 20 of 2001 which regulates the eradication of corruption, abuse of authority when it occurs that a person or group uses the authority, opportunity, or facilities attached to their position to gain benefits for themselves, other people, or a corporation, thereby causing losses to state finances or the state economy. The perpetrators of the abuse can be sentenced to life imprisonment or imprisonment for a minimum of one year to a maximum of twenty years, and a fine.

Several cases related to abuse of authority that have been committed by state officials in Indonesia include the Director of Garuda Indonesia, I Gusti Ngurah Askhara or Ari Askhara who committed an act of abuse of authority in his position who smuggled large motorcycle parts (moge) with the Harley Davidson and Brompton brands which ended with his dismissal as President Director of Garuda Indonesia. The discovery of luxury goods by Customs and Excise officers in the cockpit of a Garuda plane with flight number GA 9721 of the Airbus A330-900 Neo type occurred on Sunday, November 17, 2019, adding to the length of the record of abuse of authority (a buse of power) by a state official, as well as proving that a position is very vulnerable to being kept. Regarding this case, according to the opinion of Finance Minister Sri Mulyani Indrawati, the state has suffered losses of between Rp 532 million to Rp 1.5 billion. As the government's commitment to realizing the principles of good clean governance and good government, the Board of Commissioners of PT. Garuda Indonesia Persero Tbk. that day (December 9, 2019) officially dismissed four directors suspected of being involved in the smuggling of illicit goods. The four are Director of Cargo and Business Development Mohammad Iqbal, Director of Operations Bambang Adisurya Angkasa, Director of Human Capital Heri Akhyar, and Director of Engineering and Services Iwan Joeniarto.<sup>14</sup>

In this case, the official uses the power of his authority for a different purpose and deviates from the purpose that has been assigned to that authority. Thus, the official has violated the principle of specialty. The existence of an element of abuse of authority is tested based on the principle of specialty, which is the principle that states that authority is given to a government organ for a certain purpose. To determine whether an abuse of authority has occurred, it needs to be proven that the official used his authority for other inappropriate purposes. Abuse of authority is not the result of negligence, but is carried out with full awareness, namely diverting the purpose of

<sup>12</sup> Ibid.

<sup>13</sup> Kartika Widya Utama et al., "Tragedi Kanjuruhan Dan Penyalahgunaan Wewenang Dalam Pelaksanaan Prosedur Administrasi Negara," *Masalah-Masalah Hukum* 51, no. 4 (October 31, 2022): 414–21, <https://doi.org/10.14710/mmh.51.4.2022.414-421..>

<sup>14</sup> Victor I. C. Kalele, "Penyalahgunaan Kekuasaan Oleh Penegak Hukum Dalam Penanganan Tindak Pidana Korupsi," *Lex Administratum* 3, no. 6 (August 12, 2015), <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/9161..>

authority that has been set. This shift of purpose is usually based on negative personal interests, both for the benefit of oneself and others. Evidence of the existence of a transfer of purpose must be presented; If there is no such evidence, then abuse of authority cannot be said to have occurred.<sup>15</sup>

Abuse of authority is discussed in the doctrine and in the legal doctrine of the state. Which from the state administrative law, the determination and assessment of acts of abuse of authority are divided into two main criteria, namely; first, for binding authority, using the principle of legality which includes the principle of speciality, namely assessing whether an action is an abuse of authority based on the main provisions of the law and is the purpose of granting the authority. Second, for free authority, it will use the principle of good governance (AUPB), because the principle of legality (*wetmatigheid van bestuur*) is no longer sufficient to be used as the sole basis for legality in government actions in Indonesia.<sup>16</sup>

The use of a feigned measurement tool to assess abuse of authority according to administrative law has become a subject of debate, especially regarding whether these two measures can be applied in determining the existence of abuse of authority, for example in the context of corruption. In addition, the application of these two measurement tools has an effect on the classification of the types of abuse of authority offenses. If these two tools are used in administrative law, it can be concluded that the abuse of this authority is a criminal offense that has a formal and material character. This is because abuse of authority can not only occur in violation of the principle of legality as a written law, but also due to the principle of the general principle of good governance (AAUPB) which is an unwritten rule of law.<sup>17</sup>

Abuse of authority that violates the principle of speciality often causes losses for many other parties. The impact of such losses must be borne by the officials concerned in the matter or may be borne by the state, as the impact of such losses must be repaired immediately. Abuse of authority can often undermine government institutions and structures, and often threatens the integration and accountability of government in the eyes of the public. In addition, the state suffers various losses caused by the abuse of authority, both materially and immaterially. Material losses include financial losses to the state, while immaterially in the form of damage to the government's image in the eyes of the public which causes a decline in people's trust in the government and its institutions. However, until now this phenomenon of abuse of authority still occurs today, and the officials involved in this matter do not seem to have felt deterred to what they have done even though they have faced consequences or punishment for their actions.<sup>18</sup>

Government officials who are proven to have abused their authority will be tried at the State Administrative Court (PTUN). Article 47 of Law Number 5 of 1986 concerning the State Administrative Court states that this court has the duty and authority to examine, decide, and resolve state administrative disputes. The court's authority, as described in Article 47, is known as the competence or adjudication authority. PTUN has two types of competencies, namely relative

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<sup>15</sup> Henny Juliani, "Pertanggungjawaban Pejabat Pemerintahan Sebagai Akibat Penyalahgunaan Wewenang Yang Menimbulkan Kerugian Negara," *Administrative Law and Governance Journal* 3, no. 1 (March 3, 2020): 54–70, <https://doi.org/10.14710/alj.v3i1.54-70>.

<sup>16</sup> Arma Dewi, "Penyalahgunaan Wewenang Dalam Perspektif Tindak Pidana Korupsi," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 1, no. 1 (June 1, 2019): 24–40, <https://doi.org/10.52005/rechten.v1i1.4>.

<sup>17</sup> *Ibid*

<sup>18</sup> Aura Nasya Madhani Harahap, & Irwan Triadi. (2024). Dampak Penyalahgunaan Kekuasaan oleh Pejabat Negara. *MERDEKA : Jurnal Ilmiah Multidisiplin*, 1 (5), 336-344. <https://doi.org/10.62017/merdeka.v1i5.1333>

competence and absolute competence. Relative competence refers to the court's authority to adjudicate a dispute based on a specific jurisdiction. Meanwhile, absolute competence means the court's authority to handle cases based on the object, material, or subject matter of the dispute that is the case (Wahyudi, H. Yodi Martono, 2021). In addition, Article 2 of Law Number 5 of 1986 explains that state administrative decisions (KTUN) that can be used as objects of dispute are KTUNs issued by government officials in carrying out their duties and functions as executive institutions, which are concrete, individual, and final.<sup>19</sup>

In victimology, the term victim has a wide scope, not only limited to individuals who suffer direct harm, but also includes groups, corporations, the private sector, and governments. Victimology aims to understand and explain crime problems through the study of crime victims, the victimization process, and the consequences caused, in the hope of producing more effective and responsible policies and prevention and crime suppression policies, measures, and suppression of crime. The United Nations General Assembly in 1985 adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which defines victims as parties who suffer as a result of crimes and abuses of power. Therefore, victimology is a science that studies victims and their protection efforts, which include victims of crime, accidents, natural disasters, and abuse of power. The protection provided is not only limited to legal protection, but also includes social protection and recovery of loss or suffering experienced by the victim.<sup>20</sup>

### **Obstacles in the Implementation of Law Enforcement Against Cases of Abuse of Authority**

According to Indrayato Seno Adji, there are several forms of abuse of authority, namely:

- a) The use of authority to perform actions contrary to the public interest or for the benefit of a particular person, group, or group.
- b) The use of authority by officials is actually intended for the public interest, but deviates from the purpose that has been set by laws or other regulations.
- c) Abuse of authority through the use of procedures that are not in accordance with the procedures that should be used to achieve certain goals, deliberately using other procedures so that these goals are achieved.<sup>21</sup>

Law enforcement against abuse of authority in government administration in Indonesia faces various complex challenges, both from technical, legal, and social aspects. One of the main technical obstacles is the weak supervision system, both internal and external, in the bureaucratic environment. The many loopholes in the oversight mechanism provide opportunities for officials to abuse their authority without being immediately detected. Existing supervision is often ineffective due to a lack of coordination between supervisory agencies, limited number and quality of human resources, and a bureaucratic culture that prioritizes loyalty to superiors over compliance with the law. In addition, the limitations of technology used to detect and prevent abuse of authority, such

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<sup>19</sup> Amelia Putri Rizkyta and Bunga Restu Ningsih, "Penyalahgunaan Wewenang Berdasarkan Pengadilan Tata Usaha Negara Dan Pengadilan Tindak Pidana Korupsi," *Jurnal Esensi Hukum* 4, no. 2 (December 15, 2022): 131–38, <https://doi.org/10.35586/esh.v4i2.161>.

<sup>20</sup> Rena Yulia and Duke Arie Widagdo, "Penyalahgunaan Wewenang: Perspektif Hukum Administrasi Dan Viktimologi," *Proceeding APHTN-HAN* 2, no. 1 (December 31, 2024): 243–64, <https://proceedingaphtnhan.id/index.php/paphtnhan/article/view/80>.

<sup>21</sup> Mutiara Septi Anissa Arijanta and Fatma Ulfatun Najicha, "Peninjauan Hukum Administrasi Negara Dalam Penyalahgunaan Wewenang Barang/Jasa Pemerintah," *Wacana Paramarta: Jurnal Ilmu Hukum* 21, no. 3 (August 27, 2022): 77–86, <https://doi.org/10.32816/paramarta.v21i3.161>.

as an audit system that is not yet up-to-date, are also a major obstacle. As a result, many acts of abuse go unmonitored and only become known after causing significant negative impacts on society and the state.

From a legal perspective, overlapping laws and regulations are also an obstacle in law enforcement for abuse of authority. One of the main problems is the incompatibility or conflict between Law No. 30 of 2014 concerning Government Administration and other regulations that regulate the duties and authorities of government officials. This makes it difficult for law enforcement officials to determine the right legal basis in handling cases of abuse of authority, especially in cases that are complex and involve many parties. For example, cases related to the use of discretion are often gray areas, as discretion can be justified in the public interest, even if the action is not actually in line with the principle of legality. In addition, the existence of political interference in the law enforcement process, where officials authorized in the investigation or legal process are influenced by political power, also hinders the creation of a fair and transparent legal process.<sup>22</sup>

Errors in the exercise of authority include acts that can be reproached from the authority exercised by the executor of authority, in this case unlawful authority (violating written laws / laws and regulations and unwritten laws) and can be held accountable according to criminal law for errors in the exercise of such authority. That the error in this case is an error according to criminal law, including the exercise of the authority, violating the provisions of the criminal law which specifically regulate the prohibition of abuse of authority.<sup>23</sup>

In addition, the level of trust of the State Civil Apparatus (ASN) in the judicial system is still relatively low. Based on the 2021 survey report of the Indonesian Audit Agency (BPK), many civil servants have doubts about the effectiveness of the judicial system because there are still many cases of corruption and abuse of power that have not been revealed or the perpetrators are free from punishment. This condition causes civil servants to lose confidence in law enforcement and are reluctant to report similar cases, assuming that their reports will not result in adequate action. Some of the legal obstacles faced by whistleblowers in exposing abuse of power in ministries or government agencies in Indonesia include the lack of adequate guarantees and legal protection for ASN whistleblowers.<sup>24</sup> In addition, the threat of disciplinary punishment or mutation is often used as a

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<sup>22</sup> Ahmad Ahmad, Viorizza Suciani Putri, and Mohamad Hidayat Muhtar, "Antara Otoritas dan Otonomi : Pertautan Hak Asasi Manusia dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 21, no. 3 (September 1, 2024): 392–412, <https://doi.org/10.31078/jk2133>.

<sup>23</sup> Mustandar Mustandar, Hambali Thalib, and Hamza Baharuddin, "Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi Menurut Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan," *Journal of Lex Generalis (JLG)* 2, no. 2 (February 6, 2021): 382–99, <https://doi.org/10.52103/jlg.v2i2.333>.

<sup>24</sup> Ahmad Ahmad, "Measuring The Application of Corporate Social Responsibility of PT. Gorontalo Minerals," *Estudiante Law Journal* 4, no. 2 (February 15, 2022): 132–45, <https://doi.org/10.33756/eslaj.v4i2.16489>; Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019): 785–808, <https://doi.org/10.31078/jk1646>; Ahmad Ahmad and Novendri M. Nggilu, *Constitutional Dialogue : Menguatkan Intraksi Menekan Dominasi (Konvergensi Terhadap Pengujian Norma Di Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2023); Ahmad Ahmad and Lisnawaty Wadju Badu, "Purifikasi Pemberian Amnesti Dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang Undang Dasar 1945," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 5, no. 2 (October 28, 2021), <https://doi.org/10.35308/jic.v5i2.2547>; Ahmad Ahmad and Nadya Lonely Bifirli Polii, "Mencari Jiwa Asas Pacta Sunt Servanda Dalam Pelanggaran General Agreement Of Tariff And Trade," *Jurnal Pendidikan Tambusai* 7, no. 1 (April 13, 2023): 1623–31, <https://doi.org/10.31004/jptam.v7i1.6036>; Ahmad, Fence M. Wantu, and Novendri M. Nggilu, *Hukum Konstitusi (Menyongsong Fajar Perubahan Konstitusi*

tool of intimidation and revenge by the reported party or superiors, which ultimately lowers the spirit of reporting. Negative stigma and a culture of silence in the bureaucratic environment are also barriers, because whistleblowers are often considered disloyal and betray colleagues, so civil servants are reluctant to report violations committed by their colleagues or superiors. The complicated and tiered bureaucratic process in obtaining witness protection from the Witness and Victim Protection Agency (LPSK) is also an obstacle, because the existing procedures are less flexible and the response is slow to incoming reports. Finally, the lack of socialization regarding whistleblower protection causes many civil servants to not know their rights and correct reporting procedures, so this ignorance also hinders the reporting of cases of abuse of power.<sup>25</sup>

In implementing a Law or Rule of Law, what is really expected is that the process runs smoothly without any obstacles. However, as time goes by, there are many factors that affect the inhibition of the implementation of the law. Government officials often face a number of legal obstacles when trying to handle cases of abuse of authority in ministries or institutions in Indonesia.<sup>26</sup>

As for the fear of reprisals and intimidation felt by the State Civil Apparatus (ASN) who want to try to report if someone abuses their power, the fear of retaliation or intimidation usually comes from colleagues or superiors. Examples of threats or intimidation that are often obtained are demotion, dismissal, and threats of physical violence. Although most of the existing regulations in Indonesia have regulated related to the protection of anyone who reports, there are still many State Civil Apparatus (ASN) who feel doubtful that their reports will be received and followed up and also they will get protection from as regulated. Therefore, many have abandoned their intentions to report cases of abuse of power in their agencies, even though they know clearly and clearly about the existence of these violations.<sup>27</sup>

Inhibiting factors in law enforcement can come from various sources, including from the legislative aspect. Some of the inhibitors in this regard include:

1. Insufficiency of the Law. Existing laws are often inadequate to address problems that arise in society, making it difficult to enforce the law.
2. Regulatory Conflicts. Many regulations contradict each other, making the law enforcement process complex and unclear.

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*Indonesia Melalui Pelibatan Mahkamah Konstitusi* (Yogyakarta: UII Press, 2020); Ahmad Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue," *Jurnal Konstitusi* 20, no. 3 (September 1, 2023): 514–35, <https://doi.org/10.31078/jk2038>; Indah Amanah Poetri Soedarno Oei Pantouw and Ahmad Ahmad, "Perlindungan Hukum Terhadap Masyarakat Akibat Penambangan Emas Di Sungai Tulabolo Yang Tercemar Merkuri," *Borneo Law Review* 6, no. 2 (2022): 187–204, <https://doi.org/10.35334/bolrev.v6i2.3242>.

<sup>25</sup> Sofyan Rauf, Hasjad Hasjad, and Sabri Guntur, "Efektifitas Peran Lembaga Perlindungan Saksi Dan Korban (Lpsk) Dalam Melindungi Saksi Tindak Pidana Gratifikasi," *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan* 1, no. 3 (February 26, 2022): 203–18, <https://doi.org/10.54443/sibatik.v1i3.26>.

<sup>26</sup> Riris Katharina, "Reformasi Manajemen Aparatur Sipil Negara: Evaluasi Peran Pejabat Pembina Kepegawaian Dan Komisi Aparatur Sipil Negara," *Spirit Publik: Jurnal Administrasi Publik* 13, no. 2 (October 29, 2018): 1–15, <https://doi.org/10.20961/sp.v13i2.24864>.

<sup>27</sup> Nuryadin Gunardi et al., "Implementasi Kebijakan Pengadaan Barang Dan Jasa Secara Elektronik Pada Bagian Pengadaan Barang Dan Jasa Sekretariat Daerah Kabupaten Parigi Moutong," *Jurnal Ilmiah Research and Development Student* 2, no. 2 (May 31, 2024): 117–30, <https://doi.org/10.59024/jis.v2i2.763>.

3. Length of Legal Process. A long legal process can cause people to lose trust and feel dissatisfied with the law enforcement system.
4. Limited resources. Law enforcement officials often lack resources, both in terms of personnel and equipment, which hinders the effectiveness of their duties.
5. Discrimination. Discrimination against certain groups can affect fairness and objectivity in law enforcement.

Some of the factors that can hinder law enforcement related to law enforcement officers are:

1. Corruption: The involvement of law enforcement officials in corrupt practices can undermine the objectivity and integrity of the legal process.
2. Capacity and Skills. Lack of adequate capacity and skills in law enforcement officials can hinder the effectiveness of the implementation of their duties.
3. Discrimination: The involvement of law enforcement officials in discrimination against certain groups can affect objectivity in law enforcement.
4. Bad Habits: Bad habits that are contrary to professionalism and integrity can damage the image and effectiveness of law enforcement officials in carrying out their duties.<sup>28</sup>

In addition, there are also many obstacles experienced in enforcing the law, one example is also the complainant (ordinary person or State Civil Apparatus) who knows about the abuse of authority in the government or other institutions in Indonesia. The obstacles above are the cause of the small number of people or State Civil Apparatus (ASN) who dare to voice or report perpetrators involved in cases of abuse of authority around them. Meanwhile, the role of the State Civil Apparatus (ASN) is crucial to support the eradication of abuse of authority or corruption, as well as in helping to realize a clean bureaucracy. Therefore, stricter regulations are needed to protect whistleblowers, with a mechanism that is clear and easy to reach and can also increase trust in the judicial system through more consistent law enforcement. And so, it is hoped that many people or State Civil Apparatus (ASN) who report cases of irregularities or cases of violating the law that they are aware of, so that they can create a clean environment and avoid perpetrators who abuse authority. All the factors that cause the inhibition of law enforcement are interrelated with each other, including in the application of sanctions against perpetrators who commit violations.<sup>29</sup>

Oleh karena itu, untuk meningkatkan efektivitas penegakan hukum terhadap penyalahgunaan wewenang, diperlukan berbagai upaya pembenahan baik di tingkat regulasi maupun implementasi. Salah satunya adalah memperkuat sistem pengawasan internal dan eksternal yang lebih transparan dan independen, serta memberikan pelatihan yang komprehensif bagi pejabat pemerintahan mengenai hukum administrasi dan tata kelola pemerintahan yang baik. Selain itu, reformasi birokrasi dan peningkatan keterlibatan masyarakat dalam pengawasan pemerintah juga diperlukan untuk menciptakan lingkungan yang mendukung upaya penegakan hukum yang efektif dan mencegah penyalahgunaan wewenang. Dengan pemahaman yang lebih baik mengenai prinsip-prinsip hukum administrasi dan penerapan yang konsisten dari ketentuan Undang-Undang No. 30 Tahun 2014,

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<sup>28</sup> Yusuf Daeng et al., "Keterbatasan Aparat Penegak Hukum Sebagai Hambatan Dalam Penegakan Hukum Di Indonesia," *Jurnal Multidisiplin Teknologi Dan Arsitektur* 2, no. 2 (October 28, 2024): 671-76, <https://doi.org/10.57235/motekar.v2i2.3791>.

<sup>29</sup> Doni Wiranata Doni and Zuhdi Arman, "Perlindungan Hukum Bagi Aparatur Sipil Negara Yang Melaporkan Pelanggaran Penyalahgunaan Kekuasaan Pada Kementerian/Lembaga Pemerintahan Di Indonesia," *MALAKA LAW REVIEW* 1, no. 2 (June 30, 2024): 62-70, <https://www.ejournal.ybpindo.or.id/index.php/malaka/article/view/45>.

diharapkan penyalahgunaan wewenang dapat diminimalisir dan tata kelola pemerintahan yang bersih dan akuntabel dapat terwujud.<sup>30</sup>

## Conclusion

Therefore, to increase the effectiveness of law enforcement against abuse of authority, various efforts are needed to improve both at the regulatory and implementation levels. One of them is to strengthen internal and external oversight systems that are more transparent and independent, as well as provide comprehensive training for government officials on administrative laws and good governance. In addition, bureaucratic reform and increased public involvement in government oversight are also needed to create an environment that supports effective law enforcement efforts and prevents abuse of authority. With a better understanding of the principles of administrative law and the consistent application of the provisions of Law No. 30 of 2014, it is hoped that abuse of authority can be minimized and clean and accountable governance can be realized

Abuse of authority is the act of government officials or apparatus who use power beyond the limits set by laws and regulations, either by exceeding, confusing, or acting arbitrarily against their authority. This abuse of authority not only harms the interests of the public and the state both materially and immaterially, but also threatens the integrity and trust of the public in the bureaucracy and government. Although regulations on abuse of authority have been regulated in the Government Administration Law, practices on the ground still face various obstacles, ranging from weak supervision, overlapping regulations, to political intervention. Therefore, a strong commitment from the government is needed to implement the principles of good governance, strengthen protection for whistleblowers, and ensure firm and consistent law enforcement in order to create clean, transparent, and accountable governance.

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<sup>30</sup> Sutiyoso, Bambang. "Penguatan Peran Komisi Yudisial dalam Penegakan Hukum di Indonesia." *Jurnal Hukum Ius Quia Iustum* 18.2 (2011): 266-284.

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