International Journal of Law
ISSN: 2455-2194; Impact Factor: RJIF 5.12
Received: 18-01-2021; Accepted: 05-02-2021; Published: 01-03-2021
www.lawjournals.org
Volume 7; Issue 2; 2021; Page No. 15-19

The formulation of substitute of fine punishment in the sector of excise based on the perspective of Indonesian penal policy

Winarni Indah Prasetyo
Sebelas Maret University, Surakarta, Central Java, Indonesia

Abstract
Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 stipulates cumulative and combined (cumulative-alternative) fine punishment with imprisonment as a Penal Policy. In particular, this law prescribes that the substitute of fine shall be collected from the wealth and/or legitimate source of income of the defendant and imposes substitute of imprisonment as the last alternative (*ultimum remedium*). In the practice on several cases, the panel of the judge directly stipulates imprisonment as a substitute of fine without considering the mechanism of confiscating the wealth and/or income of the defendant as an effort to pay the fine. The type of this research is doctrinal law research which provides systematic elaboration of the rules governing a particular legal category, analyzes the relationship between the difficult parts of rules to obtain relevant conclusions as means to prepare formulation of upcoming improved rules. This research aims to formulate applicable penal policies based on the Penal Policy in the excise sector in Indonesia.

Keywords: formulation of penal policy, fine punishment, reconstruction of penal law in the sector of excise

Introduction

The sector of tobacco, especially the cigarette industry has a major role in urging the national economy from several sides, including (1) sources of State revenue (from excise), (2) contribution to foreign exchange, (3) creation of economic output value, added value and job opportunities, (4) its impact on other economic sectors, (5) its relation to the upstream and downstream sector [1]. Data from the Central Bureau of Statistics (BPS) reveals during 2019, the consumption per capita in a month for the Indonesian population spent 49.14% of the expenditure for food, while the non-food needs were 50.86%. From the food expenditure data, the amount of money spent on cigarettes per month is 6.05% of the national average, equivalent to the combined expenditures for milk, eggs-chicken and vegetables. Meanwhile, the money used to buy rice per month is 5.57% of the total expenditure [2].

According to the Head of the Sub-Directorate of Excise Tariff and Basic Price of the Directorate General of Customs and Excise (DJBC), the third quarter of 2019 particularly in August, cigarette excise revenue reached 77.7% of the target of Rp 158.9 trillion [3]. Not limited to the conditions during the Covid-19 pandemic (Corona Virus Disease 2019) until the end of April 2020, State revenue from Customs showed an increase in the amount of 16.17% from the target of the State Budget (APBN) of 24.65% or reaching Rp. 57. 66 trillion as contributed from excise on tobacco products [4]. These data reveal that tobacco products are the the main commodity in Indonesia. Indonesia is one of the highest cigarette consumption country in Southeast Asia. Despite the fact that smoking generates public health threat, it is inevitable that tobacco is a potential source of State revenue.

The development of State revenue from the excise sector may be indicated by the increasing trend of cigarette excise taxes, by which 2020 shows the highest increase. The government prescribed an increase in cigarette excise tax in 2020 by 23% and cigarette retail price by 35%. This increase is aimed to control the negative impact of cigarette Consumption, especially the impact on public health. In the period 2014 to 2020, cigarette excise tax has increased five times with the highest increase in 2020. In 2013, cigarette excise increased by 8.5%, in 2015 was 8.72%, in 2016 was 11.19%, and in 2017 was 10, 54% and 2018 by 10.04%. Meanwhile, in 2019 there was no increase [5].

The major public demand for the consumption of tobacco products generates a new business issue concerning the production of illegal cigarettes. Based on data from the Directorate General of Customs and Excise (DJBC) throughout 2019, it was recorded that there were 5,598 cases of illegal cigarettes with a total of 322,330,000 cigarettes without excise stamps or amounted in Rp. 216.83 billion [6]. One example of the case was occurred in March 2019, the Directorate General of Customs and Excise at the Regional Office of Central Java-Special District of Yogyakarta (DIY) successfully canceled the delivery of 2,816,000 sticks of illegal Machine-Rolled Cigarettes (SKM) of various brands without excise stamps and based on the development of the investigation, 2,851,200 illegal Machine-Rolled Cigarettes (SKM) of various brands were discovered and ready to sell in a warehouse located in the Sukoharjo regency. Based on the calculation, the State loss in the form of unpaid excise value is amounted in Rp. 2,306,550,400.00.

In *a quo* case, the Panel of Judge of Sukoharjo District Court sentenced the defendants to imprisonment and a fine in the Decision Letter Number: 88/Pid.Sus/2019/PN.Skh;90/Pid.Sus/2019/PN.Skh;91/Pid.Sus/2019/PN.Skh;92/Pid.Sus/2019/PN.Skh and 93/Pid.Sus/2019/PN.Skh. which declared that in essence, imprisonment and fine were imposed to the defendants, in the events the defendants are unable to pay the fine, it shall be substituted by imprisonment. Therefore, the implementation of the provisions of Article 59 of Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 stipulating substitute of fine as penalty

by confiscating the assets and/or income of the defendants by confiscation and auction as an effort to pay the imposed fine is groundless. The difference between *Das Sollen* and *Das Sein* leads to the failure to achieve the objectives of the penal policy in the excise sector, therefore the law as asserted by Mochtar Kusumaatmaja [7] does not properly exercise or in other words becomes ineffective.

Material and Methods

This research is a doctrinal law research which provides a systematic explanation of the laws which stipulating certain legal category, analyzes the relationship between the difficult parts of laws to obtain relevant predictions as a means to formulate upcoming better laws. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials, which processed and analyzed by various interpretations known in law.

Result and Discussion

Economic criminal law is a part of criminal law which characteristics lie in its economic matter [8] which has negative effects on economic activities, State finances and the business sector. In general, practitioners and academics divide economic crime into two definitions, encompass narrow and broad scopes [9]. In a narrow scope, criminal acts in the economic sector are every action listed in the Emergency Law Number 7 of 1955 concerning Investigations, Prosecution and Economic Criminal Justice. Meanwhile, in a broad scope, economic crimes are every action unlisted in the Emergency Law Number 7 of 1955 concerning Investigation, Prosecution and Economic Crime Justice, which includes various criminal acts in the economic sector regulated in other Laws such as Corruption Law, Banking Law, Business Competition Law, Insurance Law, Trademarks Law, Patents Law and many more [10].

Because economic crime is separately regulated in other regulations appart from the Criminal Code (KUHP), however the subordinate regulations frequently deviate from the general book and the basis of criminal law hereinafter known as special crime. In the material law, the special regulation may stipulate crimes and violations, expansion of the territorial principle, legal or criminal subjects determined based on losses, the finances and the national economy. And in formal law, deviations are found in the form of investigations carried out by certain institutions, prioritizing certain crimes over other criminal cases, the regulations of civil lawsuits and many more [11].

Excise in Indonesia is stipulated in Law Number 11 of 1995 Concerning Excise as amended by Law Number 39 of 2007. The law defines excise as a state levy imposed on certain goods having nature or characteristic stipulated in this law as stipulated in Article 2 wherein the said goods are declared as Excisable Goods, including:

"a. needing control in the consumption; b. needing supervision in the distribution; c. being potential to inflict negative impacts on communities and environment; or d. needing imposition of state levy on their use for justice and *equilibrium*, shall be subject to excise on the basis of this law".

The law has stipulated the types of excisable goods, which in Article 4 prescribes: "A) ethyl alcohol or ethanol, regardless of the ingredients used in the manufacturing process; b) drinks containing ethyl alcohol in any level, regardless of the materials used and the manufacturing process, including concentrates containing ethyl alcohol; c) tobacco products which include cigarettes, cigars, leaf cigarettes, sliced tobacco and other tobacco processing products, without considering whether or not substitutes or auxiliary materials are used in their manufacture".

In its development, the types of excisable goods may increase or decrease from the foregoing provision. For example, government policy concerning limitation of plastic use in the community due to its negative impact to the environment may include plastic as excisable goods, as well as Vapor (Synthetic Liquid Cigarettes) which currently being popular due to the popular opinion that it is more secure than cigarettes. Thus, this amendment is stipulated in Government Regulations.

Law Number 11 of 1995 concerning Excise was promulgated on 30 December 1995 and amended as Law Number 39 of 2007 promulgated on 15 August 2007. The Politic of Law on Law Number 39 of 2007 concerning Amendments to Law Number 11 1995 concerning Excise aims to inflate efforts in boosting potential revenues in the excise sector for development cost as a means of improving the welfare of the community through the expansion of excise objects and law enforcement. The Penal Policy [12] from Law Number 11 of 1995 concerning Excise qualifies criminal offenses in the excise sector into nine types which respectively stipulated in Article 50, Article 51, Article 52, Article 53, Article 54, Article 55, Article 56, Article 57 and Article 58. In its amendments, Law Number 39 of 2007 removes and adds several formulations in criminal punishments, as follows: remove Article 51 and add Article 58A paragraph (1) and (2). The formulation of the provisions on punishments of criminal offenses in Law Number 11 of 1995 is differently stipulated from Law Number 39 of 2007. The previous law stipulated imprisonment and fine with a single, cumulative and combined/mixed (cumulative-alternative) system. Meanwhile, the amended law stipulated such punishment in cumulative and collective system. The qualification of offenses in the previous law is stipulated in Article 54 concerning a single fine. Whereas Article 50, Article 52, Article 53 and Article 55 stipulate the imposition of imprisonment accumulated with fine. Meanwhile, the application of the combined punishment (cumulative-alternative) is stipulated in Article 51, Article 56, Article 57 and Article 58. In the amended law, Article 50, Article 52, Article 53, Article 55 and Article 56 stipulate the imposition of a cumulative prison sentence with criminal fine. Furthermore, the application of combined (cumulative-alternative) punishment is formulated in Article 54, Article 57, Article 58 and 58A.

As observed from the perspective of criminal punishments formulation (*straafsoort*), the theory of criminal law emphasizes several types of formulation systems, including single/imperative formulation system, alternative formulation system, cumulative formulation system, cumulative-alternative (mixed/combined) formulation system and the blind formulation system/blanc. Likewise, the formulation system to determine the duration of criminal punishments (*strafmaat*) has four types of system including, Definite Sentence System in the form of a definite punishment of duration, Fixed/Indefinite Sentence System or a maximum system in the form of a maximum duration of punishment, the Determinate Sentence System in the form of determining minimum and maximum limits of criminal

punishment and Indeterminate Sentence System in the form of no maximum criminal limit [13]. As asserted by Collin Howard [14] that Law Number 11 of 1995 concerning Excise adheres to a Fixed/Indefinite Sentence System in the application of criminal punishment in the form of maximum imprisonment and fine. Additionally, based on the system of formulating the types of punishments, this law adopts single/imperative, cumulative and combined/mixed (cumulative-alternative) System by imposing only one type of basic punishment or 2 (two) types of basic punishment in the form of imprisonment and cumulative fine formulated with the conjunction "and" as well as the combination/mixed (cumulative-alternative) which formulated with the conjunction "and/or". Meanwhile, Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007adheres to the Determinate Sentence System in the application of criminal punishments in the form of determining minimum and maximum limits of imprisonment duration and fine amount. Furthermore, the system of formulating the type of punishment (*strafsoort*) only adopts the Cumulative and Combined/Mixed (cumulative-alternative) System by imposing 2 (two) types of basic punishment in the form of determining imprisonment and cumulative fine with the conjunction "and" or combination/mixed (cumulative-alternative) formulated with the conjunction "and/or".

This formulation is different from the criminal formulation in the Criminal Code which implements a single/imperative formulation system and an alternative formulation system in determining the type of crime (*strafsoort*) and implements a fixed/indefinite punishment system or general maximum system in determining the duration/amount of punishment (*strafmaat*). The comparation of the Criminal Code (*Lex Generale*) with Law Number 11 of 1995 concerning Excise shows that the criminal formulations used in respective laws apply the single formulation system notwithstanding of only one article and apply the general maximum system in determining the duration/amount of punishment. The difference between the two laws is regarded in the introduction of cumulative and combined systems. Meanwhile, Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 has implemented *strrafsoort* and *strafmaat* which deviate from the provisions of the general law/the Criminal Code.

The politic of law in amending the excise law in 2007 is to inflate the potential of excise as a source of State revenue aims in providing funds for national development as an instrument to achieve welfare, therefore it shall not be categorized irrelevant to be stipulated in Penal Policy. The adoption of the Determinate Sentence System and the cumulative and combined imposition of criminals shows the efforts to increase the punishment in excise crime. The imposition of two types of basic punishment [15] in the form of imprisonment and fine shows an affirmation that the defendants shall suffer heavy punishment, especially in the formulation of cumulative system. The stipulation of the minimum limit of punishment restrains the public prosecutor and judge in submitting the charges and the imposition of criminal judgements as means to achieve criminal punishment objectives [16].

In relation to the formulation of the imposition of fine in Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 specifically stipulates the provisions on the application of substitute of fine in Article 59. This article consists of 2 (two) paragraphs which first determine the mechanism for carrying out/fulfilling the imposed punishment, including in the event of defendants unable to pay the fine, it shall be substituted from the wealth of the defendants. The elucidation of the article prescribes that in the event the defendants only able to partially pay the fine or unable to complete the fine payment, the legitimate source of income of the defendants shall be confiscated. The results from the auction of assets and/or legitimate source of income shall be paid to pay the criminal fine. In the second paragraph, the application of imprisonment as substitute of fine as the last alternative or *ultimum remedium* in the event that the compensation as stipulated in the first paragraph is not fulfilled, it shall be substituted by maximum imprisonment of 6 (six) months. Therefore, the subsidiarity nature of the imposition of fine with substitute punishment in the form of imprisonment during certain time shall serve as the Secondary Choice. This formulation is different from the formulation in the Criminal Code which in Article 30 paragraphs (2) and (3) stipulate:

"In case of sentence to fine, the fine shall, if no paid, be substituted by light imprisonment of at least one day and at most six months”

It implies that the payment mechanism for fine in Article 30 enables the substitute of fine for inability to pay the fine be substituted with a maximum duration of six months imprisonment. In other words, the substitute punishment for a fine is imprisonment [17]. The Excise Law demonstrates a renewal from the adoption of criminal system. However, this law has also introduced deviate special provisions from the provisions of the general law (Criminal Code).

In practice, the public prosecutor in charging the criminal punishment has substituted imprisonment to fine under the sentence: "In the event within 1 (one) month the fine cannot be paid, the property and/or income of the defendants shall be confiscated by the public prosecutor to compensate the charged amount of fine and the remaining amount of unpaid shall be substituted by maximum imprisonment of 6 (six) months [18]. However, in several judgements on excise criminal cases, the judges frequently neglect Article 59 paragraph (1) of Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 however it subsequently direct sub-consider fine with substitute penalties in the form of imprisonment for certain period of time. The examples of such cases are discovered in the following Case Number: 88/Pid.Sus/2019/PN.Skh; 90/Pid.Sus/2019/PN.Skh;91/Pid.Sus/2019/PN.Skh;92/Pid. Sus/2019/PN.Skh and 93 /Pid.Sus/2019/PN.Skh, the judge stated in the legal consideration that during the trial, the evidence of confiscation was not submitted by the public prosecutor in the form of property or income of the defendant therefore, the process of confiscation is under the authority of the public prosecutor, alternatively the judges shall not include the clause in the decision. However, the public prosecutor shall consider the financial capacity of the defendants and the family. The legal consideration of the foregoing decisions showed that the judges did not comprehend the intent of the legislators in formulating the provisions for imposing fine as referred to in Article 59 paragraph (1). Whereas the confiscation of the property of the defendants conducting criminal offense and/or the legitimate source of income he obtained was not the confiscation referred to in the provisions of Article 63 paragraph (2) letter i of the Excise Law, by which is

confiscation carried out by PPNS investigators used in the means over purpose of evidence. Referring to the provisions of Article 39 paragraph (1) of the Criminal Procedure Code, which classifies objects subject to confiscation, it may be concluded that the formulation of Article 59 paragraph (1) of the Excise Law qualifies objects subject to confiscation in the form of defendants of criminal offense's property and/or the legitimate source of income, indicating that the confiscation in question was not confiscation at the investigative level. Therefore, the legal consideration of the decision mentioning that the public prosecutor did not submit evidence of the confiscation over the property of defendants and or the legitimate source of income is unjustified. The panel of judges had misinterpreted the formulation of Article 59 paragraph (1) of the Excise Law. Whereas the Excise Law has introduced the substitute of fine with confiscation procedures after the hearing of the decisions. Therefore, the confiscation formulated in Article 59 paragraph (1) of the Excise Law is categorized as the execution authority [19]. Furthermore, the executorial power of the decision implies that the decision shall enter by force if the defeated party has no will to fulfil the obligations stated in the decision [20] in this case the court decision has a "*condemnatoir*" dictum, while the dictum's decision in declaratory and constitutive require no coercive means to be implemented [21].

The formulation of Article 59 paragraph (1) of the Excise Law is a special provision which shall be included in the decision of the judges prior to the formulation of substitute criminal punishment in the form of imprisonment. Such decision has executorial nature which shall be implemented by the public prosecutor in executing the payment of criminal fine. Therefore, the legal consideration mentioning the authority of the public prosecutor regarding the process of paying the fine is not subject to the law considering the absence of evidence during the hearing is groundless.

The politics of law as asserted by Sudarto [22] implies that the formulations of criminal punishment in Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 are a means to combat the crimes with criminal law and a part of law enforcement efforts, especially in the sector of excise crime. Efforts to prevent and overcome crimes by means of criminal law are known as penal policies. Penal policy encompasses effort of stipulating laws and regulations on certain matters and covers comprehensive approach involving various legal disciplines in addition to criminal law and reality in society to conform the broader concept including social policies and national development plans as a means to achieve public welfare [23]. Therefore, politics or penal policies are known to be part of law enforcement policy [24]. Thus, the provisions of laws and regulations must be supervised in its practical/ implementation process. Law enforcement is a process of activity carried out by law enforcers (police, public prosecutors and judges). To realize appropriate law enforcement, the process of each stage in law enforcement shall be properly conducted. The State officials shall carry out the duties based on the applicable provisions in the law enforcement framework particularly as a process of achieving the objectives and ideas of law [25].

The implementation of penal policy based on Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 by which shall be supervised by law enforcement officials is found to be ineffective. The formulation of criminal punishments on substitute of fine in excise crimes shall prioritize confiscation of the defendants' wealth and/or legitimate source of income as a compensation/effort to fulfill the payment of the fine as a substitute of imprisonment is not properly implemented.

Conclusions

Based on the formulation of the criminal punishments duration (*Strafmaat*) in Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 adopts the Determinate Sentence System which formulates punishment in the form of determining minimum and maximum limits of imprisonment duration and fine amount. Meanwhile, the formulation system for the types of punishments (*Strafsoort*) shows that the law adopts the Cumulative and Combined system by imposing 2 (two) types of basic punishment in the form of determining imprisonment and cumulative fine (cumulative-alternative) which shows that the penal policy of the law refers to the purpose of the punishment by which is general and retributive preference function. This law formulates substitute of fine that deviate from general law provisions (Criminal Procedure Code) on the formulation of confiscation and auction of the defendants' property and/or the legitimate source of income to fulfil the fine. The punishment imprisonment as substitute of fine may enter into force under the condition of *aquo* provisions are not fulfilled as a last resort (*Ultimum Remedium*). Whereas, in practice the penal policy formulated in Article 59 of the Excise Law is not applicable due to the imposition of imprisonment as substitute of fine by several judgements.

References

1. Prajogo U. Hadi dan Supena Friyatno. Peranan Sektor tembakau dan industry rokok dalam perekonomian Indonesia analisis table I-O Tahun 2000. Jurnal Agro Ekonomi. Pusat Analisis Sosial Ekonomi dan Kebijakan Pertanian. 2018; 26(1):90-121.
2. Muhammad Idris. Ada Corona, pemerimaan cukai rokok malah naik, ini sebabnya. Kompas.com. downloaded on 2020 at 18.34 WIB.
3. Tirto.id/ 23.28 wib/ Pendapatan Negara dari Cukai Rokok Sudah Rp 77 Trilyun per Agustus 2019
4. Penerimaan cukai tembakau Januari-April 2020 sumbang 75% dari total penerimaan bea cukai, Thursday, 21 May 2020, 16.57 WIB, downloaded on 28 June 2020 at 18.45 WIB.
5. Katadata, Kementerian Keuangan Tahun 2019, accessed on 30 June 2020 at 21.00 WIB.
6. Agatha Olivia Victoria. 2019."Sepanjang 2019 Bea Cukai Tangani 4.724 Kasus Rokok dan Miras Ilegal".https://katadata.co.id/berita/2019/10/25/sepanjang-2019-bea-cukai-tangani-4724-kasus-rokok-dan-miras-ilegal accessed on 01 July 2020 at 18.30 WIB
7. A developing society is characterized by change and the role of law in development to ensure that change occurs regularly. Because, both changes and Mochtar Kusumaatmadja. Pembinaan Hukum Dalam Rangka Pembangunan Hukum Nasional. PT Bina Cipta. Bandung, 1986, 6.
8. Kartin S Hulukati. "Kebijakan Formulasi Tindak Pidana Ekonomi Dengan Undang-undang No. 7/DRT/1955. Thesis. Universitas Diponegoro. 2003, 41-42.
9. Andi Hamzah. Hukum Pidana Ekonomi. Pradnya Paramita, 1993.

10. Patricia Rinwigati. 2016. Parliementari Brief, Tindak Pidana ekonomi dalam RKUHP Quo Vadis. Aliansi Nasional Reformasi KUHP. Sentra HAM UI. Elsam.
11. Ibid, pp. 5.
12. Penal policy or politics is the policy established by the State mandated to the authorized bodies to establish the concerned regulations to express values of the society and to achieve its target. See: Prof. Sudarto. Hukum Pidana dan Perkembangan Masyarakat. Sinar Baru. Bandung, 1983, 20.
13. Lilik Mulyadi. Pemidanaan terhadap pengedar dan pengguna narkoba penelitian norma, teori, asas dan praktik peradilan. Jurnal Hukum dan Peradilan, 2012, 1(2).
14. The formulation system to determine the duration of criminal punishments is divided into four; 1. Definite Sentence System in the form of a definite punishment of duration, 2. Fixed/Indefinite Sentence System or a maximum system in the form of a maximum duration of punishment, 3. The Determinate Sentence System in the form of determining minimum and maximum limits of criminal punishment and 4. Indeterminate Sentence System in the form of no maximum criminal limit, the legislators mandates the authority to the penal policy (discretion) of subordinate law enforcement officials. See: Romulus. 2016. Penjatuhan Sanksi Pidana di Bawah Batas Minumum khusus dalam Undang-undang Nomor 35 Tahun 2009 tentang Narkotika. Jurnal Nestor Magister Hukum 3.
15. Article 10 of the Criminal Code
16. The criminal objectives based on the Draft of Criminal Code are: 1) To prevent criminal offense from being committed by upholding legal norms for the sake of public protection; 2) To rectify the behavior of defendants and supporting them to be good and useful person and able to live in society; 3) To resolve conflicts caused by criminal offense, restoring balance and creating peace in society; 4) Releasing guilt of the defendants; 5) The aim of the imposition of criminal punishment that has been developing from the past to the present has led to a more rational direction, see: Andi Hamzah, Kitab Undang-Undang Hukum Pidana, dan KUHAP, Rineka Cipta, Jakarta, in Rico Aldiyanto Batuwael, dkk Lex Crimen. 2020; 9:33.
17. Criminal law reform shall be carried out with a policy approach, because in essence it is only part of a policy step. Each policy also contains value considerations, therefore criminal law reform must also be oriented towards values, see: Arief, Barda N. Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru). Jakarta: Kencana, 2011.
18. Letter of the Deputy Attorney General for Special Crimes Number: B-397/F/Ft/03/2019 on 20 March 2019 concerning Criminal Charges in Criminal Cases In the field of Taxation, Customs and Excise which revoke the letter of the Deputy Attorney General for special crimes Number 1868/F/Ft.2/10/2018 dated 17 October 2018 Concerning Criminal Charges in Criminal Cases in the Field of Taxation, Customs and Excise.
19. The authority of the State officials to enforce court decision covers executive power due to the title of the decision, which reads: "Pro justicia under the Only God" see on: Riduan Bakti Syahrani, Materi Dasar Hukum Acara Perdata (Bandung: Citra Aditya Bakti, 2000, 117.
20. Dahlan Sinaga, Kemandirian dan Kebebasan Hakim Memutus Perkara Pidana dalam Negara Hukum Pancasila, Suatu Perspektif Teori Keadilan Bermartabat, Bandung. (Nusa Media, 2015), 127; in Samuel Saut Martua Samosir, "Penerapan Penggunaan Irah-Irah 'Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa' dalam Konteks Pencapaian Keadilan," Jurnal Supremasi. 2019; 9(2):7 https:// ejournal. unisbablitar.ac.id/index.php/supremasi/article/view/790. [4] Syahrani, Materi Dasar Hukum Acara Perdata, 117.
21. R Indra, "Pelaksanaan Putusan (Eksekusi) Perkara Pidana yang Berkekuatan Hukum Tetap," Doktor Hukum, last modified 2019 accessed on 2 May 2020, https://www.doktorhukum.com/pelaksanaan-putusaneksekusi-perkara-pidana-yang-berkekuatan-hukum-tetap/.
22. The politic of law is the policy stipulated by the State mandates to the authorized bodies to establish the concerrned regulations to b express values of the society and to achieve the target as stated in the book of Prof. Sudarto which titled Hukum Pidana dan Perkembangan Masyarakat, Sinar Baru, Bandung, 1983, 20.
23. Ellen Benoit, "Not Just a Matter of Criminal Justice: States, Institutions, and North American Drug Policy", Sociological Forum, 2003, 18(2).
24. Op. cit, 28.
25. Esmi Warasih, Pranata Hukum Sebuah Telaah Sosiologis, Semarang: CV. Suryandaru Utama, 2005, 83.