

## INDONESIAN LEGAL APPROACHES OF THE IMPLEMENTATION OF TAX AMNESTY

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### Abstract

*The Purpose of this research is to see the implementation of the Tax Amnesty program in Indonesia and how will it be giving Advantages and Disadvantages to Indonesia. This final project produce some perspective from the author about what matters with the impact of this implementation of Tax Amnesty program to Indonesia from what are the reasons and purposes of this programs up to the reactions of all the citizens to this program. And in this final project, there will also be some other perspective from different parties such as lawyers, government, and also citizens that take part in the Tax problems. These research found that there are some conspiracy between how peoples react on the implementation of the program showing how they most likely disagree with the program and also from the other side. How government giving out their reason why they are still urging this program even though they know all the chaos going on in the public. This paper also produce arguments purely base on author's idea of thinking and base on various of theories and mindsets from law experts, reasoning out that how author will judge the situation and all the cases took place in Indonesia regarding the implementation of Tax Amnesty program in Indonesia.*

**Keyword :** *Tax, Amnesty, Law, Advantages, Disadvantages, Implementation*

### A. Research Background and Research Questions

Every state have the same purpose and that is to achieve the welfare of their peoples and in this term the government should keep on enacting new law and regulation in order to attain the welfare of the people. But, in achieving welfare the government must have a good financial support and speaking of financial support it is totally related to the taxes since tax is one of the best source of income for every states.

In the end, the government gives and introduces the public and the taxpayer to a feature and service called Tax Amnesty or commonly called tax capability. From the name would have been able to take the conclusion that the ministry aims for what, the initial goal of the government to introduce tax amnesty or tax capability of course for and for taxpayers and the public who had not wanted to contribute to pay taxes or who have been avoiding taxes

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will be aware and began perform tax obligations in accordance with applicable laws and regulations.<sup>2</sup>

The question here is whether the country is pressed financially so that it offers a feature of tax amnesty services, especially Indonesia or is it one of the efforts to awaken the public? From this, we can see from the next country in this case the authors pointed to Italy as a comparison, in the Italy, they also apply features and services tax amnesty to the public and its taxpayers and also there are several other countries also apply the tax amnesty.<sup>3</sup>

About the above exposure, we can conclude that even if Indonesia have a high number of declaration funds still Indonesia have a very low Repatriation of funds showing at the above table that somehow represents the unbalance of the record in the Tax Amnesty program in Indonesia.

Does this tax amnesty be the right financial solution for a country like Indonesia? Is there a difference in the application of tax amnesty features and services in the country of Indonesia with the state of Italy? Would it be better for the Indonesian state to enforce what is similarly likely to be more similar to that applied by the state of Italy? Or maybe it is not done because there are some disadvantages or mismatch criteria that must be met in Indonesia?

Base on the above exposure author have comes up with two main research questions about author's research where the first one is What are the disadvantages and advantages of the implementation of Tax Amnesty in Indonesia? And the second is Was this implementation of Tax Amnesty program already corresponds with the regulations in Indonesia?

## B. Research Method

Research is a scientific activity related to analysis and construction methodologically, systematically and consistently. The term methodology comes from the word "method" which means "way to."<sup>4</sup>

In relation to scientific efforts, then the method concerns the workings to be able to understand the object of the target science concerned. Systematic is any attempt to decipher and formulate something in a regular and logical relationship so as to form a system that means a whole, comprehensive, integrated, and able to explain the cause of the cause of the cause of the object. While consistent means the absence of contradictions with each other.<sup>5</sup>

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<sup>2</sup><https://www.indonesia-investments.com/finance/financial-columns/tax-amnesty-program-indonesia-ended-what-are-the-results/item7719?> Accessed on October 16<sup>th</sup> 2017

<sup>3</sup><https://asia.nikkei.com/Politics-Economy/Economy/Indonesia-s-tax-amnesty-fails-to-bring-money-home?page=1> Accessed on October 17<sup>th</sup> 2017

<sup>4</sup>Bambang Sunggono, *Metodologi Penelitian Hukum*, Ed. 1, Cet. 5, (Jakarta : Raja Grafindo Persada, 2003), Page. 39

<sup>5</sup><https://id.wikipedia.org/wiki/Metode> Accessed on October 17<sup>th</sup> 2017

Legal research is a scientific activity based on method, systematics and certain thoughts, which aims to study one or several specific legal phenomena, by analyzing them.<sup>6</sup>

Referring to the Background and Formulation Problems that have been taken by the author, the type of research used by the author in conducting this research is legal research normatively. Normative legal research or legal research in this literature is a study conducted by reviewing legislation or other regulations such as government regulations and other library materials, usually called secondary data, to be applied to a particular legal problem.

But specifically, authors will conduct a Research on Legal Systematic of the provisions of legislation or government regulations concerning the legal approach of tax amnesty in Indonesia together with finding the advantages and the disadvantages of each legal system in the countries which allows to be the basis of the legal system.

For the type of data, author will be using Secondary data with the Primary, Secondary, and Tertiary Legal material which Primary legal material will be the Laws and regulations, secondary legal material will be the Books, articles, journals, and news, and the tertiary legal material will be dictionaries and internet sources.

For the data collection technique, author will be using the Library studies and the documentation techniques where the authors will perform information findings from the Law Number 11 Year 2016 About the tax amnesty, news and reports, The 1945 Constitution as well as through the some cases regarding the Tax Amnesty in the case number 57/PUU-XIV/2016, 58/PUU-XIV/2016, 59/PUU-XIV/2016 and 63/PUU-XIV/2016. source of the *Perpajakan Edisi Tax Amnesty* by Indra Mahardika Putra SE,Ak, M.Ak, *Book of Introduction to Legal Studies* by Soerjono Soekanto, and also with help from auxiliary books such as Great Dictionary of Indonesian and other Law Dictionary. And lastly for the Data Analysis method, author here will be using data analysis methods in the form of qualitative research Qualitative research is a research technique that emphasizes the process of deductive and inductive analysis that is closely related to things and phenomena - the phenomena that occur around base on with logic of thought that will ultimately produce a new theory and concept and thought

### C. Research Findings and Research Discussions

After the all the research, author have got the answer for the first research question and that is the advantages and disadvantages of the implementation of Tax Amnesty in Indonesia. Based on the research, along the implementation of tax amnesty program, the economic of Indonesia is proven to be stabilized and moreover, the rupiah currency have got stronger base on the reports from Sri Mulyani, the minister of finance in Indonesia. Followed

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<sup>6</sup>Bambang Sunggono, Loc. Cit.

by Agus Martiwardjojo saying that it can boost the liquidity of bank funds such as deposits and savings.<sup>7</sup>

Author do believe that implementing the tax amnesty program will strengthen the economic of the state (in this research refers to Indonesia) because as said before in chapter one of the background research, the state's income is mostly coming from the financial support from the citizens and it is the Taxes. But because there are significant amount of people are evading the tax, of course the economic of the state won't develop. So, actually if we get to the bright side of this tax amnesty program, it will boost the compliance of tax payers to be willing to report their assets and join in to willingly paying the taxes.<sup>8</sup>

From all the news and reports, and the acknowledgment of the president upon running the tax amnesty program. Author do agree that it will boost the economic of the state but in the right timing. Because not all countries have successfully implement this tax amnesty program smoothly. Some may have just made it worst, but mostly have comes up with a positive result. As a matter of fact, Indonesia is one of the most successful in the implementation of tax amnesty in the 2016 Tax Amnesty compare to other countries.

Above are the benefits that are most likely to be apart of the economic things such us income and revenue but how if we started to ask about the advantages on the **LEGAL** part? Of course if we are talking about the regulation that legitimate this tax amnesty, we have to know what is the legal base for this tax amnesty to be beneficial for the taxation system in Indonesia.

If we collaborate the 1945 constitution with the tax amnesty regulation, we can see that the regulation that regulates the tax amnesty program may be achieving one thing that is suitable and is right in the face of the law and that is about welfare of the state likewise elaborated in the Article 33 of the 1945 constitution.

Article 33 of the 1945 constitution briefly explains that the states' economic purpose is of course for better income and if we relate this thing to the tax amnesty of course it is related. Because the purpose of the tax amnesty of course is all about revenue and income and base on the 1945 constitution, this income and revenue are likely for the benefits of all citizens and can be one of the elements in achieving the states' welfare none other that the citizens welfare.

By this chance Author is bringing up the Welfare State Theory, this theory states that the countries purposes is only achieving one thing and that is of course the welfare of their citizens. A common goal of prosperity and harmonization and of course the justice for all of them. Justice is what author is going to argue in this Tax Amnesty implementation.

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<sup>7</sup><https://www.cnnindonesia.com/ekonomi/20160928002931-78-161644/sri-mulyani-penguatan-rupiah-karena-amnesti-pajak/> Accessed On October 29th 2017

<sup>8</sup><https://economy.okezone.com/read/2016/09/20/20/1494293/sri-mulyani-beberkan-dampak-positif-tax-amnesty-untuk-ekonomi-ri> Accessed on October 29th 2017

To achieve the welfare of the people would not wrong for the state to seek profit for the development of countries such as constructing and others especially seek profits from one of the most dominant element in this case it is the taxes and that is why the state implements and launched this Tax Amnesty program for and aimed at the prosperity of the people. But in the small side, the welfare of the people also defines justice and this should also be considered by the state in accordance with the Welfare State Theory to those countries that does something for its people but does not give justice to its people is considered a failure based on this theory.

So much sweet positive sign from the tax amnesty program to the states' economic but yet from other source of perspective, there is also a negative sign that is created by the implementation of this tax amnesty program. Base on the news and reports, people believes that Tax Amnesty is going to make the tax payers that after all this time regularly pays taxes will get the feeling of discrimination where the government is giving a special facilities for the peoples that evades taxes all this time and feel unfair of it.

Author have to say that those people that has the feeling of injustice is not wrong and is somehow reasonable but in the same time author may find this situation a little hard to sync. Because this is the way the government can boost and revenue the economic of the state. By gaining more income or profit inside the state itself, and of course by the tax. But if the government insist to just keep on using the usual way on collecting taxes. There will just be more people evading tax and invest their assets in foreign countries.

Tax Amnesty may cause peoples asides from the tax amnesty participants to get jealous and starts to rebel because of the fact that they already pay and report tax regularly but in fact the government just establish this Tax Amnesty program without observing these peoples perspective just because for the revenue of economic state.<sup>9</sup>

In the purpose for the strengthening of author's argument about the disadvantages of the implementation of the Tax Amnesty in Indonesia. The theory that will be use by the author here is the Ultimate goal theory but only one of the element and that is the Certainty Law element. This element is believed by the authors that the formation of the relation to Tax Amnesty if based on this theory will earnestly give a more optimal outcome which with this theory is explained that the public will get legal certainty of what they do. In this case the tax payment. According to this element, everyone has a different perspective in looking at a law.

Sometimes there are people who realize that this law has harmed him and there are also some who realize that this law has benefited him. This theory of legal certainty explains that a law or regulation must have and give confidence to the surrounding community by showing its legal certainty so that it can be considered and recognized by the whole society. In this case the

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<sup>9</sup><http://nasional.kompas.com/read/2016/08/31/22244891/uu.tax.amnesty.dinilai.bertentangan.dengan.semangat.antikorupsi> Accessed on October 29<sup>th</sup> 2017

author relates it to the establishment of a regulation for Tax Amnesty in Indonesia.

Author believes that the regulations governing Tax Amnesty in Indonesia do not meet the criteria described by this theory, based on some responses from the public, some tend not to accept the new tax amnesty regulations and programs because they feel that they do not have justice and discrimination. If indeed Tax Amnesty has fulfilled the criteria based on the theory of legal certainty then there will be no such thing.

This legal certainty element also explains that the applicable law should be able to provide the correct direction to the society with the assumption that if this regulation has been launched then people already know what they should do and what they should not do, in the context of Tax Amnesty. With the launching of the regulation, the difference between the people and the people who have never done tax reporting and payment at all is very different.

This resulted in the Tax Amnesty giving unclear directions and giving no certainty to the community and worse yet could trigger social inequalities and contaminate the sense of community justice. So, according to the authors, this theory should be considered in launching the regulation on Tax Amnesty.

From case studies, author found that in the constitution 1945 article 23A it is explained that Tax is suppose to be coercive and it is not negotiable hence it is suppose to be collected by the government by force from the tax payers. But in the Law 11/2016 concerning the Tax Amnesty explains that tax is totally different from what the constitution explained where the government is giving a facilities for the people that have not reported tax will be able to report it now without any sanction and fine.

This problematic also concern about the 1945 constitution article 28D paragraph (1) that explains about peoples in the perspective of law have to be treated equally and not discriminated by the law. For some reason author found that the government treated differently between the people that pays and reports taxes regularly and the participants of the tax amnesty program. The government seems to ignore those people that pays and reports taxes regularly. Moreover, in the article 28D paragraph (1) also explained that in all citizens have the right of legal certainty that is ideal and fair. From what author learn from the case and citizens reaction. The law 11/2016 of the Tax Amnesty does not really corresponds with the explanation of the Article 28D paragraph (1) the 1945 constitution.

Another problem in the Law 11/2016 concerning the Tax Amnesty is that government should be transparent in sharing information for the community and citizens but as how it is explained in the 1945 constitution but it is treated differently in this Law 11/2016 where the participants of this Tax Amnesty program will have the secrecy that their information will not spread and be known by other people ensured by the government. In other words, government is being nontransparent about information to the community and citizen which is suppose to be not like that.

In some sort of perspective, Tax Amnesty may be an efficient economic solution for gaining such profit to the state so that the government can develop the needs that is needed by the state itself. But nevertheless, state have the responsibilities to maintain ideal and stabilize their citizens and community for the harmony of the state itself. Implementing Tax Amnesty program may have been a good and significant growth of revenue but also making some citizens and peoples to disagree with it because they argues that the state is not creative to have gone for this program by forgetting the means of Law and removing the sanction and yet treats the people that evades law differently from the peoples that pay taxes regularly.

Combine with authors' analysis, author have to say that actually government are aware of the complaints and the negative judgment of the Tax Amnesty program that the government implemented in Indonesia. But because of some situation where government went out of idea and choices in maintaining the economic of the state and still undergoing the impact of 1998 nor 2008 economic crisis. The government have no choice but to undergo this program and they also trying to reassure citizens and the community to understand so that they will not misunderstood the main purpose of the tax amnesty program.

The governments as said in case number 63/PUU-XIV/2016 the purpose of the tax amnesty program is for the states budget revenue and of course it is not for helping crimes and peoples who evades taxes for all this time. And at this point, author have to say that even though the Law 11/2016 is not corresponds with the 1945 constitution but there is also a clear reflection of good faith from the government itself for implementing this Tax Amnesty program in Indonesia.but still, the government cannot assure everything will run and go smoothly.

After undergoing and studies all the cases and author have also gave his opinion regarding the implementation of Tax Amnesty in Indonesia and of course already know that the government is still supportive against the implementation of Tax Amnesty in Indonesia but Author here is still Disagree with that. In this argument author will be saying about one of the principles that is often used by the Government in developing new regulations and new Law for their people and that is the *Lex Superiori Derogat Legi Inferiori* Principle.

This principle explains that whenever there are similar cases involving the same topic but there is more than one regulation that can be used to judge the situation, the higher level Law or regulation will ignore the other and overrides them. Meaning, all other regulation beside the highest one will be unable to judge. Author uses this principle to reinforce the author's argument in which the authors disagree over the judge's decision in cases the author has learned.

According to the Author, Law No. 11 of 2016 on Tax Amnesty can not be enforced because it is not in accordance with the constitution of 1945 because there are several arrangements contained in law number 11 of 2016 is contrary to the constitution of the year 1945. However, if viewed based on the

principle of *Lex Superior Derogat Legi Inferiori* this. The judge should have agreed that the law number 11 of 2016 is indeed inappropriate and contrary to the constitution of 1945.

As it is well known that the 1945 constitution is the highest and the most powerful compared to all other regulations and laws so it is only natural that such a problem would highlight the 1945 Constitution instead of neglecting just because the government is eyeing profit on the grounds that the country is still in a struggle to get past the effects of the economic crisis. In accordance with what is meant by this principle, which states that in the case of granting and determining the regulations used must use the regulations and regulations of higher and in this case of course the constitution of 1945 is higher position than the law number 11 of 2016 on Amnesty taxes as well as other legislation on taxation.

Pancasila is the source of all sources of law, meaning that all forms of law in Indonesia should be measured according to the values obtained in Pancasila, and in the rule of law it must be reflected awareness and sense of justice in accordance with the personality and philosophy of life of the nation. Law in Indonesia must guarantee and enforce the values obtained in the preamble of the 1945 Constitution which is a reflection of Pancasila and the principles contained in the body of the 1945 Constitution and its explanation. Thus the three elements are a unity that can not be separated from the 1945 Constitution.

The theory explains that Pancasila serves as a determinant of direction for achieving the ideals of society. Although it is well-realized that the end point of the society's ideals is impossible to attain fully, this theory benefits positively because it contains two sides, with the Law's Ideal can be tested positive law applicable and to the Law of the Law can be directed positive law as an effort to regulate the people's lives and nation. Furthermore, according to him, the targeted justice as the ideals of Law is also the effort and action to direct the positive law to the Law of the Law. Thus, an ideal law is a law directed by the Legal Idea to achieve the goals of society.

Furthermore, Gustav Radbruch also asserted that this theory is not only serves as a benchmark that is regulative, which examines whether a positive law is fair or not, but also serves as a constitutive basis, which determines that without the ideals of law, the law would lose its meaning as law.<sup>10</sup>

In the formation of the law by the state, of course the law has a goal to be achieved, none of the laws and regulations are made without any purpose, there is a goal to be achieved by law. From the point of view of western theory, the purpose of law begins in the ethical theory that says the purpose of law is solely for the realization of JUSTICE, the utilitarian theory embraced by Jeremy Bentham's sole purpose of law to manifest UTILITY, and the legalistic theory of the sole purpose of law to realize LEGAL CERTAINTY. In its development was also born a standard priority theory that combines

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<sup>10</sup><https://saepudinonline.wordpress.com/2011/03/20/cita-hukum-pancasila-dalam-pembangunan-hukum-nasional/> Accessed on 22th January 2018

JUSTICE, BENEFIT and CERTAINTY as the goal of law, and perfected by the theory of priority casuistry that adds in order of priority, proportionally, in accordance with the cases faced and want to be solved

Thus, Pancasila is an agreement and consensus to build a nation of one country, without questioning the different backgrounds that exist, whether religion, race, ethnicity, culture, language and others. As the foundation of the state, Pancasila becomes legal ideals that must be poured in every law-making and enforcement. Notonegoro states that Pancasila becomes a legal ideals because of its position as the fundamental principle of the fundamental state which has the power as *grundnorm*. As ideals of law, Pancasila becomes the guide star of all national legal products, in the sense that all legal products are aimed at achieving the ideas conceived by Pancasila.<sup>11</sup>

The theory or mainly we are talking about is the Ultimate goal theory or so called as to be the *Teori Cita Hukum Pancasila* contains these three main elements that are called JUSTICE, BENEFIT, and the last one is the CERTAINTY. The first element here is so called Justice. Justice is pretty familiar thing to be heard now since it is mentioned in the world of Law it represents something like Fairness and equality. Speaking of Law and connect it with this element is showing that every law must brings fairness to the peoples and citizens showing them what so called Equality before the law

Justice may mean very many thing depending on various of perspective. People may say that justice mean something fair, equal, even, and other while there are also people defines this justice word as for something that is more like not prioritizing, or not picking favorites among different sides or even maybe standing against others not proportionally from others. But this discussion, author will take it to the next level in the next chapter because it will be considerate with the cases that author found and will be used against it too.

The second element here is called Benefit. Benefit in this term is showing the means where the law is simply beneficial to the people. Bringing something that have positive conduct to them such us going to the better situations in terms of giving them something to encouraging them. Something like with the birth of this law. The people now feel safe or felt that they are cared by the government. With the enacted of the new law will bring positive mindset to the people that will lead them to positive conduct. For example, talking about the new tax program called the tax amnesty program. With the birth of the tax amnesty law, will it make the people to act more conductive to the tax? Or maybe it will just make it worst? That is why this element is very important considering the law.

The third and last element is called the Certainty. Something mean like specific, particularly focused on, fixed, and other meaning that considered close enough to describe it. Speaking of certainty of course means that the

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<sup>11</sup><http://juniverganaplaw.blogspot.co.id/2014/01/teori-hukum-pancasila-dalam-pembangunan.html>  
Accessed on 22th Januari 2018

law must give a certain and fixed means to the peoples so that the peoples can know how will they react to serve the law and oblige to the law. Or not also all about doing the law, it also must give a means to the people teaching them what act they must not conduct that is considered violating the law.

The element is essentially something that is abstract, although in its manifestation can be concrete tangible. Therefore the question of whether the law is always a question whose answer can't be one. In other words, people's perceptions of the law vary, depending on which angle they look at it. Judges will view the law from their point of view as judges, legal scientists will view the law from the point of their scientific profession, the little people will see the law from their point of view and so on.<sup>12</sup>

The Certainty element contains 2 (two) meaning that first the existence of rule which is general make the individual know what deeds that may or may not be done, and second form of legal security for individual from government authority because with existence of rule of law that is general that individual can know what the State may or may not do to individuals. Legal certainty is not only in the articles of the law but also the consistency in the judge's decision between one judge's verdict with another judge's decision for a similar case which has been decided..

The Certainty element is considered very important to provide certainty for the Taxpayer, related to the tax collection by using the Forced Letter in order to increase the income this State can be realized for the welfare of society, considering the tax sector is the most important source of development funds.

This theory literally picture out about this research merely the implementation of tax amnesty whether it is considered good or bad. In every states' goal. Achieving what this theory explains is a must and a state must be able to enact it without any failure means. In every perspective in the implementation of this tax amnesty and with the legitimate of the law 11/2016. it is a must that this law must fulfill all the elements that this theory explained.

Believed by the author here even though this new law may bring something good to the economic sector of a state and somehow trying to bring up prosperity and harmonization to the state, in this term it refers to the peoples or citizens where the law must be justice, beneficial, and giving some sort of certainty meaning to the peoples. Author argues that the law cannot fulfill the element of Justice since the new law implemented in here does not support every party equally by for example giving and bailing violators like what should be the right way and that is punishing and giving them sanction.

This law, even if it brings some economic developments where one of the states purpose are to bring welfare to the peoples and it is related to these economic profit thing. But we are not here to discuss about economic. We are here to discuss about the legal thing about this implementation of the new law

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<sup>12</sup>Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana Pranada Media Group, Jakarta, 2008, Page 158

enacted. Speaking of legal benefit in this term it is somehow related to giving people an urge to wheel them and push them to do something beneficial in the future.

For example, with this new law enacted, peoples now understood the real meaning of compliance to the tax and starting to conduct good and positive reactions to it such us starting to pay and report tax regularly unlike usual they keep on evading taxes. And when this term comes up. It will bring positive and mentally urging more people to believe in this law because of that they will think it is benefit for them to oblige to this new enacted law since then it can be told that the new law is beneficial for the state and fulfilled the benefit element of the theory.

But everything seems so opposite when it comes to this tax amnesty thing. Peoples do not seeing this as a positive or something benefit to them. But they are giving negative thoughts such us the government are helping the violators that after all this time does not pay and report tax regularly and evading taxes by giving them a small ransom payment agreement and government will remove all the sanction that actually can be dragged to them.

It is not beneficial for the peoples that after all this time oblige to the tax regulation and paying and reporting taxes regularly every month or every year. It seems unfair to them and hurting their feeling making them to feel that this new law does not benefit them anything and giving negative impression to it. So in this case, author will have to say that the law does not fulfill the benefit element term in the theory.

The last element as for it is the certainty element, certainty does not mean that the law must have a fixed meaning or maybe it will be mention by one means not other than that. In this certainty thing, it is more likely explains that a law must give a right direction to the people in order to let them know why and what is the purpose of this law to be enacted. Because in this modern times peoples or citizens sometimes still doing something wrong even though there is already regulation that legitimate their action.

This tax amnesty thing is getting in the way if we are discussing about something certainty. Why is that so? So author here is to explain that with the birth of this law, it only makes it more absurd for the peoples to get more interactive to the new tax system. Making a confusion among them between the tax world. Making them don't know what exactly what government wants because of some conspiracy from previous elements. For example, because of this law making people misunderstood the purpose of it and making them taking conclusion that government are helping violators.

A law, base on this element's explanation must give a exact and fixed definition and also guidance to the people so that they can fully understand the law and they can oblige them fully to the fullest. Author here is saying that with the birth of this new law 11 year 2016 is only making absurd confusion to the peoples and does not fulfill the certainty element of this theory and from that all arguments author still agrees that the new tax amnesty law. The law 11/2016 **DOES NOT CORRESPONDS** with the 1945 constitution.

#### **D. Conclusion and Recommendations**

Author here concludes that in the implementation of the Tax Amnesty program does not always brings up revenue to the states' economic budget. Some countries may have implemented this Tax Amnesty program also but some of it did not bring any positive effect. Therefore, author do say that the Tax Amnesty program is not a guarantee solution for the Economic problem that is faced by all the countries.

Author agree that in the country of Indonesia, the people plays a very big role in the inspiration and progress of the country in this case the authors mention the reaction of the community towards the implementation of Tax Amnesty program, based on what the authors found in news and papers on Tax Amnesty program, bad judgment from the community about this program in a decent amount.

Particularly is the society that has conducted tax reporting and paying taxes in accordance with the prevailing regulations, the author gives an illustration that where there is either a good side or a positive side, there must be a bad side or a negative side that appears. Similarly, the implementation and implementation of this Amnesty Tax program.

Author conclude that the implementation and implementation of the Amnesty Tax Program can hurt the sense of trust over the people who have been obedient to the tax on the basis of injustice and jealousy. This is one of the losses that according to the author that can not be avoided by the government in implementing and implementing Tax Amnesty program into the world of taxation.

Author also concluded that by applying the Amnesty Tax program it would also provoke an incorrect view by the public who would argue that the government seems to free the criminals who have not made payments and tax reporting. With such a view is feared by the authors themselves that the increase in the number of taxpayers who had been obedient to the taxation. With an assumption "for what I have been paying taxes to the end of the Tax Amnesty program like this?"

In summarizing all the advantages and disadvantages of the Implementation of Tax Amnesty Program in Indonesia, author have comes up with a table so that it will be neat and easily distinguished between what is bad and not about this Tax Amnesty Program for Indonesia as follows:

ADVANTAGES	DISADVANTAGES
Tax Amnesty is Believed can be bringing some benefits to the state by bringing welfare to the citizens base on the primary purpose of every state and that is reaching out for prosperity and harmonization.	Tax Amnesty is also believed by many parties that it is somehow helping people that after all this time did not regularly pay and report their taxes and somehow just letting them barge into the world of Taxation without any sanction.
With this Tax Amnesty program implemented in Indonesia it may also increase the number of Tax Participants and develop their compliance in regularly reporting Taxes	Even though the Tax Amnesty program may increase the number of Tax Participants but it is believed by author that if the citizens felt injustice within this Tax Amnesty program it may also cause rebel and all people that after all this time regularly paying tax and reporting taxes may feel disappointed and do not want to pay and report tax again
This Tax Amnesty program may also be used as a reference or maybe a guidance in the world of Taxation in the development of new taxation program that will brings benefit to all parties.	This Tax Amnesty program is afraid will bring more chaos upon the citizens because of the feeling of injustice and government may loses their supports from most of the citizens that will also affects the tax compliance.

From all the research that author done above before, base on author self-perspective and assessment, author concludes that the Law number 11/2016 concerning the Tax Amnesty **DOES NOT** corresponds with the 1945 constitution. Where there are some article that is explained or elaborated in the Law number 11/2016 have an opposite mindset about the Taxes regulation with the constitution 1945.

Article 23A constitution 1945, where it is explained that taxes should be coercive and collected by government by force but in the law number 11/2016 it explains that tax may be voluntary. Article 28D paragraph (1) explains about equality where in this meaning, government should treat their peoples equally and does not prioritize one over another which is one of the problem in this Law number 11/2016 where government seems to be giving special program for those who are not paying taxes all this long.

In the Constitution 1945, it is explained that citizens may have the access of the information that is most likely to say it is actually transparent and nothing about secrecy. But in the law 11/2016, the information of the participants of this tax amnesty program is kept as secret and will not be revealed showing that there are secrecy going on within the government and showing that they are trying to defend the participants.

Mentioning and connecting author conclusion with the **Ultimate Goal Theory** or so called *Teori Cita Hukum Pancasila*, Tax amnesty is only making people to feel discriminated means that the justice element is not fulfilled. People are just getting jealous upon the birth of this law which means that the Beneficial element also does not qualified. And mostly the last one, the element of Certainty that suppose to give a clear direction to the citizens and guiding them how to react upon this tax system but seems to just creating chaos and confusion against them so in here author also conclude it does not fulfilled.

In this research, author have comes up with some recommendation to the students, citizens, and also the government of course regarding the implementation of tax amnesty in indonesia for a better good future which are. For other students, author recommends them to do more deep research if they wish to use this research as their references in their research because of the lacking of information especially information from field research such as interview, observation, and other field researches. Author also recommends that other students to develop their own idea and analysis about the topic since this research may be far from perfect.

For the citizens, author recommends them to Fight for their rights and hope that this research can be their references in doing so, but doing it in the formal way because rebels does not helping anything in advancing to the bright side of this law since it will only making more chaos to the state that can make the government to struggle even more. And for the participants of this Tax Amnesty program author here is recommends them to not use this program for the means of their escape from the law. Escaping from the punishment of after all they did because doing so will only harming yourself because in the eyes of the peoples that after all this time report and regularly pay taxes you are a cheater and should be get punished. So why don't you guys just report it normally without taking advantage of this program and just repent.

For the Government, author recommends that the government should take more aspirations from the citizens regarding this Tax Amnesty program because there is so many misunderstanding going on. Author may recommend government to associate some socialization by urging citizens and educate them about the real purpose of this Tax Amnesty being implemented. Government should also making it strict for the participants of the tax amnesty program because there is a slight chance that after the program ends. They will just wait for another Tax Amnesty program while they start to invest in other countries again.

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