

The Nature and Existence of Jurisprudence in State Administrative Courts in Indonesia

Askari Razak¹, Taufik Perdana², Abd. Rahman³ and Hambali Thalib⁴

Abstract

This study investigates the effectiveness of jurisprudence in achieving key objectives within the judicial system, namely legal certainty, justice, and utility in decision-making. The research draws upon a theoretical framework that includes Article 28 of Law No. 48/2009 on Judicial Power, Article 22 AB (Algemene Bepalingen Van Wetgeving), and Article 1917 of the Burgerlijk Wetboek (BW), to explore the role of jurisprudence as a source of law and its significance in guiding judicial decisions. Utilizing a qualitative approach, the study employs legal analysis and case studies to examine how jurisprudence is applied by judges in practice. Data collection involves a thorough review of legal documents, court decisions, and relevant scholarly literature. The findings of this research indicate that jurisprudence plays a crucial role in enhancing the effectiveness of the legal system by ensuring that judicial decisions are consistent, fair, and aligned with established legal principles. By adhering to jurisprudential principles, judges can provide rulings that not only uphold legal certainty but also promote justice and maximize the utility of their decisions. This integration of jurisprudence into judicial decision-making processes strengthens the rule of law and contributes to the overall effectiveness of the legal system, highlighting the indispensable role of jurisprudence in achieving the core objectives of the judiciary.

Keywords: *Jurisprudence, Effectiveness, Legal Certainty, Justice, Utility, Judicial Decisions, Legal Principles*

INTRODUCTION

The judge, acting as a pivotal entity within the legal system, wields significant authority through their rulings, which can entail actions such as transferring ownership, restricting citizens' freedoms, declaring governmental actions unlawful, and even imposing life-altering penalties. Ideally, each judicial decision should be meticulous and accurate in adjudicating specific disputed events or actions within the framework of legal provisions. It is widely expected that judges base their decisions on the principles of law, legislation, truth, and justice, ensuring fairness not only for society but also for the involved parties. There are three consistent elements, as articulated by Gustav Radbruch, that judges consider: the principles of justice, certainty, and expediency. These elements invariably factor into judicial deliberations, often leading to complex considerations. Consequently, judges are tasked with determining which of these elements should take precedence. In deliberating which values to prioritize, judges are mandated to comprehensively understand the cases under examination. They must ensure that the legal principles applied are both accurate and equitable. In instances where legal provisions are absent, judges are compelled to establish legal precedent. In essence, judges possess considerable latitude to serve the cause of justice through their rulings. The responsibility of upholding the law and ensuring justice elevates judges to a position of great importance. Consequently, judicial verdicts are solemnly sworn and carry the weight of divine authority, underscoring the standard phrase, "For the Sake of Justice Based on God Almighty." In line with the judge's role as a "law creator," it is fitting for judicial decisions (jurisprudence) to serve as a source of law. Jurisprudence, as a formal legal source, comprises judgments that carry permanent legal validity and embody the process of "making law." Judges constitute the essential machinery within the judicial system, wielding the power to determine individuals' fates and serving as the ultimate recourse for those seeking justice

¹ Bachelor of Law, Master of Law, Doctoral of Law, And Professor of Law Universitas Muslim Indonesia. Email: askari.razak@umi.ac.id. Orcid: <https://orcid.org/0009-0005-4242-0614>

² Bachelor of Law, Master of Law, Student Doctoral of Law Universitas Muslim Indonesia. Email: taufik.perdana.umi@gmail.com, Orcid: <https://orcid.org/0009-0004-4796-5106>

³ Bachelor of Law, Master of Law, Doctoral of Law, And Professor of Law Universitas Muslim Indonesia. Email: abdul.rahman@umi.ac.id, Orcid: <https://orcid.org/0009-0007-5627-814X>

⁴ Bachelor of Law, Master of Law, Doctoral of Law, And Professor of Law Universitas Muslim Indonesia. E-mail: hambali.thalib@umi.ac.id, Orcid: <https://orcid.org/0009-0001-8505-7297>

and truth. A judge's comprehensive understanding of the law, spanning various facets, significantly influences the concrete legal frameworks they establish. Contrasting with the Statute law system, which codifies legislation as formal, immutable statutes, judges operating within the common law tradition are esteemed as individuals possessing intellectual prowess and moral conscience. Consequently, they are entrusted with the authority to adjudicate based on societal notions of justice, supplementing legal justice with a sense of moral integrity.

It is conceivable that a judge may encounter a quandary due to the conflicting ideologies. For instance, consider the scenario where person A steals one million rupiahs to save the life of a loved one, while person B steals the same amount to engage in extravagance or intoxication. The doctrine of positivism dictates that both A and B should face identical punishment according to written law. However, those adhering to the common law system view this differently, leading to disparate legal outcomes. Common law judges, drawing from precedent, have the flexibility to apply laws differently, guided by a sense of justice rather than strict adherence to written statutes. This latter doctrine can result in the creation of "case law," where consistent application of laws to identical cases over time leads to the establishment of legal precedents.

The evolution of jurisprudence becomes crucial, particularly in addressing issues lacking explicit legal regulations or where statutory formulations are ambiguous, potentially leading to varied interpretations. Article 22 AB underscores the obligation of judges to explore societal legal values when analyzing cases lacking legal regulations, considering factors such as religious teachings, cultural norms, and socioeconomic conditions. Jurisprudence not only aids in statutory interpretation but also fills legal vacuums when statutory provisions are inadequate. Thus, it serves as a source of law outside legislative enactments. While Article 1917 of the Civil Code suggests judges are not bound by prior judicial decisions (jurisprudence), the reality reflects a nuanced interplay between common law and Continental European legal systems, where judicial decisions often carry significant weight comparable to legislation. In Indonesia, a hybrid of common law and statute law systems is employed, with precedence given to statutory law. However, consistency in judicial decisions remains paramount for legal certainty. Though the Indonesian judicial system doesn't strictly adhere to the doctrine of precedent, there's an expectation for judges to consider previous judicial decisions, particularly those recognized as jurisprudence. Despite this, there's a limited application of jurisprudence as a legal basis in resolving disputes within the State Administrative Court. While the legal framework is clear, based on laws governing State Administrative Courts and the Principles of Good Governance, only a minority of judges have utilized jurisprudence in their legal deliberations.

THEORETICAL FRAMEWORK

The theoretical framework provides a structured foundation for understanding and analyzing the complexities of legal systems, judicial decision-making, and legal development. It encompasses various legal theories, including positivism, natural law, and legal realism, which offer insights into the nature of law and its relationship with society. Jurisprudential perspectives contribute to understanding the role of judges, the interpretation of laws, and the development of legal principles over time. Additionally, examining different legal systems, such as common law and civil law systems, highlights the diversity of legal norms and their interactions within societies. Understanding the processes of judicial decision-making, legal pluralism, and the role of courts is crucial for comprehending how laws are applied and how legal change occurs. Moreover, principles such as legal certainty and consistency underpin the stability and predictability of legal systems, ensuring public confidence in the rule of law. By integrating these theoretical perspectives, researchers gain valuable insights into the dynamics of law and its impact on society.⁷

RESULT AND DISCUSSION

Consistency and Legal Certainty of Jurisprudence in the State Administrative Court in Indonesia

Consistency and Legal Certainty in the Jurisprudence of the State Administrative Court (PTUN) are important aspects in assessing the integrity and effectiveness of the administrative justice system in Indonesia. Consistency refers to the congruence and similarity of judicial decisions in similar cases, while legal certainty concerns the assurance that the law is applied consistently and predictably. In the context of PTUN, jurisprudential

consistency creates a stable foundation for administrative law enforcement, ensuring that parties involved in administrative disputes are treated fairly and equitably. The existence of consistent jurisprudence also minimises legal uncertainty that can be detrimental to individuals and institutions involved in legal proceedings. Therefore, it is important to conduct an in-depth analysis of the consistency and legal certainty in the jurisprudence of the PTUN to ensure that the administrative justice system is reliable, fair and efficient in handling complex administrative disputes.

Consistency in the application of the law provides confidence to the public that decisions taken by the Administrative Court are based on fair and consistent principles. Secondly, it should also be noted that legal certainty includes predictability in law enforcement. This means that individuals and organisations should be able to predict the outcome of their disputes at the PTUN, based on existing jurisprudence and established legal principles. Furthermore, there is a need for transparency in the process of establishing the jurisprudence of the PTUN. This includes not only the publication of relevant decisions, but also ensuring that the legal considerations on which judges base their decisions are accessible and understandable to the general public. Finally, the role of internal and external oversight is also critical to ensuring the quality and consistency of the PTUN's jurisprudence. Internal oversight involves internal evaluation mechanisms within the PTUN itself, while external oversight involves outside agencies such as the Supreme Court that can examine and assess the appropriateness of PTUN decisions.

The jurisprudence formation process at the PTUN takes into account various legal developments and the relevant social context. This ensures that decisions are not only consistent with established legal principles, but also responsive to changes in the legal order and the needs of society. The development of training and development mechanisms for judges is also an important factor in maintaining the consistency and legal certainty of PTUN jurisprudence. Regular and thorough training can help ensure that judges have a deep understanding of legal principles and are able to apply them consistently in diverse cases. In addition, co-operation between the PTUN, the legislature and other relevant parties is also needed to improve the quality of jurisprudence and ensure that the resulting law is inclusive and acceptable to society at large. Thus, continuing research and discussion on the consistency and legal certainty of the PTUN's jurisprudence will bring great benefits in strengthening the integrity and effectiveness of the administrative justice system in Indonesia.

Consistency and legal certainty of the PTUN's jurisprudence, it is also important to consider the implementation and enforcement of the resulting judgements. While consistent and predictable jurisprudence is important, if it is not effectively enforced, its benefits will be limited. Hence, there is a need for efficient and effective enforcement mechanisms to ensure that PTUN judgements are properly and fairly implemented. In addition, ongoing evaluation of the quality of the Tribunal's jurisprudence is also needed to identify areas where improvements can be made. This could include evaluating the appropriateness of decisions, the clarity of legal reasoning, and the social impact of decisions. Furthermore, transparency and accountability must also be improved in the process of forming the jurisprudence of the PTUN. The public should have better access to information on administrative court decisions and their underlying legal reasoning, so as to provide feedback and more active participation in the administrative justice process. Finally, it is also important to integrate a human rights perspective in the formation of the jurisprudence of the PTUN. This will help ensure that decisions do not merely take into account administrative or legal concerns, but also take into account the fundamental rights of individuals and broader principles of justice.

Law No. 48/2009 on Judicial Power explains that jurisprudence in the judiciary, including in the State Administrative Court (PTUN). This law provides a legal basis that regulates the structure and function of judicial institutions, including the Administrative Court, which has an important role in enforcing state administrative law. Through this law, it is affirmed that the decisions of judges at the State Administrative Court have binding legal force and act as a source of jurisprudence that influences the development of state administrative law. In addition, Law No. 48/2009 also provides a basis for efforts to improve the quality and consistency of the jurisprudence of the State Administrative Court through training and development of judges as well as efforts to improve accessibility and transparency of State Administrative Court decisions. Thus, Law No. 48/2009 is an important foundation for the existence and role of jurisprudence in the judiciary, including

at the PTUN, in maintaining legal certainty and fair and equitable enforcement of state administrative law. Law No. 48/2009 also regulates the scope of authority and responsibility of judges in carrying out their duties at the State Administrative Court (PTUN). This is important because the quality of decisions made by judges at the Administrative Court is highly dependent on their understanding of the law and their ability to apply the principles of justice. As such, the Law provides a clear foundation for the development of jurisprudence at the Administrative Court while emphasising the importance of consistency and legal certainty in every decision rendered.

The legal strengths contained in Law No. 48/2009 cover several important aspects. First, the law provides a strong foundation for regulating the authority and responsibilities of judges in the Administrative Court (PTUN), emphasising their role in performing their duties with a deep understanding of the law and principles of justice. Secondly, the legal strength of the law also lies in strengthening the independence of the judiciary, including the Administrative Court, which is an important prerequisite in ensuring that judges' decisions are based on the law alone, without influence from political pressure or other external interests. Thus, the existence of Law No. 48/2009 provides a solid foundation for the enforcement of just and equitable law in Indonesia, and strengthens the role of jurisprudence in maintaining consistency and legal certainty in decisions issued by the State Administrative Court.

Effectiveness of jurisprudence in case settlement by judges in deciding cases so as to achieve legal certainty, justice and usefulness in a judge's decision judges in deciding cases so as to achieve legal certainty, justice and expediency in a judge's decision

The effectiveness of jurisprudence in the resolution of cases by judges is vital in upholding legal certainty, justice and expediency in a decision. Jurisprudence, as a collection of previous judicial decisions, plays an important role in providing guidance for judges in deciding the cases they face. By referring to similar cases that have been decided previously, judges can gain a better understanding of the legal issues they are dealing with, thus assisting them in making appropriate and fair decisions. In addition, the use of jurisprudence also provides legal certainty for the parties involved in the case, as they can rely on previous decisions as a reference in assessing the likely outcome of the case. As such, jurisprudence helps to create fairness in law enforcement by ensuring that judges' decisions are based on widely tested and recognised principles.

In addition, the effectiveness of jurisprudence can also help achieve expediency in a judge's decision. By taking into account previous decisions, judges can consider the long-term implications of their decisions on society and the parties involved. This allows judges to make decisions that do not only favour one party, but also take into account the broader interests of society as a whole. As such, jurisprudence not only helps to achieve legal certainty and justice, but also ensures that judicial decisions provide the maximum benefit to all parties involved. In the context of the courts, the use of jurisprudence also helps to improve efficiency in case resolution. By having access to previous decisions, judges can reduce the time required to seek information and analyse legal issues related to the case at hand. This allows the judicial process to be faster and more efficient, which in turn can help to reduce the workload of the courts and improve access to justice for the community as a whole.

However, while jurisprudence has many benefits in the resolution of cases, it is important to remember that its use must also be done with caution. Judges must ensure that they do not simply follow previous decisions mechanically, but also consider the specific context of each case they are dealing with. Thus, while jurisprudence can be a useful tool in achieving legal certainty, fairness, and expediency, it still requires discretion and care in its use to ensure that any judgement reached by a judge is the best for all parties involved.

In the context of the effectiveness of jurisprudence in case resolution by judges, there are several relevant articles that can serve as guidelines for upholding law and justice.

One of them is Article 28 of Law Number 48 of 2009 concerning Judicial Power. This article regulates the obligation of judges in carrying out their duties by following and understanding the legal values that live in society. This includes the use of jurisprudence as one of the sources of law enforcement that can be used as a reference in making fair and just decisions.

In addition, Article 22 AB (*Algemene Bepalingen Van Wetgeving*) is also relevant in this context. This article states that judges have an obligation to resolve cases by considering legal values that live and are maintained in the community, including religious teachings, traditional values that are still maintained, culture, social and economic conditions of the community, and so on. This shows the importance of judges to understand the social and cultural context in making effective and sustainable legal decisions.

Furthermore, Article 1917 of the *Burgerlijk Wetboek (BW)* or Civil Code is also relevant in the context of the use of jurisprudence. This article states that judges are not bound by previous judgements of judges in the same case (jurisprudence). Nonetheless, the recognition of jurisprudence as a source of law requires consistency, where previous decisions are followed as much as possible in similar cases. By considering these three articles, judges can use jurisprudence as an effective tool in case resolution to achieve legal certainty, justice, and expediency in a decision.

CONCLUSION

Jurisprudence plays a crucial role in Indonesia's state administrative court (PTUN) system. Through a collection of previous judicial decisions, jurisprudence provides a clear framework for judges in deciding similar cases, thereby helping to achieve legal certainty and consistency in judgements. In addition, the use of jurisprudence also allows judges to ensure fairness in the resolution of cases by considering similar cases that have been decided previously. However, the effectiveness of jurisprudence is highly dependent on the ability of judges to apply it appropriately and proportionally, as well as the readiness to adapt to the times and the needs of society. Thus, jurisprudence is not only a guide, but also an important tool in achieving law enforcement that is fair, certain, and beneficial to the people of Indonesia.

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