

Redefining the Principle of Equality in Banjar Regency Regulations Regarding Gemstone Certification Fee

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ABSTRACT

This research aims to redefine the principle of equality in the Banjar Regency regulation regarding gemstone certification. Gemstone certification is an act to verify the authenticity of gemstones in a gemological laboratory. Gemologists issue certificates to inform sellers and customers about the authenticity. Each gemstone certificate is subject to a business service fee based on Banjar Regency regional regulations. This research analyzes previous research regarding the meaning of the principle of equality. This research also textually analyzes the content of the Banjar Regency legal framework regarding the gemstone certification fee. Finally, this doctrinal legal research will discuss how the Indonesian legal framework defines the meaning of the principle of equality in the Banjar Regency regulation regarding gemstone certification.

Keywords: Principle of Equality; Gemstone Certification Fee; Banjar Regency.

A. INTRODUCTION

This research aims to redefine the principle of equality in the Banjar Regency legal framework regarding gemstone certification fees. Banjar regency is one of the regions that produces gemstones in the Republic of Indonesia. Since 1950, traders have been selling diamonds in Martapura City of Banjar Regency.¹ Article 2 of the Minister of Industry of the Republic of Indonesia Regulation Number 161/M-IND/PER/12/2012 regulates the gemstone industry as the main source of income in Banjar Regency.

Gemstone certification is a part of the gemstone industry. The word certification means the act of issuing a certificate through gemstone analysis in a gemmological laboratory.² In other words, certification ensures the gemstone's authenticity. It helps sellers and consumers to determine the proper price for gemstones. For example, a natural gemstone price should be higher than that of synthetic gemstones. Unlike natural gemstones, the latter were made by

¹ Nor Mila Ayu Sardana, Nazaruddin Malik, and Zainal Arifin, "Analisis Pendapatan Pedagang Batu Intan Permata Sebelum dan Pada Saat Pandemi Covid-19 di Pasar Martapura Kalimantan Selatan," *Jurnal Ilmu Ekonomi*, Vol. 6, No. 3 (2022), pg. 422. <https://doi.org/10.22219/jie.v6i3.22036>

² Ronaldo Heinrich Herman, "Gemmologist's Accountability Study on Gemstone Certificates Issued as a Basis for Reviewing Cases of Buying and Selling Gemstones in Indonesia India and the United States," (Thesis of University of Indonesia, Jakarta, 2023), pg. 38.

gemologists in the laboratory.³ Therefore, they lack the rarity of natural gemstones and natural beauty.

The gemstone industry is important to the Republic of Indonesia's national economy. From 2013 to 2015, the gemstone industry contributed 459.57 million USD to the jewelry export.⁴ In addition, the gemstone industry also employed 218.174 workers from the Republic of Indonesia.⁵ The profits from the gemstone industry are the reason the Banjar Regency government charges business service fees for gemstone certification. They did so through Appendix 1, point V of Banjar Regency Regional Regulation Number 7 of 2011.

Regional fees are one of the types of local revenue (*Pendapatan Asli Daerah* or PAD).⁶ Local revenue is income obtained by a region from sources within its own territory.⁷ It is collected based on regional regulations in accordance with applicable laws and regulations.⁸ The purpose of local revenue is to give autonomy to the local government to finance regional government expenditure in the context of implementing regional autonomy as a manifestation of the principle of decentralization.⁹ In other words, regional autonomy permits the government of Banjar Regency to charge business service fees for gemstone certification.

Law Number 28 of 2009 regulates both taxes and fees. Indonesian tax laws must follow the principles of tax collection, or the four maxims.¹⁰ One of those principles is the principle of equality. The principle of equality forbids discrimination regarding the amount of tax that could be charged.¹¹ In other words, this principle ensures the law charges the same amount of fees to those

³ Karl Schmetzer, *et. al.* "Synthetic Alexandrites Grown by the HOC Method in Russia: Internal Features Related to the Growth Technique and Colorimetric Investigation," *The Journal of Gemmology* Vol. 33, No. 5-6 (2013), pg. 115. <https://doi.org/10.15506/JoG.2013.33.5.113>

⁴ Republic of Indonesia Ministry of Industry, "Kemenperin Pacu Industri Batu Mulia," *Kemenperin*, 20 June 2016, provided in the <https://kemenperin.go.id/artikel/15615/Kemenperin-Pacu-Pengembangan-Industri-Batu-Mulia-danPerhiasan>, accessed on 1 April 2026.

⁵ *Ibid.*

⁶ Stefandry Hingide, George M. V. Kawung, and Mauna Th. B. Maramis, "Analisis Kontribusi Pajak Daerah dan Retribusi Daerah Terhadap Pendapatan Asli Daerah di Kota Tomohon," *Jurnal Berkala Ilmiah Efisiensi*, Vol. 23, No. 9 (2023), pg. 145.

⁷ Elisabeth Margreta Sibuea, "Pengaturan Retribusi dalam Undang-Undang Nomor 28 Tahun 2009 dan Undang-Undang Nomor 1 Tahun 2022," *Khatulistiwa: Jurnal Pendidikan dan Sosial Humaniora*, Vol. 5, No. 1 (2025), pg. 734, <https://doi.org/10.55606/khatulistiwa.v5i1.6268>

⁸ *Ibid.*

⁹ Johny Montolalu, "Analisis Penerimaan Pendapatan Asli Daerah Serta Kontribusinya Terhadap Anggaran Pendapatan dan Belanja Daerah Kabupaten Minahasa Selatan," *Jurnal Administrasi Bisnis Unsrat*, Vol. 5, No. 6 (2017), pg. 2. <https://ejournal.unsrat.ac.id/index.php/jab/article/view/18166>

¹⁰ R. Santoso Brotodihardjo, *Pengantar Ilmu Hukum Pajak*, (Bandung: PT Refika Aditama, 1998), pg. 29.

¹¹ Bustamar Ayza, *Hukum Pajak Indonesian*, (Jakarta: Kencana, 2017), pg. 56.

who have equal ability to pay taxes.¹² Non-discrimination is related to justice. Justice is one of the purposes of the law.¹³

This research aims to emphasize the importance of justice and the principle of equality. Consumers, sellers, and gemmologists have rights to justice. Especially justice in taxation. Banjar Regency Regional Regulation Number 7 of 2011 charges gemstone certification with business fees. But is the law fair to the consumers and sellers alike? Does it apply based on the principle of equality to all the parties in the gemstone industry in Banjar Regency? Therefore, this research aims to evaluate the meaning of the principle of equality according to the Banjar Regency Regulations regarding gemstone certification. This law will also analyse the meaning of equality and justice in the previous literature about Indonesian tax laws. The purpose of this research is to redefine the meaning of equality in the Banjar Regency regulations about gemstone certification.

This research reviews the previous research about the principle of equality in gemstone certification business fees. Therefore, this research divides previous studies into two groups. First is the group of law articles regarding the principle of equality. Mubarak shows the existence of horizontal injustice to motor vehicle taxpayers in West Java. He said that compliant taxpayers bear the full burden, while negligent taxpayers gain economic benefits from delayed payments.¹⁴ Johan, Hikmah, and Anditya discuss the characteristics of Tax Law Based on Pancasila Philosophy.¹⁵ Dewi examines how the implementation of the law tax for the well-being of people is based on the principle of equality.¹⁶ Darmayasa discusses the concept of taxation of digital-based transactions across jurisdictions regulated by the Tax Treaty between Indonesia and Malaysia.¹⁷ Rasji and

¹² Damas Dwi Anggoro, "Deficiency of the Principle of Fairness in the Implementation of E-Tax in Malang City Based on the Principles of Good Tax Policy," *Indonesian Tax Journal*, Vol. 3, No. 1 (2019), pg. 12.

¹³ Cahya Palsari, "Kajian Pengantar Ilmu Hukum: Tujuan dan Fungsi Ilmu Hukum Sebagai Dasar Fundamental Dalam Penjatuhan Putusan Pengadilan," *e-Journal Komunitas Yustisia Universitas Pendidikan Ganesha*, Vol. 4, No. 3 (2021), pg. 941. <https://doi.org/10.23887/jatayu.v4i3.43191>

¹⁴ Naufal Ramadhan Mubarak, et. al., "Problematika Penerapan Asas Equality dan Certainty Pajak Menurut Adam Smith pada Program Pemutihan Pajak Kendaraan Bermotor di Jawa Barat," *Jurnal Krisna Law*, Vol. 7, No. 3 (2025), pg. 7. <https://doi.org/10.37893/krisnalaw.v7i3.1268>

¹⁵ Arvie Johan, Fadhilatul Hikmah, and Anugrah Anditya, "Perpajakan Optimal dalam Perspektif Hukum Pajak Berfalsafah Pancasila," *Udayana Magister Law Journal*, Vol. 8, No. 3 (2019), pg. 321. <https://doi.org/10.24843/JMHU.2019.v08.i03.p03>

¹⁶ Putri Maha Dewi, "Utilizing the Implementation of Tax Laws for the Welfare of the People Based on the Principle of Equality," *Acceleration: Multidisciplinary Research Journal*, Vol. 1 No. 02 (2023), pg. 89. <https://doi.org/10.70210/amrj.v1i02.11>

¹⁷ I Nyoman Darmayasa, et. al., "Equality Principle in Designing Taxation International Digital Transactions: A Case Study of ASEAN," *Proceedings of the International Conference on Sustainable Green Tourism Applied Science - Social Applied Science 2024 (ICoSTAS-SAS*

Trawocoadji discuss the settlement of tax disputes through the application of the principle of equity. They describe the first principle, equality or equity, which underlines the importance of implementing taxation without discrimination.¹⁸

Second is the research about gemstone certification laws. Herman and Lestarini explain consumer rights protection regarding information as a reason for the urgency of regulating gemstone certification obligations in Indonesia.¹⁹ In addition, Herman also suggests the establishment of a professional gemmologist organization in the Republic of Indonesia.²⁰ The aim is to provide consumers with a basis to demand legal accountability from gemmologists who harm them by incorrectly issuing information in gemstone certificates.²¹ Putra explains that Government Regulation of the Republic of Indonesia Number 51 of 2011 is the legal basis for pawnshops issuing gemstone certificates.²² In addition, Putra also identifies weaknesses of certificates as evidence tools that do not include the name of the owner of the certified gemstone.²³ But the previous research doesn't analyze the meaning of equality in the Banjar Regency regulations about gemstone certification. That analysis is the research novelty to bridge the gap. Wibisana describes the gap as something that the previous research doesn't describe.²⁴

B. RESEARCH METHOD

This research is doctrinal legal research. Doctrinal legal research places information and legal norms at the center of its study.²⁵ This research will focus on the legal norm regarding the amount of the business fee of gemstone certification according to the Banjar Regency Regulation as its main subject. This doctrinal research is descriptive because it aims to examine as accurately as possible the meaning of equality in the Banjar Regency regulations about

2024), published by Atlantis Press, 2024, pg. 702. https://doi.org/10.2991/978-94-6463-622-2_77

¹⁸ Rasji and Farell David Trawocoadji, "Settlement of Tax Disputes Through the Application of the Principle of Equity," *Journal Indonesia Law and Policy Review (JILPR)*, Vol. 5, No. 1 (2023), pg. 256. <https://doi.org/10.56371/jirpl.v5i1.209>

¹⁹ Ronaldo Heinrich Herman and Ratih Lestarini, "Sertifikasi Batu Mulia: Kebutuhan Akan Sebuah Regulasi Demi Melindungi Hak Konsumen Batu Mulia di Indonesia," *Jurnal Ilmu Sosial dan Pendidikan (JISIP)*, Vol. 7 No. 1 (2023), pg. 362.

²⁰ Herman, "Gemmologist's Accountability Study...", pg.149.

²¹ *Ibid*, pg. 150.

²² Alif Arhandra Putra, "Kewenangan Pegadaian Dalam Menerbitkan Sertifikat Batu Mulia di Indonesia," *Jurnal Akta Yudisia*, Vol. 4, No. 2 (2020), pg. 78. <https://doi.org/10.35334/ay.v4i2.1199>

²³ *Ibid*.

²⁴ Andri Gunawan Wibisana and Andri Gunawan, *Buku Panduan Penulisan Karya Ilmiah*, (Depok: Faculty of Law University of Indonesia Press, 2023), pg. 17.

²⁵ Aulis Arnio, *Essays on the Doctrinal Study of Law*, (New York: Springer, 2011), pg. 19. <https://doi.org/10.1007/978-94-007-1655-1>

gemstone certification. Descriptive legal research aims to provide the most accurate possible data related to a phenomenon.²⁶

The data collection tool for this research is a literature study. The literature study collects data by analysing the content of documents, or content analysis.²⁷ This research conducts a literature study on primary legal materials in the form of statutory regulations, such as the Banjar Regency Regional Regulation Number 8 of 2009.²⁸ In addition, document studies are also carried out on secondary legal materials, such as journal articles related to gemstone certification law and the principle of equality, as well as legal dictionaries like Black's Law Dictionary by Black.²⁹ The aim is to explain the meaning of equality in the Banjar Regency regulations about gemstone certification.

After the introductory remarks, this research reviews previous research. The purpose of this review is to find the gap in previous research. This research will also explain its method and research design. The next part will be divided into three different parts. First, it discusses the principle of equality. This part analyses the literature regarding the principle of equality. Second, it analyses the gemstone certification laws in the Republic of Indonesia. It analyses the legal framework, such as the Banjar Regency Regulations. This part analyses the laws of the Indonesian Tax Laws textually. Textualism begins and ends with the wording and implications of a text.³⁰ The third part discusses what the Banjar Regency Regulation should take into account. So, the law could fulfil the consumers, sellers, and gemmologists rights for justice. The last part concludes this research.

C. RESULTS AND DISCUSSION

Principle of Equality in Indonesian Tax Laws

Adam Smith stated the four classic maxims of taxation. First, the subjects of every State ought to contribute toward the support of the government as nearly as possible in proportion to their respective abilities.³¹ Second, the tax each individual is bound to pay ought to be certain and not arbitrary.³² Third, every tax ought to be levied at the time and in the manner in which it is most convenient

²⁶ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 1986), pg. 10.

²⁷ *Ibid*, pg. 21.

²⁸ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, (Jakarta: Rajawali Pers, 2015), pg. 13.

²⁹ *Ibid*.

³⁰ Antonin Scalia and Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts*, (St Paul, MN: Thomas/West, 2012), pg. 36.

³¹ George F. Milton and G. T. Milton, "The Problem of Direct Taxation," *The Sewanee Review*, Vol. 1, No. 4 (1983), pg. 466.

³² *Ibid*.

for the contributors to pay it.³³ Fourth, every tax ought to be so contrived as to take out and keep out of the pockets of the people as little as possible above what it brings into the public treasury of the State.³⁴

Smith's first maxim of taxation is the principle of equality. The first maxim is the canon of equality.³⁵ The principle of equality of taxation is one of the most important principles formulated by Adam Smith.³⁶ He replaced the concept of equity with the concept of equality.³⁷ The word equality is also known as fairness. The application of the Fairness principle in tax collection emphasizes equal treatment for all taxpayers who are in a similar position.³⁸ This means that individuals or companies in the same situation should be subject to comparable tax burdens.³⁹

Therefore, the principle of equality demands that tax laws charge the same amount of fees to those who have equal ability to pay their taxes. The principle of equality before the law comes from the concept of the legal state rule of law in the Anglo-Saxon legal system.⁴⁰ Equality over time has had two consistent features. First, it has been equated consistently with theories of liberty and justice.⁴¹ Second, it has never been considered absolute.⁴² Legal equality is the equality of subjects of law, free and independent from each other, in a single scale, a single norm, and equal measure.⁴³

³³ Bangkit Cahyono, "Asas Pemungutan Pajak Dalam Pajak Penghasilan Transaksi Saham di Bursa," *Jurnal Pajak dan Bisnis*, Vol. 2, No. 2 (2021), pg. 78. <https://doi.org/10.55336/jpb.v2i2.36>

³⁴ *Ibid.*

³⁵ Dwi Heru Setiawan, "Analisis Kebijakan Relaksasi Pajak Pemprov DKI Jakarta Atas Dampak Pandemi Covid-19 Dari Perspektif Asas The Four Maxim," *Jurnal Kajian Hukum*, Vol. 5, No. 1, (2020), pg. 4. <https://e-journal.janabadra.ac.id/index.php/KH/article/view/1642/0>

³⁶ Magdalena Jarczok-Guzy, "The principles of tax law equality in the context of direct taxation," *Journal of Economics and Management*, Vol. 30, No. 4 (2017), pg. 73. <https://doi.org/10.22367/jem.2017.30.04>

³⁷ *Ibid.*

³⁸ Catur Anggoro Putro, Helmi Rizal, and Sekar Mayangsari, "Fulfilling the Principles of Fairness and Equity in the Implementation of OECD Pillar One (Unified Approach) in Indonesia," *Indonesian Interdisciplinary Journal of Sharia Economics (IIJSE)*, Vol. 7. No. 1 (2024), pg. 570.

³⁹ *Ibid.*

⁴⁰ Wira Purwadi, *et. al.*, "Application of the Principle of Equality Before the Law to Law Enforcement for the Realization of Justice in Society," *Jurnal Legalitas*, Vol. 15, No. 1 (2022), pg. 59. <https://doi.org/10.33756/jelta.v15i1.14772>

⁴¹ Rosalie Silberman Abella, "Equality, Human Rights, Women and the Justice System," *McGill Law Journal*, Vol. 39, No. 3 (1994), pg. 491.

⁴² *Ibid.*

⁴³ Madumarov Talantbek Tolibjonovich, "The Essence of the Concept of Equality and Justice in Law," *Novateur Publications Journal NX - A Multidisciplinary Peer Reviewed Journal*, Vol. 7, Issue 3 (2021), pg. 17.

Gerbing identified five indicators that can be a benchmark for measuring the implementation of the principle of Equality, namely: general fairness, exchange with government, self-interest, special provisions, and tax structure rate.⁴⁴ General Equality indicators can be interpreted as a concept of equality related to human relations, by giving what is rightfully theirs, or which can be interpreted as equality desired by law that must be implemented in the public interest.⁴⁵

Indonesian tax laws follow the principle of equality. Article 55 of Law Number 8 of 1997 concerning Company Documents mandates that "tax collection shall be conducted based on certain principles," including the principle of ability-to-pay and the principles of horizontal and vertical equity.⁴⁶ The ability to pay principle suggests that tax is charged to the subject based on their ability to pay taxes.⁴⁷ For example, in income tax, it is not that people who have the same income are subject to the same tax, but rather people who have the same taxable income are subject to the same tax.⁴⁸

Gemstone Certification Legal Framework in Banjar Regency

To provide an orderly discussion, this research follows Kelsen's theory regarding the hierarchy of legislation. The legal system in the Republic of Indonesia follows Kelsen's theory.⁴⁹ Kelsen's *Stufenbau* theory explains that there is a hierarchy of legal norms so that a norm is sourced from and derives its validity from a higher norm.⁵⁰ For example, Article 7, paragraph 1 of the Republic of Indonesia Law Number 12 of 2011 places the position of the Constitution above the laws.

Although ministerial regulations are not included in the hierarchy of legislation, their existence is still recognized under the provisions of Article 8 of

⁴⁴ Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, "Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax," *Journal of Sustainable Development and Regulatory Issues*, Vol. 1, No. 3 (2023), pg. 159. <https://doi.org/10.53955/jsderi.v1i3.15>

⁴⁵ *Ibid.*

⁴⁶ Ery Pamungkas, *et. al.*, "Reconstruction of Indonesian Tax Law Based on The Principle of Distributive Justice To Establish A Welfare State In The Framework of The Rule of Law," *Journal of Law, Politics, and Humanities*, Vol. 6, No. 2 (2025), pg. 1028. <https://doi.org/10.38035/jlph.v6i2.2670>

⁴⁷ Yenni Mangoting, "Pajak Penghasilan Dalam Sebuah Kebijakan," *Jurnal Akuntansi dan Keuangan*, Vol. 3, No. 2 (2001) pg. 144.

⁴⁸ Agus Iskandar, "Analisis Yuridis Terhadap Kebijakan Pemungutan Pajak di Indonesia," *Jurnal Keadilan Progresif*, Vol. 11, No. 2 (2021), pg. 111.

⁴⁹ Cahya Iradi Arimba, "Hans Kelsen's Nomostatics and Nomodynamics Legal Theory," *Justice Voice*, Vol. 2, No. 2 (2023), pg. 62. <https://doi.org/10.37893/jv.v2i2.773>

⁵⁰ Tiara Oktavia Namira Daud, Erman I. Rahim, and Suwitno Yutye Imran, "Reconstruction of Regional Government Authority in Mining Management Post Law No. 23 of 2014: Legal Review Based on Hans Kelsen's Theory," *International Journal of Law, Crime and Justice*, Vol. 2, No. 2 (2025), pg. 199. <https://doi.org/10.62951/ijlcj.v2i2.620>

the Republic of Indonesia Law Number 12 of 2011.⁵¹ Ministerial regulations are regulations at the central government level.⁵² Therefore, their position is higher than regional regulations at the regional level.⁵³ For this reason, the discussion in the second part first addresses the Minister of Industry of the Republic of Indonesia Regulation Number 161/M-IND/PER/12/2012.

Regulation of the Minister of Industry of the Republic of Indonesia Number 161/M-IND/PER/12/2012 regulates gemstone certification as part of the gemstone industry and a main source of income in Banjar Regency.⁵⁴ In other words, this Ministerial Regulation makes gemstone certification an important sector for the economy of the people of Banjar Regency. In addition to the ministerial regulation, regional legislation also regulates gemstone certification in Indonesia.

Regional Regulation of Banjar Regency Number 8 of 2009 regulates the service fees for gemstone certification. Meanwhile, the Regional Regulation of Banjar Regency Number 7 of 2011 regulates the business service fee. As a regional regulation, the scope of their applicability is limited to the regional level.⁵⁵ Regional regulations are further elaborations of higher legislation while taking into account the unique characteristics of each region.⁵⁶ The Banjar Regency area in South Kalimantan Province is one of the largest gemstone-producing regions in the Republic of Indonesia.⁵⁷ Therefore, both regional regulations of Banjar Regency regulate certification as part of the gem industry.

Banjar Regency Regional Regulation Number 7 of 2011 defines gemstone certification as the activity of issuing a certificate for precious stones by using

⁵¹ Sofyan Apendi, "Ketidadaan Peraturan Menteri Dalam Hierarki Peraturan Perundang-Undangan Nasional dan Implikasinya Terhadap Penataan Regulasi Dalam Sistem Hukum Nasional (Studi Pengaturan Peraturan Menteri Dalam Hierarki Peraturan Perundang-Undangan)," *PALAR (Pakuan Law Review)*, Vol. 07, No. 01 (2021), pg. 114.

⁵² Juwita Putri Pratama and Lita Tyesta ALW, "Eksistensi Kedudukan Peraturan Menteri terhadap Peraturan Daerah dalam Hierarki Peraturan Perundang-Undangan," *Jurnal Konstitusi*, Vol. 19, No. 4 (2022), pg. 879. <https://doi.org/10.31078/jk1947>

⁵³ *Ibid.*

⁵⁴ *Regulation of the Minister of Industry Number 161/M-Ind/Per/12/2012 concerning the Guideline Map for Core Industry Competency Development in Banjar Regency*, Article 2.

⁵⁵ Odilo Kelebit Tite, "Analisis Peraturan Daerah Ditinjau dengan Teknik Penyusunan Peraturan Perundang-undangan (Studi di Provinsi Kalimantan Barat)," *Jurnal Nestor Magister Hukum*, Vol. 13, No. 2 (2017), pg. 5.

⁵⁶ Ni'matul Huda, "The Position of Regional Regulations in the Hierarchy of Legislation," *Jurnal Hukum UIN*, Vol. 13, No. 1 (2006), pg. 34. <https://doi.org/10.20885/iustum.vol13.iss1.art2>

⁵⁷ Andi Muhammad Akkas, Nurhakim Nurhakim, Riswan Riswan, Heru Budi Kurniawan, "Inventarisasi Keterdapatan Mineral dan Batuan Untuk Bahan Baku Batu Permata," *Jurnal Geosapta*, Vol. 2, No. 2 (2016), pg. 94. <http://dx.doi.org/10.20527/jg.v2i2.4214>

analysis conducted in a gemstone laboratory.⁵⁸ In line with this, Banjar Regency Regional Regulation Number 8 of 2009 defines a gemstone certificate as a certificate sheet containing the name and information regarding the authenticity and quality of precious stones, including polished diamonds.⁵⁹ In other words, both regulate the basic understanding of gemstone certificates and certification as the process to obtain the certificates.

Regional Regulation of Banjar Regency Number 8 of 2009 also regulates that gemstone certificates remain valid as long as the precious stones tested in a gemmology laboratory do not undergo any changes.⁶⁰ Changes to gemstones can occur either due to the owner's deliberate actions or accidentally.⁶¹ In other words, the validity period of a gemstone certificate is not determined based on a specific unit of time. This is different from land title certificates, whose validity period is limited by statutory regulations. For example, the term of land-use rights in the Republic of Indonesia is twenty-five years.⁶²

Banjar Regency Regional Regulation Number 7 of 2011 regulates the types and amounts of fees for gemstone certificates. Appendix 1, point V of this regional regulation classifies gemstone certificates into several types. First, based on their form, gemstone certificates are divided into memo and non-memo gemstone certificates.⁶³ Second, based on the type of object, gemstone certificates are categorized as diamond certificates, non-diamond certificates, coloured stone certificates, and jewellery certificates.⁶⁴ In addition, Banjar Regency Regional Regulation Number 7 of 2011 also classifies gemstone certificates based on the weight of the gemstone and the number of gemstone certificate sheets ordered by consumers. The heavier the gemstone being tested, the higher the price per certificate sheet will be. Meanwhile, the more gemstone certificates are ordered, the cheaper the price will become.

Table 1 below describes the business fee for each type of gemstone certificate based on Appendix 1, point V of Banjar Regency Regional Regulation Number 7 of 2011:

⁵⁸ *Regional Regulation of Banjar Regency Number 7 of 2011 on Business Service Retribution*, Regional Gazette of Banjar Regency Number 7 of 2011, Supplement to the Regional Gazette of Banjar Regency Number 5, Article 1 (12).

⁵⁹ *Regional Regulation of Banjar Regency Number 8 of 2009 regarding Service Retribution for Gemstone Certification*, Banjar Regency Regional Gazette Number 8 of 2009, Supplement to the Banjar Regency Regional Gazette Number 8, Article. 1 (16).

⁶⁰ *Ibid*, Articles 3 and 4.

⁶¹ *Ibid*.

⁶² Sitti Rachmi Nadya Mo'o, "Procedures for the Extension and Renewal of Building Use Rights Based on Government Regulation Number 24 of 1997 concerning Land Registration," *Lex et Societatis*, Vol. 5, No. 7 (2017), pg. 87.

⁶³ *Regional Regulation of Banjar Regency Number 7 of 2011*, Appendix 1 (V) Number 1-5.

⁶⁴ *Ibid*.

Gemstone Certificate Cards		Gemstone Certificate Papers	
Type of Gemstone	Prices per Card	Type of Gemstone	Prices per Paper
Gemstones other than diamonds (Below 10 to 500 Carat Weight)			
	200.000 – 400.000 Rupiah	Diamond Report	100.000 – 150.000 Rupiah
Martapura Premier	750.000 Rupiah	Coloured Stones	50.000 Rupiah (30 papers per month)
Special Report	300.000 – 950.000 Rupiah		100.000 Rupiah (1 to 5 papers per month)
Diamonds			
Custom Report	200.000 – 850.000 Rupiah	Jewellery Report	100.000 Rupiah (for diamonds and other gemstones, one carat weight)
			150.000 Rupiah (for diamonds more than one carat weight)

Table 1: Business fees for each type of gemstone certificates (Banjar Regency Regional Regulation Number 7 of 2011)

What Should The Law Take Into Account?

According to Brotosusilo, one of the five characteristics of the discipline of law is explaining how the law should apply.⁶⁵ In other words, the law must provide a prescription. According to Marzuki, the term “prescriptive” means a guide for solving problems.⁶⁶ Therefore, this study will analyze Appendix 1, point V of Banjar Regency Regional Regulation Number 7 of 2011, the ability to fulfil the principle of equality. In other words, this research aims to determine the law’s ability to charge business fees equally to the parties of the gemstone industry in Banjar Regency.

Aristotle explains the relation of “moral Justice” and Equality by pointing out that Equality is related to “moral Justice” in the same way as the part is

⁶⁵ Agus Brotosusilo, *Penulisan Hukum: Buku Pegangan Dosen*. (Jakarta: Asia Foundation - Konsorsium Ilmu Hukum, 1994), pg. 4.

⁶⁶ Peter Mahmud Marzuki, “The Essence of Legal Research is to Resolve Legal Problems,” *Yuridika*, Vol. 37 No 1 (2022), pg. 39. <https://doi.org/10.20473/ydk.v37i1.34597>

related to the whole.⁶⁷ He stated two concepts of justice.⁶⁸ First, it's a distributive justice.⁶⁹ *Justitia Distributiva* is justice that gives each person a portion according to his or her achievement.⁷⁰ The concept of distributive justice asserts that treating equals equally and unequals unequally implies that an individual's right, duty, and reward should be in proportion to his merit and contribution to the state.⁷¹ On the other hand, Aristotle also described the concept of commutative justice.⁷² *Justitia Commutativa* provides as much to everyone without differentiating their performance, in this case, related to the role of exchanging goods and services.⁷³

This research sees that the principle of equality in Indonesian tax laws is in accordance with Aristotle's conception of distributive justice. The principle of equality before the law and the principle of ability to pay require every citizen to contribute proportionally to the burden of the state based on their economic capacity.⁷⁴ In line with those principles, patterned principles of distributive justice involve appropriating the actions of another person.⁷⁵ Therefore, this research sees that the Banjar Regulation Regency regarding gemstone certification fees should be in accordance with the principle of equality and distributive justice.

This research sees that the Banjar Regulation Regency regarding gemstone certification fees isn't in accordance with the principle of equality and distributive justice. The Banjar Regulation Regency regarding gemstone certification doesn't take the economic situation of the consumers into account.

⁶⁷ Anton-Hermann Chroust and David L. Osborn, "Aristotle's Conception of Justice," *Notre Dame Law Review*, Vol. 17, Issue 2 (1942), pg. 131.

⁶⁸ Allan Beever, "Aristotle on Equity, Law, and Justice," *Legal Theory*, Vol. 10 (2004), pg. 33. <https://doi.org/10.1017/S1352325204000163>

⁶⁹ Neny Triana, "The Theory of Justice (Aristotle) Against Imperfect Collateral Binding Bad Debt Case at State-Owned Bank," *Jurnal Akta*, Vol. 12, No. 1 (2025), pg. 206. <https://dx.doi.org/10.30659/akta.v12i1.44007>

⁷⁰ Yovi Cajapa Endyka, Muhamad Muhdar, and Abdul Kadir Sabaruddin, "Environmental Justice in Intra Generations: An Overview of Aristotle's Distributive Justice to Coal Mining," *Indonesian Comparative Law Review*, Vol. 3, No. 1 (2020), pg. 28. <https://doi.org/10.18196/iclr.v3i1.11234>

⁷¹ Sooraj Kumar Maurya, "On Just, Justice and Distributive Justice: A Critical and Comparative Discourse," *Journal of Liberty and International Affairs*, Vol. 8, No. 2 (2022), pg. 244. <https://doi.org/10.47305/JLIA2282240m>

⁷² Parid, Sandya Mahendra, and Nur Milla, "An Analysis of The Perspectives of Aristotle and Imam Al Shatibi on Legal Justice," *Journal of Transcendental Law*, Vol. 6, No. 2 (2024), pp. 137. <https://doi.org/10.23917/jtl.v6i2.8446>

⁷³ Endyka, Muhdar, and Sabaruddin, "Environmental Justice in..." pg. 28.

⁷⁴ Wilma Silalahi and Gladwin Wijaya, "Optimalisasi Pemanfaatan Pajak dalam Perspektif Hukum Keuangan Negara: Antara Prinsip Keadilan Fiskal dan Akuntabilitas Publik," *Jurnal Pustaka Cendekia Hukum dan Ilmu Sosial*, Vol. 3, No. 3, (2025), pp. 219. <https://doi.org/10.70292/pchukumsosial.v3i3.165>

⁷⁵ Robert Nozick, "Distributive Justice," *Philosophy & Public Affairs*, Vol. 3, No. 1 (1973), pg. 68.

Based on Appendix 1, point V of Banjar Regency Regional Regulation Number 7 of 2011, the average amount of gemstone certification fees in Banjar Regency is two hundred thousand rupiah. Several consumers are not reluctant to pay gemstone certification fees. In 2014, several consumers from the Republic of Indonesia were willing to pay over a million rupiah for a good-quality chalcedony.⁷⁶

On the contrary, several consumers actually objected to the certificate price, which reached hundreds of thousands of rupiah. Especially during the global economic crisis caused by the outbreak of the Covid-19 pandemic.⁷⁷ The escalation of conflict in the Middle East has triggered a surge in global energy prices and reopened the risk of a broader economic crisis.⁷⁸ Based on ethical theory, the purpose of law is solely to realize justice.⁷⁹ That's why this research suggests that the Banjar Regulation Regency regarding gemstone certification fees should take the economic situation of the consumers into account.

D. CONCLUSION

This research has some concluding remarks. First, the Indonesian tax laws follow the four maxims on taxation. One of them is the principle of equality. The principle of equality requires every citizen to contribute proportionally to the burden of the state based on their economic capacity. Second, Banjar Regency Regulation Number 7 of 2011 regulates the gemstone certification fees. Appendix 1, point V of this regulation, classifies gemstone certificate fees based on several categories. They are the type of certificates, the type of gemstones, the weight of the gemstone, and the number of gemstone certificate sheets ordered by consumers. Third, this research sees that the Banjar Regulation Regency regarding gemstone certification fees isn't in accordance with the principle of equality and distributive justice. The Banjar Regulation Regency regarding gemstone certification doesn't take the economic situation of the consumers into account. That's why this research suggests that the Banjar Regulation Regency

⁷⁶ Detik News. "Kalau Orang Sudah Naksir Batu Akik, Berapa pun Harganya Pasti Dibayarin," *Detik News*, 5 August 2014, provided in <https://news.detik.com/berita/d-2653542/kalau-orang-sudah-naksir-batu-akik-berapa-pun-harganya-pasti-dibayarin>, accessed on 1 April 2026.

⁷⁷ Liputan 6, "Ngeri, Krisis Ekonomi Akibat Pandemi Covid-19 Disebut Terburuk Dalam Sejarah," *Liputan 6*, 2 September 2021, provided in <https://www.liputan6.com/bisnis/read/4647601/ngeri-krisis-ekonomi-akibat-pandemi-covid-19-disebut-terburuk-dalam-sejarah>, accessed on 1 April 2026.

⁷⁸ Sakina Rakhma Diah Setiawan, "Perang dan Energi: Bagaimana Krisis Timur Tengah Guncang Ekonomi Dunia," *Kompas.com*, 15 April 2026, provided in <https://money.kompas.com/read/2026/04/15/142422626/perang-dan-energi-bagaimana-krisis-timur-tengah-guncang-ekonomi-dunia>, accessed on 1 April 2026.

⁷⁹ Sudikno Mertokusumo, *Penemuan Hukum Sebuah Pengantar*, (Yogyakarta: Cahaya Atma Pustaka, 2016), pg. 100.

regarding gemstone certification should take the economic situation of the consumers into account. So, it could be in accordance with the principle of equality and distributive justice.

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