IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

Shadow Policy-Making: Legal Analysis of Unwritten Policies in Modern Government

Olivia Salintohe[1],Suzanna Lumeno[2], Erwin Taroreh[3]
[1,2,3] Universitas Sintuwu Maroso Poso, Sulawesi Tengah, Indonesia

Received: November 18, 2025
Revised: December 12, 2025
Accepted: November 29, 2025
Published: December 29, 2025

Corresponding Author:
Author Name*: Olivia Salintohe
Email*: svia160323@gmail.com

***Abstract*:** *Contemporary governance practices increasingly rely on unwritten policies (shadow policies), such as informal directives, internal memoranda, and bureaucratic practices that function as de facto regulatory norms. Despite their direct impact on citizens' rights, these unwritten policies lack explicit legal recognition within Indonesia's administrative law framework. This study aims to analyze the legal status of shadow policies and examine the implications of normative gaps on the principle of legality, good governance principles, and the legal protection of citizens. Employing a normative juridical method with statutory, conceptual, and case approaches, this research finds a regulatory vacuum in Law No. 30 of 2014 on Government Administration and Law No. 12 of 2011 on the Formation of Laws and Regulations. This vacuum blurs the distinction between lawful discretion and informal policies, resulting in legal uncertainty, weakened accountability, and limited judicial oversight. The study concludes that normative reform is essential to regulate shadow policies in a controlled manner in order to strengthen legal certainty, protect citizens' rights, and uphold the rule of law.*

Keywords: *Government Administration; Legality Principle; Legal Protection; Shadow Policy; Unwritten Policy*

INTRODUCTION

The practice of modern governance demonstrates an increasingly strong tendency toward the use of unwritten policies as instruments of administrative decision making. In various bureaucratic contexts, decisions that have a direct impact on the rights and obligations of citizens are not always formulated in the form of legislation or formal state administrative decisions, but rather through informal directives, internal circular letters, official memoranda, bureaucratic customs, and repeated administrative practices that are regarded as customary.

In the Indonesian context, the practice of unwritten policies is not a new phenomenon. Various governmental policies are implemented through circular letters, internal instructions, or oral directives by officials that, in factual terms, affect citizens' access to public services, licensing, social assistance, and even administrative sanctions. However, unlike formal state administrative decisions, these unwritten policies often escape legal review mechanisms and judicial oversight. As a result, citizens are placed in a vulnerable position when their rights are restricted or harmed by policies that normatively lack a clear legal form. This condition raises

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

serious concerns regarding the rule of law principle, which places law as the basis of every governmental action.[1]

These issues become increasingly relevant when linked to the principle of legality as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state based on law. This principle requires that every governmental action have a clear legal basis, be subject to review, and be accountable. However, the existence of shadow policy creates a gray area between lawful governmental action and informal administrative practices that are binding in effect. Under such conditions, the boundary between discretion permitted by law and unwritten policies that potentially constitute an abuse of authority becomes blurred.[2]

The legal issue in this study is explicitly stated, namely the existence of a normative vacuum in Indonesian state administrative law concerning the regulation, legal status, and review mechanisms of unwritten policies or shadow policy. To date, there is no provision that clearly explains whether unwritten policies may be regarded as lawful governmental actions, the extent of their binding force, and how accountability and review mechanisms should be applied.[3]

Law Number 30 of 2014 on Government Administration does regulate governmental decisions and actions, including the concept of discretion in Articles 22 to 24. However, these provisions do not explicitly accommodate the existence of unwritten policies that are routine, binding, and have broad impacts. Muin and Wahyudi demonstrate that discretion under the Government Administration Law is intended as a limited exception for specific conditions, rather than as a recurring and systemic informal policy instrument.[4] Accordingly, equating shadow policy with discretion without a clear normative basis only expands the space of legal uncertainty in governmental practice.

Furthermore, Law Number 12 of 2011 on the Formation of Laws and Regulations as amended by Law Number 13 of 2022 recognizes legal norms solely in written and hierarchical forms. This provision implicitly excludes unwritten policies from the positive legal system, despite the fact that in practice such policies function as regulatory norms. This condition creates

[1] H. Firmanda, P. Aqila, & R. Tama, "Philosophical Analysis of the Positive Legal Paradigm in Indonesia in Perspective of Article 1 Paragraph (3) of the 1945 Constitution," *Melayunesia Law* 6, no. 2 (2022), https://doi.org/10.30652/ml.v6i2.7885

[2] F. Muin, "Diskresi dalam Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan," *Tanjungpura Law Journal* 2, no. 2 (2020), https://doi.org/10.26418/tlj.v2i2.25802

[3] M. Baihaki, "Assessment of Elements of Abuse of Authority (Detournement de Pouvoir) Based on the Decision of the Constitutional Court," *Jurnal Konstitusi* (2023), https://doi.org/10.31078/jk2016

[4] A. Wahyudi, "Problematizations of Discretion Policy in Indonesia's Administration Law Number 30 of 2014," *Jurnal Bina Praja* 9 (2017): 73–81, https://doi.org/10.21787/jbp.09.2017.73-81

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

a normative paradox between the reality of governance and the construction of formal law, which ultimately weakens the principles of legal certainty and transparency.[5]

From an academic perspective, studies of state administrative law in Indonesia still tend to focus on written regulations and formal decisions as the primary objects of analysis. Putra, Wibowo, and Minollah identify the existence of legal vacuums in Indonesian administrative law, yet do not specifically position unwritten policies as an independent normative problem.[6] Mufidah also highlights conceptual disharmony within the Government Administration Law, but does not elaborate on the juridical implications of informal policies operating outside the system of laws and regulations.[7] On the other hand, international literature such as that presented by Sörensen and Olsson as well as Pavone and Stiansen tends to discuss shadow governance from political and democratic perspectives rather than from a normative juridical standpoint within a national legal system.[8]

Accordingly, there exists a clear academic gap, namely the lack of legal analysis that specifically addresses the legal standing of shadow policy within the state administrative law system, particularly in relation to the principle of legality, the general principles of good governance, and the legal protection of citizens. This study does not merely reiterate discussions on discretion or informal governance, but positions unwritten policies as a normative phenomenon that demands a clear and prescriptive legal response. Despite the growing discussion on discretion, informal governance, and administrative practices, existing studies have not yet positioned shadow policy as an independent juridical problem within Indonesian state administrative law. Prior research tends to treat unwritten policies either as a derivative of discretion or as a political-administrative phenomenon, without examining their direct implications for the principle of legality, legal certainty, and the legal protection of citizens. Consequently, there is still no comprehensive normative legal analysis that conceptualizes shadow policy as a systemic legal vacuum requiring prescriptive regulation within the administrative law framework.

Based on this background, the novelty of this research lies in its normative juridical analysis of unwritten policies as objects of state administrative law, by situating them within the framework of a normative vacuum and examining their implications for the rule of law principle. This study aims to analyze the legal position of shadow policy within the Indonesian

[5] Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan jo. Undang-Undang Nomor 13 Tahun 2022.
[6] E. Putra, G. Wibowo, & M. Minollah, "Legal Vacuum in Indonesian Administrative Law: Urgency of Policy Regulation," *Indonesian Journal of Law and Economics Review* 19, no. 1 (2024), https://doi.org/10.21070/ijler.v19i1.991
[7] N. Mufidah, "Disharmonisasi Konsep Hukum dalam Undang-Undang Administrasi Pemerintahan di Indonesia," *Politica: Jurnal Hukum Tata Negara dan Politik Islam* 11, no. 1 (2024), https://doi.org/10.32505/politica.v11i1.8753
[8] T. Pavone & Ø. Stiansen, "The Shadow Effect of Courts: Judicial Review and the Politics of Preemptive Reform," *American Political Science Review* 116 (2021): 322–336, https://doi.org/10.1017/s0003055421000873

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

governmental legal system and to examine the implications of the normative vacuum for the principles of legality, legal certainty, and the protection of citizens' rights. Through this approach, the research is expected to provide both theoretical and prescriptive contributions to the development of state administrative law in Indonesia.

METHOD

This research constitutes normative juridical legal research aimed at examining legal norms that regulate, or conversely fail to regulate, unwritten policies within the state administrative law system. This approach is employed because the primary focus of the study is to analyze normative vacuums, regulatory disharmony, and the juridical implications of shadow policy practices for the principle of legality and the legal protection of citizens.[9]

The approaches employed include the statute approach, conceptual approach, and case approach. The statute approach is conducted through analysis of the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 2014 on Government Administration, and Law Number 12 of 2011 in conjunction with Law Number 13 of 2022 on the Formation of Laws and Regulations. The conceptual approach is used to examine the concepts of legality, discretion, general principles of good governance, and abuse of power or detournement de pouvoir based on doctrines and literature in administrative law. Meanwhile, the case approach is carried out by reviewing decisions of the Supreme Court and the State Administrative Court relating to governmental actions and the judicial review of abuse of authority.

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations as well as court decisions. Secondary legal materials encompass administrative law textbooks and reputable national and international journal articles related to discretion, informal governance, and the rule of law principle. Tertiary legal materials consist of legal dictionaries and encyclopedias. All legal materials are analyzed prescriptively using deductive reasoning as well as systematic and teleological interpretation in order to formulate normative recommendations for the issues examined.

RESULTS AND DISCUSSION

Normative Vacuum in the Regulation of Unwritten Policies within the State Administrative Law System

Unwritten policies (shadow policy) constitute a tangible phenomenon in modern governmental administrative practice that functions as de facto regulatory norms, despite not being explicitly recognized within the system of laws and regulations. In the context of Indonesian state administrative law, the existence of such policies raises fundamental juridical issues because the positive legal system is predominantly constructed on written and hierarchical principles. Law Number 12 of 2011 in conjunction with Law Number 13 of 2022 recognizes

[9] Sujadi. *Metode Penelitian Hukum*. Jakarta: Rajawali Press, 2012

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

legal norms only in the form of written laws and regulations, while the practice of unwritten policies is allowed to develop without a clear normative foundation. This condition demonstrates the existence of a normative vacuum (legal vacuum) in the regulation of unwritten policies as instruments of governance.[10]

This normative vacuum is clearly evident in Law Number 30 of 2014 on Government Administration. Although this law expands the objects of administrative law by recognizing the existence of "governmental actions" in addition to state administrative decisions, such regulation is not accompanied by clear definitions, classifications, or limitations concerning unwritten policies that are binding and recurrent in nature. As a result, there is broad interpretive space for government officials to qualify shadow policy as part of legitimate administrative authority, even though it has never been formalized through recognized legal mechanisms.[11]

One of the most crucial normative problems is the blurred boundary between discretion and shadow policy. Articles 22 to 24 of the Government Administration Law regulate discretion as the authority of government officials to make decisions and or take actions under certain conditions, such as legal vacuums or governmental stagnation. However, discretion is intended as an exceptional instrument that is casuistic and situational, not as a routine policy implemented in a systemic manner. Muin emphasizes that discretion must not transform into a source of new norms that replace laws and regulations.[12] In practice, shadow policy is often applied repeatedly and has general binding force, thereby exceeding the characteristics of discretion as intended by the law.

This normative vacuum is further exacerbated by the absence of formalization mechanisms for unwritten policies within the administrative law system. There is no legal obligation for government officials to document, publish, or account for the informal policies they implement. In fact, from the perspective of a state based on law, every governmental action that affects citizens' rights should be traceable in terms of its legal basis, subject to legality review, and accountable. The absence of such mechanisms creates a shadow zone in governance that is difficult to supervise through legal means.[13]

The direct impact of this normative vacuum is the weakening of the principle of legality and legal certainty. The principle of legality not only requires the existence of a legal basis, but also demands clarity of form and procedures in the creation of norms. Firmanda et al. affirm that the rule of law principle under Article 1 paragraph (3) of the 1945 Constitution requires governmental actions to be predictable and controllable through law.[14] Shadow policy that is

[10] Undang-Undang Nomor 12 Tahun 2011 jo. Undang-Undang Nomor 13 Tahun 2022
[11] Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.
[12] F. Muin, *loc. cit.*
[13] R. Schneider & S. Hagemann, *Informal Governance in the European Union* (2023), https://doi.org/10.5860/choice.51-6980
[14] M. Baihaki, *op. cit.*

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

unwritten, undocumented, and not clearly reviewable contradicts this principle, as it places citizens in a condition of normative uncertainty.

Furthermore, the normative vacuum concerning unwritten policies opens opportunities for abuse of authority or detournement de pouvoir. When informal policies are used as the basis for administrative actions, government officials enjoy wide discretion to determine the content and direction of policy without adequate legal oversight. Baihaki shows that abuse of authority often occurs not through formal decisions, but through administrative practices that are normatively difficult to trace.[15] Accordingly, the absence of explicit regulation of shadow policy is not merely a technical legal issue, but a serious threat to governmental integrity and the protection of citizens' rights.

The Legal Position of Shadow Policy in Relation to the Principle of Legality and the General Principles of Good Governance

The legal position of shadow policy within the state administrative law system must be analyzed by reference to the principle of legality and the General Principles of Good Governance. The principle of legality is the primary foundation of a state based on law, requiring every governmental action to have a lawful basis and to be subject to review. In this context, shadow policy presents a serious problem because it operates outside the written normative framework while possessing real binding force in practice. Selma emphasizes that legality is not merely formal, but also substantive, namely ensuring that power is exercised fairly and accountably.[16]

When shadow policy is used as the basis for governmental action, a distortion of the principle of legality occurs because the norm applied lacks formal legitimacy. This condition has implications for violations of the General Principles of Good Governance, particularly the principles of legal certainty, transparency, and accountability. The principle of legal certainty is violated because citizens do not have clear access to the norms governing their rights and obligations. The principle of transparency is undermined because unwritten policies are not publicly disclosed in a transparent manner. Meanwhile, the principle of accountability is weakened due to the difficulty of tracing responsibility for such informal policies.[18]

From a juridical perspective, shadow policy may also be qualified as a form of abuse of authority when it is used to achieve objectives beyond the purpose of the conferred authority. Antoro emphasizes that abuse of authority does not always manifest in the form of written decisions, but may occur through administrative practices that deviate from legal objectives.[19] In this context, unwritten policies may function as hidden instruments of detournement de pouvoir, as they are not easily subject to review through available legal mechanisms.

[15] H. Firmanda et al., *op. cit.*
[16] M. Selma, "Reconstruction of Principles of Legality in Criminal Law Based on Justice Value of Pancasila," *Jurnal Pembaharuan Hukum* 4, no. 3 (2017): 307–315, https://doi.org/10.26532/jph.v4i3.2326

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

To clarify the position of shadow policy in relation to the principle of legality and the General Principles of Good Governance, the following analytical table is presented:

Table 1. Shadow Policy and Its Implications on Legality and Good Governance Principles

Legal Principle/AUPB	Normative Requirement	Shadow Policy Practice	Legal Implication
Principle of Legality	Actions must be based on written and valid legal norms	Based on informal instructions or practices	Legal uncertainty and weak legitimacy
Legal Certainty	Clear, accessible, and predictable rules	Unwritten and undocumented norms	Violation of citizens' legal protection
Transparency	Public access to policy-making processes	Internal and non-public policies	Erosion of public accountability
Accountability	Clear responsibility and review mechanisms	Difficult to trace responsibility	Risk of abuse of power

The table shows that shadow policy is structurally inconsistent with the principle of legality and the General Principles of Good Governance. This inconsistency is not merely an administrative issue, but a constitutional problem that has implications for the quality of the rule of law. Pakpahan et al. emphasize that the implementation of the rule of law principle requires consistency between norms and governmental practice.[17] When governmental practice instead relies on unwritten policies, a delegitimization of law as an instrument for controlling power occurs.

Furthermore, the absence of effective judicial control over shadow policy exacerbates this problem. Although the Government Administration Law expands the absolute jurisdiction of the State Administrative Court, in practice the judicial review of unwritten policies still faces juridical obstacles. HR et al. show that the objects of disputes before the State Administrative Court are still dominated by formal decisions, while actions based on informal policies are difficult to qualify as reviewable objects.[22] As a result, citizens experience difficulties in obtaining legal protection when they are harmed by shadow policy.

Accordingly, the legal position of shadow policy within the state administrative law system is problematic. On the one hand, it functions as a de facto regulatory norm, but on the other hand, it lacks adequate legal legitimacy. This condition explicitly demonstrates a conflict between governmental practice and the principle of legality as well as the General Principles of Good Governance, which demands a firmer and more systemic normative response.

[17] B. Antoro, "Pengujian Penyalahgunaan Wewenang di PTUN," *Jurnal Yudisial* 13, no. 2 (2021), https://doi.org/10.29123/jy.v13i2.350

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

Implications of the Normative Vacuum for the Legal Protection of Citizens and Governmental Oversight

The normative vacuum in the regulation of unwritten policies or shadow policy has a direct impact on the weakening of legal protection for citizens. In a state based on law, legal protection requires the existence of norms that are clear, accessible, and reviewable through judicial mechanisms. When policies that affect citizens' rights and obligations are not formulated in written normative forms, citizens lose a legal basis for assessing the legality of the governmental actions they face. This condition places citizens in an asymmetrical position vis a vis administrative power, because governmental actions are carried out on the basis of informal policies that are difficult to trace and legally challenge.[18]

The most tangible implication of this condition is the difficulty faced by citizens in submitting legal remedies. Within the state administrative justice system, the object of dispute generally requires the existence of a governmental decision or action that can be clearly identified. Unwritten policies that operate through internal directives or administrative practices often do not meet the formal qualifications as dispute objects, even though they factually produce legal consequences. Antoro emphasizes that the main problem in reviewing abuse of authority before the State Administrative Court lies in proving the policy basis used by government officials.[19] In the context of shadow policy, such proof becomes increasingly difficult due to the absence of normative documents that can serve as references.

This limitation indicates that the expansion of the absolute jurisdiction of the State Administrative Court as regulated in the Government Administration Law has not yet been fully effective in reaching governmental actions based on informal policies. HR, Heryansyah, and Pratiwi note that although the Government Administration Law opens space for the review of governmental actions, judicial practice remains heavily dependent on the existence of written legal products.[20] Consequently, citizens who are harmed by shadow policy often fail to obtain adequate legal protection, because courts face difficulties in qualifying such policies as legitimate objects of dispute.

From the perspective of governmental oversight, the normative vacuum regarding unwritten policies also weakens administrative and judicial control mechanisms. Without obligations of documentation and transparency, both internal and external supervisory institutions face difficulties in assessing whether a policy is implemented in accordance with the purposes for which authority was granted. Baihaki emphasizes that abuse of authority often hides behind administrative practices that are not formally documented.[4] In this context, shadow policy creates a gray area that allows government officials to implement policies discretionarily without effective oversight.

[18] B. Antoro, *loc. cit.*
[19] R. Hr, S. Heryansyah, & S. Pratiwi, *op. cit.*
[20] M. Baihaki, *op. cit.*

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

These implications become even more problematic when linked to the principle of governmental accountability. Accountability requires clarity regarding who is responsible for a policy, how the policy is formulated, and what its legal basis is. Unwritten policies obscure chains of accountability because they do not pass through formal policy making procedures. Basuki and Mahya emphasize that legal culture within a state based on law requires transparency and accountability as fundamental prerequisites for the legitimacy of power.[21] Without clear normative regulation, shadow policy has the potential to reduce the quality of governmental accountability and weaken public trust.

From a comparative perspective, several legal systems have developed mechanisms to address the problem of informal policies. Literature on informal governance in the European Union shows that although informal policies are recognized as part of governmental practice, mechanisms of documentation, supervision, and review remain in place to enable effective legal control.[22] This comparison demonstrates that the existence of informal policies does not inherently contradict the principle of the rule of law, provided that they are accompanied by normative arrangements that ensure transparency and accountability. In the Indonesian context, the absence of such arrangements instead widens the gap between governmental practice and the principle of legality.

The urgency of reformulating norms related to unwritten policies becomes increasingly evident when linked to the objective of protecting citizens' legal rights. Putra, Wibowo, and Minollah emphasize that legal vacuums in Indonesian administrative law must be addressed through the formulation of norms that are adaptive to developments in governmental practice.[23] Such reformulation aims not only to provide legal legitimacy to unwritten policies, but also to limit opportunities for abuse of authority and to strengthen oversight mechanisms. Without clear normative measures, shadow policy will continue to operate as a shadow norm that is difficult to control, while simultaneously threatening the principle of the rule of law and the protection of citizens' rights.

Accordingly, the implications of the normative vacuum regarding shadow policy are systemic and multidimensional. They do not only affect the legal position of such policies, but also have direct consequences for the effectiveness of legal protection for citizens and the quality of governmental oversight. This condition demands a prescriptive and integrated normative response, both through amendments to legislation and through the strengthening of administrative judicial practice.

[21] U. Basuki & A. Mahya, "78 Tahun Negara Hukum," *Viva Themis Jurnal Ilmu Hukum* 6, no. 1 (2024), https://doi.org/10.24967/vt.v6i1.2792
[22] R. Stone, *op. cit.*
[23] E. Putra, G. Wibowo, & M. Minollah, *op. cit.*

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

CONCLUSIONS

Unwritten policies or shadow policy constitute a tangible phenomenon in modern governance practices that function as de facto regulatory norms, yet have not been adequately accommodated within the Indonesian state administrative law system. The analysis demonstrates the existence of a normative vacuum in the Government Administration Law and the Law on the Formation of Laws and Regulations with regard to the definition, legal status, and review mechanisms of unwritten policies. This vacuum results in a blurred boundary between lawful discretion and informal policies that may deviate from legal objectives, thereby weakening the principle of legality and legal certainty as guaranteed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

Furthermore, the lack of clarity regarding the legal status of shadow policy has implications for violations of the General Principles of Good Governance, particularly the principles of legal certainty, transparency, and accountability. Citizens face difficulties in pursuing legal remedies against unwritten policies, while judicial and administrative oversight mechanisms have not been able to effectively reach informal policy practices. This condition opens space for abuse of authority or detournement de pouvoir and reduces the quality of legal protection within a state based on law.

This study is limited by its normative juridical approach, which focuses on legal norms and doctrinal analysis without incorporating empirical data on administrative practices. Future research is therefore recommended to employ empirical or comparative approaches to examine how shadow policies operate in practice and how different legal systems regulate informal administrative policies.

Based on these findings, a normative prescriptive step is required in the form of explicit regulatory additions to Law Number 30 of 2014 that include the definition of unwritten policies, limitations on discretion, and mechanisms for documentation, accountability, and review of informal policies. In addition, harmonization with the Law on the Formation of Laws and Regulations and the strengthening of the authority of the State Administrative Court to review governmental actions based on shadow policy are crucial to ensuring legal protection for citizens and accountability in the administration of government.

REFERENCES

Legal Documents

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 292, Tambahan Lembaran Negara Republik Indonesia Nomor 5601).

Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82, Tambahan Lembaran Negara Republik Indonesia Nomor 5234).

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

Undang-Undang Nomor 13 Tahun 2022 tentang Perubahan Kedua atas Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2022 Nomor 143, Tambahan Lembaran Negara Republik Indonesia Nomor 6801).

Journal Article

Amancik, A., Illahi, B., & Saifulloh, P. (2021). Perluasan Kompetensi Absolut Peradilan Tata Usaha Negara Dalam Keadaan Darurat Bencana Non Alam di Indonesia. *Nagari Law Review*. https://doi.org/10.25077/nalrev.v.4.i.2.p.154-174.2021.

Antoro, B. (2021). Pengujian Penyalahgunaan Wewenang DI PTUN. *Jurnal Yudisial*. https://doi.org/10.29123/jy.v13i2.350.

Baihaki, M. (2023). Assessment of Elements of Abuse of Authority (Detournement De Pouvoir) Based on the Decision of the Constitutional Court. *Jurnal Konstitusi*. https://doi.org/10.31078/jk2016.

Basuki, U., & Mahya, A. (2024). 78 Tahun Negara Hukum: Refleksi Atas Upaya Membangun Budaya Hukum Dan Mewujudkan Masyarakat Madani Indonesia. *Viva Themis Jurnal Ilmu Hukum*. https://doi.org/10.24967/vt.v6i1.2792.

De Carvalho, C., Johns, P., Albiero, M., Martins, A., Mais, L., Ralston, R., & Collin, J. (2021). "Private and personal": Corporate political activity, informal governance, and the undermining of marketing regulation in Brazil. *Global Public Health*, 17, 1902 - 1912. https://doi.org/10.1080/17441692.2021.1988128.

Endang, M. (2018). Diskresi Dan Tanggung Jawab Pejabat Pemerintahan Menurut Undang-Undang Administrasi Pemerintahan / Discretion And Responsbility Of Government Officials Based On Law Of State Administration. *Jurnal Hukum Peratun*. https://doi.org/10.25216/peratun.122018.223-244.

Firmanda, H., Aqila, P., & Tama, R. (2022). Philosophical Analysis of the Positive Legal Paradigm in Indonesia in Perspective of Article 1 paragraph (3) of the 1945 Constitution. *Melayunesia Law*. https://doi.org/10.30652/ml.v6i2.7885.

Hr, R., Heryansyah, S., & Pratiwi, S. (2018). Perluasan Kompetensi Absolut Pengadilan Tata Usaha Negara dalam Undang-Undang Administrasi Pemerintahan. , 25, 339-358. https://doi.org/10.20885/iustum.vol25.iss2.art7.

Jaffe, R., & Koster, M. (2019). The Myth of Formality in the Global North: Informality-as-Innovation in Dutch Governance. *International Journal of Urban and Regional Research*, 43, 563 - 568. https://doi.org/10.1111/1468-2427.12706.

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2 . No. 11, December 2025
DOI : https://doi.org/10.62872/wqaatf14

Mufidah, N. (2024). Disharmonisasi Konsep Hukum Dalam Undang-Undang Administrasi Pemerintahan di Indonesia. *Politica: Jurnal Hukum Tata Negara dan Politik Islam*. https://doi.org/10.32505/politica.v11i1.8753.

Muin, F. (2020). Diskresi Dalam Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan. *Tanjungpura Law Journal*. https://doi.org/10.26418/tlj.v2i2.25802.

Pakpahan, Z., Yasmin, A., Safitri, I., Nainggolan, E., & Nasution, T. (2024). Implementation of the State of Law Principles from the Constitutional Law Perspective: A Case Study of Legislative Aspects in Law Enforcement in Indonesia. *Mahadi: Indonesia Journal of Law*. https://doi.org/10.32734/mah.v3i01.15452.

Pavone, T., & Stiansen, Ø. (2021). The Shadow Effect of Courts: Judicial Review and the Politics of Preemptive Reform. *American Political Science Review*, 116, 322 - 336. https://doi.org/10.1017/s0003055421000873.

Putra, E., Wibowo, G., & Minollah, M. (2024). Legal Vacuum in Indonesian Administrative Law: Urgency of Policy Regulation. *Indonesian Journal of Law and Economics Review*. https://doi.org/10.21070/ijler.v19i1.991.

Schneider, C., & Hagemann, S. (2023). Informal Governance in the European Union. . https://doi.org/10.5860/choice.51-6980.

Selma, M. (2017). Reconstruction Of Principles Of Legality In Criminal Law Based On Justice Value Of Pancasila, 4, 307-315. https://doi.org/10.26532/jph.v4i3.2326.

Sörensen, J., & Olsson, E. (2020). Shadow Management: Neoliberalism and the Erosion of Democratic Legitimacy through Ombudsmen with Case Studies from Swedish Higher Education. *Societies*. https://doi.org/10.3390/soc10020030.

Stone, R. (2013). Informal governance in international organizations: Introduction to the special issue. *The Review of International Organizations*, 8, 121-136. https://doi.org/10.1007/s11558-013-9168-y.

Wahyudi, A. (2017). Problematizations of Discretion Policy in Indonesia's Administration Law Number 30 of 2014. *Jurnal Bina Praja: Journal of Home Affairs Governance*, 9, 73-81. https://doi.org/10.21787/jbp.09.2017.73-81.

White, J. (2021). The de-institutionalisation of power beyond the state. *European Journal of International Relations*, 28, 187 - 208. https://doi.org/10.1177/13540661211053683.