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Enforcement of Administrative Court Decisions: A Proposal for *Gijzeling* (Hostage) Sanctions in Indonesia

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Abstract

Sanctions for State Administrative Officials who do not implement the decision of the State Administrative Court (PTUN) which has permanent legal force are regulated in Article 116 of the State Administrative Court Law. These sanctions include administrative and civil coercive measures, including the imposition of coercive money. However, the implementation of these sanctions has not been running effectively and efficiently. Therefore, it is necessary to reformulate the coercive measure mechanism by implementing gijzeling sanctions (hostage-taking) as an alternative step to increase the compliance of TUN officials with court decisions. This study aims to examine the idea of reformulating the application of gijzeling as part of the coercive measure mechanism in PTUN. The method used is legal research with a statute approach and conceptual approach, and descriptive qualitative data analysis. The results of the study indicate that gijzeling sanctions have been applied in several forms of administrative justice, such as the Tax Court in Indonesia, which is part of the PTUN environment. Therefore, the application of gijzeling as a coercive measure in the PTUN needs to be considered, especially for TUN officials who do not act in good faith in implementing court decisions. This aims to increase compliance, maintain the authority of the judicial institution, and ensure justice for the community.The significance of this research lies in its contribution to the development of administrative law enforcement mechanisms in Indonesia, by offering an innovative solution to improve the effectiveness of court decisions and uphold legal certainty and accountability among public officials.

Keywords: Re-formulation, Coercive Efforts, Gijzeling, Judicial Authority; Justice

I. Introduction

Indonesia is a country based on law, as explicitly stated in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. As a country that applies the principle of a state of law, the existence of administrative justice is one of the main pillars in strengthening the legal system

in this country [1]. Justice in a state of law is a real manifestation of the supremacy of law (supremacy of law). [2]In Indonesia, provisions regarding the judiciary are regulated in Article 24 paragraph 2 of the Third Amendment to the 1945 Constitution of the Republic of Indonesia, which states that judicial power is exercised by the Supreme Court and the judicial bodies below it, which include general courts, military courts, and state administrative courts, as well as by the Constitutional Court. In addition to being regulated in the constitution, further regulations regarding judicial power are also contained in Law Number 48 of 2009 concerning Judicial Power, specifically in Article 18, which emphasizes that judicial power is exercised by the Supreme Court and the judicial bodies below it in the various judicial environments mentioned, as well as by the Constitutional Court.

The State Administrative Court as part of the administrative court acts as a means provided by the state to guarantee the protection of citizens' rights. In the administrative law system, this court is the last forum for citizens to file resistance against acts of injustice committed by the authorities [3]. In the national development process, a condition is needed that allows every citizen to feel an orderly atmosphere and legal certainty based on justice. However, in its implementation, the potential for conflicts of interest, disputes, or disputes between State Administrative Agencies or Officials and the community cannot be avoided, which risks hindering the progress of development. [4]The existence of the State Administrative Court aims to uphold justice, truth, order, and legal certainty, so that it can provide legal protection for the community, especially in relations between state agencies or officials and citizens. This principle underlies the birth of Law Number 5 of 1986 concerning the State Administrative Court. Thus, the State Administrative Court has an important role as an institution authorized to resolve disputes between state administrative officials and the people. The State Administrative Court was established based on Law Number 5 of 1986 concerning the State Administrative Court, which was then amended through Law Number 9 of 2004 and was last updated by Law Number 51 of 2009 as the second amendment to Law Number 5 of 1986.

The State Administrative Court is expected to provide justice and legal certainty for people seeking justice. According to Prajudi Atmosudirdjo, the establishment of the state administrative court (PTUN) aims to protect citizens whose legal interests are often neglected or pressured due to the increasing government intervention in people's lives. Through PTUN, the public has the right to file lawsuits against government actions and obtain fair legal corrections.[5] Currently, legal corrections from the State Administrative Court are often ignored, especially due to uncertainty in the implementation of decisions that have permanent legal force. This is a problem for people seeking justice, where State Administrative Officials tend to ignore and not implement decisions that should be carried out. As a result, the success rate in executing decisions in the State Administrative Court environment is relatively low. Based on various studies, this low success rate has occurred both before and after the implementation of the coercive execution mechanism in 2004. [6]The success of law enforcement at least depends on the extent to which court

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1 Endra Wijaya, *Introduction to State Administrative Court Procedure Law,* Jakarta: Center for Legal Studies, Faculty of Law, Pancasila University, 2011. p.2

2 Asshiddiqie, Jimly. 2006. *Judicial Ethics and Constitutional Ethics: New Perspectives on Rule of Law and Rules of Ethics in Nation and State.* Jakarta: Sinar Grafika. p.5.

3 Rifqi Ridlo Phahlevy, Aidulfitriciadi Azhari, Shift Paradigm State Administrative Courts in Indonesia and the Netherlands, *Jurnal Arena Hukum,* Vol. 12 No. 3 December 2019, p. 576-591

4 Soehino. (1993). *State Science.* Yogyakarta: Liberty.p.10

5 Gambling Atmosudirjo, *State Administrative Law,* Jakarta: Ghalia Indonesia, 1981, p.144-145

6 Irfan Fachruddin, 2009, Implementation Decision State Administrative Court, Paper Presented at Rakerda Supreme Court of the Republic of Indonesia in the Field State Administrative Court of Medan, Sumatra Region, on November 2, 2009

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decisions can be implemented. Court decisions that have permanent legal force are a symbol of honor for judges and reflect the authority of the judicial institution. Compliance in implementing court decisions is a real indicator that the law is truly applied consistently and purely, especially in a country based on the principle of a state of law.

The implementation of the State Administrative Court's decision has actually been regulated in Article 116 of the State Administrative Court Law, which stipulates the execution mechanism through administrative and civil coercive efforts, including the imposition of coercive money. However, in practice, this mechanism has not been effective because there are still State Administrative Officials who do not comply with court decisions. Therefore, criminalization of contempt actions is needed. of court for disobedient officials, considering that the impact can ignore the constitutional rights of citizens to justice that have been decided by the State Administrative Court [7].

Disobedience to the implementation of a decision of the State Administrative Court that has permanent legal force is basically a form of defiance against the authority of the judicial institution and reflects the arrogance of power over the law. [8]The weakness of coercive power in executing PTUN decisions increasingly shows helplessness, like a "toothless tiger." This condition raises doubts about the state's bias, which should play a role in preventing arbitrary power over society. Therefore, criminalization of the rejection of the implementation of court decisions through the offense of contempt of court needs to be considered, where non-compliance with court decisions, including PTUN, must be regulated and subject to criminal sanctions.[9]

In response to the phenomenon of non-compliance of State Administrative Officials in implementing decisions of the State Administrative Court that have permanent legal force, the author assesses that additional steps are needed in addition to administrative coercion and the imposition of coercive money. One solution that can be applied is to adopt a physical coercive mechanism through hostage-taking (*Gijzeling*), as applied in tax collection based on Law Number 19 of 1997 concerning Tax Collection with a Distress Warrant, which was later amended through Law Number 19 of 2000. The application of Gijzeling is expected to increase compliance in implementing decisions, although this mechanism remains the last step *(ultimum remedium)*. This action will only be used if the provisions of Article 116 of the State Administrative Court Law are not implemented and there are indications that the State Administrative Officials do not act in good faith in carrying out the decision which is a symbol of the authority of the judiciary.

Taxation issues are also included in the administrative realm. If a tax dispute occurs, the settlement is carried out through a special administrative court, namely the Tax Court. This is regulated in Law Number 14 of 2002 concerning the Tax Court, which is part of the special court. In accordance with the provisions of Article 11 paragraph 1 of Law Number 48 of 2009 concerning Judicial Power, the Tax Court is within the State Administrative Court.

Based on this, the author is motivated to develop an idea that aims to improve compliance in the implementation of decisions of the State Administrative Court. One effort that can be made is to reformulate the mechanism of coercive measures by implementing the institution of hostage taking (*Gijzeling)* in the State Administrative Court. This is important because the decisions of the State Administrative Court, which should be a symbol of the authority of judges, are often ignored by State Administrative Officials. As a result, the authority of the judicial institution is weakened and the goal of justice for the community cannot be achieved optimally.

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[7] Budi Suhariyanto, Urgency Criminalization of Contempt of Court for Effectiveness Implementation Decision State Administrative Court, *Journal Constitution,* Vol 16, No. 1, March 2019, p. 192-211.
[8] Ridwan HR. (2011). *State Administrative Law.* Jakarta: RajaGrafindo Persada.p.4
[9] *Ibid*.

The novelty of this research lies in the proposal to adopt *gijzeling*—a mechanism commonly used in tax law enforcement—as an alternative coercive measure in the State Administrative Court (PTUN) to address non-compliance by State Administrative Officials. While previous studies have primarily focused on administrative and civil enforcement, this study introduces the concept of physical coercion in the form of hostage-taking, which has not been widely explored in the realm of state administrative justice. This approach aims to provide a breakthrough in overcoming the persistent ineffectiveness of the current coercive mechanisms regulated under Article 116 of the PTUN Law. By applying a model that has proven effective in tax law, the study offers a fresh and practical solution to strengthen judicial authority and uphold legal certainty. The significance of this research is to ensure that court decisions are not only symbolic but also executable, thereby restoring public trust in the justice system. Ultimately, this reformulation contributes to the broader development of administrative law enforcement in Indonesia, particularly in reinforcing accountability among state officials.

II. Research Problems

This research focuses on two main problem formulations. First, how are coercive measures currently regulated and implemented as a means of enforcing decisions of the State Administrative Court (PTUN) in Indonesia? This includes examining the effectiveness, legal challenges, and the actual implementation by administrative officials. Second, how can the coercive measures of the State Administrative Court be reformulated through the application of the gijzeling (hostage) institution as an alternative enforcement mechanism? The study aims to evaluate the necessity and relevance of adopting gijzeling to strengthen the executorial power of administrative court decisions in order to ensure administrative justice.

III. Research Methods

This research uses the *legal research method* or normative legal research with a *statute* approach. *approach)* and conceptual approach (*conceptual approach*). The legislative approach is carried out by analyzing various regulations related to the implementation of State Administrative Court decisions, especially in relation to the mechanism of coercive measures and the application of hostage sanctions (*Gijzeling*). Meanwhile, the conceptual approach is used to examine legal concepts related to the authority of court decisions, officials' compliance with court decisions, and the urgency of reformulating coercive measures in the administrative justice system in Indonesia.[10]

In this normative legal research, the study of legislation is conducted from various aspects, including legal theory, legal philosophy, comparative law, and analysis of the structure, consistency, and binding power of a regulation. In addition, this research also reviews the use of legal language in the regulations studied to ensure normative clarity in their implementation.

The data analysis used is descriptive qualitative, where the data collected is in the form of official documents, such as laws and related court decisions, which are then analyzed qualitatively with an interpretive approach. Data that has been systematically classified is analyzed using the deductive thinking method, namely drawing conclusions from general principles into specific findings that are relevant to the research problem.

[10] Marzuki, Peter Mahmud. 2017. *Legal Research.* Jakarta: Kencana.p.7

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IV. Result and Discussion

1. Arrangement Forced Efforts as implementation decision State Administrative Court in Indonesia at present This

Various thinking Good results study and also draft thinking related with effort force in implementation decision Justice The State Administrative Decision has Lots put forward including opinions that direct the actions of State Administrative Officials that are not Want to carry out Decision The State Administrative Court which has powerful law still it is said as contempt *of court* threatened with criminal, with see phenomenon there is constraint decision State Administrative Court which does not carried out by State Administrative Officials precedent that is not Good for authority and existence State Administrative Court and for public seeker justice. Therefore through this writing, the author try to put forward thoughts and ideas related with discourse implementation effort force through sanctions hostage / Hostage for State Administrative Officials who do not Want to carry out Decision the State Administrative Court which has powerful law still.

Existence The State Administrative Court is regulated in Constitution Number 5 of 1986 concerning State Administrative Court as has changed with Constitution Number 9 of 2004 concerning Changes to the Law Number 5 of 1986 concerning State Administrative Court and finally changed with Constitution Number 51 of 2009 concerning Change Secondly, under the Law Number 5 of 1986 concerning State Administrative Court, State Administrative Court is one of the institution lower court The Supreme Court implements it power judiciary for the people against State Administrative Dispute. While State Administrative Disputes are disputes that arise in the field of State Administration between individuals or legal entities civil with the Agency or State Administrative Officials, both at the center or in the regions, as consequence issuance of State Administrative Decisions, including dispute personnel based on regulation applicable laws and regulations. Agency or The TUN officials themselves is the Agency or the official who carries out affairs government based on regulation applicable laws,

Execution to decision Court often cause a problem, okay in court Civil both in court and in court Administration, in execution decision justice civil often found obstacles, start from constraint in emptying building, where the losing party No Want to go out from disputed object, as well as in demolition A building, although Finally of course can use help apparatus as tool coercive, namely For do security for evacuation and also demolition building force can implemented in accordance with love verdict, but in State Administrative Court mechanism effort force No can use help apparatus, so that justice for public often ignored, even State Administrative Officials tend to ignore, even rebellious to decision The State Administrative Court which has powerful law Still.

Administrative Law Sanctions, according to JBJM ten Berge, "sanctions is the core of enforcement law administration. Sanctions required For ensure enforcement law administration". According to P de Haan et al, " in HAN, the use of sanctions administration is implementation authority government, where authority This originate from rule law administration written and not written". JJ. Oosternbrink think "sanctions" administration is sanctions that arise from connection between government — citizens and what is implemented without intermediary party third (power) justice), but can in a way direct implemented by the

administration myself" [11]. With thus according to writer enforcement law administration can walk with Good or No then one of them can seen form sanctions imposed effective or No.

Implementation Decision based on Constitution State Administrative Court, related with implementation decision justice administration, law The State Administrative Court has arrange mechanism implementation decision namely set up in provisions of Article 116 of the Law Number 5 of 1986 which has changed become Constitution Number 9 of 2004 and amended again the second one time become Constitution Number 51 of 2009 Concerning State Administrative Court, meaning provision implementation the ruling is set in provision Article 116 has experience three times changes, but it turns out still just Still there is constraint in implementation decision State Administrative Court, still Not yet effective and efficient.

Implementation verdict (Execution) before revision Constitution Number 5 of 1986 more influenced *self-respect,* because authority carry out decision the court that has to obtain strength law still fully handed over to the body or authorized official without There is authority to drop sanctions by the court. Execution in the State Administrative Court emphasizes *self-* respect and awareness law from TUN officials against Contents judge's decision to carry it out with Like willing without existence effort coercion (*dwang middle)* which is direct can felt and imposed by the parties court to the relevant TUN official. [12], Use of " execution hierarchical" which is based on on *self-respect* This indicates about weakness the power of the judicial body granted regulation legislation so that in the practice not enough capable give pressure to party Official or Government Agency For carry out verdict [13].

After done revision Constitution Number 5 of 1986, the implementation process decision court more show used system *fixed execution,* namely execution whose implementation can enforced by the court through regulated coercive instruments in regulation legislation [14]. According to Paulus Effendie Lotulung, indeed there are two types the execution that we familiar with the State Administrative Court: [15]

a. Execution to decision court containing obligation as meant in Article 97 paragraph (9) letter a, namely obligation in the form of revocation of the relevant KTUN.
b. Execution to decision court containing obligation as meant in Article 97 (9) letters b and c, namely: revocation of the relevant KTUN and issuing a new KTUN; or issuance of KTUN in lawsuit based on Article 3.

Although a decision The Administrative Court has own strength law still, but implementation the verdict No can implemented with easy Because no everyone who wants obey decision Administrative Court. Sometimes required effort force, in matter This apparatus enforcer law, but in implementation decision Administrative Court, involvement apparatus enforcer law No possible. Which makes it possible is mix hand president as head government in frame force,[16] but still just coercion This only limited to reporting only. Completely Still depends on *the political will area* government. Development mechanism implementation decision State Administrative Court as set up in provision Article 116 has experience three changes, namely :

a. Provision Article 116 of the Law Number 5 of 1986 concerning State Administrative Court.

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11 Edi Pranoto, *Administrative Legal Sanctions,* Jakarta: Raja Grafindo 2011, p. 01

12 Zairin Harahap, *State Administrative Court Procedure Law,* Jakarta: Raja Grafindo Persada, 2005, p. 155-156

13 Damar Bayukesumo, *Normative Study Execution of the Verdict State Administrative Court,* Surakarta: Faculty of Law, Sebelas Maret University, 2010, p. 4

14 Lubna, Forced Implementation Efforts Decision State Administrative Court in Providing Legal Protection for the Community, *IUS Journal* of Law and Justice Studies. Vol 3, No. April 7, 2000, p. 159~172.

15 Riawan Tjandra, *Theory and Practice State Administrative Court Edition Revision,*, Yogyakarta: Cahaya Atma Pustaka, 2011, p. 1

16 Prildy Nataniel Boneka, Legal Review of PTUN Decision in the Context of Execution The Decision That Has Been Obtained Permanent Legal Force, *Lex Administratum Journal,* Vol 2 No 2 April 2014, p. 145

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b. Change Provision Article 116 in Constitution Number 9 of 2004 concerning change on Constitution Number 5 of 1986 concerning State Administrative Courts, especially paragraph (4), paragraph (5), and paragraph (6) was amended, and only until with verse 5 only.
c. Change Provision Article 116 in Constitution Number 51 of 2009 concerning change second on Constitution Number 5 of 1986 concerning State Administrative Courts, with add verse 6.

Mechanism implementation the decision regulated by Article 116 of the Law Number 5 of 1986 which states that:

a. Copy of the decision The court that has to obtain strength law still, sent to the parties with letter recorded by the Registrar Court local on order Chairman The court that tried him in level First no later than in time four twelve day.
b. In terms of four month after decision The court that has to obtain strength law still as meant in Article (1) is sent defendant No carry out his obligation as meant in Article 97 paragraph (9) letter a, the disputed State Administrative Decision That No have strength law Again.
c. In terms of defendant set must carry out his obligation as meant in Article 97 paragraph (9) letters b and c, and then after three month it turns out obligation the No implemented, then plaintiff submit application to Chairman Court as meant in Article (1), so that the Court to order defendant carry out decision Court the.
d. If the defendant Still still No Want to carry it out, Chairman Court submit matter This to agency his boss according to level position.
e. Agency superior as meant in verse (4), in two month's time after accept announcement from Chairman Court must Already to order official as meant in Article (3) implements decision Court the In terms of agency superior as meant in verse (4), no heed provision as meant in verse (5), then Chairman Court submit matter This to President as holder power government highest For to order official the carry out decision Court the.

Implementation mechanism execution decision The State Administrative Court on if based on the opinion of Paulus Effendie Lotto so provision Article 116 of the on is use " Execution" mechanism Hierarchy", because depend on awareness from Administrative Officer (*self respect)* and involves his boss in operate verdict. Provisions the furthermore done Change, Mechanism implementation the decision regulated by Article 116, especially in paragraph (4), paragraph (5), and paragraph (6) is changed, and only until with paragraph 5 only, the provisions of Article 116 paragraph 4 and paragraph 5 of the Law Number 9 of 2004 states that:

(1) In terms of defendant No willing carry out decision The court that has to obtain strength law remain, against the official concerned charged effort force in the form of payment a certain amount of forced money and/ or sanctions administrative.
(2) Officials who do not carry out decision court as referred to in paragraph (4) shall be announced in the mass media print local by the Clerk since No fulfillment provision as referred to in paragraph (3).

Final the provisions of Article 116 are amended by Law Number 51 of 2009 concerning Change Secondly, under the Law Number 5 of 1986 concerning State Administrative Court, so that reads:

a. Copy of the decision the court that has to obtain strength law still, sent to the parties with letter recorded by the clerk court local on order chairman the court that tried him in level First no later than in time 14 (four) twelve) days Work.
b. If after 60 (six) twenty) days Work decision the court that has to obtain strength law still as referred to in paragraph (1) is accepted defendant No carry out his obligation as meant in Article 97 paragraph (9) letter a, the disputed state administrative decision That No have strength law Again.

c. In terms of defendant set must carry out obligation as meant in Article 97 paragraph (9) letters b and c, and then after 90 (nine twenty) days Work it turns out obligation the No implemented, then plaintiff submit application to chairman court as referred to in paragraph (1), so that the court to order defendant carry out decision court the.
d. In terms of defendant No willing carry out decision the court that has to obtain strength law remain, against the official concerned charged effort force in the form of payment a certain amount of forced money and/ or sanctions administrative.
e. Officials who do not carry out decision court as referred to in paragraph (4) shall be announced in the mass media print local by the clerk since No fulfillment provision as referred to in paragraph (3)
f. Beside announced in the mass media print local as referred to in paragraph (5), the chairman court must submit matter This to President as holder power government highest for to order official the carry out decision court, and to institution people's representatives for operate function supervision.
g. Provision about amount of forced money, type sanctions administrative, and procedures implementation payment of forced money and/ or sanctions administrative set up with regulation legislation.

Based on both change the to provision Article 116 of the show that there is " execution effort force" with imposition of forced money and/ or sanctions administrative as well as announcements in the mass media. Although has changed mechanism execution effort force 2004 but the reality level success implementation decisions in the environment relative administrative court low. So that " execution effort forced " which is regulated in provision Article 116 of the when applied Still not enough effective, still There is potential non-compliance from State Administrative Officials, so need There is breakthrough and assertiveness in give sanctions effort force in a way physical, namely in a way body hostage (*Gijzeling*) whenever State Administrative Officer " no in good faith good for carry out State Administrative Decisions that have been powerful law still, thing That need considered for authority justice still awake and sense of justice society will also come true.

The current arrangement of forced efforts in executing State Administrative Court (PTUN) decisions reflects the state's attempt to enforce judicial authority, yet it still lacks effective deterrent power. From the perspective of Hans Kelsen's theory of legal norms, every court decision constitutes a concrete norm that demands realization through state coercion to uphold the validity of the legal system. However, the weak enforcement mechanisms under Article 116 of the PTUN Law reveal a normative gap between *das sollen* (what ought to be) and *das sein* (what is). This discrepancy underscores the failure of the state apparatus in guaranteeing the binding force (*bindende kracht*) of judicial rulings. Using the theory of legal effectiveness by Soedikno Mertokusumo, a law is considered effective only when it is obeyed and enforced consistently — something that is lacking in current administrative practices. Therefore, reforming the structure of forced efforts is not only a regulatory need but also a theoretical imperative to ensure legal certainty and reinforce the supremacy of law.

2. Re-formulation of State Administrative Court Coercive Efforts through Implementation effort Force Hostage Body/ *Gijzeling* To State Administrative Court

See description previously so during This in operate decision State Administrative Court according to with provision Article 116 of the Law Number 5 of 1986 concerning State

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Administrative Court as has changed with Constitution Number 9 of 2004 concerning Change on Constitution Number 5 of 1986 concerning State Administrative Court and finally changed with Constitution Number 51 of 2009 concerning Change second on Constitution Number 5 of 1986 concerning The State Administrative Court uses " execution" method Hierarchy" and " execution" effort force", but in fact in the field both execution models the Still not enough effective and efficient.

Coercive measures are used base for carry out decision The State Administrative Court is still Not yet capable give compliance for State Administrative Officer, granting sanctions administrative and forced money as well as announced in the media mass print No capable give effect deterrent. And things That make public seeker justice the more disappointed while the verdict won No can executed. Therefore, That Re- Formulation is needed to sanctions effort force, no only just sanctions administrative and forced money, but need There is courage breakthrough model sanctions effort forced nature physical, so that there is compliance, and provide effect deterrent for the sake of authority justice and justice for society, in matter This is a body hostage model (*Gijzeling*).

institution hostage taking or Force Body already known quite a long time during the Dutch colonial era. *Gijzeling* set up in Articles 209 to 224 HIR or Articles 242 to with 258 RBg. In the provisions the stated that If No There is Enough goods For ensure implementation decision, then Chairman The District Court may give order For carry out letter confiscation use hostage debtor. According to provision those that were confiscated No goods, but rather people and related things with connection between debtors and creditors in a way law civil.[17]

Implementation institution *gijzeling* considered contradictory with right basic human, because of that That institution the suspended by the Supreme Court as set up in the Circular Supreme Court Number 2 of 1964 and Number 4 of 1975 which instructed to the Chairmen Courts and Judges for No use Again regulation about regulated *gijzeling* in Articles 209 to 224 of the updated Indonesian Regulations (HIR) and Articles 242 to 243 with Article 258 of the Procedural Law Regulations for Outside Java and Madura (RBg) areas are seen No in accordance Again with circumstances and needs law in frame enforcement law justice as well as development economy the Indonesian nation, so that need revoke the Circular Supreme Court Number 2 of 1964 dated 22 January 1964 emphasized Again with Circular Letter Supreme Court Number 4 of 1975 dated December 1, 1975.

The Gathering viewed as one of the effort effective in enforcement law for his debtor who does not in good faith good. Therefore that, the Supreme Court instructed return coming into effect *gijzeling* through PERMA Number 1 of 2000 concerning the Institution of Coercive Prison. The reasons for the application of return *Gijzeling*, namely:[18]

a. Freezing implementation institution gijzeling as set up in the Circular Supreme Court Number 2 of 1964 and Number 4 of 1975 which instructed to the Chairmen Courts and Judges for No use Again regulation about regulated *gijzeling* in Article 209 to with Article 224 of the updated Indonesian Regulations (HIR) and Articles 242 to with Article 258 of the Procedural Law Regulations for Regions Outside Java and Madura (RBg), it is considered No in accordance Again with circumstances and needs law in frame enforcement law justice as well as

[17] Y. Sri Pudyatmoko, *Tax Law 2nd Edition Revision,* Yogyakarta: Andi, 2009, p.112.

[18] Angreni Fajrin Dalimunthe, *Optimization Implementation Hostage Taking (Gijzeling) as an Effort of Law Enforcement in Tax Revenue (Case Study) Implementation Hostage Taking at the Directorate Regional Office General of Taxes of North Sumatra I)*, Medan: University of North Sumatra, 2019. p. 57-58

development economy the Indonesian nation, so that need remove and set return provision the.

b. Translation the term " *gijzeling*" with the word " hostage" or " hostage-taking". This is viewed No appropriate Because No covers understanding to capable debtor but No Want to fulfil his obligation in pay off debts, so that the translation need perfected become force body, which applies universally.
c. Actions debtor, guarantor or guarantor of debt that is not fulfil his obligation For pay return his debt, even though he capable For carry it out, is violation right basic human being whose value more big than violation right basic man on implementation force the body against the person concerned.

coercive efforts that are hostage taking *(Gijzeling)* is form effort force that is not foreign for system law in Indonesia, because body hold *(Gijzeling)* is also applied in matters of a nature administrative, namely in the world of taxation. in settlement problem taxation which is authority Tax Court is part from justice administrative, which is appropriate with provision article 27 paragraph (1) of the Law Number 48 of 2009 concerning Power Justice. Article 27 paragraph (1) mandates that position The Tax Court is as court specifically in the environment State Administrative Court. Tax Court is included as Court Special in the environment State Administrative Court, because based on measure measuring subject and also object dispute tax including State Administrative Dispute. [19]

As arranged in Constitution Number 14 of 2002 Tax Court that dispute tax is disputes that arise in field taxation between must tax or guarantor tax with authorized official as consequence issuance decisions that can be made appealed or lawsuit to Tax Court based on regulation legislation taxation including lawsuit on implementation billing based on Constitution Tax Collection by Distress Warrant.[20]

There are similarities between State Administrative Court and Tax Court as judicial system of a neutral nature administrative, and reject measure to be problem is concerning determination, then sanctions body -taking *(Gijzeling)* was applied in the world of taxation so that there is a sense of compliance for must tax so applied sanctions administrative in the form of body -taking *(Gijzeling)*, and sanctions models the is is " *ultimum" remedium*" meaning the last option if must tax No in good faith Good in finish problem tax.

If the model is will applied in implementation decision State Administrative Court then will become sanctions effort force the last (*Ultimum Remedium)* after all stages implementation decision has passed However party State Administrative Officers do not in good faith Good For operate verdict.

Although view body holding (*Gijzeling*) can considered as a excessive, but for the sake of obedience and guarding authority justice and its realization justice for the model society need under consideration become part from effort force as meant Article 116 of the Law Number 5 of 1986 concerning State Administrative Court as has changed with Constitution Number 9 of 2004 concerning Change on Constitution Number 5 of 1986 concerning State Administrative Court and finally changed with Constitution Number 51 of 2009 concerning Change second on Constitution Number 5 of 1986 concerning State Administrative Court, so that need There is a Re- Formulation return to provision Article 116 of the with enter hostage taking (*Gijzeling)* as the ultimate effort

[19] Budi Ispriyarso, Analysis Legal To Position Tax Court As Court Special In Environment State Administrative Court, *MMH Journal,* Vol 43 No. 1 January 2014, p. 40- 48
[20] Ibid, p. 45

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(*Ulltimum) Remedium)* when State Administrative Officers do not Again own faith Good operate verdict.

Even writer find Budi Suhariyanto's opinion in journal The Constitution, in conclusion state [21]: " Although implementation decision Administrative Court in law positive has reinforced with instrument effort force in the form of sanctions administrative and sanctions imposition of forced money *(dwangsom).* In practice implementation decision This TUN Court No easy implemented Because Still There is TUN officials who do not obedient. Besides problem lack of awareness law TUN officials and not existence institution executive special For force it, setting mechanism implementation decision The TUN Court which is still not enough clear and firm. Use law administrative and civil in fact not enough empowered use, necessary effort force from law criminal as principle *ultimate remedium. Contempt of court* need criminalized and made threat for Rebellious TUN officials For carry out decision Administrative Court. In the Draft Law on Contempt of Court, criminalization the has accommodated. Criminalization This aiming push effectiveness implementation decision The court which is known as is part not inseparable from service justice to citizens and granting certainty law on right constitutional citizen ".

Application of body force models, as necessary noticed by the government related with effort create compliance voluntary is with apply provision legislation regarding bodily force/ *Gijzeling* with firm. Enforcement law / *law enforcement* force body/ *Gijzeling* If implemented with firm will create effect deterrent (burden) psychological and shame).[22]

Implementation model Forced bodily effort / *Gijzeling* in taxation is restraint temporary freedom self someone. Forced bodily effort/ *Gijzeling* is basically is tool force civil. Sanctions This can charged if Already There is decision a court of competent jurisdiction law remain therefore force the body is not is sanctions criminal as it is in law criminal law and the Criminal Procedure Code (KUHAP). In criminal law administration, coercion (*bestuurdwang)* carried out by the government is For to strive fulfillment a obligations that are not filled or No carried out by mandatory tax. Hostage taking action This can stopped if his creditors No pay cost life debtors who are held hostage. Likewise, hostage-taking can stopped on request creditors or If debtor pay off his debt (taxes).[23]

Based on description on so according to writer need breakthrough new namely pattern sanctions effort force as meant Article 116 which is applied to the State Administrative Court as justice administration can be Re- formulated right return like settlement taxation whose settlement through Tax Court which is justice special in the environment State Administrative Court with application of the Hostage Taking Coercive Effort Model / *Gijzeling* which aims to the main thing is :

1. Taking / *Gijzeling* Coercive Attempt Model implemented with objective the main thing is business enforcement law expected administration can create effect deterrent (burden) psychological and shame) so that can make State Administrative Officials are obedient and not rebellious to implementation decision The State Administrative Court which has powerful law still.
2. Only Against State Administrative officials who do not in good faith Good charged sanctions for Attempted Hostage Taking / *Gijzeling* and are action / effort law last (*Ulltimum) Remedium)* which can used after all existing procedures has implemented and not bring results.

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[21] Op Cit Budi Suhariyanto, p. 209

[22] Artha Polma Naibaho, Nyoman Union P, Budi Ispriyarso, Corporal Force (Gijzeling) As Instrument Tax Collection (Legal Study from Criminal Law Perspective, *Diponegoro Law Journal,* Vol 5, No 3, May 2016, p.1-16

[23] Ibid, Artha Polma Thank you.

3. If State Administrative Officers have operate decision so No need enforced effort force Hostage Taking / Body Seizure

The hope with existence breakthrough model effort force Hostage Taking / Body Seizure decision The State Administrative Court which is Crown judges, State Administrative Officials are increasingly become obedient and not Again to belittle / to defy / to ignore decision The State Administrative Court which has powerful law remain, which in the end objective the main thing make authority justice still awake in enforcement law and justice for public can come true

V. Conclusion

Based on the description and analysis presented earlier, it can be concluded that court decisions are the crown of judges, and therefore, the authority of the judiciary must be preserved through the proper execution of such decisions so that justice can be genuinely experienced by the public. The implementation of State Administrative Court (PTUN) decisions is currently regulated under Article 116 of the State Administrative Court Law; however, in practice, it has not been carried out effectively, despite the inclusion of administrative sanctions, coercive fines, and announcements in printed mass media. Thus, a reformulation of Article 116 is necessary to ensure that PTUN decisions can be enforced as a true manifestation of legal enforcement in the field of administrative law. One possible reform is the adoption of a physical coercive measure, namely the application of *gijzeling* (body seizure or hostage-taking), against state administrative officials who act in bad faith, fail to comply, or intentionally disobey legally binding decisions. This mechanism would serve as a last resort (*ultimum remedium*), applied only after all existing legal procedures have been exhausted and proven ineffective. The inclusion of such a sanction is expected to increase officials' compliance with PTUN decisions, uphold the dignity of the judiciary, and strengthen legal certainty for the public.

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