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## **Fair Play Principles in Good Governance: Comparative Regulations and Implementation in Indonesia and Malaysia**

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### **ABSTRACT**

*The principle of fair play constitutes a fundamental element in modern governance, emphasizing integrity, transparency, and equal treatment in public administration. In Indonesia, this principle is incorporated into the General Principles of Good Governance (AUPB), while Malaysia situates it within administrative instruments including Public Service Ethics and public sector integrity standards. This study analyzes the relevance of fair play principles in realizing good governance through a comparative approach between Indonesia and Malaysia, examining normative foundations, regulatory developments, and implementation practices. The research employs a normative legal approach with comparative methodology, analyzing laws, administrative guidelines, court decisions, and scholarly literature. Findings reveal that although both countries demonstrate commitment to fair play principles, Indonesia confronts challenges in consistent AUPB application and enforcement, while Malaysia encounters issues regarding transparency and effectiveness of public complaint mechanisms. The study confirms that strengthening fair play principles plays a strategic role in enhancing bureaucratic integrity and reinforcing public service legitimacy. Recommendations emphasize regulatory harmonization, improvement of official accountability, and implementation of integrity-based oversight mechanisms. The comparative analysis demonstrates that effective implementation requires not merely normative frameworks but also transformation of administrative culture, capacity building, and sustained institutional support in both countries.*

**Keywords:** *Fair Play, Good Governance, Administrative Law, Indonesia, Malaysia*

## INTRODUCTION

The principle of fair play has become increasingly central to contemporary governance discourse. This principle underscores the importance of integrity, equal treatment, and transparency in every administrative process. Within the context of state administration, fair play functions not merely as an ethical norm but as a legal benchmark that guides the exercise of public authority.<sup>1</sup> The evolution of public administration across various jurisdictions demonstrates that clean and responsive governance practices are inseparably linked to the institutionalization of fairness principles.

In Indonesia, the principle of fair play has been incorporated into the General Principles of Good Governance (Asas-Asas Umum Pemerintahan yang Baik or AUPB), which serve as primary guidelines for the exercise of discretion, decision-making processes, and the delivery of public services.<sup>2</sup> The application of this principle has gained increasing significance in response to rising public expectations regarding bureaucratic integrity, procedural accountability, and mechanisms designed to protect citizens from potentially detrimental administrative actions. Despite substantial progress in Indonesia's normative framework, field implementation continues to encounter challenges, including inconsistent application, insufficient internal oversight, and divergent interpretations among government agencies.<sup>34</sup>

Malaysia presents a distinct configuration in operationalizing the principle of fair play. The country integrates fairness concepts through a good governance framework reflected in administrative instruments such as the Public Service Ethics code, the Public Complaints Mechanism, and various public sector integrity policies.<sup>56</sup> Administrative reform in Malaysia has been oriented primarily toward

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<sup>1</sup> Conor Crummey, "Why Fair Procedures Always Make a Difference," *The Modern Law Review* 83, no. 6 (November 13, 2020): 1221–1245, <https://onlinelibrary.wiley.com/doi/10.1111/1468-2230.12556>.

<sup>2</sup> Benyamin Tungga, "Urgency of Strengthening The General Principles of Good Governance (AUPB) to Enforce Health Administrative Law in Indonesia," *Audito Comparative Law Journal (ACLJ)* 6, no. 3 (August 12, 2025): 146–160, <https://ejournal.um.ac.id/index.php/audito/article/view/41696>.

<sup>3</sup> Tanti Kirana Utami et al., "Tantangan Dan Hambatan Penerapan Hierarki Peraturan Perundang Undangan Di Indonesia," *Journal Customary Law* 2, no. 1 (December 28, 2024), <https://journal.pubmedia.id/index.php/jcl/article/view/3443>.

<sup>4</sup> Nopirina Nopirina, Muhammad Akib, and Zulkarnain Ridlwan, "Deregulation and Digitalization in Bureaucratic Reform: A Perspective of Administrative Law," *GPH-International Journal of Social Science and Humanities Research* 8, no. 7 (August 25, 2025): 46–56, accessed January 6, 2026, <https://www.gphjournal.org/index.php/ssh/article/view/2053>.

<sup>5</sup> Mariah Darus @ Mat Junus et al., "Ethical Governance through Maqasid Shariah Perspective: A Conceptual Framework," *International Journal of Academic Research in Business and Social Sciences* 14, no. 10 (October 7, 2024), <https://hrmars.com/journals/papers/IJARBSS/v14-i10/23148>.

<sup>6</sup> Indra Widiyanto and Prof. Dr. Prasetijo Rijadi, "ENVIRONMENT CIVIL LAW ENFORCEMENT," *Journal of Law Theory and Law Enforcement* 2, no. 3 (August 18, 2023): 55–66, <https://journal.jfpublisher.com/index.php/jlte/article/view/361>.

enhancing efficiency and service delivery based on public satisfaction metrics. Nevertheless, persistent challenges include limited transparency, excessive centralization of administrative authority, and an imbalance between ethical standards and available enforcement mechanisms. These dynamics have generated ongoing debate regarding the extent to which fairness principles have been effectively operationalized within the Malaysian administrative system.

Existing scholarship has examined the relationship between fairness principles and governance quality in Southeast Asian contexts, providing valuable theoretical foundations for comparative analysis. Dwiyanto (2011) demonstrated that public trust in Indonesian bureaucracy correlates significantly with the perceived fairness of administrative procedures, suggesting that procedural justice constitutes a fundamental basis for governmental legitimacy.<sup>7</sup> Complementing this perspective, Sarker (2009) analyzed governance reforms across ASEAN countries and identified the implementation gap between policy formulation and practical enforcement as a persistent challenge, particularly in societies undergoing transitions from authoritarian to democratic governance structures.<sup>8</sup> These findings underscore the complexity inherent in embedding fairness principles within established administrative cultures and highlight the need for context-sensitive reform strategies.

Comparative studies on administrative law in Indonesia and Malaysia have revealed both convergences and divergences in governance approaches, offering insights into the institutional mechanisms through which fairness is pursued. Abdul Aziz et al. (2025) examined the judicial review systems in both countries, observing that while Indonesia has developed a more comprehensive judicial review mechanism through its Constitutional Court and administrative court system, Malaysia relies on the Federal Court as the highest court with different constitutional frameworks.<sup>9</sup> Furthermore, research by Alam et al. (2018) on public sector integrity in Malaysia highlighted the challenges in maintaining ethical standards and the tension between traditional administrative practices and contemporary demands for transparency and accountability, a dynamic that resonates with challenges observed in Indonesia's bureaucratic reform initiatives.<sup>10</sup>

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<sup>7</sup> Agus Dwiyanto, *Mengembalikan Kepercayaan Publik Melalui Reformasi Birokrasi* (Jakarta: PT Gramedia Pustaka Utama, 2011).

<sup>8</sup> Abu Elias Sarker, "The New Mode of Public Governance and Public Accountability in Developing Countries: An Analysis with Particular Reference to Bangladesh," *International Journal of Public Administration* 32, no. 13 (November 6, 2009): 1101–1123, <http://www.tandfonline.com/doi/abs/10.1080/01900690903188826>.

<sup>9</sup> Norazlina Abdul Aziz et al., "Comparative Judiciaries: Unveiling Judicial Review Practices in Malaysia & Indonesia," *International Journal of Research and Innovation in Social Science* IX, no. III (2025): 4925–4941.

<sup>10</sup> Md. Mahmudul Alam, Razana Juhaida Johari, and Jamaliah Said, "An Empirical Assessment of Employee Integrity in the Public Sector of Malaysia," *International Journal of Ethics and Systems* 34, no. 4 (November 12, 2018): 458–471, <http://www.emerald.com/ijoes/article/34/4/458-471/302026>.

Collectively, these studies suggest that understanding fairness in governance requires contextualized analysis that accounts for legal traditions, political culture, and institutional capacities specific to each jurisdiction.

The comparison between Indonesia and Malaysia holds particular significance given their relatively similar historical trajectories, legal cultures rooted in both civil and common law traditions, and parallel development orientations. Analyzing how each country regulates and implements the principle of fair play can illuminate more effective governance models while simultaneously identifying structural weaknesses requiring remediation. This study contributes conceptually by positioning fair play as an integral component in strengthening the legitimacy of modern government, transcending its conventional characterization as a general ethical principle.

The urgency of this research is further underscored by heightened public expectations for transparent and ethical bureaucracy amid the growing complexity of administrative services in the digital era. As interactions between citizens and government intensify through digital platforms and expanded service delivery channels, the imperative for consistent application of fair play principles becomes more pronounced. Consequently, this comparative study of Indonesia and Malaysia provides a more comprehensive understanding of how fairness principles can be implemented more consistently through regulatory reform, the strengthening of administrative ethics frameworks, and the professionalization of civil service institutions.

## **RESEARCH METHODOLOGY**

This study adopts a normative legal approach with primary focus on analyzing legal norms, doctrines, principles, and administrative policies governing the principle of fair play within the context of good governance in Indonesia and Malaysia.<sup>11</sup> This methodological choice enables systematic examination of the relationship between normative constructs and governance practices, as well as evaluation of the extent to which these principles align with their implementation across both jurisdictions. To enrich the analytical framework, this study integrates a comparative approach designed to identify similarities, differences, and distinctive characteristics in the regulation and implementation of fair play principles in Indonesia and Malaysia. The comparison is conducted at two levels: first, at the normative framework level, encompassing laws, administrative guidelines, and ethical standards; and second, at the implementation level, examining public service policies, public complaint mechanisms, and instruments of bureaucratic accountability.

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<sup>11</sup> Dr. Suyanto Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Gresik: Unigress Press, 2022).

The research utilizes a stratified approach to legal materials. Primary legal materials include laws, government regulations, administrative guidelines, court decisions, public sector integrity standards, and official policy documents applicable in both countries. Secondary legal materials comprise scholarly books, empirical research findings, and recent scientific articles relevant to fair play principles, AUPB (General Principles of Good Governance), and governance theory. Tertiary legal materials, such as legal dictionaries and encyclopedias, serve as supplementary sources to clarify key concepts and terminology employed throughout the analysis. Data collection was conducted through systematic library research, encompassing searches across reputable academic journal databases, national legal repositories, and official publications from government agencies in both Indonesia and Malaysia. The collected materials were selected based on their relevance to the research questions, publication recency, and methodological rigor.

Data analysis employs prescriptive qualitative analysis, involving several stages: describing the normative content of fair play principles in both jurisdictions, comparing regulatory frameworks and implementation mechanisms, assessing the effectiveness of existing norms in promoting good governance, and formulating evidence-based recommendations to strengthen implementation in both countries. This analytical process enables identification of best practices, regulatory gaps, and areas requiring institutional reform. This methodological framework is designed to provide a comprehensive understanding of the principle of fair play as both an ethical and legal foundation in governance systems, while offering conceptual and practical contributions to the advancement of good governance in Indonesia and Malaysia.

## **RESULT AND DISCUSSION**

### **Legal and Ethical Foundations of the Principle of Fair Play in Indonesian Government Administration**

The principle of fair play in Indonesian government administration is rooted in the proposition that every administrative action must be executed through processes that are honest, transparent, and free from discriminatory treatment.<sup>12</sup> This conceptual foundation developed alongside the transformation of administrative law from a paradigm centered on state power to one oriented toward public service delivery.<sup>13</sup> This evolution requires state officials to perform their governmental functions through mechanisms that respect citizens' rights and maintain the integrity of decision-making processes. The principle of fair play

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<sup>12</sup> Jejen Hendar et al., "The Urgency of State Administration Attitude for Good Governance," *MIMBAR: Jurnal Sosial dan Pembangunan* 39, no. 2 (December 27, 2023): 239–249, <https://journals.unisba.ac.id/index.php/mimbar/article/view/2963>.

<sup>13</sup> Philipus M Hadjon et al., *Hukum Administrasi Dan Tindak Pidana Korupsi* (Yogyakarta: Gajah Mada University Press, 2012).

consequently occupies a critical position as both an ethical and legal foundation regulating how officials exercise their authority to prevent abuse and violations of citizens' administrative rights.

The codification of this principle is formally established in Law No. 30 of 2014 on Government Administration, which institutes the General Principles of Good Governance (AUPB).<sup>14</sup> This legislation mandates that every official conduct administrative actions through objective, transparent, and accountable procedures, underpinning the obligation to hear affected parties, provide information access to citizens, and avoid arbitrary decisions.<sup>15</sup> Consequently, this principle functions not merely as an ethical guideline but as a legally enforceable obligation testable through administrative objection mechanisms and litigation in administrative courts.<sup>16</sup> The strengthening of the fair play principle has become increasingly evident in administrative court jurisprudence, where courts assess administrative actions not solely from the perspective of formal legality but also from the quality of the decision-making process itself.<sup>17</sup> When officials fail to provide opportunities for citizens to express their views before decisions are issued, courts frequently declare such decisions procedurally defective due to violations of procedural justice principles, demonstrating that the judiciary has played a significant role in expanding the understanding of fair play as a governance standard prioritizing the protection of citizens' rights.

A principal element of the fair play principle is the obligation of officials to provide citizens with opportunities to submit information or defenses before decisions are rendered, creating a more equitable process while enhancing the quality of administrative decisions.<sup>18</sup> Citizens can provide additional data or identify errors in verification processes, thereby preventing potential decision-making failures. However, in Indonesia, the duty to hear is frequently neglected, particularly in licensing and public service sectors operating under specific time constraints, demonstrating the necessity of strengthening regulations and oversight mechanisms to ensure consistent implementation of the hearing obligation. This challenge is inextricably linked to public information disclosure requirements, as the Public Information Disclosure Law stipulates that citizens

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<sup>14</sup> Pemerintahan Republik Indonesia, *UU No. 30 Tahun 2014 Tentang Administrasi Pemerintah, Sekretariat Negara*, 2014.

<sup>15</sup> Muhammad Addi Fauzani, "The Shift in the Legal Politics of Regulating the General Principles of Good Governance in Indonesian Legislation," *As-Siyasi: Journal of Constitutional Law* 3, no. 1 (June 28, 2023): 1–24, <https://ejournal.radenintan.ac.id/index.php/assiyasi/article/view/28722>.

<sup>16</sup> Khaled Khalaf Abed Rabbo Aldrou, "The Principle of Transparency in Administrative Decisions in Light of Artificial Intelligence for Sustainable Development Goals: A Legal Study," *Journal of Lifestyle and SDGs Review* 5, no. 2 (January 7, 2025): e04416, <https://sdgsreview.org/LifestyleJournal/article/view/4416>.

<sup>17</sup> Enrico Parulian Simanjuntak, "THE RISE AND THE FALL OF THE JURISDICTION OF INDONESIA'S ADMINISTRATIVE COURTS: IMPEDIMENTS AND PROSPECTS," *Indonesia Law Review* 10, no. 2 (August 31, 2020), <https://scholarhub.ui.ac.id/ilrev/vol10/iss2/3>.

<sup>18</sup> Pemerintahan Republik Indonesia, *UU No. 30 Tahun 2014 Tentang Administrasi Pemerintah*.

possess the right to obtain information regarding the process and rationale underlying every administrative decision.<sup>19</sup> Information disclosure serves as a control mechanism to prevent officials from concealing the reasoning behind administrative actions, and in numerous cases, governmental failure to provide information access leads to repeated disputes because the public lacks understanding of decision-making foundations.<sup>20</sup> Therefore, information disclosure constitutes a strategic element ensuring that the fair play principle does not remain confined to normative rhetoric but becomes realized practice in public services.

Beyond its normative foundation, the principle of fair play carries significant ethical implications for the integrity of state administration, requiring officials to treat citizens as rights-bearing subjects deserving respect rather than merely as policy objects. Fair play ethics demand that officials avoid conflicts of interest, unequal treatment, and the exercise of authority benefiting only particular parties.<sup>21</sup> When this principle is implemented consistently, the administrative apparatus can build a trust relationship between government and society, which constitutes the fundamental capital for effective modern governance. Despite possessing a robust legal foundation, however, the application of fair play principles in Indonesian administration continues to encounter challenges. Fragmented bureaucracy and hierarchical organizational culture impede practices of openness and dialogue between officials and citizens, with officials often focusing on formal regulatory compliance without regard to the quality of decision-making processes. Additionally, weak internal oversight mechanisms mean that violations of fair play are not effectively addressed.<sup>22</sup> These challenges indicate that strengthening the fair play principle requires institutional reform, improvement of official competence, and more structured evaluation mechanisms. To ensure that the fair play principle functions as a pillar of good governance, reform measures emphasizing the renewal of administrative procedures, strengthening of public complaint systems, and enhancement of official accountability are necessary, alongside technology-based monitoring and community participation to improve implementation quality. Without such strategic measures, the fair play principle risks remaining at the normative level without genuine transformation in bureaucratic behavior.

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<sup>19</sup> Elizabeth Lomas and Elizabeth Shepherd, "Governance and Freedom of Information," in *Encyclopedia of Libraries, Librarianship, and Information Science* (Elsevier, 2025), 241–247, <https://linkinghub.elsevier.com/retrieve/pii/B9780323956895000559>.

<sup>20</sup> Pemerintahan Republik Indonesia, *UU No. 14 Tahun 2008 Tentang Keterbukaan Informasi Publik, Sekretariat Negara*, 2008.

<sup>21</sup> Paulus Efendi Lotulung, *Himpunan Asas –Asas Umum Pemerintahan Yang Baik (AAUPB)* (Bandung: Citra Aditya Bakti, 1994).

<sup>22</sup> Rabin Ridho Dinata et al., "Evaluation Of Governance Of Local Government Information System In Ministry Of Home Affairs Of The Republic Of Indonesia," *Jurnal Syntax Transformation* 6, no. 6 (June 20, 2025): 110–127, <https://jurnal.syntaxtransformation.co.id/index.php/jst/article/view/1081>.

### **The Concept of Fair Play in Malaysian Administrative Law**

The concept of fair play in the Malaysian administrative system developed through the common law tradition, which positions the principle of procedural justice as a fundamental requirement in every administrative action.<sup>2324</sup> This principle emerged from the evolution of English jurisprudence, subsequently adopted into Malaysian governance practices during the colonial period, and is understood as the government's obligation to act according to standards of reasonableness, objective considerations, and non-discriminatory administrative treatment.<sup>25</sup> This principle is positioned not merely as an ethical value but as a legal guideline subject to examination through judicial review mechanisms in civil courts. The development of the fair play concept in Malaysia is closely associated with the principle of natural justice, encompassing the right to be heard (*audi alteram partem*) and the prohibition of bias in decision-making (*nemo iudex in causa sua*), with the Federal Court having expanded the scope of this principle through rulings affirming that any government action potentially impacting individuals must be executed through fair processes.<sup>26</sup> Thus, fair play serves as an instrument ensuring that administrative decisions are not made hastily or without adequate consideration of the interests of affected parties.

The normative framework in Malaysia reinforces the fair play concept through various administrative policies formulated by federal government agencies, particularly the Public Service Ethics Code, which emphasizes that every public servant bears a moral obligation to maintain integrity, exemplary conduct, and fair treatment in the performance of duties.<sup>2728</sup> This document underscores the importance of professional attitudes among state officials and commitment to behavioral standards protecting community interests, with fair play understood as an administrative posture prioritizing equal access, impartial service, and transparency in delivering relevant information to the public.<sup>29</sup> Furthermore, Malaysia has developed the fairness principle through the

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<sup>23</sup> Andrew Harding, *The Constitution of Malaysia, The Constitution of Malaysia* (Bloomsbury Publishing, 2022).

<sup>24</sup> Aziz et al., "Comparative Judiciaries: Unveiling Judicial Review Practices in Malaysia & Indonesia."

<sup>25</sup> Karlinawati Karlinawati, "Perkembangan Hukum Administrasi Di Malaysia Dan Singapura," *Jurnal Ilmu Hukum, Humaniora dan Politik* 5, no. 4 (April 7, 2025): 3512–3520, <https://dinastirev.org/JIHHP/article/view/4514>.

<sup>26</sup> H. P Lee, *Constitutional Conflicts in Contemporary Malaysia* (Oxford University Press, 2017).

<sup>27</sup> Noreha Hashim, "The Management of Administrative Ethics and Ethical Misconducts in Malaysia: Issues and Concerns," *Pertanika J. Soc. Sci. & Hum* 27, no. 4 (2019): 2883–2902.

<sup>28</sup> Muhammad Aiman Asyraf Hanafi, Norzarina Md Yatim, and Abdullah Sallehuddin Abdullah Salim, "Conceptual Framework on Antecedents of True and Fair View Reporting Surrounding Migration to Accrual-Based Accounting by Public Sector Entities: A Case of Federal Statutory Bodies (FSB) in Malaysia," *Information Management and Business Review* 15, no. 4(SI)I (November 10, 2023): 12–26, <https://ojs.amhinternational.com/index.php/imbr/article/view/3573>.

<sup>29</sup> Pandu Pamungkas and Irsad Munawir, "Strengthening Public Service Quality through Integrity, Accountability, and Transparency," *Priviet Social Sciences Journal* 5, no. 9 (September 4, 2025): 34–46, <https://journal.privietlab.org/index.php/PSSJ/article/view/705>.

Malaysian Integrity Plan and the National Anti-Corruption Plan, which expand the focus from individual ethics to institutional integrity, situating the fair play principle within a more structural framework where the government not only emphasizes employee ethics but also ensures that public organizations possess internal control mechanisms preventing abuse of authority.<sup>3031</sup> These policies direct all government agencies to implement clear, measurable, and accountable administrative processes, with the role of oversight institutions such as the Malaysian Anti-Corruption Commission (MACC) strengthening fair play application in administration through authority to investigate corruption and administrative integrity violations that can erode public justice principles.<sup>3233</sup> This oversight focus positions the fair play principle as an important component of efforts to maintain public trust in state institutions, providing assurance that public services are subject to behavioral standards that can be evaluated both legally and ethically.

Malaysian jurisprudence also demonstrates that the fair play concept has evolved into a more substantive principle, with courts not only assessing procedural aspects but also evaluating the quality of reasoning underlying administrative decisions.<sup>34</sup> This approach broadens the understanding of fair play from merely providing hearing opportunities to an obligation to render proportional and rational decisions, requiring government officials to ensure that every decision is grounded in logical considerations and does not cause injustice to citizens. In the public service context, fair play in Malaysia is reflected in efforts to improve service quality through principles of responsiveness and accessibility, with the government having developed various service guidelines ensuring that the public receives adequate services without unnecessary obstacles. Policy focus on procedural simplification, improved digital access, and transparency in public service costs demonstrates that the fair play principle is increasingly integrated into the state administration reform agenda, transforming fair play into a value upheld not only through legal oversight but also through policy innovations facilitating citizen-government interaction.

The implementation of fair play in Malaysia faces consistency challenges, as the hierarchical and bureaucratic administrative system often produces

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<sup>30</sup> R Ram, *Strengthening Integrity Pacts in Malaysia Through Independent Expert Monitors* (United Nations Office on Drugs and Crime, 2025).

<sup>31</sup> Malaysian Anti-Corruption Commission, “National Anti-Corruption Plan (NACP),” *Pejabat Perdana Menteri Malaysia*.

<sup>32</sup> *Malaysian Anti-Corruption Commission Act 694, The Commissioner of Law Revision Malaysia*, 2019.

<sup>33</sup> Asmidar Lokman et al., “A Review of the Role of Anti-Corruption Agencies in Implementing Sustainable Development Goals (SDG),” *Gading Journal for the Social Sciences (e-ISSN 2600-7568)* 27, no. 2 (October 31, 2024): 132–142, accessed January 7, 2026, <https://gadingssuitm.com/index.php/gadingss/article/view/477>.

<sup>34</sup> Wan Azlan Ahmad and Nik Ahmad Kamal Nik Mahmod, *Administrative Law in Malaysia* (Selangor: Sweet & Maxwell Asia, 2006).

standard variations between central and regional institutions, with another challenge emerging from public complaint mechanisms that remain ineffective, resulting in some administrative issues not being addressed promptly.<sup>35 36</sup> Nevertheless, Malaysia continues to strengthen public oversight instruments through e-complaint systems and information access mechanisms, demonstrating that the government is working to ensure that the fair play principle is not merely an ideal norm but is realized in practices tangible to citizens.<sup>37</sup> From a comparative perspective, the application of the fair play concept in Malaysia tends to be more structured because it is rooted in common law tradition and strong judicial influence in overseeing administrative actions, providing space for citizens to challenge government decisions directly through judicial review mechanisms. Jurisprudential influence has led to dynamic development of the fair play principle as new cases emerge in courts, demonstrating that fair play is not only an ethical norm but also a legal principle subject to objective evaluation. Thus, the concept of fair play in Malaysian administrative law exhibits strong characteristics in two aspects: first, fair play serves as a procedural foundation requiring the government to act fairly in every administrative action; and second, fair play functions as a substantive foundation directing the government to render rational decisions that do not harm citizens without clear justification, both demonstrating that fair play constitutes an important pillar maintaining the legitimacy and integrity of public administration in Malaysia.

### **Comparative Analysis of the Application of Fair Play Principles in Indonesian and Malaysian Administration**

A comparison of the fair play principle in Indonesia and Malaysia reveals two distinct approaches to developing responsive and ethical governance. Indonesia situates this principle within the framework of the General Principles of Good Governance (AUPB), which serve as normative guidelines for all state administrative actions, with the AUPB functioning as an instrument for assessing the appropriateness of public officials' conduct and the alignment between

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<sup>35</sup> David Seth Jones, "Challenges in Combating Corruption in Malaysia: Issues of Leadership, Culture and Money Politics," *Public Administration and Policy* 25, no. 2 (August 16, 2022): 136–149, <http://www.emerald.com/pap/article/25/2/136-149/317385>.

<sup>36</sup> Wan Mohd Rahim Bin Yusof, "COMPLAINT MANAGEMENT IN THE PUBLIC SECTOR ORGANISATION IN MALAYSIA," in *Proceeding of the 8th International Conference on Management and Muamalah*, 2021.

<sup>37</sup> Khairul Anuar Abdul Hadi, Rohana Abdul Rahman, and Zainal Amin Ayub, "FREEDOM OF INFORMATION IN MALAYSIA: INTERNATIONAL LEGAL INSTRUMENTS AND RESTRICTIONS UNDER NATIONAL LAW," *UUM Journal of Legal Studies* 15, no. 1 (January 31, 2024): 221–247, <https://e-journal.uum.edu.my/index.php/uumjls/article/view/19347>.

authority exercise and governance objectives.<sup>3839</sup> This normative foundation shapes an oversight pattern emphasizing legality and accountability, particularly through administrative court mechanisms possessing authority to assess administrative actions based on procedural justice principles. In contrast, Malaysia has developed a contrasting model by integrating the fairness principle into civil service integrity standards and public sector ethics guidelines, with ethical frameworks such as Public Service Ethics and the Malaysian Integrity Plan focusing on the moral responsibilities of public officials, service-oriented behavior, and prevention-based oversight systems.<sup>40</sup> This approach strengthens the relationship between civil service and community by promoting transparency in administrative processes and providing complaint channels accessible to the public, and unlike Indonesia's model, which relies more heavily on legal instruments, Malaysia advances an ethical development model focusing on transforming organizational behavior and bureaucratic professionalism values.

Both countries encounter distinct challenges in implementing these principles. Indonesia confronts issues of consistency in AUPB implementation across various government levels, including variations in officials' capacity to understand and translate the fairness principle into administrative actions, with judicial oversight not always followed by changes in administrative behavior, resulting in fair play application often depending on case-by-case interpretation.<sup>41</sup> In contrast, Malaysia faces challenges related to the effectiveness of internal oversight mechanisms, particularly in ensuring that ethical guidelines are actually implemented in practice, with normatively designed prevention mechanisms not always sufficient to address noncompliance issues, especially when public oversight is not yet fully integrated into bureaucratic culture. Comparative analysis reveals that both countries share similar objectives in creating fair and ethical government, but differences in regulatory patterns result in divergent implementation approaches, with Indonesia having developed a model placing substantial emphasis on the relationship between law and administration, while Malaysia has constructed a system prioritizing character development and civil service integrity. Both countries demonstrate that fair play concerns not only procedural compliance but also building public trust through administrative

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<sup>38</sup> Fauzani, "The Shift in the Legal Politics of Regulating the General Principles of Good Governance in Indonesian Legislation."

<sup>39</sup> Pemerintahan Republik Indonesia, *UU No. 51 Tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 5 Tahun 1986 Tentang Peradilan Tata Usaha Negara*, Sekretariat Negara, 2009.

<sup>40</sup> Mohamad Hafiz Rosli et al., "Integrity Systems in Malaysian Public Sector: An Empirical Finding," *Procedia Economics and Finance* 28 (2015): 260–265, <https://linkinghub.elsevier.com/retrieve/pii/S2212567115011090>.

<sup>41</sup> Suparto et al., "Administrative Discretion in Indonesia & Netherland Administrative Court: Authorities and Regulations," *Journal of Human Rights, Culture and Legal System* 4, no. 1 (February 7, 2024): 75–100, accessed January 6, 2026, <https://www.jhcls.org/index.php/JHCLS/article/view/189>.

behavior consistent with service values, with synergy between legal and ethical frameworks being key to improving governance quality, and both countries possessing opportunities to strengthen implementation of this principle through value integration, institutional capacity building, and innovation in public oversight.

### **Challenges and Solutions for Strengthening the Principle of Fair Play in Indonesia–Malaysia Governance**

The application of fair play principles in public administration in Indonesia and Malaysia encounters numerous normative, institutional, and operational obstacles that relate not only to regulatory frameworks but also to bureaucratic quality and the effectiveness of public oversight mechanisms. In Indonesia, the principal obstacle resides in inconsistent application of general principles of good governance in public service processes, with administrative officials in certain cases failing to consider fairness aspects in decision-making, resulting in inadequate guarantees of equality and non-discrimination principles.<sup>42</sup> This uncertainty is reinforced by weak internalization of ethical principles in government institutions, particularly in units maintaining direct interaction with communities.<sup>43</sup> Malaysia faces different challenges rooted in bureaucratic structures still exhibiting hierarchical orientation, with implementation of guidelines such as the Public Service Ethics and Integrity Framework not yet fully guaranteeing information disclosure and public participation in administrative processes, and another challenge emerging from public complaint mechanisms that remain suboptimal.<sup>44,45</sup> Several findings indicate that complaint resolution in the public sector is frequently delayed and fails to provide adequate feedback to citizens, thereby undermining public trust in the fairness principle.

Beyond normative and structural issues, both countries face challenges regarding bureaucratic culture, with patrimonial relationship patterns and dependence on official discretion impeding implementation of objective procedures.<sup>46</sup> Work patterns that are inadequately documented and low administrative ethics literacy also increase the risk of deviations from the fair play principle, with these challenges particularly evident in service selection processes

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<sup>42</sup> Tungga, “Urgency of Strengthening The General Principles of Good Governance (AUPB) to Enforce Health Administrative Law in Indonesia.”

<sup>43</sup> Jussaq Noor Hamdhani, “REFORMULATING VILLAGE HEAD AUTHORITY IN ISSUING HEIR CERTIFICATES: SURABAYA CASE UNDER PUBLIC SERVICES LAW,” *Journal of Law Theory and Law Enforcement* 4, no. 4 (October 11, 2025): 15–37, <https://journal.jfpublisher.com/index.php/jlte/article/view/837>.

<sup>44</sup> Jones, “Challenges in Combating Corruption in Malaysia: Issues of Leadership, Culture and Money Politics.”

<sup>45</sup> Yusof, “COMPLAINT MANAGEMENT IN THE PUBLIC SECTOR ORGANISATION IN MALAYSIA.”

<sup>46</sup> Utami et al., “Tantangan Dan Hambatan Penerapan Hierarki Peraturan Perundang Undangan Di Indonesia.”

requiring official assessment, such as licensing, social assistance distribution, or employee recruitment.<sup>47</sup> Pursuable solutions require comprehensive reforms, with strengthening the legal framework constituting a key step, particularly through harmonization of regulations explicitly guaranteeing fairness obligations at every stage of administrative processes. In Indonesia, the fairness principle can be reinforced through revision of AUPB-related regulations and affirmation of service standards at every government level, while Malaysia needs to expand application of the fairness principle in official policy documents so that it functions not merely as an ethical guideline but possesses binding force.

Beyond normative reform, enhancing civil service capacity represents a strategic instrument, with structured and continuous education on public service ethics facilitating internalization of the fairness principle in bureaucratic decision-making.[24] Performance evaluation mechanisms also require adjustment to incorporate fairness indicators, including information clarity, service equality, and procedural consistency. Finally, an important solution lies in optimizing public oversight mechanisms, with strengthening ombudsman functions, secure whistleblowing systems, and transparent complaint channels minimizing potential procedural irregularities. Application of digital-based administrative technology also assists in reducing arbitrariness and strengthening accountability, and through these measures, the fair play principle is expected to function more effectively as both an ethical and legal foundation in modern governance.

The findings of this study demonstrate substantial alignment with and extension of previous scholarship on fairness principles in Southeast Asian governance. The research confirms Dwiyanto's (2011) assertion that public trust in bureaucracy correlates significantly with perceived fairness of administrative procedures, with the current study extending this understanding by demonstrating that in both Indonesia and Malaysia, the legitimacy of governmental institutions depends not merely on formal compliance with procedural requirements but on the substantive quality of fair treatment experienced by citizens.<sup>48</sup> The persistent challenges identified in Indonesia regarding inconsistent AUPB application and in Malaysia concerning ineffective complaint mechanisms directly support Dwiyanto's argument that procedural justice constitutes a fundamental basis for governmental legitimacy, though this study reveals that legitimacy-building requires more than procedural adherence and necessitates transformation of bureaucratic culture and strengthening of enforcement mechanisms.

The implementation gaps documented in both countries resonate strongly with Sarker's (2009) findings regarding the persistent divide between policy

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<sup>47</sup> Fauhana Abdul Muhi, "Evaluating the Experience of Middle-Managers towards the Competency-Based Self-Assessment in the Malaysian Public Service" (Te Herenga Waka-Victoria University of Wellington, 2022).

<sup>48</sup> Dwiyanto, *Mengembalikan Kepercayaan Publik Melalui Reformasi Birokrasi*.

formulation and practical enforcement in ASEAN governance systems.<sup>49</sup> This study provides empirical substantiation of Sarker's theoretical framework by identifying specific manifestations of this implementation gap: weak internalization of ethical principles in Indonesian institutions and inadequate public participation mechanisms in Malaysian administration. The comparative analysis extends Sarker's work by demonstrating that implementation gaps persist across different governance models—Indonesia's legalistic approach and Malaysia's ethics-based framework—suggesting that the challenge transcends particular regulatory strategies and reflects deeper structural issues in transitioning governance systems, indicating that bridging the implementation gap requires not merely regulatory refinement but fundamental transformation of administrative culture and capacity.

Furthermore, the institutional analysis in this study both supports and nuances the observations of Abdul Aziz et al. (2025) regarding judicial review systems in Indonesia and Malaysia. The research confirms their characterization of Indonesia's Constitutional Court and administrative court mechanisms and Malaysia's Federal Court as the highest judicial authority.<sup>50</sup> However, this study reveals an important qualification: the existence of robust judicial mechanisms in Indonesia does not automatically translate into consistent fair play implementation, as judicial oversight frequently fails to catalyze sustained behavioral change in administrative practice. Conversely, Malaysia's ethics-based approach, while lacking the formal judicial enforcement mechanisms present in Indonesia, demonstrates potential for cultural transformation through integrity frameworks and professional development programs, suggesting that the effectiveness of fairness mechanisms depends less on their formal structure than on their integration into bureaucratic practice and organizational culture.

The tension identified in this study between traditional hierarchical administrative values and contemporary demands for transparency and accountability directly mirrors the dynamic documented by Alam et al. (2018) in their examination of Malaysian public sector integrity.<sup>51</sup> The current research extends this understanding to the Indonesian context, revealing that both countries experience this tension despite their different governance traditions and regulatory approaches, with the comparative analysis demonstrating that this tension manifests differently across the two jurisdictions: in Indonesia, it appears as inconsistency between normative commitments and practical implementation, while in Malaysia, it emerges as a gap between ethical guidelines and enforcement effectiveness. These findings suggest that the challenge of

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<sup>49</sup> Sarker, "The New Mode of Public Governance and Public Accountability in Developing Countries: An Analysis with Particular Reference to Bangladesh."

<sup>50</sup> Aziz et al., "Comparative Judiciaries: Unveiling Judicial Review Practices in Malaysia & Indonesia."

<sup>51</sup> Alam, Johari, and Said, "An Empirical Assessment of Employee Integrity in the Public Sector of Malaysia."

reconciling traditional administrative cultures with modern governance expectations represents a fundamental issue in Southeast Asian public administration that cannot be resolved through regulatory reform alone but requires sustained efforts in capacity building, cultural transformation, and institutional innovation.

## CONCLUSION

A comparative study of the fair play principle in public governance in Indonesia and Malaysia demonstrates that this principle occupies a strategic position in constructing honest and responsive administration. In Indonesia, fair play is embedded within the General Principles of Good Governance (AUPB) and has been reinforced through the development of modern administrative doctrine. However, consistent implementation continues to encounter obstacles, particularly concerning the effectiveness of oversight instruments and interpretative divergences among institutions. This situation indicates that the fair play principle has not consistently functioned as an evaluative standard in administrative actions.

Malaysia demonstrates more structured normative readiness through public service ethics guidelines, civil servant integrity standards, and complaint mechanisms supervised by specialized agencies. Nevertheless, challenges persist regarding procedural transparency, effectiveness of complaint follow-up processes, and the cultivation of a more participatory bureaucratic culture. Comparison between the two countries reveals that the robustness of the fair play principle is determined not solely by the existence of regulations but also by law enforcement capacity, political commitment, and sustained institutional support.

This study confirms that the fair play principle should be positioned as both an ethical and legal foundation in contemporary public governance. Strengthening its implementation requires regulatory harmonization, clear behavioral standards for civil servants, and measurable and independent evaluation mechanisms. Indonesia and Malaysia can mutually benefit through the exchange of best practices, particularly in developing transparent and accountable administrative systems. Thus, the fair play principle functions not merely as a moral guideline but as a fundamental pillar that strengthens governmental legitimacy, effectiveness, and public trust.

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