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Bank Indonesia Policy in the National Banking Crisis Resolution

Surti Yustianti[1], Mohammad Roesli[1]

[1]Faculty of Law, Merdeka University Surabaya

Email: surtiyustianti@gmail.com

ABSTRACT

This study analyzes the philosophy of banking policies which have implications for the criminal offense. In this regard, Bank Indonesia's decision is in conformity with the authority and office attached to Bank Indonesia officials. Policies made by Bank Indonesia is right or not, is bound by the principle of wise and good etiquette. Bank Indonesia officials have the authority associated with the position. If there are elements that are not good etiquette and undiplomatic in authority that caused state losses then policies can be categorized as a criminal offense banking. The aim of this study was to analyze and find Philosophy as Bank Indonesia Policy In the Bank Restructuring. Type of research is a normative legal research. This study uses the legislative approach, conceptually. Banking policy which resulted in a criminal act can be seen from the administrative aspect, and a criminal in a lawsuit conducted by Bank Indonesia officials. If Bank Indonesia officials make mistakes in order to carry out regulatory policies, the criminal incurred should be charged to the official.

Keywords: Policy, Bank Indonesia officials, Errors, Crime

1. INTRODUCTION

The law is the truth*(lawis*legality)"The*hard fact is that sometimes we must of make decisions we do not like. We make them Because they are right, right in the sense that the law and the constitution, as we see them, compact the resulit*". In the philosophy of law there are two dimensions of truth. First, the material truth, where we ATTAIN truth when our thinking*(judgment)*corresponds with reality. A statement is true if it conforms to reality. Not a single law, the law was changed and the election process if the law occurred because think is about reality to obtain the truth. Thought philosophy think the law is the result of a human being that manifests as *cultural concepts of a reality* associated with the value. Second, the formal correctness, which the statement is based on logical coherence is true. It marks the extent and limitation of oon thinking powers, the power of our minds we know the extent of truth. Thoughts that are not based on the truth does not have the power, while according to Immanuel Kant, *ethical and jurisprudential reasoning* is a cornerstone and foundation for the real thinker. Based on the preferred ideology, where these concepts can be easily created by itself of conscience and instincts of each individual with no recommendation or necessity to go through trials and research.

While power is the ability of a person or group of people to influence people / groups that correspond with the wishes of people who have such power. Power is the ability to influence public policy both formation and its consequences in accordance with the desires of power. Power part of the social power directed to the state as the only institution in charge.

The limitation of state power by state organs by applying the principle of division of powers separation of powers vertically or horizontally. In accordance with the law of power each power must have had a tendency to develop into arbitrarily as the opinion of Lord Acton: *"Power tends to corrupt, and absolute power corrupts*absolutely".

To avoid arbitrary as stated Tatiek Sri Djatmiati dissertation outlines the administrative law relationship and authority. Administrative law or rule of law *"administrative recht"* or *"bestuurs recht"* contains legal norms of the government into the parameters used in the use of authority by government agencies. The parameters used in the use of these powers is legal compliance or not compliance with the law *("improper legal" or "illegal* improper"), so that in case of use of authority conducted*"impro perillegal"* then the appropriate governmental agencies accountable.[1]

The elements of authority possessed by Bank Indonesia in Bank jeopardize business continuity condition of the bank concerned provide policies for authority to act, there is an urgent need to achieve the goal of controlling the systemic conditions in rescuing national banks. The authority to conduct the policy is discretionary authority.

The authority's discretion *(discretionary power)* could happen if the legislation does not regulate the authority of the government altogether or could happen anyway legislation contains norms that samara *(vage norm)* in the granting authority.[2]

As stated in his dissertation Nur Basuki Winarno first thing that usually happens in relation to an urgent situation and it is necessary to take out a policy or decision but the foundations act when virtually no government should not stop proverbial in the slightest.[3]

2. METHODOLOGY

This study is based on legal research. Laws are the rules and norms that exist in society, with the consistency of the type of research that digunakanadalah type of

[1] Tatiek Sri Djatmiati, *Prinsip Ijin Usaha Industri di Indonesia,* Disertasi Program Pasca Sarjana Universitas Airlangga, Surabaya, 2004, h. 62-63.

[2] *Op.cit*

[3] Nur Basuki, Disertasi, 2009, h. 84.

research huku normative research approach is used to assess permasalhan that there are regulatory approaches Per Invite - Invite (statute approach), the conceptual approach (conceptual approach) , Source material from the study of law in accordance with the nature of normative legal research, legal materials enjadi huku basic assessment of the issue of this study consisted of primary legal materials dab secondary law. Primary legal materials is the subject of menhkaji Per-Law Invite on studies reviewed, legal materials sekundermemberikan explanation of primary legal materials, including: the works of the law, journals, scientific magazines, the internet, and views or doctrines related to literature and principles -prinsip the bankers.

3. DISCUSSION

3.1.Policies philosophy

Policy issues/ policy conducted by Bank Indonesia in a healthy banking is a problem that is not endless debate. The debate over policy issues / policy officials. Countries in this Bank Indonesia is very diverse, from any deviation from the policy / policy implemented, abuse of authority until the policy / policy for a healthy banking is a criminalization M. Solly Lubis, formulate Policy interpreted into policy, while the policy is called wisdom. Wisdom in terms of policy or wisdom, is thinking / in-depth consideration to the basis (foundation) for policy formulation. Policy / policy is a set of decisions taken by the political actors in order to select a destination and how to reach our objectives.[4] Policy / policy given meaning diverse, Harold D. Lasswell and Abraham Keplan give meaning to the policy as *"a projected program of goals values and*practices".[5]

In his book, M. Irfan Islamy, "Principles of State policy formulation" is a series of actions defined and implemented or not implemented by the Government which has the purpose or goal-oriented in the interest of the entire community.[6]

Legally policy / policy conducted by the Government solely exercise authority based on the Act, in addition to the enactment of the principle of legality. To achieve

[4] M. Solly Lubis, SH, *Kebijakan Publik*, Mandar Maju, Bandung, 2007, h. 5
[5] *Op. Cit.*, h. 15-17
[6] M. Irfan Islamy, *Prinsip-prinsip Perumusan Kebijaksanaan Negara*, PT. Bumi Aksara, 2003, Jakarta, h. 20.

better results in all the implementing authority, the Government requires the freedom to act on their own, known as Ermessen.[7]

According to Bagir Manan, authority means the right and obligation *(rechten en*plichten),the right contains the freedom to do or not do certain acts or by another party to perform certain actions, being the obligation to load the necessity to do or not do.[8]

Regulatory policies*(beleidsregal)*is actually a product of the state administration on the basis of use Ermerssen. Ermessen is the freedom given to the state administration in the framework of governance, in line with the increasing demands for public[9]services.

In connection with the public service substantially Bank Indonesia as the central bank has three functional areas, namely (1) establishing and implementing monetary policy, (2) set up and maintain the smooth payment system, and (3) regulating and supervising banks, but in this chapter will discuss the regulation and supervision of banks.[10]

That in order to carry out the task of regulating and supervising banks, in accordance with article 24 of Law No. 23 of 1999 concerning Bank Indonesia, Bank Indonesia that set the rules, grant and revoke permission for institutional and certain business activities of the bank, carrying out banking supervision, and imposed sanctions on the bank in accordance with statutory provisions.

In principle makespolicy *decition politicalmaker* has the power or authority to do so. Source obtain authority in the foundation for state officials who carry out the process of the bank rescue is a legitimate authority. The authority authorized by Philip M. Hadjon, obtained through three sources, namely attribution, delegation and mandate.[11] Other attribution authority referred to the authority stipulated by the Law, Article 1 point 8 Draft Government Administration Act (Bill-AP) formulation, that the attribution of

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7 Irfan Fachruddin, *Pengawasan Peradin Administrasi terhadap Tindak Pemerintah*, Alumni, Bandung, 2004, h. 2.

8 *Ibid* h. 40

9 Laila Marjuki, *Peraturan Kebijakan (Beleidsregel), Hakekat Serta Fungsinya Selaku Sarana Hukum Pemerintahan*.

10 Undang-Undang No. 3 Tahun 1999 tentang Bank Indonesia *jo Undang-Undang No. 3 tahun 2004 tentang Perubahan atas Undang-Undang RI No. 23 Tahun 1999 tentang Bank Indonesia*.

11 Philipus M. Hadjon, *Rencana Undang-Undang Administrasi Pemerintahan dalam Pembangunan Administrasi*, Makalah Lokakarya Hukum Administrasi dan Korupsi, diselenggarakan oleh Departemen Hukum Tata Usaha Negara, FH Unair, Surabaya, 28 Oktober 2008, h. 3-4.

authority is the authority established by the legislation for the agency or government official.

Delegate authority comes from devolution, while the mandate of authority derived from the assignment.[12] Delegates and mandates in the Draft Administrative Law Government has clearly distinguished. Mandates in procedure delegation is regular contact superior subordinate, it can unless prohibited firm, while a delegation from the procedure delegation from an organization of government to others, with the regulations Legislation responsibility and liability gugatnya mandate remains on giving the mandate, delegation of responsibility and accountability gugatnya switch to delegatoris.

Table 1. The differences are described as follows:[13]

			delegation's
a.	delegation ofprocedure	In theroutinesuperior subordinate relationship commonplace unless expressly forbidden	From a government organ to another organ by legislation.
b.	Responsibility and accountabilityp ositions	Fixedon mandate giver	responsibility and liability positions to switch to delegatoris.
c.	Possible giver use it againauthorized	any timeto use his own authority delegated it.	Unable to use the authority it again except following the lifting of the hold to the principle *contrarius actus*
d.	Rules ofofficial	anscript,ub, ap	Without an, etc. (direct)

In addition, the responsibility of the parties to the bailout *(bailout)* to rescue banks associated with positions of responsibility carried and can be personal responsibility. The concept of the office will determine whether an action or government including administrative law, including civil legal act. In implementing the policy / policy of Bank Indonesia to rescue banks abused by parties involved in the restructuring process of banks, ranging from the officials at Bank Indonesia, in the ministry of finance and at the level of the bank will be saved.

Abuses committed by parties involved in the restructuring process of banks can be categorized as a crime or a crime criminalization or in English is called *"will*conduct",is a rogue behavior. Behavior in English is *"conduct"*.Such behavior could be "perform an act" which in English is called*"act"*or "commission".

12 *Ibid*, h. 3-4
13 Phillipus M. Hadjon, *Kebutuhan akan Hukum Administrasi Umum*, h. 21.

Perform an act is evil behavior if that behavior according to the norms prevailing in society are prohibited by the persons concerned, because if the deed is done so contrary to the prevailing norms of society, then such actions are malicious behavior by the people concerned.

This can be seen from the formation of a special committee of the House of Representatives to address Century case involving considerable amounts of money of Rp 6.7 trillion. The occurrence ofcase *bailout* this Centuryas a result of the policy of Bank Indonesia in order to deal with banks in crisis conditions. Bank Indonesia as the central bank issued funds to control systemic conditions in order to save the national banking system. The aim to control the conditions of systemic and save payment systems National is at the core considerations Bank Indonesia bailout*(bailout)*to the banks that are not healthy because of the difficulty banks that are systemically the responsibility of the Government, therefore, and issued by the Central Bank first referred to as a bailout fund which will then be taken into account by the Government.

In granting bail*(bailout)*from Bank Indonesia to rescue the bank, requiring new policies are no exception policy in the field of banking. In connection with the policy in the field of banking, regulatory legislation in the form of a policy *(beleidsregel)* is a rule of law established by officials / or body of the state administration on the basis of the authority derived from their *beoordelingsruimte surijheid broordeling beleidesvrijheid* or *Freies*ermessen.[14] Van Kreveld suggests the main feature of a regulatory policy, as follows:

a. The establishment of regulatory policy is not based on the provisions that are clearly derived from attribution or assignment of the Constitution and the Law.
b. The establishment can be written and unwritten that originates in the authority of the free act of government agencies, or simply based on the provisions of the legislation of a general nature which provide the policy space to an official or agency administration on its own initiative to take legal action of public regulatory and determination.
c. Editors or contents are flexible or general rules without explaining to citizens about how government agencies should carry out the independent authority to communities in specified circumstances (subject to) a rule.

[14] JH Van Kreveld, Beleids Urijheid In Head Rect, Klewes-Deventen, 1983, h. 3.

d. Editors judicial policy regulations there is formed following the format the legislation and officially announced in the newsletter of the Government, although in konsiderannya not refer to the Act or regulation legislation that is higher that authorizes its creation to the Government agencies concerned.
e. Can also be determined by the official juridical format or state administrative agency that has room for the wisdom.

Furthermore, Bagir Manan provide an overview of the regulatory policy, as follows:

a. Regulatory policy can not be categorized as a rule in the form of Regeling,
b. Principles restrictions and testing of the laws and legislation can not be enforced on regulatory policy,
c. regulation policy can not be tested *wetmatigheid* because there is no basic legislation for decision making regulatory policy,
d. regulation policies are based Freies ermessen and lack of authority of the state administration concerned makes legislation (either because it generally is not authorized or to object concerned is not authorized to regulate),
e. Pengaujian against regulatory policy geared more towards *"doelmatighheid"*,so that the test is a stone Governance principles decent,
f. in practice, the policy rules format given in various forms or types of rules, such as: a ministerial decree, inst ruksi ministers, ministerial circulars, announcements, and others. It can even be found in the form of a ministerial regulation.[15]

More on regulatory policy, Attamimi noted a number of similarities and differences between the legislation by regulatory policy, as follows:

a. legislation and regulatory policies have in common is general and abstract, applies to the outside and are public.
b. The difference between legislation and regulatory policy are:
    1) Establishment of the legislation is a state function.
    2) The function of the establishment of policy regulations rests with the Governments in the narrow sense (executive),
    3) The content of the legislation are fundamental in organizing community life such as holding errand and prohibition to do or not do something if it needs to be a criminal and sanction coercive

[15] Bagir Manan, *Peraturan Kebijakan*, Makalah Penataan Dosen Fakultas Hukum seluruh Sumatera, Fakultas Hukum Universitas Andalas, Padang, 5 April 1994.

4) The content of the regulations policies related to the authority of forming the decisions in the sense *beschikkingen*,the authority to act in the field of private law, and the authority to make plans,
5) product of actions the agency or official of the state administration which aims to show off as a policy or written rules, but without authority rulemaking from agencies or state administrative official who create policy rules.[16]

Regulatory policies *(beleidsregel)* is essentially a product of the actions of the state administration aimed *naar buiten gebracht schriftelijk beleid* (show out a policy written) but without the authority of agency rulemaking or administrative official who created the policy regulations.[17] In *beleidsregel* authority or official body of the state administration in making policy rules based on the principle of freedom of action. This Ermessen term commensurate with *discretionair* which means at the discretion of, and as an adjective means according to the authority or power that is not or not entirely bound to the Act.[18] Implementation ermessen this through the act of administration tools the state can be either:[19]

a. Establish regulations under the Act that materially binding general,
b. Issue *beschikking* which is concrete, individual and final,
c. necessary to follow the administration of real and active,
d. Running judicial functions, especially in the case of "mind" and "appeals administration",

principle ermessen can be used by the Government if:

a. there is a legal vacuum,
b. laws exist, but incomplete,
c. laws exist, but there is vagueness, causing a lot of interpretation and / or,
d. All are intended for the public interest ,

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16 A. Hamid S. Attamimi, *Perbedaan antara Peraturan Perundang-Undangan dan Peraturan Kebijakan*, Pidato Dies Natalis PTIK ke 46, Perguruan Tinggi Ilmu Kepolisian, Jakarta, 17 Juni 1992.

17 Philipus M. Hadjon, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta, Gadjah Mada University Press, 1994), h. 152.

18 Fokema Andreas, *Kamus Istilah Hukum* (Terjemahan), Saleh Adiwinata et. Al (Trans), Bandung, Bina Cipta, 1983, h. 98, 145.

19 Saut Panjaitan, *Makna dan peranan Freies Ermessen dalam Hukum Administrasi Negara*. Dimensi-dimensi Pemikiran Hukum Administrasi Negara, Yogyakarta, UII Press, 2001, h. 115.

Regulatory policy can not be categorized as a rule in the form of Regeling. Agency issued regulations that policy is, *in*caso,does not have the authority. Regulation of public policy does not bind directly, but have legal relevance. Policy regulations provide opportunities how a state administrative authority running the government. Ermessen is the freedom given to the state administration in the framework of governance, in line with the increasing demands of public service*(bestuarszor)*which must be given to the state administration on the social and economic life of citizens is increasingly complex.

In relation to Bank Indonesia's policy in handling the national banking crisis, there is no specific offense in the formulation of the Banking Act, and no one rumusanpun that can be used to reach perpetrators of misappropriation of funds from Bank Indonesia policies.

Table 2. Formulation Elements Privileges Bank Indonesia in the Banking Regulation In Indonesia

NO	STATUTORY	AUTHORITY TO BANK INDONESIA INGREDIENTS
1	Section 37A of the Law of the Republic of Indonesia Number 10 of	1998., , Bank Indonesia was given broad authority: "If *according toregulation* Bank Indonesiaof banking difficulties arise that endanger national economy. , ,
2	Article 33 of Law Number 23 of 1999	In the event of a *bank,according to* BankIndonesia jeopardize the survival of a bank and endanger the system. , ,
3	of Law Number 13 of 1968, article 22, article 27 (2) b, Article 29 (1)	Bank Indonesia may help liquidity loans to banks to address liquidity problems in an emergency
4	of Act Number 3 of 2004 amendment OF tHE Number 23, 1999, article 11 (5) and (4)	the provisions and procedures for decision-making regarding the difficulties that berdmpak systemic banks. , ,
5	of Law Number 13 of 1968 concerning Bank Indonesia Article 32	Bank Indonesia can also provide liquidity loans to commercial banks to address liquidity in emergencies
6	Article 37 (2) of Law Number 7 of 1992 concerning Banking	In the case of a bank experience liquidity difficulties endangering its survival, Bank Indonesia may take other actions in accordance with the legislation in force
7	Article 24 of Law Number 23 of 1999 concerning Bank Indonesia as amended by act of the Republic of Indonesia Number 3 of 2004	in order to implement duties as referred to in article 8 c, Bank Indonesia set rules, grant and revoke permission for institutional and certain business activities and impose sanctions against the bank in accordance with the legislation

with the enactment of Law No. 21 Year 2911 About the Financial Services Authority regulation and banking supervision to switch from Bank Indonesia to the FSA. Banking Regulation and Supervision in Law FSA set out in Article 5, Article 6 and Article 7 of Law a FSA. Although the law applies but the FSA has in setting a task - the task of Bank Indonesia still performed by Bank Indonesia, can be seen in Article 37 paragraph (2), Article 39, Article 40 and Article 41 of Law Financial Services Authority.

3.2. The concept of Personal Responsibility and responsibilities Position

concept of administrative law, since the beginning of the responsibility or the responsibility of the state is the dominant element in administrative law that aims to protect citizens against government action. If the authorities do something unlawful, then he's like an ordinary person responsible for the damages caused.

In assessing the nature of the unlawful act of another size than the rulers determined for the individual as a superior, that the individual in performing his actions are driven by their own interests, while the authorities to serve the public interest. If the authorities participating in the traffic community in his capacity commensurate with individuals, can be justified under Article 1365 BW, which is a civil liability the liability positions related to unlawful acts of the authorities.

The situation can be overcome explains that understanding responsibility or liability with regard to the concept of state administrative law concerning the use of the power of the ruler in the line of duty for public service.[20]

The responsibility or liability with regard to the use of state of government authority in the functioning of *public*service.In carrying out these functions can be impaired / suffering for the people. Losses for the community can occur because of a flaw in the use of authority or authorities in connection with the behavior as individuals, both of these into a parameter whether or not a state responsibility or liability for damages exists.[21]

The size of the error to the responsibility or liability for damages no development of the size of the error is 2 (two): 1). *Faute Personelle* (personal error). 2). *Faute de Service* (error position).

[20] Tatiek Sri Djatmiati, *Kesalahan Pribadi dan Kesalahan Jabatan dalam Tanggungjawab atau tanggunggugat negara*, lokakarya FH Unair, 2008.

[21] *Ibid* h. 3-4

Definition of personal fault*(fautepersonelle),*if there is a personal mistake someone who is part of the government. Such errors do not related to public service, but it shows the weakness of these people, because carelessness or[22]negligence.

While the error positions*(fautede*Servia)occurs because of an error in the use of authority, and is only concerned with the service. State liability*(liability)*associated with the element *lour faute de* (a big mistake and dirty), have special requirements in the field of discretion. Discretionary authority in the strict sense is the freedom of discretion, which means when the legislation gives certain powers to state organs, while the organ is free to (not) to use even though the conditions for its use legally met. While freedom of assessment authority *discretionary* (inthe sense ofthat is not true) is a right granted government organ to assess independently and exclusively whether the conditions for the implementation of a legally authorized fulfilled.

Sometimes the government is expected to act something to address the specific circumstances, related to the Bank Indonesia in dealing with the banking crisis take policy action in order to recover the banking system in achieving the goal to control systemic conditions and rescuing national banks.

In the Law of the Republic of Indonesia No. 23 of 1999 concerning Bank Indonesia Article 33 changes to the Law of the Republic of Indonesia No. 3 of 2004 on Bank Indonesia stated: In the event of a bank, according to Bank Indonesia jeopardize the sustainability of the bank concerned, or endanger the banking system or difficulties occur banking harm the national economy, Bank Indonesia may take action as stipulated in the Law on banking regulations.

In conditions like this, Bank Indonesia as authorities provide policies to restore the banking system recovers [23]. Performing the task to restructure the banks, the institutional framework or institutional coordination role is very important. Less than optimal cooperation between Bank Indonesia and related agencies, especially the Ministry of Finance and the Deposit Insurance Agency (LPS) greatly affects the activity of the bank restructuring settlement. Launch lack of coordination in terms of restructuring the bank itself is the weakness of the law. In Bank Indonesia's policy of administrative law known asprinciple, *Ermessen*namely the principle of giving freedom of action to the government officials, especially in carrying out administrative functions.

[22] *Ibid.* h.

[23] M Roesli, Asep Heri, and Siti Rahayu, "Authority of Land Procurement Committee In The Implementation of Compensation For Land Acquisition," *YURISDIKSI: Jurnal Wacana Hukum Dan Sains* 10, no. 2 (2017): 46–59.

Freedom of action could be undertaken by government officials in the following areas:

a. There are no laws governing the settlement *in ceoncreteo* to a particular problem, but the problem demanding immediate settlement.
b. Legislation on which the act of government officials give full freedom.
c. Government officials empowered to organize themselves.

Applicability of the principle of Ermessen an opportunity to losses on the part of individuals inflicted government officials. This is in accordance with what is stated by *Philip M.Hadjon* citing the opinion of *MarietteKobussen* to measure abuse of power in relation to *beleidsurijheid* (discretionary*power*,Ermessen)should be based principles underlying the authority's specialties. Principle specialties consisting essentially of an authorized purpose: now can be decided that a person who violates the legislation can be considered to have committed acts of law by not ignored what the rules are violated it is within the field of public law or private law. In connection with the government to account in this Bank Indonesia in granting *bail out* Bank Century which resulted in financial loss amounting to Rp 6.7 trillion, can be held accountable as a legal subject.

In our legal provisions should be no regulations to level government officials shall be responsible and bound on decisions made and actions taken during and after his term.[24]

In the case of Bank Indonesia made a mistake about to *bail out* Bank Century, the director of Bank Indonesia related to *positions of responsibility and personal responsibility* in relation to acts of government, *personal responsibility* to an official associated with the *mall administration* in the use of authority and in the *public*service. *Responsibilities positions* with regard to the legality of acts of government in administrative law issues relating to the legality of acts of government approach to government power.[25]

The concept of personal responsibility and responsibility positions in administrative law is closely related to the use of the control authority, for use when the authority will lead to *ultra vires* (beyond the act of authority).

There are two (2) categories of underlying yusidial review of the implementation of the *authority's***discretion,** *first*, when the authority abuses its discretionary power, it is driven by the emergence of certain situations eg, people no longer trust the state administration, the actions of state administration that is not feasible, not implement

[24] *Ibid*, h. 96
[25] *Ibid*, h. 99

consideration relevant, diverse exercise of authority and do not make sense, ***the*second,** when the authority fails to exercise its discretion, the state administration did not exercise powers assigned to them, or bound to the determination of discretion, or take off for its functions to another authority. Second The category inseparable from each other, and tend to overlap each other.

4. Conclusion

From the above description can be stated that the wisdom of Bank Indonesia in dealing with the banking crisis by providing bailout funds in the form of *a bailout* to rescue the bank associated with positions of responsibility Carried and be responsible positions. The concept of the office will Determine Whether an action or government, Including administrative law, civil Including legal act.

Deeds attachments may be Considered Inappropriate government in society. If the government is using the force of government administration according to law for a purpose not contemplated by public law or in French if there is *"deteurnement de*pouvoir".And government actions could be considered inappropriate in a society where arbitrary actions *(wilekeur).*It should be recognized that the size of this kind is very vague *(vaag),*but in practice probably this size can be satisfactory, because in this size using a ruler can freely consider what actions according to the sense of justice in society.

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