

State Administrative Court in Providing Legal Protection Against Administrative Decisions That Are Harmful to Citizens

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Abstract. The State Administrative Court (PTUN) was established as a legal protection instrument in Indonesia's rule of law to correct administrative actions of officials that harm citizens. However, in practice, the PTUN has not been fully able to fulfill its ideal function as a bastion of justice. This study examines the gap between *das sollen* and *das sein* in the performance of the PTUN, particularly regarding the implementation of decisions that have become final. Legal uncertainty arises from the continued granting of judicial review (PK) authority to TUN officials who lose their cases, weak execution mechanisms, and the absence of a supervisory body for the implementation of decisions. Furthermore, the legal culture of officials that does not respect the finality of decisions also contributes to sociological obstacles. This study uses normative and sociological approaches to identify regulatory, institutional, and legal culture constraints, while also formulating necessary reform measures. Through empirical case analysis, such as the Jayapura Administrative Court decision No. 6/G/LH/2023/PTUN.JPR regarding the customary land dispute of the Awyu tribe, the study formulated several urgent reform measures. With these steps, the Administrative Court can function more effectively as a tangible form of administrative legal protection, while strengthening the legitimacy of the judiciary and public confidence in the rule of law in Indonesia.

Keywords: Administrative; Citizens; Legal Protection; Losses; PTUN

1. INTRODUCTION

As a rule of law, Indonesia, as confirmed in Article 1 paragraph (3) of the 1945 Constitution, is obliged to uphold the supremacy of law in order to guarantee truth and justice in every government activity. Basic principles such as equality before the law and respect for human rights must be implemented so that no individual has their rights eroded by government actions. This ideal principle is reflected in the concept of *das sollen* (what should be), which is the background for the formation of the State Administrative Judicial Institution. This institution exists to fight for rights that are violated due to decisions or actions of officials and government bodies. With its broad juridical authority, the State Administrative Court plays an important role in supervising state administrative actions, especially those that violate the general principles of good governance or contain elements of abuse of authority.

Historically, the State Administrative Court was formed with the spirit of creating balanced state governance between the positions of the community and government officials. As in the social theory contract according to Thomas Hobbes in Britannica (2025), society has naturally surrendered its right to freedom to the state through the government, so that the state is required to be able to form a way of life that guarantees the welfare, security and tranquility of society in a harmonious relationship with society. The state truly understands that there are differences in positions that can threaten violations of civil rights, so that in 1986, a judicial body was born which was assigned to

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resolve cases between State Administration officials and individuals and/or recht personnel (PTUN Bandar Lampung, 2025).

However, in the reality of the practice of administering administrative justice in Indonesia, the existence of the State Administrative Court has not been fully able to realize its legal ideals. The *das sein* dimension shows that even though the State Administrative Court has a strong constitutional basis and is supported by various statutory regulations, the implementation of State Administrative Court decisions is often hampered by non-compliance by government officials in implementing them voluntarily. The State Administrative Court decision execution system which relies on the moral awareness and legal compliance of administrative officials, without being supported by effective coercive mechanisms such as those available in civil and criminal justice, is a major inhibiting factor. Apart from that, the absence of a special institution that supervises the implementation of decisions, administrative policies that often conflict with the decisions, as well as the weak legal culture of state administration officials, also contribute to the State Administrative Court's ineffectiveness in providing comprehensive legal protection (Kartini & Kusyandi, 2021).

Regulatory developments in Indonesia have also expanded the space for strengthening legal protection for citizens. The reform of the State Administrative Court Law and the enactment of the Government Administration Law have brought in a number of important concepts, such as abuse of authority (*detournement de pouvoir*) and the obligation of officials to act in accordance with the general principles of good governance. Normatively, this series of regulations shows the state's commitment that the administrative actions of state administration officials must not be left without an effective judicial control mechanism. However, the discrepancy between legal norms and bureaucratic realities still often places the public in a weak position when dealing with government officials.

Regulatory developments also open up a large space for use to strengthen the legal protection function. The State Administrative Court Law which was later updated, up to the Government Administration Law, has introduced important concepts such as abuse of authority (*detournement de pouvoir*) and the obligation of officials to act according to the general principles of good governance. Thus, normatively, this series of regulations shows the state's recognition that administrative decisions of State Administration officials must not be allowed to proceed without an effective judicial control mechanism. However, the lack of synchronization between written norms and bureaucratic practices often leaves people in a weak and potentially disadvantageous position when faced with officials, who have special authority, at the judicial table.

This research is based on the real gap between the ideal concept of legal protection against administrative actions or decisions that harm citizens and the reality of its implementation in the field. This condition raises various important questions, such as: what is the position and role of the State Administrative Court in Indonesia's legal protection system as a rule of law state? What are the substantive obstacles faced by State Administrative Court in providing effective legal protection, both from regulatory, institutional and legal culture aspects? Thus, it is important to examine what reform actions need to be taken to increase the effectiveness of the State Administrative Court in carrying out its judicial function as an administrative justice institution that is able to guarantee legal certainty and justice for justice seekers.

2. METHOD

This research was prepared by referring to the normative juridical method, which examines law as a norm through statutory, conceptual and historical approaches, examining regulations such as Law no. 5/1986 concerning State Administrative Court and Law no. 30/2014 concerning Government Administration. The legal materials analyzed include statutory regulations, State Administrative Court decisions, and legal literature. The data used in this study includes secondary data taken from legal literature (Wiraguna, 2024) in the form of statutory regulations, doctrine, and the results of previous research.

3. RESULT AND DISCUSSION

As Indonesia's position as a country is based on legal positivism, there are three basic foundations for law enforcement, namely the supremacy of law, equality before the

law, and law enforcement through procedures that do not undermine human dignity or conflict with the law (Thamariska et al., 2023). In the constitution, one of the rules regarding guarantees is placed in Article 28D paragraph (1), where the state is obliged to protect the rights of its citizens through guarantees to obtain legal protection, legal certainty, and to be treated equally before the law.

At the legislative level, the principle of legal protection is implemented in Law Number 5 of 1986 concerning State Administrative Courts. This normative rule emphasizes that the State Administrative Courts is an administrative justice institution tasked with handling disputes related to the implementation of government affairs, both at the central and regional levels. In the consideration section for its formation, this law recognizes the potential for conflict between the community and state administrative bodies or officials which could harm citizens' rights and hinder national development. This is in line with the concept of the welfare state, which holds that the government has the main responsibility for ensuring the fulfillment of the basic needs of citizens. One of them is a guarantee of equal and fair legal protection for everyone (Rizkiyawan Hasan, 2024).

The government as an obligation holder has access to various areas of regulation that have direct contact with society, such as regulation of economic policy, public services, and welfare programs. Thus, the government's accessibility in dealing with society is also becoming closer. This is because officials have legitimate powers regulated in law, so that they are not equal to society in managing social life.

The more intense the government's activities are in matters of public life, the greater the potential for abuse of power. Because, as Lord Acton stated in his theory, power tends to corrupt and absolute power corrupts absolutely. The power possessed by powerful people, such as government officials, has a tendency to abuse (abuse of power), especially when that power or authority is not limited. Therefore, the State Administrative Court was formed as a corrective forum for people whose rights were violated as a result of decisions by State Administrative Officials.

Problems began to arise when decisions made by State Administrative Bodies or Officials were challenged at the State Administrative Court and the State Administrative Officials who were sued instead filed legal action for correction in the form of reconsideration. This is what happened in the case in decision Number 24/PUU-XXII/2024, where a citizen named Rahmawati Salam, who works as a housewife, suffered loss of her rights because the State Administrative Official who was the defendant did not implement the court decision which had obtained permanent legal force, but instead attempted to submit a Judicial Review. In this case, the Petitioner had won the case up to cassation, but the Minister of ATR/BPN as Respondent, actually refused to implement the decision on the grounds that he would file a Judicial Review.

This action results in a denial of justice, as per the principle of the adage "justice delayed justice denied", which means that if a State Administrative Officials is given the authority to carry out a judicial review, it will result in a delay for the community to obtain their rights. Guntur Hamzah, judge of the Constitutional Court, in the a quo decision also opined that "As a form of strengthening, respecting and encouraging compliance with PTUN decisions which have permanent legal force (*inkracht van gewijsde*) and at the same time as a form of legal protection for members of the public (*rechtsbescherming voor de samenleving*), the request for Judicial Review in the State Administrative Courts should be interpreted as being able to only be made to individuals or *rechtspersons* and cannot be granted/carried out by the State Administrative Officials whose decision and/or "His actions became the object of dispute in the State Administrative Courts and have been declared defeated".

Thus, it is appropriate that after the decision of the State Administrative Court has permanent legal force, in the case the principle of self respect is applied, namely the obligation for State Administrative Bodies or Officials to obey and implement the court's decision which is final and binding. With the Judicial Review's authority in the state administrative court environment, instead of providing legal protection to the community, its existence actually weakens the value of justice that is to be achieved as is the principle for the formation of the State Administrative Court. Also, the nature of the Judicial Review itself, which functions as an extraordinary remedy, should only be used in certain

corrective circumstances, not as a tool to protect the power of State Administrative officials.

Just as citizens' rights to obtain guarantees of legal certainty are in line with Article 28D of the 1945 Constitution of the Republic of Indonesia, this guarantee has actually been regulated through independent judicial power according to Article 24 paragraphs (1) and (2) of the 1945 Constitution. When a State Administration official uses the Judicial Review mechanism to delay the implementation of a decision, State Administration Officials not only violate the public's sense of justice, but also undermine the principle of independence of judicial power and finality of decisions as regulated in Law no. 48 of 2009 concerning Judicial Power.

Referring to the doctrine of legal protection (Bediona et al., 2023), according to Philipus M. Hadjon, the concept of protection is divided into preventive mechanisms and repressive mechanisms. Preventive mechanisms are used to prevent losses, while repressive mechanisms are procedures after rights have been violated. From this point of view, giving State Administration officials the authority to request a judicial review has actually obscured the orientation of repressive legal protection which was originally designed to side with the aggrieved party. Extraordinary legal measures should function as a means of correcting truly substantial judicial errors, not as additional instruments for parties who are structurally stronger to delay the restoration of citizens' rights. When State Administration officials who lose at all levels of the judiciary can still use the Judicial Power as an excuse not to implement the decision, then the repressive mechanism no longer works as a means of recovery, but turns into an arena for administrative resistance to the court decision itself.

From a sociological perspective, understanding the effectiveness of the Administrative Court requires us to look beyond positive legal norms and enter the realm of complex social reality. As an institution that guards administrative justice, State Administrative Court not only carries out technical judicial functions, but also acts as an institution that must be able to influence the social behavior of administrative officials and create public trust in the supremacy of the law.

In the context of Lawrence's legal system theory, State Administrative Court is part of a legal structure that must be supported by appropriate legal substance and a strong legal culture to function effectively. Statistical data shows that from 2020 to 2024, State Administrative Courts throughout Indonesia recorded a significant increase in case handling, especially in the factual action category which jumped from only 5 cases in 2020 to 687 cases in 2023 (Simon, n.d). Sociologically, this spike can be interpreted as an indicator of increasing public legal awareness to challenge the discretion of public officials, although this increase also reflects the high number of administrative violations committed by state officials.

The phenomenon of the gap between *das sollen* and *das sein* in the State Administrative Court can be understood as a result of the complexity of the social structure of the Indonesian bureaucracy, which is also related to Max Weber's theory of institutional legitimacy. According to Weber (1947), there are three main sources of institutional legitimacy: traditional legitimacy (based on established customs), charismatic legitimacy (based on trust in leaders), and legal-rational legitimacy (based on belief in the legality and rationality of legal rules).

When the State Administrative Court experiences a crisis of legitimacy because its decisions are not implemented by administrative officials, these three sources of legitimacy become shaken, and ultimately public trust in administrative justice institutions decreases drastically. Furthermore, Simon (2025) emphasized that the heaviest State Administrative Court caseload included land issues with a total of more than 4,300 cases during the 2020-2024 period, followed by personnel and village head disputes with 1,456 cases. The predominance of land cases reflects the structure of social conflict in Indonesian society, where property rights are a source of tension between citizens and administrative officials at the central and regional levels. This also shows that administrative decisions in issuing land certificates often conflict with the principle of legal certainty and the principle of accuracy in administration.

The Jayapura State Administrative Court Decision Number 6/G/LH/2023/PTUN.JPR dated 2 November 2023 is a clear example of the complexity of the challenges faced by the State Administrative Court in providing legal protection for

indigenous peoples regarding administrative decisions that are detrimental to them. The dispute began with the Decree of the Head of the Papua Province Investment and One-Stop Integrated Services Service Number 82 of 2021. The decree states the environmental suitability for the construction of an oil palm plantation and its processing factory with a capacity of 90 tons of FFB per hour on an area of 36,096.4 hectares by PT Indo Asiana Lestari, which is located in Mandobo District and Fofi District, Boven Digoel Regency, South Papua (Priyambudi et al., 2025).

This lawsuit was filed by Hendrikus Woro, a leader of the Awyu tribe from Kampung Bangun in Fofi District, supported by accompanying organizations such as the Pusaka Bentala Rakyat Foundation, WALHI, Greenpeace Indonesia, and the Advocacy Team to Save Papua's Forests. The plaintiff argued that the permit was issued without properly involving indigenous communities, violated the principles of local wisdom, environmental sustainability, and ignored Analysis of Environmental Impacts issuance procedures which were considered administratively and substantially flawed.

The dimensions of loss felt by the Awyu people from this administrative decision are very significant and multiplicative because they include environmental, social, economic and cultural aspects. The decision to grant permits for oil palm plantations covering an area of 36,096.4 hectares in the customary forests of the Awyu Tribe community threatens their survival because these lands and forests are areas of residence and traditional sources of livelihood that have been passed down by their ancestors for centuries. Reporting from Greenpeace (2023), ecologically, the development of oil palm plantations that replace 36,247 hectares of natural forest can produce carbon emissions (CO₂) of 25 million tons, which is contrary to Indonesia's commitment in the Nationally Determined Contribution (NDC) regarding reducing carbon emissions and Law Number 16 of 2016 concerning Ratification of the Paris Agreement. In addition, the Awyu tribe community also experienced intimidation and pressure to agree to the project, with government officials visiting the indigenous community to force them to sign a statement of investment support. The social and psychological losses experienced by indigenous peoples are also significant, including stress, anxiety and cultural trauma due to threats to their ancestral heritage and identity as a people living in harmony with nature.

However, after undergoing more than seven months of trial by listening to 102 pieces of documentary evidence, six fact witnesses, and three expert witnesses, the Jayapura State Administrative Court Panel of Judges led by Merna Cinthia, S.H., M.H., together with member judges Yusup Klemen, S.H., and Donny Poja, S.H., actually rejected the lawsuit of the Awyu Tribe indigenous community. This decision gave rise to a deep sociological contradiction because the Panel of Judges considered that the issuance of the Environmental Feasibility Decree by the Head of the Papua Province Investment and One-Stop Integrated Services Service was "appropriate" in terms of authority, procedure and substance.

The judge was of the opinion that the issuance of an environmental permit was in accordance with Article 31 of Law no. 32 of 2009 concerning Environmental Protection and Management, as well as the Papua Governor's Regulation concerning the delegation of permit authority to the Head of the Papua Province Investment and One-Stop Integrated Services Service. The plaintiff's argument regarding procedural flaws in the preparation of the Analysis of Environmental Impacts and the lack of meaningful participation of indigenous communities, the judge in this case stated that the examination of the Analysis of Environmental Impacts procedure was not the object in dispute, but rather the Environmental Feasibility Decree itself. The reason for the judge's rejection was based on the existence of an Investment Support Letter from the Indigenous Community Institution of Boven Digoel Regency Number 30/LMA-BVD/VIII2018 dated 29 August 2018, which the judge considered as proof that indigenous community participation had been fulfilled.

This decision de facto provides administrative legalization for PT Indo Asiana Lestari to carry out business plans to build plantations and palm oil processing factories in the customary forest areas of the Awyu Tribe community, even though this decision is seen by academics, environmental organizations and environmental law experts as contrary to applicable environmental protection principles. Hendrikus Woro and the Advocacy Team to Save Papua's Forests submitted an appeal to the Manado State Administrative High Court, which in 2024 annulled the Jayapura State Administrative

Court decision but still rejected the request for a postponement of the implementation of the decree, still maintaining a focus on formal rather than substantive aspects (Diskusi Pushaka Djojodigono, 2023).

The most astonishing ecological impact is that this decision opens the door for the expansion of the palm oil agro-industry in the Papua region, which is the lungs of the world and a bulwark against the global climate crisis, while ignoring the constitutional rights of indigenous peoples to their customary land which is guaranteed in Article 28i paragraph (3) of the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights.

Roscoe Pound's social theory regarding law as a means of social engineering (law as a tool of social engineering) emphasizes that law should function to create balance and harmony to meet society's needs. However, in practice within State Administrative Court, this idea has not been fully implemented. One of the causes is the absence of a special institution or unit tasked with supervising and ensuring the implementation of State Administrative Court decisions, so that the accountability of the decision execution process becomes weak.

4. CONCLUSION

As a rule of law, as confirmed in Article 1 paragraph (3) of the 1945 Constitution, Indonesia is obliged to uphold the supremacy of law in order to guarantee truth and justice in every government activity. This relates to basic principles such as equality before the law. This ideal principle is reflected in the concept of *das sollen*, which is the background for the formation of the State Administrative Judicial Institution. This institution exists to fight for rights that are violated due to decisions or actions of officials and government bodies.

However, in practice, State Administrative Court is considered unable to realize its effectiveness as it should be because it is faced with several fundamental obstacles originating from three main aspects. The first, seen from the ambiguous regulatory aspect regarding Judicial Review. Where State Administrative Officials who lose in State Administrative Court cases are still given the authority to submit legal action in the form of Judicial Review, which causes delays for citizens to obtain their rights in accordance with the principle of justice delayed justice denied. Then secondly, seen from the aspect of a weak execution mechanism, where the absence of a special institution or unit tasked with supervising and ensuring the implementation of State Administrative Court decisions causes accountability in the decision execution process to be very weak. Third, seen from the legal culture aspect of officials who do not respect the finality of decisions, where when a State Administrative official uses the Judicial Review mechanism to delay the implementation of an *inkracht* decision, this means that State Administrative Officials have weakened the principle of independence of judicial power as regulated in Law no. 48 of 2009 concerning Judicial Power. Thus, in reality the State Administrative Court is unable to provide real legal protection to citizens who have gone through a long court process.

Therefore, a number of reformative steps are urgent to be taken. Where normatively, the limitations of the Judicial Review's authority for State Administrative bodies or officials must be enforced so that extraordinary legal measures return to their original orientation as a means of correction for parties who are truly disadvantaged, not as a means of delaying justice. At the same time, it is necessary to design a stricter execution mechanism under the Supreme Court or the State Administrative judicial environment that actively monitors and oversees the implementation of decisions, accompanied by a real administrative and financial sanctions scheme for officials who ignore the verdict.

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