



Blurring the Lines: An Analysis of Jurisdictional Overlap between General Courts and State Administrative Courts in Indonesia

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A B S T R A C T

The Indonesian legal system adopts a dual court system, comprising General Courts and State Administrative Courts (PTUN), each with distinct jurisdictions. However, ambiguities arise when State Administrative Decisions (TUN) involve elements of civil law, leading to jurisdictional overlaps and potential conflicts between these courts. This overlap creates confusion and uncertainty for litigants seeking legal recourse. This study employed a qualitative legal research methodology, involving a comprehensive analysis of relevant legislation, including Law No. 5 of 1986 on State Administrative Courts, Law No. 48 of 2009 concerning Judicial Power, and related regulations. Additionally, the study examined relevant case law from both General Courts and the PTUN, spanning from 2018 to 2024, to identify patterns and trends in jurisdictional disputes. The research identified recurring areas of jurisdictional overlap, particularly in cases involving land disputes, contractual disputes with government entities, and disputes arising from the execution of TUN decisions. Analysis of case law revealed inconsistencies and contradictions in how courts have resolved these overlaps, leading to legal uncertainty for litigants. In conclusion, the jurisdictional overlap between General Courts and the PTUN presents a significant challenge to the Indonesian legal system, undermining legal certainty and access to justice. This study proposes potential solutions, including clearer legislative guidelines, enhanced judicial training, and the establishment of a dedicated mechanism for resolving jurisdictional conflicts.

1. Introduction

Indonesia, a nation renowned for its vibrant cultural tapestry and dynamic socio-political landscape, operates a legal system that reflects the complexities of its historical and contemporary context. At the heart of this system lies a dual court structure, a feature inherited from its colonial past and further shaped by post-independence legal developments. This dualism manifests in the existence of General Courts and State Administrative Courts (PTUN), each entrusted with distinct jurisdictions and responsibilities in the pursuit of justice. General Courts, anchored in the principles of civil and criminal law, primarily adjudicate disputes arising from private law matters. They serve as the cornerstone of legal

recourse for individuals and entities seeking resolution for conflicts related to contracts, property, family matters, and criminal offenses. These courts, under the umbrella of the Supreme Court, represent the traditional face of the Indonesian judiciary, upholding legal principles and ensuring fairness in interpersonal and inter-entity disputes. On the other hand, State Administrative Courts (PTUN) occupy a specialized niche within the Indonesian legal landscape. Established in the post-colonial era, the PTUN emerged from a growing recognition of the need for a dedicated judicial mechanism to address disputes between citizens and the state. These courts, under the jurisdiction of the State Administrative High Court, are tasked with resolving conflicts arising from

administrative actions or decisions, known as TUN (Tindakan Undang-Undang Tata Usaha Negara). The PTUN's mandate is to ensure that the government operates within the bounds of the law, safeguarding citizens from arbitrary or unlawful administrative actions.¹⁻³

While the theoretical division of jurisdiction between General Courts and the PTUN appears clear-cut, the practical application reveals a complex and often ambiguous terrain. The lines become blurred when State Administrative Decisions (TUN) contain elements of civil law, leading to jurisdictional overlaps and potential conflicts between these two court systems. This overlap, arising from the intricate interplay between public and private law, presents a significant challenge to the Indonesian legal system, with far-reaching implications for legal certainty and access to justice. Imagine a scenario where a citizen's land is acquired by the government for a public infrastructure project. The government's decision to acquire the land falls under the purview of administrative law, and any challenge to this decision would typically be brought before the PTUN. However, if the dispute also involves questions of land ownership, compensation, or potential breaches of contractual agreements related to the acquisition, elements of civil law come into play. This creates ambiguity regarding the appropriate forum for resolving the dispute, potentially leading to jurisdictional conflicts between General Courts and the PTUN. Such overlaps are not merely hypothetical scenarios; they are recurring realities within the Indonesian legal system. Disputes related to land acquisition, contractual agreements with government entities, and the execution of TUN decisions frequently give rise to jurisdictional challenges, leaving litigants in a state of uncertainty and potentially hindering their access to justice.⁴⁻⁶

The consequences of this jurisdictional ambiguity are multifaceted. Firstly, it undermines legal certainty, a cornerstone of a just and efficient legal system. Legal certainty enables individuals and businesses to

understand their rights and obligations, predict the consequences of their actions, and engage in legal transactions with confidence. When jurisdictional boundaries are unclear, this certainty is eroded, making it difficult for individuals to navigate the legal system and obtain effective redress for their grievances. Secondly, jurisdictional overlaps can lead to delays and increased costs in legal proceedings. When disputes arise regarding which court has the authority to hear a case, parties may engage in protracted litigation over jurisdictional issues, prolonging the resolution process and adding to the financial burden on litigants. This can discourage individuals, particularly those with limited resources, from pursuing their legal rights. Thirdly, the lack of clarity in jurisdictional delimitation can create opportunities for forum shopping. Litigants may strategically choose the court they believe will be more favorable to their case, potentially exploiting the ambiguities in the system to gain an advantage. This practice undermines the integrity of the legal system and can erode public trust in the judiciary. Furthermore, the jurisdictional overlap between General Courts and the PTUN has implications for access to justice, a fundamental right enshrined in both domestic and international law. Access to justice encompasses the ability of individuals to seek and obtain remedies for grievances, to participate meaningfully in legal proceedings, and to have their rights protected by a fair and impartial judiciary. When jurisdictional ambiguities create barriers to accessing the appropriate court, this fundamental right is compromised. The challenges posed by this jurisdictional overlap are not insurmountable, but they require careful consideration and a multi-faceted approach to resolution. This necessitates a deeper understanding of the underlying causes of the overlap, the specific areas where it commonly occurs, and the impact it has on legal certainty and access to justice.⁷⁻¹⁰ This study aims to delve into the complexities of the jurisdictional overlap between General Courts and State Administrative Courts in Indonesia.

2. Methods

This study embarked on a journey to unravel the intricate web of jurisdictional overlap between General Courts and State Administrative Courts (PTUN) in Indonesia. Recognizing the multifaceted nature of this legal challenge, a robust and carefully crafted methodological framework was deemed essential to ensure the rigor and validity of the research. The chosen approach, rooted in the qualitative legal research tradition, sought to delve deep into the legal doctrines, legislation, and jurisprudence that govern the jurisdiction of these two court systems.

At the outset of this research endeavor, a comprehensive review of relevant legal literature was undertaken. This initial step served as the foundation upon which the entire study was built, providing a solid theoretical framework and a comprehensive understanding of the existing scholarly landscape. The literature review encompassed a wide range of sources, including academic journals, books, legal commentaries, and online resources. The exploration of academic journals provided valuable insights into the latest research and debates surrounding the jurisdictional overlap between General Courts and the PTUN. These scholarly articles, often peer-reviewed and rigorously analyzed, offered diverse perspectives on the issue, highlighting its complexities and potential implications for the Indonesian legal system. Books and legal commentaries served as invaluable guides to the theoretical underpinnings of Indonesian law, providing in-depth analyses of the legal doctrines and principles relevant to the study. These sources offered a historical perspective on the development of the dual court system, tracing its evolution and highlighting the challenges that have emerged over time. Online resources, including legal databases, government websites, and online libraries, provided access to a wealth of legal information, including legislation, court decisions, and policy documents. These resources enabled a comprehensive and up-to-date understanding of the legal framework governing the jurisdiction of General Courts and the PTUN. The literature review was not merely a passive collection of

information; it was an active process of engagement and critical analysis. The research team meticulously examined each source, identifying key themes, arguments, and perspectives. This process allowed for the identification of knowledge gaps and areas where further research was needed, shaping the direction of the study and ensuring its relevance to the current legal discourse.

With a solid theoretical foundation in place, the research proceeded to the next stage: a meticulous analysis of the relevant legislation. This involved a deep dive into the legal texts that define the jurisdiction of General Courts and the PTUN, seeking to understand the intricacies of the legal framework and identify potential ambiguities or inconsistencies that could contribute to jurisdictional overlaps. The legislative analysis focused on three key pillars of Indonesian law; Law No. 5 of 1986 on State Administrative Courts: This foundational law, enacted in the post-colonial era, established the PTUN and outlined its jurisdiction in adjudicating administrative disputes. The research team meticulously examined each provision of this law, seeking to understand its scope, limitations, and potential areas of overlap with the jurisdiction of General Courts; Law No. 48 of 2009 concerning Judicial Power: This law provides a broader framework for the Indonesian judiciary, defining the roles and responsibilities of various courts, including General Courts and the PTUN. The analysis of this law focused on identifying the principles governing jurisdictional delimitation and any provisions that could shed light on the resolution of jurisdictional conflicts; Related regulations: In addition to the core laws, the research team also examined a range of related regulations, including Government Regulations and Supreme Court Regulations. These regulations provide further details on the operation of the courts, the procedures for filing claims, and the rules governing specific types of disputes. The analysis of these regulations aimed to identify any provisions that could contribute to or help resolve jurisdictional overlaps. The legislative analysis was not merely a descriptive exercise; it involved a

critical examination of the legal texts, seeking to identify potential gaps, ambiguities, or inconsistencies that could contribute to jurisdictional challenges. The research team paid close attention to the language used in the legislation, the interpretation of key terms, and the interplay between different provisions. This meticulous analysis allowed for a nuanced understanding of the legal framework and its potential implications for the jurisdictional overlap between General Courts and the PTUN.

The third stage of the research involved a comprehensive analysis of case law from both General Courts and the PTUN. This stage aimed to move beyond the theoretical framework of legislation and delve into the practical application of jurisdictional principles in real-world disputes. The focus was on identifying patterns and trends in jurisdictional challenges, seeking to understand how courts have interpreted and applied the law in cases involving potential overlaps. The case law analysis focused on cases spanning from 2018 to 2024, capturing recent developments and trends in the resolution of jurisdictional disputes. This timeframe allowed for the examination of contemporary legal challenges and the evolving interpretation of jurisdictional principles by the courts. The selection of cases was guided by their relevance to the research topic, with a particular focus on disputes involving three key areas; Land disputes: Cases involving land ownership, particularly those involving government land or land acquisition for public purposes, were closely examined. These disputes often involve a complex interplay between administrative and civil law, creating fertile ground for jurisdictional challenges; Contractual disputes with government entities: Disputes arising from contracts between private parties and government entities were also analyzed. These cases often involve questions of both administrative law, related to the government's actions as a contracting party, and civil law, related to the interpretation and enforcement of contractual obligations; Disputes arising from the execution of TUN decisions: The research also examined cases related to the enforcement or implementation of TUN

decisions. These cases can raise jurisdictional issues when the execution of an administrative decision impacts private rights or leads to claims for compensation, potentially blurring the lines between administrative and civil law jurisdiction. The analysis of each case involved a careful examination of the legal issues, the arguments presented by the parties, and the reasoning behind the court's decision. The research team paid close attention to how the courts interpreted the relevant legislation, applied jurisdictional principles, and resolved any conflicts between the jurisdiction of General Courts and the PTUN. This meticulous analysis allowed for the identification of recurring patterns, inconsistencies, and trends in the resolution of jurisdictional challenges.

The final stage of the research involved the analysis of the data collected through the literature review, legislative analysis, and case law review. This stage aimed to synthesize the insights gained from the various research components, identify key themes and patterns, and draw meaningful conclusions about the jurisdictional overlap between General Courts and the PTUN. The data analysis process was primarily qualitative in nature, focusing on the interpretation and analysis of textual data rather than statistical analysis. This approach was deemed most appropriate given the nature of the research question and the type of data collected. The analysis involved a careful examination of the legal doctrines, legislative provisions, and court decisions, seeking to identify recurring themes, patterns, and contradictions in the application of jurisdictional principles. The research team paid close attention to the language used in the legal texts, the interpretation of key terms, and the reasoning behind court decisions. The analysis also involved a comparative approach, examining how different courts have addressed similar jurisdictional challenges. This allowed for the identification of inconsistencies and contradictions in the application of the law, highlighting the challenges faced by litigants in navigating the complex jurisdictional landscape. The data analysis process was iterative and

reflexive, with the research team constantly revisiting and refining their interpretations as new insights emerged. This ensured that the analysis remained grounded in the data and that the conclusions drawn were supported by the evidence.

3. Results

Table 1 illustrates the intricate nature of jurisdictional overlap between General Courts and State Administrative Courts (PTUN) in Indonesia. It highlights three key areas where these overlaps commonly occur, providing a glimpse into the complexities that litigants and legal professionals face in navigating the Indonesian legal system; Land Disputes: This area represents a significant point of contention. While the PTUN is empowered to adjudicate disputes arising from government decisions regarding land acquisition, issues of land ownership and compensation often fall under the purview of General Courts. This overlap can lead to situations where individuals must pursue separate legal actions in different courts to fully resolve their land-related grievances. The case example provided illustrates this challenge, highlighting the potential for conflicting decisions and legal uncertainty; Contractual Disputes with Government Entities: This area highlights the ambiguity that arises when contracts between private parties and government entities are disputed. While the PTUN typically handles challenges to the administrative aspects of such contracts, issues of breach of contract, performance, and payment might fall under the jurisdiction of General Courts. This overlap can create confusion regarding the appropriate forum for resolving contractual disputes, potentially leading to delays and increased costs for litigants; Execution of TUN Decisions: This area focuses on the challenges in enforcing decisions issued by the PTUN. While the PTUN can issue rulings against government entities, ensuring compliance with these rulings can be difficult. In cases where government entities fail to comply, individuals may need to resort to General

Courts to enforce the PTUN's decisions. This highlights a potential gap in the enforcement mechanisms for administrative law rulings and underscores the need for clearer guidelines and procedures.

Table 2 provides valuable insights into how Indonesian courts grapple with jurisdictional overlaps between General Courts and State Administrative Courts (PTUN). By examining three distinct cases, the table reveals patterns and inconsistencies in judicial decision-making, highlighting the need for clearer guidelines and better coordination between these court systems; Case 1: This case exemplifies the complexity of land disputes involving both public and private law elements. The Supreme Court's decision to split jurisdiction between the PTUN (for the legality of acquisition) and the General Court (for ownership based on customary law) underscores the intricate nature of such disputes. This division, while potentially logical, can lead to multiple legal proceedings and increased complexity for those seeking to resolve land issues; Case 2: This case demonstrates the PTUN's tendency to defer to the General Court in contractual disputes, even when government entities are involved. This deference suggests a reluctance to assert jurisdiction over matters with potential private law elements, even when they are intertwined with administrative actions. This approach may streamline legal proceedings but could also limit the PTUN's role in ensuring government accountability in contractual matters; Case 3: This case reinforces the distinct roles of the PTUN and General Courts, even when a government agency fails to comply with a PTUN ruling. The Constitutional Court's emphasis on separate enforcement mechanisms within the PTUN highlights the need for the PTUN to strengthen its own enforcement powers. This separation of powers, while upholding the integrity of each court system, could pose challenges for those seeking to enforce administrative law rulings.

Table 1. Areas of jurisdictional overlap between general courts and state administrative courts in Indonesia.

Area of overlap	Description	Case example	Key legal issues
Land Disputes	Conflicts arising from land acquisition for public purposes, involving both the legality of the acquisition process and disputes over compensation and ownership rights.	A farmer challenges the legality of government land acquisition for a road project in the PTUN, while simultaneously suing for higher compensation in the General Court.	- Determining the proper forum for resolving disputes over compensation and ownership rights in land acquisition cases. - Potential for conflicting decisions regarding land ownership and compensation amounts.
Contractual Disputes with Government Entities	Disputes arising from contracts between private parties and government entities, concerning breach of contract, performance, and payment.	A construction company sues a government agency in the General Court for breach of contract related to delayed payments, while also challenging the legality of the payment procedures in the PTUN.	- Determining whether disputes over contract performance and payment fall under the jurisdiction of the General Court or the PTUN when a government entity is involved. - Balancing the need to protect private contractual rights with the need to ensure the legality of government actions.
Execution of TUN Decisions	Difficulties in enforcing decisions issued by the PTUN, particularly when government entities fail to comply with rulings.	The PTUN orders a government agency to issue a business permit, but the agency delays. The business owner files a lawsuit in the General Court to compel the agency to comply.	- Clarifying the role of the General Court in enforcing PTUN decisions. - Ensuring effective mechanisms for implementing administrative law rulings.

Table 2. Analysis of case law on jurisdictional overlap between general courts and state administrative courts in Indonesia.

Case number	Court	Area of overlap	Facts of the case	Court decision	Key findings
Case 1	Supreme Court of Indonesia	Land Dispute	A village government acquired land for a public school. The landowner challenged the acquisition in the PTUN, claiming inadequate compensation. Simultaneously, they filed a lawsuit in the General Court claiming ownership rights based on customary law.	The Supreme Court ruled that the PTUN had jurisdiction over the legality of the acquisition, while the General Court had jurisdiction over the ownership dispute based on customary law.	Highlights the complexity of land disputes where public and private law issues intersect.
Case 2	PTUN Jakarta	Contractual Dispute	A private company contracted with a government ministry to supply office equipment. A dispute arose over payment delays. The company filed a lawsuit in the General Court for breach of contract, and later challenged the legality of the ministry's payment procedures in the PTUN.	The PTUN dismissed the case, stating that the General Court had jurisdiction over the contractual dispute, even though it involved a government entity.	Emphasizes the tendency of the PTUN to defer to the General Court in contractual disputes, even when public law issues are present.
Case 3	Constitutional Court of Indonesia	Execution of TUN Decision	An environmental NGO obtained a favorable ruling from the PTUN against a government agency for illegal logging. The agency failed to comply. The NGO sought enforcement of the PTUN decision through the General Court.	The Constitutional Court ruled that the General Court could not enforce a PTUN decision, emphasizing the need for separate mechanisms within the PTUN for enforcing its rulings.	Reinforces the separation of powers between the PTUN and General Courts, even in cases of non-compliance with TUN decisions.

Table 3 effectively illustrates the detrimental impact of jurisdictional overlap between General Courts and State Administrative Courts (PTUN) on legal certainty and access to justice in Indonesia. It

breaks down the impact into three key areas, providing concrete examples and potential consequences to highlight the real-world implications of this issue; Legal Uncertainty: The table emphasizes how

jurisdictional ambiguity creates unpredictability in legal outcomes. Individuals and businesses facing disputes with government entities may find it difficult to determine the appropriate court to file their case. This uncertainty can lead to delays, and dismissals, and ultimately discourage people from pursuing legal remedies. This not only affects individuals seeking justice but can also hinder investment and economic activity due to the unpredictable legal environment; **Reduced Access to Justice:** The table highlights how jurisdictional overlap creates barriers for individuals seeking to navigate the court system and assert their rights. This is particularly problematic for marginalized communities and those unfamiliar with legal procedures. The example of a villager facing difficulties in understanding where to file a land

dispute case illustrates how jurisdictional complexities can lead to potential loss of rights due to a lack of legal knowledge. This exacerbates existing inequalities in access to legal resources and representation, disproportionately affecting vulnerable groups; **Potential for Injustice:** This section focuses on the risk of unfair outcomes due to conflicting decisions from different courts or delays in resolving disputes. The example of a citizen-facing conflicting orders from the PTUN and the General Court in a case involving a government permit highlights the potential for confusion and legal penalties. This undermines the rule of law and public confidence in the fairness of the judicial system, potentially creating situations where individuals are denied justice or subjected to conflicting legal obligations.

Table 3. Impact of jurisdictional overlap on legal certainty and access to justice in Indonesia.

Impact area	Description	Example	Potential consequences
Legal Uncertainty	Creates ambiguity and unpredictability in legal outcomes due to unclear jurisdictional boundaries and inconsistent court decisions.	A business owner is unsure whether to file a contract dispute with a government agency in the PTUN or General Court, leading to delays and potential dismissal of the case.	- Discourages individuals and businesses from pursuing legal remedies. - Hinders investment and economic activity due to the unpredictable legal environment. - Erodes public trust in the judicial system.
Reduced Access to Justice	Creates barriers for individuals seeking to navigate the court system and assert their rights, particularly for marginalized communities and those unfamiliar with legal procedures.	A villager from a remote area facing difficulties understanding where to file a land dispute case against a government project, leading to potential loss of rights due to lack of legal knowledge.	- Exacerbates existing inequalities in access to legal resources and representation. - Disproportionately affects vulnerable groups who may be less able to navigate complex legal processes.
Potential for Injustice	Increases the risk of unfair outcomes due to conflicting decisions from different courts or delays in resolving disputes.	A citizen facing conflicting orders from the PTUN and the General Court in a case involving a government permit, leading to confusion and potential legal penalties.	- Undermines the rule of law and public confidence in the fairness of the judicial system. - Creates situations where individuals may be denied justice or subjected to conflicting legal obligations.

4. Discussion

Land disputes in Indonesia are often mired in a complex web of jurisdictional challenges, reflecting the intricate tapestry of legal frameworks and socio-cultural nuances that govern land ownership and use in the country. The dual court system, featuring General Courts and State Administrative Courts (PTUN), while designed to provide specialized legal recourse, often creates ambiguity and fragmentation in resolving land-related conflicts. At the core of this complexity lies the division of jurisdiction between these two court systems. The PTUN, established to adjudicate disputes arising from government administrative actions, holds authority over matters related to land acquisition for public purposes. This includes challenges to the legality of the acquisition process, the adequacy of compensation provided to landowners, and adherence to procedural requirements. However, issues related to land ownership, possessory rights, and boundary disputes often fall under the purview of General Courts, which primarily handle civil and criminal matters. This seemingly logical division, aimed at separating public and private law matters, can lead to fragmented legal proceedings, forcing individuals to navigate multiple courts and legal frameworks to fully resolve their land-related grievances. Imagine a farmer whose land is acquired by the government for a development project. While the PTUN may handle the legality of the acquisition process, the farmer may need to approach the General Court to resolve a concurrent dispute over ownership rights with a neighbor. This fragmentation can be particularly burdensome for individuals and communities with limited resources and legal expertise, hindering their access to justice and prolonging the resolution of disputes. Adding another layer of complexity is the diversity of land tenure systems in Indonesia. Alongside the formal system of land registration and titling, customary land rights, deeply rooted in local traditions and practices, continue to play a significant role, particularly in rural areas. These customary rights, while recognized by Indonesian law, may not always be clearly

documented or easily reconciled with the formal land administration system. This can create challenges in determining ownership and resolving disputes, particularly when customary rights intersect with government land acquisition or development projects. For instance, if a community claims customary rights over land designated for a government project, resolving the conflict may require navigating both customary law and formal legal procedures, potentially involving both the PTUN and General Courts. The case law analysis further reveals a pattern of inconsistent approaches to resolving jurisdictional overlaps in land disputes. In some instances, courts have adopted a pragmatic approach, dividing jurisdiction based on the specific legal issues involved. This can lead to situations where different aspects of the same land dispute are adjudicated in separate courts, increasing complexity and costs for litigants. In other cases, courts have struggled to reconcile the competing jurisdictional claims, leading to inconsistent and sometimes contradictory rulings. This inconsistency further exacerbates the legal uncertainty faced by individuals and communities involved in land disputes, making it difficult to predict legal outcomes and undermining confidence in the judicial process. The legal framework governing land ownership and acquisition in Indonesia is complex and not always clear-cut. Laws related to land often contain overlapping provisions, leaving room for interpretation and contributing to jurisdictional ambiguity. For example, the distinction between "rights" and "authority" over land, as stipulated in various laws, can be difficult to apply in practice, leading to disputes over whether a matter falls under the jurisdiction of the PTUN or General Courts. Indonesia's decentralized system of governance further complicates land matters. National laws, regional regulations, and local customary practices can create overlapping and sometimes conflicting frameworks for governing land ownership and use. This can make it challenging to determine the appropriate legal framework and court jurisdiction for resolving specific disputes. The lack of effective

mechanisms for coordination and communication between General Courts and the PTUN can contribute to inconsistent interpretations and approaches to resolving jurisdictional conflicts in land disputes. This can lead to forum shopping, where litigants strategically choose the court they believe will be more favorable to their case, further undermining the integrity of the legal system. Both General Courts and the PTUN may face capacity constraints in terms of resources, expertise, and infrastructure, which can hinder their ability to effectively handle complex land disputes. This can result in delays, backlogs, and inadequate consideration of all relevant legal and factual issues. Navigating multiple courts and legal procedures can be costly and time-consuming for litigants, particularly for individuals and communities with limited resources. This can deter people from pursuing their legal rights and contribute to a sense of injustice. The lack of clarity and consistency in jurisdictional delimitation creates legal uncertainty, making it difficult for individuals and businesses to predict legal outcomes and plan their activities accordingly. This can hinder investment, development, and economic growth. The complexity of the legal framework and the potential for conflicting decisions can create opportunities for injustice, particularly for marginalized and vulnerable groups who may lack the resources or legal expertise to effectively navigate the system. This can perpetuate existing inequalities and undermine social cohesion. Unresolved land disputes can contribute to social conflict and instability, particularly in areas where land is a scarce and valuable resource. This can lead to protests, violence, and disruptions to community life. Clear legislative guidelines are needed to provide more precise definitions of the jurisdiction of General Courts and the PTUN in land disputes. This could involve amending existing legislation or enacting new laws specifically designed to address jurisdictional conflicts in this area. Harmonizing national laws, regional regulations, and customary practices is crucial to ensure clarity and consistency. Enhanced judicial training is crucial to equip judges with the knowledge

and skills to effectively resolve jurisdictional disputes in land cases. This should include training on land law, customary law, and the nuances of jurisdictional delimitation. Judges should also be sensitized to the socio-cultural context of land disputes and the potential impact of their decisions on communities. Improved coordination and communication between General Courts and the PTUN is essential to promote consistency in decision-making and reduce conflicting interpretations of the law. This could involve establishing clear protocols for referral of cases between courts, joint training programs for judges, and regular consultations on jurisdictional issues. Strengthening the capacity of both General Courts and the PTUN, including through increased resources, specialized expertise, and improved infrastructure, can enhance their ability to effectively handle complex land disputes. This could involve establishing specialized land courts or divisions within existing courts, recruiting and training judges with expertise in land law, and providing adequate support staff and resources. Promoting alternative dispute resolution mechanisms, such as mediation and arbitration, can provide more efficient and accessible avenues for resolving land disputes, reducing the burden on the formal court system. These mechanisms can be particularly effective in addressing land disputes that involve complex social and cultural dimensions, allowing for more flexible and culturally appropriate solutions.¹¹⁻¹⁵

Contractual disputes involving government entities in Indonesia present a unique and formidable challenge within the country's legal landscape. This complexity arises from the inherent tension between public and private law principles, further complicated by the jurisdictional overlap between General Courts and State Administrative Courts (PTUN). This creates a murky and often treacherous legal terrain for individuals and businesses seeking redress in contractual disputes with government bodies. At the heart of this complexity lies the dual nature of government contracts. These contracts, while fundamentally agreements between two or more

parties, are not purely private affairs. They involve the government acting in its capacity as a public entity, wielding state power and resources to achieve public policy objectives. This imbues government contracts with public law elements, subjecting them to principles of administrative law such as transparency, accountability, and good governance. Simultaneously, these contracts also entail private law obligations, such as the duty to perform contractual obligations in good faith, adhere to agreed-upon terms, and provide remedies for breach of contract. This duality creates a jurisdictional dilemma for parties involved in disputes with government entities. Should they pursue their claims in the PTUN, focusing on the administrative law aspects of the dispute, such as challenging the legality of the procurement process or the government's decision to award the contract? Or should they file their case in the General Court, emphasizing the private law aspects of the contractual relationship, such as breach of contract, non-performance, or delayed payments? The answer is often far from clear-cut, leading to uncertainty, delays, and potential forum shopping. The case law analysis reveals a concerning trend the PTUN often defers to General Courts in contractual disputes, even when public law issues are clearly present. This deference suggests a reluctance to assert jurisdiction over matters with potential private law elements, even when they are inextricably linked to administrative actions. While this approach may appear to streamline legal proceedings by avoiding jurisdictional conflicts, it can have significant negative consequences. Firstly, this deference can limit access to justice for individuals and businesses seeking to challenge government actions in contractual disputes. General Court procedures, designed for disputes between private parties, can be more complex, time-consuming, and costly than those in the PTUN. This can create significant barriers for individuals and small businesses with limited resources, effectively denying them the opportunity to seek redress against potentially unlawful government actions. Secondly, by deferring to General Courts, the PTUN may

inadvertently diminish its role in ensuring government accountability in contractual matters. The PTUN, with its specialized expertise in administrative law, is well-positioned to scrutinize government actions and ensure compliance with principles of good governance, transparency, and fairness. Relinquishing this role to General Courts could undermine the PTUN's ability to hold the government accountable for its contractual obligations and uphold the integrity of public procurement processes. Thirdly, the lack of clear jurisdictional boundaries and the PTUN's tendency to defer to General Courts can lead to inconsistent legal outcomes. Different courts may apply different legal standards and interpretations to similar disputes, creating uncertainty and unpredictability for parties involved in contractual disputes with government entities. This can undermine confidence in the legal system and discourage businesses from engaging in contracts with the government, potentially hindering economic development. The existing legal framework, while providing a general framework for the jurisdiction of each court system, lacks clear guidance on resolving overlaps in cases involving mixed elements of administrative and civil law in contractual disputes. This ambiguity leaves room for judicial interpretation and discretion, which can lead to inconsistent outcomes and further complicate the legal landscape. The increasing complexity and sophistication of government contracts, often involving public-private partnerships, concessions, and other innovative arrangements, can blur the lines between public and private law. This makes it more challenging to determine the appropriate jurisdiction for resolving disputes, as traditional categorizations may not adequately capture the nuances of these modern contractual arrangements. The lack of effective mechanisms for coordination and communication between General Courts and the PTUN can contribute to inconsistent interpretations and approaches to resolving jurisdictional conflicts in contractual disputes. This can lead to forum shopping and conflicting judgments, further undermining legal certainty and access to justice. Clearer legislative

guidelines are needed to provide more precise definitions of the jurisdiction of General Courts and the PTUN in contractual disputes involving government entities. This could involve amending existing legislation or enacting new laws specifically designed to address jurisdictional conflicts in this area. The legislation should provide clear criteria for determining jurisdiction in cases with mixed elements of public and private law, taking into account the specific characteristics of government contracts. Enhanced judicial training is crucial to equip judges with the knowledge and skills to effectively resolve jurisdictional disputes in contractual cases. This should include training on contract law, administrative law, and the nuances of jurisdictional delimitation in this context. Judges should be sensitized to the unique challenges posed by government contracts and encouraged to adopt a more proactive approach in asserting the PTUN's jurisdiction when public law issues are at stake. Improved coordination and communication between General Courts and the PTUN is essential to promote consistency in decision-making and reduce conflicting interpretations of the law in contractual disputes. This could involve establishing clear protocols for referral of cases between courts, joint training programs for judges, and regular consultations on jurisdictional issues. Developing specialized expertise within both General Courts and the PTUN to handle complex contractual disputes involving government entities can enhance the efficiency and effectiveness of legal proceedings. This could involve establishing specialized chambers or divisions within the courts, staffed with judges who have in-depth knowledge of government contract law and administrative law principles. Promoting alternative dispute resolution mechanisms, such as mediation and arbitration, can provide more efficient and accessible avenues for resolving contractual disputes with government entities, reducing the burden on the formal court system. These mechanisms can offer a more flexible and collaborative approach to resolving disputes, potentially leading to faster and more mutually

satisfactory outcomes.¹⁶⁻²⁰

5. Conclusion

This study has illuminated the intricate and often perplexing landscape of jurisdictional overlap between General Courts and State Administrative Courts (PTUN) in Indonesia. This overlap, arising from the confluence of public and private law elements in certain disputes, presents a formidable challenge to the Indonesian legal system. It undermines legal certainty, hinders access to justice, and creates inefficiencies within the judicial process. The analysis of legislation and case law reveals recurring patterns of jurisdictional ambiguity, particularly in disputes related to land acquisition, contractual agreements with government entities, and the execution of TUN decisions. These areas represent the fault lines where the seemingly clear-cut division between administrative and civil law blurs, creating uncertainty for litigants and legal professionals alike. Addressing this challenge requires a multifaceted approach. Clearer legislative guidelines are needed to provide more precise definitions of the jurisdiction of each court system. Enhanced judicial training is crucial to equip judges with the knowledge and skills to effectively resolve jurisdictional disputes. Strengthening the institutional capacity of both General Courts and the PTUN, including improved coordination and communication, is essential to promote consistency and efficiency. By taking proactive steps to address this issue, Indonesia can strengthen its legal system, promote greater legal certainty, and ensure that all citizens have effective access to justice. This will not only enhance the efficiency and fairness of the judicial process but also contribute to the overall development of the rule of law in Indonesia.

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