



The Effectiveness of Administrative Remedies as a Prerequisite for Filing a Lawsuit in the Administrative Court (PTUN)

Rafli Ramdani^{1*}, Rihan Rizky², Gia Anggiani³, Jasmine Az-zahra⁴, Zakiyah⁵, Taufiq Alamsyah⁶

¹⁻⁶ Universitas Islam Negeri Sunan Gunung Djati

email: raflibokir29@gmail.com¹

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Abstract

This study aims to analyze the effectiveness of administrative remedies as a prerequisite for filing lawsuits in the State Administrative Court (PTUN), as regulated under Law Number 30 of 2014 concerning Government Administration, Law Number 5 of 1986 concerning the State Administrative Court as amended by Law Number 9 of 2004 and Law Number 51 of 2009, as well as Supreme Court Regulation Number 6 of 2018. This research employs a normative juridical method using statutory and conceptual approaches, supported by primary and secondary legal materials. The findings indicate that normatively, administrative remedies aim to promote efficiency in dispute resolution, provide opportunities for internal correction, and reduce the caseload of the PTUN, while also functioning as a prerequisite (voorvraag) for litigation. However, in practice, their effectiveness remains limited as they are often treated as procedural formalities, influenced by limited independence, weak transparency and accountability, and low public legal awareness. Comparative analysis with civil law and common law systems shows the need to balance legal certainty and substantive justice. Strengthening regulations, institutions, and legal awareness is essential to enhance their effectiveness as legal protection.

Keyword : Administrative disputes, Administrative remedies, Effectiveness, State Administrative Court.



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INTRODUCTION

The expansion of administrative governance in contemporary states has fundamentally transformed the relationship between public authorities and citizens, making administrative law one of the central instruments for ensuring accountability, transparency, and legal protection. As governments increasingly exercise regulatory powers that directly affect individual rights and interests, legal systems have been compelled to develop mechanisms capable of controlling administrative discretion and preventing abuses of authority. The emergence of administrative justice institutions reflects the recognition that governmental power must remain subject to legal limitations and procedural safeguards (Dicey, 1885). Comparative legal scholarship demonstrates that both civil law and common law systems have progressively strengthened administrative review procedures to provide remedies against unlawful administrative action (David & Brierley, 1985). In many jurisdictions, internal administrative review has become an integral part of dispute resolution frameworks because it is expected to promote efficiency while maintaining institutional accountability (de Cruz, 1999). The development of such mechanisms illustrates the broader evolution of administrative law from a system focused primarily on governmental authority toward one that increasingly emphasizes the protection of citizens' rights (Merryman, 2007).

Within this global development, Indonesia has established a specialized administrative justice system through the State Administrative Court (PTUN), which serves as a forum for reviewing disputes arising from governmental decisions and actions. The existence of PTUN embodies the principle that administrative authority must be exercised in accordance with law and remain open to legal scrutiny. Administrative law doctrine in Indonesia recognizes that judicial protection constitutes an essential guarantee against arbitrary exercises of public power (Hadjon, 2011). At the same time, the legal framework governing administrative disputes does not always permit direct access to the courts because certain categories of disputes require the exhaustion of administrative remedies beforehand (Indroharto,

1993). This procedural requirement is rooted in the assumption that administrative institutions should first be given the opportunity to correct their own decisions before judicial intervention becomes necessary (Ridwan HR, 2016). Consequently, administrative remedies occupy a strategic position in determining both the accessibility and effectiveness of legal protection within the administrative justice system.

Previous studies generally portray administrative remedies as important instruments for promoting efficient dispute resolution and strengthening legal certainty. Several scholars argue that administrative objections and appeals can reduce litigation costs and accelerate the settlement of disputes by resolving problems at the administrative level before they reach the courts (Safitri & Saâ, 2021). Research has also shown that administrative remedies may improve institutional performance by encouraging administrative agencies to reconsider potentially unlawful decisions (Safiuddin et al., 2024). The obligation to exhaust administrative remedies has further been associated with greater procedural order and more effective case management within the administrative justice system (Iskandar & Reni, 2025). Other studies emphasize that the requirement serves to clarify the procedural pathway available to disputing parties, thereby enhancing legal certainty in administrative adjudication (Raya, 2024). From an institutional perspective, the mechanism is often viewed as a means of reducing the burden on PTUN while preserving the court's capacity to address disputes that genuinely require judicial intervention (Rayhan & Wijaya, 2023).

Despite these favorable assessments, significant questions remain regarding whether administrative remedies actually function as effective mechanisms of legal protection in practice. Much of the existing literature concentrates on explaining the legal basis and procedural importance of administrative remedies without critically evaluating their substantive outcomes. Some studies continue to assume that procedural compliance necessarily results in effective dispute resolution, even though such an assumption has not been sufficiently tested in relation to institutional performance and access to justice (Turam et al., 2024). Recent developments also indicate that legal certainty within administrative litigation remains affected by procedural complexities, particularly concerning filing deadlines and the procedural rights of affected parties (Linel et al., 2024). The increasing overlap between administrative decisions and factual governmental actions has generated additional challenges that complicate traditional approaches to administrative dispute resolution (Pasaribu et al., 2025). These circumstances reveal an important gap between the normative objectives of administrative remedies and their practical implementation within Indonesia's administrative justice framework.

Addressing this gap is important because the effectiveness of administrative remedies directly influences the quality of legal protection available to citizens. The concept of legal effectiveness requires more than the formal existence of legal rules; it also requires those rules to achieve their intended objectives within social and institutional practice (Rahardjo, 2006). Administrative law scholars similarly maintain that procedural mechanisms derive legitimacy from their capacity to provide meaningful remedies against unlawful governmental conduct (Ridwan HR, 2016). Recent studies examining the performance of PTUN suggest that the effectiveness of judicial protection cannot be separated from the effectiveness of procedural mechanisms operating before litigation begins (WN et al., 2025). Discussions concerning the institutional role of PTUN likewise indicate that administrative justice increasingly depends on the quality of pre-judicial review mechanisms available to disputing parties (Maulidyna, 2025). Constitutional developments affecting administrative adjudication have further highlighted the need to reassess existing procedural arrangements and their implications for access to justice (Tahir & Oktavianus, 2025). Broader discussions on legal protection also emphasize that procedural requirements should function as safeguards of rights rather than obstacles to their realization (Zainuddin & Koto, 2023). The effectiveness of legal institutions ultimately depends on the relationship between normative design and practical implementation, a proposition that has long been recognized within legal theory (Cross & Harris, 1991). Similar arguments appear in scholarship on legal development, which views institutional effectiveness as a critical determinant of whether legal objectives can be successfully achieved in practice (Zander, 2015).

Against this background, the present study seeks to examine the effectiveness of administrative remedies as a prerequisite for filing lawsuits before the State Administrative Court in Indonesia. The research is positioned within the broader debate concerning the relationship between procedural requirements, legal protection, and access to justice in administrative law. By analyzing both the normative foundations and practical implementation of administrative remedies, this study aims to

provide a more comprehensive understanding of their role within the administrative justice system. The findings are expected to contribute to the development of theoretical discussions on legal effectiveness while offering a methodological framework for evaluating pre-judicial dispute resolution mechanisms in administrative governance.

RESEARCH METHODS

This research employs a normative legal research design using a juridical-normative approach to examine the effectiveness of administrative remedies as a prerequisite for filing lawsuits before the State Administrative Court (PTUN). Normative legal research is particularly appropriate for analyzing legal norms, principles, and doctrines governing administrative dispute resolution and judicial review mechanisms within the framework of administrative law (Hadjon, 2011). The study focuses on evaluating the legal framework regulating administrative remedies and assessing their effectiveness in achieving legal certainty and legal protection for citizens. To achieve this objective, the research applies both a statutory approach and a conceptual approach. The statutory approach is conducted through an examination of relevant legal instruments, including Law Number 30 of 2014 concerning Government Administration, Law Number 5 of 1986 concerning the State Administrative Court and its subsequent amendments, and Supreme Court Regulation Number 6 of 2018 concerning Guidelines for the Resolution of Government Administrative Disputes After Exhausting Administrative Remedies. The use of a statutory approach enables a systematic analysis of the normative structure governing administrative remedies within Indonesia's administrative justice system (Indroharto, 1993).

The conceptual approach is employed to examine the theoretical foundations of administrative remedies, legal effectiveness, and the fundamental principles of administrative law that underlie administrative dispute resolution (Ridwan HR, 2016). The legal materials utilized in this study consist of primary and secondary legal sources. Primary legal materials include legislation and judicial decisions, while secondary legal materials comprise scholarly books, scientific journal articles, and other relevant legal literature discussing administrative justice and legal protection (Rahardjo, 2006). Legal materials are collected through library research, which allows for a comprehensive review of legal norms, doctrines, and scholarly perspectives relevant to the research problem. Subsequently, the collected materials are analyzed qualitatively using a descriptive-analytical method to provide a systematic evaluation of the effectiveness of administrative remedies and to identify legal and institutional challenges arising from their implementation in practice (Cross & Harris, 1991).

RESULTS AND DISCUSSION

Legal Regulation of Administrative Remedies in Indonesia

Administrative remedies are an important mechanism within the framework of state administrative law that provides an opportunity for citizens to resolve disputes with the government before proceeding to the judicial level. Conceptually, administrative remedies are understood as procedures that must or may be taken by a person or private legal entity who feels aggrieved by the issuance of a decision and/or action of government officials, by submitting an objection or administrative appeal to the competent governmental body.

In the context of a rule-of-law state (*rechtsstaat*), the regulation of administrative remedies becomes increasingly relevant considering the fundamental principle of the rule of law, which requires a mechanism of control over governmental actions to prevent arbitrariness. The existence of administrative remedies is not merely a procedural formality, but rather a reflection of the principles of proportionality and efficiency in government administration, as it enables dispute resolution in a faster, cheaper, and more effective manner compared to litigation.

In Indonesia, the legal regulation of administrative remedies is spread across several interrelated legal instruments, namely Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Law No. 30 of 2014 concerning Government Administration), Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara (Law No. 5 of 1986 concerning Administrative Court) as amended, and Peraturan Mahkamah Agung Nomor 6 Tahun 2018 tentang Pedoman Penyelesaian Sengketa Administrasi Pemerintahan Setelah Menempuh Upaya Administratif (Supreme Court Regulation No. 6 of 2018 concerning Guidelines for Settlement of Government Administration Disputes After Exhausting Administrative Remedies). These three legal instruments together form a comprehensive system for regulating administrative remedies in Indonesia.

Provisions in Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Law No. 30 of 2014 concerning Government Administration)

Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (hereinafter referred to as UUAP) is an important milestone in the reform of Indonesian administrative law. Prior to its enactment, provisions concerning government administration were scattered across various sectoral regulations, creating inconsistency and legal uncertainty. With the enactment of UUAP, Indonesia for the first time has a codified general administrative law (*lex generalis*) applicable to all government administration activities.

A decision and/or action may be challenged through administrative remedies submitted to the government official or the superior of the official who issued or carried out the decision and/or action. The definition of administrative remedies under Article 1 point 16 UUAP is formulated as a dispute resolution process conducted within the governmental administrative environment as a result of the issuance of a decision and/or the execution of an action that causes harm.

Provisions in Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara (Law No. 5 of 1986 concerning Administrative Court) as amended by Undang-Undang Nomor 9 Tahun 2004 and Undang-Undang Nomor 51 Tahun 2009

Long before the enactment of UUAP, the provisions regarding administrative remedies in Indonesian positive law had already been regulated in Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara (Law No. 5 of 1986 concerning Administrative Court), as amended by Undang-Undang Nomor 9 Tahun 2004 and Undang-Undang Nomor 51 Tahun 2009. This law not only regulates procedural law for administrative courts but also establishes the basis for administrative remedies as a mandatory pre-litigation mechanism in certain state administrative disputes.

Administrative Remedies under Article 48 of Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara

The regulation of administrative remedies in Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara is explicitly stated in Article 48. Article 48 paragraph (1) stipulates that if a State Administrative Agency or Official is granted authority by or based on legislation to resolve certain state administrative disputes administratively, then such disputes must first be resolved through available administrative remedies. Furthermore, paragraph (2) emphasizes that the court is only authorized to examine, decide, and settle the dispute if all available administrative remedies have been exhausted. This provision contains an important principle that administrative remedies function as a *voorzwaag* (preliminary question) or prerequisite before a lawsuit may be filed before the Administrative Court. Failure to fulfill this requirement will result in the lawsuit being declared inadmissible.

Expansion of Competence through Undang-Undang Nomor 9 Tahun 2004 (Law No. 9 of 2004)

The first amendment through Undang-Undang Nomor 9 Tahun 2004 (Law No. 9 of 2004) brought significant changes to Indonesian administrative judicial law. The most crucial change was the transfer of authority in resolving civil service disputes from the Civil Service Advisory Board (BAPEK) to the Administrative Court. Previously, civil service disputes were exclusively under BAPEK as a form of sectoral administrative remedy. With this amendment, civil service disputes that had gone through administrative remedies could be directly submitted to PTUN without first going through BAPEK. Undang-Undang Nomor 9 Tahun 2004 also clarified the legal construction regarding the relationship between administrative remedies and the absolute competence of PTUN. The Supreme Court in several rulings interpreted that after administrative remedies are exhausted, if the party is still dissatisfied, they may directly file an appeal to the Administrative High Court (PT TUN), rather than to the first-instance Administrative Court.

Strengthening the Judicial System through Undang-Undang Nomor 51 Tahun 2009 (Law No. 51 of 2009)

The second amendment through Undang-Undang Nomor 51 Tahun 2009 (Law No. 51 of 2009) further strengthened the institutional and procedural foundations of administrative justice. The

amendments included strengthening judicial independence, improving judicial supervision mechanisms, and affirming the competence of the Administrative High Court as the appellate court in cases that have gone through administrative remedies. In addition, Undang-Undang Nomor 51 Tahun 2009 also clarified the formal requirements for filing a lawsuit, including time limits and procedural requirements. In relation to administrative remedies, it also reaffirmed Article 53 of Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara concerning the grounds for filing a lawsuit, namely: The disputed administrative decision contradicts applicable laws and regulations and the disputed administrative decision contradicts the General Principles of Good Governance (AUPB).

Supreme Court Regulation No. 6 of 2018 concerning Guidelines for Settlement of Government Administration Disputes After Exhausting Administrative Remedies

Supreme court Number 6 2018 serves as a normative instrument providing operational procedural guidelines for the Administrative Court, particularly after administrative remedies have been exhausted. It stipulates that the Administrative Court has the authority to receive, examine, adjudicate, and resolve government administration disputes only after all administrative remedy mechanisms have been completed. It also clarifies a crucial procedural aspect regarding the filing deadline, namely 90 (ninety) days calculated from the receipt of the decision on administrative remedies.

Thus, PERMA No. 6 Tahun 2018 functions as a technical complement that fills normative gaps in previous regulations, which often caused inconsistencies in procedural law implementation within the Administrative Court system. In judicial practice, its implementation has significant implications for procedural construction in PTUN, both for judges and litigants. It substantively changes the perspective on the calculation of time limits and procedural order in filing lawsuits. Empirical studies indicate that after the enactment of this PERMA, parties previously considered to have exceeded the filing deadline may still obtain legal standing, provided that they first exhaust administrative remedies in accordance with applicable regulations. However, inconsistencies in interpretation still occur, particularly in relation to its harmonization with Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan and various sectoral regulations, indicating that interpretative consistency remains a continuing challenge in practice.

Effectiveness of Administrative Remedies: Normative Objectives, Efficiency, Internal Correction, and Reduction of PTUN Caseload

Administrative remedies are an important instrument in the Indonesian administrative law system that functions as a dispute resolution mechanism outside the court before a lawsuit is filed to the State Administrative Court (PTUN). This mechanism is designed to balance legal protection for citizens and efficiency in government administration. Normatively, administrative remedies aim to provide an opportunity for state administrative bodies or officials to conduct a reconsideration (*heroverweging*) of decisions that have been issued. This mechanism reflects the principle that every governmental act must remain open to correction, whether due to factual errors, legal errors, or changes in relevant circumstances. As Indroharto states:

“Upaya administratif merupakan sarana bagi administrasi negara untuk menilai kembali keputusan yang telah diambilnya sendiri sebelum sengketa tersebut dibawa ke pengadilan.”
(Administrative remedies are a means for the state administration to re-evaluate decisions it has made before the dispute is brought to court.) (Indroharto, 1993)

This statement illustrates that administrative remedies function as a self-correction mechanism within the governmental system, aligned with the principles of a rule-of-law state (*rechtsstaat*) and the General Principles of Good Governance (AUPB). Through this mechanism, the government does not only act as a decision-maker but also as a responsible actor capable of correcting its own administrative errors.

In Indonesian positive law, administrative remedies are regulated under Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, particularly Articles 75–78, which regulate objections and administrative appeals.¹⁰ An objection is submitted to the official who issued the decision, while an administrative appeal is submitted to the superior of that official or another competent

authority. This system provides a two-layer protection mechanism before a dispute enters the judicial process.

From an efficiency perspective, administrative remedies offer several advantages compared to litigation in PTUN. The process is generally faster because it does not involve lengthy judicial stages such as evidentiary hearings and court deliberation. In addition, the cost is relatively low, and in many cases, no cost is required. This aligns with Ridwan HR's view that administrative dispute resolution is simpler, faster, and less costly compared to judicial settlement.¹¹ This efficiency is particularly important in ensuring access to justice (*access to justice*), especially for individuals with limited economic or legal capacity.

Administrative remedies serve as an internal corrective mechanism within government institutions. Through this process, administrative bodies or officials can evaluate and improve their decisions without waiting for judicial intervention. This contributes to improving the overall quality of administrative decision-making. In addition, administrative remedies also help reduce the caseload of PTUN. Without this mechanism, all administrative disputes would directly enter the court system, potentially causing case accumulation and reducing judicial efficiency. As Philipus M. Hadjon states, administrative remedies function as a filter so that not all administrative disputes must be resolved through the courts.

Field Practice: Substantive Resolution or Mere Formality

Although normatively administrative remedies are designed as an ideal mechanism, in practice their implementation often faces various challenges that affect their effectiveness. In some cases, administrative remedies are able to resolve disputes substantively, particularly when government officials act professionally, objectively, and openly toward criticism.

However, in many other cases, administrative remedies are merely treated as a procedural formality that must be completed before filing a lawsuit in PTUN. This indicates a gap between normative objectives and empirical reality. One of the main causes is the tendency of administrative bodies or officials to defend their original decisions. In bureaucratic practice, admitting mistakes is often perceived as a weakness, leading officials to maintain their decisions even when errors are evident. As Philipus M. Hadjon notes:

"Upaya administratif dimaksudkan sebagai filter agar tidak semua sengketa administrasi negara harus diselesaikan melalui peradilan." (Administrative remedies are intended as a filter so that not all state administrative disputes must be resolved through the courts.) (Hadjon, 2011)

Another significant issue is the lack of independence in the decision-making process. Since administrative remedies are conducted within the same institutional structure or hierarchical relationship, there is a potential conflict of interest that affects objectivity. Ridwan HR emphasizes that the main weakness of administrative remedies lies in the absence of a clear separation between the evaluator and the evaluated party. This condition often results in decisions that prioritize justification of previous decisions rather than substantive justice. Moreover, lack of transparency also becomes an obstacle. Applicants often do not receive adequate explanations regarding the rejection of their objections or appeals. As a result, administrative remedies fail to provide legal satisfaction for affected parties. Therefore, in practice, administrative remedies often function only as a procedural step before litigation rather than an effective dispute resolution mechanism.

Advantages and Disadvantages of Administrative Remedies

Administrative remedies have several advantages that make them an important mechanism in the settlement of state administrative disputes. First, they offer a relatively fast dispute resolution process compared to court proceedings, as they do not involve lengthy procedural stages such as evidentiary hearings and formal trial processes. Second, they are cost-efficient because, unlike litigation, administrative remedies generally do not require court fees or significant legal costs. Third, the procedure is simpler and less formal, allowing individuals to submit objections or appeals in a more accessible manner without being burdened by strict procedural requirements. Fourth, administrative remedies function as an internal correction mechanism for government institutions, enabling officials to review and correct their own decisions, thereby improving administrative accountability and

prudence. Fifth, this mechanism helps reduce the caseload of the Administrative Court (PTUN), as not all disputes proceed directly to litigation, thereby improving judicial efficiency. Sixth, administrative remedies also encourage greater efficiency in public administration by promoting careful decision-making and faster internal dispute resolution within government bodies.

However, despite these advantages, administrative remedies also have several weaknesses in practice. One of the main weaknesses is the lack of independence in the decision-making process, as the review is conducted within the same institutional structure, creating potential bias. In addition, there is a high risk of subjectivity and conflict of interest because the officials reviewing the objection or appeal often have hierarchical or institutional relationships with the original decision-maker. Another limitation is the lack of strong legal certainty, since the results of administrative remedies are not final and can still be challenged before the PTUN. In many cases, administrative remedies are also treated merely as a procedural formality before filing a lawsuit, rather than as a genuine dispute resolution mechanism. This situation contributes to low public trust in the system, as many individuals perceive that it does not provide substantive justice. Furthermore, limited transparency and accountability in the process often result in unclear reasoning behind decisions, reducing the perceived fairness and effectiveness of administrative remedies.

Factors Influencing the Effectiveness of Administrative Remedies

The effectiveness of administrative remedies in the State Administrative Court (PTUN) system is determined by legal, institutional, legal awareness, and legal culture factors. These elements are interrelated: legal norms provide the framework, institutions determine implementation, while legal awareness and legal culture ensure that the mechanism functions as a form of rights protection.

Legal Factors

The effectiveness of objections and administrative appeals largely depends on legal certainty in statutory regulations. Articles 75–77 of Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Law No. 30 of 2014 concerning Government Administration) stipulate that any person who feels aggrieved by a government decision or action is required to first exhaust administrative remedies. This provision is further reinforced by Peraturan Mahkamah Agung Nomor 6 Tahun 2018 (Supreme Court Regulation No. 6 of 2018), which positions administrative remedies as a formal prerequisite for filing a lawsuit in PTUN. Failure to comply with these provisions may result in the dismissal of the claim by the judge.

Institutional Factors

The effectiveness of administrative remedies is strongly influenced by institutional aspects, particularly the independence of decision-making officials. If the official deciding an objection or appeal remains within the same organizational structure as the issuer of the original decision, there is a potential conflict of interest that may reduce objectivity. This principle is also reflected in Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, which emphasizes the principle of freedom from intervention in administrative decision-making (Article 10 paragraph (1)). Another important institutional factor is transparency and accountability in administrative procedures. Transparent procedures are essential to ensure public trust that administrative remedies are not merely a formality. According to Peraturan Mahkamah Agung Nomor 6 Tahun 2018, officials are required to provide clear and accountable written responses to objections or appeals. This accountability ensures that administrative remedies function as a genuine legal protection mechanism before disputes are brought to PTUN.

Legal Awareness Factor

The effectiveness of administrative remedies does not only depend on legal norms and institutions but also on the legal awareness of society. Many citizens directly file lawsuits to PTUN without first submitting objections or administrative appeals because they consider administrative remedies ineffective. However, under Article 48 paragraph (2) of Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara (Law No. 5 of 1986 concerning Administrative Court), a lawsuit can only be accepted if all administrative remedies have been exhausted. Low legal awareness often leads to rejected claims and unprotected substantive rights.

Legal Culture and Compliance of Government Officials

In addition to public legal awareness, the legal culture of government officials also significantly affects effectiveness. Studies show that officials often fail to comply with PTUN decisions or do not respond to administrative objections within the prescribed time limits. Weak sanctions against non-compliant officials further reduce the effectiveness of administrative remedy mechanisms. This situation creates a tension between legal certainty and substantive justice in PTUN practice.

Comparative Effectiveness of Administrative Remedies in Indonesia and Other Countries

In legal studies, comparative law is essential to understand how different countries regulate similar legal issues and to identify best practices that may be adopted. Indonesia, as a mixed legal system with a strong tendency toward civil law tradition, can learn from other countries, both civil law and common law systems.

Practice in Civil Law Countries (France)

France, as a primary representative of the civil law system, places codification as the foundation of its legal system. Codification is not merely a collection of rules, but a structured and systematic legal framework embodied in instruments such as the Code Civil (Napoleonic Code). Through this codification, legal norms are designed comprehensively to ensure legal certainty and predictability while minimizing legal gaps in society.

In the French legal system, judges have a relatively limited role and are often described as “la bouche de la loi” (the mouth of the law), meaning they primarily apply statutory provisions rather than create new norms. In administrative law, France adopts a dualisme de juridictions system, separating administrative courts from general courts. The highest institution, the Conseil d'État, functions both as a judicial body and as a legal advisor to the government, ensuring that administrative actions comply with law and strengthening executive control within a *rechtstaat* framework.

Institutional Factors

England as the main representative of the common law system places judicial precedent as a dominant source of law. Law is developed not only through statutes but also through court decisions, where judges play an active role in shaping law through interpretation (judge-made law). This makes judicial decisions an important source of legal development in addition to legislation. This system operates through the doctrine of stare decisis, which requires courts to follow previous decisions in similar cases, ensuring consistency in judicial reasoning. However, judges may depart from precedent through distinguishing when factual differences exist, allowing flexibility and legal development. While this system is highly adaptive to social change, it may also create legal uncertainty due to differing judicial interpretations or shifts in higher court decisions.

Lessons for Indonesia

From the comparison of civil law in France and common law in England, Indonesia can develop a more adaptive legal system while maintaining its national legal character. As a civil law-oriented country, Indonesia relies primarily on statutory law. However, overlapping and inconsistent regulations remain a major issue. Therefore, the French system provides an important lesson on the need for a more systematic, integrated, and coherent codification system to strengthen legal certainty and improve implementation.

From the common law system, Indonesia can learn the importance of strengthening jurisprudence as a legal reference. Although jurisprudence is recognized, it is not yet consistently binding in practice. In situations of legal gaps or unclear norms, judicial decisions can serve as an important instrument for providing timely and contextual legal solutions. Strengthening jurisprudence would enhance the role of judges not only as law enforcers but also as legal discoverers (*rechtsvinding*) responsive to social development.

Furthermore, Indonesia needs to balance legal certainty, characteristic of civil law, with substantive justice, often emphasized in common law systems. Excessively rigid statutory application may neglect justice, while excessive judicial discretion may lead to uncertainty. Therefore, a balanced approach is required where statutes remain the primary foundation, but judges are given proportional

interpretative space to consider justice, fairness, and social context. This harmonization can strengthen Indonesia's legal system to ensure both certainty and substantive justice.

CONCLUSION

Administrative remedies are normatively designed as a key instrument in administrative law, serving not only as a means of efficient dispute resolution but also as a prerequisite (voorvraag) that determines citizens' access to the Administrative Court (PTUN). Given this role, administrative remedies should serve as an effective internal corrective mechanism and provide tangible legal protection before a dispute proceeds to litigation. However, in practice, this mechanism has not yet fully performed its function optimally. Administrative remedies are still frequently reduced to a mere procedural formality that must be fulfilled as a prerequisite for filing a lawsuit, without delivering substantive dispute resolution. The tendency of government officials to maintain their original decisions, weak independence in the review process, as well as limited transparency and accountability indicate that this mechanism has not been able to ensure objectivity and fairness for aggrieved parties.

This condition confirms the existence of a gap between normative objectives and empirical implementation, which in turn may hinder access to justice. Therefore, reforms are required that are not only normative in nature but also address institutional structures and legal culture. Strengthening the independence of the administrative review process, improving transparency, and fostering a more accountable bureaucratic culture are essential to ensure that administrative remedies do not merely function as a formal requirement, but truly serve as an effective legal protection instrument for citizens.

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