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The Dualism of Judicial Authority in Handling Abuse of Power by Government Officials Between the Administrative Court and the Corruption Criminal Court

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Abstract: The dualism of judicial authority in addressing abuse of power by government officials represents a critical issue within Indonesia's legal system. Abuse of power may be prosecuted in two distinct legal domains: administrative law, under the jurisdiction of the State Administrative Court (Pengadilan Tata Usaha Negara/PTUN), and criminal law, handled by the Corruption Court (Pengadilan Tindak Pidana Korupsi/Tipikor). The authority of the Administrative Court is grounded in the Administrative Governance Law, which allows government officials a degree of discretion in decision-making. Conversely, the Corruption Court prosecutes abuse of power as a form of corruption based on the Anti-Corruption Law. The overlapping jurisdictions of these two judicial bodies raise several legal challenges, including uncertainty in law enforcement mechanisms, the potential for conflicting rulings, and the risk of criminalizing officials who act within the bounds of administrative discretion. This study aims to analyze the concept of abuse of power from both administrative and criminal law perspectives, examine the respective jurisdictions of the Administrative Court and the Corruption Court in such cases, and identify the legal issues that arise from this dualism. A normative juridical method is employed, incorporating statutory (statute approach), conceptual, and comparative approaches. The statute approach examines the legal norms governing the jurisdictions of PTUN and Tipikor, while the conceptual approach explores legal theories related to abuse of power. The comparative approach analyzes how similar cases are handled in other jurisdictions. This research seeks to contribute to academic discourse by providing a deeper understanding of the legal dilemmas caused by dual judicial authority and proposing normative solutions to ensure legal certainty within Indonesia's judicial system.

Keywords: Judicial Dualism, Abuse Of Power, Corruption Court, Legal Certainty.

INTRODUCTION

The issue of dualism in judicial authority over cases involving abuse of power by government officials is a significant concern within Indonesia's legal system (Barhamudin, 2019). Abuse of power may carry different legal dimensions, depending on the perspective

applied in its assessment. In the context of administrative law, actions by officials that exceed the limits of authority, are arbitrary, or involve misuse of office may be classified as administrative violations (Arijanta, 2022). Meanwhile, in criminal law, abuse of power can be categorized as a corruption offense if the act meets the elements of a criminal offense as defined by the Anti-Corruption Law (Dewi, 2019). The lack of synchronization in determining the appropriate forum for adjudication may result in serious legal implications, particularly in terms of legal certainty for government officials accused of abusing their authority.

Abuse of power from the perspective of administrative law refers to actions by officials that deviate from the scope of authority granted to them (Anggoro, 2024). According to Law No. 30 of 2014 on Government Administration, abuse of authority is defined as actions in which an official exceeds their authority, confuses different types of authority, or acts arbitrarily in the execution of their duties (Bujung, 2023). This legal framework provides clear boundaries for determining when an administrative decision or action may be deemed an abuse of power. If an official's conduct is found to be inconsistent with administrative law, the appropriate mechanism for resolution lies with the State Administrative Court (PTUN), which has the authority to correct or annul administrative decisions deemed legally flawed (Yuslim, 2022).

In contrast, under criminal law, abuse of power holds a more specific meaning, particularly in the context of corruption offenses. Article 3 of Law No. 31 of 1999 on the Eradication of Corruption Crimes classifies abuse of authority as a criminal act if it benefits oneself, others, or a corporation, while causing financial harm to the state (Rizkyta, 2022). In criminal law, state financial loss is a key criterion for determining whether an action qualifies as a corruption offense or merely constitutes an administrative violation (Danil, 2021). This highlights a fundamental difference between administrative and criminal legal approaches in addressing cases of abuse of power.

Theoretically, several legal concepts relate to abuse of authority in both administrative and criminal law. In administrative law, the *ultra vires* doctrine is frequently employed to explain the limits of public officials' powers. This theory asserts that any action taken beyond the authority granted by law is considered invalid and may be annulled (Susanto, 2020). This approach aims to uphold the principle of legality in government administration, ensuring that all administrative actions remain within the established legal framework.

In criminal law, the concept of abuse of authority is often linked to the theory of *abuse of power* or *misuse of office*. This theory emphasizes that officials who unlawfully exercise their authority for personal gain or to the detriment of the state may be subject to criminal sanctions. In practice, this theory serves to distinguish between acts that are merely administrative in nature and those that contain elements of criminal wrongdoing (Al Hafis, 2017). Thus, the criminal law approach places greater emphasis on the legal consequences arising from the abuse of authority, rather than solely on procedural deviations within administrative law.

The difference in principles for assessing abuse of authority between administrative law and criminal law can also be seen in terms of the burden of proof. In administrative law, an official's actions are assessed primarily based on the legality of their administrative decisions or conduct. If abuse of authority is established, the administrative decision can be annulled without the need to prove intent or a specific motive (Ardiansyah, 2022). In contrast, in criminal law, elements of intent and malicious purpose (*mens rea*) are central in determining criminal liability (Ar, 2024). This results in differing standards of proof between the two legal domains, which ultimately can lead to divergent outcomes in cases of abuse of authority.

Beyond conceptual and evidentiary differences, there is also a significant disparity in the sanctions applied under administrative and criminal law for abuse of authority. In administrative law, sanctions typically include annulment of the decision, revocation of

authority, formal reprimands, or dismissal from office. These sanctions are corrective in nature, aimed at restoring administrative order and preventing further abuse (Aritonang, 2021). Meanwhile, criminal law imposes penalties such as imprisonment, fines, or asset confiscation obtained through abuse of authority (Saiful, 2021). This contrast illustrates that administrative law prioritizes the restoration of legal order, whereas criminal law emphasizes deterrence and the protection of state interests.

The implications of these differing sanctions are significant in the context of holding government officials accountable. If an act is dealt with solely within the administrative domain, the official in question may still pursue legal remedies through administrative proceedings to challenge the sanctions imposed (Jiwantara, 2022). However, if the act falls within the scope of criminal law, the official must face more severe consequences, including the possibility of imprisonment (Syamsuddin, 2020). This creates a legal dilemma, especially when a single action can be categorized as an abuse of authority under both legal perspectives.

The divergent approaches between administrative and criminal law also influence how the state balances the need to protect officials in the performance of their duties and the enforcement of laws against those who abuse their power. In many instances, public officials must make difficult decisions under complex conditions, and they require legal protection to exercise discretion without fear of criminalization. On the other hand, there is a pressing need to ensure that public authority is not misused for personal gain or to the detriment of the state. Therefore, it is essential to establish a clear boundary between abuse of authority under administrative law and under criminal law to prevent overlap that could undermine legal certainty.

METHOD

This research employs a normative juridical method, which is a legal research approach focused on the study of legal norms as written in statutory regulations and relevant legal doctrines. The aim of this method is to understand how the law ought to apply in resolving issues related to the dualism of judicial authority in handling abuse of power by government officials. The study adopts three main approaches: the statute approach, the conceptual approach, and the comparative approach. The statute approach is used to examine various regulations governing the jurisdiction of the State Administrative Court (Pengadilan Tata Usaha Negara/PTUN) and the Corruption Court (Pengadilan Tindak Pidana Korupsi/Tipikor), such as Law Number 30 of 2014 on Government Administration and Law Number 31 of 1999 on the Eradication of Corruption Crimes. The conceptual approach involves the analysis of legal theories related to abuse of power, official discretion, the principle of legality, and the relationship between administrative law and criminal law. Meanwhile, the comparative approach is applied to review how other countries regulate judicial mechanisms in handling abuse of power cases in order to identify best practices that could be adopted in Indonesia. Through the normative juridical method, this research focuses on the analysis of applicable regulations and the development of legal thought in academic literature. Thus, the study is expected to offer normative solutions to resolve the issue of dualism in judicial authority and enhance legal certainty within the Indonesian judicial system.

RESULT AND DISCUSSION

Regulation of the Exclusionary Rules of Evidence in Indonesian Criminal Procedure Law

The State Administrative Court (Pengadilan Tata Usaha Negara/PTUN) holds the authority to adjudicate administrative disputes arising from decisions or actions taken by state administrative officials (Akbar, 2021). The legal basis for PTUN's jurisdiction is stipulated in Law No. 5 of 1986 on the State Administrative Court, as amended by subsequent legislation, including Law No. 30 of 2014 on Government Administration. In the context of abuse of

power, PTUN has the authority to assess whether an administrative decision or action has been made in accordance with the general principles of good governance (Asas Umum Pemerintahan yang Baik/AUPB) (Silalahi, 2020). If a decision is deemed to contravene administrative law, the court may annul the decision and order a restoration to the original condition.

In assessing abuse of power, PTUN operates within certain limitations. This court does not possess the authority to examine the criminal aspects of an official's action, focusing solely on the legality of the administrative decision or conduct. PTUN cannot impose criminal sanctions, but may issue rulings such as the annulment of decisions, orders for procedural correction, or recommendations for administrative sanctions to be enforced by the relevant authority (Usman, 2021). Thus, the jurisdiction of PTUN is primarily oriented toward correcting administrative decisions and policies deemed to exceed authority or violate administrative law.

The rulings of PTUN carry implications for officials deemed to have committed an abuse of power. If a decision is declared invalid by the PTUN, the official responsible for issuing the decision may be subject to administrative sanctions, such as a warning, revocation of the decision, or even removal from office. In certain cases, a PTUN ruling can serve as a basis for supervisory institutions to pursue further investigation into potentially more serious violations. However, PTUN lacks the authority to pursue criminal proceedings; therefore, if indications of a criminal offense arise from the abuse of power, the matter must be referred to the appropriate law enforcement agencies.

The Corruption Court (Pengadilan Tindak Pidana Korupsi/Tipikor) holds the jurisdiction to adjudicate cases of abuse of power that meet the elements of a corruption offense as outlined in Law No. 31 of 1999 on the Eradication of Corruption. The authority of the Corruption Court is more focused on the enforcement of criminal law against officials proven to have abused their power for personal gain or to the detriment of state finances (Baseno, 2024). As such, the role of the Corruption Court in handling abuse of power is primarily repressive, imposing criminal sanctions on officials found guilty.

To determine whether an abuse of power can be classified as a criminal corruption offense, there are certain parameters that must be met according to criminal law provisions. One key element is the presence of state losses directly resulting from the actions of the official involved. In addition, the factor of malice (*mens rea*) is also considered in determining criminal liability. If an administrative action merely violates procedures without any intent to benefit oneself or others, the case is more appropriately handled within the realm of administrative law. Conversely, if the abuse of power is carried out with the intent to gain personal advantage or harm state finances, the act may be classified as a corruption offense, falling under the jurisdiction of the Corruption Court.

The ruling of the Corruption Court has significant implications for the legal status of the public official involved in the abuse of power case. If an official is found guilty of a corruption crime, in addition to being sentenced to imprisonment and fines, the individual may also lose the right to hold public office. This criminal ruling is final in the realm of criminal law, meaning that the official found guilty cannot avoid the legal consequences through administrative mechanisms. This contrasts with PTUN ruling, where further administrative recourse may still be available.

In both administrative law and criminal law systems, the principle of legality is applied in fundamentally different ways. In administrative law, the principle of legality emphasizes the validity of decisions or actions taken by government officials based on applicable regulations. If an action is inconsistent with administrative law or contrary to the general principles of good governance, the action can be annulled or corrected. On the other hand, in criminal law, the principle of legality serves to determine whether an act can be classified as a criminal offense based on provisions that are clearly stated in the law. The application of the principle of legality

in criminal law is stricter because a person cannot be punished unless there is a legal rule explicitly defining the act as a crime.

In addition to the differences in the application of the principle of legality, there are procedural differences between PTUN and the Corruption Court in handling abuse of power cases. The trial process in PTUN is more focused on administrative aspects, with an emphasis on examining documents and legal arguments related to the legality of a government decision or action. In contrast, the trial process in the Corruption Court involves a more complex mechanism of proof, including the examination of witnesses, experts, and other evidence to prove the presence of criminal elements in the abuse of power committed by an official. Thus, the burden of proof in the Corruption Court is stricter compared to PTUN, as it must meet the evidentiary standards required in criminal law.

The legal consequences of the decisions made by each court also differ in relation to the legal status of the official involved. If an official is sanctioned by PTUN, the impact is limited to the annulment of their decision or administrative action, as well as any administrative sanctions that may be imposed by the relevant authority. In contrast, if an official is found guilty in the Corruption Court, the consequences are not only criminal penalties but can also affect their career and political rights. This difference highlights that although both PTUN and the Corruption Court address issues of abuse of power, they play distinct roles within the Indonesian legal system.

Legal Vacuum in the Application of Exclusionary Rules of Evidence in Narcotics Crimes

The inconsistency in the enforcement mechanisms of administrative and criminal law creates issues within the judicial system, especially when an official's action can be processed in two different legal domains. The difference in orientation, where administrative law is more corrective and criminal law is more repressive, often causes confusion in determining the most appropriate forum for resolving cases of abuse of power. This situation creates uncertainty for the officials being investigated and for law enforcement agencies in determining the necessary steps to take. The lack of clear regulations governing coordination mechanisms between PTUN and the Corruption Court can lead to delays in case resolution and potentially cause injustice for the parties involved.

One of the problems arising from the dualism of judicial authority is the possibility that an official's action could be processed in two different courts, with legal implications that do not always align. In some cases, an official who carries out an administrative policy may be sued in PTUN to annul their decision, while at the same time, law enforcement agencies could process the same official for corruption in the Corruption Court. This situation not only creates legal uncertainty for the official involved, but also risks producing contradictory decisions between the two courts, making the effective implementation of the rulings more difficult.

The legal uncertainty for officials suspected of abuse of power is a consequence of this overlapping jurisdiction. An official may be found not guilty in PTUN because their decision or action is considered valid under administrative law, but still be convicted by the Corruption Court due to the abuse of power element under criminal law. Conversely, there is also the possibility that an official who has been subjected to administrative sanctions for violating administrative law may not be charged under criminal law because the corruption element is not proven. The differences in the burden of proof between the two courts further complicate the legal standing of the official involved, raising questions about fairness and legal certainty within the judicial system.

Contradictory decisions between PTUN and the Corruption Court not only impact the individuals involved but also the governance system as a whole. Inconsistencies in law enforcement can undermine the legitimacy of the judiciary and affect public trust in the legal system. Government officials acting in good faith in the execution of their duties may feel

threatened by legal uncertainty, potentially leading to a counterproductive deterrent effect in administrative decision-making. In the long term, this situation could hinder the effectiveness of government, as officials become more cautious in making policies that are truly necessary for public interest, but are at risk of being legally challenged.

The impact of this legal uncertainty also affects the rights of officials in obtaining justice. The principle of due process of law should ensure that every individual, including government officials, is afforded fair and proportional legal protection. However, in practice, the dualism of judicial authority creates the potential for the abuse of legal processes that could harm the officials. If an official has to face two courts with different decisions, their right to legal certainty is obstructed. Additionally, the administrative and legal burdens that officials face while undergoing two separate judicial processes can affect both their psychological state and their professionalism in carrying out their duties.

In the context of human rights protection, this dualism of judicial authority also presents challenges to the application of the fair trial principle. This principle emphasizes the importance of justice in legal processes, including the defendant's right to clearly understand the jurisdiction of the court that will adjudicate their case. If a government official has to face two courts with different procedures and standards of proof, the fair trial principle may be threatened because the official does not have certainty about the most appropriate forum to defend themselves. Additionally, the dual burden of undergoing two separate legal processes may hinder the official's ability to effectively prepare a defense, which could ultimately lower the quality of justice in the case they are facing.

The risk of criminalization of government officials is also an aspect that needs to be considered in this dualism of judicial authority. Not all actions taken by officials in carrying out their duties can be categorized as legal violations, especially if the decisions made are part of legitimate government discretion. However, in a legal system that is not well-coordinated, an official who uses their discretion with good intentions can still be threatened with criminal charges simply due to an allegation of abuse of power. This creates a situation where officials become more inclined to avoid making bold decisions, even if those decisions could actually benefit the public interest.

To ensure balanced protection for officials acting based on government discretion, efforts for harmonizing administrative and criminal law in handling abuse of authority are required. A more integrated legal mechanism can help limit the scope for disproportionate criminalization of officials acting in good faith, while still imposing strict sanctions on those who genuinely abuse their positions. In this way, the legal system can better guarantee certainty and justice for all parties involved in governance, without hindering the effectiveness of policy decisions necessary for the welfare of society.

CONCLUSION

The abuse of authority by government officials is a legal issue that has two distinct dimensions: the administrative aspect, handled through the State Administrative Court (PTUN), and the criminal aspect, under the jurisdiction of the Corruption Court (Tipikor). The differences in characteristics and objectives of these legal systems often create practical problems, particularly when the same action by an official can be processed in two different legal realms. This dualism of authority contributes to legal uncertainty, both for the involved official and for the overall governance system. Inconsistent law enforcement can impact the effectiveness of government operations and create the risk of criminalizing officials who act based on legitimate government discretion. Therefore, a more integrated legal approach is needed to ensure that each case of abuse of authority is handled appropriately and in accordance with the nature of the violation.

To address this issue, efforts need to be made to harmonize the legal framework in handling abuse of authority by government officials. One step that can be taken is to establish clearer regulations regarding the boundaries of jurisdiction between PTUN and the Corruption Court to prevent overlap in resolving cases. Additionally, more effective coordination mechanisms between these two judicial bodies are required to avoid contradictory rulings and ensure synergy in law enforcement. Strengthening the principles of legality and legal certainty is also a crucial aspect in resolving this dualism of authority, allowing government officials to have clear understanding of their legal accountability and to perform their duties more effectively, without the fear of excessive criminalization. This harmonization is expected to create a more just, effective, and governance-aligned legal system.

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