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| Article History | Received: 12-04-2026 | Reviewed:19-04-2026 | Accepted: 27-04-2026 | Published: 01-06-2026 |
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STATE ADMINISTRATIVE COURT AND THE PROTECTION OF RELIGIOUS HUMAN RIGHTS THROUGH GOOD GOVERNANCE PRINCIPLES

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ABSTRACT

This study examines the effectiveness of the State Administrative Court (Peradilan Tata Usaha Negara/PTUN) in protecting religious human rights through the application of good governance principles (AAUPB). The urgency of this research lies in the gap between normative legal guarantees and empirical realities, particularly when final and binding court decisions (inkracht) are not implemented. This study analyzes the role of PTUN and the factors behind the ineffectiveness of its decisions. Using a qualitative literature-based approach, this research reviews legal doctrines, regulations, and cases such as GKI Yasmin and HKBP Filadelfia. The findings show that PTUN decisions are often hindered by maladministration, legal evasion, and administrative resistance, including delays and contradictory actions. Structural limitations and socio-political pressures further weaken enforcement. In conclusion, the protection of religious human rights remains largely formal. Strengthening enforcement mechanisms and consistent application of AAUPB are necessary to ensure effective legal protection.

Keywords: State Administrative Court, Maladministration, Legal Evasion, Religious Human Rights

INTRODUCTION

As an Indonesian citizen, it is essential to understand administrative law, which serves as a legal pillar that protects civilians and ensures their equality before the government. The State Administrative Court (Peradilan Tata Usaha Negara-PTUN) is a legal institution that safeguards the rights of civilians and guarantees equality before those in power. Formally, this judicial environment was established through the enactment of Law Number 5 of 1986, marking a new milestone in Indonesia's legal system. Operating under the auspices of the Supreme Court, the PTUN carries the primary mission of adjudicating and resolving disputes arising between the public and governmental authorities. From a material perspective, L.J. Van Apeldoorn defines administrative law as

a body of norms that must be observed by policymakers in the exercise of governmental functions. He classifies government (*bestuur*) as encompassing all executive activities of the authorities after being distinguished from the functions of legislation, adjudication, and public security or policing.¹ The PTUN was established to create an orderly and prosperous state life by guaranteeing the rights of citizens before the law. This institution functions to maintain a balance in the relationship between government officials and society. Its existence constitutes tangible evidence of Indonesia as a state governed by the rule of law, upholding justice, legal certainty, and human rights.²

Human rights are highly upheld within the PTUN framework. Jan Materson defines human rights as inherent rights attached to every individual, without which a person cannot live a humane life. Due to their fundamental nature, these rights are absolute and must not be deprived by any party. Therefore, the state is obliged to provide legal protection and impose strict sanctions on anyone who violates such rights.³ Numerous human rights cases have been brought before the PTUN. One prominent example is the GKI Yasmin case, which lasted from 2006 to 2023 before reaching a resolution. The dispute began when the Bogor City Government issued a building permit (IMB) for GKI Yasmin in 2006, only to freeze it in 2008 due to public opposition. Although the Supreme Court, through Decision Number 127 PK/TUN/2009, ruled in favor of the church and declared the suspension unlawful, the Mayor of Bogor subsequently issued a new decision in 2011 to permanently revoke the permit. This act of disregarding a final and binding judicial decision was later classified as maladministration by the Indonesian Ombudsman.⁴ After 15 years of prolonged uncertainty in the execution of the judgment, the case finally reached an administrative resolution in 2021 through a relocation policy to a new site. Nevertheless, this resolution drew criticism from academics, as it was considered a form of “conflict normalization” that did not fully prioritize the

¹ Nur Indra Socawibawa and Arif Wibowo, “Efektifitas Eksekusi Peradilan Tata Usaha Negara Di Indonesia,” *Jurnal Penelitian Multidisiplin* 2, no. 1 (February 8, 2023): 45–52, <https://doi.org/10.58705/jpm.v2i1.94>.

² PTUN Jakarta, “Latar Belakang Pembentukan Peradilan Tata Usaha Negara (Peraturan)” (2024, January 9, 2026), <https://ptun-jakarta.go.id/page/sejarah-pengadilan>.

³ Rifqi Mubarak et al., “Hukum Dan Hak Asasi Manusia,” *Advances in Social Humanities Research* 1, no. 4 (June 4, 2023), <https://doi.org/https://doi.org/10.46799/adv.v1i4.30tentang>.

⁴ Arifuddin Uksan, “Pentingnya Pemahaman Multikulturalisme Dalam Resolusi Konflik Pembangunan GKI Yasmin Bogor Guna Mewujudkan Keamanan Nasional,” *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 4 (May 11, 2023): 2934–44, <https://doi.org/10.34007/jehss.v5i4.1697>.

principles of social justice and the protection of religious freedom as mandated by the Constitution.⁵ Additionally, the HKBP Filadelfia case involved the rejection of the construction of a place of worship in Kavling 31 Taman Yasmin, Bogor, despite the congregation having prevailed at the Supreme Court level and obtained a recommendation from the Indonesian Ombudsman. Members of the HKBP Filadelfia congregation were obstructed by mass groups, municipal police (Satuan Polisi Pamong Praja/Satpol PP), and the police while attempting to conduct worship and were even subjected to acts such as having soil thrown at them by the crowd.⁶

As a state governed by law, the existence of the PTUN ensures that every decision or action of administrative officials can be legally reviewed so as not to violate the fundamental rights of citizens, since human rights are inherent rights without which individuals cannot live as human beings. Therefore, the PTUN serves as a safeguard to prevent governmental policies from revoking or eliminating such fundamental rights. However, the aforementioned cases reflect a lack of tolerance toward religious differences, particularly against Christian communities. Article 28E paragraph (1) of the 1945 Constitution of the Republic of Indonesia provides: "Every person shall be free to embrace a religion and to worship according to his/her religion, to choose education and teaching, to choose employment, to choose citizenship, to choose a place of residence within the territory of the state and to leave it, and shall have the right to return."⁷ These cases constitute violations of the human rights of Christian minorities, notwithstanding the expectation that the PTUN should protect all Indonesian citizens regardless of their religion. It is thus questionable why such cases have taken an extended period to resolve when they should have been settled expeditiously. Final and binding court decisions (*inkracht*) have not been complied with by public officials, as evidenced in the GKI Yasmin and HKBP Filadelfia cases. This situation is particularly urgent as it concerns the most fundamental constitutional rights of citizens. The persistence of disputes over places of worship demonstrates that existing legal instruments remain insufficient to protect minority congregations from social pressure or

⁵ Grehenson Gusti, "Belajar dari kasus GKI Yasmin, relokasi bukan solusi untuk memajukan kebebasan beragama," January 10, 2024, <https://ugm.ac.id/id/berita/belajar-dari-kasus-gki-yasmin-relokasi-bukan-solusi-untuk-memajukan-kebebasan-beragama/>.

⁶ M. Y. Febriyan Manurung, "Kasus GKI Yasmin dan HKBP Filadelfia Menggantung, Ini Kata Jemaah," *Tempo*, December 25, 2019, <https://www.tempo.co/arsip/kasus-gki-yasmin-dan-hkbp-filadelfia-menggantung-ini-kata-jemaah-670968>.

⁷ "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (2002).

discriminatory policies. If PTUN decisions can be disregarded by regional heads such as mayors or regents, then the authority of the judiciary and legal certainty in Indonesia are at risk. This underscores the importance of identifying solutions to ensure that PTUN decisions possess binding and enforceable force.

The issue of legal uncertainty in the execution of PTUN decisions cannot be separated from procedural order, as reflected in studies on objective cumulation, which indicate that deviations from formal procedures may undermine substantive justice. The journal entitled “State Policy on Internet Restrictions in Papua and West Papua in Decision Number 230/G/Tf/2019/PTUN-JKT from a Human Rights Perspective” emphasizes that government policies may violate constitutional rights if they are not proportionate and lawful, which aligns with the weak protection of human rights in the GKI Yasmin and HKBP Filadelfia cases where PTUN decisions were not implemented. However, this study tends to be normative and lacks empirical analysis, particularly regarding social and political pressures.⁸ Furthermore, the journal “Juridical Analysis of the Role of the PTUN in Ensuring Legal Certainty for Citizens” highlights the strong juridical foundation of the PTUN’s function in protecting human rights and balancing governmental power, although it remains limited in addressing implementation aspects, especially the enforceability of judgments.⁹ Additionally, the journal “Juridical Analysis of Case Number 12/G/2023/PTUN-BKL on Objective Cumulation from the Perspective of Procedural Law and Fiqh Siyasah” underscores the importance of judicial authority and the risk of “legal smuggling” by judges, which is relevant to the disregard of final judgments by public officials, yet it does not address practical obstacles in the execution of decisions.¹⁰ The book *Democracy & Human Rights in Indonesia* underscores that the dynamics of democracy in Indonesia reinforce the analysis that the protection of human rights is influenced by the power relations between the state and society, thereby supporting the position of the

⁸ Febrian Chandra et al., “Pembuktian Pelanggaran Asas-Asas Umum Pemerintahan Yang Baik (AAUPB) Sebagai Dasar Gugatan Di PTUN,” *Adagium: Jurnal Ilmiah Hukum* 3, no. 2 (2025), <https://doi.org/10.70308/adagium.v3i2.114>.

⁹ Andreas Bintang Raja et al., “Analisis Yuridis terhadap Peran PTUN dalam Menjamin Kepastian Hukum bagi Warga Negara” 5.No 5 (2025): 3786–96, <https://doi.org/10.38035/jihhp.v5i5>.

¹⁰ Imam Mahdi, Miti Yarmunida, and Syakia Tartusi Ramadhana, “Analisis Yuridis Perkara Nomor 12/G/2023/PTUN-BKL Tentang Kumulasi Objektif Ditinjau dari Hukum Acara dan Fiqih Siyasah,” *Journal of Law and Legal System Publisher: CV. Doki Course and Training* 1, no. 2 (2025): 2025, <https://doi.org/https://doi.org/10.61994/jlls.v1i2.1103>.

State Administrative Court (PTUN) as a mechanism for controlling governmental actions. However, the work tends to adopt a descriptive-normative approach and does not comprehensively address the implementative dimension, particularly with regard to the effectiveness of the PTUN and the obstacles in enforcing court decisions that have attained final and binding legal force (*inkracht van gewijsde*). Accordingly, this study seeks to fill that gap through a more critical and contextual analysis.¹¹

Based on the foregoing background, this study aims to address the issues concerning the extent to which the State Administrative Court (Peradilan Tata Usaha Negara/PTUN) is effective in performing its function as a bulwark for the protection of Human Rights (Hak Asasi Manusia/HAM) for religious minority groups in Indonesia, as well as to identify the factors contributing to obstacles in the enforcement of court decisions that have obtained final and binding legal force (*inkracht van gewijsde*), as reflected in the cases of GKI Yasmin and HKBP Filadelfia. Furthermore, this research seeks to analyze the role of the PTUN in ensuring equality of citizens before the law, particularly in relation to the protection of inherent individual rights in accordance with the definition of human rights as articulated by Jan Materson, while also identifying the causes of maladministration and the disregard of judicial decisions by state administrative officials, which have resulted in protracted disputes over houses of worship lasting for more than a decade.

RESEARCH METHODOLOGY

This study employs a qualitative research method combined with a literature study approach. The qualitative approach aims to explore information regarding administrative law in Indonesia from expert sources. Meanwhile, the literature study method involves conducting research using information from secondary sources. Through this approach, qualitative analysis is complemented by library research to examine the differences between Indonesian administrative law and international administrative law.

¹¹ Machful Indra Kurniawan, *Demokrasi & HAM Indonesia*, ed. Septi Budi Sartika and M Multazam Tanzil (Sidoarjo: UMSIDA Press, 2019).

RESULT AND DISCUSSION

Normative Foundations of the State Administrative Court as a Protector of Religious Human Rights

1. The State Administrative Court as a Safeguard of Religious Human Rights

The State Administrative Court (Peradilan Tata Usaha Negara/PTUN) within the framework of a rule of law state should not merely be understood as an institution for resolving administrative disputes, but rather as a normative instrument that ought to function as a guardian of human rights against governmental actions. In theoretical discourse, the existence of PTUN must be examined through the dialectic between *das sollen* (what ought to be) and *das sein* (what is), particularly in the context of legal politics. It is argued that while normatively politics should be subordinated to law, in reality, law is often shaped by the prevailing political configuration, making legal institutions inseparable from political influences.¹² This condition highlights the necessity for PTUN to transcend political determinism and instead embody a normative commitment to justice and human rights protection.

Furthermore, the issue of law enforcement in Indonesia reflects a persistent gap between normative expectations and empirical realities. Law enforcement tends to demonstrate an imbalance between the ideal conception of justice and its actual implementation, which remains heavily influenced by centralized political power structures. In this regard, the concept of divinely grounded justice emphasizes that law must not merely serve as an instrument of power but must reflect moral and ethical values rooted in society.¹³ Therefore, PTUN should not limit itself to assessing the formal legality of administrative decisions but must also engage in substantive justice by evaluating whether such decisions uphold fairness and human dignity

2. Integration of the General Principles of Good Governance (AAUPB)

The realization of PTUN's role as a protector of human rights is inseparable from the integration of the General Principles of Good Governance (Asas-Asas Umum Pemerintahan yang Baik/AAUPB) within both administrative practices and judicial review. The integration of the General Principles of Good Governance (Asas-Asas Umum Pemerintahan yang Baik/AAUPB) becomes fundamental in

¹² Syahrul Ibad, "Politik Hukum Tata Negara Dalam Konfigurasi Politik Dan Produk Hukum Di Indonesia," *Hukmy: Jurnal Hukum* 4, no. 1 (2024), <https://doi.org/10.35316/hukmy.2024.v4i1.604-620>.

¹³ Ellen Villa Nirwana Semesta, "Penegakan Hukum Di Indonesia Dan Konsep Keadilan Yang Berketuhanan," *Dinamika Hukum & Masyarakat* 5, no. 2 (2023), <https://doi.org/10.30737/dhm.v5i2.4652>.

realizing this ideal role. AAUPB functions as a bridge between legal norms and ethical standards in governance, encompassing principles such as legal certainty, transparency, accountability, responsiveness, participation, and justice. These principles serve as normative guidelines to ensure that governmental actions are not only legally valid but also ethically justified and socially accountable.¹⁴ Consequently, AAUPB plays a crucial role in safeguarding citizens from arbitrary state actions while strengthening public trust in governmental institutions.

In addition, AAUPB is explicitly recognized within the Indonesian legal framework as an essential instrument of legal protection (*rechtsbescherming*). It is regulated in various statutory provisions, including laws concerning clean governance and the State Administrative Court, and serves as both a preventive and corrective mechanism against abuses of power. By positioning AAUPB as a standard for evaluating administrative conduct, it enhances the quality of governance and ensures that administrative actions align with principles of good governance.¹⁵ Within judicial practice, AAUPB plays a decisive role in shaping the reasoning and outcomes of PTUN decisions. Judges are not merely interpreters of statutory law but are also entrusted with the responsibility of upholding justice through the application of these principles. Empirical studies demonstrate that decisions grounded in AAUPB are more likely to achieve substantive justice, as they go beyond formal legality to address issues of fairness, proportionality, and accountability. Such decisions contribute to the protection of citizens' rights and reinforce the role of PTUN as a mechanism for controlling arbitrary governmental actions.¹⁶

However, the application of AAUPB in judicial proceedings is not without challenges, particularly in terms of evidentiary standards. Violations of these principles are often abstract and difficult to prove concretely in court. The evidentiary system applied in PTUN adopts a flexible approach (*vrij bewijs*), allowing judges to base their decisions on a combination of evidence, including written documents, expert opinions, and witness testimonies. This approach enables the translation of abstract principles into concrete legal arguments, thereby enhancing the effectiveness of AAUPB as a basis for legal claims.¹⁷

¹⁴ Shelly Asrika Fazlia, Arrie Budhiartie, and Fauzi Syam, "Menimbang Kembali Peran Asas-Asas Umum Pemerintahan Yang Baik (Aaupb) Dalam Formulasi Kebijakan Publik," *Pendidikan Tambusai* 9 (2025).

¹⁵ Fakhurrahman Arif, "Asas-Asas Umum Pemerintahan Yang Baik," *Jurnal Hukum Tata Negara* 6, no. 2 (2023).

¹⁶ Joni Sandri Ritonga et al., "Penerapan Asas-Asas Umum Pemerintahan Yang Baik Dalam Putusan Peradilan Tata Usaha Negara," *Case Law Journal of Law* Vol. 6, no. No. 1 (2025).

¹⁷ Chandra et al., "Pembuktian Pelanggaran Asas-Asas Umum Pemerintahan Yang Baik (AAUPB) Sebagai Dasar Gugatan Di PTUN."

3. Substantive Justice in State Administrative Adjudication

From a philosophical perspective, the role of PTUN in protecting human rights must also be understood within the framework of Pancasila as the foundational ideology of the Indonesian state. Pancasila emphasizes the recognition of human dignity and the acceptance of diversity within a balanced and dignified framework (*evenwicht waardigheid*), where every identity is acknowledged and respected without undermining social harmony.¹⁸ This principle reinforces the idea that PTUN should function as a forum for legal recognition, ensuring that state policies do not marginalize or discriminate against individuals or groups.

Beyond formal legality, the ultimate objective of state administrative adjudication lies in the realization of substantive justice. Substantive justice requires that judicial decisions not only conform to written law but also reflect broader moral, ethical, and societal values, particularly those related to human dignity and equality. In the context of PTUN, this means that judges are expected to interpret and apply legal norms in a manner that addresses the real impact of administrative decisions on individuals, especially in cases involving religious rights. By prioritizing substantive justice, PTUN can bridge the gap between *das sollen* and *das sein*, thereby strengthening its function as an effective instrument for human rights protection.

Moreover, the fundamental objectives of the Indonesian state, as articulated in the Preamble of the 1945 Constitution, aim at achieving collective welfare characterized by justice and prosperity. These objectives are deeply rooted in the moral values of Pancasila, encompassing principles of divinity, humanity, unity, democracy, and social justice. Government actions, therefore, must align with these ideals, not only in material terms but also in recognizing the unique identities and rights of individuals. PTUN, in this context, plays a strategic role in ensuring that administrative policies are consistent with these constitutional and philosophical mandates.¹⁹

In addition, the philosophical foundation of the Indonesian legal system reflects a communitarian approach, which integrates religious and cultural values into the legal framework rather than adopting a strictly liberal and individualistic model. This approach acknowledges that law is not value-neutral but is shaped by the social and cultural context of society. As such, PTUN should interpret and apply legal norms in a manner that reflects these underlying values, ensuring that justice

¹⁸ Dwi Putra Nugraha, *Pancasila Dalam Pusaran Politik Identitas*, ed. A. Rara Rusdian (Depok: PT RajaGrafindo Persada, 2023).

¹⁹ Nugraha.

is not only formally administered but also substantively realized.²⁰ In conclusion, the theoretical discourse on PTUN underscores its essential role as a guardian of human rights through the integration of AAUPB and the pursuit of substantive justice. By bridging the gap between *das sollen* and *das sein*, PTUN has the potential to evolve into a judicial institution that not only enforces legal norms but also upholds ethical values and societal justice. Strengthening the consistent application of AAUPB, enhancing judicial capacity, and aligning legal practices with constitutional principles are crucial steps toward realizing a responsive, accountable, and human rights-oriented administrative justice system.

The Anatomy of Maladministration in the Protection of Religious Human Rights

1. Conceptual Framework of Maladministration in Administrative Law

Maladministration in administrative law refers to unlawful, improper, or unfair conduct by public authorities in carrying out their administrative functions. In the Indonesian context, maladministration is closely linked to the concept of abuse of authority, which occurs when governmental power is exercised beyond its legal purpose, exceeds its limits, or is used for personal or group interests rather than the public interest.²¹ This conceptualization emphasizes that authority must always be grounded in law and exercised within clearly defined limits, including attribution, delegation, and mandate, as fundamental sources of governmental power.²² Furthermore, maladministration constitutes a deviation from the principles of good governance, particularly the *Asas-Asas Umum Pemerintahan yang Baik* (AAUPB), which function as normative standards guiding administrative conduct. Violations of AAUPB reflect administrative unlawfulness and can serve as the basis for legal challenges before the Administrative Court (PTUN), where the burden of proof relies on a dynamic combination of documentary evidence, expert testimony, and witness statements to establish procedural and substantive irregularities. In this regard, maladministration is not merely a technical administrative error but represents a fundamental breach of legality and accountability within public administration.

²⁰ Nugraha.

²¹ Firzhal Arzhi Jiwantara, Siti Hasanah, and Lukman Lukman, "Konsep Penyalahgunaan Wewenang Dalam Perspektif Hukum Administrasi Di Indonesia," *Jurnal Indonesia Sosial Sains* 3, no. 02 (2022), <https://doi.org/10.59141/jiss.v3i02.545>.

²² Firzhal Arzhi Jiwantara, Hasanah, and Lukman.

The relationship between maladministration and abuse of power becomes more evident when considering the failure of public officials to implement court decisions. Such failure reflects not only administrative negligence but also a deliberate disregard for legal obligations, thereby undermining the authority of judicial institutions and violating the rule of law. Abuse of power in this sense often emerges from weak accountability mechanisms within public institutions, allowing public officials to act arbitrarily without sufficient oversight²³. Strengthening accountability through transparency, institutional control, and anti-fraud mechanisms is therefore essential to prevent maladministration and ensure that administrative power is exercised responsibly.²⁴ Moreover, maladministration in administrative law is inherently connected to human rights violations, particularly in the context of religious freedom. As Indonesia is a state based on law and Pancasila democracy, the protection of human rights, including the freedom of religion, constitutes a fundamental constitutional principle embedded in the state ideology.²⁵ The failure of public authorities to fulfill administrative obligations, including the enforcement of court decisions related to religious rights, represents a violation of these constitutional guarantees. In this sense, maladministration not only disrupts administrative order but also directly impacts the realization of human rights, transforming administrative misconduct into a broader issue of constitutional injustice.²⁶

Maladministration should be understood as a multidimensional legal problem that encompasses deviations from AAUPB, unlawful administrative acts, abuse of authority, and violations of human rights. It reflects both structural weaknesses in governance and failures in legal compliance, particularly when administrative bodies neglect their obligation to uphold judicial decisions and protect fundamental rights. Addressing maladministration therefore requires not only legal remedies through administrative courts but also systemic reforms aimed at

²³ Heldi et al., "Peran Akuntabilitas Terhadap Penyimpangan Abuse of Power Pejabat Publik Di Indonesia," *Distingsi: Journal Of Digital Society* 2, no. 1 (2023).

²⁴ Heldi et al.

²⁵ Bobi Aswandi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (Ham)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019), <https://doi.org/10.14710/jphi.v1i1.128-145>.

²⁶ Aswandi and Roisah.

strengthening accountability, reinforcing legal norms, and ensuring the effective protection of human rights within the administrative system.²⁷

2. The GKI Yasmin Dispute as an Expression of Administrative Non-Compliance with Final Judicial Decisions

The dispute concerning Gereja Kristen Indonesia Yasmin in Bogor serves as a significant empirical illustration of maladministration in the form of administrative non-compliance with final judicial decisions. The case began with the lawful acquisition of land in 2001–2002, followed by a licensing process that resulted in the issuance of a Building Permit (IMB) by the Bogor City Government in 2006. Construction initially proceeded without issue; however, on 14 February 2008, the Head of the Bogor City Spatial Planning Office issued a decision freezing the IMB, thereby triggering a state administrative dispute.²⁸ In response, the church filed a lawsuit before the Administrative Court (PTUN Bandung), which granted the claim. This decision was subsequently upheld at the appellate level and ultimately reinforced by Mahkamah Agung Republik Indonesia through Decision No. 127 PK/TUN/2009, which rendered the ruling final and binding (*inkracht*).²⁹

However, despite the existence of a final judicial decision, the Bogor City Government failed to execute the ruling. In 2011, the Mayor of Bogor issued a new administrative decision revoking the IMB, an act later identified by the Ombudsman as maladministration because it directly contradicted a binding court judgment. This conduct reflects several forms of maladministration, including administrative delay, abuse of authority, and explicit non-compliance with judicial decisions. The deliberate issuance of a new administrative act to override an *inkracht* ruling demonstrates a clear deviation from legality and legal certainty as core principles of administrative law.³⁰

²⁷ Firzhal Arzhi Jiwantara, Hasanah, and Lukman, "Konsep Penyalahgunaan Wewenang Dalam Perspektif Hukum Administrasi Di Indonesia."

²⁸ Majelis Jemaat Gereja Kristen Indonesia Pengadilan Bogor, "Kronologis Perjalanan Pembangunan 'Sarana Tempat Ibadah Di Bogor Barat 2001–2021'" (Bogor, 2021).

²⁹ Mahkamah Agung, "Putusan Nomor 127 Pk/Tun/2009," (December 9, 2010).

³⁰ Majelis Jemaat Gereja Kristen Indonesia Pengadilan Bogor, "Kronologis Perjalanan Pembangunan 'Sarana Tempat Ibadah Di Bogor Barat 2001–2021.'"

From a doctrinal perspective, these forms of maladministration can be understood as violations of the Asas-Asas Umum Pemerintahan yang Baik (AAUPB), which function as normative benchmarks for lawful administrative conduct. The process of proving AAUPB violations before the Administrative Court is inherently dynamic and relies on the synergy between documentary evidence, expert testimony, and witness accounts to establish both procedural and substantive irregularities.³¹ In the GKI Yasmin case, the existence of prior court rulings and administrative records provides strong evidentiary support demonstrating that the actions of the local government deviated from principles such as legal certainty, proportionality, and prohibition of abuse of power. Moreover, the concept of *vrij bewijs* (free evaluation of evidence) in administrative adjudication allows judges to assess maladministration not merely as a formal violation, but as a substantive failure to adhere to good governance principles. This reinforces the argument that maladministration in the GKI Yasmin case is not incidental, but structurally embedded in administrative behavior that disregards binding legal norms.³²

Ultimately, this case reveals a fundamental paradox: judicial recognition of rights does not automatically ensure their realization in practice. Although the courts conclusively affirmed the legality of the church's permit, the refusal of the local government to implement the decision effectively negated the protection of religious freedom. Thus, the GKI Yasmin dispute demonstrates how maladministration, particularly in the form of AAUPB violations and administrative non-compliance, can transform legal victory into practical injustice.

3. The HKBP Filadelfia Case as a Continuation of Systemic Failures in Implementing Judicial Decisions

The case of HKBP Filadelfia in Bekasi further demonstrates that the failure to implement final judicial decisions is not an isolated incident, but rather a systemic problem within Indonesian administrative practice. The dispute arose when the congregation faced obstacles in establishing a place of worship despite having fulfilled administrative requirements and

³¹ Chandra et al., "Pembuktian Pelanggaran Asas-Asas Umum Pemerintahan Yang Baik (AAUPB) Sebagai Dasar Gugatan Di PTUN."

³² Chandra *et al.*

obtaining favorable court rulings. The Administrative Court decision, which was strengthened at the appellate level through Decision No. 255/B/2010/PT.TUN, had already obtained permanent legal force, thereby obligating the local government to comply.³³ However, similar to the GKI Yasmin case, the local authority, namely the Regent of Bekasi, failed to implement the court's decision. The Ombudsman Republik Indonesia received reports in 2012 indicating that the final and binding judgment was not executed, reflecting clear administrative non-compliance and maladministration.³⁴ This situation demonstrates a pattern of administrative resistance, where public officials deliberately ignore judicial authority, thereby undermining the rule of law and eroding public trust in legal institutions.

From a constitutional perspective, such failures contradict the fundamental principles underlying the Indonesian legal system, particularly the balance between religion and state as an essential constitutional variable. The relationship between religion and state, as a core element of Indonesia's constitutional design, requires that the state actively guarantees freedom of religion and equality before the law.³⁵ When administrative authorities refuse to implement court decisions concerning religious rights, they not only violate administrative law but also disrupt this constitutional balance.

The similarities between the GKI Yasmin and HKBP Filadelfia cases reveal a recurring pattern: legal recognition of rights through judicial mechanisms is frequently followed by factual obstruction at the administrative level. This pattern strengthens the argument that maladministration in Indonesia is systemic rather than incidental. It reflects deeper structural issues, including weak enforcement mechanisms, lack of accountability, and the persistence of discretionary abuse by public officials. Consequently, these cases collectively demonstrate that the realization of human rights, particularly religious freedom, depends not only on judicial decisions but also on the willingness and capacity of administrative bodies to implement them in good faith.

³³ Ombudsman RI, "Jemaat HKBP Filadelfia Bekasi Peroleh Tempat Ibadah," May 22, 2019.

³⁴ Ombudsman RI.

³⁵ Dwi Putra. Nugraha, *Desain Konstitusi Keseimbangan Bermartabat: Rekonstruksi Pengaturan Politik Identitas Dalam Pemilihan Kepala Pemerintah Daerah*, ed. S, Yayat Hayati (Rajawali Pers, 2022).

4. Bridging the Gap Between Normative Legal Ideals and Administrative Reality in the Enforcement of Religious Human Rights

The analysis of administrative maladministration in Indonesia cannot be separated from the fundamental dichotomy between *das sollen* (what ought to be) and *das sein* (what is). In the normative dimension, courts particularly the Administrative Court (PTUN) function as guarantors of legality and protectors of citizens' rights, including religious freedom. This reflects the ideal conception of Indonesia as a *rechtsstaat*, where law prevails over arbitrary power and legal certainty becomes a central principle of governance.³⁶ However, in empirical reality, this ideal is frequently contradicted by administrative practices in which public officials fail or refuse to implement final judicial decisions, thereby creating a persistent gap between legal norms and their realization.

The theoretical framework of law development emphasizes that *das sollen* exists within the realm of normative ideas shaped by moral and legal values, while *das sein* represents the practical manifestation of those norms in social reality. The validity of law is therefore measured not only by its formal existence but by its effective implementation within society.³⁷ In the context of administrative law, the failure to execute *inkracht* judicial decisions, as demonstrated in cases such as GKI Yasmin and HKBP Filadelfia, reflects a disconnection between these two dimensions. Courts may affirm rights, yet administrative authorities undermine them through inaction, delay, or contradictory policies, thereby weakening the practical force of law.

This gap is further exacerbated by the weak enforcement of Administrative Court rulings and the ineffective implementation of the Asas-Asas Umum Pemerintahan yang Baik (AAUPB). Although AAUPB serves as a normative benchmark for lawful administrative conduct, its application often remains inconsistent in practice. The process of proving

³⁶ RR. Lyia Aina Prihardiati, "Teori Hukum Pembangunan Antara Das Sein Dan Das Sollen," *Hermeneutika: Jurnal Ilmu Hukum* 5, no. 1 (2021), <https://doi.org/10.33603/hermeneutika.v5i1.4898>.

³⁷ Prihardiati.

violations of AAUPB in administrative disputes is inherently dynamic and relies on a flexible evidentiary system (*vrij bewijs*), where judges assess a combination of documentary evidence, expert testimony, and witness statements to establish administrative wrongdoing.³⁸ However, even when such violations are successfully proven and judicial decisions are rendered, the absence of effective enforcement mechanisms allows administrative bodies to disregard these rulings without significant consequences. Moreover, the persistence of this gap cannot be separated from broader political and social pressures that influence administrative behavior. In pluralistic societies such as Indonesia, issues related to religious identity often intersect with local political interests, social tensions, and majority-minority dynamics. The constitutional design itself recognizes the complexity of managing diversity through approaches such as integration and accommodation, which aim to ensure equality before the law while respecting the existence of different religious and cultural identities.³⁹ Nevertheless, when administrative authorities fail to uphold judicial decisions concerning religious rights, these constitutional ideals are not translated into practice, resulting in continued marginalization of minority groups.

The implications of this discrepancy between *das sollen* and *das sein* are profound. First, it contributes to the erosion of the rule of law, as the authority of judicial institutions is undermined by administrative non-compliance. When court decisions are not executed, the principle that law governs state actions becomes merely symbolic rather than substantive.⁴⁰ Second, it creates legal uncertainty, as conflicting administrative actions and unimplemented judgments produce ambiguity regarding the validity and enforceability of legal norms. Third, it perpetuates discrimination in the exercise of religious freedom, as affected communities continue to face obstacles despite having obtained legal recognition of their rights.

The failure to enforce judicial decisions weakens the institutional authority of the Administrative Court itself. Although PTUN is designed as a mechanism to control administrative power and ensure compliance with

³⁸ Chandra et al., "Pembuktian Pelanggaran Asas-Asas Umum Pemerintahan Yang Baik (AAUPB) Sebagai Dasar Gugatan Di PTUN."

³⁹ Nugraha, *Desain Konstitusi Keseimbangan Bermartabat : Rekonstruksi Pengaturan Politik Identitas Dalam Pemilihan Kepala Pemerintah Daerah*.

⁴⁰ prihardiati, "Teori Hukum Pembangunan Antara Das Sein Dan Das Sollen."

legality, its effectiveness is significantly diminished when its decisions lack binding force in practice. This condition ultimately leads to a decline in public trust in both administrative institutions and the judiciary, as citizens perceive legal processes as incapable of delivering substantive justice. In conclusion, the gap between *das sollen* and *das sein* in Indonesian administrative law reflects a structural problem in the enforcement of legal norms, particularly in cases involving religious human rights. While the legal framework formally guarantees the protection of rights and the supremacy of law, its implementation remains hindered by weak enforcement mechanisms, administrative resistance, and socio-political pressures. Bridging this gap requires not only strengthening judicial authority but also ensuring that administrative institutions adhere consistently to AAUPB and constitutional principles, thereby transforming legal ideals into tangible realities.

Ineffectiveness of State Administrative Court Decisions

1. Juridical and Structural Weaknesses in the Enforcement of Court Decisions

The ineffectiveness of State Administrative Court decisions in Indonesia can be traced to a combination of juridical and structural weaknesses inherent within the administrative justice system itself. From a normative perspective, the legal framework governing the execution of PTUN decisions establishes that administrative bodies are obligated to comply with judgments that have obtained permanent legal force (*inkracht*), as part of the broader principle of the rule of law and legal certainty. However, in practice, this obligation is not supported by a strong executorial mechanism, as PTUN lacks direct coercive power to enforce its rulings, thereby rendering compliance largely dependent on the voluntary willingness of administrative officials. This structural limitation is closely related to the restricted competence of PTUN, which is confined to reviewing written administrative decisions that are concrete, individual, and final, and does not extend to broader enforcement authority, reflecting

the limited institutional capacity of the court within the Indonesian legal system.⁴¹

Furthermore, the weakness of enforcement is exacerbated by the absence of effective sanctions against non-compliant administrative bodies, which creates a legal environment where disobedience to court decisions does not carry significant consequences. This condition is compounded by a broader problem in Indonesian law enforcement, where legal processes are often reduced to procedural formalities rather than substantive justice, resulting in a system that prioritizes formal compliance with legal texts over the realization of justice itself.⁴² In this context, the enforcement of PTUN decisions becomes vulnerable to systemic inefficiencies, as the effectiveness of law is not solely determined by legal norms, but also by the legal culture and institutional behavior of those responsible for its implementation.

In addition, the persistence of these weaknesses can be understood through the lens of political law, which reveals that the operation of law is frequently influenced by political configurations. Although, in the ideal sense (*das sollen*), law should function as an authoritative framework that governs political action, in reality (*das sein*), legal outcomes and their implementation are often shaped by underlying political interests and power dynamics.⁴³ This dynamic contributes to the gap between judicial decisions and their execution, as administrative actors may prioritize political considerations over legal obligations, thereby undermining the authority of the court. Moreover, the principle of *praduga rechtmatig* further reinforces this structural imbalance by presuming that every administrative decision is lawful and binding until annulled by a court. While this principle is essential for maintaining legal certainty and administrative stability, it simultaneously strengthens the position of the government by allowing its decisions to remain effective even when contested, thus placing a heavier burden on individuals seeking justice. As a result, even after a decision has been declared invalid by the court, the prior presumption of legality may

⁴¹ Sri Wahyuni Ermawati, "Authority or Competence of the State Administrative Court (PTUN) on Dispute Subjects in Indonesia," *JUSTICES: Journal of Law* 3, no. 1 (2024), <https://doi.org/10.58355/justices.v3i1.7>.

⁴² Semesta, "Penegakan Hukum Di Indonesia Dan Konsep Keadilan Yang Berketuhanan."

⁴³ *Ibid*, "Politik Hukum Tata Negara Dalam Konfigurasi Politik Dan Produk Hukum Di Indonesia."

contribute to delays or resistance in execution, reflecting a systemic tendency to prioritize administrative authority over judicial control.⁴⁴

Taken together, these factors demonstrate that the ineffectiveness of PTUN decisions is not merely a technical issue of enforcement, but a manifestation of deeper juridical and structural deficiencies within the administrative law system. The lack of executorial power, weak sanctions, limited institutional competence, and the influence of political and cultural factors collectively explain why court decisions often fail to achieve their intended impact. This condition ultimately highlights the persistent gap between *das sollen* and *das sein*, where the normative expectation of effective legal protection is not fully realized in empirical practice, thereby weakening the role of PTUN as an instrument of justice and human rights protection.

2. Legal Evasion and Its Implications for the Protection of Religious Human Rights

Legal evasion, or *penyelundupan hukum*, represents a critical phenomenon in administrative law where legal norms formally exist but are deliberately bypassed through procedural manipulation, delay, or reinterpretation by public officials. In the context of Indonesian administrative governance, this practice reflects a deeper structural issue in which the implementation of law diverges significantly from its normative purpose. The State Administrative Court (PTUN) is institutionally designed to resolve disputes arising from State Administrative Decisions (Keputusan TUN) that are concrete and final, its authority remains limited to the adjudication of such decisions without sufficient mechanisms to ensure effective enforcement.⁴⁵ Consequently, even when courts render final and binding judgments, administrative authorities may engage in legal evasion by issuing new decisions, delaying execution, or selectively interpreting procedural requirements, thereby undermining the effectiveness of judicial protection.

This phenomenon is clearly reflected in cases such as GKI Yasmin and HKBP Filadelfia, where judicial victories did not translate into the

⁴⁴ Alifah Putri Nuryasin, "Penerapan Asas Praduga Rechmatig Pada Peradilan Tata Usaha Negara," *Adil: Jurnal Hukum* 13, no. 2 (2023), <https://doi.org/10.33476/ajl.v13i2.2366>.

⁴⁵ Sri Wahyuni Ermawati, "Authority or Competence of the State Administrative Court (PTUN) on Dispute Subjects in Indonesia."

realization of rights. Instead, local authorities employed various forms of procedural inconsistency and administrative resistance, effectively transforming court decisions into what can be described as a “paper tiger” a legal ruling that is formally valid but substantively ineffective. In such cases, the law is not openly violated but subtly circumvented, illustrating how legal evasion operates within the boundaries of formal legality while negating its substantive purpose. This condition demonstrates that the existence of legal norms alone is insufficient; without genuine compliance, the law becomes symbolic rather than operative.

Moreover, legal evasion is often reinforced by institutional and social dynamics, particularly in the regulation of religious life. The role of the Religious Harmony Forum (FKUB), for instance, illustrates how administrative processes intended to maintain harmony can simultaneously become sites of obstruction. While FKUB plays a strategic role in verifying and recommending the establishment of houses of worship to ensure social harmony, in practice it faces significant challenges such as public resistance and weak coordination among stakeholders, which may delay or complicate the licensing process.⁴⁶ These dynamics create opportunities for legal evasion, where administrative procedures are used not to facilitate rights, but to defer or restrict them under the guise of maintaining public order.

From a human rights perspective, the implications of legal evasion are profound. Although the Indonesian Constitution formally guarantees religious freedom, its implementation remains ambiguous, particularly for minority and non-official religious groups that face structural barriers in accessing administrative recognition and institutional expression.⁴⁷ Legal evasion exacerbates this condition by allowing administrative authorities to avoid compliance with legal obligations while maintaining a façade of legality, thereby perpetuating inequality in the enjoyment of religious rights. This indicates that the problem is not merely legal, but also institutional and cultural, involving the interaction between law, politics, and society.

⁴⁶ Windy Aprilia Dewi and Agus Widiyarta, “The Role Of The Religious Harmony Forum (Fkub) In Providing Recommendations For The Establishment Of Houses Of Worship In The City Of Surabaya,” *Jurnal Ilmu Sosial*, vol. 23 (Jawa Timur, April 30, 2025), <https://doi.org/https://doi.org/10.63309/dialektika.v23i1.473>.

⁴⁷ David Kristanto and Tony Salurante, “Kuyper’s Sphere Sovereignty and Institutional Religious Freedom in Indonesia,” *Verbum et Ecclesia* 44, no. 1 (2023), <https://doi.org/10.4102/ve.v44i1.2613>.

Furthermore, empirical studies demonstrate that religious freedom in Indonesia is significantly influenced by legal, political, and social factors, all of which interact to shape the effectiveness of rights protection. Legal awareness, political dynamics, and societal attitudes collectively determine whether religious rights are respected or obstructed in practice.⁴⁸ In this context, legal evasion can be understood as a manifestation of these interacting forces, where administrative authorities respond not only to legal norms but also to political pressures and social resistance, often at the expense of minority rights.

The broader implications of legal evasion include the erosion of the rule of law, as judicial authority is undermined by administrative non-compliance, and the emergence of legal uncertainty, where conflicting decisions and unimplemented rulings create ambiguity regarding the status of rights. Additionally, it contributes to the discrimination in religious freedom, as affected communities continue to experience barriers despite favorable legal judgments. Perhaps most critically, legal evasion leads to a decline in public trust in both the judiciary and administrative institutions, as citizens perceive that legal processes are incapable of delivering substantive justice. In conclusion, legal evasion highlights a fundamental paradox within the Indonesian legal system: the existence of law does not guarantee its implementation. Even when judicial mechanisms function properly and produce legally binding decisions, the absence of effective enforcement and the persistence of administrative resistance allow those decisions to be bypassed. Therefore, addressing legal evasion requires not only strengthening the authority of the State Administrative Court but also reforming administrative practices to ensure genuine adherence to legal norms and the effective protection of religious human rights.

CONCLUSION

Based on the analysis presented in this article, conclusions are formulated to address the stated problem formulation:

1. The State Administrative Court (PTUN) is normatively designed to protect religious human rights and ensure equality before the law

⁴⁸ Rabith Madah Khulaili Harsya et al., "Analysis of the Influence of Legal, Social, and Political Factors on Religious Freedom in Indonesia," *West Science Law and Human Rights* 2, no. 01 (2024), <https://doi.org/10.58812/wslhr.v2i01.592>.

through its authority to review State Administrative Decisions and apply the General Principles of Good Governance (AAUPB). However, this study identifies a gap between *das sollen* and *das sein*, where PTUN's ideal role is not fully realized. Although decisions may be final and binding (*inkracht*), their implementation often depends on administrative authorities, weakening judicial protection and rendering legal guarantees largely formal.

2. Findings from the GKI Yasmin and HKBP Filadelfia cases show that maladministration and legal evasion are systemic. Authorities frequently delay execution, issue contradictory decisions, or manipulate procedures to avoid compliance, violating AAUPB and reducing rulings to ineffective "paper tiger" decisions. This is exacerbated by structural weaknesses such as limited executorial power, lack of strict sanctions, and strong socio-political pressures, particularly in cases involving religious minorities, resulting in the failure to realize rights despite favorable rulings.

These conditions undermine judicial authority, contribute to the erosion of the rule of law, create legal uncertainty, and perpetuate discrimination against religious minorities. They also reduce public trust in legal institutions. Therefore, strengthening PTUN requires comprehensive reforms, including stronger executorial mechanisms, effective sanctions, consistent application of AAUPB, and addressing socio-political influences, to bridge the gap between legal ideals and practical reality.

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