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LEGAL DECONSTRUCTION OF TAX AUDIT ON THE TAXPAYER'S REFUND APPLICATION FOR TAX OVERPAYMENT IN INDONESIA (PART 1 OF 2)*

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Abstract

There is still an empirical and philosophical juridical gap in tax audits on Overpayment Tax Returns (SPT) as referred to in Article 17 and Article 17B of the KUP Law. It is necessary to conduct philosophical research in the field of non-positivistic law with the method of legal deconstruction and use the theory of justice as fairness that John Rawls has put forward in answering the two existing problems. This study yields two conclusions. First, legal texts related to Article 17 and Article 17 B of the KUP Law and Regulation of the Minister of Finance Number 17/PMK.03/2013 in conjunction with Regulation of the Minister of Finance Number 184/PMK.03/2015 in conjunction with Regulation of the Minister of Finance Number 18/PMK.03/ 2021 does not meet the theory of justice as fairness to taxpayers. Second, it is necessary to carry out legal deconstruction of Article 17B of the KUP Law so that a definitive legal text in tax audits is produced based on the theory of justice as fairness. It is recommended that there be reforms to tax laws and regulations related to the provisions on the examination of Overpayment Tax Returns (SPT) that take into account the following matters, among others, the abolition of the (12 month) audit period of Overpayment Tax Returns (SPT) while maintaining the same examination period and equal treatment of administrative sanctions in exchange for interest fairly.

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1. INTRODUCTION

One of the impacts of the tax collection system in Indonesia, which has so far adopted a self-assessment system, is the need for compliance testing to fulfill taxpayers' tax obligations. That is a self-assessment system that requires taxpayers to register

themselves, fill out their tax returns (SPT) correctly, completely, and clearly, sign and submit them, and pay or deposit the taxes owed themselves,[1] as regulated in Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU KUP). The implementation of self-assessment system requires tax authorities in Indonesia, in this case, the Directorate General of Taxes (DGT), to supervise the implementation of the law to examine compliance with the fulfillment of tax rights and obligations of each taxpayer.

One of the means to examine compliance with the implementation of the self-assessment system carried out by taxpayers is a tax audit. However, the current performance of tax audits, especially in tax audits on requests for refund of tax overpayments from taxpayers, still leaves empirical and juridical philosophical gaps. The empirical gap reaches the number of registered taxpayers that is not proportional to the audit coverage ratio (ACR) and the number of Functional Tax Auditors at DGT.[2] This can be observed from the data in 2019-2020, which each year shows an ACR of around 2.44% of 1.45 million corporate taxpayers, and still approximately 1.08% of 2.45 million personal taxpayers,[3] and around 2.42% for corporate taxpayers and still approximately 1.11% for personal taxpayers.[4] Subsequently, the number of Functional Tax Auditors at the DGT in 2020 was 6,417, having completed 85,760 Audit Result Reports (LHP) with the realization of receipts and results of audits and collections of Rp. 54.23 trillion, and the completion of the refund discrepancy value of Rp. 4.03 trillion.[5]

The philosophical-juridical gap occurs from various tax laws and regulations regarding tax audits whose implementation is very sacred to legal texts rather than interpreting them so that it seems to equate the certainty of statutory regulations as legal certainty,[6] thus potentially marginalizing substantial justice. In addition to being contained in the KUP Law, Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Minister of Finance Regulation Number 17/PMK.03/2013 concerning Audit Procedures as amended by Minister of Finance Regulation Number 184/PMK.03 /2015, and Regulation of the Minister of Finance Number 239/PMK.03/2014 concerning Procedures for Examination of Preliminary Evidence of Criminal Acts in the Taxation Sector and Regulation of the Minister of Finance Number 18/PMK.03/2021 concerning the Implementation of Law Number 11 of 2020 concerning Job Creation in the Field of Income Tax, PPN, and PPnBM, as well as General Provisions and Tax Procedures as amended several Regulations of the Minister of Finance Number 184/PMK. 03/2015 concerning Amendments to the Regulation of the Minister of Finance Number 17/PMK. 03/2013 concerning Examination Procedures. The existence of the terminology of

[1] Henry Dianto Pardamean Sinaga, "Loss (of Revenue) of State within Taxation", *Mimbar Hukum* 30, No. 1 (Februari 2018): 148.
[2] Yuli T. Hidayat dan Henry DP Sinaga, Certainty and Simplicity Principle in Broadening the Scope of Tax Audit in Indonesia, Journal of Tax Law and Policy, Vol. 1, No. 1, p. 12.
[3] Direktorat Jenderal Pajak, Laporan Tahunan 2019, (Jakarta: Direktorat Jenderal Pajak, 2020).
[4] Direktorat Jenderal Pajak, Laporan Tahunan 2020, (Jakarta: Direktorat Jenderal Pajak, 2021), p. 192. Availbale at https://pajak.go.id/sites/default/files/2021-10/Laporan%20Tahunan%20DJP%202020%20-%20Bahasa.pdf, accessed on Marc 27, 2022.
[5] *Loc.cit*.
[6] Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*, (Yogyakarta: Genta Publishing, 2009), p. 90, 91.

examination on preliminary evidence of criminal acts in the taxation sector seems to imply that the examination of preliminary evidence should be part of the tax audit, not part of the investigation of criminal acts in the taxation sector, considering that the investigation of criminal acts is based on an investigation. Meanwhile, investigations can only be carried out by the Police as formulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). This implied thing can be observed from the Elucidation of Article 43A Paragraph (1) of the KUP Law which has emphasized that the examination of preliminary evidence has the same purpose and position as the investigation as regulated in the Criminal Procedure Code. In addition, there are several other philosophical-juridical gaps. For example, legal uncertainty in the case of tax audits on overpaid tax returns that must be deferred if preliminary evidence is submitted. This means that the tax audit carried out on the overpaid SPT must be issued a tax assessment letter (SKP) no later than 12 months after the application for the refund of the tax overpayment is submitted by the taxpayer, but this period becomes invalid if the SPT is examined for preliminary evidence. Meanwhile, the initial evidence examination period can take 12 months and can be extended for another 12 months. This brief explanation of the philosophical-juridical gap shows that the statutory system regarding tax audits, especially in terms of overpayment, in Indonesia still contains several problems, including internal institutional regulations and too broad of content material as well as the occurrence of similarities in content between legislation regulations.[7]

The existence of empirical and philosophical-juridical gaps in tax audits (as part of law enforcement in the field of taxation) causes the conditions for the fulfillment of duties, functions, and obligations by the state administration to fail, namely effectiveness, legitimacy, jurisdiction, legality, morality, and efficiency.[8] Every law enforcement must truly always pay attention to legal certainty, benefits, and justice.[9] Thus, this study attempts to answer the two existing problem formulations. First, how is the construction of tax audits on overpayment tax returns in Indonesia? Second, how is legal deconstruction in producing ideal legal concepts in tax audits of overpayment tax returns in Indonesia in the future? Overpayment SPTs that are generally audited by Fiskus (DGT employees) are the Annual Income Tax Return (PPh) and the Value Added Tax Return (VAT). The material tax law that regulates PPh is Law Number 7 of 1983 concerning Income Tax as amended several times, most recently by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU PPh), while the material tax law which regulates VAT is Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended several times, most recently by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (VAT Law).

2. METHODS

This study is non-positivistic philosophical research in the field of law, is expected able to criticize at a fundamental philosophical level, namely concerning the nature of the

[7] Bayu Dwi Anggono, Pokok-Pokok Penataan Peraturan Perundang-Undangan di Indonesia, Jakarta: Penerbit Konstitusi Press, 2020, p. 33.
[8] Prajudi Atmosudirdjo, Hukum Administrasi Negara, Jakarta: Ghalia Indonesia, 1986, p. 79-80
[9] Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar, Yogyakarta: CV. Maha Karya Pustaka: 2022, p. 223.

material object of legal science in an ontological metaphysics way.[10] In order to be qualifed in answering the two existing problem formulations, this non-positivistic philosophical research in the field of law uses the epistemology of deconstruction[11], as deconstruction is not a way of understanding law oriented towards legal positivistic thinking where is more concerned with the certainty of literal meaning and cannot be in line with the way of understanding and interpreting legal texts in a linear, rigid, stuffy, and legalistic way.[12]

The term deconstruction is an etymological understanding of the word analysis,[13] while based on the meaning contained in the *Kamus Besar Bahasa Indonesia (KBBI)* it is rearrangement [14]. Deconstruction could be applied to destroy the concepts of logocentrism and phonocentrism in law[15]. Logocentrism, characterized by the dominance of the concept of totality and the idea of essence, is considered to have consequences in the form of oppressive knowledge, breed dogmatism, and legitimize the power of ratio.[16] Then, one of the deconstruction programs proposed by Derrida is aimed at historical origins that are so sure of direct recognition of reality, even though our recognition always only departs from traces, so that in this case, trace is no longer recognized as something that was later, but this would be beginning.[17]

Deconstruction of the text means opening up the possibility of various interpretations of a text. Deconstruction of the text also brings other more sociological consequences, namely dismantling the monopoly of interpretation on certain authorities who speak of "single truth".[18] Deconstruction, in its development, is often misunderstood only in terms of how to read literary texts, philosophy, ancient texts, or the like. Suppose the notion of deconstruction is only limited to these problems. In that case, the idea becomes unproductive for emancipation, so deconstruction cannot be separated from responses to social, political, and cultural issues. These laws seek stability at the expense of others. Deconstruction is used as a new strategy to examine the extent to which structures are formed, and their boundaries are always established, and their meanings are unified. These boundaries of unity are subverted by the strategy of deconstruction.[19] Thus, the idea of deconstruction in this study refers to text, review, difference, dissemination, literacy, supplementation, and the absence of a decision, the relations of which are not hierarchical but substitutive.[20]

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[10] Anthon F. Susanto (1), Dekonstruksi Hukum: Eksplorasi Teks dan Model Pembacaan, Ypgyakarta: Genta Publishing, 2010, p. 100.
[11] Achmad Hariri, Dekonstruksi Ideologi Pancasila sebagai Bentuk Sistem Hukum di Indonesia, Ajudikasi: Jurnal Ilmu Hukum, Vol. 3, No. 1, 2019, pp. 1-14, p. 4.
[12] Tongat, Dekonstruksi Stelsel Absorpsi dalam Perbarengan Tindak Pidana sebagai Upaya Mewujudkan Keadilan Substantif, Masalah-Masalah Hukum, Vol. 44, No. 2, 2015, p. 218.
[13] Anthon F. Susanto (2), Ilmu Hukum Non Sistematik: Fondasi Filsafat Pengembangan Ilmu Hukum Indonesia, Yogyakarta: Genta Publishing, 2010, p. 138.
[14] Kamus Besar Bahasa Indonesia, "dekonstruksi", available at https://kbbi.web.id/dekonstruksi, accessed on June 5, 2022.
[15] Anthon F. Susanto (1), *Op.cit.*, p. 121.
[16] Turiman, Metode Semiotika Hukum Jacques Derrida Membongkar Gambar Lambang Negara Indonesia, Jurnal Hukum dan Pembangunan, Vol. 44, No. 2, 2015, p. 310.
[17] Ibid., p. 312.
[18] Siti Rohmah Soekarba, Kritik Pemikiran Arab: Metode Dekonstruksi Mohammed Arkoun, Wacana, Vol. 8, No. 1, 2006, p. 87.
[19] Turiman, *Op.cit.*, p. 313.
[20] Achmad Hariri, *Loc.cit.*

This non-positivistic philosophical research in the field of law uses secondary data or library research with legal materials consisting of primary, secondary, and tertiary legal materials. Considering that primary legal materials are all legal rules that are formally formed and/or made by a state institution and/or government agencies, for the sake of upholding it will be pursued based on coercive power, which is also carried out officially by state officials.[21] So the primary legal materials in this study include the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), the KUP Law, Government Regulation No. 74 of 2011, and Regulation of the Minister of Finance No. 239/PMK.03/2014, Regulation of the Minister of Finance No. Minister of Finance Number 18/PMK.03/2021, and laws and regulations whose validity and hierarchy are based on Law Number 12 of 2011 concerning the Establishment of Legislations as amended several times, most recently by Law Number 13 of 2022. The secondary legal materials are all information about the laws that apply or have been in force in a country but cannot formally be said to be positive laws.[22] While tertiary legal materials are contained sources in legal dictionaries, various publications containing legal indexes, and their linearity studies.[23]

Considering the non-positivistic use of philosophical research in the field of law, it is expected that it can describe, explain, analyze, conclude and predict,[24] this study also uses descriptive analysis and prescriptive analysis methods. Descriptive studies are intended to provide data that is as accurate as possible about humans, conditions or other phenomena. Meanwhile, the prescriptive study is aimed at obtaining suggestions to overcome the problems posed in this article.[25]

3. LITERATURE REVIEW OF JUSTICE AS FAIRNESS

Rawls has asserted that justice is the essential virtue of any social institution so that it is as efficient or as good as a law or an organization, no matter how severe the philosophical problems are in terms of the impossibility of identifying between law and justice[26] then the law or institution must be reformed or abolished [27] if it's not fair.[28] Although there are various theories of justice and considering the Black's Law Dictionary defines justice as the fair and proper administration of laws,[29] so this study is sufficient to use the justice as fairness that Rawls has proposed. Rawls put forward the theory of justice as fairness in the existence of the original position and the veil of ignorance. The initial part of equality corresponds to the state of nature in social contract theory, which

[21] Soetandyo Wignjosoebroto, Hukum: Konsep dan Metode, Malang: Setara Press, 2020, p. 81.
[22] *Ibid*., p. 82.
[23] *Ibid*., p. 84.
[24] Widodo, Metode Kontemporer dalam Penelitian Hukum: Kombinasi Analisis Doktrinal dan Non-Doktrinal, Yogyakarta: Aswaja Pressindo, 2020, p. 4
[25] Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta : Penerbit Universitas Indonesia, 2010), p. 9-11.
[26] John Rawls, Justice as Fairness: A Restatement. Edited by E. Kelly. Massachusetts: The Belknap Press of Harvard University Press, 2001.
[27] Nicholas Rescher, *Fairness: Theory & Practice of Distributive Justice*. New Jersey: Transactions Publishers, 2002
[28] Benny Rikardo P. Sinaga, *et al*. (2020). Justice Reconception In Establishing Responsive Tax Law In Indonesia: A Rawlsian Perspective. Ayer Journal, Vol. 27, No. 3, pp. 171 – 189, p. 174.
[29] Bryan A. Garner (*Editor in Chief*), Black's Law Dictionary, St Paul: West Publishing Co., 2009, p. 942.

is understood as the initial situation no one knows, as among the essential characteristics of this situation is that no one knows his place in society, his class position, or social status, the fortune in the distribution of wealth and abilities, intelligence, strength, and the like in society, because all are in the same position and no one is able to devise principles to support his particular condition.[30]

Justice as fairness proposed by Rawls, tries to adjudicate conflicting traditions based on the following two adjudications. First, offer two principles of justice as guidelines on how primary institutions realize the values of freedom and equality. Second, determine the point of view from which these principles are more appropriate to use than other principles of justice seen from the nature of democratic citizens who view freedom and equality.[31] The two principles of justice as fairness referred to are on the basis of lexical orders or serial orders as follows:

> *"(1) Each person has an equal right to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with a similar scheme for all. (2) Social and economic inequalities are to satisfy two conditions: first, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society."*[32]

Furthermore, the understanding of fairness must begin with the original position idea, which basically has continuity with the concept of natural conditions is the basis of social contract theory, and then a public reason idea is carried out. According to Rawls, the idea of the original position will understand justice based on two models. First, this idea models what we appreciate as fair conditions, in which free and equal citizens agree on an agreement that will govern the basic structure of society. Second, this idea models the boundaries that all groups can accept certain principles of justice and reject them when put in fair conditions.[33] In this way, agreements born from the original position can include fair conditions of agreement between citizens as free and equal, and appropriate restrictions on reasons.[34] Then in the original position, everyone is in a veil of ignorance, so according to Rawls, ignorance after the original position will make everyone in it agree on decisions that they consider fair to all parties, which in the end will arrive at an acceptable consensus where everyone is -but will accept and support each other.[35] However, it must be realized that justice as fairness presupposes two main things: 1) a condition in which all parties involved have the same broad freedom and do not make choices that benefit themselves or their group because when formulating the entire origin position are completely in the veil of ignorance, 2) the agreement generated by using the original position idea is not a consideration of profit and loss for individuals or groups,

[30] John Rawls, A Theory of Justice, 1971, Massachusetts: The Belknap Press of Harvard University Press, p. 12.
[31] John Rawls, Justice as Fairness: Political not Metaphysical, Philosophy & Public Affairs, Vol. 14, No. 3, 1985, pp. 223-251, p. 227.
[32] Pablo Gilabert, The two principles of justice (in justice as fairness), in Jon Mandle and David A. Reidy, The Cambridge Rawls Lexicon, Cambridge: Cambridge University Press, 2014, pp. 845-850, p. 845.
[33] John Rawls, Justice as Fairness: A Restatement. Edited by E. Kelly. Massachusetts: The Belknap Press of Harvard University Press, 2001, p. 17.
[34] *Loc.cit*.
[35] Sunaryo, *Op.cit.*, pp. 9-10.

but instead what should be made into rules that can be accepted and supported by all sane and rational people and have equal freedom.[36]

The existence of the original position as a kind of imaginary device in understanding the concept of fairness must also be supported by public reason ideas as practical ideas so that the vision can be realized in real life.[37] According to Rawls, the idea of public reason is included in the conception of a well-ordered constitution in a democratic society, as the fundamental characteristic of democracy is pluralism, which is natural. The essence of the idea of public reason is not to criticize or attack any doctrine, religious or non-religious as a whole unless the principle is not following the importance of public reason and democratic policy. The essential requirement is that a reasonable doctrine accepts the constitutional democratic regime and the idea of legal legitimacy.[38] Thus, the use of public reason by citizens strongly supports a sane, fair society, and strengthens democracy.[39] In order to be called public reason, Rawls requires five distinct but definite aspects that must be met as a whole, namely: (1) the fundamental political questions to which it is applied, (2) the people to whom it is applied, (government officials and candidates for public officials), (3) the content is given within the scope of a reasonable concept of justice, (4) the application of the conception in the discourse of coercion norms to be enforced in the form of valid laws against democratic people, and (5) examination of citizens based on the principle of -principles derived from the conception of justice that meet the criteria of reciprocity.[40]

Justice as fairness has been developed and discussed in many studies. Gilbert's study suggests six basic ideas are involved in justice as fairness. First, as well as being central, the organizing idea is that of society as a fair system of cooperation over time from one generation to the next. In this case, there are at least three characteristics of social cooperation, namely being guided by publicly recognized rules and procedures, covering fair terms of cooperation (reasonably acceptable to the participants and involving reciprocity or mutuality), and tracking the rationality of benefits or the goodness of each participant. The success of this first basic idea will realize the second fundamental idea, namely the realization of an orderly society, namely a society that is effectively governed by the principles of justice. The third essential idea is the proper application of the principles of justice, which applies mainly to the basic structure of society, including the constitution of society and the economic structure of society. This idea refers to the way in which the leading political and social institutions of society come together: 1) into a single system of social cooperation, 2) establish fundamental rights and obligations, and 3) regulate the sharing of benefits that arise from social cooperation over time. The fourth fundamental idea is how the fair terms of cooperation should be specified. In justice as fairness, this is presented as the focus of a hypothetical agreement, a social contract, between free and equal citizens achieved under fair conditions. The original position is the means of representation through which the deal is considered. Some of its features (such as the veil of neglect) guarantee conditions that place free and equal persons fairly and impose appropriate restrictions on the grounds used in judging

[36] *Ibid.*, p. 10.
[37] *Loc.cit.*
[38] John Rawls, The Idea of Public Reason Revisited, The University of Chicago Law Review, Vol. 64, No. 3, 1997, pp. 765-766.
[39] Sunaryo, *Op.cit.*, p. 11.
[40]

the principles. The fifth basic idea refers to how citizens participate in social cooperation. Citizens are free and equal persons, possessing the minimum required level of two moral powers to be full cooperators in a well-ordered society: a capacity for a sense of justice and a capacity for a conception of the good. The sixth basic idea refers to how the conception of justice, as a political conception, can be justified in a democratic society characterized by genuine pluralism. This must be the subject of public justification because, through public justification, free and equal citizens justify their political judgments based on reasons they can reasonably support, regardless of their deeper moral, religious, or philosophical compromises. , different, and often contradictory. The idea of public justification is further developed through the concepts of reflective equilibrium, overlapping consensus, and public reason.[41]

Then, Lister argues that the reciprocity condition is an intrinsic feature of specific duties of justice, incredibly egalitarian duties of distributive justice, because these duties aim to establish a relationship of mutual recognition as equals.[42] Reciprocity does not underlie but limits some of the duties of justice because the reciprocity condition is rooted in the relational character of distributive justice; noncontribution on the part of those unable to contribute does not mean that they fall outside the scope of distributive justice. [43] Thus, the existence of reciprocity conditions as a specific feature of justice as fairness will be able to establish just institutions, which allow the community to share equitably in the burdens and benefits of cooperation.[44] Pogge is of the view that Rawls's description of justice as a social order that will be realized (or approached) under unfair social conditions, will automatically show justice as fairness if it involves the following three main steps:

> *"(i) Within the account of social primary goods, the construction of the strongest list of basic liberties compatible with the lexical priority of the first principle; similarly, a specification of the equal opportunities and of the index of the remaining social primary goods. This is essential for de veloping a suitably principled way of identifying the key group of the least advantaged and their collective interest. (ii) Broadening justice as fairness to include the problem of international justice, squaring our responsibilities toward the nationally and globally least advantaged: Even if the U.S., say, were conducting its foreign policy on the basis of principles maximally advantageous to its domestically least advantaged, this would hardly justify its continuing support for and inter vention on bep.f of Third World dictatorships with the consequent repres sion and exploitation of undeveloped populations. (iii) Lastly, a conception of political change, including an understan ding of what forms of political opposition are, in particular cases of social injustice, compatible with the ideal of justice to be pursued."*[45]

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[41] Pablo Gilabert, Fundamental Ideas (in justice as fairness), in Jon Mandle and David A. Reidy, The Cambridge Rawls Lexicon, Cambridge: Cambridge University Press, 2014, pp. 306-307.

[42] Andrew Lister, Justice as Fairness and Reciprocity, Analyse & Kritik, Vol. 33, No. 1, 2011, pp. 93-112, p. 106

[43] *Ibid*., pp. 109-110.

[44] *Ibid*., p. 110.

[45] Thomas W. Pogge, The Kantian Interpretation of Justice as Fairness, Zeitschrift für philosophische Forschung, Bd. 35, H. 1 (Jan. - Mar., 1981), pp. 47- 65, p. 65

Furthermore, Langvardt *et al*. stated that the theory of justice proposed by Rawls has application in the context of business law because it requires decision-makers to be guided by justice and impartiality and to encourage every leader to always consider the two main principles of justice as fairness, namely: "*Greatest Equal Liberty Principle*" yang mengungkapkan bahwa "*Each person has an equal right to basic rights and liberties*" dan "*Difference Principle*" yang mengungkapkan bahwa "*Social inequalities are acceptable only if they cannot be eliminated without making the worst-off class even worse off*".[46] Meanwhile, Sinaga et al. concluded that overcoming the cp.lenges and obstacles of a law that is continuously developing, it must be done through the development and reorganization of the law that reflects the implementation of the fairness matrix, which is described in the form of solid fairness, weak fairness, and unfairness.[47] Meanwhile, McMahon views that the reasonable concept has a close connection between reasonableness and fairness, as Rawls has stated that persons are appropriate in one fundamental aspect, which in the context of equality will be willing to propose principles and standards as fair terms of cooperation and to comply voluntarily as long as there is the guarantee that others do.[48]

Based on some thoughts or ideas about justice as fairness, the rules regarding tax audit should cover the original position, the veil of ignorance, the principle of equal freedom, the principle of equal opportunity, and the principle of distinction so that it can be said to have fulfilled fair equality. Because only through a proper legal system can taxpayers show their voluntary compliance to participate in building the welfare of their nation and state.[49]

(To be continued – Part 2 of 2

[46]Langvardt, A.W., Barnes, A.J., Prenkert, J.D., McCrory, M.A. & Perry, J.E. (2019). *Business Law: The Ethical, Global, and E-Commerce Environment*. New York: McGraw-Hill Education.

[47] Elvrida N. Sinaga, Binner Simanjuntak, Leo B. Barus, & Henry Dianto Pardamean Sinaga. (2020). Reconstruction Of E-Commerce Law In Addressing The Cp.lenges of E- Commerce In Indonesia: A Fairness Perspective. Ayer Journal, Vol. 27, No. 2, pp. 100 – 118, pp. 115-116.

[48] Christopher McMahon, Reasonableness and Fairness: A Historical Thoery, Cambridge: Cambridge University Press, 2016, p. 1.

[49] Theo Huijbers, Filsafat Hukum, Yogyakarta: PT. Kanisius, 1995, p. 64.