

# The Rule of Law as the Theoretical Basis for State Administrative Law

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Info Article	Abstract
<p><b>Article History</b> Received : 2023-09-03 Revised: 2023-09-12 Published: 2023-09-30</p> <p><b>Keywords:</b> <i>State of Law; State Administrative Law; Principle of Legality; Governance; Legal Protection.</i></p>	<p>The rule of law is a fundamental principle in governance that places law as the foundation and limit of state power. In the context of state administrative law, the principle of the rule of law plays a crucial role in regulating the implementation of government authority and providing legal protection for citizens. Administrative law is the primary instrument for ensuring that government actions and decisions are implemented based on the principle of legality, general principles of good governance, and effective oversight mechanisms. This study employs a normative legal research method with a statutory and conceptual approach. The legal materials used consist of statutory regulations, expert doctrines, and relevant legal literature. The analysis is descriptive-analytical. The discussion in this journal begins with an elaboration of the concept of the rule of law as the theoretical basis of state administrative law, followed by a discussion of legal protection for citizens and the application of general principles of good governance, as well as the implications of the rule of law for governance. The results of the discussion indicate that the principle of the rule of law plays a crucial role in limiting government power and realizing an orderly, accountable, and just government.</p>

## I. INTRODUCTION

The concept of the rule of law is a key pillar of the modern constitutional system, asserting that state power must be exercised based on law, not solely on the whims of the ruler. This principle developed in response to practices of absolute power that tended to disregard legal certainty and the protection of citizens' rights. In a rule of law, law functions not only as a tool of power but also as a means of controlling and limiting government action.

In the administration of government, state administrative law plays a strategic role because it regulates the relationship between the government and citizens. It is a key instrument in realizing an orderly, accountable, and service-oriented government. Therefore, the existence of state administrative law cannot be separated from the principle of the rule of law as its theoretical foundation. A rule of law requires that every administrative action be based on the principle of legality, uphold the protection of human rights, and provide oversight mechanisms

and legal remedies for citizens who are harmed. These principles are reflected in various important concepts of state administrative law, such as government authority, discretion, general principles of good governance, and state administrative justice.

## II. RESEARCH METHODS

This research is a normative legal study that focuses on the study of legal norms and legal concepts related to the rule of law and state administrative law. The approaches used include a statute approach, which examines relevant laws and regulations, and a conceptual approach, which examines the doctrines and views of legal experts. This research utilizes various data sources, including: literature studies related to primary legal materials in the form of relevant laws and court decisions, secondary legal materials in the form of books, scientific journals, and scientific papers in the field of constitutional law and state administrative law, as well as tertiary legal materials in the form of legal

dictionaries and legal encyclopedias. The analysis of legal materials was conducted qualitatively using descriptive-analytical methods to obtain a comprehensive understanding of the role of the rule of law as a theoretical basis for state administrative law.

### III. RESULTS AND DISCUSSION

#### A. The Concept of the Rule of Law as the Legal Basis for State Administration

The concept of the rule of law (*rechtsstaat* or rule of law) is the primary philosophical and theoretical foundation for the implementation of modern state power, including the formation and development of state administrative law. The rule of law emerged as the antithesis of the power-based state (*machtsstaat*), where governance is carried out based on the will of the ruler without clear legal restrictions. In a rule of law, power is not absolute, but rather limited and controlled by law to ensure the protection of citizens' rights and the creation of justice and legal certainty (Asshiddiqie, 2018).

Historically, the concept of the rule of law developed within two major traditions: the Continental European tradition with its concept of *rechtsstaat* and the Anglo-Saxon tradition with its concept of rule of law. In the *rechtsstaat* tradition pioneered by Friedrich Julius Stahl, the rule of law is characterized by several key elements: the protection of human rights, the division of power, governance based on statutory regulations, and the existence of an independent administrative court (Stahl, 1878). Meanwhile, A.V. Dicey, in his concept of the rule of law, emphasized the supremacy of law, equality before the law, and the guarantee of individual rights through court decisions (Dicey, 1959). Both concepts, although developed in different contexts, converge in the affirmation that law must be the basis and limit for the implementation of state power. In the context of state administrative law, the concept of the rule of law has a very fundamental meaning. State administrative law is a branch of public law that regulates the legal relationship between the government and citizens, particularly those related to the implementation of government functions. Therefore, without a foundation in the rule of law, state administrative law has the potential to become merely a tool for legitimizing

power, rather than an instrument for controlling power. The principle of the rule of law ensures that every administrative action of government must be legally accountable and not violate the rights of citizens.

A state based on the rule of law places the principle of legality as the primary principle in state administrative law. The principle of legality requires that every government action must have a clear and valid legal basis. The government is not permitted to act outside the authority granted by statutory regulations. Thus, government administrative authority is not inherent, but rather derives from the law. This principle is the main distinction between a state based on the rule of law and a state based on power, because in a state based on the rule of law, it is the law that governs, not humans or the authorities. In addition to the principle of legality, a state based on the rule of law also demands limitations on administrative power through oversight and accountability mechanisms. In state administrative law, these limitations are realized through the regulation of authority, decision-making procedures, and control mechanisms both internally and externally. The existence of a state administrative court is an important characteristic of a state based on the rule of law, which functions to test the validity of government administrative actions (Indroharto, 1993). Through this mechanism, citizens are given the right to challenge government decisions or actions deemed unlawful or detrimental to their rights.

Furthermore, the concept of a state based on the rule of law emphasizes the importance of protecting human rights in all governmental actions. Administrative law not only regulates government authority but also serves as a means of legal protection for citizens. Every administrative policy and decision must consider individual interests and must not conflict with human rights principles. Therefore, a state based on the rule of law provides an ethical and moral dimension to the implementation of administrative law.

In the Indonesian context, the principle of the rule of law is expressly 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 provision has broad constitutional implications for the administration of government, including in the field of state administrative law. The Indonesian rule of law not only formally adopts the concept of *rechtsstaat*, but also integrates the values of democracy and social justice. Thus, state administrative law in Indonesia must be implemented within the framework of a democratic rule of law that is oriented towards the welfare of the people. The concept of the rule of law as the theoretical basis of state administrative law is also reflected in the development of the general principles of good governance (AUPB). AUPB functions as an unwritten norm that complements the principle of legality in controlling government administrative actions. In a rule of law state, AUPB is an important instrument for assessing the legitimacy of government actions, especially in the use of discretion (Hadjon, 2010). This shows that the rule of law state not only emphasizes formal compliance with laws and regulations, but also demands justice, propriety, and rationality in every government action.

### **B. Legal Protection for Citizens and Implementation of General Principles of Good Governance in a State of Law**

Further research shows that a state based on the rule of law guarantees strong legal protection for citizens against government administrative actions. Legal protection for citizens is an essential characteristic of a state based on the rule of law. The principle of a state based on the rule of law positions individuals not merely as objects of power, but as legal subjects whose rights must be respected, protected, and fulfilled by the state. In the context of state administrative law, this legal protection is crucial because it directly relates to government administrative actions and decisions that have the potential to have legal consequences for citizens.

A state based on the rule of law requires that every government action have a clear legal basis, be carried out by authorized officials, and be implemented through legitimate procedures. This provision aims to provide legal certainty and prevent arbitrary actions by government officials. Legal protection in state administrative law is not

only repressive through judicial mechanisms, but also preventive in nature, with regulations on authority, procedures, and principles that must be adhered to by the government from the outset (Ridwan, 2010). Preventive legal protection is realized through the implementation of the principle of legality and the general principles of good governance (AUPB). The principle of legality requires the government to act based on statutory regulations, while the AUPB serves as a normative and ethical guideline in the implementation of government administrative authority. The AUPB ensures that even if an action has a legal basis, it must still be implemented fairly, proportionally, and rationally (Manan, 2004). Thus, the AUPB complements the principle of legality in providing more substantive legal protection for citizens. In addition to preventive protection, a state based on the rule of law also provides repressive legal protection for citizens whose rights are violated by government administrative actions. This repressive protection is realized through administrative remedies and state administrative courts. The existence of state administrative courts is a concrete manifestation of the principle of a state based on the rule of law, which grants citizens the right to file lawsuits against government decisions or actions deemed unlawful or detrimental to their interests. Through this mechanism, the legitimacy of government actions can be objectively and independently tested.

In a state governed by the rule of law, legal protection is oriented not only toward legal certainty but also toward justice and expediency. Therefore, the application of the AUPB is highly relevant in assessing government administrative actions, particularly regarding the use of discretion. Discretion is the authority granted to government officials to act in certain circumstances when laws and regulations do not clearly regulate it. However, in a state governed by the rule of law, the use of discretion cannot be exercised freely but must be limited by the AUPB to prevent harm to citizens' rights (Hadjon et al., 2010).

The general principles of good governance, such as the principle of legal certainty, the principle of openness, the principle of proportionality, the principle of accuracy, and

the principle of accountability, serve as benchmarks in assessing whether a government action is in accordance with the principles of the rule of law. AUPB is also an important instrument for judges in state administrative courts to assess the validity of government administrative actions that may formally be in accordance with laws and regulations, but substantively conflict with the sense of justice (Lotulung, 2013).

In the Indonesian context, the implementation of the AUPB has a strong legal basis, especially after being explicitly accommodated in legislation. This demonstrates that the Indonesian rule of law not only emphasizes legal formalities but also integrates the values of justice, propriety, and the protection of citizens' rights in the administration of government. Thus, state administrative law functions as an instrument of power control as well as a means of legal protection for the community. Furthermore, the relationship between legal protection and the AUPB reflects a paradigm shift in the rule of law state from the classical concept to a modern rule of law state or welfare state. In this paradigm, the government is not only limited by law but is also required to act actively in realizing the welfare of society without neglecting the principles of legal protection and justice. Therefore, the implementation of the AUPB bridges the gap between the need for government effectiveness and the protection of citizens' rights.

### **C. Implications of the Rule of Law on the Implementation of Government in the Theoretical Basis of State Administrative Law**

The rule of law has fundamental implications for governance, particularly within the theoretical framework of state administrative law. The principle of the rule of law affirms that governance cannot be separated from the supremacy of law, so that every government action and policy must be subject to the law. The rule of law serves as a normative foundation that directs, limits, and controls the implementation of government administrative authority. The primary implication of the rule of law for governance is the affirmation of the principle of legality as a fundamental principle in state administrative law. The government can only act

based on the authority granted by statutory regulations. This authority is not absolute but is bound by the purpose of granting the authority, substantive limitations, and procedures determined by law. This principle of legality ensures that administrative power is exercised in an orderly and accountable manner, while preventing arbitrary actions by government officials (Ridwan, 2020). In addition to affirming the principle of legality, the rule of law also has implications for the establishment of a system of government accountability. In a rule of law, every government administrative action must be subject to verification of its validity, whether through internal oversight mechanisms, legislative oversight, or judicial oversight. The existence of state administrative courts is a crucial instrument in ensuring that government actions comply with the law and general principles of good governance. This demonstrates that in a state governed by the rule of law, the government is not immune from the law but is subject to effective oversight mechanisms.

The next implication is strengthening legal protection for citizens in governance. A state based on the rule of law demands that state administrative law not only function as a tool for regulating government authority but also as a means of protecting citizens' rights. Every policy and administrative decision taken by the government must consider its impact on individual rights and interests. Thus, state administrative law serves as an instrument for balancing the public interest and citizens' rights (Hadjon et al., 1987). A state based on the rule of law also has implications for the application of general principles of good governance (AUPB) in the practice of governance.

The AUPB serves as a normative and ethical guideline for government officials in exercising their authority. In a state governed by the rule of law, the AUPB serves not only as a complementary norm but also as a standard for assessing the legitimacy of government administrative actions. The implementation of the AUPB ensures that government administration is not only formally legitimate but also substantively just and rational (Hadjon et al., 2010).

In the context of modern governance, the implications of the rule of law are also evident in

the demand for transparency and accountability in governance. The rule of law encourages the formation of an open and responsible government, where every policy and administrative action is accessible and monitored by the public. This transparency and accountability are essential prerequisites for establishing public trust in the government and for the effectiveness of state administrative law as an instrument of controlling power. The rule of law also implies a paradigm shift in government administration toward the concept of good governance. In this paradigm, the government is not only required to comply with the law but also to organize a government that is participatory, responsive, and oriented towards public service. State administrative law, based on the principles of the rule of law, serves as a means to integrate the values of democracy, justice, and welfare into daily governance practices (Lotulung, 2013).

In the Indonesian context, the implications of the rule of law on the administration of government have a strong constitutional basis as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This provision demands that all government activities be carried out within the framework of a democratic rule of law. Therefore, state administrative law in Indonesia must be able to become an effective instrument in controlling power, protecting the rights of citizens, and realizing the goals of the state as mandated by the constitution.

#### IV. CONCLUSION AND SUGGESTIONS

##### A. Conclusion

Based on the discussion above, it can be concluded that the rule of law is the primary theoretical foundation for state administrative law in governance. The principle of the rule of law asserts that every administrative action must be based on law, particularly the principle of legality, and limited by oversight and accountability mechanisms. Through the application of general principles of good governance, state administrative law plays a crucial role in preventing abuse of authority and guaranteeing legal protection for citizens. Thus, the rule of law serves not only as a normative concept but also as

a practical guideline for realizing orderly, just, and accountable governance.

##### B. Suggestion

It is recommended that government officials consistently apply the principles of the rule of law and the general principles of good governance in all administrative actions. Furthermore, strengthening oversight and enforcement of state administrative law, particularly through state administrative courts, needs to be continuously improved to ensure the protection of citizens' rights and promote transparent and accountable governance.

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