

Problems of Legal Efforts to Resist Execution in District Courts and High Courts up to Cassation and Judicial Review

Ahmad Haikal¹, Evita Isretno Israhadi²

¹Universitas Borobudur, Indonesia

²Universitas Borobudur, Indonesia

ABSTRACT

Background. The execution challenge process in Indonesia faces numerous obstacles, including procedural ambiguity, administrative inefficiencies, and case backlogs. These challenges lead to prolonged case resolution and undermine public trust in the legal system, especially among individuals with limited legal knowledge or financial resources.

Purpose. This study aims to identify the main obstacles in the execution challenge process and assess their impact on legal certainty and access to justice. It also seeks to propose solutions to enhance the effectiveness and fairness of the legal system.

Method. A qualitative approach was used, involving case studies, interviews with legal practitioners, and a review of legal documents to analyze procedural gaps and their effects on stakeholders.

Findings. The study found that procedural complexity and administrative delays are significant obstacles, causing legal uncertainty and harming public trust. Furthermore, limited access to legal aid for disadvantaged individuals exacerbates inequality in the justice system.

Conclusion. Simplifying procedures, incorporating technology in court administration, and enhancing public legal education are essential reforms to improve efficiency and accessibility. These measures will promote legal certainty and ensure equal justice for all.

KEYWORDS

Access to Justice, Judicial Review, Legal Certainty, Procedural Reform, Public Trust.

INTRODUCTION

Legal remedies constitute a crucial element within the Indonesian judicial system, designed to ensure that justice is attainable for all parties involved in legal proceedings (Akkanat Öztürk, 2023). These remedies serve as a supervisory mechanism over court decisions, providing an opportunity for parties who feel aggrieved to seek a review of decisions deemed unjust (Alfiander, 2022). For instance, in cases of execution resistance, a party adversely affected by the enforcement of a judgment may file an objection to ensure that the execution is carried out correctly and in accordance with the principles of justice. This legal recourse is a vital instrument for rectifying potential errors in judgments that may prejudice one of the

Citation: Haikal, A., & Israhadi, I. E. (2024). Problems of Legal Efforts to Resist Execution in District Courts and High Courts up to Cassation and Judicial Review. *Journal of Multidisciplinary Sustainability Asean*, 1(6), 490-502.

<https://doi.org/10.70177/ijmsa.v1i6.1831>

Correspondence:

Ahmad Haikal,
msysunan79@gmail.com

Received: December 04, 2024

Accepted: December 15, 2024

Published: December 30, 2024



parties and ensuring that decisions rendered by the court are fair and transparent.

Legal remedies, including execution resistance, also play a significant role in guaranteeing legal certainty for the public. Legal certainty is a fundamental principle that must be applied in every aspect of societal life, wherein each individual has the right to know clearly their rights and obligations under applicable rules (Andiko et al., 2024). In this context, execution resistance provides an avenue for parties who believe that a court's decision governing the enforcement of an execution is invalid or detrimental, to challenge said decision in court (Auliani & Candiwan, 2021). This process ensures that the execution carried out is not merely administrative in nature but also takes into consideration the rights of the involved parties. With such legal remedies in place, each party can feel secure and confident that the decisions made by the court remain within the framework of applicable legal rules, creating a more stable and predictable legal environment.

The principle of justice is one of the main pillars of the Indonesian judicial system. In execution resistance, the principle of justice must be the primary foundation in every ongoing legal process. This principle encompasses substantive justice, which is justice that is not only apparent in the form of procedural formalities but also includes outcomes that are substantively fair to the parties involved (Bergkamp, 2023a). In the context of execution resistance, this legal remedy serves as a means for a party who feels that the execution of a judgment is unjust to demand a review of that judgment. Thus, the Indonesian judicial system must constantly strive to fulfill fundamental principles such as equality before the law, where all parties, both the powerful and the weak, have the same opportunity to obtain equal legal protection (Bergkamp, 2023b). Furthermore, legal certainty is also part of this principle, requiring that every decision made by the court have a clear and accountable basis, thereby creating true justice.

Execution resistance is a form of legal remedy regulated under civil procedural law, which allows a party aggrieved by the execution of a court judgment to oppose it (Boyd et al., 2022). In this case, execution resistance is used as a means for a party who disagrees with the enforcement of an execution deemed invalid, unjust, or detrimental. The party filing the execution resistance may request the court to annul or suspend the ongoing execution. This provides an opportunity to ensure that the enforcement of a court judgment truly adheres to the principles of justice and legal certainty.

The process of execution resistance commences in the District Court, where the execution of the judgment is carried out. The party aggrieved by the execution may file a petition to annul or suspend the execution with the District Court (Boyd et al., 2020). This petition is filed on valid grounds, such as a discrepancy between the judgment being executed and the actual circumstances, or a significant change in circumstances. The District Court will then examine the petition and decide whether the execution should proceed, be suspended, or be annulled. This process is crucial as it is the first step in providing an opportunity for the aggrieved party to obtain legal protection.

After the court of the first instance, namely the District Court issues a decision regarding the execution resistance, the party dissatisfied with the decision may file an appeal to the High Court (Chen, 2023). At this stage, the execution resistance process continues to be re-examined by the High Court. The High Court will review whether the District Court's decision complies with applicable legal provisions. If errors or inadequate considerations are found, the High Court may overturn the decision and decide to suspend or annul the execution. This appeal process provides a second opportunity for the aggrieved party to seek justice.

Should the decision rendered by the High Court still be deemed unjust or not in accordance with the law, the parties involved may file a cassation appeal to the Supreme Court (Cheng et al., 2024). Cassation is an extraordinary legal remedy aimed at examining whether the decisions of the

lower courts are in strict compliance with applicable legal rules. The cassation procedure is highly rigorous and limited to specific legal grounds, such as clear violations of the law. Additionally, there is a legal remedy known as Judicial Review (Peninjauan Kembali - PK), which can be filed if new evidence is discovered or if there is a material error in a final and binding judgment. The primary difference between cassation and judicial review lies in the grounds presented and the time limits for filing. Cassation focuses more on the examination of legal aspects, while judicial review focuses on factual aspects, such as previously unknown evidence (Crow & Goulette, 2022). Both stages present their own challenges, particularly in terms of stricter procedures and longer resolution times, which sometimes prolong legal uncertainty for the parties involved.

One of the main issues faced in the legal remedy of execution resistance is the ambiguity of the procedures governing the stages and requirements for filing an objection. This often leads to confusion among the involved parties, both plaintiffs and defendants. This ambiguity can include the time limits for filing an objection, the documents that must be prepared, and other technical procedures that need to be followed (Crow & Goulette, 2024). The absence of detailed guidelines or uniformity in the application of these procedures hinders access to justice and potentially harms those who are not familiar with the legal system.

The issue of case backlogs in courts is a significant obstacle in the process of execution resistance. With a large number of cases to handle, courts often experience delays in processing execution resistance petitions (Fallo et al., 2024). This has an impact on those who feel aggrieved because they do not receive justice promptly. These delays prolong legal uncertainty and can worsen the situation for parties involved in the execution, thus adding psychological and material burdens to those seeking to suspend or annul the execution.

Limitations in administrative infrastructure and the use of technology in courts often hinder the smooth process of execution resistance. In many courts, administrative procedures still rely on manual systems, which are prone to errors and irregularities (Gallorini, 2022). Furthermore, the suboptimal implementation of information technology makes case data management slow and susceptible to administrative errors. This adds a burden to parties filing objections and hinders accessibility and transparency in the legal process, thus exacerbating the inefficiency of the judicial system.

Problems in the implementation of court decisions related to execution often arise when the defendant is uncooperative or avoids implementing the established decisions. Such uncooperative actions may include refusing to surrender assets as ordered by the court or even hiding assets (Geisler, 2023). Moreover, the execution itself can be hindered by technical issues, such as a lack of personnel to support the execution or difficulties in accessing the location to be executed. These issues often make the process of execution resistance more complex and ineffective.

One of the major issues hindering the effectiveness of the legal remedy of execution resistance is the inconsistency or ambiguity in the regulations governing legal procedures at each stage, whether at the first instance, appeal, cassation, or judicial review (Hofer & Achury, 2021). The time limits for filing objections and other technical procedures are often not regulated in detail, or the existing regulations are poorly coordinated with one another. This creates legal uncertainty for the parties involved and affects the quality of legal decisions, as procedural ambiguities can prolong or worsen the legal process and potentially lead to injustice.

This research has significant relevance to the improvement of the judicial system in Indonesia, especially regarding legal procedures and court administration in handling execution resistance (Hofer & Casellas, 2020). The importance of this research lies in its efforts to identify and analyze various obstacles faced in the process of execution resistance, such as procedural

ambiguities, case backlogs, and technical issues in the implementation of court decisions. By seeking concrete and analytically based solutions to the root causes of the problems, this research aims to provide procedural reform recommendations that can improve the efficiency, transparency, and accessibility of the judicial system (Holmes et al., 2020). Furthermore, this research is expected to promote the realization of a more just legal system and provide legal certainty for the public who utilize the legal remedy of execution resistance.

RESEARCH METHODOLOGY

In this study, the research method of the statute approach or statue approach, which can also be called normative legal research, is a process to find a legal rule, legal principles, or legal doctrines in order to answer legal issues used to analyze the procedures and mechanisms of legal efforts in resisting execution as well as identifying obstacles and barriers faced in resolving legal efforts (Holvast & Mascini, 2020). The case approach is an approach that is carried out to analyze, examine, and use as a guideline for legal problems. To identify the obstacles faced in the process of resolving legal efforts to resist execution from the first level, cassation, to judicial review (Kapelko, 2024). Then the conceptual approach taken begins on the basis of the views and patterns of doctrine or thoughts of experts that develop in legal science. The various approaches and legal research presented will answer the procedures and mechanisms of legal efforts in resisting execution.

RESULT AND DISCUSSION

Procedures and Mechanisms for Legal Efforts in District Courts and High Courts Regarding Resistance to Execution

Legal remedies are rights granted by law to individuals or legal entities to, under certain conditions, challenge a judge's decision by filing an objection to the court decision within 14 (fourteen) days from the date the decision was issued. Basically, there is no significant difference between legal remedies in civil procedural law and criminal procedural law. In civil procedural law, legal remedies are divided into two types, namely ordinary legal remedies and extraordinary legal remedies. Ordinary legal remedies are steps provided by law to parties who are dissatisfied with a court decision to challenge the decision within a specified time limit (Kasahara et al., 2020). The purpose of ordinary legal remedies is to provide an opportunity for parties who feel aggrieved to obtain a review of the court decision, either at the same level or a higher level. This effort also functions to temporarily stop or suspend the implementation of the decision, until there is a final decision from a higher court. In ordinary legal remedies, there are three types, namely, Resistance (Verzet) is a resistance filed by the defendant who was not present at the trial (verstek) and feels aggrieved by the decision handed down by verstek. Verzet allows the defendant to ask the court to re-examine the case with his presence and defense. Basically, this resistance is intended for the defendant who is generally the party declared the loser in the case. Objection is a legal effort filed against a decision that was made without the presence of the defendant, known as a default decision.

Ordinary legal efforts in the Indonesian justice system consist of three types, one of which is Objection (Verzet). This objection is specifically filed by the defendant who was not present at the trial and feels aggrieved by the decision that was made without his presence, known as a default decision. This concept gives the defendant the opportunity to ask the court to re-examine the case with his presence and defense. In practice, the objection is an important step to ensure that the defendant's rights can be protected even though they cannot be present at the initial trial.

The main purpose of objection is to give the defendant the opportunity to present arguments and evidence that may not have been considered when the default decision was made. This process begins with the submission of an objection application to the court that issued the decision. If the objection is accepted, the court will schedule a new trial where both parties, the plaintiff and the defendant, can be present to present their opinions. Thus, objection not only functions as a mechanism to correct injustice but also to maintain the principles of justice and equal opportunity before the law (Kramer & Kelley, 2024). Second, an appeal is a legal remedy filed with the High Court by a party dissatisfied with the decision of the District Court. In the appeal process, the case will be re-examined both in terms of facts and the application of the law by the High Court, which can then decide to strengthen, change, or cancel the decision of the District Court.

An appeal is a form of legal remedy that allows a party who is dissatisfied with the decision of the District Court to submit an application to the High Court. The appeal process aims to provide an opportunity for the aggrieved party to obtain a re-examination of the decision that has been issued (Willert & Nowacki, 2024). In this case, the High Court has the authority to re-examine the case, both in terms of facts and the application of the law used in the previous decision.

After the submission of the appeal application, the High Court will evaluate the case files that have been submitted. This process includes examining all documents, evidence, and arguments that have been submitted by both parties. If deemed necessary, the High Court can summon the parties to provide additional information. This process not only reviews the legal aspects but also considers facts that may have been missed in the trial at the first level. The results of this process can be in the form of strengthening, changing, or even canceling the decision issued by the District Court (Lee et al., 2020). The main purpose of an appeal is to correct or rectify any errors that may have occurred in a previous court decision. With the appeal process, the aggrieved party has the opportunity to obtain better justice. This process reflects the legal principle that emphasizes the importance of supervision and control in the judicial system so that the decisions taken are more appropriate and fair.

Cassation is a form of legal remedy that can be filed with the Supreme Court by a party dissatisfied with a previous court decision, whether from the District Court or the High Court. The cassation process does not re-examine the facts presented during the trial but rather focuses on reviewing the application of law and procedures undertaken by the previous courts. In other words, the Supreme Court acts as a supervisor to ensure that the law is applied correctly and consistently throughout the judicial system. One of the primary objectives of cassation is to uphold and ensure legal certainty within the judicial system. This is crucial because court decisions can have broad implications, both for the litigating parties and for the public at large. Through the cassation remedy, it is hoped that errors in the application of law occurring at lower court levels can be rectified, thereby increasing public trust in the judicial system. Cassation also aims to maintain uniformity in the enforcement of law, considering that different courts may have varying interpretations of the same law.

The process for filing a cassation appeal has a more formal procedure compared to appeals or resistance. The party filing for cassation must prepare a clear petition, including strong and relevant legal arguments, and supporting evidence. This petition is then submitted to the Supreme Court within the stipulated time frame (Lehtonen & Sutela, 2022). The Supreme Court will assess this cassation petition based on legal aspects, not on the facts that have been examined at the previous levels. Furthermore, an extraordinary legal remedy is a legal remedy filed against judgments that have attained final and binding legal force and can no longer be altered. Due to its extraordinary

nature, the legal remedy of judicial review has very strict procedures and regulations, and can only be filed in accordance with the provisions stipulated by law.

An extraordinary legal remedy is a legal mechanism intended for parties dissatisfied with a judgment that has attained final and binding legal force, meaning that the decision can no longer be changed or retried. In Indonesia, the most recognized extraordinary legal remedy is the Judicial Review (Peninjauan Kembali - PK). Judicial review is regulated by law as a means to rectify errors that may have occurred in previous legal processes, but only under specific, strictly regulated conditions. Due to its extraordinary nature, the process of filing for judicial review must follow very stringent procedures (Testa & Lee, 2021). Law Number 14 of 1985 concerning the Supreme Court states that judicial review can only be filed once and must be based on limited grounds. These grounds include the existence of new evidence that could not previously be presented (*novum*), a clear error by the judge, or if there are conflicting decisions from the same court on the same issue. Therefore, filing a PK cannot be done arbitrarily and requires a strong legal basis.

Judicial review plays a crucial role in maintaining the integrity of the legal system. Through this mechanism, parties who feel aggrieved by a final and binding judgment can have the opportunity to prove that there was an error in the judgment. However, due to the strict procedures and existing limitations, not all PK petitions are successful (Love et al., 2023). The Judicial Review (PK) is a legal remedy filed by the losing party in a case to review a judgment that has attained final and binding legal force. Pursuant to Article 28 of Law Number 14 of 1985 concerning the Supreme Court, judicial review is the exclusive authority of the Supreme Court. The grounds for filing a PK petition in civil cases are regulated in Article 67 of Law Number 14 of 1985, which include: a). If the judgment is based on lies or fraud committed by the opposing party, which was only discovered after the judgment was rendered, or is based on evidence that was subsequently declared false by a criminal court. b). If, after the judgment is rendered, decisive documentary evidence is discovered that could not be found during the trial. c). If the judgment grants something that was not claimed or exceeds what was claimed. d). If part of the claim has not been adjudicated without a clear reason or consideration. e). If there are conflicting judgments between the same parties, regarding the same issue, with the same basis, issued by the same or equal-level court. g). If there is a judicial error or a manifest error in the judgment.

A PK petition based on the above grounds can be filed by the interested party, their heirs, or a legal representative granted a special power of attorney. The petition is submitted in writing, stating the valid legal grounds as the basis for the PK petition. [10] The filing of a PK petition must be done no later than 180 (one hundred and eighty) days, and can be submitted orally before the Chief Judge or a designated judge.

Third-Party Resistance (*Derdenverzet*), based on Article 1917 of the Civil Code, in principle, a judgment only binds the parties involved in the case and does not affect third parties. However, according to Article 378 of the *Reglement op de Burgerlijke Rechtsvordering* (Rv), if a third party feels that their rights are harmed by the judgment, they will have the right to file a resistance. (Mak & Sidman, 2020) This resistance is filed with the judge who rendered the judgment deemed detrimental, by suing the parties involved in the case through ordinary court proceedings. If the resistance is accepted, the judgment detrimental to the third party will be rectified, to the extent that the judgment indeed causes real harm to the third party.

In civil cases, the judge must be active. The existence of a clear principle regarding the active role of the judge in resolving cases is still debated. Although judges are expected to be active, there is no clear definition of what constitutes an active role. This principle needs to be managed so that judges can perform their duties properly in delivering justice. This is important because, in

practice, the active role of the judge should help overcome various obstacles that can hinder the judicial process (Mak et al., 2021). The active role of the judge is in line with the principle of *ex aequo et bono*, which emphasizes that the judge is obliged to render a fair judgment based on the plaintiff's claims. In each lawsuit, the plaintiff usually includes a primary and a subsidiary petition, which serve as a reference for the judge in deciding the case. Therefore, the judge needs to thoroughly understand the context and substance of each lawsuit in order to render the fairest possible judgment.

However, the application of the principle of the active role of the judge can cause confusion, especially regarding the principle of *ultra petita partium*, which states that the judge may not render a judgment beyond the scope of the claims filed. This presents a challenge for judges to balance delivering justice through their active role while adhering to existing legal provisions. Therefore, it is important to conduct further research so that this principle does not conflict with other principles of civil procedural law, such as the principle of judicial impartiality and the passive role of the judge. To achieve harmony in the performance of their duties, judges need to adapt to other principles of civil procedural law. Further research is needed to integrate the principle of the active role of the judge with existing legal principles. Thus, it is hoped that judges can perform their roles more effectively without disregarding existing legal provisions. The application of these principles must uphold justice, where judges must be able to play an active role in supporting justice seekers while maintaining their integrity and objectivity in decision-making.

After the discussion regarding legal remedies, there is also the process of execution resistance in the District Court, which is the first step taken by a party who feels aggrieved by the enforcement of a court judgment. At this level, the party filing the execution resistance can file a lawsuit known as "*verzet eksekusi*," which aims to suspend or annul the enforcement of the judgment (Malin & Tanskanen, 2024). This process refers to the rules in civil procedural law, where the objecting party must present the legal grounds underlying their objection to the execution being carried out. The District Court will then examine, assess the evidence, and render a decision on the resistance.

After a decision by the District Court, if one of the parties is dissatisfied, they may file an appeal to the High Court. This appeal process aims to obtain a re-evaluation of the District Court's decision, both in terms of substance and the procedures used. At this level, the High Court has the authority to uphold, overturn, or modify the previous decision based on an in-depth review of the legal facts presented. The provisions governing the process of execution resistance in the District Court and High Court are found in the provisions of the Indonesian Code of Civil Procedure (HIR/RBg) and other related regulations. However, practice often faces obstacles, such as differing interpretations of legal provisions, which can affect legal certainty for the litigating parties.

If the disputing parties still feel aggrieved by the High Court's decision, they may file a cassation appeal to the Supreme Court. The cassation process aims to review the application of the law by the lower courts (Massicotte, 2024). Thus, the Supreme Court will not re-examine the facts or evidence that has already been presented. Cassation can only be filed on the grounds of misapplication of law, abuse of authority, or procedural violations that occurred in the previous judicial process. In this process, the petitioner must comply with the time limit stipulated by law, which is 14 days after receiving the appeal decision.

In addition to cassation, judicial review (PK) is also an extraordinary legal remedy that can be filed by an aggrieved party. PK has a more limited scope than cassation, as it can only be filed on specific grounds, such as the discovery of new evidence (*novum*) or judicial error in rendering the decision. In practice, the PK process often faces challenges, especially regarding the substantiation of the grounds for filing and the limited time given to complete its stages. Furthermore, the

enforcement of legal provisions in the cassation and PK processes is often influenced by the Supreme Court's heavy workload, which can hinder the efficiency of case resolution.

One of the main obstacles in the process of execution resistance is the lack of clarity in the procedures that must be followed by the parties. Some rules, such as filing deadlines and document requirements, are often not explained in detail or differ from one court to another (Murphy, 2023). This creates confusion for parties wishing to file execution resistance. In addition, the backlog of cases in courts due to the number of cases exceeding the court's capacity results in slow resolution processes. This situation causes dissatisfaction and directly impacts the parties' right to obtain swift and effective justice.

Technical obstacles also often hinder the process of execution resistance. Incomplete documents submitted by the parties can cause delays in the examination process or even result in the lawsuit being declared inadmissible. Administrative errors, such as incorrect case number recording or the lack of an adequate tracking system, often prolong the time it takes to resolve cases. Furthermore, the lack of technology implementation in court administration is a major challenge. The manual systems still used in many courts often lead to piles of physical files, document loss, and other technical errors.

At the cassation and judicial review stages, the obstacles become even more complex. The lengthy processes and strict procedures often confuse parties who do not have adequate legal knowledge or do not receive assistance from legal counsel (Olson & Rivero, 2022). Moreover, the grounds for filing cassation and judicial review are limited by very specific legal provisions, which require an in-depth understanding of civil procedural law. This is a major obstacle for parties who lack access to legal resources. Consequently, many cases at this stage end with unsatisfactory results because the filing party cannot meet the formal requirements stipulated by the Supreme Court.

Impact of Constraints on Legal Certainty and Effectiveness of Justice

The obstacles in the process of execution resistance have a significant impact on legal certainty and judicial effectiveness. Procedural ambiguities, case backlogs, and various administrative obstacles create uncertainty for the parties involved in this legal remedy (Putra et al., 2021). This situation not only hinders the achievement of justice quickly and efficiently but also weakens public trust in the judicial system. In this sub-chapter, an analysis will be conducted on how these obstacles affect aspects of legal certainty, delay case resolution, and impact the public's ability to access justice fairly and equally.

The lack of clear procedures in execution resistance has serious implications for legal certainty. When the procedures for filing an objection are not clearly detailed, either in statutory provisions or in court practice, the disputing parties often face confusion in navigating the legal system. Consequently, this can lead to different interpretations by the courts, creating uncertainty about how cases will be processed and resolved. This uncertainty not only harms the parties involved but also undermines public trust in the judicial system as a whole.

The processes of cassation and judicial review often involve lengthy and complex stages, requiring an in-depth understanding of civil procedural law. For parties who do not have a legal background or access to competent legal counsel, these procedures can be very confusing and challenging. Time limitations for filing, strict formal requirements, and limited grounds for filing further exacerbate these difficulties (Sawyer & Sawyer, 2023). As a result, many parties are unable to optimally utilize this legal remedy, and potentially lose their right to obtain fair and transparent justice.

Case backlogs in courts, especially at the cassation and judicial review levels, result in delayed resolution of execution resistance cases. This lengthy process risks prolonging the suffering of parties who feel aggrieved by an execution deemed unlawful. Furthermore, the pressure from the large number of cases that judges must handle can impact the quality of the decisions rendered. The rush to resolve cases to reduce the workload can potentially lead to the neglect of important details in cases, thereby reducing the quality of justice that should be achieved through the judicial system.

The limited grounds for filing cassation and judicial review are strictly regulated by law, allowing only specific reasons, such as errors in the application of law or judicial considerations that do not comply with applicable legal provisions. This can be a significant obstacle for aggrieved parties, as they must prove a very specific error in the previous legal process (Sayer et al., 2021). This limitation restricts the ability of parties seeking justice, especially for those who do not have sufficient legal understanding. Thus, it affects their chances of obtaining a fair outcome. An analysis of these limitations is important to understand how the legal system in Indonesia can provide better access and protection to all parties in need of justice.

These obstacles have direct implications for the public's ability to access justice. Procedural ambiguities and prolonged case resolution times can make the public, especially those without resources or legal counsel, feel unable or reluctant to continue the legal process. As a result, they may choose not to fight for their rights through legal channels, ultimately creating an imbalance in access to justice. This situation can also create a perception that the judicial system favors parties with better legal knowledge and resources, thus deepening the gap between different segments of society.

Procedural reform is urgently needed to clarify and expedite the process of execution resistance. One step that can be taken is to create more detailed and easily understandable procedural guidelines, both for the general public and legal practitioners. These guidelines should include information on filing stages, deadlines, and required documents, thus reducing the potential for confusion or technical errors. Additionally, revisions to regulations governing execution resistance can be made to speed up the process, for example, by limiting the time allowed for each party to respond or reply at each stage. These reforms aim to create a more transparent and responsive system to the needs of the public.

The use of technology in court administration systems, such as the implementation of an e-court system, can be a solution to overcome the various administrative obstacles often encountered in the process of execution resistance. With a digital system, filing documents, monitoring case status, and communication between the disputing parties and the court can be carried out more efficiently and accurately (Taylor, 2024). Furthermore, investment in training for judges and court staff is crucial to ensure they are able to manage new technology systems and reduce administrative errors that often slow down the process. Enhancing infrastructure and human resources will not only expedite case resolution but also increase public trust in the judicial system.

Many parties involved in execution resistance do not have adequate legal knowledge or the resources to hire legal counsel. Therefore, legal education is an important step in this reform. The government and related institutions should provide free or low-cost legal aid services, especially for underprivileged communities (Testa & Hartley, 2021). Additionally, legal education programs through seminars, training, or easily accessible online materials can help the public understand their rights and how to navigate the legal process correctly. With better legal accessibility, the public can be more confident and capable of fighting for their rights in the process of execution resistance.

CONCLUSION

Legal remedies in the Indonesian justice system consist of ordinary and extraordinary legal remedies, which provide an opportunity for aggrieved parties to obtain justice through various stages. Ordinary legal remedies, such as resistance, appeal, and cassation, allow for a review of a court decision at a higher level, both in terms of facts and the application of the law. Resistance provides an opportunity for parties who were not present at the trial to defend themselves, appeal provides an opportunity for parties who are dissatisfied with the District Court's decision to be re-examined by the High Court, and cassation allows the Supreme Court to uphold legal certainty by assessing the application of the law in the previous court. At the same time, exceptional legal remedies like judicial review serve to rectify decisions that carry lasting legal authority but are based on very narrow justifications. This system provides access for parties who are dissatisfied with the decision to seek further justice, although the process is sometimes complicated and challenging. The legal resistance process, including Judicial Review (PK), cassation, and execution resistance, is an important mechanism in the Indonesian justice system to ensure justice for parties who feel aggrieved by a decision that has permanent legal force. Despite the opportunity to file extraordinary legal remedies, strict and limited procedures, both in terms of time and reasons for filing, often become obstacles for parties who want to fight for their rights. In addition, technical and administrative problems in the judicial process, such as unclear procedures and high court workloads, also slow down the resolution of cases, which has the potential to cause dissatisfaction and reduce the effectiveness of achieving justice. Therefore, reforms in legal procedures and increased court efficiency are needed to ensure a faster, clearer, and fairer legal process. Obstacles in the process of challenging execution, such as unclear procedures, backlogs of cases, and administrative obstacles, significantly affect legal certainty and hinder access to justice for the community. Uncertainty in procedures and the long time it takes to resolve cases exacerbate inequality in access to justice, especially for parties with less legal knowledge or resources. Procedural reforms, including simplifying procedures, utilizing technology in court administration, and broader legal education, are urgently needed to improve the efficiency and transparency of the justice system and ensure that all parties have an equal opportunity to obtain justice.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

REFERENCES

- Akkanat Öztürk, E. (2023). Facebook Decision of the Berlin District Court: Does the use of Unfair Terms Constitute Unfair Competition? *Annales de La Faculté de Droit d'Istanbul*, 0(71), 41–49. <https://doi.org/10.26650/Annales.2022.71.0016>
- Alfiander, D. (2022). Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts. *JURIS (Jurnal Ilmiah Syariah)*, 21(1), 109. <https://doi.org/10.31958/juris.v21i1.5716>
- Andiko, T., Nurdin, Z., & Efrinaldi, E. (2024). Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia: A Maqāṣid Al-Sharī'ah Review. *JURIS (Jurnal Ilmiah Syariah)*, 23(1), 93. <https://doi.org/10.31958/juris.v23i1.12008>
- Auliani, A. S. & Candiwan. (2021). Information Security Assessment On Court Tracking Information System: A Case Study from Mataram District Court. *2021 IEEE 12th Annual*

- Ubiquitous Computing, Electronics & Mobile Communication Conference (UEMCON)*, 0226–0230. <https://doi.org/10.1109/UEMCON53757.2021.9666617>
- Bergkamp, L. (2023a). Article: The Hague District Court’s Judgment in the ‘Climate Case of the Century’: How a Dutch Court Fell Through the Cellar Hatch (Part 1). *European Energy and Environmental Law Review*, 32(Issue 1), 1–34. <https://doi.org/10.54648/EELR2023001>
- Bergkamp, L. (2023b). The Hague District Court’s Judgment in the ‘Climate Case of the Century’: How a Dutch Court Fell Through the Cellar Hatch (Part 2). *European Energy and Environmental Law Review*, 32(Issue 2), 68–99. <https://doi.org/10.54648/EELR2023003>
- Boyd, C. L., George, T. E., & Yoon, A. H. (2022). The Emerging Authority of Magistrate Judges within US District Courts. *Journal of Law and Courts*, 10(1), 37–60. <https://doi.org/10.1086/714576>
- Boyd, C. L., Kim, P. T., & Schlanger, M. (2020). Mapping the Iceberg: The Impact of Data Sources on the Study of District Courts. *Journal of Empirical Legal Studies*, 17(3), 466–492. <https://doi.org/10.1111/jels.12264>
- Chen, D. L. (2023). Judicial compliance in district courts. *International Review of Law and Economics*, 74, 106122. <https://doi.org/10.1016/j.irle.2022.106122>
- Cheng, C. S. A., Huang, H. H., Lei, Z., & Lu, H. (2024). Ex ante litigation risk and firm restatement decisions: Evidence from district courts. *International Review of Law and Economics*, 79, 106198. <https://doi.org/10.1016/j.irle.2024.106198>
- Crow, M. S., & Goulette, N. (2022). Judicial diversity and sentencing disparity across U.S. District Courts. *Journal of Criminal Justice*, 82, 101973. <https://doi.org/10.1016/j.jcrimjus.2022.101973>
- Crow, M. S., & Goulette, N. (2024). U.S. District Court Judicial Diversity: The Impact of Race and Sex Composition on Sentencing Outcomes at the District Level. *Crime & Delinquency*, 00111287241231748. <https://doi.org/10.1177/00111287241231748>
- Fallo, D. F. N., Amalo, H., & Dima, A. D. (2024). Barriers to Law Enforcement Responsive to the Interests of Victims: A Study on the Practice of Justice for Violent Crimes in the Jurisdiction of Class IA Kupang District Court. *Journal of Ecohumanism*, 3(7), 1195–1206. <https://doi.org/10.62754/joe.v3i7.4281>
- Gallorini, C. (2022). The Termination of Intra-EU Investor-state Arbitration and the Enforceability of Intra-EU Awards in the United States District Courts. *ELTE Law Journal*, 1, 25–47. <https://doi.org/10.54148/ELTELJ.2022.1.25>
- Geisler, S. (2023). *Braidwood Mgmt. V. Becerra* & a Texas District Court’s Decision to Stop Enforcement of Preventive Care Coverage Requirements under the ACA. *American Journal of Law & Medicine*, 49(1), 112–119. <https://doi.org/10.1017/amj.2023.19>
- Hofer, S., & Achury, S. (2021). The Consequences of Diversifying the US District Courts: Race, Gender, and Ideological Alignment through Judicial Appointments. *Justice System Journal*, 42(3–4), 306–324. <https://doi.org/10.1080/0098261X.2022.2026264>
- Hofer, S., & Casellas, J. (2020). Latino Judges on the Federal District Court: ¿Cómo Deciden? *American Politics Research*, 48(3), 343–354. <https://doi.org/10.1177/1532673X19867052>
- Holmes, B., Feldmeyer, B., & Kulig, T. C. (2020). Sentencing departures and focal concerns: The joint effect of race and gender on departures in United States district courts, 2014 – 2016. *Journal of Crime and Justice*, 43(5), 598–622. <https://doi.org/10.1080/0735648X.2020.1730933>
- Holvast, N., & Mascini, P. (2020). Is the Judge or the Clerk Making the Decision? Measuring the Influence of Judicial Assistants via an Experimental Survey among Dutch District Court

- Judges. *International Journal for Court Administration*, 11(2), 14. <https://doi.org/10.36745/ijca.358>
- Kapelko, M. (2024). Evaluating input- and output-specific inefficiency in courts of justice. An empirical study of Polish district courts. *International Transactions in Operational Research*, itor.13503. <https://doi.org/10.1111/itor.13503>
- Kasahara, N., Matsunaga, S., Yamada, M., Nakamura, Y., Tashiro, M., & Hashimoto, M. (2020). Comparison of Characteristics of Dental Malpractice Trials between Medical Malpractice and Ordinary Divisions in District Courts. *The Bulletin of Tokyo Dental College*, 61(2), 73–82. <https://doi.org/10.2209/tdcpublication.2019-0015>
- Kramer, K. L., & Kelley, S. M. (2024). Examining the Sentencing of American Indian Women in U.S. Federal District Courts. *Crime & Delinquency*, 70(5), 1419–1442. <https://doi.org/10.1177/00111287221137305>
- Lee, W. F., McNeely, C. A., Rosenbaum, J. E., Alemu, B., & Renner, L. M. (2020). Can Court Diversion Improve School Attendance among Elementary Students? Evidence from Five School Districts. *Journal of Research on Educational Effectiveness*, 13(4), 625–651. <https://doi.org/10.1080/19345747.2020.1760976>
- Lehtonen, O., & Sutela, M. (2022). Geospatial Research Supporting Decision-Making in Court Services – an Assessment of the 2019 District Court Reform in Finland. *International Journal for Court Administration*, 13(3), 5. <https://doi.org/10.36745/ijca.385>
- Love, B. J., Lefouili, Y., & Helmers, C. (2023). Do Standard-Essential Patent Owners Behave Opportunistically? Evidence From U.S. District Court Dockets. *American Law And Economics Review*, 25(1), 300–337. <https://doi.org/10.1093/aler/ahad010>
- Mak, M., & Sidman, A. H. (2020). Separate Opinion Writing Under Mandatory Appellate Jurisdiction: Three-Judge District Court Panels and the Voting Rights Act. *Journal of Empirical Legal Studies*, 17(1), 116–138. <https://doi.org/10.1111/jels.12244>
- Mak, M., Sidman, A. H., Palmeri, V., Denise, N., & Huertero, R. (2021). Judges’ Race and the Voting Rights Act: Perceived Expertise in Three-Judge District Court Panels. *Justice System Journal*, 42(3–4), 375–393. <https://doi.org/10.1080/0098261X.2021.1881666>
- Malin, T., & Tanskanen, M. (2024). Exploring sentencing disparities in the Nordic context: A multilevel analysis of court- and judge-level variation in sentences of ‘aggravated driving under the influence’ in Finnish district courts. *Criminology & Criminal Justice*, 17488958241270733. <https://doi.org/10.1177/17488958241270733>
- Massicotte, L. (2024). Do Court Decisions and Redistribution Rules Have Consequences? Malapportionment of German Single-Member Electoral Districts. *German Politics*, 33(3), 558–583. <https://doi.org/10.1080/09644008.2022.2070611>
- Murphy, K. L. (2023). Making APE Aquatic Programs Safe for the Disabled: *Estate of Esquivel v. Brownsville Indep. Sch. Dist.* United States District Court Southern District of Texas Brownsville Division Civil Action No. 1:16-cv-000402018 U.S. Dist. LEXIS 231742 (S.D. Tex., January 16, 2019). *Journal of Physical Education, Recreation & Dance*, 94(3), 52–53. <https://doi.org/10.1080/07303084.2022.2157174>
- Olson, M. P., & Rivero, A. H. (2022). Appellate Court Influence over District Courts in the United States. *Journal of Political Institutions and Political Economy*, 3(2), 183–213. <https://doi.org/10.1561/113.00000057>
- Putra, G. M., Siddik, M., Lubis, A. P., Akmal, & Nuriadi. (2021). Application of TOPSIS Method in Exemplary Selection at the Tanjungbalai District Court. *Journal of Physics: Conference Series*, 1933(1), 012063. <https://doi.org/10.1088/1742-6596/1933/1/012063>

- Sawyer, T. H., & Sawyer, T. L. (2023). Sex Discrimination Title IX: Ollier v. Sweetwater Union High School District United States Court of Appeals, Ninth Circuit N0. 12-56348 (2014). *Journal of Physical Education, Recreation & Dance*, 94(7), 47–48. <https://doi.org/10.1080/07303084.2023.2237373>
- Sayer, A., Hess, M., & Hall, M. E. K. (2021). Affirming the District Judge: An Empirical Analysis of the Effect of District Judges Sitting by Designation on Circuit Court Panels. *Journal of Empirical Legal Studies*, 18(2), 461–484. <https://doi.org/10.1111/jels.12284>
- Taylor, S. (2024). Deconstructing imprisonment: Exploring sentencing discourses in the District Court of New South Wales. *Criminology & Criminal Justice*, 24(2), 379–394. <https://doi.org/10.1177/17488958221117922>
- Testa, A., & Hartley, R. D. (2021). Financial Dependents and Sentencing Outcomes in Federal District Courts: Variation by Race, Ethnicity, and Sex. *Criminal Justice Policy Review*, 32(6), 646–672. <https://doi.org/10.1177/0887403420943933>
- Testa, A., & Lee, J. G. (2021). Trends in Sentencing of Federal Drug Offenders: Findings From U.S. District Courts 2002–2017. *Journal of Drug Issues*, 51(1), 84–108. <https://doi.org/10.1177/0022042620959071>
- Willert, B., & Nowacki, J. S. (2024). Social Context and Early Disposition Departures: An Examination of Disparity in Immigration Sentencing Across U.S. District Courts. *Crime & Delinquency*, 00111287241249741. <https://doi.org/10.1177/00111287241249741>

Copyright Holder :

© Ahmad Haikal et.al (2024).

First Publication Right :

© Journal of Multidisciplinary Sustainability Asean

This article is under:

