

Legal trap of exces de pouvoir: an analysis of the accountability of village officials' abuse of authority

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ABSTRACT

Villages play a strategic role as the frontline of public services, yet they are vulnerable to abuses of authority, such as lack of oversight, inadequate legal understanding among officials, concentration of power, and local cultural factors. The purpose of this study is to identify forms of discrimination, analyze the application of criminal and civil law, and the mechanisms of administrative sanctions, including the dismissal of village officials. This study analyzes the phenomenon of public service discrimination resulting from excesses de pouvoir (abuse of authority) by village officials. The research method involves a legal analysis of laws such as the Corruption Law (UU), the Criminal Code (KUHP), and the Civil Code (KUH Perdata), as well as village-related regulations, to understand the concepts of discrimination and excesses de pouvoir. The results show that public service discrimination, rooted in excesses de pouvoir, causes material and immaterial losses and undermines public trust. Law enforcement faces challenges of proof and political intervention, while administrative sanctions such as dismissal are crucial for deterrence and the restoration of trust.

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1. INTRODUCTION

Village governments play a strategic role as the smallest administrative unit and the vanguard in providing public services in Indonesia. Their existence represents the state's presence within society and is rooted in legal, sociological, and governance dimensions. Historically and sociologically, villages are communal entities that serve as the basis of local social, cultural, and economic life, enabling village officials to directly understand the needs and aspirations of their citizens (Horvath, 1955). Legally, Law Number 6 of 2014 concerning Villages (the Village Law) explicitly recognizes the ancestral and traditional rights of villages and grants them broad autonomy to regulate their own governance, including governance, development, community development, and community empowerment (Pradipta & Widjajanti, 2025).

Villages are the primary point of contact for communities accessing basic services such as population administration, simple permits, social assistance, and facilitating access to health and education (Irfan et al., 2021). The effectiveness of village public services is vital because it directly impacts the quality of life of the community, especially vulnerable groups. Village heads and village

officials are the most visible representatives of the government to citizens, making their integrity, professionalism, and accountability key to building public trust. The concepts of good government and good governance are implementations of the principles of the rule of law and democracy, which require the proper functioning of administrative law (Irfan et al., 2021). Accountable budget management is also crucial for the sustainability of organizations and communities (Pryhantoro & Susan, 2010).

However, this strategic role also brings challenges, particularly related to the substantial allocation of village funds, which requires strong managerial capacity and financial governance, as well as effective internal and external oversight systems to prevent abuse of authority and corruption. Villages are vulnerable to discriminatory practices and excesses of power, which can erode justice and public trust (Ishadiqa et al., 2025).

The vulnerability of village officials to excesses of power is caused by several factors (Gurning & Tambun, 2024). First, there is a lack of effective and accountable oversight mechanisms, with Village Consultative Bodies (BPD) often having limited capacity and reactive district/city inspectorates. Second, there is a lack of comprehensive legal and governance understanding among village officials, who are often selected based on popularity or kinship, rather than competence. Third, the concentration of power in the village head without strong checks and balances increases the risk of abuse of office. Fourth, local cultural and social factors such as patronage, kinship networks, and personal loyalty sometimes take precedence over adherence to the rule of law. Homogeneous and closed social environments can also discourage communities from reporting or criticizing officials (Ishadiqa et al., 2025). Addressing these issues requires a multi-strategy approach encompassing law enforcement, capacity building, oversight system reform, and village community empowerment.

In administrative law, excess of power refers to actions by public officials that exceed their authority/*ultra vires* or use their authority for improper purposes, commonly referred to as *detournement de pouvoir* (Abarang, 2019). This concept originates from France and serves as the basis for examining administrative actions. *Ultra vires* occurs when an official lacks legal grounds, exceeds jurisdictional boundaries, or violates essential procedures. Meanwhile, *detournement de pouvoir* occurs when authority is used for personal or group interests, or purposes outside established procedures, such as corruption or obstructing political competitors. In public service, excess of power often manifests as discrimination, where village officials treat citizens differently based on irrelevant characteristics such as ethnicity, religion, or political affiliation.

Discrimination in public services is a fundamental violation of the principle of equality before the law and human rights (Abarang, 2019). Discrimination is defined as unfair or differential treatment based on certain characteristics irrelevant to the service. The 1945 Constitution of the Republic of Indonesia and Law Number 25 of 2009 concerning Public Services expressly prohibit discrimination. Discrimination can take the form of service delays, the imposition of additional requirements, extortionate fees, unfair service priorities, or the use of derogatory language. This discrimination is often strongly correlated with excesses of power, where village officials abuse their authority to benefit certain parties or disadvantage others.

The impacts of public service discrimination resulting from excesses of power are devastating. These include material losses (additional costs, lost economic opportunities, reduced quality of life) and immaterial losses (psychological suffering, loss of self-esteem, feelings of injustice) for the community (Abarang, 2019). Furthermore, this practice erodes public trust in government institutions, fuels apathy, and perpetuates social and economic injustice. Therefore, research on public service discrimination caused by excesses of power by village officials is urgent from legal, social, and governance perspectives. This study aims to analyze the legal implications (criminal, civil, and administrative) of abuse of power and discrimination. Socially, this research is important for uncovering patterns of discrimination and the impact of social disadvantage. From a governance perspective, this research evaluates the effectiveness of village oversight and accountability systems. Its primary objective is to provide a deeper understanding of the urgency of law enforcement and village governance reform to achieve equitable and non-discriminatory public services.

2. METHOD

This research is a normative legal study that focuses on the analysis of legal documents. The data used are secondary data, including primary legal materials such as laws and government regulations,

as well as secondary legal materials such as scientific journals and books. Specifically, data on cases involving village officials related to abuse of authority and position were collected from Supreme Court (MA) decisions from 2021 to 2024. The number of cases recorded was 131 in 2022, 74 in 2023, 109 in 2024, and 119 in 2025. The research approach includes a legislative approach to analyze regulations related to discrimination and abuse of authority by village officials, as well as a conceptual approach to discuss legal theories such as excess of power, detournement of power, ultra vires, and Unlawful Acts (PMH). The theoretical basis of systematic public administrative law includes the French concept of *excesses de pouvoir*, where actions by public officials that exceed their authority (*ultra vires*) or use their authority for improper purposes (*detournement de pouvoir*) serve as the basis for examining administrative actions.

Ultra vires occurs when an official lacks a legal basis, exceeds jurisdictional limits, or violates essential procedures, while *detournement de pouvoir* occurs when authority is used for personal or group interests, or for purposes outside established procedures. This research also applies a case study approach using concrete illustrations to illustrate the phenomenon. Data collection was conducted through document study. Data analysis is qualitative-descriptive, involving the interpretation of legal concepts and norms to answer the problem formulation and identify elements of violations and their legal-administrative implications. The analysis stages include tracing cases of abuse of authority and discrimination by village officials, which are then analyzed based on the framework of criminal law (the Corruption Crime Law and the Criminal Code), civil law (Article 1365 of the Civil Code concerning Unlawful Acts), and administrative sanctions (based on Law Number 6 of 2014 concerning Villages and its implementing regulations). In addition, this study also evaluates the effectiveness of the village monitoring and accountability system.

3. RESULTS AND DISCUSSION

Table 1 presents data on cases involving village officials collected from the Supreme Court (MA) decision-making body from 2021 to 2024.

Table 1. Case Data Involving Village Officials

No	Year of the Decision	Amount
1	2022	131
2	2023	74
3	2024	109
4	2025	119

The involvement of village officials in various cases related to abuse of power and office showed a decline in 2023 but continued to increase in the last two years, namely 2024 and 2025.

Table 2. Classification of Types of Violations by Village Officials

No	Type of Violation	Year	Number of Cases
1	Act against the law	2022	43
	Etc		70
2	Act against the law	2023	24
	Etc		50
3	Act against the law	2024	72
	Etc		37
4	Act against the law	2025	99
	Etc		20

Table 2 is a classification of types of violations involving village officials which include actions by public officials that exceed their authority/*ultra vires* and abuse of authority/*detournement de pouvoir* classified as Unlawful Acts (PMH) while other violations are other violations involving village officials such as narcotics, forgery, general crimes, land and taxes. The involvement of village officials in *Exces de Pouvoir* violations showed a significant increase in 2025, although there was a decrease in 2023.

Although several previous studies, such as those conducted by Gurning & Tambun (2024), which highlighted the role of the prosecutor's office in handling corruption and its implications for public trust, have not specifically discussed the phenomenon of discrimination by village officials in depth, the findings of this study demonstrate consistency in the challenges of law enforcement, particularly related to the difficulty of proving intent and immaterial losses, as well as the influence of social networks and political intervention. Furthermore, the concept of *excess de pouvoir* has been

discussed in various administrative law contexts, such as by Susanto (2020), who compared the concept of ultra vires between the Anglo-Saxon and Continental legal systems, confirming the relevance of this theory in analyzing government actions that exceed the limits of authority. and Bujung (2023), who discussed abuse of authority from the perspective of state administrative law but did not specifically discuss the criminal and civil law aspects that will be reviewed in this study. There are several important findings in understanding the legal implications (criminal, civil, administrative) of abuse of authority and discrimination in this study, including:

3.1 Criminal Law on Discrimination in Public Services that is Excessive

Corruption in the bureaucracy, including discrimination in public services, is prosecuted under the Corruption Law, specifically Articles 2 and 3 for abuse of authority that harms the state or benefits individuals/groups, as well as Article 12 letter e for extortion, including veiled administrative threats. Gratuities (Article 12B of the Corruption Law) are also a mode of discrimination. In addition, the Criminal Code is relevant to prosecute excesses of village officials, including embezzlement of office (Article 415), fraud (Article 378), extortion and threats (Article 368), and other offenses such as extortion of officials (Article 423), acceptance of gifts related to office (Article 425), and falsification of letters/documents (Articles 263/266). This multi-layered approach is crucial for accountability and a deterrent effect at the village level. Criminal law enforcement by the National Police, the Prosecutor's Office, and the Corruption Eradication Commission (KPK) faces challenges such as the difficulty of proving intent and immaterial losses, a lack of authentic evidence, the influence of social networks and political intervention, and low public reporting due to fear or ignorance. This highlights the need for a holistic approach through capacity building of law enforcement officers, community empowerment, strengthening internal and external oversight, and cross-sectoral synergy.

3.2 Civil Law on Discrimination in Public Services that is Excessive

Civil lawsuits for Unlawful Acts (PMH) against village officials, based on Article 1365 of the Civil Code, are a vital instrument for claiming compensation for discriminatory acts. To prove PMH, the plaintiff must meet five elements: the existence of a discriminatory act, fault (intent or negligence), losses (material and immaterial), a causal relationship, and the unlawful nature of the act, violating the subjective rights, obligations of the official, morality, or propriety. Material losses, such as transportation costs or lost economic opportunities, can be calculated, while immaterial losses such as psychological suffering or reputational damage, although difficult to quantify, can be claimed based on fairness and justice.

The handling of PMH by village officials offers innovation by optimizing the application of the General Principles of Good Governance (AUPB) as a benchmark for unlawfulness. Innovations can also be made in the methodology for calculating immaterial losses, including the adoption of international standards or the role of forensic psychology experts. The concept of punitive damages can also be strengthened to provide a deterrent effect, rather than just compensation. Furthermore, strengthening mediation and restoration can be a more holistic alternative for dispute resolution, restoring trust, and encouraging systemic learning.

Parties who can sue include individual victims directly or through class action lawsuits, especially if the discrimination has a widespread impact on many people with similar characteristics. The lawsuit can take the form of a claim for compensation (material and immaterial), a request to cease the unlawful act, and/or a request for restoration of good name (rehabilitation) through an apology or official clarification. However, civil lawsuits face challenges such as litigation costs, lengthy court proceedings, the difficulty of proving immaterial losses, and the disparity in power between plaintiffs and defendants. To address these challenges, efforts such as community legal aid funds, expedited special processes, standardized assessments of immaterial losses, and comprehensive legal assistance are needed. Overall, civil lawsuits are an important mechanism for upholding justice, ensuring accountability, and promoting better village governance.

3.3 Administrative Sanctions in the Form of Dismissal as Village Official

The dismissal of village officials is based on Law No. 6 of 2014 concerning Villages and implementing regulations such as the Village Government Regulation (PP) and the Minister of Home Affairs Regulation (Permendagri) concerning the appointment and dismissal of village heads/officials, as well as local regulations such as Regional Regulations (Perda) and Village Regulations (Perdes). Administrative sanctions for village heads and village officials are differentiated based on violations of obligations or prohibitions, which take the form of verbal and written warnings, as stipulated in Articles 26, 27, 28, 29, 30, 51, and 52 of the Village Law. However, the Village Law itself does not

directly regulate criminal sanctions; rather, violations of the prohibitions contained therein can result in criminal penalties under other laws, such as the Election Law (for village heads) or the Corruption Law (for village officials). These criminal sanctions must be imposed through a judicial process and a court decision.

Grounds for dismissal of village officials include serious violations, such as criminal offenses punishable by imprisonment (with a final decision), abuse of power, corruption (including embezzlement of funds, extortion, and gratification), and discrimination in public services that violates citizens' human rights and the principles of good governance. The importance of standardizing the definition of discrimination, effective complaint mechanisms, anti-discrimination training, and a progressive sanctions system are emphasized as innovations in addressing discrimination. Furthermore, violations of the oath of office, which includes an ethical and moral commitment to serve without discrimination, are also grounds for dismissal. Innovations in interpreting the oath of office include emphasizing ethics, community involvement in oversight, and non-litigation sanctions such as community service. Finally, systematic or gross negligence in carrying out obligations, including excellent and non-discriminatory service, can be grounds for dismissal, which can be evaluated through the Village Service Performance Indicator (IKP) and the Community Satisfaction Survey (SKM).

The mechanism for dismissing village officials involves several stages to ensure due process of law. Investigations and examinations are conducted by the Regency/City Inspectorate or the Regional Supervisory Agency (Bawasda), or the Police/Prosecutor's Office for criminal cases, with the aim of gathering evidence and compiling an Examination Result Report (LHP). Innovations at this stage include increasing the inspectorate's capacity, public participation, and indicator-based performance audits. The Inspectorate submits recommendations from the inspection results to the Regent/Mayor (for Village Heads) or Village Head (for Village Officials), containing recommendations for dismissal, other sanctions, or guidance. Innovations include a second opinion mechanism and transparency of recommendations. Dismissal Decrees (SK) are issued by authorized officials based on the recommendations, containing the legal basis and reasons for dismissal. Digitization of documents and standard guidelines for dismissal decrees are innovations. The right to self-defense: the official concerned has the right to learn about the accusations, provide clarification, be represented by legal counsel, present evidence, and file an administrative appeal or lawsuit with the State Administrative Court (PTUN). Innovations include clear pre-dismissal guidelines, legal rights education, and internal conflict mediation.

These administrative sanctions result in the loss of position, reputation, and inherent rights for the dismissed official, including the stigma of being a "problematic former official" and the loss of certain facilities and political rights. Innovations in this regard include the concept of a digital reputational footprint and communal restitution as a form of redress for immaterial losses to the community. Sanctions also serve as a deterrent for other officials (general and specific deterrence), the effectiveness of which depends on consistency and transparency. Innovations here include updating the code of ethics with case studies, a mentor-mentee program, and strengthening the whistleblower protection system. Finally, administrative sanctions contribute to restoring public trust and legitimacy in village governance, encouraging community participation in development. Innovations to this end include transformative dialogue forums, open village data, and a village integrity award program. Overall, administrative sanctions are not merely punishment, but part of the effort to build quality and accountable village governance.

4. CONCLUSION

Discrimination in public services by village officials is a systemic pathology in grassroots governance, arising from abuse of authority (*exces de pouvoir*), both *ultra vires* (exceeding the limits) and *detournement de pouvoir* (abuse of purpose). This type of discrimination, including service delays, extortion, or prioritization based on relationships, undermines human rights and equality, and causes material and immaterial losses, ultimately eroding public trust and exacerbating socio-economic injustice. Although law enforcement through criminal (Corruption Law, Criminal Code) and civil (Article 1365 of the Civil Code) channels is available, its implementation is hampered by difficulties in proving, political interference, and low community participation. Paradoxically, social closeness in villages can actually hinder oversight and law enforcement. Administrative sanctions, particularly

dismissal of officials, are important instruments for deterring offenders and rebuilding public trust, but their effectiveness depends on the system's consistency and adaptation to local dynamics.

To address these issues, holistic recommendations are needed to strengthen internal and external village oversight through more independent reforms of the Village Consultative Body (BPD), proactive District/City Inspectorates with indicator-based audits, and a secure and integrated online complaint system. Furthermore, improving the legal and ethical capacity of village officials must be carried out through legal education programs based on real-life case studies and professional ethics development forums. Strengthening legal accountability and restoring victims' rights requires a progressive interpretation of criminal offenses by law enforcement officials, optimizing civil lawsuits, including class actions supported by Legal Aid Institutes (LBH)/CSOs, and developing restitution and communal rehabilitation. Finally, innovations in enforcing administrative sanctions involve a progressive sanction system based on the IKP and SKM (Standardized Community Empowerment), facilitating transformative dialogue forums after official dismissals, and implementing open village data and integrity award programs. Consistent implementation of these recommendations is expected to transform village governance into a pillar of justice and public service that is inclusive, responsive, and accountable.

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