

Towards Economic Optimization: Evaluating The Impact of Legal Changes

Sita Dewi Hapsari^{1*}

¹Universitas Indonesia, Indonesia

*Corresponding Author: sitadewi.hapsari@gmail.com

Article History:

Submitted:

23-04-2024

Received:

01-05-2024

Accepted:

14-05-2024

Keywords:

Restorative justice;

Tax; Efficiency;

Economy.

Abstract

Restorative justice symbolizes a paradigm shift in enforcing criminal laws, right from focusing on penalizing the offenders to attending to mending the damages caused by crime while promoting reconciliation and restoration of relations within the society, has been found as well in the context of taxation to address violations of tax regulations. Tax law enforcement with a Restorative justice approach is considered to provide a more comprehensive and sustainable solution in dealing with violations. Dispute resolution is focused on reconciling the parties, in this case between the state which is positioned as a victim and the party who committed the violation, this is done to create a better compliance climate and reduce protracted problems. This journal article is prepared in order to analyse the impact of the implementation of Restorative justice regulated in the Law Harmonisation of Taxation Regulations. By using a doctrinal legal research method based on theory and application to regulations, it is hoped that the results of theoretical analysis based on the principle of restorative justice and the economic analysis of law approach can provide further insight into how Restorative justice applied as a law enforcement approach, especially in the field of taxation, can benefit the state as an effort to achieve harmonisation of tax regulations and their efficiency for sustainable economic.

1. Introduction

One of the functions of tax is the function of *regulerend* or function to regulate, where the main purpose of regulation in the field of taxation is to collect the necessary revenue for economic growth to facilitate development and provision of public services, as well as ensuring fairness in the tax system. This is a logical consequence of the regulation of Article 23A of the 1945 Constitution which stipulates that " Taxes and other levies that are compelling for state purposes are regulated by law"¹. However, as is the case in many countries, violations of tax regulations are a serious problem that can harm the country's economy. Tax violations are carried out to minimise the tax burden that should be paid by utilising tax planning mechanisms which include tax savings, tax avoidance, and even tax evasion, through the use of this tax planning method, if the taxpayer does not understand clear boundaries, it opens the possibility of criminal acts in the field of taxation, as an example of a criminal case in the field of taxation that has permanent legal force, namely in the Supreme Court Decision Number 2499 K/PID.SUS/2016, where taxpayers deliberately issue and or use tax invoices, tax collection receipts, tax withholding receipts, and or tax deposit receipts that are not based on

¹ Diani Putri Pracasya, "Penerapan Peraturan Perundang-Undangan Pajak Daerah Atas Perubahan Pasal Mengenai Perpajakan Dalam Undang-Undang Dasar Republik Indonesia Tahun 1945," *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 2 (2021).

actual transactions.² Based on these facts, it opens the possibility that in the field of taxation there can be criminal offences.

In dealing with offences, the conventional criminal justice system often relies on criminal punishment as a form of law enforcement. As an example is the regulation on hostage-taking as stipulated in Article 1 point 21 of Law of the Republic of Indonesia Number 19 Year 2000 on the Amendment to Law Number 19 Year 1997 on Tax Collection by Force, hostage-taking is defined as the temporary restriction of the freedom of the Taxpayer by placing him in a certain place. This is carried out if the taxpayer as the taxpayer does not fulfil tax collection efforts in the form of paying off tax debts and tax collection costs. However, this conventional criminal law enforcement approach has been going on for a long time and is considered ineffective in achieving long-term goals³, especially in the economic context because the perpetrator will consider the profit and loss for himself, if considering the criminal penalty of a fine subsidised by imprisonment, which according to the facts of repayment for state revenue from law enforcement of these criminal offences is still of less value. Criminal punishment tends to separate offenders from society without addressing the root causes of tax offences, in addition to considering the high costs for the justice system and the allocation of prison costs. Therefore, it is necessary to change the form of law enforcement towards a direction that focuses more on resolving criminal conflicts in order to create social justice in a more humanist manner, this law enforcement approach is called Restorative justice.⁴

As stated by John Fuller in "Restoring Justice: An Introduction to Restorative justice". the law enforcement approach is explained as follows: John Fuller identified the focus of peacemaking as social justice, conflict resolution, rehabilitation, and cooperation. Meaningful communities, he wrote, emerge from democratic institutions and practices in which crime is not excused but in which both individual responsibility and society's contribution are considered. It is only by transforming both the criminal and society that a community can develop effective, fair, and humane responses to crime.

At the end of the Covid-19 pandemic, the Indonesian government paid more attention to the conditions of the National Economic Recovery (PEN). The National Economic Recovery Program is the steps taken by the government in the context of economic recovery after the Covid-19 pandemic crisis, currently the Indonesian government has issued strategic regulations to support the PEN Program, including the Law on Harmonisation of Tax Regulations and the Law on Financial Sector Development and Strengthening, in addition to having a similar background to improve the national economy, both regulations use a law enforcement approach through Restorative justice. Restorative justice or interpreted as restorative justice in Indonesia has previously been regulated by referring to the Decree of the Director General of the General Justice Agency Number 1691/DJU/SK/PS.00/12/2020 concerning Guidelines for the Implementation of Restorative justice in the General Court

² Vani Wirawan, "Tax Crimes in the Making and Registration of Inheritance Certificates," *Jurnal Ilmiah Kebijakan Hukum* 15, no. 3 (2021).

³ Charly Hasibuan and Primandita Fitriandi, "Analisis Pelaksanaan Penyanderaan Penanggung Pajak Pada Kpp Pratama Pematang Siantar Melalui Perkara Gugatan Nomor 29/Pdt.G/2021/Pn.Pms," *Jurnal Pajak Indonesia* 6, no. 2 (2022).

⁴ Ardiansyah and Wahyudin, "Politik Hukum Tindak Pidana Perpajakan Dalam Perspektif Restorative Justice," *Jurnal Mimbar Keadilan* 16, no. 2 (2023).

Environment, in this Decree describes that the principle of restorative justice (restorative justice) is one of the principles of law enforcement in case settlement that can be used as an instrument for further recovery, Restorative justice is also explained as an alternative to resolving criminal cases where the criminal justice procedure mechanism focuses on punishment which is changed to a dialogue and mediation process involving the perpetrator, victims, families of perpetrators/victims, and other related parties to jointly create an agreement on a fair and balanced settlement of criminal cases for both victims and perpetrators by prioritising recovery back to its original state, and restoring patterns of good relations in society. Based on the Decree, it can be seen that Restorative justice is an approach in the criminal justice system that focuses on restoring and repairing damaged relationships between offenders, victims, and the community. This approach is different from the traditional approach which is more orientated towards punishment and separation of the offender from society⁵.

The emergence of the Restorative justice concept in the context of taxation has generated a critical question: can this approach be used as a more effective tool in law enforcement in the field of taxation while improving the country's economy? Restorative justice, originally developed in the context of criminal justice, emphasises recovery, reconciliation, and active participation of perpetrators, victims, and communities in the conflict resolution process. In the context of taxation, the application of Restorative justice can refer to efforts to reconcile between the state as a victim through the tax authority, taxpayers, and society at large, with the aim of minimising conflict, increasing compliance rates, and developing a fairer tax system. Can this have a positive impact on state revenue as well as the overall economic impact of the country? To answer these questions, it is necessary to conduct further research and analysis on the implementation of Restorative justice in tax law enforcement and analyse its impact on the state economy. The problem formulations in this study include: first, what is meant by Restorative justice as a law enforcement approach. Second, how is the suitability of the definition of Restorative justice implemented in the Law on Harmonisation of Tax Regulations. Third, how is the description of the efficiency of the implementation of Restorative justice for improving the country's economy.

In conducting this study, researchers have compared with previous related research. There are at least 3 (three) studies related to restorative justice in the field of taxation. First, by Sarwini entitled "Implementation of Restorative Justice in Tax Law Enforcement" (2014). In this study, it is concluded that the importance of the application of restorative justice in the tax sector is due to the risk of abuse of authority between tax officials and taxpayers, which results in less tax money entering the state treasury. In addition, the reason for the application of restorative justice in the tax sector is also for the implementation of the general principles of good governance, governance, and the fourth principle of Pancasila.⁶ Second, by Haris Saputra and Nursyamsuddin entitled "Implementation of Restorative Justice in Tax Crimes Committed by Taxpayers in Indonesia" (2023). In this study, it is concluded that the regulation

⁵ Erja Fitria Virginia and Eko Sopyonyono, "Pembaharuan Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Tindak Pidana Perpajakan," *Jurnal Pembangunan Hukum Indonesia* 3, no. 2 (2021).

⁶ Sarwini, "Implementasi Restorative Justice Dalam Penegakan Hukum Pajak," *Jurnal Yuridika* 29, no. 2 (2014).

of taxation criminal law has the aim of state revenue. Therefore, the provisions of restorative justice taxation greatly encourage the objectives of the tax law to be achieved.⁷ Third, by Diajeng Kusuma Ningrum, Budi Ispiyarso, and Pujiono entitled "Criminal Law Formulation Policy in the Field of Taxation as an Effort to Increase State Revenue" (2016). The results of this study explain that the use of criminal instruments in taxation causes problems, because the orientation of taxation is state revenue, while crime is an instrument to punish criminal offenders. Therefore, it is proposed that the regulation of tax law should regulate several types of penalties, to encourage state revenue.⁸

Based on the three previous studies, this research identifies three key differences that constitute its novelty. First, this research employs economic analysis of law theory as the foundation for analyzing restorative justice provisions. Second, it focuses on restorative justice arrangements in the field of taxation as regulated by Law No. 7/2021. Third, it does not examine the application or perspective of criminal theory. The purpose of this study is to advocate for the implementation of a restorative justice approach to tax law, particularly in the context of Indonesia's economic recovery following the Covid-19 pandemic. This research highlights the potential benefits of such an approach, including promoting recovery, encouraging reconciliation, and fostering active participation by all parties involved, including taxpayers and the government. Additionally, it underscores the need for further analysis to fully understand the effectiveness of restorative justice in enhancing compliance and promoting national economic growth.

2. Methods

In conducting this research, a doctrinal legal research method is systematically arranged and developed through descriptive analysis via literature studies. This approach aims to provide a practical understanding based on perspectives, theories, and expert opinions related to the law enforcement approach, specifically Restorative Justice and the Economic Analysis of Law approach, as proposed by Richard A. Posner in his book "Economic Analysis of Law." The data supporting this research is derived from primary, secondary, and tertiary legal materials. Primary legal materials include laws and related derivative regulations serving as implementation guidelines. Secondary legal materials comprise legal textbooks, legal journals, and expert opinions.

3. Results and Discussion

3.1. Restorative justice as a Law Enforcement Approach

3.1.1. Restorative justice as a Law Enforcement Approach in Conflict Resolution According to Experts

Restorative justice is an approach to law enforcement that aims to restore the damage done by conflict. It involves victims, perpetrators and communities in a restorative process centred on problem solving, through reconciliation and rehabilitation. According to Theo

⁷ Haris Saputra and Nursyamsuddin, "Implementasi Keadilan Restoratif Dalam Tindak Pidana Perpajakan Yang Dilakukan Wajib Pajak," *Jurnal Syntax Idea* 5, no. 11 (2019).

⁸ Diajeng Kusuma Ningrum, Budi Ispiyarso, and Pujiono, "Kebijakan Formulasi Hukum Pidana Di Bidang Perpajakan Sebagai Upaya Peningkatan Penerimaan Negara," *Jurnal Law Reform* 12, no. 2 (2016).

Gavrielides as mentioned by Tony Marshall that⁹: "Restorative justice is a problem-solving approach to crime, which involves the parties themselves and the community generally, in an active relationship with statutory agencies".

According to several scholars, including Howard Zehr, Restorative justice is a concept that centres on the reparation of damage caused by criminal offences. It involves victims, offenders and the community in a structured dialogue to repair the damage, identify the root causes that may have led to the crime, and then act as a guide to prevent similar incidents from happening in the future. Howard Zehr further mentioned that¹⁰: "Restorative justice is not a map, but the principles of Restorative justice can be seen as a compass pointing a direction. At a minimum, Restorative justice is an invitation for dialogue and exploration." According to Tony F. Marshall, Restorative justice is an approach to law enforcement that aims to restore damaged relationships between offenders and victims, and repair social damage caused by criminal offences. Restorative justice emphasises recovery and reconciliation through a mediation process that involves the active participation of offenders, victims, and the community. In Restorative justice, victims are given the opportunity to express their feelings and needs, and obtain psychological and social recovery. Meanwhile, offenders are expected to acknowledge their mistakes, take responsibility for their actions, and take actions that repair the damage they have done. Restorative justice also places importance on the active participation of the community in the mediation process. The community is expected to support the process of recovery and reconciliation, as well as strengthen the relationship between the offender, the victim, and the community. According to Tony Marshall, the easiest to understand definition of Restorative justice is as follows¹¹: "Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future."

Meanwhile, according to Marian Liebmann in her book entitled "Restorative justice How It Works" introduces Restorative justice as an approach in criminal law enforcement. Restorative justice has become the term generally used for an approach to criminal justice (and other justice systems such as a school disciplinary system) that emphasises restoring the victim and the community rather than punishing the offender. Marian Liebmann further provides a definition of Restorative justice as follows¹²: "Restorative justice works to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and gives them an opportunity to make reparation. It offers those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made."

Other experts, such as John Braithwaite, define Restorative justice as an alternative to recreating relationships damaged by criminal behaviour¹³. This approach involves a process of mediation and reconciliation between the responsible offender and the affected victim,

⁹ Tony Francis Marshall, "Restorative Justice on Trial in Britain," *Mediation Quarterly* 12, no. 3 (1995): 217-31.

¹⁰ Howard Zehr, *Little Book of Restorative Justice* (Good Books, 2015).

¹¹ Tony F. Marshall, *Restorative Justice: An Overview* (Great Britain, 1999).

¹² Marian Liebmann, *Restorative Justice: How It Works* (Jessica Kingsley Publishers, 2007).

¹³ J Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press, 2002).

resulting in a settlement agreement that benefits all parties and helps make a comprehensive recovery.

Restorative justice is most commonly defined by what it is an alternative to the appeal of Restorative justice to liberals is a less punitive justice system. The appeal to conservatives is its strong emphasis on victim empowerment, and on fiscal savings as a result of the parsimonious use of punishment. When Restorative justice is applied to white-collar crime, pro-business politicians also tend to find the approach more appealing than a retributive approach to business wrongdoing¹⁴. Restorative justice is an approach to law enforcement that focuses on restoring and rehabilitating offenders, as well as improving relationships between offenders, victims and affected communities. It emphasises respect for the needs and rights of the victim, as well as the contribution of the offender in repairing the impact of their actions.

The goal of Restorative justice is to restore balance and harmony in society, and to encourage personal growth and accountability for offenders. This is in line with the statement of Deputy Chief of Police Commissioner General Prof Dr Gatot Eddy Pramono MSi who said that: "another goal of Restorative justice is to obtain a fair and balanced legal decision for both victims and perpetrators. The main principle in Restorative justice is law enforcement that always prioritises restoration to the original state, and restores the pattern of good relations in society"¹⁵. Thus, Restorative justice is considered a more humane and effective way to resolve conflicts and reduce crime rates. Restorative justice differentiates itself from traditional approaches (criminal justice) through a more holistic and recovery-centred approach to law enforcement. Howard Zehr argues that "Restorative justice answers differently, focusing first of all on needs and associated obligations"¹⁶. From this statement Zehr distinguishes the view between Restorative justice and criminal justice as follows:

Table 1. Difference between Criminal Justice and Restorative Justice

Two Different Views	
Criminal Justice	Restorative justice
Crime is a violation of the law and the state.	Crime is a violation of people and relationships.
Violations create guilt.	Violations create obligations.
Justice requires the state to determine blame (guilt) and impose pain (punishment).	Justice involves victims, offenders, and community members in an effort to put things right.
Central focus: offenders getting what they deserve.	Central focus: victim needs and offender responsibility for repairing harm.

From Howard Zehr's statement, some of the main differences between Restorative justice and criminal justice in law enforcement can be further elaborated as follows:

¹⁴ Braithwaite.

¹⁵ Gatot Eddy Pramono, "Restorative Justice Sebagai Hukum Pidana Progresif," Universitas Riau, 2022.

¹⁶ Howard Zehr, *Little Book of Restorative Justice*.

1. Restorative justice focuses on healing for all parties involved in a criminal offence. Traditional approaches focus more on punishment and retaliation against the offender.
2. In Restorative justice, victims have an active role in the recovery process. They are invited to participate in conferences or mediation with the offender and the community, to experience emotional healing and obtain compensation from the offender. Meanwhile, in traditional approaches, the victim's role is more passive and the focus is generally on punishing the offender.
3. Restorative justice involves the community as a stakeholder in the recovery process. The community plays a role in supporting the recovery of the parties involved as well as promoting reconciliation. On the other hand, traditional approaches tend to separate the criminal from the community.
4. Restorative justice identifies the root causes underlying criminal behaviour and seeks to address them in order to prevent future criminal behaviour. Traditional approaches focus more on punishment and arrest of offenders without analysing the factors that influence criminal behaviour.
5. Restorative justice encourages collaboration between the offender, victim, and community in reaching a mutual agreement on how society can be restored and a sense of justice fulfilled. On the other hand, traditional approaches tend to be more formal and authoritative.

Howard Zehr's statement about the differences between restorative justice and traditional criminal justice highlights the importance of a more holistic and collaborative approach to law enforcement. In the context of economic efficiency as impact of legal changes, the use of restorative justice in handling legal cases can have a significant impact on effectiveness in the economic field, especially in the field of taxation. In the provisions of tax law, criminal matters in the field of taxation are also regulated based on the provisions of Articles 40B and 44B of Law Number 7 of 2021 concerning Harmonization of Tax Regulations. This article states that violations of tax provisions may be subject to criminal sanctions, including fines and/or imprisonment, in accordance with the provisions stipulated in the applicable tax laws and regulations. This emphasizes the importance of law enforcement in the taxation sector to ensure taxpayer compliance and maintain the integrity of the country's taxation system.

3.1.2. Restorative justice as a Law Enforcement Approach in Conflict Resolution According to Experts

Restorative justice aims to meet individual and collective needs and fulfil the responsibilities of the parties so as to achieve reintegration between victims and perpetrators. This is conveyed in a report published by the United Nations Office on Drugs and Crime (UNODC) as follows: "According to the Basic Principles, a "restorative outcome" is an agreement reached as a result of a restorative process. The agreement may include referrals to programmes such as reparation, restitution and community services, "aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender". It may also be combined with other measures in cases involving serious offences".

By fulfilling several principles, Restorative justice is expected to create space for peace, reconciliation, and a more holistic recovery for all parties involved. It also ensures that perpetrators are held accountable for their actions and victims receive proper justice and redress. Restorative justice has key principles that must be fulfilled. These principles form the basis of the concept of Restorative justice which focuses on the recovery and reconciliation of victims, perpetrators, and affected communities. These principles include being used to encourage active participation from all parties involved in the restorative process, including victims, perpetrators, and communities, Restorative justice emphasises collaboration between all parties involved. The goal is to reach a mutual agreement that can repair damaged relationships and prevent further violence or conflict. Collaboration also allows each party to gain a better understanding of different perspectives. Furthermore, the importance of the principle of reparation aims to provide victims with physical, emotional, and mainly material recovery. The hope is that through Restorative justice, sustainable change can be created in society by prioritising root cause solutions and systems that involve mitigating actions to prevent future violence or conflict¹⁷. Howard Zehr also stated that there are main principles of Restorative justice that must be fulfilled, including the following¹⁸:

- a. This restorative lens or philosophy has five key principles or actions:
- b. Focus on the harms and consequent needs of the victims, as well as the communities' and the offenders';
- c. Address the obligations that result from those harms (the obligations of the offenders, as well as the communities' and society's);
- d. Use inclusive, collaborative processes;
- e. Involve those with a legitimate stake in the situation, including victims, offenders,
- f. community members, and society;
- g. Seek to put right the wrongs.

The explanation of the main principle of Restorative justice presented by Howard Zehr above is that there is an active role for all parties involved in the conflict, including perpetrators, victims, and the community. In Restorative justice, efforts are made to replace traditional law enforcement approaches that focus on punishment and retaliation with approaches that favour the recovery of perpetrators and victims. This approach provides space for perpetrators to acknowledge their actions, take responsibility for their actions, and seek to repair the negative impacts caused.

Restorative justice puts the victim at the centre. This principle ensures that victims are empowered, receive redress, and have the opportunity to speak out and influence the legal process. Victims must also feel valued and fair in every decision made. Restorative justice seeks to involve all affected parties in the decision-making process. This includes offenders, victims, and affected communities, as well as support from legal practitioners and restorative facilitators. The active participation of all parties ensures justice and enables deep social healing. Restorative justice also has the principle to focus on the process of recovery and

¹⁷ Didik Hariyanto, "The Application Of Restorative Justice In Criminal Case Settlement At The Investigation Level At The Police Satrescription Of The Banyuwangi City Police Resor," *Jurnal Janaloka* 2, no. 1 (2023).

¹⁸ Howard Zehr, *Little Book of Restorative Justice*.

transformation, rather than punishment or revenge. It allows freedom for offenders to take responsibility for their actions, understand and address the consequences of those actions, and rebuild relationships with victims in the community. Restorative justice recognises that all parties are responsible for creating and maintaining social justice. In addition to offenders and victims, the restorative process also involves support from the wider community. This principle encourages the involvement of the whole community in addressing the root causes of crime and building a more compliant environment. Consequently as stated by Aertsen that¹⁹: "In a time and place where a judicial understanding of justice is firmly embedded and promoted in a society that is intent on maintaining social discipline and order".

Restorative justice provides an alternative approach to retributive justice that is more conventional by emphasizing restoration and reconciliation rather than mere punishment of offenders.²⁰ This shows a move away from merely punishing the perpetrator to repairing broken relationships between perpetrator, victim and the wider community. By strengthening social relationships and repairing the harm caused by crimes, restorative justice approach allows for a deeper process of reconciliation than merely considering justice through punitive measures. The restorative justice approach recognizes the importance of involving the entire community in addressing the root causes of crime and establishing an environment that is more law-abiding. By engaging the community at large to a wide extent in the restorative process, either as supporters or facilitators, this approach enables greater support towards creating safer communities that comply with the law. This is in line with what was stated by Awaloedin that crime problems and cases can be prevented with three types of prevention, namely pre-emptive, preventive and repressive.²¹ The restorative justice approach recognizes the importance of involving the whole community in addressing crime root causes and fostering a law-abiding environment. Through wide community involvement in restorative processes as supporters or facilitators, it allows for greater support for creating safer and more law-compliant settings. The impact is that the society can feel more involved and have a greater trust in the criminal justice system. This can create social stability that is key to economic growth, as high levels of trust in the legal system can attract investments, spur economic growth, and enhance overall well-being. The restorative justice approach seeks a solution not only to individual cases but also to address root causes of criminal behavior by giving offenders a chance to right their wrongs. Through an emphasis on recovery and reconciliation, it effectively supports rehabilitation objectives in the criminal justice system.²² Through the strengthening of more solid social and legal foundations via restorative justice approach, this process can indirectly support retributive justice goals, crime prevention, rehabilitation efforts, and reduce rates of reoccurrence of crimes that in turn may contribute to economic optimization of a country's economy.

¹⁹ Aertsen et al., "An Adventure Is Taking off. Why Restorative Justice," *International Journal*, n.d.

²⁰ Gerry Johnstone and Daniel W. Van Ness, *Handbook of Restorative Justice*, Willan Publishing, (2007).

²¹ Awaloedin Djamin, *Actual Police Problems and Suggestions for Handling Them*, Jakarta: Indonesian Workers Foundation, (2016).

²² M. Khoirul Anam and Pudji Astuti, *Application Of Restorative Justice In Narcotics Crime Cases By The National Narcotics Agency of Mojokerto City*, eJournal UNESA, (2024).

3.2. Implementation of Restorative Justice as Law Enforcement in The Law on Harmonisation of Tax Regulations

3.2.1. Restorative justice and the Appropriateness of Implementation in Law Number 7 of 2021 concerning Harmonisation of Tax Regulations

The Law on Harmonisation of Tax Regulations is known to be part of the reform of the tax regulatory system that seeks to integrate and harmonise laws in the field of taxation in various jurisdictions. Despite the issuance of Law Number 6 Year 2023 on Job Creation which is an omnibus law, including the regulation of several aspects in the field of taxation, the chapter that regulates part of the mechanism for terminating investigations on violations of criminal acts in the excise sector still refers to the Law Number 7 of 2021 on Harmonisation of Tax Regulations (hereinafter referred to as Law No. 7/2021). Currently, the Harmonisation of Taxation Regulations (Law No. 7/2021) which further regulates the provisions on excise is known to be contained in the explanation of Article 40B Paragraph (3) and Article 64 Paragraph (2) which in writing is stated to promote a Restorative justice law enforcement approach in criminal offences. Article 40B Paragraph (3) itself regulates the results of research on alleged violations where the alleged violation is an alleged administrative violation in the excise sector, then the settlement is carried out administratively in accordance with the provisions of laws and regulations in the excise sector. Furthermore, Article 64 Paragraph (2) regulates that the termination of investigation is only carried out after the person concerned pays an administrative sanction in the form of a fine of 4 (four) times the value of the excise that should have been paid, for criminal offences such as evading excise payments, showing or submitting false and falsified books, records, and/or documents, and other violations as referred to in Article 50, Article 52, Article 54, Article 56, and Article 58 of the Law on Excise. In the elucidation of Article 40B paragraph (3), it is explained that "The results of the research on alleged violations in the field of excise may not be investigated, this is intended so that the approach to law enforcement in the field of excise is Restorative justice, namely a law enforcement approach that prioritises the restoration of the rights or conditions of victims, where in criminal acts in the field of excise the victim is the state, "Administrative sanctions in the form of a fine of 4 (four) times the value of the excise that should be paid are considered sufficient to provide deterrence and is a form of balance between Restorative justice and fiscal recovery". From this context, a red thread can be drawn that the Restorative justice approach is a part that is expected to be a balance between law enforcement and state financial recovery, so that from the imposition of sanctions in the form of four fines, it is hoped that it can directly contribute to the recovery of state revenue.

Through the media publication on APBN Kita issued by the Ministry of Finance in May 2021, the method of recovering losses for state revenue resulting from special criminal offences in the field of taxation is stated to use two approaches, the first is the Restorative justice approach and the second is the asset recovery method. Restorative justice is further seen as not just a consequence of criminal offences, but also a characteristic of Indonesian society in solving legal problems in various aspects of social life. Therefore, the principle of Restorative

justice should be further studied and applied in positive law in Indonesia, especially in solving criminal problems²³.

In terms of the definitions outlined above, Restorative justice is an approach to the justice system that focuses on healing and resolving conflicts between offenders, victims and the community. This approach seeks to administer justice by restoring damaged relationships and avoiding sanctions that are merely punitive without producing a deterrent effect. Criminal law enforcement using a Restorative justice approach is exemplified in the application of Disclosure of untruths previously regulated in Article 8 paragraph (3) of Law Number 28 Year 2007 (Law No. 28/2007) which stipulates that "Although an audit action has been carried out, but no investigation action has been carried out regarding the existence of untruths committed by the Taxpayer, the untruth of the Taxpayer's actions will not be investigated, if the taxpayer self-discloses the untruthfulness of his/her actions accompanied by the payment of the underpayment of the amount of tax actually payable along with administrative sanctions in the form of a fine of 150% (one hundred and fifty percent) of the amount of tax underpaid", or also mentioned about the termination of investigation in Article 44B paragraph (2) of the Law No. 28/2007 which stipulates that "Termination of investigation of criminal offences in the field of taxation is only carried out after the taxpayer pays off the tax debt that is not or underpaid or that should not be refunded and added with administrative sanctions in the form of a fine of 4 (four) times the amount of tax that is not or underpaid, or that should not be refunded". Both articles are intended as a way with a Restorative justice approach through the return of state revenue losses and administrative fines. The application of Restorative justice principles in tax harmonisation legislation can help achieve the goal of harmonising tax regulations while providing room for the restoration of disrupted relationships and the prevention of future acts of tax misconduct.

3.2.2. Restorative justice Principles in the EAW Law

In the context of the provisions on excise in the Law No. 7/2021, the application of Restorative justice is intended to lead to more equitable enforcement of the law, as well as provide an opportunity for the perpetrators of excise violations to correct their mistakes and compensate for the losses caused. The correlation of the principles of Restorative justice as previously described by Howard Zehr above, its implementation of the principles of Restorative justice, especially in the field of excise in the Law No. 7/2021, includes the following:

1. Perpetrators of offences in the field of taxation, especially excise, are expected to take responsibility for their actions. They may be given the opportunity to admit their mistakes and cooperate in the resolution process.
2. Restitution or compensation is made by the perpetrator of the offence to the aggrieved party in the context of this regulation, the aggrieved party is the state finances which are useful for financing the state budget. The reimbursement of losses can be in the form of payment of fines or reimbursement of unpaid taxes.

²³ Bagman Roy Manalu, "Implementasi Keadilan Restoratif Dalam Penegakan Hukum Kepabeanan Dan Cukai," *Jurnal Indonesia Sosial Sains* 3, no. 5 (2022).

3. Restorative justice also includes efforts to assist offenders to prevent similar offences in the future. In addition to sanctions, offenders can also be given experience and deterrence through fines to improve their understanding of tax regulations.
4. The Restorative justice approach also involves the victim (which is intended to be the state) with the taxpayer, and the community in the conflict resolution process. Victims are given the opportunity to speak up and express their perceived impacts, while the public can provide feedback in the form of input and opinions related to the proposed resolution through a government-managed website.

There is a principle called the principle of *lex specialis derogate legi generalis*, which means the principle of legal interpretation which states that the special law (*lex specialis*) overrides the general law (*lex generalis*). In handling criminal cases in the field of taxation, as a mandate from Article 23A of the 1945 Constitution applies the principle of *lex specialis* law, meaning that the general rules of law contained in the Criminal Code and the Criminal Procedure Code become invalid, because there are special arrangements regulated in a particular rule of law called tax law. Therefore, to mitigate the risks that will arise in the future and especially in the context of recovering state losses, the realisation of a law enforcement approach related to solutions to increase state revenue needs to be compiled. In criminal tax matters, regulations directly related to taxation implementation will have priority in determining such sanctions or actions that are necessary. The principle of *lex specialis derogate legi generalis*, may imply emphasis on the application of specialized and particular laws in the context of taxation, but also gives room for flexibility in addressing cases where a restorative approach may offer more satisfying solutions to all parties involved. In this connection, tax law enforcement and restorative justice can complement each other towards attaining broader objectives.

As a manifestation of the *lex specialis* principle above, Article 30 paragraph (2) of the Criminal Code is overruled in the provisions of legislation in the field of taxation. It is stated in Article 30 paragraph (2) of the Criminal Code that "if the fine is not paid, it shall be replaced by imprisonment". In an effort to realise criminal law enforcement in the field of taxation based on the recovery of losses to state revenue, there are a number of obstacles. According to Article 30 Paragraph 2 of the Criminal Code (KUHP), a fine may be substituted with light imprisonment if the fine is not paid. Judges often consider this provision in criminal cases, whereas in the field of taxation, the fine is subsidised by imprisonment. As a result, the state only spends more money to pay the prisoners, without gaining anything from the recovery of losses to state revenue. Perpetrators of criminal offences in the field of taxation will tend to choose to continue the case to court rather than spending money to stop the investigation (as stipulated in Article 44B of Law No. 7/2021. This is due to the principle of rationality and effectiveness of economic analysis of the law. Criminal offenders are forced to consider costs and benefits due to the condition that fines are subsidised by imprisonment. This happens if they are required to pay losses to state revenue, and administrative fines to stop the investigation. In fact, the recovery of losses to state revenue after being calculated together with costs, through imprisonment including the repayment of losses to state revenue through administrative sanctions in the form of fines listed in Article 44B, is still very minimal²⁴. On

²⁴ Ministry of Finance Republic of Indonesia, "Our State Budget Document May 2021 Edition."

this basis, the Ministry of Finance takes an alternative law enforcement approach in the form of asset recovery, this occurs when the convicted person does not make repayment of the fine set by the judge, their assets will be confiscated by the prosecutor. By applying this provision, it is hoped that taxpayers who commit criminal offences can immediately pay off potential tax debt shortages as a result of criminal offences that cause losses to state revenue along with administrative fines incurred ²⁵.

According to article 44B subsection 2a of the Law No. 7/2021, dealing with criminal cases in taxation focuses more on recovery than punishment to state earnings. This shows that the government prioritizes the recovery of losses as a result of tax violations rather than punishing the perpetrators. This approach is consistent with the principles of restorative justice, which emphasize healing, reconciliation and cooperation between the affected parties. Chapter V of the Harmonization of Tax Regulations Act regulates the voluntary disclosure program as an initiative that will allow taxpayers to voluntarily disclose assets or income previously undeclared to tax authorities without heavy sanctions or penalties in order to encourage tax compliance. In the context of restorative justice, this approach places more emphasis on restoration and reconciliation between taxpayers and the authorities while at the same time repairing damaged relationships as a result of tax violations. In dealing with tax criminal cases, the government has strengthened efforts for efficiently increasing state revenue by taking emphasis on recovery of losses. The voluntary disclosure program has been one instrument that supports this effort, which provides taxpayers with rewards to thus disclose their tax evasion voluntarily hence leading to increased compliance and revenues without going through long prosecution processes.

3.3. The Efficiency of Restorative Justice for Improving the Country's Economy

3.3.1. Coherence between Law and Economics in Restorative justice Law Enforcement Approach

The economic disparities can act as a factor influencing criminal offense rate specifically in tax evasion. Individuals or companies with low income levels may result in feeling being forced towards committing offenses such as tax avoidance or tax evasion in order to overcome financial difficulties or retain larger profits. On the contrary, what it means is that individuals or companies with high incomes could be having adequate resources that may allow them to have access to tax consultancy services enabling their compliance with tax laws improved. The society's comprehension and awareness of tax obligations as well as the risks of violating them can be affected by access to educational services. An individual may be less able to comprehend and comply with their responsibilities accurately if they lacks access to education and information on tax regulations, and such people have higher chances of incurring tax offenses.

In the previous description, it was mentioned about the rational consideration and effectiveness of economic analysis of the law for criminal offenders in the field of taxation. This occurs when the perpetrators of criminal acts are forced to consider the costs and benefits due to the conditions of fines, subsidiary imprisonment for tax criminal offences committed, although the government through the Ministry of Finance has taken mitigation steps through

²⁵ Ministry of Finance Republic of Indonesia.

the asset recovery approach (recovery of state assets), the Restorative justice approach is considered relevant because it is still valid with further regulated in the legislation, especially in the Law on Harmonisation of Tax Regulations, therefore the perspective of Restorative justice as an efficient method needs to be further studied with the Economic Analysis of Law approach.

Restorative justice is an approach in the legal system that focuses on recovery and reconciliation between offenders, victims, and society, rather than simply punishing the offender. This approach has been implemented in the hope of improving the country's economy, especially when the country needs additional state finances in order to meet the needs of the state budget, especially during the post-Covid-19 pandemic. The relationship between the study of law and economics is known that these scientific fields are related to each other because both discuss human behaviour. Economics examines how human behaviour meets needs, while law generally regulates human behaviour. Therefore, there is a relationship between these two fields of study, which need each other.

Richard A. Posner is a legal scholar who is recognised as the founder of the law and economics school in the United States. He has made many theoretical and practical contributions in incorporating economic principles into legal analysis. Posner argues that economic analysis can significantly improve our understanding of law and the legal system, this is due to the implementation of empirical economic theories and methods in the legal system as a whole in almost every field, as Posner states as follows: "the hallmark of the "new" law and economics - the law and economics that is new within the last 25 years - is the application of the theories and empirical methods of economics to the legal system across the board - to common law fields such as torts, contracts, restitution, admiralty, and property; the theory and practice of punishment; civil, criminal, and administrative procedure; the theory of legislation and regulation; law enforcement and judicial administration; and even constitutional law, primitive law, and jurisprudence". According to Posner, law can be analysed through an economic lens by considering the economic consequences of different legal policies. By looking at the economic impact of legal rules, we can evaluate the effectiveness, efficiency, and fairness of existing legal rules. In his famous book "Economic Analysis of Law", Posner explains the basic concepts of economic analysis in law. He introduced the principle of utility (economic utility) as well as the efficient allocation of resources through the ability-to-pay criterion. This can be found in Posner's following statement²⁶: "This surprising point can be made clearer by contrasting efficiency and utility (in the utilitarian sense) as social goods. Although economics, in its normative dimension, can be thought of as a form or variant of applied utilitarianism, there is an important difference in the emphasis that the economist, but not the utilitarian, places on willingness to pay as a criterion of an efficient allocation of resources".

In the Coase theorem delivered by Ronald H. Coase argues that efficiency should be able to be measured through the amount of transaction costs, in this case transaction costs are defined as all costs that arise when an exchange occurs. The connection with legal regulations is because transaction costs here have three elements including search costs, bargaining costs,

²⁶ Richard A. Posner, *Economic Analysis of Law*, Ninth Edition, (2014).

and enforcement costs²⁷, which creates relevance because it is known that problems arise with opportunity costs as stated by Richard Posner. Opportunity costs are future benefits and costs that should be taken into account. The characteristics of these costs actually cannot be assessed with certainty, therefore what can be done is to predict the estimation of future profits and costs, of course this can raise new problems, namely uncertainty. This is in line with what Posner mentioned that there are several obstacles in calculating costs for the following conditions²⁸: There are, however, several problems with the assumption that the cost of the fine is unrelated to the size of the fine.

1. If criminals (or some of them) are risk averse, an increase in the fine will not be a costless transfer payment.
2. The stigma effect of a fine (as of any criminal penalty), ..., is not transferred either.
3. The tendency in the model is to punish all crimes by a uniformly severe fine.

This, however, eliminates marginal deterrence - the incentive to substitute less for more serious crimes.

Posner also proposes the concept of economic accountability to measure the success of legal regulations in achieving desired economic and social goals. He argues that good law should be based on logical proof and empirical facts, and should provide incentives to improve economic efficiency. In the *Economic Analysis of Law*, the efficiency of the Restorative justice approach can be evaluated from several economic perspectives. Here are some important aspects that can be considered:

1. Resource Allocation Efficiency

Restorative justice can be considered efficient in resource allocation as it avoids the high costs associated with conventional judicial processes. This approach allows for more efficient use of resources for conflict resolution, which in turn can lead to savings that can be invested in more productive sectors of the economy. In addition, the willingness to pay for offences committed by perpetrators has the potential to increase state revenue to cover fiscal losses previously suffered by the state.

2. Efficiency in Resolving Conflict

In Restorative justice, conflict resolution often achieves more satisfactory and sustainable outcomes for all parties involved, including victims and offenders. This has the potential for less recurring conflict and faster recovery, which in turn can allow the individuals involved to return to society more quickly and productively rather than spending time in prison.

3. Deterrence Improvement

In some cases, Restorative justice can have a positive deterrence effect. If offenders realise that they will be held accountable for their actions and will consequently face significant remedial action and compensation, they may be more inclined not to commit the same criminal acts in the future. This can reduce crime rates, which has a positive impact on the country's economy.

4. Increasing Trust in the Market

²⁷ Dossetor Kym, *Cost Benefit Analysis and Its Application to Crime Prevention and Criminal Justice Research* (Canberra: Australian Institute of Criminology, 2011).

²⁸ Richard A. Posner, *Economic Analysis of Law*, Ninth Edition, (2014).

Trust in the legal system is an important factor in economic decision-making. If people and businesses feel that the legal system is functioning properly and fairly, they are more likely to invest and participate in economic activity. Restorative justice, by emphasising reconciliation and healing, can help build this trust, which in turn can boost economic growth.

5. Reducing Prison Costs

The efficiency of Restorative justice is also seen in the reduction of prison costs. Prisons are one of the largest costs in the legal system, and by reducing their use for non-violent offenders, Restorative justice can reduce the fiscal burden on the state. It also reduces the social and economic burden arising from excessive prison populations.

The Economic Analysis of Law approach allows for more efficient use of resources for conflict resolution, which in turn can lead to savings that can be invested in more productive sectors of the economy. Efficiency in Conflict Resolution is expected to achieve more satisfactory and sustainable outcomes for all parties involved, including victims and perpetrators. This is expected to potentially reduce recurring conflicts and faster recovery of state losses.

As one case in point explaining the efficiency of restorative justice in tax field, voluntary disclosure program can be considered efficient in allocation of resources because it yields beneficial outcomes for the public in general. By giving an incentive to taxpayers to voluntarily disclose tax violations, this program allows tax authorities to identify and correct noncompliance faster and more efficiently than through time-consuming trials which require extensive enforcement of a legal process. In the legal enforcement context, the voluntary disclosures program can be seen as more efficient than lengthy and costly trials. By allowing tax offenders to confess their misdeeds and correct them voluntarily, it enables speedy resolution of tax evasion cases, in turn saving time, money, and law enforcement agencies' resources. When the taxpayers voluntary disclose program serve as opportunity, it could contribute to prevent future violations accountability by signaling to the taxpayer that cooperation and compliance will be more valued than violation. In this way, it will not only mitigate the impact of past violations but also change taxpayers behavior and create a more compliant and transparent tax environment in the future.

3.3.2. Important Aspects of Restorative justice as Policy Efficiency

In applying the Restorative justice legal approach as a policy, the link with Economic Analysis of Law is that there needs to be attention to several important aspects so that the policy can be efficient including considering community participation, case-by-case assessment, and risk management. Restorative justice is an approach that focuses on recovery and reconciliation between offenders, victims, and society, rather than simply punishing offenders. Based on these matters, when integrating the Economic Analysis of Law approach, it is also necessary to consider the aspect of neutrality in order to achieve economic efficiency, while the tax subject itself can be an individual or a company as a corporate tax subject so that it is also necessary to consider the concept of inclusiveness justice. As stated in the Principles of International Taxation as follows²⁹: "Proponents of the full integration model point out that

²⁹ Oats et al., *Principles of International Taxation*, 9th ed. (Bloomsbury Professional, 2017).

ability to pay can only be related to natural persons and if income is the best measure of ability to pay, then horizontal equity demands an all-inclusive definition of income".

It is essential for the government to consider inputs and criticisms of the ordinary person concerning tax policy because it affects many people. In tax policy, it is important for the government to take into consideration ideas and criticisms of citizens because it affects many stakeholders. Restorative justice, as an approach involving the mending of relationships between taxpayers, tax authorities and the public have to be aligned with societal values and expectations for real justice. The proposed steps to ensure proper and effective enforcement of restorative justice involve identifying cases of tax violations that can be resolved through restorative justice approaches. There should be assessments of cases that take into account factors such as the levels of damages caused, intentions of the offenders and their impacts on society or country. This ensures that an approach is taken which is suited at a level of criminality and needs of recovery. Using risk management table to identify whether a restorative justice approach is appropriate for each case is a good move. This will allow tax authorities to prioritize cases of lesser offense or cases that can still be amended to focus on recovering stolen funds. As a result, resources can be allocated in an efficient manner in order to ensure that law enforcement is carried out fairly and effectively.

Therefore, it is important to ensure that restorative justice in handling tax evasion reflects fairness values and takes into account community needs as well as efficiency in resource utilization. The government can ensure that restorative justice methods can be implemented successfully to increase taxpayer compliance and fair actions for all parties involved by listening to feedback from the public and matching cases carefully and using risk management tools.

4. Conclusions

Restorative justice as a shift in criminal law enforcement is contained in tax law provisions in dealing with tax criminal acts committed by taxpayers through tax avoidance. The application of restorative justice in tax law enforcement can provide significant benefits in line with economic principles which emphasize the importance of efficient use of resources and achieving the best results for society as a whole. The Restorative Justice approach is more efficient in utilizing resources such as time, energy and money compared to conventional justice processes. In handling tax cases, a faster and more cost-effective restorative process can reduce the government's administrative burden. The implementation of Restorative justice in criminal taxation law enforcement, as outlined in Article 40B, Article 44B and Article 64 Law No. 7/2021, represents a significant shift towards a multi-party process involving the State, offenders, and the community to achieve comprehensive recovery and reconciliation. This approach, aimed at fostering collaboration and active participation among all stakeholders, including victims, offenders, and the community, emphasizes the creation of settlement agreements beneficial to all parties. The integration of economic analysis of law principles, particularly through the voluntary disclosure program, further enhances the efficiency of the criminal justice system while aligning with the goals of restorative justice. However, in order to increase its efficiency, some aspect such as community participation, case-by-case assessment, and risk management must also be considered.

5. Reference

- Aertsen, S. Parmentier, I. Vanfraechem, L. Walgrave, and Zinsstag. "An Adventure Is Taking off. Why Restorative Justice." *International Journal*, n.d.
- Ardiansyah, and Wahyudin. "Politik Hukum Tindak Pidana Perpajakan Dalam Perspektif Restorative Justice." *Jurnal Mimbar Keadilan* 16, no. 2 (2023).
- Awaloedin Djamin, *Actual Police Problems and Suggestions for Handling Them*, Jakarta: Indonesian Workers Foundation, (2016).
- Bagman Roy Manalu. "Implementasi Keadilan Restoratif Dalam Penegakan Hukum Kepabeanan Dan Cukai ." *Jurnal Indonesia Sosial Sains* 3, no. 5 (2022).
- Braithwaite, J. *Restorative Justice and Responsive Regulation*. Oxford University Press, 2002.
- Charly Hasibuan, and Primandita Fitriandi. "Analisis Pelaksanaan Penyanderaan Penanggung Pajak Pada Kpp Pratama Pematang Siantar Melalui Perkara Gugatan Nomor 29/Pdt.G/2021/Pn.Pms." *Jurnal Pajak Indonesia* 6, no. 2 (2022).
- Diani Putri Pracasya. "Penerapan Peraturan Perundang-Undangan Pajak Daerah Atas Perubahan Pasal Mengenai Perpajakan Dalam Undang-Undang Dasar Republik Indonesia Tahun 1945." *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 2 (2021).
- Didik Hariyanto. "The Application Of Restorative Justice In Criminal Case Settlement At The Investigation Level At The Police Satrescription Of The Banyuwangi City Police Resor." *Jurnal Janaloka* 2, no. 1 (2023).
- Dossetor Kym. *Cost Benefit Analysis and Its Application to Crime Prevention and Criminal Justice Research*. Canverra: Australian Institute of Criminology, 2011.
- Erja Fitria Virginia, and Eko Soponyono. "Pembaharuan Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Tindak Pidana Perpajakan." *Jurnal Pembangunan Hukum Indonesia* 3, no. 2 (2021).
- Gatot Eddy Pramono. "Restorative Justice Sebagai Hukum Pidana Progresif." Universitas Riau, 2022.
- Gerry Johnstone and Daniel W. Van Ness, *Handbook of Restorative Justice*, Willan Publishing, (2007).
- Howard Zehr. *Little Book of Restorative Justice*. Good Books, 2015.
- M. Khoirul Anam and Pudji Astuti, *Application Of Restorative Justice In Narcotics Crime Cases By The National Narcotics Agency of Mojokerto City*, eJournal UNESA, (2024).
- Marian Liebmann. *Restorative Justice: How It Works*. Jessica Kingsley Publishers, 2007.
- Ministry of Finance Republic of Indonesia. "Our State Budget Document May 2021 Edition." Jakarta, 2021.
- Oats, Lynne, Angharad Miller, and Mulligan. *Principles of International Taxation*. 9th ed. Bloomsbury Professional, 2017.
- Richard A. Posner. *Economic Analysis of Law*. 9th ed. Aspen Publishing, 2014.
- Rudy Gunawan Bastari, Femmy Silaswaty Faried, and Amir Djunaidi. "Restorative Justice as The Implementation Of The Ultimum Remedium Principle In The Crime Of Taxation." *Seminar Nasional UNIBA Surakarta*, 2022.
- Soetopo, Maria G.S., and Indriyanto Seno Adji. *Krisis Keuangan Dan Kebijakan Pemerintah*. 1st ed. Diadit Media, 2015.

- Theo Gavrielides. *Restorative Justice Theory and Practice: Addressing the Discrepancy*. Helsinki: Criminal Justice Press, 2007.
- Tony F. Marshall. *Restorative Justice: An Overview*. Great Britain, 1999.
- Tony Francis Marshall. "Restorative Justice on Trial in Britain." *Mediation Quarterly* 12, no. 3 (1995): 217–31.
- United Nations Office on Drugs And Crime. *Handbook on Restorative Justice Programmes*. New York: UNODC, 2006.
- Vani Wirawan. "Tax Crimes in the Making and Registration of Inheritance Certificates." *Jurnal Ilmiah Kebijakan Hukum* 15, no. 3 (2021).