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Opportunities for the Formation of the Moot Administrative Courts from A SWOT Analysis Perspective

Sudarsono Sudarsono[1], Dewi Cahyandari[2], Shinta Hadiyantina[3], Syofyan Hadi[4], Ahmad Siboy[5]*

[1234] Faculty of Law, UniversitasBrawijaya, Indonesia
[5]Faculty of Law, University of Islam Malang, Indonesia

Corresponding Author: siboysalman@unisma.ac.id

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Abstract

Various alternatives to reduce the number of State Administrative Disputes that must be tried by the State Administrative Court and the High State Administrative Court have been carried out. Among the alternatives offered is through the establishment of a moot administrative court within the government. This research raises two problem formulations, namely how is the position of the Moot Court in resolving State Administrative Disputes and how the opportunities for the formation of a Moot Administrative Court in the Perspective of SWOT Analysis. This study aims to describe the moot court arrangement in Indonesia as well as to offer the establishment of a moot administrative court based on the analysis of Strengths, Weakness, Opportunities, and Threats (SWOT). The research method used is juridical normative with the statue approach, conceptual approach, and case approach. Sources of legal materials in this study consist of primary sources of legal materials, sources of secondary legal materials, and sources of tertiary legal materials. The results of the research state that the arrangements regarding the position, nature, and implications of the moot court position are inconsistent between one statute and another. It is caused by the process of resolving state administrative disputes through the moot court to have legal certainty and do not provide fair legal protection for people seeking justice. Therefore, it is necessary to establish a moot administrative court. Based on the SWOT variable, the establishment of a moot administrative court within the government has sufficient strength and opportunity. However, it cannot be denied that there are also weaknesses and threats. It is necessary to develop a strategy that maximizes strengths and opportunities and eliminates weaknesses and threats so that a moot administrative court is formed that can provide protection and legal certainty that is just for the people who seek justice.

Introduction

The moot administrative court in the government circles is well known in the Indonesian legal system as a model for dispute settlement before Law no. 5 of 1986. Suppose (1) the Decree of the Tax Advisory Council in Law No. 5 of 1959 concerning amendments to "Regeling van het beroep in belastingszaken", (2) Decree of the Personnel Advisory Board based on Government Ordinance Number 30 of 1980 concerning Civil Servant Discipline Regulations, (3) Decision of the Central Labor Dispute Settlement Committee based on Law No. 22 of 1957 concerning the Settlement of Labor Disputes and Law Number 12 of 1964 concerning Termination of Employment in Private Companies, and (4) and other laws and regulations.

Then, the regulation regarding the moot administrative court received more concrete emphasis in Article 48 of Law no. 5 of 1986 using the term "administrative effort". Article 48 a quo determines as follows:

(1) If a State Administrative Agency or Official is authorized by or based on statutory regulations to resolve certain state administrative disputes administratively, the state administrative dispute must be resolved through available administrative measures.

(2) The new court has the authority to examine, decide, and settle state administrative disputes, as referred to in paragraph (1), if all administrative measures concerned have been used.

Furthermore, the elucidation of Article 48 paragraph (1) states that administrative effort is a procedure that can be taken by a private legal person or entity if he is not satisfied with a State Administrative Decree. These procedures are implemented within self-government circles and take two forms. If the settlement must be carried out by a superior agency or other agency from the one issuing the decision concerned, the procedure is called an "administrative appeal". Examples of administrative appeals include:

- Decree of the Tax Advisory Council based on the provisions in Staatsblad 1912 Nr 29 (Regeling van het beroep in belastingszaken) in conjunction with Law No. 5 of 1959 concerning changes to "Regeling van het beroep in belastingszaken".
- Decree of the Civil Service Advisory Board based on Government Ordinance No. 30/1980 on Disciplinary Regulations for Civil Servants.
- Decree of the Central Labor Dispute Settlement Committee based on Law Number 22 of 1957 concerning Settlement of Labor Disputes and Law Number 12 of 1964 concerning Termination of Employment in Private Companies.
- The Governor's Decree is based on Article 10 paragraph (2) of the 1926 Staatsblad Disturbance Law Nr. 226.

In case of the completion of the State Administrative Decisions, the completion must be done by the institution or the official issuing the decision. The run procedureis called “objection.”For example, namely Article 25 of Law Number 6 of 1983 concerning General Provisions of Taxation. In contrast to procedures in State Administrative Courts, in administrative appeal or control procedures, complete supervision is carried out, both in terms of law enforcement and from requests by the deciding agency.

Based on the provisions in the statutory regulations, which become the basis for the issuance of the State Administrative Decree concerned, it can be seen whether the State Administrative Decree is open to the possibility of taking an administrative effort. As for the explanation of Article 48, paragraph (2) states that if all the procedures and opportunities mentioned in the explanation of paragraph (1) have been taken, and the party concerned is still not satisfied, then the problem can be challenged and submitted to the Court.

Based on the provisions of Article 48 above, there are at least 2 (two) legal norms/methods contained, namely as follows:

a. State administrative disputes must be resolved through administrative measures if statutory regulations authorize government officials. It means that not all state administrative disputes must be resolved through administrative efforts.

b. The new state administrative court has the authority to adjudicate state administrative disputes when all the required administrative measures have been taken.

Concerning this, Philipus M. Hadjon stated that there are two lines of litigation before the State Administrative Court. For state administrative decisions that do not recognize administrative efforts, the lawsuit is addressed to the State Administrative Court as the first level court. In contrast, for state administrative decisions that recognize administrative efforts, the lawsuit is directed to the High State Administrative Court [1].

a. Settlement through Administrative Efforts

Dispute settlement through administrative efforts is the settlement of state administrative disputes by a separate internal government, not by a judicial institution. With such character, the settlement in this way is known as settlement through *quasi administratiefrechtspraak* (the moot administrative court).

It is called that because administrative efforts have the same function as judicial institutions in resolving state administrative disputes but do not have procedural laws such as judicial bodies.There are 2 (two) types of dispute settlement through administrative efforts, namely through objection (*bezwaar*) and administrative appeal (*administratiefberoep*). Usually, objections are submitted to the official who took action or who issued the decision, whereas administrative appeals are submitted to the superior of the official concerned. However, such procedures are not applicable because administrative measures are determined in sectoral laws, so they differ from one another.For example, the settlement of state administrative disputes for the election of Regional Heads through administrative efforts regulated in Law Number 10 of 2016 has a different procedure from the settlement of personnel disputes in Law Number 5 of 2014.

b. Settlement through Administrative Judicial Institutions

The settlement of state administrative disputes through administrative courts is a dispute settlement procedure carried out by an independent judicial body with a predetermined procedural law. According to Article 47 of Law no. 5 of 1986, the State Administrative Court is given absolute competence to resolve state administrative disputes.

[1]Philipus M. Hadjon, et.al., *PengantarHukumAdministrasi di Indonesia*, Yogyakarta: GadjahMada University Press, pp.317, 2002

Usually, the settlement of administrative disputes through the judiciary begins with the process of filing a lawsuit by the plaintiff to the competent court, so this process is a contentious process in which the people as the plaintiffs and the state administrative bodies/officials as the defendants. The end of dispute settlement through the Administrative Court is the determination of the court's decision, which contains an assessment of the validity of the actions of government agencies/officials. If the action/decision is declared contrary to statutory regulations and general principles of good governance, the court cancels the government decision/action and imposes certain obligations such as revoking or issuing a decision to a government agency/official.

Based on the explanation and analysis of the regulations regarding the arrangement of the Moot Administrative Court within the Government, the problem that arises is the inconsistency of legal norms from the aforementioned statutory regulations.

Method

This research on the opportunities for the establishment of a moot administrative court uses this type of juridical-normative research. That is research conducted based on library research [2]. The approach used is the statue approach, conceptual approach, and case approach. Sources of legal materials in this study consist of primary sources of legal materials, sources of secondary legal materials, and sources of tertiary legal materials. The source of primary legal material consists of statutory regulations and judicial decisions related to the moot administrative courts. Secondary legal material sources consist of books and journals, while tertiary legal materials are in the form of a large Indonesian dictionary. While the legal material analysis technique used is the analysis-prescriptive technique [3].

Results and Discussion

A. Problems in the Moot Administrative Court Arrangements

Regulations regarding moot court in government circles that are scattered in various laws and regulations show the inconsistency of norms due to the application of the concept of the position of the moot court in each statutory regulation. The inconsistencies in regulating moot court can be described as follows:

a. The Characteristics of the Moot Administrative Court

The statutory regulations above regulate the nature of the moot court differently. There are mandatory and optional. Article 48 of Law no. 5 of 1986 stipulates that the basic law is "optional" unless specifically the laws and regulations authorize officials to settle so that it is mandatory. This is in line with the provisions of Article 75 paragraph (1) of Law no. 30 of 2014, which uses the word 'can' so that it is optional. However, in Perma(Supreme Court Regulations) No. 6 of 2018 *jis*Perma No. 2 of 2019 and Sema (Supreme Court Circular Letter) No. 4 of 2016, the nature of the moot administrative court

[2]SoerjonoSoekantodan Sri Mamudji, *PenelitianHukumNormatif*,Jakarta: Rajawali Press, pp. 18, 1985
[3] Peter Mahmud, *PenelitianHukum*, Jakarta: Prenada Media Grup, pp. 22, 2009.

(administrative efforts) is mandatory before a dispute is submitted to the state administrative court. These differences can be seen in the table below:

Legislation	Optional	Mandatory
Law No. 5 of 1986	√*	
Law No. 30 of 2014	√	
Law No. 5 of 2014		√
Law No. 10 of 2016		√
Law No. 7 of 2017		√
Perma No. 6 of 2018		√
Perma No. 2 of 2019		√

Note: *Optional because it depends on the regulation in sectoral law

b. The Authorized official

The statutory regulations above regulate officials who have different powers from one another. According to Law no. 30/2014, for example, objections are filed with government officials issuing decisions, and administrative appeals are filed with the superior officers [4]. Meanwhile, according to Law no. 5/2014, objections to employment disputes are filed with the superior of officials, and administrative appeals are submitted to the personnel advisory board [5]. In other disputes, the authorized official is also determined differently, such as going to *Bawaslu* for objections to state administrative disputes for regional head elections [6]. These differences can be seen in the table below:

Legislation	Objection	Administrative Appeal
Law No. 30 of 2014	officials who determine actions and/decisions	Supervisor Officers who determine actions and/decisions
Law No. 5 of 2014 and PP No. 53 of 2010	Supervisor Officers who determine actions and/decisions	Personnel Advisory Board
Law No. 10 of 2016	*Bawaslu*	-
Law No. 7 of 2017	*Bawaslu*	-

c. Dispute Settlement Procedures

Dispute settlement procedures are also regulated differently in statutory regulations. Some are only obliged to object as regulated in state administrative disputes for regional head elections and some personnel disputes regulated in Government Ordinance (PP) Number 53 of 2010. Some only require administrative appeals, such as some of the employment disputes regulated in Government Ordinance(PP) Number 53 of 2010. However, some set objections as the first stage, and if they do not accept the results of the objections, they can file an administrative appeal as the second stage as

[4]Pasal 78 danPasal 79 UU Nomor 30 Tahun 2014
[5]Pasal 129 UU Nomor 5 Tahun 2014 *jis*PP Nomor 53 Tahun 2010 dan PP Nomor 24 Tahun 2011
[6]Pasal 154 UU Nomor 10 Tahun 2016

regulated in Law No. 30 of 2014 and Law no. 5 of 2014. The differences can be seen in the table below:

Legislation	Objection	Administrative Appeal
Law No. 30 of 2014	√	√
Law No. 5 of 2014	√	√
Law No. 10 of 2016	√	-
Law No. 7 of 2017	√	-
Article 33 PP No. 53 of 2010 [7]	-	-
Article 34 clause (1) PP No. 53 of 2010 [8]	√	-
Article 34 clause (2) PP No. 53 of 2010 [9]	-	√

d. The Authority of the State Administrative Court

As a result of the inconsistency in regulations regarding the moot administrative judiciary, it affects the authority of the state administrative court in resolving state administrative disputes, including which court is the first level. If referring to Law no. 5 of 1986, the state administrative court will only be authorized if all the required administrative measures have been taken, and the court of the first instance is the high state administrative court.

However, according to the provisions of Perma No. 6 of 2018, all disputes must be resolved through administrative disputes and state administrative courts as courts of the first instance. These differences can be seen in the table below:

Legislation	State Administrative Court as the first level	State Administrative High Court as the first level
Law No. 5 of 1986		√
Law No. 30 of 2014	√	
Law No. 10 of 2016		√
Law No. 7 of 2017	√	
Perma No. 6 of 2018	√	
Perma No. 2 of 2019 under the condition:		
a. If the ground rules do not specify a special administrative effort	√	
b. If the ground rules specify administrative efforts specifically		√

[7]Pasal 33 PP No. 53 Tahun 2010.
[8]Pasal 34 ayat (1) PP No. 53 Tahun 2010.
[9]Pasal 34 ayat (2) PP No. 53 Tahun 2010.

Apart from the inconsistencies in the regulations mentioned above, there are also incomplete and void regulations regarding several matters related to the moot administrative justice. Among these are (1) forms of petition, (2) procedures for examination by authorized officials, including evidence, (3) forms of the moot administrative court decisions, and (3) implementation of decisions by the moot administrative court institutions.

The inconsistency and incompleteness of the above legal norms may have legal implications in the form of not creating legal certainty for the settlement of state administrative disputes. Besides, it can cause legal implications in the form of not running a moot administrative court as expected. The point is that the moot administrative court arrangement cannot provide legal protection for people who have been harmed by government actions.

B. Opportunities for the Establishment of a Moot Administrative Court within the Government Based on a SWOT Analysis

The administration of public services by the government by taking various actions as described above has the potential to cause disputes between the people and the government, both in the form of state administrative disputes, disputes over illegal acts by the government, or disagreements over government contracts. Besides, to uphold the rule of law principle, such disputes must be resolved according to law. For this reason, the functions of administrative law are an instrument to resolve disputes that occur between the government and the people. Administrative law does not only contain a set of rules upon which a government can act. However, administrative law also contains a set of rules for dispute settlement when the use of government authority harms the people.

For this reason, administrative law always provides a right to sue for the people who are harmed by any government action. Among the laws that grant the right to sue are First, Article 53 paragraph (1) of Law Number 9 of 2004, which determines "Persons or civil legal entities who feel a State Administrative Decree has harmed their interests can file a written lawsuit against an authorized court containing demands that the disputed State Administration Decree be declared null and void, with or without claims for compensation and/or rehabilitation." Second, Article 51 of Law Number 25 of 2009 concerning Public Services, which determines "The public can sue the organizers or implementers through the state administrative court if the services provided cause losses in the field of state administration". Third, Article 93 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management, which determines "Everyone can file a lawsuit against a state administrative decision if ...".

Fourth, Article 23 paragraph (1) of Law no. 2 of 2012 determines "If after the determination of the construction location as referred to in Article 19 paragraph (6) and Article 22 paragraph (1) there are still objections, the Party entitled to the location determination can file a lawsuit to the local State Administrative Courtno later than 30 (thirty) working days since the issuance of location determination." Fifth, Article 75 paragraph (1) of Law no. 30/2014, which determines "Citizens who are harmed by Decisions

and/or Actions can submit Administrative Efforts to Government Officials or Superior Officials who determine and/or make decisions and/or actions."

The five laws and regulations above are some examples of laws that regulate dispute settlement between the government and the people. There are several objectives to regulate dispute settlement between the government and the people, namely:

1. to provide legal protection for the people from government action with the right to propose dispute settlement
2. provide a balance between the position of the government and the people, so that the government does not act arbitrarily to the people and submits dispute settlement as a suggestion to correct the validity of government action
3. guaranteeing legal certainty and justice for the people in the running of government
4. maintain harmonious relations between the government and the people.

Based on these objectives, the settlement of disputes between the government and the people always has a very important position in the administration of government. Because dispute settlement is an expression of government administration to provide legal protection for the people. For this reason, the neglect of protracted disputes between the government and the people can eliminate legal certainty and justice, even contradicting the principle of the legal protection of human rights as a pillar of the rule of law.

One of the institutional channels for resolving disputes between the government and the people in this law is through a moot administrative court (*quasi administratiefrechtspraak*). It is said to be pseudo because this institution is not a judicial institution, but its function is to resolve disputes between the people and the government. So that its existence is as important as the state administrative court. In this context, this sub-chapter will discuss the opportunities for the establishment of a moot administrative court within the government based on a SWOT analysis.

SWOT stands for Strengths, Weakness, Opportunities, and Threats. Strengths and Weaknesses are internal factors that contain the strengths and weaknesses of an organization or institution. Meanwhile, Opportunities and Threats are external factors that contain opportunities and threats. SWOT analysis is used in the business world to formulate corporate strategies. According to EmetGurel "SWOT Analysis is a tool used for strategic planning and strategic management in organizations. It can be used effectively to build organizational strategy and competitive strategy" [10]. Related to this, FredyRangkuti also stated that a SWOT analysis is a systematic identification of various factors to formulate a company strategy. This analysis is based on the relationship or interaction between internal elements, namely strengths and weaknesses, against external elements, namely opportunities and threats [11]. SWOT analysis is used to maximize the strengths and opportunities, but at the same time,it can minimize weaknesses and threats.

[10]EmetGurel, SWOT Analysis: A Theoretical Review, The Journal of International Social Research Volume: 10 Issue: 51 August 2017, pp.995, 2017.

[11]FredyRangkuti, Analisis SWOT: TeknikMembedahKasusBisnis, Jakarta: GramediaPustakaUtama, pp. 83, 2015.

Furthermore, FredyRangkuti stated that the SWOT matrix is used to formulate an organizational or company strategy that clearly describes the opportunities and threats faced by the organization/company so that it can be adjusted to the strengths and weaknesses of the organization/company. This matrix produces four possible alternative strategies, namely S-O strategy, W-O strategy, S-T strategy, and W-T strategy. This strategy can be seen in the table below:

IFAS / EFAS	**Strengths (S)**	**Weaknesses (W)**
Opportunities (O)	SO STRATEGY Strategies that use strength to take advantage of opportunities	WO STRATEGY Strategies that minimize weaknesses to take advantage of opportunities
Threats (T)	ST STRATEGY Strategies are strategies that use strength to overcome threats	WT STRATEGY Strategies that minimize weaknesses to overcome threats and avoid threats

For the four SWOT strategy matrices, Husain Umar provides the following explanation:

1. SO Strategy (Strength-Opportunity)

This strategy is based on the company's mindset, namely by utilizing all the strengths it has to seize and take advantage of the greatest possible opportunities.

2. ST (Strength-Threat) Strategy

This strategy is based on the strengths the company has to anticipate existing threats.

3. WO (Weakness-Opportunity) Strategy

This strategy is applied based on exploiting existing opportunities by minimizing existing weaknesses.

4. WT (Weakness-Threat) Strategy

This strategy is based on defensive activities, trying to minimize the company's weaknesses and, at the same time, avoiding threats.

In its development, SWOT analysis is also used to determine public policy strategies, including the formation of laws and regulations. For this reason, the opportunity to establish a quasi-administrative court within the government can also be measured using a SWOT analysis.

The first step that can be done is to determine the variables of Strengths, Weakness, Opportunities, and Threats. These variables are as follows:

1. Strengths

- In line with the values and principles of the rule of law *Pancasila* which prioritizes deliberation and consensus in dispute settlement
- The settlement is more comprehensive because it is not only related to *rechtmatigheid*(validity) but related to *doelmatigheid*(effectiveness and efficiency)
- Simple, fast and low-cost dispute settlement
- Reducing the accumulation of cases in court, so that the pseudo administrative court can become a case filter

2. Weaknesses

- Reducing the principle of separation of power because the government is also given the authority to judge
- There is no guarantee of impartiality in dispute settlement because it is resolved by the government official who determines the decision or the superior of the official
- Low knowledge, competence and capability of government officials in resolving disputes internally

3. Opportunities
- The strengthening of the development of dispute settlement models by way of deliberation and consensus
- Training and capacity building of government officials in resolving disputes
- Development of procedural law related to administrative efforts

4. Threats
- There are still many practices of corruption, collusion, and nepotism
- Public services that are still not excellent

The four matrix variables can be seen in the table below: [12]

Strengths	***Weaknesses***
- In line with the values and principles of the rule of law, Pancasila, which prioritizes deliberation and consensus in dispute settlement - The settlement is more comprehensive because it is not only related to *rechtmatigheid* (validity) but related to *doelmatigheid* (effectiveness and efficiency) - Simple, fast and low-cost dispute settlement - Reducing the accumulation of cases in court, so that the pseudo administrative court can become a case filter	- Reducing the principle of separation of power because the government is also given the authority to judge - There is no guarantee of impartiality in dispute settlement because it is resolved by the government official who determines the decision or the superior of the official - Low knowledge, competence and capability of government officials in resolving disputes internally
Opportunities	***Threats***
- The strengthening of the development of dispute settlement models by way of deliberation and consensus - Training and capacity building of government officials in resolving disputes - Development of procedural law related to administrative efforts	- There are still many practices of corruption, collusion, and nepotism - Public services that are still not excellent

Based on the table above, there are four alternative strategies for the formation of administrative justice in government circles, which can be seen in the table below:

[12] *Ibid*

Internal / External	Strengths (S)				Weaknesses (W)		
	In line with the values and principles of the rule of law, Pancasila, which prioritizes deliberation and consensus in dispute settlement	The settlement is more comprehensive because it is not only related to *rechtmatigheid*(validity) but related to *doelmatigheid*(effectiveness and efficiency)	Simple, fast and low-cost dispute settlement	Reducing the accumulation of cases in court, so that the pseudo administrative court can become a case filter	Reducing the principle of separation of power because the government is also given the authority to judge	There is no guarantee of impartiality in dispute settlement because it is resolved by the government official who determines the decision or the superior of the official	Low knowledge, competence and capability of government officials in resolving disputes internally
Opportunities (O)	**SO STRATEGY**				**WO STRATEGY**		
The strengthening of the development of dispute settlement models by way of deliberation and consensus Training and capacity building of governm	1. The suitability of administrative effort institutions with the value of Pancasila which prioritizes settlement by deliberation to reach a consensus to seize opportunities to strengthen settlements by deliberation to consensus 2. More comprehensive case settlement, and simple, fast, and low-cost dispute settlement to seize opportunities for the development of procedural law for settlement through the moot administrative court 3. Reducing the accumulation of cases in the courts to seize training opportunities and increase the capacity of government officials to resolve disputes				**1.** Increase the impartiality of government officials in dispute settlement to seize opportunities for dispute settlement by deliberation to reach consensus **2.** Improve the training and capacity of officials in resolving disputes to seize opportunities for developing procedural law		

ent officials in resolving disputes		
Development of procedural law related to administrative efforts		
Threats (T)	**ST STRATEGY**	**WT STRATEGY**
There are still many practices of corruption, collusion, and nepotism	1. The conformity of administrative efforts with the values of Pancasila which prioritize settlements by deliberation and consensus to minimize the practice of corruption, collusion, and nepotism. 2. More comprehensive case settlement, and simple, fast, and low-cost dispute settlement to minimize the occurrence of poor public services 3. Reducing the accumulation of cases in court to minimize corruption, collusion and nepotism and the occurrence of poor public services	1. Increase the impartiality of government officials in dispute settlement to reduce corruption, collusion and nepotism and the occurrence of poor public services 2. Increase the training and capacity of officials in resolving disputes to minimize the occurrence of poor public services
Public services that are still not excellent		

Based on the SWOT variable and the alternative policy strategies, the formation of a quasi-administrative court within the government has sufficient strength and opportunity. However, it cannot be denied that the establishment of a moot court also has weaknesses and threats. For this reason, it is necessary to develop a strategy that maximizes strengths and opportunities and eliminates weaknesses and threats. In connection with this, several things need to be considered in the formation of administrative courts within the government, namely as follows:

a. The moot administrative justice must be a model for administrative dispute settlement by deliberation and consensus. This requires the ability and capability of government officials to resolve disputes through systematic training.

b. The moot administrative court must be the filter for dispute settlement. For this reason, a definite and complete procedural law is needed to ensure a simple, fast, and inexpensive dispute settlement.

c. The moot administrative justice must be implemented impartially. This requires a government that is free from corruption, collusion, nepotism, and commits to providing good and prime public services.

Conclusion

Regulations regarding the existence of a moot administrative court still show inconsistencies in various statutory regulations. On the one hand, the settlement through the administrative court is said to be carried out by the superior organization, but on the other hand, it is carried out by other institutions such as for election disputes over election administration, which are resolved by the Election Supervisory Agency (*Bawaslu*). The formation of the ideal moot administrative judiciary is still very potential to be carried out in Indonesia. The formation of the ideal moot administrative judiciary can be done by making a SWOT analysis (Strengths, Weakness, Opportunities, and Threats) as the basis for it because of the formation of a moot administrative court within the government has sufficient strength and opportunity. However, it cannot be denied that the establishment of a moot court also has weaknesses and threats. For this reason, it is necessary to develop a strategy that maximizes strengths and opportunities and eliminates weaknesses and threats.

Conflicts of Interest

The authors declare that they have no conflicts of interest.

References

1. Philipus M. Hadjon, et.al., *PengantarHukumAdministrasi di Indonesia*, Yogyakarta: GadjahMada University Press, pp.317, 2002
2. SoerjonoSoekantodan Sri Mamudji, *PenelitianHukumNormatif*, Jakarta: Rajawali Press, pp. 18, 1985
3. Peter Mahmud, *PenelitianHukum*, Jakarta: Prenada Media Grup, pp. 22, 2009.
4. Pasal 78 danPasal 79 UU Nomor 30 Tahun 2014
5. Pasal 129 UU Nomor 5 Tahun 2014 *jis*PP Nomor 53 Tahun 2010 dan PP Nomor 24 Tahun 2011
6. Pasal 154 UU Nomor 10 Tahun 2016
7. Pasal 33 PP No. 53 Tahun 2010.
8. Pasal 34 ayat (1) PP No. 53 Tahun 2010.
9. Pasal 34 ayat (2) PP No. 53 Tahun 2010.
10. EmetGurel, SWOT Analysis: A Theoretical Review, The Journal of International Social Research Volume: 10 Issue: 51 August 2017, pp.995, 2017.
11. FredyRangkuti, Analisis SWOT: TeknikMembedahKasusBisnis, Jakarta: GramediaPustakaUtama, pp. 83, 2015.
12. *Ibid*

13. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
14. Undang-UndangRepublik IndonesiaNomor 5 Tahun 2004TentangPerubahanAtasUndang-UndangNomor 14 Tahun 1985 TentangMahkamahAgung (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 9)
15. Undang-Undang Nomor 9 Tahun 2004 Tentang Perubahan Atas undang-undang Nomor 5 tahun 1986 Tentang Peradilan Tata Usaha Negara (Lembaran Negara Republik Indonesia Nomor 4380)
16. Undang-Undang Republik Indonesia Nomor 3 Tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 14 Tahun 1985 Tentang Mahkamah Agung (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 3)
17. Undang-Undang Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman. (Lembaran Negara Republik Indonesia Nomor 5076)
18. Undang-Undang Nomor 51 tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 5 Tahun 1986 Tentang Peradilan Tata Usaha Negara (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 160)
19. Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 29235)
20. PeraturanMahkamahAgungNomor 6 Tahun 2018 tentangPedomanPenyelesaianSengketaAdministrasiPemerintahanSetekah MenempuhUpayaAdministrasi (Lembaran Negara Nomortahun 2018 Nomor 1586).
21. PeraturanMahkamahAgungNomor 2 Tahun 2019 tentangPedomanPenyelesaianSengketaTindakanPemerintahan Dan KewenanganMengadiliPerbuatanMelanggarHukumolehBadandan/atauPejabatPemerintahan (onrechmatigeOverheidsdaad).