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Village Head's Discretion in Determining Emergency Budget Allocation Through Village Regulations: A Perspective of State Administrative Law

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A B S T R A C T
This study analyzes the discretion of village heads in determining the allocation of the Village Revenue and Expenditure Budget (APBDesa) for handling emergency conditions from the perspective of state administrative law. The research problem departs from the need for the village government to take quick action against emergency conditions, while the use of village finances must still be subject to the principles of legality, legal certainty, accountability, and the General Principles of Good Governance. This study uses a normative juridical method with a statute *approach*, a conceptual approach, and a *case approach*. Legal materials are analyzed qualitatively using the Theory of Authority and the Theory of Legal Certainty as analytical knives. The results of the study show that the village head has room to exercise discretion in handling emergency conditions as long as the action is within the scope of authority provided by laws and regulations, based on an objective emergency, directed to the public interest, carried out proportionately, and meets the provisions of village financial management. The use of discretion cannot be seen as unlimited authority because it must still be accompanied by transparency, accountability, and administrative accountability. The study also shows that the use of discretion that deviates from the purpose of granting authority has the potential to lead to *detournement de pouvoir*, while decisions that are irrational, disproportionate, and not based on objective considerations can lead to *willekeur actions*. Therefore, clear legal parameters are needed so that the flexibility of the village head in dealing with emergency conditions remains in line with the principles of the state of law and good village governance.

INTRODUCTION

Villages are an important part of the structure of the Indonesian government which has the authority to regulate and take care of the interests of the community based on the authority given by laws and regulations. Strengthening the position of the village through Law Number 6 of 2014 concerning Villages as it has undergone several changes, most recently through Law Number 3 of 2024, provides a wider space for the village government to administer government, carry out development, carry out community empowerment, and manage village resources and finances. The change also increases the responsibility of the village head in ensuring that government authority and financial management are used for the benefit of the community and can be legally accounted for (Karepowan, 2020).

Village financial management is one of the strategic aspects in the implementation of village government. The Village Revenue and Expenditure Budget (APBDesa) is the main instrument to translate village government policies into programs and activities that provide benefits to the community. Based on the Regulation of the Minister of Home Affairs Number 20 of 2018 concerning Village Financial Management, the village head is the Holder of Village Financial Management Power (PKPKD) and has the authority, among other things, to determine the policy for the implementation of the Regional Budget and to take actions that result in expenditure on the burden of the Regional Budget. With this position, the village head has a central role in ensuring that the use of the village budget is in accordance with the purpose of implementing the government and the needs of the community (Muliati Fitri, Heny Triastuti Kurnianingsih, Muhammad Joni Barus, 2022).

The problem of managing the Regional Budget becomes more complex when the village government faces emergency conditions. Emergencies have different characteristics from government needs that have been planned in a normal budget cycle. This situation can arise suddenly and require immediate action, while the budget allocation in the previous Regional Budget may not provide adequate financing. In such conditions, the village government needs flexibility to take quick action so that public services, community safety, and the public interest are protected (Tri Marina Astati, Rida Prihatni, 2025).

Regulations on village financial management have provided space for financing related to disaster management, emergencies, and village emergencies. Permendagri Number 20 of 2018 specifically regulates village financial management and until now it has been recorded as valid. In the practice of preparing the Regional Budget, disaster management, emergencies, and urgent situations have certain characteristics, including not being normal activities of village government, not predicted in advance, not expected to occur repeatedly, and are beyond the control of the village government (Januri, M Firza Alpi, 2024).

This condition gives birth to a problem of state administrative law regarding the extent to which village heads can use discretion in determining or diverting budget allocations to deal with emergencies. On the one hand, village heads need space to act quickly and flexibly because the character of emergencies cannot always be predicted through APBDes planning. On the other hand, the

use of this authority is directly related to public finances so that it cannot be separated from the principles of legality, legal certainty, transparency, accountability, and the general principles of good governance.

Discretion is basically an instrument needed in the administration of government because not all concrete problems can be predicted and regulated completely by laws and regulations. Law Number 30 of 2014 concerning Government Administration provides a basis for the use of discretion in the administration of government while placing it within the framework of legal protection and the application of the General Principles of Good Government. The law emphasizes that the use of government authority must refer to laws and regulations and the AUPB.

In the context of village government, the discretion of the village head cannot be understood as absolute freedom to determine the use of the APBDesa. Discretion remains a freedom of action granted within the framework of governmental authority and must be directed to a goal justified by law. Therefore, the use of discretion in determining the allocation of the emergency budget must have a clear basis of authority, supported by demonstrable factual circumstances, directed to the benefit of the community, and carried out proportionately and accountably (Erliyana, 2020).

The problem then arises when the need to act quickly in emergency conditions is faced with village financial management procedures that require planning, budgeting, determination, implementation, administration, reporting, and accountability. The speed of government action should not be a reason to eliminate the principle of budget accountability. On the other hand, administrative procedures should also not be interpreted rigidly so as to hinder the village government in dealing with circumstances that really require immediate action.

This is where discretion has an important and problematic position. Discretion can be an instrument to bridge the gap between the factual needs of society and the limitations of normative arrangements. However, discretion that lacks clear parameters can open up space for subjective use of authority. The village head can in the name of emergency to divert the budget to activities that have no real connection with the emergency or even provide benefits to certain interests. In such a situation, discretion that should be an instrument for resolving government problems can turn into an instrument of deviation of authority.

This problem is becoming increasingly important because the Village Regulation has a position as one of the legal instruments in the implementation of village government. Village Regulations not only function as an instrument of regulation for the village community, but can also be a normative basis for the implementation of village programs and activities. However, the existence of the Village Regulation does not automatically give legitimacy to every action of the village head. The content material of the Village Regulation must still have a basis of authority and must not contradict higher laws and regulations. Therefore, if the Village Regulation is used as the basis for determining or allocating an emergency budget, it is necessary to test whether its formation is in accordance with the authority, procedures, and substance determined by law.

From the perspective of state administrative law, the issue is not only about the formal legality of a decision, but also about substantive legality. An action can be formally stated in the Village Regulation or the decision of the village head, but the substance can still be questioned if it is not in accordance with the purpose of the authority, is not based on an objective, disproportionate, or contrary to the AUPB. Thus, an analysis of the discretion of the village head needs to be carried out comprehensively by looking at the source of authority, the purpose of the use of authority, decision-making procedures, and the impact of decisions on the interests of the community and village finances.

In this framework, the concept of abuse of authority (*detournement de pouvoir*) becomes relevant to test the use of discretion of village heads. Abuse of authority can occur if the authority formally possessed is used for purposes that deviate from the purpose of granting authority. In the context of an emergency budget, for example, the authority to manage finances that should be used to overcome emergencies is actually used to finance interests that are not related to these conditions. The problem is no longer solely whether the village head has authority, but for what purpose this authority is used.

In addition to abuse of authority, the actions of the village head also need to be tested against the possibility of **arbitrary actions (*willekeur*).** The use of discretion can be problematic when decisions are made without adequate factual basis, without rational consideration, disproportionate, or ignoring the interests of the community. Therefore, the use of discretion in an emergency must have a reason that can be tested and accounted for, not only based on the subjective will of the village head.

This issue shows that there is a tension between government flexibility and legal certainty. Village governments need flexibility to respond quickly to emergencies, but the use of that flexibility must remain within the corridors of the rule of law. Too limited discretion can hinder the effectiveness of the government, while too broad discretion can increase the risk of abuse of authority and irregularities in village financial management.

Based on these conditions, research on the discretion of village heads in determining emergency budget allocations through Village Regulations is important to be carried out. This study is not only needed to determine the basis of the authority of the village head in determining the emergency budget allocation, but also to formulate legal parameters that can distinguish between legitimate discretion and government actions that have exceeded or deviated the authority.

THEORETICAL REVIEW

Theory of Authority

The theory of authority is used to analyze the source, scope, and limits of the authority of the village head in determining policies related to the allocation of the emergency budget through the Village Regulation. In state administrative law, government authority is the basis of legitimacy for every action or decision made by government officials. A government action can be said to be valid if it

is carried out by an organ or official who has authority based on the provisions of applicable law (Ilmar, 2014).

Government authority can basically be obtained through attribution, delegation, and mandate. Attribution is the granting of authority by the Constitution or law to a government organ, while delegation is the delegation of authority from one government organ to another government organ accompanied by the transfer of responsibilities and liabilities. Meanwhile, the mandate is the delegation of the exercise of authority to subordinates, while the responsibility remains with the mandater (Zainuddin, 2019).

In the context of village government, the theory of authority is used to test whether the village head has an adequate basis of authority in determining budget allocation for emergencies. This authority is not only seen from the position of the village head as the leader of the village government, but must also be associated with Law Number 6 of 2014 concerning Villages as amended last by Law Number 3 of 2024, regulations on village financial management, and Village Regulations which are legal instruments at the village level (Hadita, 2021).

This theory is also important for determining the boundary between authority and discretion. The village head cannot use the excuse of emergency to take action that has absolutely no basis for authority. Discretion can only be used within the sphere of authority it has and for the purpose of administering government that is justified by law. Thus, the wider the authority given to the village head in financial management, the more important it is to determine the limit of its use so that there are no ultra vires or actions that exceed the authority.

Legal Certainty Theory

The theory of legal certainty is used to analyze the extent to which the allocation of the emergency budget through the Village Regulation has a clear legal basis, procedures, and parameters, so that it can provide certainty for the village government and the community (Harisman, Mhd Yadi Harahap, 2023).

Legal certainty is one of the fundamental principles in the state of law. The law must provide clarity on what is permissible, what is obligatory to be done, and what is prohibited. In the context of government administration, legal certainty is important because any use of government authority has the potential to have legal consequences and affect the rights and interests of the community.

In the management of the Regional Budget, legal certainty is needed so that village heads do not use the reason for a state of emergency subjectively to change or allocate the budget. There must be clarity regarding the criteria for emergencies, the authorities to make decisions, the types of activities that can be financed, the mechanism for changing the budget, the procedure for determining the Village Regulation, and the accountability mechanism for the use of the budget.

The theory of legal certainty is also used to test whether regulations regarding village financial management have provided a clear enough space for village heads to deal with emergencies. If the norm provides too much space without clear parameters, then there can be potential uncertainty in practice. On

the other hand, if the procedure is too rigid and does not provide space to deal with a truly urgent situation, it can hinder the effectiveness of the implementation of village government.

In this study, legal certainty is not only understood as the existence of written regulations, but also as clarity of the limits of authority and procedures for the use of the budget. Thus, the Village Regulation used as an instrument for determining the allocation of the emergency budget must have a clear legal basis, do not conflict with higher regulations, and provide certainty regarding the use and accountability of the budget.

METHODOLOGY

This research uses normative juridical law research methods with a statutory *approach*, a *conceptual approach*, and a *case approach*. The normative juridical method was chosen because the research focuses on the analysis of legal norms that govern the authority of village heads in the management of the Regional Budget, the determination of budget allocations for emergency conditions, the formation of Village Regulations, and the limits of the use of government authority based on the principles of state administrative law (Marzuki, 2017).

The legislative approach is used to review legal provisions related to village government, the authority of the village head, village financial management, the Regional Budget, emergencies, and the formation of Village Regulations. The regulations analyzed include Law Number 6 of 2014 concerning Villages as last amended by Law Number 3 of 2024, Law Number 30 of 2014 concerning Government Administration, as well as implementing regulations regarding village financial management and budgeting in emergencies.

RESULTS AND DISCUSSION

Regulation on the Transfer of Village Expenditure Revenue Budget Allocation in Handling Emergency Conditions by Village Heads

The transfer of the allocation of the Village Revenue and Expenditure Budget (APBDesa) in handling emergency conditions is part of the village financial management mechanism that must be implemented based on the principles of legality, transparency, accountability, effectiveness, efficiency, and the public interest. Emergencies have different characteristics from the needs of pre-planned village governments because they arise unexpectedly and require immediate action. Therefore, the village financial management legal system provides certain room for the village government to make budget adjustments, but this space is still limited by the provisions of laws and regulations (Nanang Turmuzi, Yusron Saadi, 2026).

The position of the village head in village financial management is very central. The village head is the holder of the power to manage village finances and has the responsibility to determine the policy for the implementation of the Regional Budget and to take actions that result in expenditure on the burden of the Regional Budget. This position provides a basis for the village head to take administrative action in order to meet the needs of the government and the village

community. However, this authority is not an absolute authority. Village financial management must still be carried out based on the Regional Budget and provisions regarding village financial governance (Thoib, Sunardi, 2026).

The legal framework for village financial management is mainly sourced from Law Number 6 of 2014 concerning Villages as last amended by Law Number 3 of 2024 and Regulation of the Minister of Home Affairs Number 20 of 2018 concerning Village Financial Management. Permendagri Number 20 of 2018 provides regulations regarding the stages of village financial management starting from planning, implementation, administration, reporting, to accountability. The regulation also provides space for village governments to handle disasters, emergencies, and urgent situations through a predetermined village financial management mechanism (Eka N.A.M Sihombing, 2025).

In principle, every village expenditure must have been planned and determined in the Regional Budget. This is related to the principle of order and budget discipline which requires the use of village finances to be predicted, controlled, and accounted for. However, emergencies have characteristics that cause the needs of the community to not always be able to wait for the budget planning process as normal conditions. Natural disasters, damage to public service facilities, disturbances to public safety, and other circumstances that require immediate handling can create financing needs that have not been available in the previous budget allocation.

The transfer of budget allocation can be one of the instruments to ensure the sustainability of government services and community protection. However, the term emergency cannot be used freely by the village head. There must be factual circumstances that are objective, actual, and require immediate action. The determination of an emergency must be supported by information, reports, documentation, or other evidence that may indicate an urgent need. This is important because the transfer of the budget has consequences for other village programs that have been previously planned.

Budget diversion must also have a direct relationship with the needs that arise due to emergencies. This means that the funds diverted must be used to finance activities that are really needed in handling these conditions. The village head cannot use the excuse of emergency to divert the budget to activities that have no relation to the situation being faced. In this context, there is a close relationship between the principle of public interest and the principle of proportionality. The amount of the budget diverted must be adjusted to the level of need and must not exceed the needs that can be objectively proven.

Village Regulations in this context have an important position as one of the legal instruments in the implementation of village government. Village Regulations can be used to determine the Regional Budget and regulate various policies that are the authority of the village. However, the Village Regulation is not a stand-alone source of authority. The material regulated in the Village Regulation must be sourced from the authority of the village and must not conflict with higher laws and regulations. Therefore, if the Village Regulation is used as an instrument to determine or change the budget allocation in an emergency, its formation must remain within the limits of the authority granted by law.

From a legal perspective of state administration, the transfer of the APBDes is a government action that must meet the principle of legality. This means that the village head must have legal authority, the actions taken must have a legal basis, the procedures must be in accordance with applicable regulations, and the purpose of the action must be directed to the interests of the government and the village community. Emergencies can indeed provide flexibility to village governments, but such flexibility does not mean removing the obligation to comply with the principles of legality and accountability.

In addition to the principle of legality, the transfer of the budget must pay attention to the General Principles of Good Governance (AUPB). The principle of legal certainty requires that there be a clear legal basis for the act of budget transfer. The principle of prudence requires the village head to carefully consider the factual conditions and needs faced. The principle of public interest requires that the use of the budget be directed to the needs of the community at large, while the principle of openness requires that the decision-making process and the use of the budget can be known and accounted for in accordance with applicable regulations.

This arrangement also shows that the village head cannot use the emergency as an excuse to ignore all village financial management procedures. Speed in making decisions is necessary, but the decision must still be supported by adequate administrative documentation. The village head must be able to explain the reason for the budget transfer, the type of activities that require financing, the amount of the budget transferred, the legal basis for the action, and the realization of the use of funds. The documentation is an important instrument to ensure that the actions taken can be tested and accounted for if there are investigations or suspected irregularities in the future.

The arrangement regarding the transfer of the Regional Budget in emergency conditions basically shows a balance between government flexibility and legal certainty. Village governments need space to act quickly when faced with unpredictable circumstances, but that space must still be used within the corridors of authority and purposes defined by law. Budget transfer should not be done solely based on the subjective will of the village head, but should be based on objective needs, community interests, proportionality, administrative procedures, and accountability mechanisms.

The arrangement regarding the transfer of APBDesa allocation for handling emergency conditions can be seen as a form of limited flexibility in the implementation of village government. This flexibility is needed so that village governments are able to respond effectively to emergencies, but at the same time must be controlled through the principles of legality, legal certainty, AUPB, transparency, and accountability. With such a construction, the authority of the village head in diverting the budget can be used to protect the interests of the community without opening up too much space for actions that have the potential to deviate from the objectives of village financial management.

Limitations on Village Head Discretion in the Use of APBDes (APBDes extended) for Handling Emergency Conditions

The use of the Village Revenue and Expenditure Budget (APBDesa) for handling emergency conditions is a form of government action that requires a balance between flexibility and legal certainty. Emergency conditions basically have unpredictable characteristics, require immediate handling, and can pose risks to public safety and the sustainability of public services. In such a situation, the village head needs space to make decisions quickly so that the needs of the community can be met immediately. However, this space cannot be understood as unlimited authority, because every use of the APBDes is still related to public finances which must be managed in a transparent, accountable, effective manner, and in accordance with the provisions of laws and regulations (Ni Putu Astini, Erikson Sihotang, 2025).

The discretion of the village head in the use of the APBDesa in emergency conditions must first be placed within the framework of the authority of the village government. The village head does have a position as the holder of the power to manage village finances, but this authority must be exercised in accordance with regulations regarding village government and village financial management. Therefore, discretion is not a new source of authority for village heads, but rather a space of action used in exercising the authority that has been given by law to deal with certain concrete circumstances (Komang Mila Damayanti, 2022).

The use of discretion lies in the existence of an objective emergency condition. The village head cannot use the excuse of emergency based solely on subjective assessment. There must be real conditions that require immediate action and cannot be fully addressed through normal budgeting mechanisms. The determination of an emergency should ideally be supported by incident reports, needs identification results, field documentation, and other information that can prove that immediate action is indeed needed (Kristina Ago Lewar, Konstantinus Pati Sanga, 2025).

This limit is important because the state of emergency has consequences for the use of the APBDesa. If a situation can actually be handled through normal planning and budgeting mechanisms, the use of emergency excuses to circumvent procedures can raise legal issues. Therefore, the elements of urgency, unpredictability, and the need to act immediately are parameters that must be considered by the village head.

The purpose of using the APBDesa, the budget used in emergency conditions must be directed to handling the situation that is the basis for the use of discretion. The village head cannot use the emergency budget to finance personal interests, the interests of certain groups, political interests, or other activities that have no connection with the emergency. The use of authority must remain oriented to the interests of the community and the purpose of implementing village government.

The principle of prohibiting abuse of authority is very important. The village head may have the authority to use the APBDesa in an emergency, but if the authority is used for a purpose other than the purpose for which it was given, then such use may lead to *a detournement de pouvoir*. Therefore, it is not enough to assess the use of discretion only by looking at whether the village head has authority, but must also be seen from the concrete purpose of using that authority.

The proportionality of the use of the budget, the amount of the APBDes used must be in accordance with the level of need caused by emergency conditions. Village heads are not allowed to use the budget excessively on the grounds of emergency. Expenditure must be made rationally and in accordance with provable needs. The principle of proportionality is needed so that the handling of emergencies does not cause greater losses to the planned development programs or community services.

Compliance with administrative procedures, emergencies do require speed, but that speed does not mean eliminating all legal procedures. The village head must still ensure that the action of using the APBDes has a clear administrative basis and can be accounted for. If changes or adjustments are needed to the Regional Budget, the mechanism determined by the village financial management regulations must still be considered.

Under certain conditions, procedural flexibility may be required to prevent delays in handling emergencies. However, such flexibility must be followed by documentation and accountability after the action is taken. Thus, the principle is not to eliminate procedures, but to adjust the implementation of procedures to the character of emergencies without eliminating aspects of legality and accountability.

Application of General Principles of Good Governance (AUPB). Village heads in using the APBDes must pay attention to the principles of legal certainty, usefulness, precision, impartiality, openness, public interest, and good service. The principle of prudence requires the village head to ensure that the decision to use the budget is based on correct information. The principle of public interest requires that the budget be directed to provide benefits to the community, while the principle of openness requires transparency regarding the reason, amount, and use of the budget.

Every use of the Regional Budget must be accountable administratively and financially. The village head must be able to show the basis of the decision, the amount of funds used, the activities financed, the party carrying out the activities, and the results or benefits obtained by the community. This accountability is important because the use of the village budget is the use of public resources that must be supervised.

Accountability also serves as a mechanism for controlling discretion. The greater the freedom that the village head uses in an emergency, the greater the need to ensure accountability after action is taken. Thus, discretion and accountability are not two contradictory things, but are two elements that must run simultaneously.

The use of the Regional Budget in emergency conditions must pay attention to the principle of legal certainty. The village head and the community must be able to know the legal basis used to make expenditures or budget transfers. Unclear legal basis can open up too wide a space for interpretation and potentially lead to differences in understanding of the limits of the authority of village heads.

Legal certainty is also needed to distinguish between legitimate discretionary actions and arbitrary actions. If the village head makes a decision without a legal basis, without sufficient facts, or without rational consideration, the action can lead

to *willekeur*. On the other hand, if the village head has authority but uses that authority for deviant purposes, the problem can be categorized as *detournement de pouvoir*.

The limits of the village head's discretion in the use of the Regional Budget for handling emergency conditions can be formulated through several main parameters, namely the existence of legitimate authority, objective emergencies, purposes of use in accordance with the public interest, budget proportionality, compliance with procedures, implementation of AUPB, transparency, and accountability for budget use.

Based on the overall description, the discretion of the village head in the use of the Village Revenue and Expenditure Budget cannot be understood as the freedom to determine the use of the budget based on personal will. Discretion is a legal instrument that provides space for village heads to respond quickly and effectively, but remains within the limits of the authority granted by law. Thus, the use of the Regional Budget in emergency conditions can be justified as long as it is based on real circumstances, aims to protect the interests of the community, is carried out proportionately, meets the principles of good government administration, and can be accounted for.

Discretionary limits function as an instrument to prevent abuse of authority. Discretion used in accordance with legal authority and objectives can be a means of realizing village government that is responsive to emergencies. On the other hand, discretion that is used without an objective basis, is disproportionate, non-transparent, or is directed for interests beyond the purpose of granting authority can turn into an act of abuse of authority or arbitrary action. Therefore, the use of the Regional Budget in emergency conditions must always be placed in a balance between the need to act quickly and the obligation to ensure legality, legal certainty, community interests, and village financial accountability.

CONCLUSIONS AND RECOMMENDATIONS

Based on the results of the research on the Discretion of the Village Head in Determining the Allocation of the Emergency Budget through Village Regulations in the Perspective of State Administrative Law, it can be concluded that the village head has room to take administrative actions in dealing with emergency conditions, including making adjustments or using the Village Revenue and Expenditure Budget (APBDesa) to meet the urgent needs of the community. However, this authority is not an absolute authority. The use of discretion must still be based on a legitimate source of authority, the existence of objective emergency conditions, the purpose of the public interest, and provisions regarding village financial management and the establishment of Village Regulations.

The limits of the village head's discretion mainly lie in legality, purpose of use of authority, proportionality, procedural certainty, AUPB, transparency, and accountability. Emergency conditions can provide flexibility in the management of the State Budget, but it cannot be used as an excuse to ignore the principles of state administrative law. Any diversion or use of the budget must have a clear relationship to the emergency situation faced and must be accountable administratively and financially.

The use of discretion must also be distinguished from abuse of authority (*detournement de pouvoir*) and arbitrary actions (*willekeur*). *Detournement de pouvoir* can occur if the authority of the village head is used for purposes that deviate from the purpose of granting authority, while *willekeur* can arise if the decision is taken without an adequate factual basis, irrational, disproportionate, or ignoring the interests of the community. Therefore, the Village Regulation which is the instrument for allocating the emergency budget cannot automatically legitimize every action of the village head if the substance or purpose of its use is contrary to the law.

The discretion of the village head in determining the allocation of the emergency budget should be understood as limited and responsible flexibility, not as unlimited freedom. The application of authority limits, legal certainty, AUPB, supervisory mechanisms, and financial accountability are important instruments to ensure that the use of the Regional Budget in emergency conditions remains oriented to the interests of the community and does not turn into a means of abuse of authority.

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