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Women Civil Servant Official Versus Administrative Court Lawsuit: Mental Resistance or Mental Disorder?

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Abstract

Governments exercising their authority may cause adverse legal penalty for individuals and society. The existence of equal rights to work and equality before law and government between women and men implies that women have the right to be officials in government. On the other hand, women who are positioned as officials can be prosecuted. Thus, the plaintiff and the defendant must submit and comply with the contents of the verdict. The decision and implementation of these things turned out to disturb the peace of work of female officials because, in essence, female officials do not want any defects in the course of their careers. The study described the types and strategies of women state administration officials in the face of lawsuits in court. The purpose of the study was to describe the profiles of female officials in state governance and their attitudes to dealing with lawsuits. The study used theories on human rights, principles of equality before the law, gender equality, justice, achievement of sustainable development goals, responsive law, and progressive law. In-depth interviews accompanied the technique of collecting data through questionnaires by involving some female officials from various agencies, such as schools, sub-districts, Population and Civil Records Office of Surabaya City, and Sidoarjo Provincial Government at the Regional Development Planning Agency in East Flores. The subjects studied were women who served as state administrative officials, both who had been sued and never. The final result that this study was the availability of data on women state administrative officials who had been sued or never been sued in the research area of Surabaya, Sidoarjo, and Larantuka East Flores. In conclusion, the compliance of female officials to the court's decision. Women's officials viewed the lawsuit as a lesson that warned them to work more carefully in carrying out their obligations to make good governance.

Keywords: civil servants official, women, law suit, decision, good governance.

Introduction

There are more women than a man in this world. Based on the projected population growth of the National Development Planning Agency, the Central Statistics Agency, and the United Nations Population Fund, the population of Indonesia in 2018 reached 265 million people. Of these, 131.88 million are female. According to the age group, Indonesian women aged 0-19 years reached 45.31 million people. They were then aged 20-64 years as many as 86.57 million people and the rest, namely 8.3 million older people (65 years and above). The number of women today gives legitimacy that women can determine future conditions. Women must be made literate, understand the law, and understand politics. All people are created equal, based on the general decree of human rights. In line with that, people have equal rights in law and government. Everyone deserves justice. Related to these two things, we can meet in the community of many female officials. The meaning of woman civil servant official in this study is women that work in government agency which has the authority to publish a state administrative decision, based on State Administrative Decree, Law No. 5 of 1986. The State Administrative Decree is a written decision made by a state administrative agency that stipulates an individual, and binding the court case for state management predicated on the pertinent laws. A private or civil legal entity could experience legal repercussions. The Law number 30 of 2014 about Government Administrative Decree, it was written and/or issued by government departments or officials. As a consequence of the right to justice from everyone, the female official could not avoid the possibility of being sued in court or some kind of rejection. In this case, there is protest, demonstrations, objections, lawsuits against legal products and/or policies that published by the Head of the Manpower Office in Sidoarjo, Mayor of Surabaya, and the Head of the Service in Larantuka.

In the previous study, civil servant behavior in public service from the point of administrative law view by (Ramli & Syam, 2006). It is explained how civil servant behavior also the law role and development pattern. It found many of legislation arranged about civil servant behavior. However, if there are many legislations it will cause difficulties in implementation. Therefore, it is need to develop the behavior of civil servants to be more professional and more positive. The differences of study were the previous study used civil servant as the data, while this study focused on women civil servant performance.

The role of the court of state administration in settling an issue in Indonesia cause of the lack of an executorial institution and a solid juridical base, to assure the decree court of state administration have no coercive power. Soleh, (2018) stated that the decree of state administrative court is the same as the strength of legislation which means: binding power, evidentiary power, and executive power. Previous study only focused on the role of state administrative judiciary, but this study focuses on the role of judiciary for women civil servants.

This study describes the profiles of female officials in state governance and their attitudes to dealing with lawsuits as a lesson that warned them to work more carefully in carrying out their obligations to make good governance.

Method

This study identified strategies of women state administrative officials in the face of lawsuits in public administrative authorities does not rule out the possibility of being sued in state courts in civil and criminal cases. The study used theories on human rights, principles of equality before the law, gender equality, justice, the achievement of sustainable development goals, responsive law and progressive law, gender mainstreaming, government authority to intervene. The technique of collecting data was carried out through questionnaires. The type of research was normative legal with purposive random sampling. The subjects studied were group of women who served as state administrative officials, both who had been sued and never. The sample of study taken from 50 people with basic calculation. One place location around 15 people of head department proportionally to the amount women and men. By determining the number of 50 female state administrative decree makers and/or discretionary representatives, it is sufficient to obtain study material by filling out various in the questionnaire. The results achieved by this study were the availability of data on women state administrative officials who had been sued and never been sued in the research area of Surabaya, Sidoarjo, and Larantuka East Flores.

This study taken in three places. Those are the city of Surabaya, Sidoarjo, and Larantuka to search the differences women civil servant acts in responding to protests, demonstrations, objections, and lawsuits. Surabaya was a city that tends to be busy with business activities related to permit applications and everything related to industry. On the other, Surabaya become place for traders and investors from various regions. In comparison, Sidoarjo was slightly simpler area than Surabaya. Then, Larantuka chooses as study location to know how women civil servant act related with the condition of city that relatively not crowded, the type of business is limited, there is not much variety and the level of pluralism population is very small because most of the entrepreneurs or investors are local residents.

Results and Discussion

The Patriarchal Thoughts about Women

It is difficult for women to oppose gender and status hierarchies due to the patriarchal socialization of males and females into gender roles and cultural norms (Tonsing & Tonsing, 2019). According to Walby, "patriarchy is the system of attitudes and social in which men dominate, control, and exploit women" (Walby, 1990). Vo recounted that women were also expected to suppress their needs and desires to maintain the family reputation within the community (Vo, 2001). Women and men are constricted by familial, cultural, and societal ideals of appropriate behavior, shown by an analysis of the social context (Hanmer & Itzin, 2013). The term "patriarchy" describes ideas that support male power of women (Tanaya, 2021). The definition of patriarchy divides into two parts: a system in which men are perceived as having more privilege and the power than women (Haj-Yahia, 1998).

The woman citizen is same as man. Women have equal rights over all areas of life, but several things cause women to find it difficult to get equal standing in law and government, namely:

1. The arrogance of male advocates, where he beliefs that female clients are considered stupid, so that there is no need to be explained about the course of the case.
2. The arrogance of male advocates to look down on female clients, female clients are considered cheap, if necessary and deemed attractive, invited to 'sleep.'
3. The habit of placing positions of women as citizen number two, *konco wingking, swarga katut, neroko nunut*, so that women scared to speak to the issue.
4. The assessment women that is the legacy of ancestors as *konco wingking, swarga katut neroko nunut* so that women not educated enough, and do not dare to ask related to her case.
5. The view of women who are the legacy of our ancestors is women as *konco wingking, swarga katut neroko nunut* because women do not make knowledge as priority. It makes women does not dare to take issue with what befalls her.
6. It is wretched on the women who married Indonesian citizens of Chinese descent because it causes the woman to fear her husband and not take issue with all her husband's 'crimes' for her children's future.

Everyone deserves to have a decent life closely related to political-rights. The theory of "three generations of man authority" by French jurist Karel Vasak known as the French Revolution's three significant themes (Mulya, 1993), there are:

- *First*, stage of community and diplomatic rights;
- *Second*, civil and social rights generation;
- *Third*, generation of solidarity rights.

Third-generation human rights connect and re-conception the values related to the two previous of citizens' rights generation. There are six citizens' rights prosecuted, there are:

- 1) The rights to self-government in society, politics, culture and economies;
- 2) Developing the right of economic and public;
- 3) A woman's right to be part in and making usage "the common asset of humanity" (shared space-earth capabilities, ideas, and developments in science, engineering, and other fields; as well as cultural traditions, locations, and monuments);
- 4) Reconciliation rights,
- 5) The rights of steady environment and health,
- 6) Common disaster support rights.

These rights are described in the Basic Law or the Universal Declaration of Political and Civil Rights. (Brownlie, 1993).

- **Article 1:** Human was identical in prestige and independent. People blessed with intellect and act like comrade.
- **Article 2:** All the rights and freedoms outlined in declaration, without distinction of any kind, such as color, race, language, religion, sex, political, status, or another opinion.
- **Article 3:** Everyone has the liberty civil, and safety.
- **Article 4:** It is forbidden to hold anyone in slavery, and all kinds of the slave trade are prohibited.
- **Article 5:** No one shall be subjected to cruel or brutal treatment without regard to the law.
- **Article 6:** Everybody has the right to be recognized by the law as a personal person, regardless of where they live.
- **Article 7:** Everyone has an equality to the law's rule and the services of advisors. Everyone has a right to equal safety from any contradiction that might be included from any sedition that is aimed such a contradiction.
- **Article 8:** Each person is entitled to an effective remedy from the national magistrates, who have jurisdiction over the acts of rape of fundamental rights conferred upon them by law.
- **Article 9:** No one shall be subjected to arbitrary detention.
- **Article 10:** everyone has the right to equal access to public opinion and justice by an independent and impartial tribunal in determining his or her rights and obligations in any criminal case presented to him.
- **Article 11**
 - People convicted of a criminal act will be presumed innocent until proven culpable of law in the open court. In this case, all defence needs to be given.
 - No one shall be guilty of any criminal offense under law nationally or internationally before proven. It is also not allowed to force the punishment that should have been imposed before proven.

Then, the universal declaration of human rights describes in international agreement on civil rights and politics.

Article 26: Human entitled to legal protection without discrimination. The law forbid all discernment and provide the equivalent people in protection against discrimination such as tribalism, skin color, gender, language, religion, political and national or social origin, wealth, birth. The Constitution of the Republic Indonesia of 1945 in Article 27 paragraph (1) that all citizens "Are equal in law and government. It is obliged to uphold those laws and governments with nothing but that." Also, in Article 28 letter D paragraph (1), "Everyone is entitled to fair recognition, guarantee, protection and certainty of the law and equal treatment in the eyes of the law."

The points of idea in the constitution of the Republic of Indonesia of 1945 outlined in Law No. 39 of 1999 on human rights in Article 3 paragraph (2), namely: "Everyone is entitled to equal recognition, guarantee, protection and treatment before the law." Article 5 paragraph (1) stated that "Everyone recognized as a private human being who has the right to demand and obtain equal treatment and protection following his human dignity before the law".

In terms of legal protection for society, especially for women, it needs the role of government following its function. In line with that, Donner expressed four kinds of functions of the ruler:

1. Maintaining order.
2. Financial management.
3. Landlord.
4. Monarchs.

Government actions both internally and externally cause loss, and then the legal settlement can be taken through PTUN or general justice. Women have the same opportunity to become dignitaries. The authorities carry out legal actions and material acts in performing governmental duties. The government's actions, as normatively stipulated in Article 1 paragraph 9 of Law No. 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning State Administrative Justice, says "A administrative government decision is a circulated determination issued by a state administrative entity or official that contains legal actions of administration state based on applicable laws and regulations, which are concrete, individual, and final, which cause legal consequences for a person or entity of civil law." On how to test KTUN according to Article 53 of Law No. 9 of 2004 concerning changes to Law No. 5 of 1986 about State administrative justice as follows:

"(1) An individual or a public corporation believes a state administrative decision damaged its interests may submit a written request to the appropriate court asking for the declaration of the disputed state administrative decision, either without a request for compensation. (2) The justifications for the lawsuit refer in paragraphs (1) a) The government's state choice to sue is opposite against the prevailing statutes and rules, b) The state government's opinion to sue is in opposition to the broad ideals of good."

This arrangement forces the provision of socialization to citizens by government officials before establishing or making decisions and actions that can lead to sacrifice. Article 51 paragraph (1) the Government Administration Law: "Government of agencies and officials forced to open access the government administration documents for every citizen information unless specified by law." The agency and government officials must open access to information to every citizen who needs it within limits regulated by the law. The position of society in the concept of modern government is very vital in running the government. Implementing government services independently by the community is already a demand. The role of the community in the determination of government policy, supervision, and development of human resources to be a reinforcement of good governance is broader than just giving legitimacy to the government through elections (Wardhana, 2020).

Abuse of government authority can occur due to the breadth and variety of duties and authority of the government in the welfare of citizens. Effective control becomes a way of monitoring. In administrative Law, Supervision is one of the primary studies. The purpose of surveillance is to avoid government errors, whether intentional or not, either preventively at the time before the issuance of a decision or repressively to correct mistakes that have occurred (Lotulung, 1993).

The forms and means of supervision in government according to Junaenah (2020) are as follows:

1. In terms of the position of the body/organ implementing supervision
 - a) Intern supervisor
 - b) Ekstern supervisor

2. From the period/events:

- a) *Preventif* supervisor/*apriori* supervisor
- b) *Represif* supervisor/*a posterioria* supervisor

3. In terms of the nature of supervisions

- a) Supervision from the legal side
- b) Supervision from the point of benefit

Supervision is performed by the judicial system, from the legal side of government's actions in terms of *rechtmatigheid* as decision or act of government, about the validity or absence of a decision and the act of government. Assessment of the usefulness of the action concerned or expediency (*doelmatigheidstoetsing*) is the internal administrative-technical control in a self-government environment. Related the supervision in terms of *rechtmatigheid* a decision and act of government through testing/lawsuit in the state administrative court. We can look at weighing the letters A and D of the Law No. 5 of 1986 concerning TUN justice are:

a. The Republic of Indonesia as a state of law based on Pancasila, in 1945 constitution aims to realize a prosperous, safe, a nation and state that are in order, which ensures equality of the position of citizens in the law, and which ensures the maintenance of balanced relations, and harmony between the apparatus in the field of state governance with the citizens.

b. For resolving the dispute, it is needed to have an administrative state court that can uphold morality, truth, discipline, and due process to act as the community's guide, especially in the relationship between the company or TUN Officials and the general public.

The establishment of the TUN justice provides an opportunity for citizens "who feel their interests are harmed can written the court case to the competent judge." Based on Article 53 paragraph (1) of Law No. 5 of 1986 on administrative state justice as last modified by Law No. 51 of 2009 on the second amendment of law No. 5 of 1986 pertaining to state administrative justice. Based on Article 1 paragraph 9 of Law No. 51 of 2009 the second amendment to Law No. 5 of 1986 concerning justice state administrative; "An administrative state decision is composed conclusion made by a governmental state body that details clear, specific, and conclusive state governance acts depending on the fundamental rules and laws that have civil law ramifications for an individual or corporation." Based on Article 1 paragraph 7 of Law No. 30 of 2014 governmental operational choices involving government administration and they are written directives made by government officials in the conduct of government."

In the explanation of Article 48 paragraph (1) of the TUN Judicial Law, administrative efforts are procedures taken by a person or civil legal entity who is dissatisfied with the TUN decision. At the same time, the settlement carries in the government's internal environment before filing a lawsuit to the PTUN, which consists of objections and administrative appeals. In Article 1, number 16, UUAP defines that administrative efforts resolve disputes in the government administration environment due to the issuance of adverse decisions or actions. The arrangements in Article 75 paragraphs (1) and (2) of UUAP state:

- (1) "Citizens of the community who aggrieved by a decision or action may submit administrative efforts to the government official or superior officer who performs the decision and action.
- (2) Administrative efforts as cited in paragraph (1) consist of;
 - Objection;
 - Appeal.

The arrangement of administrative efforts intends to guarantee legal protection for people/entities of civil law carried out by bodies/officials in their government environment before applying for legal protection to the TUN court (Marbun, 2011). The provision of guarantees of legal protection through administrative efforts in the principle of harmony with one of the elements; of the state Pancasila law, namely the principle of dispute resolution by deliberation and justice is the last resort (Heriyanto, 2018).

Therefore, people or civil legal entities harmed by a government decision/ action through the provisions of administrative efforts must be taken first. Furthermore, if the person/civil legal entity is still not satisfied with administrative efforts, then the person/civil law entity can only a written lawsuit to the TUN court. Administrative efforts can apply following the basic regulations; namely, regulations that are devoted to regulating a particular field, for example, the decision in the form of dismissal of civil servants (PNS) not respectfully because it violates civil servant disciplinary regulations, then administrative efforts refer to PP

No. 53 of 2010 on civil servant disciplinary punishment. However, if a basic regulation does not regulate, it must use the provisions on administrative efforts as stipulated in chapter X of government administration law. The initial idea of the struggle behind establishing an administrative judiciary was to uphold the state of law (*rechtsstaat*). Citizens and individuals in a democratic legal state order must be guaranteed legal protection and human rights. With the opinion of SW (Heriyanto, 2018). *Couwenberg* said: "The central idea of *rechtsstaats* is the observance and defense of human rights which rests on the principles of freedom and equality." The fundamental of equality places before the law between society and agency as implementers of goals administration, that allows citizens to request the reinstatement of rights that crushed by officials' actions. Therefore, administrative justice (*peratun*) is held to arrange the protection (based on the fairness of order and legal certainty) to justice seekers people who feel harmed by a decision TUN through examination, termination, and resolution of disputes in TUN (Kurniawan & Hadi, 2021).

The struggle behind establishing an administrative judiciary was to uphold the state of law (*rechtsstaat*). Citizens and individuals in a democratic legal state order must be guaranteed legal protection and human rights—the great power state through government administration officials in managing the state and the welfare of citizens. The institution of the court in modern law has symbolically become a manifestation of law and justice; in real terms, the justice to be served is in the administrative relationship between citizens and the state (Simanjuntak, 2018).

From this result of study, many women civil servant was a continuer from men civil servant which as the official's family. The official family means a couple, sibling, child of civil servant parents. Then, the new civil servant was a continuer from the previous civil servant that existence of government office. The survey result showed that male-centered tradition of preserving power, the women civil servant appointed in women's emancipation framework if had no a competent man in the family. The appointment of women civil servant based on fulfilling the quota of women in government positions. The women civil servant in carrying out and understanding their duties. However, associated with their knowledge are not prioritized.

Administrative law's main goal is to maintain the executive branch of government within the confines of its constitutional jurisdiction, and protecting citizens from its abuses (Erliyana, 2005). The standard of law system is known as the doctrine of *Ultra vires*, where based on this doctrine when administrative actions do not comply with the provisions of the underlying regulations. Any decision or action is declared *Ultra vires* to be null, void, and considered never existed (Fox, 1992). The provisions in this regulation easier for women civil servant to carry out their duties because there are clear norms must meet of the boundary's authority and clear power.

The Legal Liability of Female

The universal legal teaching is that any subject who commits legal acts and causes harm to others must be held accountable for his actions to the aggrieved party, natural human (*natuurlijk person*), legal entity (*rechtspersoon*), or position (*ambt*). In the concept of public law, this legal liability is closely related to the use of authority, which gives birth to the principle of "*geen bevoigheid zonder verantwoor-delijkheid*, there is no authority without responsibility" There is no authority without accountability (Henderson, 2014).

Philipus & Soemantri, (2015)said there are seven underlying reasons why the state can be sued:

1. Related to the concept of the state as an institution of power is associated with the concept of law as a decision.
2. It is related to the concept that makes a difference between the state as a ruler and the state like *fiscus*, as the ruler of the state cannot be sued but vice versa.
3. Related concepts explain the criteria of the nature of rights, namely whether a right is protected by public law or protected by civil law.
4. Related concepts that lay out the criteria of legal interests violated.
5. Related concepts connected to unlawful acts (*Onrechtmatigedaad*) as a basis for suing the state, regardless of whether what is violated a rule of public Law or civil Law.
6. Related to the concept that distinguishes between functions and the implementation of functions, only the implementation of functions that give birth to losses that can be sued.
7. Regarding the concept that lays out a basic assumption that the state and the completeness of its tools are obliged in its actions in all its aspects.

3 According to Article 1 paragraph 11 of Law No. 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning administrative state justice, "A lawsuit is a petition containing a claim against a state administrative entity or official and submitted to the court for a verdict."

7 The basis or reason for filing a lawsuit (in a general TUN dispute) is: a. The judgment or action of Tun to sue is against the regulations and the legal system actually in place. b. KTUN being sued opposes the basic tenets of good government (AAUPB). At the same time, the basis or reason for filing a lawsuit, particularly TUN disputes, is adjusted to the reasons for taking legal action/ dispute stipulated in the relevant laws and regulations (Simanjuntak, 2018).

18 Based on Article 1 number 10 of Law: 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning state administrative justice, "Conflicts over state administration are developing in the form of field governance between people or a common law institution with administrative state due to the issue of state administrative decisions, including staffing study indicates on laws and regulations." The decision of state administration based on Law No. 30 of 2014 on government administration is also referred to as a government administration decision. This decision is a written decree issued by the government official in the administration. These decisions and actions are related to the government's authority, the power of the governing body or official, or another State organizer to act in the public law realm. Authority is the proper government officials or state organizers to take decisions and actions in government administration. In Article 53 of Law No. 51 of 2009 according to Law No. 5 of 1986's second amendment, that concerned in state administrative trial." Persons or entities of civil law who feel their interests are harmed by a state administrative decision can written complaint demanding that a contested state administrative judgment be upheld with an appropriate court; void or invalid to claim for damages or rehabilitated." Government officials have an obligation:

- a) Making decisions and actions follow his authority;
- b) Complying with the AUPB and following the laws and regulations stipulations.
- c) Complying with the requirements and procedures of decision-making.
- d) Complying with this law in the use of discretion;
- e) Providing military assistance to the government agency that asks for assistance to implement certain governments.
- f) Providing opportunities for citizens to be heard their opinions before deciding on the rules and laws' stipulations.
- g) Notifying the community's citizens related to the decision of action that causes losses most of ten business days from the decision term.
- h) Establishing operational standards of decision-making procedures or actions.
- i) Examining government administrative documents and open access to government administrative documents to citizens unless determined by law.
- j) Issued a decision against the solicitation of citizens following the matters decided in the appeal.
- k) Carrying lawful behavior and verdicts that have been confirmed inaccurate or invalidated by the law court, the appropriate authorities or head officials, and;
- l) Complying with the law court ruling that has an accurate authority.

The definition of (*natuurlijke person*) means not causing many complications. However, the illustration such as a particular person is still not yet adult and under the woman or in the stingy condition (*bekwam*) to move forward in the court. Then, what happened in the civil event law can apply to Prantun event law. A civil legal entity negates a public legal entity and one of the legal subjects other than law persons. Based on Article 1 paragraph 8 of Law No. 51 of 2009 concerning the second amendment to Law No. 5 of 1986, it is regulated that the administrative state entity or officers is a body or official as the implementer of government affairs on the appropriate laws and procedures. State governance officials in the legal frame of mind TUN events are manifestations of the power organs of government (executive). Government is the completeness of a country (organ of state) has a broad sense or narrow.

28 The regulation of the supreme court of the Republic of Indonesia No. 2 of 2019 on instructions for government agencies' and officials' ability to resolve government actions and bring legal cases against those who commit crimes (*Onrechtmatige overheidsdaad*) clarifies the law of events related to the resolution of a dispute over government initiatives and the government's ability to bring legal action against illegal behavior entities/officials (*Onrechtmatige overheidsdaad*) which normatively. In the Perma 2/2019 unregulated to set indemnity parameters. The purpose of recovery justice through the lawsuit on the unlawful acts is the replacement of losses from the ruler due to losses incurred due to violation of the law.

The occurrence of unlawful acts committed by someone who has power, legal protection for the aggrieved party is a reasonable interest. It appears a leading position in realizing the path of equality of opportunity in obtaining justice (Basah, 1992). The burden of liability and claims for damages or rights is directed to any unlawful legal subject, no matter whether the legal subject is a person, legal entity, or government.

From this study, women civil servant is very intent on increasing knowledge, gaining knowledge and developing insight. The first aims to increase knowledge, gain knowledge and develop insight to protect yourself. The important thing in government was officials arrested because of corruption charges. The questionnaire of this study showed that the aims of passion to increase knowledge, gain knowledge and develop insight is to regulate, protect the public, and private legal entities as well as public legal entities. Learning about government science can be achieved with the principle of learning by doing.

Mental Resistance or Mental Disorder as Effect from Administrative Court Lawsuit

In its development, Law No: 30 of 2014 concerning government administration (UU AP) is the decision object of the lawsuit and the government's actions. Due to the fact that this law becomes the material law in the state administrative justice system, citizens may file a lawsuit against a government official's decision or action in state administrative court. In Article 87 of the government administration act, a concrete action (*Feitelijk Handelingen*) is included in the definition of KTUN in the PERATUN act as an extension. The application of a concrete factual action can be tried in the court of state administration. Concrete actions in the absence of written KTUN can be sued for damages to the TUN court through a lawsuit of unlawful acts by the government. It is regulated in the circular letter of the Indonesian supreme court No. 4 of 2016 (SEMA No. 4 of 2016) in dictum E of the state administrative chamber of section point 1 stating: "The paradigm shift in the following the implementation of Law No. 30 of 2014 on Government Administration by state administrative court (UUAP)"(Indonesia, 2014):

Competence of state administrative justice

- a. Authorities adjudicate cases in trials and remonstrations.
- b. Authorized to prosecute unlawful acts by the government,

The holder of governmental power commits this unlawful act, commonly called *onrechtmatige overheidsdaad* (OOD). Under that arrangement, a lawsuit for damages due to concrete action (*Feitelijk Handelingen*) can be filed in the state administrative court. It is also strengthened in the governance regulation step, especially Article 85:

1. Submission of government administration dispute lawsuit registered with the general court. However, it has not been examined, with the enactment of this action set by the judge.
2. The filing of a government administration dispute lawsuit filed with the general court has been investigated, and the court is continuing handling cases involving this statute in the general judicial setting.
3. The general court that decides executes the court's judgment as mentioned in paragraph (2).

The UUAP can reach and cover disputes stemming from the government's concrete actions (*feitelijke handelingen*) that harm citizens and violate public Law (OOD case). The object of legal supervision of the government's concrete actions is contained in the academic text of the RUU AP, (Kementerian PAN-RB, 2015) affirms "All administrative actions of government constitute a supervisory activity solely to ensure that any action is carried out based on standards, norms, and criteria established following the provisions of the law." The academic text of the RUU AP explained that the government's concrete actions (factual actions) as: "Instruments aimed at the fact of an act that has no impact on the legal status of citizens. In comparison, citizens affected by the consequences can submit a claim before reaching the officials court. In addition, the state may use for damages for any penalty as a result of unlawful behavior before entering the civil judicial system."

Following the Peratun law, the authority of PTUN is only related to testing from the aspect of legality only, not based on claims for damages as a basis for *onrechtmatige overheidsdaad* claims as in public courts. As a parameter of the legality aspect of *onrechtmatige overheidsdaad* related to the regulation of discretionary authority in the term of Article 1 number 9, Article 22 to 33 of the legal administration of government, According to the government administration act, government officials have the power to issue decrees that are discretionary in nature to deal with specific issues that arise in the conduct of government. In the case of laws and regulations that provide incomplete or unclear choices, the stagnation of government intends to begin government administration, fill legal voids, offer legal clarity, and end the stagnation of government in specific conditions for the benefit and public interest (Arwanto, 2016).

A court ruling is the judge's statement as a state official who is authorized, spoken in court. It aims to settle a problem or debate between participants, not only spoken but also a statement poured in written form and then spoken by the judge at the trial. A concept of a (written) verdict has no power as a verdict before it is heard in court by the judge. The verdict spoken at the trial should not be different from the written one (Hakim, 2020). A decision that has good legal considerations if the judge in his ruling considers 3 (three) aspects, namely:

- 1) *Yuridist* aspects, verdicts that meet the *yuridist* aspects of written law, verdicts that in their consideration are based on laws and regulations.
- 2) Sociological aspects rulings that do not conflict with the laws that apply in society.
- 3) Philosophical aspects, rulings that are not only based on express laws but based their considerations on the laws and regulations.

Defeated officials are required to arrange the state administrative court's judgment that already has the power of law to remain following its obligations, in Article 97 paragraphs 8 and 9 of Law No. 5 of 1986 concerning the judicial administration of the state court's decision can be:

- Paragraph (8) If the lawsuit is granted, then in the decision of the court can be determined the obligations of the state administrative entity or officer giving the state administrative decision."
- In paragraph (9) of Law, No. 5 of 1986, obligations as referred to in paragraph (8) are: revocation of the administrative decision of the state concerned;

The ruling includes the last order subject, in Article 116 paragraph (3) of Law No. 51 of 2009 concerning the second amendment of Law No. 5 of 1986 concerning the state administrative justice regulated as follows: "If the defendant is determined to oblige in Article 97 paragraphs nine, letter of (b) and (c), and then after 90 days duty, the responsibility is not implemented, then the attendants apply to the law lord in paragraph (1), that the judge order the defendant to carry out the court's decision. Paragraph (4) if the respondent is not carried out a settlement judiciary against the official concerned subject to administrative punishments and the payment of forced money are examples of compelled attempts. Paragraph (5) the official who does not achieve the court's option in paragraph (4), introducing in the local print media by the registrar since the non-fulfillment in paragraph (3). Paragraph (6) introducing in the local print media in paragraph (5), the chief justice shall present this to the President in his capacity as the head of the executive branch, who has the authority to direct that the institution that represents the people be in charge of monitoring the court's judgment."

The court's decision regarding staffing disputes is regulated explicitly in Article 117:

1. As far as the obligations referred in Article 116 paragraph 1 and the participant.
2. Within thirty days of obtaining the notice referred to paragraph 1, the participants may apply to the lord judge who has submitted the decision. The defendant is under duty to pay a specific sum of money or receive any other form of compensation under the court that obtaining permanent legal power.
3. After receiving the application described in paragraph 2, the chief justice issues a summons to both parties to seek their agreement on the sum of money or other compensation to be levied to the defendant.
4. If an agreement on the amount of money or other compensation cannot be reached despite attempts to do so, the chief justice decides on the amount in question and makes a decision accompanied by consideration.
5. The determination of the chief justice, either the plaintiff or the defendant may ask the supreme court to appoint them again, as stated in paragraph 4.
6. Both parties are expected to abide by the supreme court's ruling, as mentioned in paragraph 5.

Women civil servant calmer in terms of accepting objections, protests, rejections and lawsuits than male officials. With this situation, women civil servant has a better thought, uses legal rationale and logically to make choices in reaching solutions. In this study, women civil servants entirely undisturbed by their mental, and performance conditions by the presence of lawsuit in court. The existence of a lawsuit in court is considered a sign that the women civil servant is more careful in carrying out her duties and obligations. The existence of a process in court makes women civil servant mentally and psychologically resistant to all kinds of challenges. The sense of community and the natural motherly nature of women make it easier for women civil servant to face and solve problems.

The Compliance of Female Officials on Court Rulings

The distribution of compensatory funds is not governed by implementation laws, real penalty by plaintiffs cannot be reclaimed. Violations of provisions threats of mild to severe administrative punishments pass the process outlined in government regulation No. 48 of 2016, which begins with a public complaint and being

examined by APIP, sanctioning by the official's direct supervisor. A different issue regarding the sanctions threat Article 7 letter (f) PP No. 48 of 2016 on procedures for the enforcement of administrative sanctions for government officials' states;

"Administrative sanctions are being in Article 4 (b) demanded for government employees if not: (letter f) implementing a correct decision or action that has been found inaccurate or annulled by the appropriate court or official prime."

Article 9 number 2 of government regulation No. 48 of 2016 on administrative sanctions enforcement processes for public servants. the types of administrative sanctions outlined in Article 81 paragraph (2) of the UUAP, namely: (a) forced remuneration and recompenses payments; (b) temporary dismissal after gaining office rights; or (c) temporal termination without getting the proper office. The implementation mechanism of the Administrative consequences, such as forced monetary payments and compensation, are applicable to the TUN court ruling. Temporary dismissal with or without office rights is subject cumulatively and alternatively. Related *dwangsom* and compensation have not been controlled explicitly the procedure and quantity of the required value in the PP. The *self-respect* principle and a judicial understanding is critical in complying with the judge's decision because there is no complete execution arrangement. The volunteerism of officials in carrying out executions in PTUN is expected to prevent coercion by the court against officials. The existence of legal sanctions becomes a sharp knife in forcing the provisions to be obeyed and making the law's authority high. In the current conditions, the court's authority becomes not good when officials refuse to attempt the court's judgment. The public no longer believes in the court's decision and will be a vigilante with such facts. Article 68 of the government administration act adds a statement that the decision ends if:

1. Expired
2. Revoked by the competent authorities
3. Canceled by the competent authority or the court's decision or
4. Regulated in the provisions of law regulations.

Whether forced cash (*dwangsom*) can be demanded in trial or judged, even though no rule is implemented, the Supreme Court stated that forced money could be offer in the lawsuit. The cause is that the administration is encouraged to build implementation laws as ordered by the UU PERATUN immediately. Supreme Court paved the plan for the courts in any legal process involving condemnatory requirements, includes a threatening funds. If the deposit of cash forced (*dwangsom*) in association with the application of the ruling of the state administrative court is implemented. Indroharto (2005) if forced money is applied, Acquiring the power with the authority assessment (the executed party) would be opposite to the legality concept so that doing or evaluating about general law be done by department of TUN authorized or law regulations, the deprivation of freedom of a government official as an attempt at coercion will result in adverse effects. However, it refers to PP no. 43 of 1991 purely used in lawsuit proposal not related in implementing the PTUN Ruling. It does not seem to be used as a guideline because of a small value maximum of IDR 5,000,000.00 and cannot recover material losses suffered by plaintiffs whose value factually exceeds that amount.

The arrangement of financial forced for administration who do not accomplish the position of administration's judgment in its implementation cannot be done or applied, because the loading of forced cash in the total form of money whose own amount is not explicitly determined or must rely on a specific condition. The enforcement of administration law in the community, namely the imposition of forced money, is a substitute for actual coercion, so it should be as big as the recovery of losses experienced by the community. The parameters of the forced money itself can be identified, but its implementation must be enforced by the official's superiors or the court. If by the court, of course, must go through the law. From this study known that women officials' compliance with the court's rulings is because they view the lawsuit as a lesson that warns them to work more carefully in carrying out their obligations to realize good governance. In the other part, many from women civil servant to receive training in decision-making to minimize problems arising from the decisions they make.

Conclusion

In conclusion, it found that female officials chose to follow the court's decision. They believe that the decision will create a good leadership or government. Because women prioritize feelings that make them look weak, even though so many female officials believe that the court's decision is right, and as a good representative of the people, they must obey the law. Female officials in special training requiring them to make written

decisions or actions will not traumatize them. Special training will make them stronger, undaunted, and always motivated to work honestly.

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