

## **Discession Policy Head Of Village: Panasea Completion Of Public Problems?**

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**ABSTRACT:** *This Study The purpose of this study is to know the dynamics of ecotourism management and local wisdom of Tenggerese people. The method used in this study is a qualitative method of study. The type of study used in this study is a descriptive study type. Based on the result of the study, it is concluded that the discretion policy conducted by the two village heads has not been optimized to be a panacea or solution to the problems faced by the public. This is because the discretion policy made by the village head, especially the Kebon Agung Village Head is not based on the process of formulating the discretion policy optimal, due to the lack of public involvement in the discretionary policy formulation process, the lack of careful formulation of the priority scales that policies must be made to express and the lack of synergy and coordination with other institutions that have the same tasks and functions in the formulation of discretionary policies. The conclusions in this study further indicate that the discretion policy has not been able to articulate the real public policy. Where, in Dunn's opinion (2003: 132), public policy should be sensitive to the development of the policy environment, since the policy environment will later serve as an effective and effective driver of the public policy.*

**KEYWORDS:** *Discretion Policy, Public and Village Head*

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### **I. PRELIMINARY**

The existence of efforts to improve the quality of service with the birth of Law Number 23 Year 2014 About Local Government which ordered the local government to get closer and improve the quality of service to the public, through the mechanism of decentralization of authority (autonomy), in the hope that government bureaucracy in the region more responsive to the conditions of society it serves. But in reality, it has not had a significant impact. The cause of the lack of significant quality of public services, because not yet most of the government bureaucracy in the region to mengatulasikan mandate of the Act. There are still many complaints and complaints from the public, either directly or through the mass media on the quality of services provided. The essence of public services according to Dunn (2003), is an effort to fulfill the needs and basic rights of society which should be done effectively and efficiently, and qualified by the government apparatus, in order to give satisfaction. Therefore, it takes the ability of the government bureaucracy to translate it through the innovation of public services that do. Public service innovation by Fredrickson (2001), in his book *The Spirit of Public Administration*, is the innovation of public service conducted by bureaucrats with all the sensitivity and ability to interpret the needs of the public, through tidakanya.

Based on the opinion of Fredrickson (2001), it can be interpreted that bureaucrats in providing public services is not enough to have only administrative skills, but also to have intuition (sense), in order to be able to articulate the public interest served, which seems currently neglected. One alternative solution to articulate optimal public services can be done through discretion policy. Why discretion policy becomes one of the alternative solutions to articulate an optimal public service. In Davis's opinion (1971) discretionary policy is used in urgent situations, in order to be able to articulate public needs comprehensively. Therefore, in the process of formulating discretionary policy, administrative responsibility should be in line with the principles of policy governance, namely transparency, accountability, participation, responsibility and consensus.

However, to realize the policy of discretion that can be a solution of public services to the needs and interests of the community is not easy, it takes some prerequisites in policy makers and policy environment, among others: First, human resources are qualified in self-discretion policy makers. Second, experience in the field of governance. Third, there is no partisan political interest in discretionary policy makers in making discretionary policies. Fourth, the existence of deliberative mechanism and democratic public involvement in

every stage of discretion policy making process. Based on the framework of the description above, in this study the writer took the topic of study about the discretion policy conducted by the village head, because lately the head of the village became the central point of governance in the spotlight of many parties, whether able to realize good governance. Further related to the title of the study the author raised the title of study on "**Village Head Discretion Policy: Panacea of Public Problem Solving?**".

### **1.2 Formulation of the Study**

Based on the above background, the problem formulation in this study is whether discretionary policy is capable of being a panacea of solving public problems?

### **1.3 Purpose of the Study**

In accordance with the formulation of the above study, the purpose of this study is to analyze and describe discretionary policy as a panacea of solving public problems.

### **1.4 Conceptual Framework**

#### **A. Discretion Policy**

The discretionary policy in Burke's opinion (in Haque, 2004, 704), a wide discretion policy for public administrators is necessary and inevitable for the effective implementation of public tasks and to ensure public trust in government. Burke (in Haque, 2004, 704), understands that for trustworthy public administrators, they should be given the power to impose discretionary policies so that they have a chance to determine what a responsible administrator needs. Burke (in Haque, 2004, 704) believes that the role of public administration is directly related to the laws of the state that constitutes a government. But he argues that the law, because of their inertness, can not be used to ensure a responsible administrator. By referring to Aristotle, Burke (in Haque, 2004, 704) agrees that the law of disability for not being able to prescribe it well for any situation of equality or emergency under its literal meaning requires a proportionate, wise and wise attitude in providing solutions to the will of the people through the (intuition) of the administrator.

According to Burke (in Haque, 2004, 704), discretionary power gives all the usage and potential of the law. (Haque, 2004: 704), In line with Burke, on a utilitarian basis, Hunold and Peters (2008, 3502), argue that discretion seems to be necessary, and in some cases also highly desirable. According to Hunold and Peters (2008: 352) the legislature rarely has the time or expertise necessary to make the kind of decision setting required by modern society. Therefore, the true quality of government decision-making, often can be higher if the government allows substantial bureaucratic discretion.

The possibility of a substantial discretion policy involves more substantive expertise and also allows implementation decisions to be closely linked with initial intentions of legislative policy, provided that the policy is carried out in a wise and constructive manner. Capacity to link rule-making with implementation should also be expected to improve the overall quality of government. By citing Handler (1996), Hunold and Peters (2008, 3502) argue that allowing discretion in the execution of a decision can increase the institution's flexibility in responding to a particular problem and therefore discretion is necessary and desirable for effective execution of decisions.

Without flexibility, it is almost impossible for regulatory agencies, whether legislative or administrative to anticipate the various variations that may arise in the actual implementation of a program, so building flexibility is important. Referring to the various opinions, the discretion is a necessity in the implementation of government in the context of the effectiveness of the implementation of government and in improving trust to the community. It's just that discretion needs to be done wisely and constructively so that it can help achieve effectiveness and increase belief in doing misuse of the use of discretion.

While the type of discretion policy according to Batten (2010b, 474-475) discretion consists of legislative discretion, executive discretion, judicial discretion and discretion and administrative. Legislative discretion is made by legislative members of the legislature. This body has extensive discretion in drafting legislation that covers vast statehood activities. The boundaries of legislative discretion are the constitutions that guide the legislators in drafting legislation.

Thus, the law which becomes the product of the board members is one manifestation of the legislative discretion limited only by the constitution. Executive discretion is a government-imposed discretion within the constraints of the constitution and legislation that constitute the legislative product. Judicial discretion is a discretion by a judge. This discretion is limited by the rules of the applicable legislation and the constitution. The discretion of the administrative body is part of the executive discretion. This discretion is carried out by administrative officials who are on the governing body. Meanwhile, according to Philips and Jackson (2001), there are two types of discretion: (1) bound discretion and (2) discretion free. The bound discretion is the freedom of a State administrative official to make a decision by choosing the elected options in the legislation,

while free discretion is the freedom of a State administration official to make a decision by forming a new decision because it is not specified in the laws and regulations.

Based on the relationship between the discretion policy and the rule of law, discretion by Alexander and Richmond (2007, 51-64) can be distinguished by discretion based on the rule of law and discretion that is not necessarily based on the rule of law. According to Alexander and Richmond (2007, 51-64) discrepancies contrary to public can be done if they meet publicity conditions and aim to realize the political values associated with democracy in a better manner (Alexander and Richmond 2007, 62). Alexander and Richmond argue that administrators are responsible for engaging in a discretion contrary to a mandate when a mandate can deny personal freedom from citizens. Alexander and Richmond (2007, 51-64) also argue that discretion contrary to the mandate and require confidentiality or misrepresentation may be permitted to protect personal freedoms by considering the constitutional status of the value of freedom compared to other regime values (Alexander and Richmond 2007, 62). Alexander and Richmond are also suspicious of discretionary practices contrary to their mandate when done for other considerations identified by the administrator's own conscience but have no constitutional basis especially if done without publicity (Alexander and Richmond 2007, 62). Based on the opinions of Philips and Jackson and Alexander and Richmond, then there are two types of discretion discretion that is bound by legislation and discretion that is not determined by the rules of the legislation. Discretion can even be contrary to the mandate given by legislation when it is deemed the discretion is done with the aim of running democracy better.

Further related to the actors and discretion dimensions in the opinion of Batten (2010, 473) also suggests that all discretion policies made by these actors are subject to some kind of review and also subject to improvement or modification if there is misuse of discretion. The judicial review of the policy of administrative discretion in the context of the United States according to Sullivan (2009, 10) is done through the Administrative Procedure Act. Batten in his other writings (2010,108) also suggested that a discretionary act is informal and therefore unprotected by the security inherent in formal procedures. A public official, for example, has a discretion when he has the freedom to make choices between a number of potential actions. The implementation of the discretion is also surrounded by a number of restrictions. According to Sullivan (2009, 10), an institution when it has the freedom to choose on a particular issue does not mean that there is no limit to that freedom. Discretion is not an uncontrolled license. Decisions have often shown that discretion means legal discretion, not unlimited discretion.

### **1.5 Type of Study**

The type of study used in this study is a descriptive type of study that is to provide an overview or explanation of the extent to which discretionary policy is a panacea of solving public problems.

## **II. RESULTS OF STUDY AND DISCUSSION**

### **A. Discretion Policy Process and Results**

The use of discretion policy rights by the village head in the administration of village government is interesting to discuss, because based on the results of studies in the Village Kebon Agung and Sumber Lele Village, the two villages have often done "discretionary policy" to some of the central government programs that exist in his village. The motives of each village head in making discretionary policies different from each other. There is even an indication of discretionary policy made by Kebon Agung Village Chief does not deserve to be said as a regrettable policy. What causes these assumptions to arise, hereinafter can be seen in the case of some discretionary policies undertaken by the two village heads on the discretion policy of Kebon Agung Village Head in the Rice Poor Relief Program (Raskin), the Urban Empowerment Self-Empowerment Program (PNPM), The Village Funds Fund (ADD), another Road to Social Welfare Program (Jalin Kesra) is socially and legally problematic, since in making the discretionary policy it is not through proper discretion policy procedures, taking into account the local context (policy environment) and the General Guidelines program the. Different situations precisely occur in the discretion policy made by the Head of Sumber Sumber Lele in the same Program. The cause of discretion policy conducted by the Head of Sumber Lele Village can be accepted by the public, because in the process of discretion policy formulation involving the parties and taking into account the public interest, the growing culture in the community and pay attention to the General Guidelines of the program, although not all General Guide mechanisms use, General remains an important reference in the discretion policy process.

### **B. Inhibition of the Formulation Process of Kebijakan Diskresi**

The results of the study found several factors, both the factor of the village head himself, and the factors from outside the village head that led to less optimal process of discretion policy formulation. In order to facilitate public readings related to the process of discretion policy formulation, especially in the case of inhibiting the formulation of discretionary policies in Kebon Agung and Sumber Lele Villages, the authors

present in several important points that have been elaborated with interviews and observations of the author during the research. Here are the obstacles in the process of formulating discretionary policy, as follows:

#### B.1 Less Optimal Engagement of Parties

So far, it is felt that the involvement of the parties in the process of discretion policy formulation by the Head of Sumber Lele Village is still very minimal, while for Kebon Agung Village, the involvement of the community in the process of discretion policy formulation is almost never done, because the Sumber Agung Village Head assumes discretion policy is the absolute right of the village head, so no need to involve the community in the process of formulation. The impact of the lack of public engagement is the quality of the resulting discretionary policy to be less than optimal.

There is even some people who assume that in every process of discretion policy development tends to be decided by the village head and a handful of village elites only. The oligarchic attitude between the village head and his group alone, is clearly contrary to the moral accountability of a leader elected by the people. Because the village head has no authority that is not owned by other parties, such as authority in taking policy. According Desmita (2005: 198) decision making (decision making) is one form of thinking, the result of the act is called a decision.

Collective and unprofessional attitude in behaving as village head in administering village administration due to moral disengagement. According to Bandura (in Detert, Trevino & Sweitzer, 2008: 374), moral disengagement is to assert that people can make unethical decisions because the self-regulation process is morally inactive when there is a shared use of cognitive mechanisms together. The moral attitude of disengagement is that it violates internal standards, and ultimately they make unethical decisions.

#### B.2 Less Thorough In Formulating Problems and Priority Issues

The process of formulating discretionary policy is one of the tools in the transformation of social and democracy, as the realization of the village community that is able to answer rapid change and realize good governance, it should also happen in the process of formulating discretion policy in both villages. Therefore, it is necessary to formulate discretionary policy formulation process that can create multiplier effect. On the basis of that, the formation of discretion policy formulation process should be planned as well as possible, especially by the village head as the stakeholders of the village administration.

Through the policy of planned discretion, aspiratif and quality can be expected discretionary policy will be the prime mover for the fundamental changes that required the area (Winarno, 2006). Related to some of the existing opinions and provisions whether in the process of discretion policy formulation has been done in a planned, systematic and participative? The question is important to examine in order to find out how far the formulation of discretion policy is implemented. Based on the results of the study related to the process of formulation of discretion policy conducted by the village head has not been done in a planned, systematic and participatory, even tend to be less careful in formulating problems and priorities issues needed by the public.

#### B.3 Weak Coordination in Village Head Discretion Policy

One of the obstacles to running government policies and programs today is the lack of coordination among agencies. Weak coordination in the horizontal level between government agencies that are equal or vertical level between the central government and local government. Weak coordination among agencies has been one of the factors that hampered the proclaimed programs. Even the authors see in the process of formulation of discretion policy, coordination implementation mechanism, harmonization and cooperation between village head with Village Consultative Agency (BPD) seems to tend not based on the principle of equality and togetherness, especially that happened Kebon Agung Village, so that not infrequently "coercion" in decision making especially by the village head against the BPD, due to the dominant interest in the village head.

### III. CONCLUSIONS

Based on the results of the study and discussion it can be concluded that the discretion policy conducted by the two village heads has not been optimal to be a panacea or solution to the problems faced by the public, it is because the discretion policy made by the village head, especially Kebon Agung Village Head is not based on the formulation process the optimal discretionary policy, resulting from the lack of public involvement in the discretionary policy formulation process, the lack of careful formulation of the priority scales that policy must be made to express and the lack of synergy and coordination with other institutions that have the same tasks and functions in the formulation of discretionary policies. The conclusions in this study further indicate that the discretion policy has not been able to articulate the real public policy. Where, in Dunn's opinion (2003: 132), public policy should be sensitive to the development of the policy environment, since the policy environment will later serve as an effective and effective driver of the public policy.

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