

# **Reformulating Tax Dispute Regulations as an Effort to Address Substantive Injustice in Indonesia's Tax Court System**

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## **ABSTRACT**

This study examines the urgency of reformulating tax dispute resolution regulations in Indonesia to address the substantive injustice experienced by taxpayers within the tax judiciary system. Although Indonesia's taxation system is founded on the principle of legality under Article 23A of the 1945 Constitution, the existing dispute resolution mechanism has not fully ensured balanced legal protection between taxpayers and tax authorities. Tax authorities possess extensive powers in tax assessment, examination, and collection, creating an unequal position that may lead to unfair treatment of taxpayers. This research aims to analyze the current legal framework governing tax dispute resolution and identify the factors contributing to substantive injustice in the system. The study employs a normative juridical method using statutory and conceptual approaches through the examination of relevant legislation, legal principles, and legal doctrines. The findings indicate that tax disputes are primarily resolved through appeals and lawsuits under the jurisdiction of the Tax Court, while objections constitute an administrative remedy within the broader tax dispute framework. However, taxpayers continue to face significant challenges, including potential conflicts of interest in the objection process, unequal burdens of proof, limited access to information, and regulatory inconsistencies among the General Taxation Provisions and Procedures Law, the Tax Court Law, and the Judicial Power Law. These conditions weaken legal protection and hinder the realization of substantive justice. This study recommends a comprehensive reformulation of tax dispute regulations to strengthen the independence of the Tax Court, improve legal protection for taxpayers, and promote substantive justice within Indonesia's tax dispute resolution system. Such reform is expected to enhance legal certainty, fairness, and public trust in the national taxation system. This study fills the research gap concerning the limited discussion of substantive justice in Indonesian tax adjudication and proposes an original reformulation model emphasizing independent review, broader judicial scrutiny, and stronger taxpayer protection.

**Keywords:** Tax Regulation Reformulation; Tax Disputes; Substantive Justice.

## **1. INTRODUCTION**

Taxation constitutes one of the most significant sources of state revenue and plays a crucial role in financing national development, public services, and the realization of social welfare. In modern states, taxes function not only as a fiscal instrument but also as a regulatory tool to achieve economic stability, wealth redistribution, and sustainable development objectives. The effectiveness of a taxation system depends largely on the existence of legal certainty, voluntary compliance, and public trust in tax administration. Consequently, the relationship between taxpayers and tax authorities must be governed by a legal framework capable of ensuring fairness,



accountability, and equal treatment before the law. [REVIEW – RED: 'constitutes' should be corrected to 'constitutes'.] (Brotodihardjo, 2003; Soemitro, 2002)

Indonesia adopts a self-assessment system that grants taxpayers the authority to calculate, pay, and report their own tax obligations. While this system promotes taxpayer participation and administrative efficiency, it simultaneously creates opportunities for differing interpretations between taxpayers and tax authorities regarding the amount of tax payable, the application of tax regulations, and the legality of administrative decisions. Such differences frequently give rise to tax disputes that require an effective and impartial mechanism for resolution. In this context, tax dispute resolution serves as an essential component of the legal system to protect taxpayers' rights while safeguarding state revenue interests. (Soemitro, 2003; Wirawan & Burton, 2008)

The legal framework governing tax dispute resolution in Indonesia is primarily regulated through Law Number 14 of 2002 concerning the Tax Court and Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as amended by subsequent legislation. These laws establish several legal remedies available to taxpayers, including objections, appeals, lawsuits, and judicial review. The Tax Court is entrusted with the authority to examine and adjudicate tax disputes arising from administrative decisions issued by tax authorities. As a specialized judicial institution, the Tax Court is expected to function independently and provide legal protection for taxpayers seeking justice. (Saidi, 2013; Siahaan, 2010)

Despite the existence of a specialized judicial mechanism, concerns regarding the effectiveness of tax dispute resolution continue to emerge. Various scholars, practitioners, and taxpayers have criticized the existing system for its tendency to prioritize procedural and formal legal requirements over substantive justice. In many cases, the resolution of tax disputes focuses primarily on compliance with administrative procedures rather than examining whether the outcome reflects fairness and the actual circumstances experienced by taxpayers. As a result, taxpayers may formally lose a case despite having substantive arguments that demonstrate inequitable treatment or disproportionate administrative action.

The concept of substantive justice emphasizes that legal decisions should not merely adhere to procedural requirements but must also reflect fairness, reasonableness, and the protection of fundamental rights. Within the context of tax disputes, substantive justice requires judges and tax authorities to consider the broader implications of their decisions on taxpayers' rights and legitimate expectations. A legal system that relies exclusively on formal legality may generate decisions that are technically correct yet socially unjust. Therefore, the pursuit of substantive justice represents an important objective in the development of a fair and responsive tax dispute resolution system. (Rahardjo, 2012; Putro, 2024)



The issue of substantive injustice becomes increasingly significant when viewed from the perspective of constitutional principles. The Constitution of the Republic of Indonesia of 1945 guarantees equality before the law, legal certainty, due process of law, and the protection of citizens' rights. These constitutional values require every judicial institution, including the Tax Court, to ensure that legal proceedings are conducted fairly and impartially. However, the implementation of tax dispute regulations has often revealed structural imbalances between taxpayers and tax authorities. Tax authorities possess broader institutional resources, technical expertise, and access to information, whereas taxpayers frequently encounter difficulties in understanding complex tax regulations and defending their interests effectively.

Several procedural aspects of the current tax dispute framework have also been identified as potential sources of injustice. The requirement to undergo an objection process before accessing judicial remedies, strict procedural deadlines, extensive documentation requirements, and limitations on legal remedies may restrict taxpayers' access to justice. Furthermore, judicial review as an extraordinary legal remedy is limited in scope and cannot always address substantive errors in judicial reasoning. These procedural constraints may prevent taxpayers from obtaining a comprehensive examination of their grievances, thereby undermining the realization of substantive justice.

From a theoretical perspective, the concept of justice developed by legal philosophers such as John Rawls, Gustav Radbruch, and Satjipto Rahardjo provides a useful framework for evaluating the adequacy of tax dispute regulations. Rawls emphasizes fairness and equality in institutional arrangements, while Radbruch highlights the relationship between legal certainty, justice, and utility. Similarly, Satjipto Rahardjo's progressive law theory argues that law should serve human interests rather than merely enforce rigid legal norms. These theoretical perspectives suggest that tax dispute resolution should not be confined to procedural correctness but must also promote fairness and societal welfare. Consequently, existing regulations must be evaluated to determine whether they adequately reflect these principles.

The necessity for regulatory reform is further reinforced by the growing complexity of economic transactions, digital taxation, and international tax practices. Contemporary tax disputes increasingly involve sophisticated legal and factual issues that require a flexible and responsive adjudicative framework. Regulatory provisions that were originally designed to address conventional tax disputes may no longer be sufficient to accommodate emerging challenges. Therefore, reformulating tax dispute regulations is necessary not only to address existing weaknesses but also to ensure the adaptability and sustainability of the Indonesian tax justice system in the future.



Based on the foregoing discussion, the reformulation of tax dispute regulations is essential to overcome substantive injustice within the Indonesian tax court system. Such reform should focus on strengthening taxpayer protection, expanding access to justice, improving institutional independence, enhancing procedural fairness, and harmonizing tax dispute regulations with constitutional principles and contemporary legal developments. Accordingly, this study aims to analyze the weaknesses of the current tax dispute resolution framework and formulate a regulatory model capable of achieving substantive justice while maintaining legal certainty and supporting effective tax administration in Indonesia.

## **2. RESEARCH METHOD**

This study employs normative juridical legal research aimed at examining legal principles, doctrines, and statutory regulations relevant to tax dispute resolution within the Indonesian legal system. The research utilizes a statute approach, and a case approach. Primary legal materials consist of the Constitution of the Republic of Indonesia of Nineteen Forty-Five, Law Number Fourteen of Two Thousand and Two concerning the Tax Court, Law Number Six of Nineteen Eighty-Three concerning General Provisions and Tax Procedures as amended by subsequent legislation, and other relevant laws and regulations governing taxation and judicial proceedings. [REVIEW – RED: Clarify the selected cases and explain their relevance to the research objectives.] (Marzuki, 2021)

Secondary legal materials comprise legal textbooks, scholarly journal articles, research reports, legal commentaries, and expert opinions relating to tax law, administrative law, dispute resolution, and judicial reform. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references. The collection of legal materials was conducted through library research. The obtained legal materials were subsequently analyzed using qualitative legal analysis through descriptive, analytical, and prescriptive methods. The analysis was carried out by interpreting legal norms, examining doctrinal perspectives, and evaluating the adequacy of existing regulations in achieving substantive justice within the Indonesian tax dispute resolution system.

## **3. RESULTS AND DISCUSSION**

### **Existing Tax Dispute Regulations and The Emergence of Substantive Injustice in the Indonesian Tax Court System**

#### **1. The Structure of Tax Dispute Resolution in Indonesia**

The implementation of taxation in Indonesia is fundamentally based on the self-assessment system, under which taxpayers are entrusted with the authority to calculate, pay, and report their



own tax obligations in accordance with prevailing tax regulations. This system reflects the state's confidence in taxpayers' compliance and aims to increase administrative efficiency in tax collection. However, the self-assessment mechanism also creates a significant potential for disagreement between taxpayers and tax authorities regarding the interpretation and application of tax laws. Such disagreements frequently result in tax disputes that require legal mechanisms for settlement. (Soemitro, 2003; Wirawan & Burton, 2008)

Tax disputes generally arise when taxpayers disagree with administrative decisions issued by tax authorities, including tax assessment letters, tax collection letters, tax sanctions, and other taxation-related administrative actions. The increasing complexity of business transactions, digital economic activities, transfer pricing arrangements, and cross-border taxation has further intensified the frequency and complexity of tax disputes in Indonesia. Consequently, an effective dispute resolution system is essential not only to protect taxpayers' rights but also to maintain public confidence in the tax administration system.

The legal framework governing tax dispute resolution in Indonesia consists primarily of Law Number Fourteen of Two Thousand and Two concerning the Tax Court and Law Number Six of Nineteen Eighty-Three concerning General Provisions and Tax Procedures, as amended by subsequent legislation. These regulations establish a hierarchical mechanism through which taxpayers may challenge decisions made by tax authorities. The mechanism includes administrative objections, appeals, lawsuits, and judicial review proceedings.

The first stage of dispute resolution is the objection process. Taxpayers who disagree with a tax assessment may submit an objection to the Directorate General of Taxes. The objection mechanism is intended to provide an opportunity for administrative review before the dispute proceeds to judicial examination. In principle, the objection process serves as a means of correcting potential administrative errors and reducing the number of cases brought before the Tax Court.

However, from the perspective of procedural fairness, the objection mechanism presents a fundamental concern. The authority responsible for reviewing the objection remains within the same institution that issued the disputed decision. This institutional arrangement creates the possibility of conflicts of interest and raises questions regarding the impartiality of the review process. Taxpayers frequently perceive that the objection mechanism functions more as an extension of tax administration than as an independent review mechanism capable of objectively reassessing the legality and fairness of disputed tax assessments.

Following the objection stage, taxpayers may file an appeal with the Tax Court. The Tax Court functions as a specialized judicial institution authorized to examine and adjudicate disputes



arising from tax administration decisions. As a judicial body, the Tax Court is expected to provide an independent forum where taxpayers and tax authorities can present evidence and legal arguments before impartial judges. The establishment of the Tax Court represents an important step toward ensuring legal protection for taxpayers within the Indonesian taxation system.

Despite its judicial nature, the Tax Court has been subject to criticism regarding its ability to deliver substantive justice. Critics argue that the court often places excessive emphasis on procedural compliance and documentary formalities while paying insufficient attention to broader considerations of fairness and proportionality. As a result, decisions may satisfy legal technicalities without necessarily achieving equitable outcomes for taxpayers. This condition demonstrates the tension between legal certainty and substantive justice that continues to characterize tax dispute resolution in Indonesia.

## 2. Manifestations of Substantive Injustice in Tax Dispute Resolution

Substantive justice refers to the realization of fairness through legal outcomes that reflect the actual rights, interests, and circumstances of the parties involved. Unlike procedural justice, which focuses on adherence to legal procedures, substantive justice emphasizes whether the final outcome genuinely promotes fairness and equity. Within the context of tax disputes, substantive justice requires legal institutions to ensure that taxpayers are not disadvantaged merely because of procedural shortcomings or unequal access to resources.

One manifestation of substantive injustice can be observed in the imbalance of power between taxpayers and tax authorities. Tax authorities possess extensive institutional resources, technical expertise, investigative powers, and access to information. In contrast, taxpayers often lack equivalent resources and may experience significant difficulties in understanding complex tax regulations. This disparity creates an unequal position between the parties and may influence the outcome of dispute resolution proceedings.

The complexity of tax legislation further exacerbates this imbalance. Indonesian tax regulations are characterized by frequent amendments, extensive technical provisions, and intricate interpretative requirements. Many taxpayers, particularly individual taxpayers and small or medium-sized enterprises, encounter difficulties in comprehending these regulations. Consequently, taxpayers may inadvertently commit compliance errors or fail to present legal arguments effectively during dispute resolution proceedings.

Another manifestation of substantive injustice arises from the procedural requirements imposed on taxpayers seeking legal remedies. Strict filing deadlines, extensive documentary requirements, and formal procedural obligations may prevent taxpayers from obtaining judicial review of their



grievances. Although procedural requirements are necessary to ensure legal certainty and administrative efficiency, excessive procedural rigidity may undermine access to justice. Taxpayers with legitimate substantive claims may lose the opportunity to pursue legal remedies simply because of procedural deficiencies.

Substantive injustice may also arise from evidentiary practices within tax dispute proceedings. In many cases, taxpayers bear a significant burden in proving the correctness of their position. This burden may become particularly problematic when relevant information is controlled by tax authorities or when taxpayers face practical difficulties in obtaining historical documentation. Consequently, the evidentiary framework may unintentionally favor tax authorities and reduce the ability of taxpayers to defend their rights effectively.

Furthermore, judicial reasoning that prioritizes literal interpretations of statutory provisions may produce outcomes inconsistent with fairness and proportionality. Tax law necessarily relies on written legal norms, but strict adherence to textual interpretation may overlook the broader objectives of justice and legal protection. In certain circumstances, a decision that is formally correct under statutory law may nevertheless produce unjust consequences for taxpayers. This phenomenon illustrates the distinction between formal legality and substantive justice.

The existence of substantive injustice not only affects individual taxpayers but also influences broader public perceptions of the taxation system. Public confidence in tax administration depends significantly upon the belief that disputes will be resolved fairly and impartially. When taxpayers perceive that the dispute resolution system favors tax authorities or prioritizes procedural technicalities over fairness, trust in the legal system may diminish. Such perceptions can ultimately undermine voluntary tax compliance and weaken the legitimacy of taxation as a public institution.

### 3. Weaknesses of Existing Tax Court Regulations

An examination of existing tax dispute regulations reveals several structural and normative weaknesses that contribute to substantive injustice. One significant weakness concerns the institutional design of tax dispute resolution mechanisms. Although the Tax Court functions as a judicial body, its historical development and administrative arrangements have generated ongoing debates regarding its institutional independence and effectiveness.

Another weakness relates to the limited scope of available legal remedies. Judicial review serves as the final legal remedy within the tax dispute system. However, judicial review is restricted to specific legal grounds and cannot always address substantive concerns regarding fairness and factual evaluation. Consequently, taxpayers may encounter situations in which potentially unjust decisions become final despite unresolved substantive issues.



The regulatory framework also lacks comprehensive provisions addressing proportionality and fairness in tax adjudication. Existing regulations primarily emphasize procedural requirements and technical compliance rather than substantive evaluation of taxpayer rights. As a result, judges may have limited guidance regarding how constitutional principles of justice should influence their interpretation and application of tax law.

Additionally, the objection mechanism continues to present concerns regarding impartiality. Since objections are reviewed by the tax administration itself, taxpayers may perceive the process as inherently biased. The absence of an independent administrative review body prior to judicial proceedings reduces the effectiveness of the objection mechanism as a means of dispute resolution.

The increasing complexity of contemporary taxation further highlights the inadequacy of existing regulations. Digital business models, international taxation arrangements, and evolving commercial practices create legal issues that were not fully anticipated by earlier regulatory frameworks. Consequently, existing tax dispute regulations may be insufficient to address emerging challenges and ensure consistent protection of taxpayer rights.

From a constitutional perspective, these weaknesses raise important questions concerning equality before the law, access to justice, legal certainty, and due process of law. The realization of these constitutional principles requires a dispute resolution system that not only adheres to procedural legality but also promotes fairness and proportionality in legal outcomes. Therefore, reformulation of tax dispute regulations becomes an urgent necessity for strengthening substantive justice within the Indonesian tax court system.

### **The Urgency of Reformulating Tax Dispute Regulations to Achieve Substantive Justice**

#### **1. Philosophical Foundations for Reformulation**

The reformulation of tax dispute regulations must be grounded in a strong philosophical foundation that reflects the fundamental objectives of law. In legal philosophy, the law is generally expected to achieve three primary objectives: justice, legal certainty, and utility. These objectives, as articulated by Gustav Radbruch, should operate harmoniously within every legal system. However, when legal certainty is excessively prioritized at the expense of justice, the law may produce outcomes that are formally correct but substantively unfair. Such circumstances frequently arise within the Indonesian tax dispute resolution system, where procedural compliance often takes precedence over equitable considerations.

Justice constitutes one of the most important values underlying the existence of a legal system. The concept of justice extends beyond the mechanical application of legal norms and requires consideration of fairness, proportionality, and the protection of individual rights. In tax



disputes, justice demands that taxpayers be provided with meaningful opportunities to challenge administrative decisions that adversely affect their rights and interests. A dispute resolution mechanism that merely emphasizes procedural requirements without considering substantive fairness risks undermining the legitimacy of the legal system itself.

John Rawls' theory of justice provides a relevant framework for evaluating tax dispute regulations. According to Rawls, social and legal institutions should be arranged in a manner that guarantees fairness for all individuals. His principles of justice emphasize equal liberty and fair equality of opportunity. Applied to tax dispute resolution, these principles require the legal system to ensure that taxpayers and tax authorities enjoy equal opportunities to present their cases before an impartial adjudicator. Any procedural or institutional arrangement that creates an imbalance between the parties may therefore be considered inconsistent with the principles of justice.

The philosophical necessity of reform also finds support in the theory of progressive law developed by Satjipto Rahardjo. Progressive law rejects the notion that legal rules constitute an end in themselves. Instead, law should function as a means of achieving social welfare and human dignity. From this perspective, tax dispute regulations should not merely enforce technical compliance with statutory provisions but should also facilitate fair and reasonable outcomes that protect taxpayers from arbitrary administrative action.

Another philosophical consideration concerns the relationship between taxation and state legitimacy. Taxation is based upon the principle that citizens contribute a portion of their economic resources to support public interests. However, taxpayers are more likely to comply voluntarily when they perceive the taxation system as fair and transparent. Consequently, substantive justice within tax dispute resolution contributes not only to individual legal protection but also to broader societal trust in government institutions.

The pursuit of substantive justice is therefore not merely a procedural concern but a fundamental requirement for maintaining the moral legitimacy of the tax system. A legal framework that consistently produces outcomes perceived as unjust may erode public confidence and weaken the willingness of taxpayers to fulfill their obligations voluntarily. Accordingly, reformulating tax dispute regulations is essential to ensure that the legal system remains aligned with its philosophical commitment to justice.

## 2. Sociological Foundations for Reformulation

The urgency of reformulating tax dispute regulations is also supported by sociological considerations. Law does not operate in isolation but functions within a broader social environment. Consequently, legal norms must respond to societal needs, expectations, and



developments. Tax dispute regulations that fail to adapt to changing social and economic realities may become ineffective in achieving their intended objectives.

Indonesia has experienced significant economic transformation over recent decades. Rapid globalization, technological advancement, digital commerce, and international business activities have fundamentally altered the nature of taxation. Contemporary tax disputes frequently involve sophisticated transactions, cross-border arrangements, digital assets, and complex corporate structures. These developments have increased the complexity of tax administration and dispute resolution processes.

At the same time, taxpayers have become increasingly aware of their legal rights and expectations regarding government accountability. Modern taxpayers demand greater transparency, procedural fairness, and legal protection when interacting with tax authorities. The growth of information technology has facilitated access to legal information and increased public scrutiny of governmental actions. As a result, taxpayers are more likely to challenge administrative decisions that they perceive as unfair or inconsistent with legal principles.

The increasing number of tax disputes further illustrates the importance of establishing an effective and credible dispute resolution mechanism. A growing volume of disputes may indicate underlying deficiencies within tax administration, legislative drafting, or dispute resolution procedures. If such deficiencies remain unaddressed, they may generate recurring conflicts between taxpayers and tax authorities, thereby increasing administrative costs and reducing public trust.

Sociological realities also reveal disparities in access to legal resources among taxpayers. Large corporations often possess substantial financial resources and access to professional legal representation, whereas individual taxpayers and small enterprises may lack comparable capabilities. This disparity may influence the outcome of tax disputes and create perceptions of inequality within the legal system. Reform efforts should therefore focus on reducing barriers to justice and ensuring that all taxpayers have meaningful opportunities to defend their rights. Moreover, public confidence in the taxation system depends heavily upon perceptions of fairness. When taxpayers believe that disputes are resolved impartially and transparently, they are more likely to comply voluntarily with tax obligations. Conversely, perceptions of bias, procedural rigidity, or institutional inequality may undermine trust and reduce compliance. Accordingly, reformulating tax dispute regulations is essential not only for resolving individual disputes but also for strengthening the social legitimacy of taxation as a public institution.



**3. Juridical Foundations for Reformulation**

In addition to philosophical and sociological considerations, the reformulation of tax dispute regulations is supported by strong juridical foundations. The Indonesian legal system is based upon the rule of law principle, which requires all governmental actions to be conducted in accordance with legal norms and constitutional values. Consequently, tax dispute regulations must be evaluated to ensure their consistency with constitutional guarantees and broader legal principles. The Constitution of the Republic of Indonesia of Nineteen Forty-Five guarantees equality before the law, legal certainty, protection of human rights, and access to justice. These constitutional guarantees apply equally within the field of taxation. Taxpayers must therefore be afforded adequate legal protection against arbitrary or disproportionate administrative actions undertaken by tax authorities.

Existing tax dispute regulations, however, continue to exhibit certain normative weaknesses. One notable concern relates to the objection mechanism, which is administered by the same institution responsible for issuing the disputed decision. While the mechanism aims to facilitate administrative correction, questions remain regarding its ability to provide genuinely independent review. Such concerns may affect public confidence in the fairness of dispute resolution procedures.

Another juridical issue concerns the limited availability of legal remedies. Judicial review serves as the final mechanism for challenging Tax Court decisions, yet its scope remains restricted. Consequently, substantive errors affecting fairness may not always be subject to effective correction. This limitation raises important questions regarding the adequacy of legal protection available to taxpayers.

Furthermore, the absence of explicit statutory provisions emphasizing substantive justice creates interpretative uncertainty. Judges are often required to balance legal certainty with fairness, yet existing legislation provides limited guidance regarding how constitutional principles should influence tax adjudication. As a result, judicial decisions may vary significantly in their approach to substantive justice.

The necessity of reform is therefore evident from a juridical perspective. Tax dispute regulations should be harmonized with constitutional principles, international standards of due process, and contemporary developments in administrative law. Such harmonization would strengthen legal certainty while simultaneously enhancing fairness and protection for taxpayers

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## **Reformulation of Tax Dispute Regulations to Achieve Substantive Justice**

### **1. Strengthening Taxpayer Protection**

One of the most important objectives of reformulating tax dispute regulations is the enhancement of taxpayer protection. Effective legal protection requires more than the mere existence of legal remedies; it demands procedures capable of ensuring meaningful access to justice and fair treatment throughout the dispute resolution process.

Taxpayer protection should begin at the administrative level. Taxpayers must receive clear explanations regarding the legal basis of administrative decisions, the evidence relied upon by tax authorities, and the procedures available for challenging such decisions. Transparency enhances accountability and enables taxpayers to prepare effective legal responses.

Additionally, taxpayers should be provided with broader opportunities to present evidence and legal arguments. Procedural rules should be designed to facilitate substantive examination of disputes rather than creating unnecessary obstacles to judicial review. By reducing excessive formalism, the legal system can improve access to justice while preserving legal certainty.

### **2. Expanding Access to Legal Remedies**

Access to legal remedies constitutes a fundamental element of substantive justice. Taxpayers must possess effective mechanisms for challenging decisions that adversely affect their rights. Existing legal remedies should therefore be evaluated to determine whether they provide adequate opportunities for substantive review. (Lotulung, 1986; Lotulung, 2000)

One possible reform involves strengthening the independence of administrative review procedures. An independent review body operating separately from tax administration could provide more objective assessment of taxpayer objections before disputes proceed to judicial proceedings. Such a mechanism would enhance public confidence and potentially reduce the number of cases brought before the Tax Court.

Another reform concerns the expansion of judicial review mechanisms. Courts should possess sufficient authority to examine both legal and factual issues relevant to the fairness of administrative decisions. Broader review powers would increase the likelihood that substantive errors are identified and corrected before decisions become final and binding.

### **3. Institutional Reform of the Tax Court**

The realization of substantive justice in tax dispute resolution cannot be separated from the institutional capacity and independence of the Tax Court. As a judicial institution entrusted with resolving disputes between taxpayers and tax authorities, the Tax Court occupies a strategic position within the Indonesian legal system. Consequently, institutional reform is necessary to ensure that the court can effectively fulfill its constitutional role as an impartial guardian of justice.



One of the primary concerns regarding the Tax Court relates to its institutional position and administrative structure. Although the Tax Court exercises judicial functions, discussions continue regarding the extent to which its organizational arrangements fully reflect the principle of judicial independence. Judicial independence constitutes a fundamental requirement of the rule of law because courts must be free from external influence, whether originating from executive authorities, political actors, or administrative institutions.

Institutional independence is particularly important in tax disputes because the parties involved possess significantly different levels of authority and resources. Tax authorities represent the interests of the state and possess extensive administrative powers, whereas taxpayers generally occupy a comparatively weaker position. Under such circumstances, courts must function as neutral arbiters capable of balancing the interests of both parties and ensuring equal treatment before the law.

Reforming the Tax Court should therefore include measures designed to strengthen its institutional autonomy and enhance public confidence in its impartiality. Such measures may involve improving administrative governance, increasing transparency in judicial proceedings, strengthening judicial accountability mechanisms, and ensuring that judicial appointments are based upon merit, competence, and integrity.

In addition, the professional capacity of tax judges should be continuously improved to address the increasing complexity of contemporary taxation issues. Modern tax disputes frequently involve sophisticated financial transactions, digital business models, international taxation arrangements, and transfer pricing mechanisms. Judges must therefore possess not only legal expertise but also a comprehensive understanding of taxation principles, accounting practices, and economic realities. Continuous professional development programs can contribute significantly to improving the quality and consistency of judicial decisions.

Another important aspect of institutional reform concerns transparency and accessibility. Judicial decisions should be published in a manner that enables taxpayers, practitioners, and scholars to understand the legal reasoning adopted by the court. Transparent publication of decisions contributes to legal certainty, promotes consistency in judicial interpretation, and facilitates the development of legal scholarship. Moreover, increased transparency strengthens public trust by demonstrating that judicial decisions are based upon objective legal analysis rather than arbitrary considerations.

Institutional reform should also seek to improve procedural efficiency. Prolonged dispute resolution processes may impose substantial financial and administrative burdens upon taxpayers. Delays in adjudication can create uncertainty regarding tax obligations and negatively affect



business planning and investment decisions. Consequently, reforms aimed at streamlining procedures and reducing unnecessary delays would contribute to both substantive justice and economic efficiency.

Ultimately, the effectiveness of tax dispute resolution depends upon the ability of the Tax Court to operate as an independent, professional, transparent, and accessible judicial institution. Strengthening these institutional characteristics is therefore essential for achieving substantive justice within the Indonesian tax dispute resolution system.

#### **4. Harmonization with Constitutional Principles**

The reformulation of tax dispute regulations should also be guided by constitutional principles that serve as the foundation of the Indonesian legal system. Constitutional values provide normative standards against which legislation, administrative actions, and judicial decisions must be evaluated. Consequently, tax dispute regulations must be harmonized with constitutional guarantees to ensure the protection of taxpayers' rights and the legitimacy of state action.

One of the most fundamental constitutional principles is equality before the law. This principle requires that all individuals receive equal treatment within legal proceedings regardless of their social status, economic position, or relationship with governmental institutions. In the context of tax disputes, equality before the law demands that taxpayers and tax authorities be afforded equal opportunities to present evidence, advance legal arguments, and challenge opposing claims. However, practical realities often reveal significant disparities between taxpayers and tax authorities. Tax authorities possess institutional expertise, extensive resources, and access to information that may not be readily available to taxpayers. These disparities can create structural inequalities that undermine the practical realization of equality before the law. Reform efforts should therefore seek to mitigate such imbalances through procedural safeguards and enhanced taxpayer protections.

Another constitutional principle relevant to tax dispute resolution is legal certainty. Legal certainty requires that legal rules be clear, predictable, and consistently applied. Taxpayers must be able to understand their rights and obligations and anticipate the legal consequences of their actions. Ambiguous regulations, inconsistent judicial interpretations, and unpredictable administrative practices may undermine legal certainty and create unnecessary disputes.

At the same time, legal certainty should not be pursued at the expense of justice. Excessive rigidity in the application of legal rules may produce outcomes that are technically lawful but substantively unfair. Consequently, tax dispute regulations must strike an appropriate balance between legal certainty and substantive justice. This balance can be achieved by granting judges



sufficient discretion to consider fairness and proportionality while maintaining adherence to statutory requirements.

The constitutional principle of due process of law also plays a central role in tax dispute resolution. Due process requires that individuals be provided with fair procedures before decisions affecting their rights and interests are imposed. This principle encompasses the right to be heard, the right to present evidence, the right to receive reasoned decisions, and the right to challenge adverse determinations through appropriate legal mechanisms.

Tax dispute regulations should therefore ensure that taxpayers enjoy meaningful procedural protections throughout all stages of dispute resolution. Administrative efficiency, while important, should not override the fundamental requirement of procedural fairness. The legitimacy of taxation ultimately depends upon the perception that tax obligations are imposed and enforced through fair and transparent processes.

Furthermore, constitutional protection of property rights provides an additional basis for strengthening taxpayer safeguards. Taxation necessarily involves state interference with private property through the collection of public revenue. While such interference is legally justified in pursuit of public interests, it must nevertheless be exercised in accordance with principles of proportionality, legality, and fairness. Tax dispute mechanisms serve as an important means of ensuring that these principles are respected in practice.

Accordingly, harmonization with constitutional principles should constitute a central objective of regulatory reform. Tax dispute regulations that reflect constitutional values are more likely to achieve legitimacy, fairness, and public acceptance.

## 5. Comparative Perspectives on Tax Dispute Resolution

Comparative legal analysis provides valuable insights for the reformulation of tax dispute regulations in Indonesia. Examining the experiences of other jurisdictions enables policymakers and scholars to identify best practices that may contribute to improving domestic legal frameworks. In the Netherlands, tax dispute resolution is strongly influenced by principles of administrative fairness and judicial independence. Dutch courts emphasize substantive examination of disputes and maintain a balanced approach between the interests of taxpayers and tax authorities. The judicial system provides taxpayers with meaningful opportunities to challenge administrative decisions and ensures comprehensive review of both legal and factual issues.

Australia similarly offers a dispute resolution framework that incorporates multiple avenues for review and appeal. Taxpayers may seek administrative reconsideration, independent review, and judicial determination depending upon the nature of the dispute. The availability of

alternative dispute resolution mechanisms also contributes to the efficient settlement of disputes while reducing litigation costs.

Singapore has developed a tax administration system characterized by transparency, efficiency, and legal certainty. The dispute resolution process emphasizes clarity of procedures, accessibility of information, and professionalism in adjudication. These characteristics have contributed to high levels of taxpayer confidence and voluntary compliance.

Although each jurisdiction operates within its own legal and institutional context, several common principles emerge from comparative analysis. These include judicial independence, procedural fairness, accessibility of legal remedies, transparency in decision-making, and effective protection of taxpayer rights. Such principles may provide useful guidance for the reformulation of Indonesian tax dispute regulations.

Comparative experiences also demonstrate that effective tax dispute resolution requires a balance between administrative efficiency and legal protection. Excessive procedural complexity may discourage taxpayers from pursuing legitimate claims, whereas insufficient procedural safeguards may expose taxpayers to arbitrary decision-making. Regulatory reform should therefore seek to achieve an appropriate equilibrium between these competing objectives.

#### **6. Proposed Reformulation Model for Tax Dispute Regulations**

Based on the philosophical, sociological, juridical, and comparative analyses presented above, a comprehensive reformulation model may be proposed to strengthen substantive justice within the Indonesian tax dispute resolution system.

First, the objection mechanism should be redesigned to enhance independence and impartiality. Consideration should be given to establishing an independent administrative review body that operates separately from the tax authority responsible for issuing disputed decisions. Such a mechanism would improve public confidence and increase the credibility of administrative review procedures.

Second, taxpayer rights should be explicitly recognized and strengthened within tax dispute regulations. Legislative provisions should guarantee access to information, transparency of administrative actions, procedural fairness, and effective legal remedies. Clear articulation of taxpayer rights would contribute to legal certainty and facilitate judicial protection.

Third, judicial review mechanisms should be expanded to permit broader examination of substantive issues affecting fairness and proportionality. Courts should possess sufficient authority to evaluate both legal and factual aspects of disputes in order to prevent unjust outcomes from becoming final and binding.



Fourth, procedural requirements should be simplified where appropriate to improve access to justice. While procedural rules remain necessary to ensure efficiency and legal certainty, they should not operate as unnecessary barriers preventing taxpayers from obtaining substantive review of legitimate grievances.

Fifth, constitutional principles should be expressly incorporated into the interpretation and application of tax dispute regulations. Judges should be encouraged to consider principles such as equality before the law, due process, proportionality, and legal protection when resolving disputes. Finally, institutional strengthening of the Tax Court should be prioritized through improvements in judicial independence, professional competence, transparency, and accountability. A credible and effective judicial institution is indispensable for the realization of substantive justice.

The proposed reformulation model seeks to balance the interests of taxpayers and the state while promoting fairness, legal certainty, and public confidence. Through comprehensive reform, the Indonesian tax dispute resolution system can evolve from a framework primarily focused on procedural legality toward one that genuinely embodies the principles of substantive justice.

#### **4. CONCLUSION**

The current tax dispute resolution system in Indonesia still faces challenges in realizing substantive justice. Procedural barriers, limited legal remedies, institutional concerns, and excessive formalism contribute to the emergence of unfair outcomes for taxpayers. These conditions indicate that existing regulations have not fully accommodated constitutional principles of justice and legal protection. [REVIEW – RED: Correct spelling errors ('challenges', 'procedural').]

Therefore, reformulation of tax dispute regulations is necessary through strengthening taxpayer protection, enhancing judicial independence, expanding legal remedies, and harmonizing legal norms with constitutional values. Such reforms are expected to create a more balanced, fair, and effective tax justice system capable of ensuring both legal certainty and substantive justice. Policy Implications. Legislators should harmonize the Tax Court Law, General Tax Procedures Law, and Judicial Power Law, while tax authorities should improve transparency and taxpayer access to information. The novelty of this study lies in its integrated reformulation model combining constitutional principles, comparative practices, institutional independence, and substantive justice.



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