

Ensuring Administrative Legality and Justice Through Judicial Review In Indonesia

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Abstract

Within the context of the Indonesian legal system, this study investigates the crucial function that judicial review plays in ensuring that administrative procedures are lawful and that justice is served. This study sheds light on the techniques, processes, and issues that are involved with judicial review in relation to administrative acts. It does so by conducting a comprehensive analysis of judicial decisions, legal precedents, and legislative frameworks. The paper provides an in-depth analysis of the development of judicial review in Indonesia, following its historical progression and analysing the current state of affairs. Through an in-depth analysis of administrative decisions, it examines the role that the court plays in ensuring that administrative procedures are valid, preserving a system of checks and balances, and protecting fundamental rights. The impact of judicial review on administrative institutions and the legal landscape is also investigated in this study. Particular attention is paid to the role that judicial review plays in promoting openness, accountability, and adherence to the rule of law for administrations. The purpose of this research is to give useful insights into the efficient operation of Indonesia's administrative governance and the improvement of justice in administrative procedures. This is accomplished by casting light on the junction between judicial review and administrative law.

Abstrak

Dalam konteks sistem hukum Indonesia, studi ini menyelidiki fungsi penting yang dimainkan oleh Judicial Review dalam memastikan bahwa prosedur administratif sah dan bahwa keadilan dilakukan. Studi ini memberikan pemahaman tentang teknik, proses, dan isu yang terkait dengan peninjauan kembali dalam hubungannya dengan tindakan administratif. Hal ini dilakukan dengan melakukan analisis komprehensif terhadap keputusan yudisial, preseden hukum, dan kerangka legislatif. Makalah ini memberikan analisis mendalam tentang perkembangan tinjauan yudisial di Indonesia, mengikuti perkembangan historisnya dan menganalisis keadaan saat ini. Melalui analisis mendalam terhadap keputusan administratif, studi ini mengeksplorasi peran pengadilan dalam memastikan bahwa prosedur administratif sah, menjaga sistem pengawasan dan keseimbangan, serta melindungi hak-hak fundamental. Dampak tinjauan yudisial terhadap institusi administratif dan lanskap hukum juga diselidiki dalam studi ini. Perhatian khusus diberikan pada peran tinjauan yudisial dalam mempromosikan keterbukaan, akuntabilitas, dan kepatuhan terhadap aturan hukum bagi administrasi. Tujuan dari penelitian ini adalah memberikan wawasan yang berguna tentang operasi efisien tata kelola administrasi Indonesia dan peningkatan keadilan dalam prosedur administratif. Hal ini dicapai dengan memberikan pemahaman tentang hubungan antara tinjauan yudisial dan hukum administrasi.

Kata kunci: hukum administrasi, keputusan yudisial, kerangka hukum, peninjauan Kembali, hak uji materi

INTRODUCTION

Ensuring legality and administrative justice serves as a cornerstone in upholding the rule of law and encouraging fair treatment for all individuals in the legal system. In Indonesia, the commitment to justice is deeply embedded in the legal framework of the country, whose principles are based on Pancasila and the 1945 Constitution. These basic documents become the foundation for a legal system that seeks to provide justice to every citizen (Sulaksono, 2023). The concept of administrative legality emphasizes compliance with established legal norms and procedures, ensuring that government actions are implemented within the limits of the law. This not only promotes transparency and accountability but also protects the rights and interests of individuals from arbitrary use of power. In any well-structured legal system, the basic principle of legality, which guarantees due process of law, requires comprehensive application across its dimensions. This includes a requirement that all government actions must be based on valid laws and regulations and explicitly outlined (Iristian, 2022).

Central to the legal landscape in Indonesia is the State Administrative Court (PTUN), an institution aligned with the principle of rule of law as enshrined in the Constitution. Established to adjudicate disputes involving administrative matters, the State Administrative Court plays an important role in enforcing legal protection for the community (Hadi et al., 2020). The existence of this institution underscores the government's commitment to ensuring that administrative decisions are subject to judicial review, thus providing the public with a mechanism to oppose actions deemed unfair or unlawful. Through its judicial functions, the State Administrative Court serves as a bulwark against potential abuses of power, strengthening the principles of justice and accountability in the Indonesian legal system. In addition, the role of the State Administrative Court is not just to resolve disputes; It also serves as a guardian of the rule of law by interpreting and applying legal principles in administrative affairs. By doing this, it contributes to the development of jurisprudence that guides administrative practices and encourages consistency and predictability in government decision-making. Through its decisions and precedents, the State Administrative Court helps clarify legal standards and expectations, thus creating a more transparent and accountable administrative environment (Hadi et al., 2020).

Administrative law plays an important role in Indonesian governance, providing the necessary framework for the regulation of public administration and civil service operations. According to (Omar et al., 2021), the legal landscape in Indonesia stipulates that all administrative actions must adhere to the principle of legality. This principle underscores the importance of ensuring that administrative decisions are not only based on the law but are also aligned with established legal norms. By requiring compliance with legality, Indonesia's administrative system strives to uphold transparency, accountability, and the rule of law in its governance processes.

However, despite its emphasis on legality, the effective implementation of administrative policies and regulations in Indonesia faces challenges. As highlighted by (Wijaya & Ali, 2021), one of these challenges comes from the existence of incoherent regulations and policies. These inconsistencies can lead to ambiguity and confusion in the interpretation and application of administrative regulations, leading to inefficiencies and potential unfairness in administrative decision making. In addition, the lack of harmonization between various laws and regulations can result in conflicting directives, further complicating the government's ability to carry out its duties effectively.

To address these challenges, it is important for Indonesia to undertake comprehensive reforms aimed at improving the coherence and consistency of its administrative legal framework. This can involve initiatives such as legislative review and consolidation to simplify existing laws and

regulations. In addition, efforts to improve legal education and training for administrative personnel can help improve their understanding of legal principles and ensure consistent application of administrative law across different agencies and levels of government. By addressing these issues, Indonesia can strengthen its administrative system and better uphold the principles of legality, accountability, and rule of law in its governance processes.

Judicial Review exists to play an important role in upholding legality and administrative justice in the Indonesian legal system. The Indonesian Constitutional Court has become a beacon of this commitment, widely recognized for its dedication in safeguarding the constitution as a living law in the country (Nurhayati et al., 2022). Through a rigorous review process, the agency ensures that government actions are in line with constitutional principles, thereby protecting citizens' rights and fostering a culture of accountability. This mechanism has significance in the context of democracy in Indonesia, especially given the transition from authoritarian rule. As a post-authoritarian democracy, Indonesia relies heavily on institutions such as the Constitutional Court to uphold democratic norms and principles. By monitoring government actions through judicial review, Indonesia strengthens its commitment to the rule of law and strengthens its democratic foundation. Within this framework, the authority of procedural judicial review becomes very important. It serves as a bulwark against potential abuses of power, by providing a mechanism by which individuals can seek redress for their grievances and hold government agencies accountable for their actions (Shakti et al., 2023). By ensuring that administrative decisions comply with procedural fairness and legal standards, procedural Judicial Review not only upholds the constitution but also protects the rights and interests of all stakeholders in the Indonesian legal system. In summary, the role of the Constitutional Court of the Republic of Indonesia in judicial review plays a very important role in maintaining administrative legality, fostering justice, and strengthening democracy in Indonesia. Through its commitment to upholding the constitution and ensuring procedural fairness, the institution plays an important role in shaping the country's legal landscape and advancing its democratic aspirations. (Nurhayati et al., 2022; Shakti et al., 2023).

Cases of state administrative law cases, especially corruption according to (Wahyuni, 2022), show the importance of the role of state administrative law in limiting abuse of authority by officials. Corruption, among other violations, highlights the importance of strong legal mechanisms to uphold the integrity of governance. In the realm of State Administrative Law, various types of violations occur. "Onrechmatige Daad", for example, includes acts that violate applicable laws and regulations, deviate from customary practices, or disregard propriety. These violations reflect deviations from established norms, raising concerns regarding compliance with the legal framework. Similarly, "Daad Van Willekeur" describes instances where the actions of state officials do not have a solid legal basis, resulting in arbitrary decisions that harm individuals. Such arbitrary use of power not only erodes trust in government but also jeopardizes the rights and well-being of citizens, requiring accountability. In addition, the abuse of official power is a violation of the basic principles governing administrative conduct. These violations can range from nepotism to undue influence, thus undermining the fundamental principles of justice and impartiality underlying effective governance. Effective governance depends on the thoroughness and integrity of decision-making processes within administrative bodies. Officials should have access to comprehensive information to make informed decisions that are aligned with the legal framework and public interest objectives. This ensures transparency and accountability in governance practices.

In describing the constitutional legal framework, certain legal rules are detailed in order to give it equal status to other laws. The framework provides a structured approach to governance, strengthens the rule of law and ensures consistency in the interpretation and application of laws. Laws play an important role in promoting the principles of good governance. They serve as an

evaluative tool to decisions made by administrative officials, providing a benchmark for assessing compliance with legal standards and ethical norms. In addition, the law serves as a legal precedent, guiding future administrative actions and judicial interpretation. Addressing violations of the country's legal foundation requires a multifaceted approach, including constitutionalizing legal provisions on the General Principles of Good Governance (AUPB). However, this process requires thorough socialization and supervision by the judiciary to ensure alignment with constitutional principles and legal priorities (Wahyuni, 2022)

LITERATURE REVIEW

JUDICIAL REVIEW

In the realm of constitutional law, judicial review is an important mechanism that is closely related to the evolutionary history of the judiciary. Its roots date back to the birth of the modern legal system, in which the courts take responsibility for examining legislative and executive acts that contradict the framework of the Constitution. This historical journey reveals the dynamic interaction between the judiciary and the broader socio-political landscape, where important cases have shaped the contours of constitutional interpretation. At the core of the concept of Judicial Review is the role of the judiciary as the guardian of constitutional principles. Through a series of landmark decisions, the court has set a precedent that draws the limits of government authority and protects individual rights. This process involves a careful examination and analysis of legal norms, in order to ensure their compliance with the overarching principles laid out in the Constitution. Furthermore, the history of Judicial Review evolved with the evolution of constitutional doctrine and jurisprudence. Over time, courts have refined their methodology of assessing the constitutionality of laws and executive actions, drawing on a wide array of legal theories and precedents. This intellectual evolution reflects the judicial institution's ongoing commitment to upholding the rule of law and maintaining the integrity of the constitutional framework (Qamar, 2012)

Judicial Review strikes a balance between legal restraint and activism. Although the courts have great authority in interpreting and applying constitutional provisions, they must also respect the principles of separation of powers and respect legislative intent. These tensions underscore the disparate nature of the constitutional judiciary, where judges navigate complex areas of law while upholding democratic principles and constitutionalism. In essence, Judicial Review in constitutional law is not just a static legal concept, but a dynamic process shaped by historical contingencies, legal precedents, and societal values. It represents the cornerstone of democratic governance, ensuring that government actions remain accountable based on the principles enshrined in the Constitution and the individual rights it protects (Qamar, 2012)

According to experts, Judicial Review in Indonesia serves as the cornerstone of the country's legal system, which develops gradually to meet the changing demands of society. Over time, this has become an important process for reviewing the constitutionality of laws and regulations, ensuring compliance with the basic principles of rule of law, separation of powers, and protection of human rights (Abrori & Makki, 2021). This mechanism, which has its roots in the early days of Indonesian independence, is now increasingly important and an important means of upholding the constitution and ensuring legal integrity (Shakti et al., 2023) The Indonesian Constitutional Court has an important role in the realm of legal review, namely as an independent arbitrator tasked with maintaining the constitution and maintaining loyalty to the rule of law as stated in the 1945 Constitution (Samsudin, 2022). Through its rulings, the Constitutional Court provides clarity on legal issues, resolves disputes regarding the interpretation of the constitution, and upholds the principles of justice and fairness in the legal system. Furthermore, the evolution of judicial review in Indonesia reflects the country's commitment to democratic principles and the rule of law. As societal norms

evolve and legal challenges evolve, the justice system adapts to ensure that laws and regulations remain in line with constitutional principles and international human rights standards. This ongoing process of adaptation and refinement underscores Indonesia's dedication to developing a strong and just legal framework that serves the interests of its citizens while upholding the principles of justice and constitutional governance.

In Indonesia, the concept of Judicial Review is not only legality, but also covers a broader goal, namely maintaining democracy and preventing the concentration of power in one branch of government (Darmadi, 2020). This multifaceted approach underscores the important role of the judiciary in maintaining the balance of power and upholding the principles of democratic governance. Through judicial review, the court serves as a bulwark against potential abuse of authority by ensuring that government actions comply with the constitution and respect individual rights (Darmadi, 2020). This function is important to preserve the freedom of citizens and prevent the emergence of authoritarian tendencies in the political system.

The institutional framework of the Indonesian legal system assigns different roles to various judicial bodies, where the Constitutional Court and Supreme Court play an important function in the exercise of judicial power (Pakaya, 2020). Although the Constitutional Court focuses on constitutional issues and resolves disputes regarding the interpretation of the constitution, the Supreme Court has broader jurisdiction, namely overseeing civil, criminal, and administrative cases (Pakaya, 2020). This division of responsibilities ensures that various aspects of law and governance receive proper attention and oversight, thus contributing to the effectiveness and integrity of the justice system as a whole.

Although the judiciary has an important role, there are still challenges in ensuring its smooth functioning and effectiveness. One of these challenges arises from the disharmonization of regulations within the Supreme Court which can cause inconsistencies in the application of judicial rights (Hidayat et al., 2022). This underscores the importance of increasing coherence and consistency in legal interpretation and judgment. Achieving harmonization requires continuous efforts to simplify procedures, improve coordination among judicial bodies, and foster a common understanding of legal principles and precedents (Hidayat et al., 2022). By addressing these challenges, Indonesia can strengthen its justice system and strengthen public confidence in the rule of law, thereby advancing the country's democratic aspirations and ensuring fair access to justice for all citizens.

The intricacies of the Judicial Review process in Indonesia have prompted widespread discussion in legal circles. Experts have investigated the integration of the Judicial Review mechanism into the broader legal framework, with a view to improving the effectiveness and accessibility of the mechanism. In particular, (Harijanto et al., 2022) emphasized the importance of legal protection, especially for vulnerable community groups such as children who are victims of domestic violence. These discussions underscore the important role of the judiciary in safeguarding the rights and well-being of all citizens, especially those who are most vulnerable and marginalized.

At the same time, concerns have been raised about the existence of a network of judicial mafias in the Indonesian justice system. (Zoelva, 2021) highlights the potential threat posed by clandestine groups, which could jeopardize the fundamental principles of the rule of law and the impartiality of the judiciary. The infiltration of these networks raises serious questions about the integrity of due process and the fair application of justice. Furthermore, it underscores the need for comprehensive reforms to fortify the justice system against external influences and ensure the upholding of legal standards and principles. This dual challenge of strengthening the Judicial Review process and combating the influence of the judicial mafia underscores the complexities inherent in Indonesia's

legal landscape. As academics and policymakers address these issues, it becomes imperative to address systemic vulnerabilities and take steps that uphold the rule of law and protect the rights of all citizens, especially the most marginalized and vulnerable among them.

STATE ADMINISTRATIVE LAW

According to Prajudi Atmosudirdjo in (Fakhrudin, 2020), State Administration has three meanings:

1. It refers to the role of the state apparatus, government bodies, and political institutions responsible for governance and decision-making within a country. This includes government structures such as the executive branch, legislative bodies, and administrative bodies operating under the authority of the state.

2. State Administration includes the functions and practical activities carried out by such government bodies in order to fulfill their duties. It covers a broad spectrum of tasks aimed at serving the needs of the people and ensuring the effective running of government. These activities include policy formulation, implementation of laws and regulations, provision of public services, and management of government resources.

3. In addition, State Administration can be viewed as a technical process of implementing and enforcing laws and regulations within a legal framework. This involves implementing administrative procedures, protocols, and mechanisms to ensure compliance with legal requirements and to facilitate the smooth functioning of government operations. It includes processes such as decision-making, enforcement of regulations, dispute resolution, and implementation of government policies.

In short, the State Administration includes not only the structures and institutions of government but also the practical functions and technical processes involved in the governance of a country and the implementation of its laws.

In Indonesia, state administrative law is a comprehensive framework that governs the operations and decisions of various state administrative bodies. These bodies, ranging from ministries to local government agencies, play a fundamental role in the implementation of government functions and the delivery of public services. According to the State Administration Institute of the Republic of Indonesia, governance is defined as the process by which state power is used to provide important public goods and services (Solikhudin & Zainullah, 2022). This definition underscores the complexity of the mechanisms involved in ensuring effective governance, and highlights the importance of state administrative bodies in facilitating the delivery of government services to their citizens.

The essence of the functioning of state administrative law in Indonesia is the principle of legality. This basic principle states that all administrative actions must be based on legal provisions (Omar et al., 2021). Compliance with legal norms and regulations is the foundation for transparency and accountability in government. By requiring administrative actions to be in harmony with applicable laws, this principle promotes consistency and fairness in decision-making processes across various administrative bodies.

In addition, state administrative law in Indonesia has significant implications for the protection of individual rights and freedoms. What is contained in the Constitution of the Republic of Indonesia Year 1945 is the principle of equality before the law for all citizens (Marimin et al., 2022). This constitutional provision underscores the commitment of the Indonesian legal system to uphold and protect individual rights within an administrative framework. By ensuring equal treatment and due

process of law, the administrative law of the country plays an important role in creating a just and equitable society. In short, state administrative law in Indonesia includes a multifaceted regulatory framework governing the operations of state administrative bodies. Through principles such as legality and protection of individual rights, this legal framework serves as the foundation for transparent, accountable, and fair governance in Indonesia's administrative landscape.

In Logemann's view in (Sijabat & Putri, 2022) state administrative law is a comprehensive set of regulations designed to regulate the behavior of state officials over a certain period, with each regulation applied in a specific way. This perspective underscores the complex web of legal provisions that shape the actions and responsibilities of governmental authorities in a particular jurisdiction. Logemann's distinct understanding highlights the dynamic nature of administrative law, which must adapt to the evolving needs of society and the functioning of government. Furthermore, Logemann's interpretation is in line with the perspective articulated by J.H.P. Beltefroid in (Sijabat & Putri, 2022), which characterizes state administrative law as a sophisticated legal framework governing the fulfillment of the duties of government apparatuses and bodies at the time of its realization. This characterization emphasizes careful regulation of administrative processes and procedures to ensure the effective functioning of government bodies. By describing the regulatory mechanisms that guide government actions, Beltefroid underscores the importance of administrative law in maintaining order and accountability in the state apparatus.

In the midst of various interpretations of state administrative law, which is often abbreviated as HAN, a common thread emerges: HAN is a comprehensive collection of legal regulations and principles that have binding authority, regulate the implementation of the duties of government agencies, and facilitate their functions. This collective understanding underscores the fundamental role of administrative law in shaping the behavior and responsibilities of state actors, ensuring compliance with legal norms and standards of procedure. Through its multifaceted framework, HAN serves as the cornerstone of government, providing the structure and oversight necessary to uphold the rule of law and encourage effective public administration (Sijabat & Putri, 2022).

The conceptualization of State Administration according to Utrecht in (Remaja, 2017) explores the complicated dynamics of administrative governance within the framework of the state. It describes a system in which administrative positions are exercised under the central leadership of the government, with the president as leader, assisted by a group of ministers. Together, they form a core administrative apparatus tasked with carrying out various government functions. These functions encompass a wide range of responsibilities, from policy implementation to the management of public services and resources. Utrecht emphasized that the State Administration has its own role in government, in contrast to the judiciary and legislature. Although the judiciary interprets and implements laws, and the legislature establishes new laws, the State Administration primarily pays attention to the practical implementation and enforcement of government policies and directives. The agency acts as the operational arm of government, ensuring that laws and regulations are effectively implemented and adhered to in all sectors of society.

In addition, Utrecht underlined the hierarchical structure of the State Administration, highlighting its position within the broader framework of government. Although the federal government sets an overarching agenda and policies, the State Administration plays an important role in translating these directives into actionable strategies at the regional and local levels. This decentralized approach enables the creation of governance solutions tailored to the unique needs and challenges faced by different regions of the state. Furthermore, Utrecht's analysis goes beyond traditional administrative boundaries and covers a wider spectrum of legal jurisdictions. It recognizes that the State Administration is not just limited to the federal level but extends its reach to include laws and regulations at the sub-state level. This includes governance structures in

autonomous regions and special administrative zones, reflecting the diverse and diverse nature of contemporary governance frameworks. In essence, Utrecht's understanding of State Administration provides a comprehensive overview of the complex interrelationships between administrative, legislative, and judicial functions in the broader context of government. This underscores the important role that administrative bodies play in translating government policies into tangible results, while recognizing the complex web of relationships that support effective governance at all levels of the country (Remaja, 2017).

LEGAL BASIS OF JUDICIAL REVIEW

Indonesia is a country of law that has a comprehensive regulatory system that is carefully crafted to regulate various dimensions of human life. This framework serves as the backbone of the fabric of society, providing a structured environment in which individuals and institutions operate. From governance issues to individual rights and responsibilities, these laws are the cornerstone of building the country's legal landscape. In essence, the legal system in Indonesia has a fundamental goal: to protect the interests of its citizens (Putra, 2019). Through a complex web of laws, regulations, and judicial precedents, law enforcement seeks to ensure fairness, fairness, and protection for all members of society. Including this Judicial Review also has its legal basis

Regarding the legal basis used for Judicial Review in Indonesia, it is generally explained in Article 24C paragraph (1) of the Third Amendment to the Constitution of the Republic of Indonesia Year 1945 ("Amendment III of the 1945 Constitution") as follows:

"The Constitutional Court has the authority to adjudicate at the first and last instance whose decisions are final to test laws against the Basic Law, decide disputes over the authority of state institutions whose authority is granted by the Basic Law, decide on the dissolution of political parties, and decide disputes about the results of elections."

Then in Article 24A paragraph (1) of Amendment III of the 1945 Constitution, as follows:

"The Supreme Court has the authority to be at the level of cassation, testing the rule of law under the law against the law, and having other authority given by law."

Based on the explanation given, it appears that persons or entities who want to test laws in accordance with the 1945 Constitution of the Republic of Indonesia, which is often referred to as constitutional testing ("PUU"), have room to take such actions. through the honorable Constitutional Court ("MK"). This special court has the authority to consider matters relating to the constitutionality of laws in relation to the basic principles contained in the 1945 Constitution. Conversely, when it comes to the examination of legislation against existing laws, the process varies. Judicial Review of such rules is within the purview of the Honourable Supreme Court ("MA"). The highest judicial body in Indonesia is tasked with interpreting and implementing laws, ensuring alignment with the applicable legal framework. Therefore, this institution has the responsibility to assess the conformity of laws and regulations with applicable laws and regulations, so as to maintain the integrity and coherence of the legal system.

JUSTICE IN THE LEGAL CONTEXT IN INDONESIA

In the context of Indonesian law, the concept of justice encompasses a wide array of principles and ideologies that profoundly influence the legal landscape and its practical application. In the Indonesian criminal justice system, adherence to the principle of legality is very important, which requires public prosecutors to carefully prosecute individuals proven to have committed violations

of the law (Arif et al., 2023) This principle ensures that legal actions are based on established laws and regulations, thus encouraging transparency and accountability in the judicial process.

In addition, justice in Indonesia is more than just punitive measures, it is also related to the ethos of restorative justice. This approach prioritizes restoring harmony and reconciliation between victims and perpetrators, often taking inspiration from Pancasila, Indonesia's basic philosophy (Awaliah Nasution et al., 2022). By emphasizing dialogue and cooperation, restorative justice seeks to address the underlying causes of conflict and abuse, with the aim of holistic healing and reintegration of communities.

The integration of restorative justice principles into Indonesia's legal framework is an important step in realizing a more comprehensive and fair criminal justice system. This approach is seen as a means to reconstruct existing systems, bridging the gap between punitive measures and community restoration (Rochaeti et al., 2023). By encouraging dialogue and mutual understanding, restorative justice not only addresses individual wrongdoing but also fosters a sense of collective responsibility and solidarity within society, ultimately contributing to the formation of a more just and harmonious community.

In Indonesian society, justice is ingrained as a fundamental virtue, with an emphasis on justice and truth, a sentiment that is in line with Immanuel Kant's philosophical insights (Purbiyati & Riyanto, 2022). This perspective underscores society's commitment to upholding the principles of morality and equality in all aspects of life. Recent developments in the law enforcement landscape in Indonesia show an important shift towards applying the principle of restorative justice in solving criminal cases (Hamka et al., 2022) This evolving approach signals a shift away from traditional punitive measures towards more holistic and reconciliatory methodologies. By prioritizing restoration and rehabilitation over punishment, Indonesia's legal system aims to develop a more compassionate and inclusive justice system that meets the needs of both victims and offenders.

Furthermore, Indonesia's legal framework aims to ensure social justice for all its citizens, covering various dimensions of people's lives, including law, politics, society, economy, and culture (Putri et al., 2023) This comprehensive understanding of justice reflects the country's commitment to promoting equality and justice at various social strata. Within this framework, efforts are directed at addressing systemic disparities and promoting access to justice for marginalized communities. By creating an environment where every individual is given fair treatment and opportunities, Indonesia seeks to build a more just and inclusive society that upholds the dignity and rights of all its members.

Satjipto Rahardjo in (Ummah, 2019) to realize justice needs to emphasize the importance of legal protection, namely the provision of human rights protection (HAM) violated by others. These protective measures aim to ensure that individuals in society can exercise their rights as provided by law without hindrance. It includes a comprehensive framework designed to address cases where individual rights have been compromised, as well as offering assistance and support to those affected. By establishing mechanisms to uphold these rights, legal protection serves as a fundamental pillar in promoting justice, equality, and the rule of law in society.

In line with the basic principles of the Indonesian state, especially the fifth precept of Pancasila which advocates social justice for all Indonesians, this emphasizes the need for fair legal treatment across a spectrum of communities. This principle is the foundation for ensuring that every individual, regardless of background, receives fair and equitable treatment under the law. This confirms the commitment of the Indonesian nation to uphold the principles of equality and justice, as well as foster inclusivity and unity among its people. In a country as vast and diverse as Indonesia, which includes many ethnic groups, races, social classes, and religious affiliations, ensuring equal legal treatment is

a must. The richness of Indonesia's societal structure requires an impartial legal framework that is accessible to all citizens, regardless of their cultural or socio-economic background. By upholding the principle of equal legal treatment, Indonesia can strive to build a society where every individual feels valued and protected by law. In addition, by realizing the inherent diversity of its society, Indonesia must continue to strive to create an inclusive legal system that meets the needs and rights of each community (Iristian, 2024) Embracing diversity and promoting social justice not only strengthens the fabric of Indonesian society but also contributes to national cohesion and progress. Upholding the principles of Pancasila, especially realizing social justice, is not just a legal obligation but a moral imperative that shapes the collective identity and aspirations of the Indonesian nation.

METHODOLOGISTS

TYPES OF RESEARCH

In this study, researchers used qualitative methods. Qualitative research is an investigative approach centered on exploring natural phenomena or observation (Indriastuti et al., 2020) This method is characterized by its straightforward and naturalistic application, often referred to as Naturalistic Inquiry, Field Studies, or observational studies. In contrast to controlled laboratory environments, qualitative research takes place in real-world environments, offering a deeper understanding of the complexities inherent in human behavior and societal dynamics (Batubara, 2017)

The essence of qualitative research is to prioritize the process of understanding and interpretation, rather than simply measuring results. This emphasis aims to provide a rich and comprehensive description and analysis of the phenomenon under study. Known for its depth and richness, qualitative research delves into various aspects of human experience, uncovering intricate patterns, thought processes, and behavioral tendencies (Batubara, 2017)

Although qualitative research primarily focuses on qualitative data, such as narrative, observation, and subjective interpretation, it also realizes the potential value of quantitative information. This inclusive approach allows for a holistic examination of the subject matter, which includes qualitative insights and quantitative metrics where relevant. Each subject studied was carefully examined for patterns, irregularities, and behavioral integration, reminiscent of the careful examination seen in genetic case studies. Through this multifaceted lens, qualitative research offers valuable insights into the complexity of human behavior and societal phenomena, thus contributing to our understanding of the world around us (Batubara, 2017).

RESEARCH APPROACH

This research uses a normative juridical approach. The normative juridical approach is a methodological attitude that is deeply rooted in legal principles, by utilizing a legal framework to dissect and understand the complexity of legal problems (Bahri, 2019) In essence, this approach views law as a system of structured norms that are intricately interwoven and closely related to the application of legal principles in a particular case or research context. To achieve a comprehensive understanding, this investigative method relies on a spectrum of primary and secondary legal data sources, thus facilitating in-depth information collection (Iristian, 2024)

Through the lens of descriptive-analytical analysis, normative juridical research seeks to explain and elaborate the findings of previous research, especially those that discuss important issues in the field of law. By carefully examining and interpreting the intricacies of legal norms and principles, this approach aims to explain the fundamental mechanisms that govern the legal system.

Through this rigorous process, researchers seek not only to elaborate existing legal paradigms but also to contribute different insights that advance scientific discourse in their fields (Iristian, 2024)

DATA COLLECTION METHODS

In conducting this research, a careful data collection approach has been applied, centred on leading news sources renowned for their coverage of Judicial Review, ensuring the inclusion of current and relevant information. These sources provide a dynamic view of Judicial Review, capturing the evolving landscape and the diverse cases and issues under investigation. In addition, by exploring the legal foundations underlying judicial review, this study aims to gain a comprehensive understanding of the conceptual framework and its practical application. This involves a thorough examination of the legal statutes, precedents, and constitutional provisions that make up the landscape of Judicial Review.

In addition to news sources and legal documents, the study also draws on the insights and perspectives of legal experts. Their expertise adds depth and nuance to the analysis, offering valuable interpretations and critiques of the Judicial Review process and results. By combining the opinions of these experts, this study aims to enrich its findings and provide a holistic perspective on the complexities of Judicial Review.

Furthermore, the research situation itself is in a broader discourse on state administrative law and Judicial Review. The report builds on previous research and research efforts, leveraging their insights and findings for analysis. This iterative approach ensures that the research is not conducted in isolation, but rather as part of an ongoing discussion within the academic community. By drawing on existing literature, this research seeks to contribute new insights and advance our understanding of the role and importance of Judicial Review in contemporary legal systems.

RESULTS AND DISCUSSION

RESULT

Before beginning the formal process of Judicial Review, individuals usually run out of options to appeal. This procedural step ensures that the parties have the opportunity to challenge the legal decision before resorting to further damages. The essence of this process is a cassation judgment, that is, a judgment that has a fixed legal meaning. If dissatisfaction persists after this decision, the parties have the option of applying for Judicial Review, which includes filing a formal application with the Supreme Court through the clerk of the district court. The scope of this Judicial Review is not only limited to dissent against cassation rulings. Rather, it includes all court decisions that have obtained permanent status within the legal framework. This includes decisions from lower district courts that cannot be appealed, as well as decisions from higher courts that cannot be challenged. However, it is important to note that the opportunity to initiate legal action through Judicial Review is limited to a single occurrence, thus effectively closing another avenue in the legal system (Kemenkeu, 2011).

To proceed with a Judicial Review application, the applicant must provide compelling reasons. This usually requires the introduction of new evidence that has not been previously submitted in the early stages of legal proceedings. In addition, if such evidence has been previously available and presented, it must be shown that the inclusion of such evidence will significantly change the outcome of the previous decision. Alternatively, the petitioner could argue that the presiding judge committed a substantive error in the interpretation or application of the statute, thus necessitating a re-evaluation of the case. In short, the Judicial Review process is an important mechanism for individuals who wish to challenge legal decisions that are considered unfair or wrong. It provides a

structured avenue for reconsidering cases that have exhausted options for appeal, and offers a last chance at redress in the justice system. However, the strict criteria for initiating such reviews underscore the need for a solid basis and strong claims to warrant further legal oversight (Kemenkeu, 2011)

Various appeals have been filed, one of which is Lucas, a lawyer accused of obstructing the investigation of the Eddy Sindoro corruption case in April 2021. As reported in detiknews on 09 Apr 2021, legal proceedings against Lucas began when the Corruption Eradication Commission (KPK) arrested Edy Nasution, an employee. at the Central Jakarta District Court, in 2016. These initial arrests led the KPK to expand its investigation to the Supreme Court. Edy apparently received a bribe from Eddy Sindoro to handle the case. Eddy Sindoro managed to evade arrest allegedly assisted by Lucas, based on KPK investigations. Subsequently, Lucas was charged with obstructing the KPK investigation. On March 20, 2019, the Central Jakarta District Court sentenced Lucas to 7 years in prison. But after an appeal, the sentence was reduced to 5 years. Further appeals resulted in the reduction of his sentence to 3 years at the cassation level. Despite pleading not guilty, Lucas requested a Judicial Review, which was eventually granted by the Supreme Court due to insufficient evidence. This decision marks a significant development in Lucas' legal struggle, as it gives him the opportunity to challenge the verdict against him based on the evidence presented (Arunanta, 2021).

On the other hand, the Supreme Court rejected the testimony of the Corruption Eradication Commission (KPK), especially Novel Baswedan which was considered to have strong evidence. According to Supreme Court spokesman Andi Samsan Nganro, Novel Baswedan's testimony led the defendant to advise Eddy Sindoro not to return to Indonesia. Andi explained further, quoting Novel Baswedan's statement during the trial that in December 2016, Novel obtained a recording of Eddy Sindoro and Lucas' conversation. During the conversation, Eddy Sindoro expressed his reluctance to go home, allegedly influenced by Lucas' advice. But Novel Baswedan's testimony stands alone and contradicts other evidence, including that of the defendant and witness Eddy Sindoro, who both testified under oath that they had not communicated since April 2016. During the trial, Novel did not witness Lucas and Eddy Sindoro's conversation in person; Instead, they obtain information about the recording from third parties. Based on this, the Supreme Court rejected the information of Novel Baswedan (Saputra, 2021a).

Despite attempts to present convincing evidence, the Supreme Court rejected witness statements and recorded evidence. Moreover, Dhani Arifianto's expert testimony intended to prove Lucas' phone recording with Eddy Sindoro was also rejected by the Supreme Court. Interestingly, during the conference, four people were seen involved in the conversation recorded in the recording. The novel maintains its belief that the voice identified in the recording relates to Lucas' conversation with Eddy Sindoro. This belief underscores the complexity of the legal process and the importance of interpretation of evidence. Despite the setbacks in court, Novel's statement highlights the ongoing discourse surrounding the case and highlights the importance of looking closely at all aspects of the evidence presented (Saputra, 2021a)

In a separate legal case, former Democratic Party Chairman Anas Urbaningrum filed a request for judicial review with the Supreme Court regarding allegations of corruption. Anas is accused of taking bribes in connection with the Hamalang National Center for Training, Education and Sports (P3SON) project, as well as charges of money laundering and involvement in other projects. From the examination as reported by kompastv on September 30, 2020, Anas was sentenced to 8 years in prison and fined IDR 300 million with the threat of a subsidiary sentence of 3 months imprisonment. Previously, in the cassation process, the Supreme Court initially imposed a harsher sentence by sentencing Anas to 14 years in prison and a fine of IDR 5 billion with a subsidiary of 1 year and 4 months in prison. In addition, Anas was also ordered to compensate the state in the amount of

Rp57,592,330,580. Failure to meet this payment within 1 month will result in all of his assets being auctioned. Furthermore, Anas could potentially face an additional 4 years in prison (Mangihot, 2020).

Supreme Court Spokesperson Andi Samson Nganro responded to the latest developments surrounding Anas Urbaningrum's Judicial Review, asserting that the Judicial Review was granted because of the judge's perceived mistakes and was considered reasonable. This decision highlights the intricacies of due process, highlighting the importance of ensuring fairness and accuracy in judicial proceedings. The error in question relates to the specific article on which Anas Urbaningrum's indictment is based, thus paying attention to the importance of proper interpretation and application of the law. By acknowledging and correcting these wrongs, the judiciary demonstrates its commitment to upholding justice and protecting the rights of individuals involved in due process. Overall, the judicial review of Anas Urbaningrum underscores the rigor and integrity of the legal system, as the legal system strives to maintain transparency and accountability when adjudicating cases of national importance. This development is a reminder of ongoing efforts to uphold the rule of law and ensure fair treatment for all parties involved (Ramadhan & Kuwado, 2020)

The case under consideration is a Judicial Review application filed by former DKI Jakarta Governor Anies Baswedan related to the Ciganjur land dispute. Reporting from detiknews on July 13, 2022, the DKI Regional Government confirmed ownership of a certain piece of land located on Jalan Kemenyan I, RT 011 RW 005, Ciganjur Village, Jagakarsa District, South Jakarta Administration City, with official property rights established in 2016. Residents who disputed the claim took legal action to the South Jakarta District Court (PN Jaksel). The residents, including Hamdani, Nurmanih, and Nani Asmani, filed a lawsuit against the DKI Regional Government/DKI Governor, Ciganjur Village Head, and Head of the DKI Jakarta Highways Office. Their lawsuit asks for compensation of Rp12 billion to the DKI Jakarta Regional Government. Initially, the lawsuit filed by Hamdani et al. was dismissed by the South Jakarta District Court. But after rising the cassation level, their request was finally granted. Furthermore, the DKI Regional Government requested a Judicial Review and it was finally approved (Saputra, 2022).

A legal case of drug abuse (Narcotics, Psychotropics, and Addictive Substances) was revealed and involved Abdul Wahab and Kirmanul Hakim. Initially, the judge delivered a verdict that sentenced Abdul Wahab and Kirmanul Hakim to five years in prison each, along with a fine of Rp 800 million. In addition, a subsidiary sentence of four months in prison was also imposed. However, on the application for Judicial Review filed by the two convicts, the Supreme Court granted their application on April 7, 2022. Subsequently, a revision of the sentence was issued by the Supreme Court. In this new verdict, both convict I and convict II received reduced prison sentences of two years and six months each. They are also required to pay the same fine of Rp 800 million. Furthermore, the subsidiary is adjusted to two months in prison (Patun, 2023).

The next legal issue revolves around violations of the ITE Law attributed to Wisni Yetti. This incident was revealed in 2011 when Wisni communicated through a Facebook chat feature with Nugraha. Wisni's husband, Haska, who was aware of the interaction then surreptitiously accessed Wisni's Facebook account and obtained and duplicated the conversation. He then reported the matter to the authorities in 2014, accusing Wisni of violating the ITE Law. The legal process began with Wisni's trial at the Bandung District Court in 2015. The court ruling imposed a five-month prison sentence and a fine of 100 million. Although initially received a free verdict at the Bandung High Court, Wisni again received a cassation verdict at the Supreme Court. For the sake of justice, Wisni applied for a Judicial Review to the Supreme Court, but the request was eventually granted. The Supreme Court ruling issued on January 17, 2019 granted freedom to Wisni Yetti and marked the end of a protracted legal battle (ICJR, 2019; Safenet, 2019).

Based on the cases examined above, the researcher will explore the analysis of legality and administrative justice in the Judicial Review application process. The examination mainly focused on cases where the application was granted by the Supreme Court. Through a thorough review of these cases, researchers aim to shed light on the intricacies of the procedure and the potential implications of the Judicial Review process. By examining administrative aspects, including adherence to legal protocols and fairness principles, a comprehensive understanding of the effectiveness and integrity of the review process can be achieved. The Supreme Court's role in granting this Judicial Review is an important point in the investigation, as it underscores the importance of procedural integrity and the protection of legal rights. This analysis will provide valuable insights into the interrelationship between administrative procedures and the principles of justice within the framework of Judicial Review.

DISCUSSION

In the first case, Luke's lawyer filed a request for Judicial Review which was granted by the Supreme Court. As mentioned earlier, Novel Baswedan's witness testimony was rejected by the Supreme Court. This decision stems from Novel not listening directly to Lukas and Eddy Sindoro's conversation; Instead, he heard it from a third party. Supreme Court spokesman Andi Samsan Nganro stressed that witness testimony like this is inherently weak because there is no direct observation, so it has the potential to cause distortion and misinterpretation if conveyed to others. In practice, information such as *Testimonium De Auditu* cannot be accepted as evidence because it does not meet the criteria as stipulated in Article 1 number 26 of the Code of Criminal Procedure which mandates that witness statements must be heard, seen, and experienced by themselves. Andi said, based on Novel Baswedan's testimony at the trial, around December 2016, Novel allegedly obtained a recording of Eddy Sindoro's conversation with Lukas. This footage captures Eddy Sindoro expressing his reluctance to return home due to Luke's advice and guidance. Inconsistencies arose when Novel Baswedan admitted that he had only met with the accused after his arrest on October 1, 2018 (Saputra, 2021a). This raises the question of how Novel Baswedan could believe that the voices of the accused and Eddy Sindoro were from 2016, considering that Novel himself only met them in 2018.

In the testimony of expert witness Dhani Arifianto, who examined the authenticity of the recorded telephone conversation involving Lucas and Eddy Sindoro, admitted that he did not conduct a *hashing check* on the recording file obtained from investigators. This admission is different from the statement of expert Ruby Alamsyah who advocated the need for *hashing* in verifying all electronic evidence to maintain its credibility. This precaution is considered important in light of advances in science and technology, which allow the manipulation of electronic evidence, such as recorded conversations, for specific interests or agendas, thus potentially altering the original content. The Supreme Court stressed the importance of using appropriate methods to analyze sound recordings. It is said that Dhani Arifianto uses the *Itekure Saito* method. However, Ruby Alamsyah argues that this method is not suitable for audio forensics, but rather belongs to the domain of audio engineering. Furthermore, Ruby Alamsyah suggested that the forensic audio method to identify a person's voice in a recording involves pitch formant analysis, which compares at least 20 samples of identical words and sentences from the recording (Saputra, 2021a)). Notably, Dhani Arifianto did not include this method in his analysis. These different viewpoints highlight the importance of rigorous procedures in assessing electronic evidence, particularly in a legal context.

In the second case, Anas Urbaningrum, former Chairman of the Democratic Party, found another way through the legal system when the Supreme Court granted the request for judicial review. This landmark decision resulted in a significant reduction in his sentence, reducing his sentence from his initial 14 years to a revised 8 years. This turn of events stemmed from a mistake

identified by Supreme Court Spokesperson Andi Samsan Nganro, who deemed it reasonable and paved the way for Judicial Review. Further deliberations made by the Judicial Review panel explored the intricacies of the law, particularly focusing on determining the appropriate article to indict Anas. After carefully examining the evidence, the panel concluded that Anas should be tried under Article 11 of the Corruption Eradication Law (Ramadhan & Kuwado, 2020) This particular article describes penalties ranging from 1 to 5 years in prison and/or fines for individuals in public service who receive gifts or promises related to their position. This different interpretation is different from Article 12a of the Criminal Law which was originally discussed, which is regarding cases where civil servants receive inducements to affect their official duties, with much harsher penalties (Attorney, 2020).

Examination of evidence conducted by the panel uncovered a complex network of financial transactions involving Anas and entities such as PT Adhi Karya and Permai Group. Funds derived from procurement projects and fees from other companies were traced, some of which were allocated as marketing costs to secure government-funded projects. But crucially, there is no concrete evidence involving Anas in lobbying government agencies for such projects or exercising control over the expenditure of these funds. In addition, the discussion around financial support for Anas's candidacy as Chairman of the Democratic Party turned out to be technical and sourced from sympathizers of previous organizations who had access to company resources. The panel's decision to choose Article 11 over Article 12a was based on a careful analysis of the chronology of events, particularly highlighting that the provision of funds took place before Anas assumed the position of influence. Therefore, the panel considered Article 11 of the Criminal Law more appropriate for the indictment. In addition to the revision of Anas Urbaningrum's sentence, the panel of judges also sentenced him to political disenfranchisement with a period of 5 years. This decision is based on SEMA Number 3 of 2018 which provides a 5-year time limit for the deprivation of the right to hold public office after the completion of the principal sentence. The respect given by the Corruption Eradication Commission to the Supreme Court's decision confirms how heavy and important this legal process is (Ramadhan & Kuwado, 2020).

In the third case, the DKI Regional Government filed a request for Judicial Review related to a land ownership dispute involving Hamdani and others. The Judicial Review effort carried out by the DKI Regional Government was successful because critical irregularities were found in the initial lawsuit. The suit mainly revolves around differences of opinion regarding land ownership between the plaintiff and the defendant. One of the important factors underlying the granting of the DKI Regional Government PK application is the absence of concrete evidence submitted by the plaintiff to prove his ownership claim to the disputed land. The lack of definitive evidence led to ambiguity in the initial lawsuit, making it legally unclear. Moreover, originally the lawsuit filed by the plaintiff contained a claim for compensation for the disputed land. However, they failed to explicitly demand recognition of the plaintiff's ownership rights over the disputed property before seeking compensation (Saputra, 2022).

This procedural oversight further undermines the legal clarity of the case. Consequently, the judgment handed down by the initial court which mandated Defendant I, Defendant II, and Defendant I to jointly compensate the plaintiffs for material losses amounting to Rp. 1,203,600,000.00, did not have a strong legal basis. The court decision was considered erroneous because it deviated from established legal procedures and principles. In essence, the court's failure to address the underlying issue of ownership before awarding compensation reflects an error in decision-making. The absence of a clear legal basis for the ruling indicates the need for a thorough judicial review. Therefore, the decision to grant the DKI Regional Government's Judicial Review request is indeed needed to correct mistakes and ensure justice is upheld according to the law (Saputra, 2022)

The fourth case, Abdul Wahab and Kirmanul Hakim were entangled in allegations of drug abuse, which eventually led to a request for Judicial Review (PK) which was finally granted by the Supreme Court. If judging from the case, it appears that the two individuals were involved in unlawful acts related to the circulation of Class I narcotics, with evidence showing their involvement in transactions involving only 0.12 grams of the prohibited substance. However, the initial charges filed by prosecutors based on Article 111 or Article 112 of Law Number 35 of 2009 concerning Narcotics, which usually discusses the crime of narcotics trafficking, are considered not in accordance with the conditions of the case. Upon scrutiny at the trial, it turned out that the defendants had indeed violated section 127 of the law, specifically regarding drug abuse, an indictment that was not initially charged against them. This disclosure becomes very important in the judge's decision to grant PK, because it shows a misalignment between the charges filed and the actual offense committed (Patun, 2023).

Teddy Rahardjo, a lawyer for Abdul Wahab and Kirmanul Hakim, explained the different legal frameworks surrounding the cases. Based on applicable regulations such as SEMA No. 4 of 2010 and SEMA No. 3 of 2011, judges have discretion in sentencing them, especially when it comes to drug abuse cases. The guidelines authorize judges to impose sentences below the minimum threshold set by law if they determine that the defendant is primarily a drug user and not a dealer. Such discretion, as Rahardjo asserted, allows judges to deviate from the strict sentencing guidelines outlined in the indictment, provided they consider related factors and considerations. Therefore, it becomes clear that within the framework of SEMA guidelines No. 4 of 2010 and SEMA No. 3 of 2011, judges have great authority in adjudicating cases related to drug abuse, even in cases where the prosecutor does not explicitly include the charges in the indictment (Patun, 2023). This case is a clear example of the complex interplay between different laws, judicial policies, and interpretations of criminal offenses in the realm of drug law.

The last case is the case that ensnared Wisni Yetti who was charged with Article 27 paragraph 1 of the ITE Law. This particular law governs the intentional dissemination, transmission, or accessibility of Electronic Information or Documents containing indecent content, without appropriate permission. Defendant Wisni Yetti successfully filed a request for judicial review with the Supreme Court citing irregularities in the indictment. Wisni Yetti's plea was granted because in particular, the defence argued that the conversation in question, which took place between Vishni and Nugraha, was conducted within the scope of a private conversation. However, if reviewed by Article 27 paragraph (1) of the ITE Law, the violation can be prosecuted if committed intentionally and in the public domain. This interpretation is aligned with fundamental moral considerations embedded in the Criminal Code. In addition, it is noteworthy that the methodology used by journalists to access conversations between Wisni and Nugraha is a separate violation of Article 30 of the ITE Law. This provision expressly prohibits individuals from accessing electronic systems without proper permission for the purpose of obtaining information (ICJR, 2019).

Please note, the marital relationship between Wisni and the complainant does not justify the alleged actions. Regarding evidence, the court must be careful in accepting printouts of Wisni and Nugraha's conversations. This caution departs from the requirements contained in Article 6 of the ITE Law which mandates the validation of evidence. Failure to validate evidence under this provision shall result in rejection by the court. In summary, the legal process surrounding Wisni Yetti highlights the complexity of implementing the ITE Law. Although the defense raised legitimate concerns regarding the privacy of the conversation at issue, broader legal principles and procedural requirements underscore the need for careful consideration of evidence and legal interpretation (ICJR, 2019).

CONCLUSION

In the case, Luke's lawyer faced charges for allegedly obstructing the KPK investigation after the PK application was approved. This decision was based on the perception that his actions hindered the progress of the investigation. If examined more deeply, this case reveals various irregularities, ranging from inconsistencies in Novel Baswedan's statements to insufficient evidence obtained from recorded conversations. Although there are shortcomings, the granting of PK applications still adheres to administrative legality as stipulated in the law. However, the fallout from this decision is seen as a setback for anti-corruption efforts in Indonesia. The approval of PK applications is seen as a form of administrative legality, but the consequences are unfortunate for the eradication of corruption. The Supreme Court's stance in the case caused astonishment, signaling a reluctance to sentence Luke to prison in the first place. This sentiment was even seen at the cassation stage, where Lukas had previously seen a reduction in his sentence from 5 years to 3 years in prison. This leniency, according to the observations of organizations such as ICW (Indonesian Corruption Watch), shows that there are broader systemic problems in the justice system related to corruption cases (Saputra, 2021b). Although there is a legal basis for granting PK requests, concerns remain about the effectiveness of the justice system in combating corruption effectively. The broader implications of the case underscore the need for the Corruption Eradication Commission to apply rigor in evidence collection to avoid possible adverse repercussions. The hope is to prevent cases like this from backfiring, where legal maneuvers aimed at combating corruption inadvertently undermine the goals they want to uphold. Therefore, there are calls for increased vigilance and adherence to legal procedures to ensure that justice is not only served but also felt in corruption cases in Indonesia.

In the case of Anas Urbaningrum, who was accused of corruption, the legal process changed drastically when the Supreme Court granted the request for Judicial Review (PK). This decision, taken within the framework of administrative legality, carries weight given careful consideration of the evidence presented. Notably, the absence of strong evidence to suggest that Anas used undue influence over government bodies to approve projects or mismanagement of funds played a very important role. The lack of concrete evidence supporting charges under Article 12a underscores the importance of a thorough legal review. Moreover, the panel of judges in its consideration considered Article 11 of the Criminal Law more appropriate charges based on existing evidence. This nuanced decision reflects a careful examination of legal statutes and case details. By selecting charges that are more in line with the evidence, the judiciary demonstrates its commitment to upholding legal principles while ensuring a fair trial for all parties involved. In addition, the wider impact of this decision does not only extend to the case of Anas Urbaningrum. This is a testament to the integrity of the legal system, which demonstrates its ability to adapt and respond appropriately to the complexities of corruption cases. This recognition and respect for the KPK's decision further confirms its legitimacy and justice (Jurnaliston & Asril, 2018). Overall, the granting of Judicial Review and subsequent prosecution demonstrates a balanced approach to justice, rooted in the principles of legality and accountability.

In the latest decision between the DKI Regional Government land dispute and local residents, the Supreme Court granted the DKI Regional Government's request to make a PK application which was granted by the Supreme Court. Legally, this decision stands firmly within the framework of administrative regulations, indicating compliance with the laws governing such matters. Notably, in legal proceedings, parties represented by Hamdani et al. failed to provide strong evidence supporting

their claims to land ownership. This lack of concrete evidence also plays an important role in the court decision, which reaffirms whether or not the actions of the DKI Regional Government are valid in the eyes of the law. However, beyond the realm of legality, there are crucial questions about fairness. Although the court's decision is in line with administrative protocol, the broader context of the case shows a lack of justice. The intricacies of land ownership in this scenario are overshadowed by the troubling presence of land mafia involvement (Theresia Ruth Simanjuntak, 2021). These illicit entities wield significant influence and often manipulated land disputes to their advantage. In addition, the local government's lack of attention to the issue exacerbated the situation, further eroding fairness in the trial process. In essence, although the legal validity of the actions of the DKI Regional Government is upheld, the basic issue of justice is still unresolved. The involvement of land disputes with land mafia operations, coupled with the lack of government oversight, underscores the complexity that exists in achieving true justice in such cases. Efforts to address these systemic challenges are essential to ensure fair outcomes and uphold the principles of justice in society.

In the case of drug abuse committed by Abdul Wahab and Kirmanul Hakim, the approval of the PK application by the Supreme Court is a significant legal development. After examining the validity of the proceedings, it becomes clear that the evidence presented during the trial is credible and in accordance with legal standards. This thorough examination ensures that justice is served within the limits of the law. The Supreme Court's decision to grant the PK's application was the culmination of careful consideration that reflected a commitment to justice and adherence to legal principles. From a broader justice perspective, this Supreme Court decision underscores the importance of proportionality in sentencing. The Convention recognizes that although drug abuse requires intervention and rehabilitation, imposing punitive measures related to narcotics trafficking on a person is extremely severe and unjustified. This recognition is particularly relevant given the societal context surrounding drug use and addiction, where punitive measures alone often prove ineffective in addressing the underlying problem. In addition, the agreement reached by BNN Tangerang City to stop the use of traffickers in prosecuting drug users indicates a shift towards a more nuanced and compassionate approach in tackling drug-related offenses (Iskandar, 2020). This decision reflects a growing understanding within law enforcement agencies of the complexities surrounding drug abuse and the need for a multifaceted response that prioritizes rehabilitation over punitive action. In essence, the approval of the PK application and subsequent policy changes by BNN Kota Tangerang are significant steps towards a fairer and more effective approach in dealing with narcotics abuse. By prioritizing justice, proportionality, and rehabilitation, this development seeks to not only uphold the rule of law but also drive positive outcomes for individuals grappling with drug abuse issues.

In the legal case of Wisni Yetti who was charged with Article 27 paragraph 1 of the ITE Law, he took legal action by submitting a PK application which finally produced good results which were granted by the Supreme Court. From an administrative and legal point of view, the approval of PK Wisni's application adheres to the established rules and legal principles. The evidence presented, especially related to private conversations between Wisni and Nugraha, was considered not to meet the standards required in Article 27 paragraph 1 of the ITE Law. The conversation was considered to be in the realm of private communication so that it was unable to prove the accusations made against Wisni. Moreover, the trial revealed a violation of Article 30 of the ITE Law, where the complainant was caught accessing Wisni's account unlawfully. This invasion of privacy further confirms the lack of evidence presented against Wisni. Unauthorized access to Wisni's account not only compromised

his right to privacy but also tainted the integrity of the evidence used in the case. Given these critical legal considerations, the Supreme Court's decision to grant PK Wisni's application and subsequently release him was considered reasonable and fair. The court's decision reflects a careful examination of the evidence presented, as well as an unwavering commitment to upholding the principles of fairness and fairness in the legal process. Wisni's release is a testament to the importance of safeguarding individual privacy rights and ensuring proper judicial conduct within the framework of the law.

REFERENCES

- Abrori, F., & Makki, M. (2021). the Dynamics and Potency of Halal Tourism in Situbondo As a City of Santri. *Tasharruf: Journal Economics and Business of Islam*, 6(2), 150. <https://doi.org/10.30984/tjebi.v6i2.1636>
- Arif, F., Panjaitan, B., & Siahaan, N. (2023). Implementation of Unwritten Law as a Breakthrough in Criminal Law Enforcement in Indonesia. *Journal of Social Research*, 2(4), 1311–1316. <https://doi.org/10.55324/josr.v2i4.799>
- Arunanta, L. N. (2021). PK Dikabulkan MA, Pengacara Lucas Dikeluarkan dari Lapas Tangerang. *Detiknews*. <https://news.detik.com/berita/d-5525875/pk-dikabulkan-ma-pengacara-lucas-dikeluarkan-dari-lapas-tangerang>
- Attorney, N. (2020). Perbedaan Pasal 11 dan 12 huruf a dan b Disangkakan ke Menteri Edhy dan Juliari. *Kumparan*. https://kumparan.com/net_attorney/perbedaan-pasal-11-dan-12-huruf-a-dan-b-disangkakan-ke-menteri-edhy-dan-juliari-1un8Y3jlCAY/4
- Awaliah Nasution, N. P., Hamdani, F., & Fauzia, A. (2022). The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System. *European Journal of Law and Political Science*, 1(5), 32–41. <https://doi.org/10.24018/ejpolitics.2022.1.5.37>
- Bahri, A. (2019). *Pembentukan peraturan daerah berdasarkan undang- undang nomor 12 tahun 2011 tentang pembentukan peraturan perundang-undangan*.
- Batubara, J. (2017). Paradigma Penelitian Kualitatif dan Filsafat Ilmu Pengetahuan dalam Konseling. *Jurnal Fokus Konseling*, 3(2), 95. <https://doi.org/10.26638/jfk.387.2099>
- Darmadi, N. S. (2020). Kedudukan Dan Wewenang Mahkamah Konstitusi Dalam Sistem Hukum Ketatanegaraan Indonesia. *Jurnal Hukum*. <https://doi.org/10.26532/jh.v28i2.9783>
- Fakhruddin, R. (2020). BAB I Buku Hukum Administrasi Negara. *Buku Ajar Hukum Administrasi Negara/Kewenangan Hukum*, 2–5.
- Hadi, S., -, S., -, I., & Fadli, M. (2020). Reconstruction of the Execution Regulation of Administrative Court Decision in Legal Protection Principle Perspective. *International Journal of Scientific and Research Publications (IJSRP)*, 10(3), p9916. <https://doi.org/10.29322/ijsrp.10.03.2020.p9916>
- Hamka, L. B., Basir-Cyio, M., & Kasim, A. (2022). Reevaluation of the Concept of State Losses in Corruption (Analysis in the Perspective of Restorative Justice). *International Journal of Research and Innovation in Social Science*. <https://doi.org/10.47772/ijriss.2022.61229>
- Harijanto, A., Hatikasari, S., & Musabula, J. (2022). The Model of Legal Protection for Children Victims of Domestic Violence Based on Justice. *Journal of Human Rights, Culture and Legal System*, 2(2), 100–112. <https://doi.org/10.53955/jhcls.v2i2.33>
- Hidayat, T., Luthviati, R. D., & Jenvitchuwong, S. (2022). Disharmonization of Supreme Court Regulations in Material Judicial Rights. *Journal of Human Rights, Culture and Legal System*, 2(3), 149–166. <https://doi.org/10.53955/jhcls.v2i3.34>
- ICJR. (2019). *ICJR : Kasus Wisni Yetti Gambaran Buruknya Pengaturan dan Pembuktian Kasus UU ITE*. <https://icjr.or.id/icjr-kasus-wisni-yetti-gambaran-buruknya-pengaturan-dan-pembuktian-kasus-uu-ite/>
- Indriastuti, Y., Sufa, S. A., Desember, I. G. K. H., & Rizky, Y. D. (2020). Peran Komunikasi Keluarga Terhadap Perilaku Anak (Studi Tentang Perubahan Perilaku Transgender) the Role of Family

- Communications Toward Children Behavior (Study About Transgender Behavior Changes). *Jurnal Komunikasi*, 5(2), 1–13. <https://doi.org/10.33376/ik.v1i1>
- Iristian, Y. (2022). *REFORMASI PEMBENTUKAN PERATURAN PERUNDANG-UNDANGAN DALAM SISTEM KETATANEGARAAN DI INDONESIA*.
- Iristian, Y. (2024). *Freedom of Speech As a Pillar of Equality in Indonesia in The Context of Constitutional Law*. 3.
- Iskandar, A. (2020). Stop Menggunakan Pasal 111, 112, 113 dan 114 Untuk Menahan dan Memenjarakan Penyalah Guna. *BNN Tangerang Selatan*. <https://tangselkota.bnn.go.id/stop-menggunakan-pasal-111-112-113-dan-114-untuk-menahan-dan-memenjarakan-penyalah-guna/>
- Jurnaliston, R., & Asril, S. (2018). Soal PK Anas Urbaningrum, KPK Percaya Hakim Independen dan Imparsial. *Kompas*. <https://nasional.kompas.com/read/2018/07/13/07210881/soal-pk-anas-urbaningrum-kpk-percaya-hakim-independen-dan-imparsial>
- Kemenkeu. (2011). *Peninjauan Kembali (PK)*. [https://www.djkn.kemenkeu.go.id/artikel/baca/2300/Peninjauan-Kembali-PK.html#:~:text=Permohonan peninjauan kembali dapat dilakukan apabila dalam putusan mengenai perkara,dinyatakan pula oleh hakim pidana.](https://www.djkn.kemenkeu.go.id/artikel/baca/2300/Peninjauan-Kembali-PK.html#:~:text=Permohonan%20peninjauan%20kembali%20dapat%20dilakukan%20apabila%20dalam%20putusan%20mengenai%20perkara,dinyatakan%20pula%20oleh%20hakim%20pidana.)
- Mangihot, J. (2020). Permohonan PK Anas Urbaningrum Dikabulkan MA, Hukuman Berkurang Jadi 8 Tahun. *Kompas TV*. <https://www.kompas.tv/nasional/112430/permohonan-pk-anas-urbaningrum-dikabulkan-ma-hukuman-berkurang-jadi-8-tahun?page=all>
- Marimin, M., Setyawan, L. T., & Sularto, R. B. (2022). Punishment of Illegal Fishing Perpetrators in Indonesia in the Perspective of Equality Before the Law. *Sasi*. <https://doi.org/10.47268/sasi.v28i2.971>
- Nurhayati, Y., Zahir, M. Z. M., Ifrani, & Komarudin, P. (2022). Investment in Indonesia After Constitutional Court's Decision in the Review of Job Creation Law. *Lentera Hukum*, 9(3), 435–458. <https://doi.org/10.19184/ejlh.v9i3.32368>
- Omar, H., Indrawati, S. H., & Hassan, C. A. (2021). Law Enforcement Issues During Covid-19: Experience From Malaysia and Indonesia. *Environment-Behaviour Proceedings Journal*. <https://doi.org/10.21834/ebpj.v6isi6.3052>
- Pakaya, S. (2020). Political Law Regulation of Judicial Institutions in Exercising the Powers of an Independent Judgment: Before and After Amendments to the 1945 Constitution. *International Journal Papier Public Review*, 1(2), 119–128. <https://doi.org/10.47667/ijppr.v1i2.91>
- Patun, E. (2023). *14 Terpidana Narkotika di Denpasar Ajukan PK, 11 Diantaranya Dikabulkan*.
- Purbiyati, Y. S., & Riyanto, E. A. (2022). The Problem of Education Fighters' Sense of Injustice in the Education System in Indonesia. *International Journal of Economics Business and Accounting Research (Ijebar)*. <https://doi.org/10.29040/ijeban.v6i1.4731>
- Putra, G. (2019). *PERBANDINGAN HUKUM TATA NEGARA INDONESIA DENGAN AMERIKA SERIKAT*.
- Putri, R. W., Sabatira, F., Davey, O. M., Saputra, M. F., & Natamiharja, R. (2023). Indonesia's Democracy and Constitution: Reflecting Human Rights Based on Pancasila. *Journal of Law and Policy Transformation*. <https://doi.org/10.37253/jlpt.v7i2.7235>
- Qamar, N. (2012). Kewenangan Judicial Review Mahkamah Konstitusi. *Jurnal Konstitusi*, Volume 1(1), 1–15.
- Ramadhan, A., & Kuwado, F. J. (2020). Ini Alasan MA Sunat Hukuman Anas Urbaningrum dari 14 Jadi 8 Tahun. *Kompas*. <https://nasional.kompas.com/read/2020/09/30/20571401/ini-alasan-ma-sunat-hukuman-anas-urbaningrum-dari-14-jadi-8-tahun?page=all>
- Remaja, N. G. (2017). *Hukum Administrasi Negara Buku Ajar 2017*. 78.
- Rochaeti, N., Prasetyo, M. H., Rozah, U., & Park, J. (2023). A Restorative Justice System in Indonesia: A Close View From the Indigenous Peoples' Practices. *Sriwijaya Law Review*. <https://doi.org/10.28946/slrev.vol7.iss1.1919.pp87-104>
- Safenet. (2019). *Permohonan Peninjauan Kembali Wisni Yetti Dikabulkan Mahkamah Agung, Korban*

- KBGO dan Pelanggaran Privasi Akhirnya Bebas Dari Jeratan UU ITE.*
<https://safenet.or.id/id/2019/02/breaking-news-permohonan-peninjauan-kembali-kasus-wisni-yetti-dikabulkan-mahkamah-agung/>
- Samsudin, M. I. (2022). A Comparison of Judicial Review in Indonesian Constitutional Court and French Constitutional Council. *Indonesian Comparative Law Review*.
<https://doi.org/10.18196/iclr.v5i1.15127>
- Saputra, A. (2021a). Bebaskan Advokat Lucas, MA Kesampingkan Keterangan Novel Baswedan. *Detiknews*.
<https://news.detik.com/berita/d-5525833/bebaskan-advokat-lucas-ma-kesampingkan-keterangan-novel-baswedan/1>
- Saputra, A. (2021b). Pegiat Antikorupsi Tak Habis Pikir MA Bisa Bebaskan Advokat Lucas. *Detiknews*.
<https://news.detik.com/berita/d-5524736/pegiat-antikorupsi-tak-habis-pikir-ma-bisa-bebaskan-advokat-lucas>
- Saputra, A. (2022). Anies Menang PK di Kasus Tanah, DKI Lolos dari Gugatan Rp 12 M. *Detiknews*.
<https://news.detik.com/berita/d-6176548/anies-menang-pk-di-kasus-tanah-dki-lolos-dari-gugatan-rp-12-m/2>
- Shakti, A. G., Tyas, M. W., & Farid, M. L. R. (2023). The Integration of Judicial Review in Indonesia. *Syiah Kuala Law Journal*, 6(3), 212–227. <https://doi.org/10.24815/sklj.v6i3.26940>
- Sijabat, S., & Putri, P. A. M. (2022). Relevansi Hukum Administrasi Negara Sebagai Pembataskekuasaan Pejabat Negara Dalam Pelaksanaan Pemerintahan Sondang. 4, 1349–1358.
- Solikhudin, M., & Zainullah, M. (2022). The Formulation of Good Governance Fiqh for Indonesia as a Welfare State. *Al-Qisthu Jurnal Kajian Ilmu-Ilmu Hukum*.
<https://doi.org/10.32694/qst.v20i2.1718>
- Sulaksono. (2023). Legal Culture Deconstruction in Indonesian Legal System. *Journal Of Law Theory And Law Enforcement*, 2(January), 1–10. <https://doi.org/10.56943/jlte.v2i1.227>
- Theresia Ruth Simanjuntak. (2021). Dari Mafia Tanah hingga Anggaran, Masalah Pemprov DKI dalam Pembebasan Lahan untuk Normalisasi Sungai. *Kompas*.
<https://megapolitan.kompas.com/read/2021/03/11/20054861/dari-mafia-tanah-hingga-anggaran-masalah-pemprov-dki-dalam-pembebasan?page=all>
- Ummah, W. (2019). *MAKALAH (Wasiatul Ummah)-1*.
- Wahyuni, W. (2022). *Hukum Administrasi Negara dan Perkara-perkara yang Sering Terjadi di Dalamnya*. <https://www.hukumonline.com/berita/a/pengertian-hukum-administrasi-negara-lt620e0581b6aa0/?page=1>
- Wijaya, M. P. H., & Ali, M. Z. (2021). Legislation Impediments in Reorganising Government Bodies in Indonesia. *Bestuur*. <https://doi.org/10.20961/bestuur.v9i1.51633>
- Zoelva, H. (2021). The Threat of Judicial Mafia in Indonesia in Discrediting the Principle of the Rule of Law. *International Journal of Criminology and Sociology*, 10(5), 839–844.
<https://doi.org/10.6000/1929-4409.2021.10.99>