

Actualization of Pancasila Value in Law Enforcement in the Field of Taxation in Indonesia

Agung Pamula Ariyanto

Doctoral Program, Faculty of Law, Universitas Gadjah Mada, Yogyakarta, Indonesia, E-mail: Agung.p.a@mail.ugm.ac.id

Abstract. *Pancasila, as the basis of the Indonesian state, has a fundamental role in every aspect of national and state life, including the taxation system. Law enforcement in the field of taxation must reflect the values of Pancasila to create justice, legal certainty, and prosperity for society. This research analyzes how Pancasila values are actualized in Indonesia's taxation system and law enforcement. The research method used is a normative approach with a literature study of statutory regulations, court decisions, and related literature. The research results show that the principles of Pancasila, such as social justice, deliberation, and unity, have strong relevance in building a taxation system that is fairer and oriented towards people's welfare. However, there are still challenges in implementing these values, especially in transparency, tax compliance, and protecting taxpayers' rights. Therefore, it is necessary to strengthen policies and legal reforms based on Pancasila values to create a more just tax system.*

Keywords: *Enforcement; Justice; Legal; Pancasila; Taxation.*

1. Introduction

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلّٰهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ
شَتَانُ قَوْمٍ عَلَىٰ ءَلَا تَعْدِلُوا اَعْدِلُوا هُوَ اَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللّٰهَ اِنَّ اللّٰهَ
خَبِيرٌ بِمَا تَعْمَلُونَ ﴿٨﴾

Q.S. Al-Maidah Ayat 8.

It means: "O you who believe! Stand firm for Allah, and bear true testimony. Do not let the hatred of a people lead you to injustice. Be just! That is closer to righteousness. And be mindful of Allah. Surely Allah is All-Aware of what you do."

Starting this article, the author tried to pick up a verse from the holy Qur'an, which has a deep meaning regarding the importance of justice in carrying out national life. Fair means not looking at differences in status; fair means not looking at any interests; fair means putting aside the interests of one group for the sake of the common good. Justice is a reflection of the attitude of people who are devoted to God.

According to (Soeprapto, 1996), philosophy comes from the edges of the words, which means love, and *Sofia*, which means wisdom. Thus, philosophy can be interpreted as a human effort to obtain the truth about everything carried out in life.

Philosophy is part of values as a form of thinking and feeling towards creativity, intention, and feelings that humans naturally possess. According to Scheler, quoted by (Titirloloby, 2020), value is a manifestation of feelings "*a priori emotions*," a concrete characteristic that comes from emotions. The opinion above states that, in essence, value cannot arise from reason, but value arises from feeling.

Pancasila is the philosophy and basis of the Indonesian state's highest law, also called *the way of life*. Pancasila is also a tool for analysis in all fields in Indonesia. This means that the values contained in Pancasila reflect the values that live in society, which have been mutually agreed upon by the components of the nation. Then, the nation's founders summarized it through precepts, which became the basis of the Indonesian state. This was also conveyed (Muhazir, 2019), which essentially states that the Pancasila Philosophy is not a product of the thoughts of a philosopher but rather a journey of thought of the Indonesian people that developed over time.

As the nation's philosophy of life, Pancasila is not just a "*tagline*" or motto. Still, more than that, Pancasila has a crucial role, namely as the spirit and guidance of the nation in carrying out state life. The five principles in Pancasila represent all cultural aspects of Indonesian society's life. The first is a culture of belief. The Indonesian people are known as a religious society and believe in the power of God. Second, Indonesian society is a society that appreciates human values, tempo senior, and tolerance. Third, Indonesian society has long faced many differences and firmly commits to togetherness. Fourth, Indonesian society has a culture of deliberation when making joint decisions. Fifth, Indonesian society is very aware of and cares about justice. The five precepts outlined in Pancasila essentially aim to create an understanding of harmony and harmony in life.

Humans are essentially given perfection in essential matters because God has equipped them with reason, feeling, and intention. Armed with reason, feeling, and intention, humans must create a life system based on actual values. As creatures created by God, values that originate from God are the only values that are worthy of being a source of inspiration and motivation in carrying out social life.

According to (Leighton, 2023), The philosophical foundation of Pancasila reflects that Indonesian humans are creatures created by God who have instincts, morals, thinking power, and awareness, as well as social creatures who have a close attachment to the environment, the universe, and the creator. This awareness gives rise to creativity, initiative, and work to sustain life from generation to generation.

On the other hand, Pancasila, the philosophy of the Indonesian nation, was created from the distillation of noble values in society. It is also the result of joint thinking and absolute agreement and is a form of meeting norms widely agreed upon by Indonesian society.

One societal norm in Pancasila is the principle of social justice for all of Indonesia. The fifth principle in Pancasila is often echoed and symbolizes fair behavior for all Indonesian people, especially in law enforcement. Its presence often clashes with the reality of Indonesian law enforcement, which is currently in the spotlight.

Today's social reality is that there are many opinions that the handling of law enforcement, in general, is not very good, as proven by several surveys on satisfaction with law enforcement, which is still below 70%. The large number of law enforcement officers who use their power to make a profit, either intentionally or because of an inability to understand the legislation fully, is one of the many reasons for the lack of public trust.

As an Indonesian nation, we are fully aware that humans are *the Basic standard or state fundamental norm*, which means the fundamental rules of the state are still at the normative level. Therefore, to accommodate these characteristics, for reasons Pancasila's thoughts, which are then described in more detail in The 1945 Constitution, hopefully, can become a joint consensus to produce a good national order of life.

To apply the values of Pancasila, the 1945 Constitution includes the objectives of the founding of the Indonesian nation, namely in four things contained in the fourth paragraph of the preamble to the 1945 Constitution, namely first, protecting the entire Indonesian nation and all of Indonesia's bloodshed and second, promoting general welfare. Third, make the nation's life more intelligent. And fourth, implementing a world order based on freedom, eternal peace, and social justice. The four state goals stated in the 1945 Constitution essentially have one goal: trying to create public order in society. Therefore, all government actions must be based on statutory regulations.

The field of taxation is an essential sector for the country, which is the foundation of the country's sustainability. Therefore, great hopes are also pinned on this sector, both regarding the consistency of tax collection procedures and in the context of law enforcement. Thus, to maintain consistency, it is necessary to regulate taxation through law.

Farouq (2018) Think that Taxes must be collected based on law, which can be interpreted as first requiring the participation of the people in determining taxes. This tax philosophy has been stated in the state constitution as regulated in Article 23A of the 1945 Constitution of the Republic of Indonesia, which states, "Taxes and other coercive levies for state needs shall be regulated by law."

The face of taxation today has started beaming again after receiving a hard slap over the emergence of a case involving a tax official named Gayus Tambunan. Even though it has become a sector that has been quite successful in reforming its bureaucracy, there is still a lot of potential to reduce public trust. One of them is in the field of law enforcement. Inconsistency law enforcement treatment of taxpayers who violate tax law rules by tax law enforcers who often do not reflect the value of justice social for all Indonesian people, the fifth principle of Pancasila is the cause; this occurs partly because the regulation of tax sanctions in the tax law does not have clear boundaries, so its implementation is very dependent on the subjective thinking of tax law enforcers.

One example is the case of a plastic manufacturing company in Sleman Regency and a property investment company in Sleman Regency. Law enforcement carried out both cases at the DI Yogyakarta Regional Office of the Directorate General of Taxes. For plastic manufacturers, administrative inspections are carried out, and they receive administrative sanctions in the form of Tax Assessment Letters. At the same time, property investment companies are subject to investigations and tax criminal investigations, which ultimately receive criminal sanctions.

The two taxpayers in Sleman Regency experienced the same situation: reporting a tax return (SPT) that the tax authorities deemed incorrect. However, in the end, these two tax cases received different treatment.

Of the two examples of cases in the field of taxation above, in the first case, an incorrect SPT made by the Taxpayer is only considered an error in interpreting the tax imposition rules, so the treatment required is an administrative examination of the company's documents and records and correction of underpaid taxes accompanied by administrative fines. Meanwhile, in the second tax case, the tax authorities considered that the Taxpayer had neglected his tax reporting obligations. In these two cases, there are very different points of view from the tax authorities in implementing statutory regulations, so someone can view it as an action that does not reflect the values of justice in Pancasila.

Based on the background description above, the problem of applying the values of justice contained in Pancasila to law enforcement in the field of taxation prompted the author to be interested in conducting research entitled "Actualization of Pancasila Values in Law Enforcement in the Tax Sector in Indonesia."

2. Research Methods

To answer these two main problems, the author uses normative legal research methods (*normative legal research*), using secondary data in primary and secondary legal materials supplemented with tertiary legal materials. The author obtained primary legal material by collecting tax legislation within the scope of formal tax law and material tax law, both those that are still in force, amended, and repealed by tax legislation. The author researched and analyzed primary legal materials to obtain political options for tax criminal law applied in Indonesia. The author obtained secondary legal material through a bibliographic approach by studying books, scientific works, and other library materials. The author completes legal research materials by collecting tertiary legal materials such as dictionaries and encyclopedias, including data relevant to support research results. Secondary data was comprehensively studied to determine the influence of Pancasila on the tax laws implemented in Indonesia. The author describes the results of the study to answer the main problem.

3. Results and Discussion

3.1. General Tax Regulations and Provisions in Indonesia

The author obtained secondary legal material through a bibliographic approach by studying books, scientific works, and other library materials. The author completes legal research materials by collecting tertiary legal materials such as dictionaries and encyclopedias, including data relevant to support research results. Secondary data was comprehensively studied to determine Pancasila's influence on the tax laws implemented in Indonesia. The author describes the study's results to answer the main problem.

Of course, forming regulations in Indonesia, a diverse society, will naturally involve the dynamics of differences, local wisdom, customary law, and community groups' beliefs. It has been agreed that the government can formulate statutory regulations.

In the field of taxation, the legal formation was not free from the issue of pluralism. The government, which is tasked with producing a written product in the field of taxation, will, of course, face differences. Thus, the government must pay attention to the value

of diversity in society. The government also appreciates the source of unwritten regulations that existed and developed in society long before the government made written regulations. These two regulations (both written regulations and unwritten regulations) can only be enforced if they have received recognition and legitimacy from the community for whom the regulations are intended.

The fourth principle of Pancasila, "The people are led by wisdom in representative deliberations," reflects how laws and regulations are made. Legislation must first undergo a deliberation event and involve representation from various parties affected by the regulation.

"Taxation Without Representation is Robbery"

As expressed in the American tax philosophy above, the author wants to provide a firm line in discussing tax regulations in Indonesia. Even though Indonesia has a philosophy and culture different from Western nations, there is a shared commitment to tax law. As a rule of law (*rule of law*), Indonesia has a legal system usually called the Pancasila legal system. According to (Artha, 2017), the Pancasila legal system in Indonesia is a system that accommodates the values of family, harmony, balance, and deliberation, which are at the root of the nation's culture.

In today's reality, positive law is only a symbol whose presence is often hidden and tailored to the interests of those in power. Therefore, it is inappropriate if law enforcement is only guided by positive law because what will be obtained later is only a pragmatic truth, namely a truth that has no life. This is where policymakers need to adhere firmly to the values of Pancasila because the values of Pancasila contain divine values whose truth is absolute.

Tax is a coercive levy that meets the needs of state administration and is regulated by law. Further theoretically, (Perpajakan Indonesia Konsep, Sistem, Dan Implementasi, 2020) argues that taxes represent a transfer of wealth from the people to the government without direct compensation.

From the opinion above, (Hamdani et al., 2023) continued that there seems to be no difference between tax collection and extortion or robbery. This is where it is necessary to regulate taxes through law so that taxes can be collected voluntarily with the agreement of the people and the government so that they do not raise confusion- the authority to collect and enforce tax laws.

In the fourth principle of the Pancasila philosophy that the author describes above, it can be explained that there are several elements of tax philosophy, namely:

1) Taxes only exist in society.

This means that taxes are a social phenomenon. Paying and collecting taxes has long existed in community culture with the aim of funding social groups.

2) Taxes are levied based on public interest.

Taxes are voluntary financing from society with no expectation of direct reward, which aims to fund the general interests of a nation. This public interest arises as a result of community interaction.

3) Taxes are a financial responsibility that comes from the people.

Tax revenue comes from the community to fund the community's general interests. Therefore, the public needs to know how to allocate taxes paid to the government. It is the government's responsibility to embody Pancasila's values , especially the fourth principle.

Apart from the fourth precept, taxation law must also adhere to the philosophy of Pancasila's fifth, namely "social justice for all Indonesian people." These values are realized in tax obligations and law enforcement in the tax sector. The tax obligations referred to are taxes no. It is applied evenly, but tax is levied only on people who have met the taxpayer qualifications as stated in the tax law. In other words, people who have small incomes below the minimum limit for tax collection do not have an increased burden; on the other hand, people who have met the qualifications are obliged to pay taxes, through which their taxes can help the country and help other communities in the underprivileged category. Tax revenues are obtained from a small part of society that has fulfilled the provisions for collecting taxes for the public interest.

In the context of law enforcement in the field of taxation, the Pancasila philosophy is the fifth principle that should be reflected in the hope that it will be enforced equally among taxpayers who commit violations/crimes in the field of taxation by genuinely paying attention to statutory provisions consistently without considering any tendentious aspects. Tax criminal law enforcement must be enforced consistently if the taxpayer is worthy and fulfills the elements of a tax crime. On the other hand, if the taxpayer cannot be categorized as committing an offense that results in a tax crime, then the tax inspector must consistently and firmly state that the taxpayer only deserves an administrative tax audit.

Adam Smith's opinion in his book *Wealth of Nations* states that the guidelines for making tax regulations to fulfill a sense of justice are to fulfill at least four things, which are often known as "*the four maxims*" that is:

- a. Equality and equity
- b. Certainty
- c. Convenience of payment
- d. Economic of collection

Equality In English also means equality, which means that in the context of the same situation, even for different people, the tax imposition must be the same. There is no discrimination in tax collection. Equity, which means justice, is the true face of the tax fair and by applicable legal norms. The application of taxation is solely what is contained in the law.

Indeed, the aim of making written tax regulations a law is to create legal certainty. Legal certainty can be achieved if the lawmaker understands the philosophical meaning and, in stating the norms, is carried out firmly and clearly to minimize the possibility of having double meanings.

The convenience of payment means that taxes can only be collected at the right time, namely when the taxpayer earns income. It is inhumane to impose taxes when the

taxpayer has not received any income, while the tax itself is part of the taxpayer's income that flows to the state.

The economics of collection means that the government collects taxes, which must be no greater than the tax money.

Based on the framework of thought that the author outlined previously, several pieces of legislation can be presented that can be used as the basis for regulations in the field of taxation so that control of public order in taxation can be realized, including:

- a. Law No. 6 of 1983 concerning General Provisions and Tax Procedures Becomes Law and its amendments.
- b. Law No. 7 of 1983 concerning Income Tax and its amendments.
- c. Law No. 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods and its amendments
- d. Law No. 7 of 2021 concerning Harmonization of Tax Regulations.

In the regulation of the law in the field of taxation, its contents can be briefly described as follows:

- a. Law on General Provisions and Tax Procedures

In substance, the content of this law is formal tax law to implement material tax law. (Larasati, 2022) believes that tax law is divided into two, namely formal tax law and material tax law. Tax law formally contains provisions that support material tax law provisions. Meanwhile, material tax law is law that contains provisions regarding tax subjects, taxpayers, tax objects and tax rates.

- b. Income Tax Act

It is a material law whose contents regulate tax subjects, tax objects, and tax rates related to the taxpayer's income.

- c. Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods.

It is a material law whose contents regulate tax subjects, tax objects, and tax rates related to value added.

- d. Law on Harmonization of Tax Regulations

It is a collection of laws in the field of taxation which contain formal and material provisions.

3.2. Philosophy and Objectives of Taxation

As a civilized nation, every legislative regulation in Indonesia must be based on philosophy and have clear objectives. The philosophy of tax law in the form of tax collection, tax rights and obligations, and tax law enforcement is a form of love and togetherness in administering the Indonesian state, which also reflects the value of cooperation based on social justice for all Indonesian people.

The implementation of taxes as a manifestation of the value of cooperation among citizens also contains a value of steadfastness based on a shared commitment to the state. The consequence of this tax law philosophy is to make taxes the main source of funding for Indonesia in carrying out development for the country's sustainability. The management of taxes must be based on a sense of responsibility towards Almighty God and also capable of being accountable to the Indonesian people as taxpayers.

The Indonesian nation, which is positioned as the beneficiary of the taxes levied on the Indonesian people, has a strong philosophy which means that the Indonesian state is the collective property of all tax-paying components, which, of course, share the same rights and responsibilities always to maintain and supervise the sustainability of the state. Another consequence of this tax philosophy is responsibility for efforts to continue the development and provision of public facilities that can be immediately felt by the people, as well as the state's commitment to maintaining trust in tax revenues, which must be carried out consistently and sustainably.

Apart from the legal philosophy that functions as a foundation and guiding light, regulations must also have clear objectives. Tax law aims to realize fair, transparent, and sustainable development and administration of the state, which can then be felt directly by the tax-paying community. It ultimately can improve the welfare of the community. Fairness means equal treatment regarding access to development and equal treatment in tax collection, as well as the imposition of tax sanctions on violators of tax obligations by specific provisions in the law in the field of taxation. Transparent means that all tax collection results can be known to the public, including the amount of tax collected and what the tax is used for. Sustainable means that the government can build public trust to manage the taxes collected from the public and use them as much as possible for the benefit of the people consistently and continuously.

The formal source of taxation law is in Article 23A Paragraph (2) of the 1945 Constitution. Even though it has been specified expressly, the above rules contain a profound tax philosophy. According to (Brata et al., 2023), taxes are a transfer of wealth from the people for which there is no direct return. Because taxes are related to the collection or transfer of wealth from society to the state, the difference between taxes and arbitrary actions is that taxes must be collected based on law, which means that it has first been explained, known, and approved by the people's representatives in the legislative body.

The tax function according to (Dharmawan, 2023) According to the state, the tax functions as a treasury to finance state expenditures. Money goes into the state as much as possible to finance state expenditures, but it also has a regulatory function, which means it can be used to achieve certain goals.

3.3. Fundamentals of Law

The principle of law is the spirit of the law itself. Therefore, when drafting a legal rule, it needs to be based on legal principles. (Tobing, 2023) opinion stating that the spirit of the law is usually expressed in legal principles. It is further stated that the principle of law is the legal *ratio*, which is used as the basis of the rule of law. In line with Satjipto, Poerwadarminta also believes that principles are truths that become the basis for thinking when making regulations.

Discussing the principles of taxation, apart from those expressed by Adam Smith, in general the researcher simplifies that there are at least three main principles in tax regulations, namely:

- 1) Economic principles
- 2) Juridical principles
- 3) The basis of justice

Economic principles are powerful and are the basis for the government's need to collect taxes. Considering economic conditions is the most dominant in determining the amount of taxation and under what circumstances the tax can be levied so that it is also by the spirit of justice.

The juridical principle means that everything related to the taxation collection by tax officials and the enforcement of tax law by tax officials must be based on statutory regulations. This is done to prevent arbitrariness and state exploitation of society.

The principle of justice means that taxes must be applied generally and applied to groups of people who have fulfilled the mandatory requirements for taxation. According to Hans Kelsen, justice is of the view that to be declared fair if regulations can regulate human behavior so that they can find joy in their lives; this is because law is a social order.

3.4. Law enforcement arrangements in the Tax Sector

The law cannot simply be interpreted as law. According to the teachings of "*Educated layman*", "The law cannot be seen from the law alone, but the law is a part of the law whose aims and objectives can be seen in the contents of the law. The meaning of the teachings *Educated layman*. This means that the law cannot be interpreted narrowly as a law, and generally, a law cannot always be said to be law. The ancient Romans thought laws were unimportant: "*The people of the law are not the people of the law.*" (Azizah, 2022).

However, laws, which are a source of law in the formal sense, function to translate legal values in society, which are needed to standardize rules in society so that society can obtain certainty and order in life. Laws in the formal sense generally contain legal rules.(Soeroso, 2013)

As the author explained in the previous chapter, tax provisions must be regulated in a law to avoid arbitrariness. Apart from that, the formation of laws in the field of taxation also, of course, aims to provide legal certainty for the community.

In connection with the legal certainty above, Rochmat Soemitro It emphasizes that the law's provisions must be made firmly and clearly to minimize the opportunity for any party to provide a different interpretation than the lawmaker's intention.

From the above opinion, the author can conclude that clarity and firmness in tax regulations are necessary. In this case, the author wants to focus on the regulation of law enforcement in tax laws by comparing the reality and theoretical concepts that the author has previously captured and comparing them with the values of Pancasila, which should be used as a reference.

The tax law contains two sanctions provisions for taxpayers who violate it: administrative sanctions and criminal sanctions.

Provisions for administrative law enforcement in tax law are contained in Article 13 Paragraph (1) of Law No. 6 of 1983, as most recently amended by Law No. 7 of 2021 concerning Harmonization of Tax Regulations. In the administrative law enforcement regulation, these are the provisions enforced by taxpayers who commit violations regarding writing errors, calculating errors, and errors in applying the law that result in underpayment of tax.

Meanwhile, Chapter VIII Articles 38, 39, and 39A contain tax criminal law enforcement provisions. Article 38 essentially regulates negligence in the obligation to submit an SPT, namely failure to submit an SPT or an SPT whose contents are incorrect.

The qualifications for negligence are regulated in Article 38 which states that:

"Everyone who, through negligence:

- a. not submitting a Notification Letter; or
- b. submit a Notification Letter, but the contents are incorrect or incomplete, or attach information whose contents are incorrect, so that it can cause losses to state revenues, be fined at least 1 (one) times the amount of tax owed that is not or underpaid and a maximum of 2 (two) times the amount of tax owed that is not or underpaid, or be sentenced to imprisonment for a minimum of 3 (three) months or a maximum of 1 (one) year."

The intentional qualifications regulated in Article 39 and Article 39A are:

a) Article 39:

"(1) Every person who knowingly:

- a. not registering to be given a Taxpayer Identification Number or not reporting his business to be confirmed as a Taxable Entrepreneur;
- b. misuse or use without right the Taxpayer Identification Number or Taxable Entrepreneur;
- c. not submitting a Notification Letter;
- d. submit a Notification Letter and/or information whose contents are incorrect or incomplete;
- e. refuse to carry out an examination as intended in article 29;
- f. presenting false or falsified books, records or other documents as if they were true, or does not reflect the actual situation;
- g. does not maintain bookkeeping or records in Indonesia, does not show or lend books, records or other documents;
- h. not keep books, notes or documents which are the basis for bookkeeping or recording and other documents including the results of data processing from

bookkeeping which is managed electronically or carried out using an on-line application program in Indonesia as intended in Article 28 paragraph (11); or

i. not remitting tax that has been withheld or collected, so that it can cause losses to state revenues, he will be punished with imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax owed that is not or underpaid and a maximum of 4 (four) times the amount of tax owed that is not or underpaid."

Provisions regarding attempts to commit criminal acts in the field of taxation are regulated in Article 39 paragraph (3) which states that:

"Any person who attempts to commit a criminal act of misusing or using without right a Taxpayer Identification Number or Confirmation of a Taxable Entrepreneur as intended in paragraph (1) letter b, or submits a Tax Return and/or information whose contents are incorrect or incomplete, as intended in paragraph (1) letter d, in order to submit a request for restitution or carry out tax compensation or tax credit, shall be punished by imprisonment for a minimum of 6 (six) months and a maximum of 2 (two) years and a fine of at least 2 (two) times the amount of restitution requested and/or compensation or credit made and a maximum of 4 (four) times the amount of restitution requested and/or compensation or credit made."

3.5. Theory of Tax Regulation According to Pancasila

Pancasila contains the values of cooperation and kinship. Kinship here can be interpreted as a sacrifice from the community for the country's development without any direct reward. The government receives money from taxation and redistributes it to the community to fund public interests and raise society's economic level.

This does not conflict with Pancasila's values because paying taxes is not solely for the pleasure of the authorities. Still, the benefits will return to the taxpayer, namely the community. Pancasila wants tax collection to reflect the value of cooperation, and ultimately, this desire is reflected in Indonesia's tax regulations.

3.6. Actualization of Pancasila Values in Law Enforcement in the Tax Sector in Indonesia

"True law is the right reason in agreement with Nature; it is of universal application, unchanging and everlasting It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. . . . [God] is the author of this law, its promulgator, and its enforcing judge". (Wijaya & Aminulloh, 2021)

What is quite fundamental in the discussion of this subchapter is related to the actualization of Pancasila values in the aspect of tax law enforcement in Indonesia. The author tries to quote an opinion from Cicero. The above opinion means that law is a law that originates from nature. Natural law is a law whose truth is absolute. It would be a big mistake if humans tried to change it. Here, humans can only follow and carry it out. From the opinion above, it turns out that there are philosophical differences between Western nations and Indonesians, namely that the most fundamental lies in their religious beliefs, where Cicero tried to compare natural law with human law. Cicero illustrates how natural elements are strong essential elements even though this expression also explicitly mentions the position of God. Meanwhile, for the Indonesian

people, this kind of philosophy is not entirely acceptable; everything that exists on this earth is God's creation, and nothing will happen without God's will.

However, even though there are striking differences, as mentioned above, the concept conveyed by Cicero has the same essence as the philosophical values adhered to by the Indonesian people, namely that all of them assume that absolute truth is truth that is not based on pure human thought. Humans will only make pragmatic truths.

There is a basic expression that the author feels is appropriate to respond to Cicero's statement above, namely *"An unjust law is not a law"* which means an unjust law means it is not a law. The principle mentioned above is in line with the theory of Saint Thomas Aquinas quoted by Raymond Wacks which reads:

"a 'law' that fails to conform to natural or divine law is not a law at all"

Which means a law that fails to conform to natural law or God's law cannot be called a law.

From all the opinions discussing the philosophical aspects above, can it be concluded that absolute law, which will give rise to absolute justice, is a law that comes from God? Even Thomas Aquinas firmly stated that laws not guided by God's law could not be called laws, meaning they cannot be used as guidelines and are not worth following.

In the previous sub-chapter, Prof. Satjipto stated that the Pancasila legal system is unique in Indonesia and accommodates the values of the Indonesian state.

In line with Prof.'s opinion. Satjipto mentioned above, (Audri, 2020) also revealed that legal science with the Pancasila paradigm is a categorization of legal science in Indonesia even though its objects are very broad and universal. Furthermore, Prof. Sudjito stated that the source of the Pancasila law that applies to all of Indonesia is full of divine values.

Prof. Sudjito's opinion According to the author, the above is very relevant considering that Indonesia has long been known for its religious society and upholding divine values to the point of placing divine values in the first principle of Pancasila. This is a symbol that whatever form of action the Indonesian people take must be primarily based on the belief in the Almighty God.

In his opinion, (Purwadi et al., 2015) conveyed that Pancasila is the spirit of national law. Even though Pancasila is abstract and invisible, its influence and role can be seen with the eyes of the heart. Sudjito further said that if Pancasila were separated from national law, then national law would lose its spirit and the impact would cause damage to society.

In the context of justice, the author quotes Plato's opinion quoted by Liang Gie.

"et us enquire first what it is the cities, then we will examine it in the single man, looking for the likeness of the larger in the shape of the smaller"

Plato's statement seems to illustrate that to find true individual justice, the basic characteristics of justice must first be found in the state.

In contrast to Plato, whose theory emphasized harmonization and harmony, Aristotle had another emphasis in his theory, namely balance and proportion. According to

Aristotle's opinion quoted by (De Bravo Delorme, 2022) which in essence is that equal rights must be the same among the same people.

In the context of law enforcement in the field of taxation, the author will try to compare the law enforcement events discussed in the previous sub-chapter with the values of justice in Pancasila. Only administrative law enforcement was carried out in the tax case that occurred at a plastic company described by the author. The Tax Inspector at the DI Yogyakarta Regional Office enforced criminal law for a property company. Even though both of them took action to report an SPT whose contents were incorrect. In the tax case that befell a plastic manufacturing company, the reason behind submitting a tax return whose contents were incorrect, resulting in an administrative tax audit being carried out, was a difference in the interpretation of the application of income tax. This automatically causes taxes to be underpaid and not by the SPT reported by the taxpayer. Meanwhile, in the case involving a property investment company, what happened was that it was deemed to have reported an SPT whose contents were incorrect due to the taxpayer's inability to understand tax regulations. Hence, the Directorate General of Taxes carried out a tax investigation, leading to a tax crime.

Two examples of law enforcement incidents have the same background, namely the inability of taxpayers to understand tax regulations perfectly. Of course, this creates a pronounced gap in justice. Meanwhile, it is no longer a secret that taxation is complex. Even the Constitutional Court, in its decision number 63/PUU-XV/2017 concerning the implementation of the rights and obligations of power of attorney as regulated in Article 32 paragraph (3a) of the KUP Law, emphasized that in the Constitutional Court's decision, there was a statement from the government regarding the material requested to be reviewed on pages 52-54 which stated that "...it is tough to implement a tax system properly if it does not involve a tax advisor. This is because it is difficult for most taxpayers to understand all tax regulations correctly because of the dynamics and complexity of the tax regulations.

The tax cases that arise above are examples of the lack of consistency in the treatment of law enforcement in Indonesia's taxation field. The treatment of the two tax cases mentioned above depends on the interpretation of tax law enforcers, which is carried out by tax inspectors or Civil Servant Investigators (PPNS) of the Directorate General of Taxes.

Such law enforcement practices ultimately raise many questions about the government's commitment to implementing statutory regulations, especially in taxation. This can also distort public trust in the Directorate General of Taxation, which, in the final, fatal stage, causes the public to reluctance to carry out tax obligations because of the perceived arbitrariness of the government through the DJP.

This can happen because the rules regarding the categorization of law enforcement in tax law in the law enforcement chapter are unclear. Plus, the understanding of law enforcers in the field of taxation is not based on the existing philosophical values contained in Pancasila, so what happens is a purely pragmatic understanding. Such law enforcers do not understand the essence of tax law but are equipped with powerful law enforcement authority and are certainly capable of causing injustice to taxpayers.

(Kaelan, 2013) They believe that the Indonesian state is based on law (*rule of law*) and should not only depend on the will of power but also on the implementation of laws based on law, which must be accountable to the government.

Ontologically, the values of Pancasila have given birth to Indonesian law, which teaches honest, fair, and correct actions in accordance with existing rules. State administrators are obliged always to uphold truth and justice based on Pancasila. Thus, the implementation rules will undoubtedly follow.

In a situation like this, it is necessary to thoroughly reform regulations in the field of taxation in Indonesia, especially in law enforcement, starting from improving and confirming elements in the law to implementing regulations that do not conflict with the law. The concept previously conveyed by the author in the previous discussion states that taxes must be implemented based on law.

In line with Van Apeldorn's opinion which states that laws at a lower level cannot conflict with laws at a higher level. If this happens, the law at a lower level must be withdrawn from the law at a higher level.

Implementing regulations are also needed to support technical instructions for law enforcement to carry out their duties but still refer to the law. In this way, it is hoped that there will no longer be gaps in law enforcement in the field of taxation so that we can achieve the ideal of fair law enforcement for all Indonesian people.

4. Conclusion

A conclusion is obtained based on the background of the problem, which, in essence, compares the value of Pancasila in the application of law enforcement in the field of taxation in Indonesia to concrete events. 1) Law enforcement arrangements are needed in the tax sector to ensure the implementation of tax obligations in Indonesia. Law enforcement is a means of creating an orderly, fair, and consistent tax climate. 2) In Indonesia, there are two types of tax law enforcement: administrative and criminal. Administrative law enforcement produces an administrative product in the form of a Tax Assessment Letter, and criminal law enforcement produces the final product in the form of a tax criminal decision. 3) Law enforcement in Indonesia's taxation field still does not reflect the actualization of Pancasila, especially the principles of social justice for all of Indonesia. This is because there are no clear boundaries for actions categorized as violations or tax crimes. Everything still really depends on the subjective and pragmatic interpretation of the tax auditor. So that Taxpayers cannot feel aspects of legal certainty and aspects of justice.

5. References

Journals:

- Audri, J. F. (2020). Pembagian Antropologi Hukum. In *Antropologi Hukum* (Vol. 1).
- Azizah, A. F. (2022). Kepatuhan dan Ketaatan Hukum Masyarakat Lamaru terhadap Hukum di Indonesia. *De Cive: Jurnal Penelitian Pendidikan Pancasila Dan Kewarganegaraan*, 2(2). <https://doi.org/10.56393/decive.v2i2.1497>
- Brata, A. F. Y., Waluyo, W., & Candrakirana, R. (2023). Implikasi Kebijakan Peraturan Walikota Tentang Insentif Pajak yang Terdampak Covid-19 Terhadap Peningkatan Pajak Sektor Hotel Dan Restoran di Kota Madiun. *Jurnal Discretie*, 4(1). <https://doi.org/10.20961/jd.v4i1.73419>

- De Bravo Delorme, C. A. (2022). Which Plato's Political Philosophy? *Eidos*, 37. <https://doi.org/10.14482/EIDOS.37.184>
- Dharmawan, H. (2023). Ius Constituendum Pengaturan Terhadap Oknum Wajib Pajak Yang Tidak Melakukan Kewajiban Membayar Pajak Di Kota Depok. *Jurnal Suara Hukum*, 4(2). <https://doi.org/10.26740/jsh.v4n2.p330-339>
- Hamdani, A., Haskar, E., & Farda, N. F. (2023). Upaya Penyelesaian Sengketa Pajak melalui Keberatan Pajak. *Amnesti: Jurnal Hukum*, 5(2).
- Larasati, S. V. (2022). Peran Hukum Pajak dalam Meningkatkan Kepatuhan Wajib Pajak Membayar Pajak. *Jurnal Humaya: Jurnal Hukum, Humaniora, Masyarakat, Dan Budaya*, 2(1). https://doi.org/10.33830/humaya_fhisip.v2i1.3177
- Leighton, R. (2023). Radical citizenship education. *Education, Citizenship and Social Justice*, 18(2). <https://doi.org/10.1177/17461979221080604>
- Muhazir, M. (2019). EPISTIMOLOGI AS-SUNNAH DALAM KAJIAN FILSAFAT HUKUM ISLAM. *Al-Qadha*, 5(1). <https://doi.org/10.32505/qadha.v5i1.909>
- Purwadi, H., Sulistiyono, A., & Firdausy, A. G. (2015). KONSEKUENSI TRANSPLANTASI HUKUM TERHADAP PANCASILA SEBAGAI NORMA DASAR DAN HUKUM LOKAL. *Yustisia Jurnal Hukum*, 4(1). <https://doi.org/10.20961/yustisia.v4i1.8622>
- Soeprapto. (1996). Hubungan Falsafah Pancasila dengan Ideologi Pancasila sebagai Ideologi Terbuka. *Journal Filsafat*, 26 December.
- Titirloloby, B. (2020). Konsep Etika Nilai Max Scheler Dan Analisis Terhadap Aksiologinya. *Fides et Ratio*, 5(2).
- Tobing, L. H. L. (2023). Problematika Pengakuan Natura/Kenikmatan bagi Penerima akibat Perbedaan Waktu Keberlakuan Peraturan Pelaksana Undang-Undang Harmonisasi Perpajakan. *FOCUS*, 4(2). <https://doi.org/10.37010/fcs.v4i2.1405>
- Wijaya, Y. Y., & Aminulloh, A. (2021). Philosophy of Law: A Very Short Introduction by Raymond Wacks. *Indonesian Journal of Law and Society*, 2(2). <https://doi.org/10.19184/ijls.v2i2.24627>

Books:

- Artha, R. (2017). *Pengantar Hukum Indonesia (PHI)*. Jakarta: Penerbit Raja Grafindo Persada.
- Farouq, M. (2018). *Hukum Pajak Di Indonesia* (Edisi 1). In Kencana.
- Kaelan. (2013). *Negara kebangsaan pancasila: Kultural, historis, filosofis, yuridis, dan aktualisasinya*. Pancasila.
- Perpajakan Indonesia. (2020). *Konsep, Sistem, Dan Implementasi, Rekayasa Sains*.
- Soeroso, R. (2013). *Pengantar Ilmu Hukum*.