

Research Article

# The Relationship Between Law and Government Science: A Literature Review On Constitutional Law and Administrative Law

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**Abstract:** *Constitutional Law (HTN) and State Administrative Law (HAN) are two fundamental pillars of Indonesia's governance framework. HTN provides the constitutional foundation and legitimacy of state power, while HAN operationalizes that power through administrative actions. This study examines the conceptual and practical relationship between HTN and HAN as an integrated basis for law-based public policy and good governance, addressing a research gap that often treats both fields as separate legal domains. Using a qualitative library research approach, this study synthesizes scholarly literature, legal doctrines, and relevant regulatory frameworks. The findings indicate that the relationship between HTN and HAN is structural, functional, and normative. HTN defines constitutional authority and its limitations to prevent abuse of power, whereas HAN ensures that the exercise of authority is conducted procedurally, transparently, and accountably through the principles of legality and controlled administrative discretion. This study concludes that the integration of HTN and HAN is a prerequisite for legitimate and effective public policy. A rigid separation between the two risks regulatory overlap, legal inconsistency, and arbitrary governance. Therefore, strong institutional synergy, supported by judicial oversight through the State Administrative Court (PTUN), is essential for strengthening the rule of law and improving public service effectiveness in Indonesia.*

**Keywords:** *Constitutional Law, Administrative Law, Public Policy, Good Governance, Rule of Law*

## 1. Introduction

Constitutional law (HTN) and state administrative law (HAN) are two main pillars in the legal framework that guides the administration of government and public policy in Indonesia. HTN serves as the constitutional framework and basis of power, while HAN serves as an operational guideline for the administrative actions of state officials. The two complement each other to realize the rule of law, which guarantees legality, accountability, and justice in the administration of the state (Muliarini et al., 2021; Tetama, 2023; Ramadhan, 2024). HTN emphasizes institutional structure, division of power, and limitations on the actions of state officials; HAN emphasizes procedural principles, the principle of legality, and mechanisms of discretion in the context of accelerating administrative decisions (eg, licensing) (Muliarini et al., 2021; Tetama, 2023; Ramadhan, 2024; Hamdani et al., 2023). The integration of HTN and HAN forms the foundation for law-based public policy and good governance. Constitutional law (HTN) and administrative law (HAN) are two main pillars in the legal framework that guides the administration of government and public policy in Indonesia. HTN serves as the constitutional framework and basis for the legitimacy of state power, while HAN functions as an operational guideline for the administrative actions of government officials (Ishak & Mikea Manitra, 2022). The two complement each other in realizing the rule of law, which guarantees legality, accountability, and justice in the administration of the state. HTN emphasizes institutional structures, the division of power, and normative restrictions on the actions of state officials, while HAN

emphasizes procedural principles, the principle of legality, and mechanisms of discretion, particularly in the context of accelerating administrative decision-making such as licensing and public services.

In contemporary practice, various phenomena of governance have emerged that demonstrate the increasingly complex relationship between HTN and HAN. Regulatory reform through omnibus laws, the digitization of public services, the decentralization of regional authority, and increasing demands for bureaucratic efficiency have encouraged the wider use of administrative discretion. On the one hand, this phenomenon reflects the need for legal adaptation to social, economic, and technological dynamics (Tanase et al., 2022). However, on the other hand, these practices often give rise to issues of overlapping authority, regulatory inconsistency, and potential deviations from constitutional principles and general principles of good governance. The tension between administrative flexibility and legal certainty is a crucial issue in modern governance.

Previous studies have discussed HTN and HAN separately, from normative, juridical, and public policy perspectives. However, a notable research gap lies in the limited studies that comprehensively integrate HTN and HAN within the framework of governance science (Tiirinki et al., 2022; Xu et al., 2024). Some studies tend to focus on the legal-formal aspects of HTN or the technical-operational aspects of HAN without placing them in a mutually determining functional relationship (Schreiber, 2021). Therefore, this study is important to fill this gap by examining the conceptual and practical relationship between HTN and HAN as the foundation of law-based public policy and good governance, thus providing a more comprehensive understanding for the development of government theory and practice in Indonesia.

## **2. Literature Review**

### **Constitutional Law (HTN) as the Basis of State Power**

The HTN regulates the structure of state institutions (executive, legislative, judicial) and the mechanism for the division of power between the central and regional governments, including restrictions on executive actions through constitutional normative limitations. The application of the principles of the rule of law in the context of HTN ensures that all government actions are subject to applicable laws and regulations, thus preventing the abuse of power and ensuring public accountability (Muliarini et al., 2021; Tetama, 2023; Ramadhan, 2024). Within this framework, HTN emphasizes the importance of harmonizing and maintaining consistency in legal norms to prevent overlapping authorities that could be detrimental to legal stability and the legitimacy of public policy (Hamdani et al., 2023).

### **Challenges in applying HTN in government practice**

In practice, the application of HTN principles often faces issues such as overlapping regulations, varying interpretations of authority among institutions, and political dynamics that affect the clarity of authority. Several studies show the importance of education and training for state officials to improve their understanding of authority rights, so that public policy is in line with existing legal provisions and does not cause legal incoherence or unlawful actions (Muliarini et al., 2021; Ramadhan, 2024; Sofwan, 2022). Additionally, the role of the Administrative Court (PTUN) and administrative dispute mechanisms serve as entry points for citizens to challenge government actions that violate constitutional law, thereby strengthening the position of constitutional law in national institutional practice (Kimberly & Budidarsono, 2025).

## **Constitutional Law and Constitution-Based Public Policy**

HTN does not function separately from HAN; both form the framework for legally valid public policy. HTN provides the framework of power, while HAN provides technical operational guidelines that guide how that power is exercised procedurally and accountably. This interconnection is important for realizing public policy based on the principle of good governance, emphasizing that public policy must be based on law (legality) and implemented with good governance (Tetama, 2023; Riandi et al., 2025; Prasetya & Susilawati, 2024). Research on the integration of HTN-HAN shows that the two complement each other in forming a normative and contextual framework for effective and fair governance (Maarif, 2024).

### **State Administrative Law (HAN) as an Operational Guideline**

The principle of legality and the principle of discretion

HAN emphasizes the principle of legality: all government administrative actions must be based on clear and written rules. This principle is the foundation that every public policy has a strong legal basis before it is implemented, thereby increasing legal certainty and accountability in policy implementation (Wahyudi et al., 2023). Additionally, in urgent situations or those not explicitly regulated, the concept of discretion is granted to officials to make necessary decisions, but these must remain within the existing legal framework and be monitored to ensure they do not violate the principles of AUPB (General Principles of Good Governance) (Putri et al., 2025; Agung et al., 2024).

### **The principles of illegality, procedural governance, and accountability**

HAN outlines administrative decision-making procedures, including licensing procedures and state responsibility in government actions. The application of these principles is important so that public policy runs transparently and accountably, reducing opportunities for abuse of authority. Common obstacles include misinterpretation of authority, lack of understanding of the limits of authority, and inconsistent policy practices between the regional and central levels. Education and training of officials are key to improving legal compliance and the quality of policy implementation (Maarif, 2024; Wahyudi et al., 2023).

### **HTP (Government Administration Law) and technical implementation regulations**

HTP is part of HAN that regulates technical regulations such as ministerial, gubernatorial, or regional head regulations that formalize the procedures for administering government in accordance with the general principles of HAN. The implementation of HTP is crucial so that government actions are not only legally valid but also relevant and effective in meeting public needs. These technical regulations bridge the general principles of HAN with operational practices in the field (Maarif, 2024). Consistent and coordinated implementation of HTP promotes increased efficiency in public services and reduces ambiguity regarding the rights and obligations of officials and citizens (Mozin et al., 2025) Consequences of law-based policies in public service practice

Public policies based on law have stronger legitimacy, reduce legal conflicts, and increase government legitimacy. Within the framework of the rule of law, the process of formulating public policy must be based on legality and the principles of good governance to ensure accountability and quality of service to the public (Sanjaya & Erny, 2024; Perdana et al., 2022). Furthermore, the existence of SPM (Minimum Service Standards) and compliance with laws and regulations related to public services are indicators of local government performance in guaranteeing citizens' basic rights to adequate public services (Mozin et al., 2025).

## **The Relationship Between the Two: Factual and Normative Connections**

Synchronization of public administration and legal science. Public administration studies how public policies are designed, implemented, and evaluated in the field, while law provides normative validity and a regulatory framework that legitimizes these policies. The two work synergistically to ensure that governance practices are not only procedurally valid but also substantively fair, responsive to the constitution, and consistent with broader principles of justice. Research shows that the synergy between HTN and HAN improves the quality of public policy and strengthens government accountability (Perdana et al., 2022; Yunus et al., 2025). In this framework, HTN serves as the basis for legitimacy, while HAN serves as the operational mechanism and practical oversight in the field (Saragih & Adam, 2022).

### **Law-based public policy and good governance**

Public policy based on law tends to have stronger legitimacy and reduces the risk of legal conflict. The policy formulation process with public participation and regulatory harmonization are important parts of good governance. Public participation and transparency in the formation of legislation are integral requirements mandated by the Law on the Formation of Legislation and are relevant to good governance. Various studies show that good governance requires a clear legal framework, strong public participation, and effective accountability mechanisms (Pando & Kosariza, 2021). This is consistent with the view that HTN-HAN works together to shape public policies that are legitimate, fair, and responsive to the needs of the community (Perdana et al., 2022).

### **Discretion, procedures, and public policy governance**

Discretion as an operational tool in HAN allows for quick action in emergencies or situations that are not explicitly regulated, but it must be balanced with the principles of AUPB (General Principles of Good Governance) and clear boundaries of authority. Excessive or uncontrolled use of discretion has the potential to violate the principles of good governance, thus requiring strong oversight, evaluation, and accountability mechanisms. Various studies recommend strengthening training for officials and strengthening internal and external control mechanisms to avoid the misuse of discretion (Kimberly & Budidarsono, 2025; Maarif, 2024).

### **Practical Implications for State Officials**

#### **Education and training for officials**

Given the reality that misinterpretations or a lack of understanding of authority often occur, legal education programs on administration and governance for government officials are very important. This training covers understanding the principles of legality, limits of authority, governance of licensing, and appropriate discretion mechanisms. Research shows that increasing the capacity of civil servants improves legal compliance and the quality of public policy, thus having a positive impact on the implementation of government programs (Kimberly & Budidarsono, 2025; Maarif, 2024).

### **The role of administrative judicial institutions**

The Administrative Court (PTUN) plays a central role in resolving administrative disputes between the government and citizens, thereby increasing legal certainty and protecting citizens' rights. This role strengthens the rule of law by providing checks and balances on administrative actions. Research on the role of the PTUN shows that this institution contributes to dispute resolution and compensation mechanisms related to public actions, thereby strengthening the legal legitimacy of public policy (Achir, 2020). The existence of this mechanism helps ensure that government practices remain within the corridor of law and are fair to citizens.

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### **Harmonization of regulations and public policy design**

Harmonization of laws and regulations is necessary to avoid overlapping and conflicting regulations that are detrimental to the implementation of public policy. Recent research emphasizes the importance of vertical and horizontal harmonization, as well as coordination between institutions to achieve consistent, efficient, and accountable policies. In the context of HTN-HAN, harmonization is a practical step to improve legal certainty and administrative efficiency, so that public services can be carried out effectively (Banola et al., 2025; Firdaus, 2024). It is also necessary to pay attention to the dynamics of omnibus laws and regulatory changes that may affect the balance between policy flexibility and legal stability (Perdana et al., 2022).

#### **Law-based public policy and accountability**

Legally valid public policies tend to be more effective in implementing the principles of good governance through transparency, participation, public accountability, and institutional accountability. The implementation of SPM (Minimum Service Standards) and evaluation mechanisms are important indicators of public service performance in the region. Research shows the important role of legislation in ensuring the effective and sustainable implementation of SPM, as well as facilitating public services that fulfill the basic rights of citizens (Banola et al., 2025). This emphasizes that the design of law-based public policy requires a clear framework, evaluation mechanisms, and public involvement.

#### **Nuances and Debates**

Nuances between legality and substantive justice

There is potential tension between formal legality and substantive justice when public policy faces situations where rules do not fully cover specific cases. Several studies highlight that executive discretion must be limited by AUPB principles and institutional coordination to avoid abuse of power. This debate highlights the need for a culture of law among officials and increased accountability through stronger oversight mechanisms (Kimberly & Budidarsono, 2025). However, HTN-HAN still guarantees that public policy must not deviate from the constitutional framework and applicable laws (Ramadhan, 2024).

#### **The Role of Omnibus Laws and the Dynamics of Regulatory Formation**

In the context of national regulatory changes, the omnibus law as a method of formulating legislation has sparked discussions regarding legal coherence, the risk of overlap, and the impact on the implementation of existing public policies. Legal sociology analysis indicates that the application of omnibus laws needs to be assessed from a conceptual and practical perspective to ensure that the objective of resolving regulatory issues is achieved without undermining legal certainty. This discussion is relevant to HTN-HAN because omnibus laws affect the regulatory foundation that forms the basis of state power and administrative operations (Arazea et al., 2025).

#### **Public participation in the formulation of regulations**

Public participation in the formation of legislation is seen as a key element of good governance. Studies emphasize the urgency of public participation, transparency, and accountability in the regulatory process to improve the legitimacy of public policy and the quality of the regulations themselves. The misalignment between public participation and the quality of regulations can lead to distrust and criticism of the government, so it needs to be integrated into the design of the HTN-HAN framework from the early stages (Yolanda & Septianda, 2023; Setiadi et al., 2025).

### **3. Method**

This study uses a qualitative approach with a library research or literature review method (Setiadi et al., 2025), which aims to regularly analyze the relationship between Constitutional Law (HTN) and Administrative Law (HAN) within the framework of government science. A research approach that focuses on tracing, mapping, and synthesizing scientific thoughts, theories, and previous research findings is known as a literature review or systematic literature review. This approach is used to analyze and integrate existing research results without collecting new field data, enabling researchers to build a comprehensive theoretical framework and identify research gaps that need to be explored further (Shaikh et al., 2022).

The research data sources consisted of secondary data, which included legal and governance textbooks, accredited national journal articles, legislation, and recent scientific publications discussing HTN, HAN, public policy, and good governance. The literature was selected purposively, considering the relevance of the substance, the novelty of the issues, and their contribution to the discourse on the integration of law and governance, as reflected in the works analyzed in the main document of this study.

Data collection techniques were carried out through systematic literature searches, theme grouping, and recording of main ideas related to: (1) the function of HTN as the basis for the legitimacy of power, (2) the role of HAN as an operational guideline for governance, and (3) the implications of both for the design and implementation of public policy. Furthermore, the data were analyzed using content analysis with a descriptive-analytical and critical approach.

Analysis conducted by comparing the views of experts, identifying conceptual patterns, academic debates, and research gaps is a very important approach in academic literature reviews to strengthen understanding of a field of study. This approach is used in various research contexts to summarize and construct a comprehensive understanding of a research topic (Tao & Shen, 2025). This approach allows researchers not only to summarize the literature, but also to construct normative and conceptual arguments regarding the importance of HTN and HAN synergy as the foundation of democratic, accountable, and law-based governance.

#### **4. Results and Discussion**

Based on a systematic review of the literature, this study finds that the relationship between Constitutional Law (HTN) and Administrative Law (HAN) is structural, functional, and normative, and has direct implications for the quality of governance and public policy in Indonesia. This finding confirms and expands on the results of previous studies that place HTN and HAN as two legal regimes that cannot be separated in modern governance practices.

##### **Constitutional Law as the Basis for the Legitimacy of Power and Government Stability**

The analyzed literature shows that HTN serves as the main foundation for the legitimacy of state power. HTN regulates the institutional structure of the state, the mechanism of power sharing, central-regional relations, and the limitation of the authority of public officials to prevent abuse of power. Research by Muliarini et al. (2021) and Ramadhan (2024) confirms that constitutional supremacy is a key prerequisite for the realization of the rule of law, whereby all government actions must be constitutionally traceable in terms of their legitimacy. However, the results of the study also show that there are serious challenges in the implementation of HTN, mainly due to overlapping regulations and political dynamics that affect the consistency of the interpretation of authority. Hamdani et al. (2023) and Sofwan (2022) found that weak harmonization of norms often leads to conflicts of authority between institutions, which has an impact on legal uncertainty in the implementation of public policies. Thus, HTN should not only be understood as a basic norm, but must also be consistently translated into administrative practice through HAN.

### **HAN as an Operational and Power Control Instrument**

The results of the literature review show that HAN plays a crucial role as a bridge between constitutional norms and daily government practices. The principles of legality, procedural legality, and accountability in HAN ensure that the authority granted by HTN is exercised legally and in a controlled manner. Wahyudi et al. (2023) emphasize that certainty in administrative procedures is a key factor in preventing maladministration and increasing public trust. In the context of modern governance, administrative discretion is an important finding that is widely discussed in the literature. Putri et al. (2025) and Agung et al. (2024) show that discretion is necessary to respond to emergencies or legal vacuums, but it has the potential to violate the General Principles of Good Governance (AUPB) if not strictly supervised. The results of this study confirm that discretion must always be linked to the HTN framework so as not to erode the principle of the rule of law.

### **HTN-HAN Integration in Public Policy**

The main finding of this study is that the integration of HTN and HAN is a prerequisite for legitimate and effective public policy. HTN provides a framework of constitutional authority and limitations, while HAN ensures that policies are implemented in a procedural, transparent, and accountable manner. Research by Tetama (2023) and Prasetya and Susilawati (2024) shows that public policies that are not based on HTN-HAN synergy tend to give rise to legal disputes and public resistance. Furthermore, Perdana et al. (2022) and Riandi et al. (2025) emphasize that good governance can only be achieved if public policy is designed within a clear, participatory, and accountable legal framework. The results of this study reinforce the argument that HTN and HAN are not only legal instruments but also strategic governance tools.

### **The Role of the Administrative Court and Accountability Mechanisms**

The analyzed literature shows that the State Administrative Court (PTUN) has a central role in maintaining the balance between government power and the protection of citizens' rights. Kimberly and Budidarsono (2025) and Achir (2020) found that the PTUN functions as a corrective mechanism for administrative actions that violate the law. These findings reinforce the position of HAN as a practical oversight instrument, while HTN provides the normative basis for the existence and authority of judicial institutions. Thus, the integration of HTN-HAN is not only normative but also realized in practice through the checks and balances mechanism carried out by judicial institutions.

### **Regulatory Harmonization and the Challenges of the Omnibus Law**

The results of the study show that the harmonization of laws and regulations is a crucial issue in the relationship between HTN and HAN. Banola et al. (2025) and Firdaus (2024) highlight that regulatory disharmony can hamper the effectiveness of public policy and increase the scope for abuse of authority. The omnibus law phenomenon reinforces this finding, where on the one hand it aims to simplify regulations, but on the other hand it has the potential to weaken legal certainty if it is not aligned with the principles of HTN and HAN (Pando & Kosariza, 2021; Perdana et al., 2022). This study argues that omnibus laws must be placed within an integrative HTN-HAN framework so that policy flexibility does not sacrifice constitutional legitimacy and the protection of citizens' rights.

### **Implications for the State Apparatus and Governance**

The literature consistently shows that the capacity of the state apparatus is a determining factor in the successful integration of HTN and HAN. Maarif (2024) and Kimberly and Budidarsono (2025) found that education and training in administrative law can improve legal compliance and the quality of public services. These findings confirm that the integration of HTN-HAN depends not only on regulations but also on the legal culture of the state apparatus. In addition, the implementation of

Minimum Service Standards (SPM) as discussed by Mozin et al. (2025) shows that law-based public policies can improve the accountability and performance of local governments.

### **Synthesis and Research Contributions**

Overall, the results of this study confirm that HTN and HAN are two mutually reinforcing dimensions in governance. Unlike previous studies that tended to separate the study of HTN and HAN, this study shows that an integrative approach provides a more comprehensive understanding of the dynamics of public policy and governance. The researchers' opinion in this study is that failure to integrate HTN and HAN has the potential to weaken the legitimacy of public policy and undermine the principle of the rule of law. Conversely, strong synergy between the two will strengthen good governance, increase public trust, and ensure that state power is exercised legally, fairly, and responsibly.

### **Discussion**

The relationship between Constitutional Law (HTN) and Administrative Law (HAN) is a mutually dependent theoretical construct within the framework of governance science. Based on existing sources, a rigid separation between HTN as basic law and HAN as operational law tends to oversimplify the complexity of modern governance practices. The legitimacy of power and the effectiveness of public policy can only be realized if constitutional norms and administrative mechanisms work simultaneously and coherently. HTN serves as the main foundation for the legitimacy of power that regulates institutional structures, the division of power, and the limitations of public officials' authority. Research by Muliarini et al. (2021) and Ramadhan (2024) confirms that constitutional supremacy is a key prerequisite for the rule of law so that all government actions can be traced back to their constitutional legitimacy. However, challenges in its implementation often take the form of overlapping regulations which, according to the findings of Hamdani et al. (2023) and Sofwan (2022), can lead to conflicts of authority between institutions and legal uncertainty.

This is where HAN plays a role as an operational instrument that actualizes HTN norms into daily administrative actions. Wahyudi et al. (2023) emphasize that the certainty of administrative procedures in HAN is a key factor in preventing maladministration and increasing public trust. One crucial issue in HAN is administrative discretion, which, according to Putri et al. (2025) and Agung et al. (2024), it is necessary to respond to emergency situations but has the potential to violate the General Principles of Good Governance (AUPB) if not strictly supervised within the framework of HTN. The integration of HTN-HAN is a prerequisite for legitimate public policy. Research by Tetama (2023) and Prasetya and Susilawati (2024) shows that policies are not based on the synergy of the two tendencies to give rise to legal disputes and public resistance.

In addition, the role of the State Administrative Court (PTUN) as a corrective mechanism is central. Kimberly and Budidarsono (2025) and Achir (2020) found that the PTUN strengthens the checks and balances mechanism on administrative actions. Finally, the success of this synergy depends on the capacity of the apparatus, where Maarif (2024) emphasizes the importance of legal education to improve the quality of public services and legal compliance. Strong synergy between HTN and HAN is a fundamental foundation for the realization of fair and accountable good governance.

## **5. Conclusion**

This study confirms that Constitutional Law (HTN) and Administrative Law (HAN) are two interdependent legal regimes that cannot be separated in the administration of modern government. HTN provides constitutional legitimacy, authority structures, and normative limits on state power, while HAN operationalizes this legitimacy through procedural, transparent, and accountable administrative actions. A rigid conceptual separation between the two tends to reduce the complexity

of governance practices and has the potential to weaken the quality of public policy.

Research findings show that the main problem in governance practice lies in the weak integration between the constitutional framework and administrative implementation. Regulatory disharmony, overlapping authorities, and uncontrolled use of discretion reflect the suboptimal internalization of HTN and HAN principles in the design and implementation of public policy. Administrative discretion, in this context, must be understood as part of the legal mechanism inherent in the principle of the rule of law and must be limited by the constitutional framework and the General Principles of Good Governance (AUPB).

Theoretically, this study contributes to strengthening the integrative approach between HTN and HAN in the study of government science and public policy. This approach places law as a governance instrument that determines the legitimacy, effectiveness, and fairness of public policy. Thus, the synergy between HTN and HAN is a fundamental prerequisite for the realization of a law-based, democratic government oriented towards the principles of good governance

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