

## ONE NUMBER ONE CITIZEN IN INDONESIA: SOLUTION FOR PROBLEMATIC IN COURT EXECUTION ISSUES

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### ABSTRACT

*Implementation of executions in civil cases in the Indonesian legal system hitherto still leaves legal problems, one of which is in the event that Execution Applicant is not aware of the assets is under collateral upon the execution request while Execution Respondent refuse to implement a final and binding court judgment. Therefore, the study aims to further examine concept of One Number One Citizen as a proposed regime.*

*The study yields a normative juridical method with a conceptual approach that aims to explain the importance of the implementation of a new concept of One Number One Citizen in order to support the confiscation execution process.*

*The result obtained that the One Number One Citizen concept was inspired by the Social Security Number policy of the United States, where every citizen has an integrated Population Identification Number managed by the population system of the Ministry of General Affairs that includes, among others: Personal Data, Transactions, Assets, Insurance, Police Records, whole community activities, varying from identification number, tax activities,*

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*banking transaction activities, motorized vehicles activities, property registration activities, and so on, that could be implemented through the Execution Respondent for the execution confiscation could be carried out. Recommendation for government also included accordingly.*

**Keywords: The State of Law, One Number One Citizen, Confiscation Execution.**

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## I. INTRODUCTION

One of the legal domains/regimes that interest the author as has been discussed previously is the Civil Procedure Law. Concisely explained, disputes that occurred in the civil law realm could be pursued in two methods of settlement, namely non-litigation as a form of dispute resolution outside the court, and litigation in the form of dispute settlement through the courts. Dispute resolution through non-litigation generally approaches the mediation method, where the disputing parties assign a neutral third party, (or can be appointed) a Mediator as an intermediary.<sup>1</sup> When the parties decided to compromise, the respective parties would execute a settlement agreement, to be further endorsed in court as *Acta van dading*.<sup>2</sup> While dispute settlement by litigation would be through processes and stages regulated in the laws and regulations, that ends with the enforcement of the judgment with permanent legal force (*in kracht van gewijsde*) or final and binding judgment.

Legal problems occur when the Executorial Respondent applied for an executorial confiscation (execution upon payment of a certain amount of money) on the permanent legal forced judgment.<sup>3</sup> Assuredly, the Execution Applicant could file an executorial confiscation of the movable and/or immovable assets or objects of the Execution Respondent, in this respect, the *Conservatoir Beslag*.<sup>4</sup> However, the execution request is

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<sup>1</sup> Maskur Hidayat, *Strategi & Taktik Mediasi: Berdasarkan Perma No. 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan*, Jakarta: Kencana, 2016, hlm. 51.

<sup>2</sup> Subekti, *Aneka Perjanjian*, Bandung: Cipta Aditya Bakti, 1999, hlm. 177.

<sup>3</sup> Dwi Nugrohandhini dan Etty Mulyati, "Akibat Hukum Gugatan dan Perlawanan Terhadap Lelang Eksekusi Hak Tanggungan", *Jurnal Bina Mulia Hukum*, Volume 4 No. 1, 2019, hlm. 35-51.

<sup>4</sup> Yahya Harahap, *Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, Jakarta: Sinar Grafika 2016, hlm. 326.

often constrained in data collection of the movable or immovable property to be executed and the executorial confiscation could not be conducted. Hence it embroils difficulties for the Execution Applicants, then a solution is necessary in order to generate legal certainty and protection upon the applicant for the confiscated execution to be effective.

The aforesaid difficulties raise questions regarding the fulfilment of legal certainty and protection, notably to justice seekers in Indonesia as a constitutional-based State of law. Concisely, legal certainty and protection are still being fulfilled. The main issue in this article is the adversity upon the exercise of a court decision in processing the confiscate execution when the Execution Applicant cannot make an inventory of the assets belonging to the Execution. However, with the occurred problem, a solution is needed in order to achieve legal certainty and protection in the community, especially in civil procedural proceedings. Therefore, the author initiated the “One Number One Citizen” concept. The legal issue to be investigated is the impasse that the Execution Applicant encounter to when the inventory of the Execution Respondent’s assets cannot submit an execution request due to the absence of the data on the Execution Respondent's voting assets that can be submitted to the court. The respective legal issue then will be researched further through a conceptual analysis approach or technique, in which this approach analyzes in depth a certain concept and its implementation to the public/objects of legislation.

## **II. DISCUSSION**

### **1. Legal Certainty and Legal Protection in the Notion of *One Number One Citizen***

In a country that adheres to *Rechstaat* (State of Law), legal certainty and protection in the settlement of a dispute must be enforced.<sup>5</sup> In essence, the rule of law is a concept that bases the state and community activities on law, binding on the community and also on the organs of power itself, so that law is constantly enforced (law supremacy) based on the statute.<sup>6</sup> The principle of the rule of law shall continuously be reflected in the laws

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<sup>5</sup> Ramli, *et. al.*, “Studi Kritis Terhadap Ragam Konsep Negara Hukum, *Media Keadilan: Jurnal Ilmu Hukum*”, Volume 10 No. 2, 2019, hlm. 132-147.

<sup>6</sup> Azhari, *Negara Hukum Indonesia, Analisis Yuridis Normatif tentang Unsur-Unsur*, Jakarta: UI-Press, 1995, hlm. 12.

and regulations that must be embodied in the constitution as the grundnorm of a country so that later arbitrariness will not occur.<sup>7</sup>

Numerous doctrines about the rule of law have developed in this day and age, for example, the rule of law doctrine adopted by the Anglo-Saxon system that was also initiated by Albert Venn Dicey. The rule of law doctrine is one of the aspects that underlies the establishment of the State of law approach. In summary, the doctrine of the rule of law that was initiated by Albert Venn Dicey got the state to have the obligation to uphold the rule of law with integrity. Shall the integrity be upheld, little wonder that integrity is measured on how compliance and solicitous the enforcement of the regulation, while the benchmark of integrity also objected to how assertively the state enforces the legality of the laws and regulations that would be practical to support the legal certainty.<sup>8</sup>

The aforesaid doctrine of the rule of law is also endorsed by other objectives of law enforcement in state and community activities. The goal is realized if, from the implementation of the legality, the output ideally arouses legal protection for the citizens. Concisely, the phrase Legal Protection consists of two terms, namely "Protection" and "Legal". Protection pursuant to Collins Dictionary is an official measure granted by the state intended to protect the rights and freedoms of society.<sup>9</sup> In general, the definition of protection according to Collin's dictionary indubitably implies that there must be a law that regulates such protection. A holistic definition of such protection appears in the Merriam-Webster Dictionary which defines protection as an act that actively provides assistance to preserve someone's rights, policing or aiding parties with low or weak bargaining power, and the state that assiduously secured the rights of its citizens.<sup>10</sup>

In terms of law, the definition of protection is comprehensively apparent in Black's Law Dictionary, which defined protection in three different contexts. The first context of protection is defined as "Writ" or in Indonesia, coequal to "Warrant" issued by the King to grant privileges to one of the litigating parties to absolve an injunction, according to

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<sup>7</sup> CST Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Jakarta: Balai Pustaka, 1989, hlm 3.

<sup>8</sup> Albert Venn Dicey, *Introduction to the Study of Law of the Constitution*, London: Macmillan Press, 1979, hlm. 184.

<sup>9</sup> Collins Dictionary, "Protection", <https://www.collinsdictionary.com/dictionary/english/legal-protection#:~:text=Protections%20are%20laws%20and%20other.protect%20people's%20rights%20and%20freedoms.>, accessed on 26 July 2022, 10.42 WIB.

<sup>10</sup> Merriam-Webster Dictionary, "Protection", <https://www.merriam-webster.com/dictionary/protection>, accessed on 26 July 2022, 10.45 WIB.

the King's discretion.<sup>11</sup> The King in this regard also acts as a judge that decides civil cases for the justice and certainty of the parties of the dispute.<sup>12</sup> The practice of the concept was newly constituted and proclaimed during the reign of King Henry II.

The second context is from a commercial law perspective, appearing as road certificates for seafarers to go to sea and trade in order to not be detained by the royal naval forces. In this context, ancient seafarers were required to have permission from the King for water voyages (for any purpose), and if it was proven that he did not have a permit, they could be detained by the royal navy at any time as deemed to have sailed against the law. The road certificate is generally obtained by seafarers or persons going abroad outside the country's borders by applying for it to a Public Notary.<sup>13</sup> In this context, the state tries to protect its sovereignty from an economic perspective.

The third context in the commercial law perspective is where the state tries to protect the citizens from contraband by providing a system of imposing customs duties upon commodities of foreign origin that are imported into the country. In addition to protecting its citizens, the purpose of the imposition of the import duty is to stimulate and develop domestic production to be able to compete with other foreign commodities.<sup>14</sup>

Upon apprehending the definition of protection, it concludes that protection requires an active role of the state to maintain and oversee the implementation of the rights of a state. Furthermore, the phrase "law" alone contains disparate meanings with a common thread.

According to Sudikno Mertokusumo, the law is a set of universal and normative rules or principles. It is universal as it applies to everyone and is normative as it determines what ought to be done, should not be done, or the way something ought to be done.<sup>15</sup> Subsequently, a portmanteau of the phrase "Protection" and the phrase "Law", that has been presented by several experts, for example, Satjipto Rahardjo defined legal protection as providing protection for human rights that are harmed by others.<sup>16</sup> In comparison,

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<sup>11</sup> Henry Campbell Black, *Black's Law Dictionary: Definition of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*, Minnesota: West Publisher, 1968, hlm. 1386.

<sup>12</sup> G.O. Sayles, *The Medieval Foundation of England*, London: Methuen, 1966, hlm. 332-333.

<sup>13</sup> Henry Campbell Black, *Op.Cit.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar*, Yogyakarta: Liberty, 2005, hlm. 4.

<sup>16</sup> Satjipto Rahardjo, *Ilmu Hukum*, Bandung: Citra Aditya Bakti, 2000, hlm. 54.

Philipus M. Hadjon argues that legal protection is an action aimed at protecting or providing assistance to legal subjects, through legal instruments.<sup>17</sup>

Upon insight into each objective to be accomplished in the research (i.e. Legal Certainty and Protection), it concludes that states inherently need to support legal instruments, such as adequate legal infrastructure, law enforcement officers with integrity, a developing legal culture, establishment of legislation in accordance with the procedure, and legal awareness taking into account the materialization of rights and interests of justice seekers.

## 2. General Concept and Substance of *One Number One Citizen* upon History of Social Security Number Policy of the United States

### (a) General Concept and Substance of One Number One Citizen in the United States as Comparison of the Urgency of the Implementation of One Number One Citizen Concept in Indonesia

The present section would discuss the fundamental nature of the establishment of the *One Number One Citizen* concept. The phrase "*one number one citizen*" was coined by the author based on the concept of "Social Security Number" that was implemented in the United States. Therefore, the concept to be discussed in the study would be the social security numbers concept in the United States, with adjustments to legal traditions, legal culture, and administrative traditions in Indonesia.

The social security number often abbreviated as "SSN" is a nine-digit number assigned by the government to residents of the United States, residents who hold green cards, and legal immigrant workers residing in the jurisdiction of the United States. The provisions regarding the social security number in the United States are regulated in Article 205 c paragraph (2) of the Law on Social Security (section 205 c (2) of the Social Security Act). The Act was validated in the 74th United States congress in 1935 and signed by President Franklin D. Roosevelt. The initial purpose of the law establishment was to combat unemployment, which at that time was happening a lot

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<sup>17</sup> Philipus M. Hadjon, *Pengantar Hukum Administrasi Indonesia*, Yogyakarta: Gajah Mada University Press, 2005, hlm. 10.

due to the great depression that hit the United States.<sup>18</sup> The great depression was a severe economic condition that occurred between 1929 and 1939 worldwide as the result of the major stock market crash in the United States.<sup>19</sup> The fall in stock prices was significantly affected by the “Economic Bubble” event, which was created by a phenomenon of an unreasonable justified development of an asset value from its fundamental value.<sup>20</sup>

Fundamentally, the economic bubble could be predicted prior to the breakpoint, when the asset's value soars rapidly to exceed its fundamental price.<sup>21</sup> The consequence of the economic bubble is that it could burst at any time and generate economic anomalies. This was inexpedient for the United States government to comprehend, as in 1929 United States was in expeditious economic development, especially in the stock investment industry.<sup>22</sup> With the expeditious economic expansion, while the government supports the establishment of new companies and the ease of running a business, numerous companies applied for an initial public offering and sell their shares into stock investment instruments. The phenomenon created a “fear of missing out” situation amid the United States anon, ranging from people with great capital (millionaires) to blue-collar workers invested almost all of their savings in stock investment instruments.<sup>23</sup>

However, upon the occurrence of the bubble economy theory, the stock market development in the United States reached its peak in August 1929, before abruptly "bursting" due to the imbalance of stock prices in the market with the current economic situation. The incident leads to hampered production and unemployment gradually increased, leaving the stock price to exceed the initial value. The minimum wage value created did not match the needs of the surviving workers, additionally,

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<sup>18</sup> The United State Social Security Administration, “History: Chronology”, <https://www.ssa.gov/history/1930.html>, accessed on 27 July 2022, 10.23 WIB.

<sup>19</sup> History, “Great Depression History”, <https://www.history.com/topics/great-depression/great-depression-history>, accessed on 27 July 2022, 10.28 WIB.

<sup>20</sup> Robert E. Wright, *Fubarnomics: A Lighthearted, Serious Look at America's Economic Ills*, New York: Prometheus, 2010, hlm. 51-52.

<sup>21</sup> *Ibid.*

<sup>22</sup> Dennis Blanco, “Of Economic Bubbles and Economic Miracles: Notes and Reflektion from a Non-Expert”, *Asia-Pasific Social Science Review*, Volume 14 No. 2, 2014, hlm. 143-161.

<sup>23</sup> History, *Op.Cit.*

due to excessive optimism in the previous year's period, companies took large-scale bank loans resulting in default of debt when the great depression occurred.

Due to the destitute, an idea was devised to combat the anomalous economic situation, initially by scrutinizing the people as the fundamental aspect of economic progress. It was cognately considered by the constituent of the 74th congress of the United States and President Franklin D. Roosevelt in 1935 by ordaining the Law on Social Security (Social Security Act). After being ratified in August 1935, in November 1935 an institute was established to govern the implementation of the social security number policy, namely "The Social Security Administration". In evanescent work upon the initial establishment of The Social Security Administration, it was recorded that in just three months 25 (twenty-five) million numbers were already issued thereby the unemployed workers were granted social aid from the government.

Gradually, the social security number policy evolved rapidly, and the scope was not only to ensure the social life of its owners yet for other purposes, such as individual identification number, taxpayer number, and card number that has obtained permission. drive, as a number that can track the owner's financial transactions (upon obtaining a permit and in the perspective of law enforcement), and was even used as an identification card for residents who have enlisted in the army, air force, navy, coast guard troops, and other military forces (although in 2011 the social security number was replaced with a special military number under United States defence law).<sup>24</sup>

Thus, the historical evolution of the social security number in the United States was in essence a forge of state resistance to combat unemployment and economic anomalies that occurred in the country. Hither, the state procured a significant role in protecting the citizens as a kind of responsibility upon "negligence" over the economic bubble that precipitated the great depression. This protection is carried out immediately, commencing with the ratification of the regulations to foremost ensure legal certainty, forge ahead the establishment of a state agency that takes care of such

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<sup>24</sup> Jim Garamone, "United States Army, Dod to Drop Social Security Numbers from Id Cards", [https://www.army.mil/article/54310/dod\\_to\\_drop\\_social\\_security\\_numbers\\_from\\_id\\_cards](https://www.army.mil/article/54310/dod_to_drop_social_security_numbers_from_id_cards), accessed on 27 July 2022, 11.05 WIB.



matters, and then implemented quickly and precisely by issuing 25 (twenty-five) million numbers. This has a contextual difference with Indonesia in employing the notion of one number one citizen, which would be further explained by the author in the following section which is an integral part of this chapter. However, the discussion in this section is not actually a discussion of efforts to adopt (legal transplant) the Social Security Numbers concept in the United States law to the Indonesian legal system, instead, an effort to alter the concept of population registration to facilitate someone seeking justice through the civil court path.

(b) Differences between the Social Security Number Concept of the United States and the One Number One Citizen Concept of Indonesia

Upon apprehending the historical context of the social security number policy implementation in the United States, the ensuing queries are the urgency and distinction in the context of *one number one citizen* implementation in Indonesia. The aforementioned issue or reflections have coeval answers. The foremost answer is that there is no similarity in the context of the implementation of one number one citizen in Indonesia with the application of social security number in the United States. This is based on the fact that if the application of the social security number in the United States is based on a form of state responsibility as a result of having been "negligent" in predicting the outbreak of the economic bubble in the country, resulting in an economic anomaly, this is different in Indonesia, which (according to the author) bases the one number one citizen policy as a form of efficiency and effectiveness in public services, as well as to provide legal certainty and legal protection, notably for the applicant of confiscate execution.

Furthermore, scrutinizing the ratification of the Minister of Finance Regulation (PMK) No. 112/PMK.03/2022 concerning Taxpayer Identification Number (NPWP) for Individual Taxpayers, Corporate Taxpayers, and Government Agency Taxpayers, the union of NIK with NPWP (the union would be cited as "Single Identification

Number) as an attempt to facilitate the Directorate General of Taxes (DGT) in auditing people that enrolled as taxpayers.<sup>25</sup>

Through the ratification of the Minister of Finance Regulation (PMK) Number 112/PMK.03/2022 concerning NPWP for Individual Taxpayers, Corporate Taxpayers, and Government Agency Taxpayers, the implementation of this Single Identification Number is applied in the interest of the government. Forsooth, it is not enunciated in adverse connotation, as the policy issued in the interest of the government did not consider an infringement of the law and the constitution, since committed in accordance with statutory regulations. Therefore, a regulation in the interests of the government (in the context of taxation) is considered a commendable policy as taxes are geared toward the development of public interest and public services of the country. However, the discordant lies in the notion of the *Single Identification Number* initiated by the government of Indonesia and the notion of *One Number One Citizen* initiated by the author. The difference lies in the nature of the implementation. The notion of the *Single Identification Number* is virtuously intended for the efficacy and the effectiveness of public service, while the notion of *One Number One Citizen* would be implemented to encourage a good rule of law in order to obtain the fulfilment of legal certainty and legal protection.

(c) Parties Guaranteed by One Number One Citizen Concept pursuant to the Legal Responsive Theory

(1) Responsive Law

Addressing the prompt, *one number one citizen* concept evidently aimed to protect the community derived from the responsive nature of the law, as well as the expound theory of this research. Generally, responsive legal theory is utilized as a problem cogent tool, henceforth, to scrutinize the urgency of party categorically guaranteed protection by the concept of one number one citizen.

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<sup>25</sup> Lidya Julitas S, "Perburuan Dimulai! Ini Alasan NPWP & NIK KTP Bakal Digabung", <https://www.cnbcindonesia.com/news/20200903164140-4-184224/perburuan-dimulai-ini-alasan-npwp-nik-ktp-bakal-digabung>, accessed on 27 July 2022, 11.32 WIB.

Concisely, responsive law is a theory initiated by Phillippe Nonet and Philip Selznick amid the great Neo-Marxist critique of liberal legalism theory.<sup>26</sup> Aimed at comprehending the context, it is compulsory to have knowledge of a particular context. Foremost, the Neo-Marxist context criticizes the liberal legalism theory. Liberal legalism's perspective outlook the law as analogous to an independent institution with a set of rules and procedures that are not subjective, impartial, and completely autonomous.<sup>27</sup> While Neo-Marxism entrenched the idea introduced by Karl Marx believed that economic power would drive political power and that was the key to governing society. The notion of Karl Marx further abides by Neo-Marxists that believed the economic system generated the capitalist class and the working class, and that the law is eventually inadequate to be fully featured as certain capitalist classes will dominate the law and create a deeper class gap.<sup>28</sup>

Anon the legally responsive billet is unaligned with the aforesaid deliberation as Phillippe Nonet and Philip Selznick consider the proffered traits of liberal legalism and Neo-Marxism transcend the social volition, even though the law was constituted for society and not vice versa. Therefore, the rummage attempt of the law substance discovered that cloistered law from the surrounding circumstances forsooth disruption on the law itself, the law was placed as a tool to achieve the wishes of the rulers who made the law and no longer can serve humans.<sup>29</sup>

Emanating the perspective of Nonette and Selznick, responsive law elaborated on social jurisprudence and realist jurisprudence in enunciating more empirical legal research<sup>30</sup> that respectively generates a repressive law model and an autonomous law model. Repressive law predetermined resistance to the legitimacy of authority in the guise of order while autonomous law constitutes

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<sup>26</sup> Henry Arianto, Hukum Responsif dan Penegakan Hukum di Indonesia, *Lez Jurnalica*, Volume 7 No. 2, 2010, hlm. 115-123.

<sup>27</sup> Lester Mazor, The Crisis of Liberal Legalism, *The Yale Law Journal*, Volume 81 No. 5, 1972, hlm. 1032-1053.

<sup>28</sup> Ronald A. Kieve, "From Necessary Illusion to Rational Choice?: A Critique of Neo-Marxist Rational-Choice Theory", *Theory and Society*, Volume 15 No. 4, 1986, hlm. 557-582.

<sup>29</sup> Phillippe Nonet dan Phillip Selznick, *Law and Society in Transition: Toward Responsive Law*, London: Harper and Row Publisher, 1978, hlm. 115.

<sup>30</sup> *Ibid.*

the perseverance of legal independence by segregating the law and the authority which the legitimacy lies in the procedural virtues of law without political interference. Tertiary, the responsive law proffer considering the enormous impact on society apropos the law.<sup>31</sup>

Derived from the responsive law theory, the instigated concept of *One Number One Citizen* comprehensively aimed at the attainment of public exigency corresponding to the infirmity of Indonesia's Civil Procedural System that would be explicated in point b of subsection 3.

(2) Confiscate Execution Applicant as Target of the One Number One Citizen Concept

In appreciating the prominence of responsive law theory upon the concept of *One Number One Citizen*, it is equitable to assert that the concept is directed to the protection of public activities. The aforesaid 'directed' is denoted in consistency with the occupied theory and adagio of "law attending the people" in which the concept of *One Number One Citizen* is forthcoming to the people assiduously (as passive law instruments).

Upon apprehending the citizens as the substance of the *One Number One Citizen* concept, the further inquiry is the targeted community, which exquisitely targeted all elements of legal activities of the society (respectably the Social Security Number of the United States). Albeit, the initial tendency of the concept would be the applicant of confiscate execution in a civil judgment for undisclosed assets of the respondent, contended: (a) Legal Vacuum. In the current regime of Indonesian Civil Procedure Law (apropos conceived) constricted provision on the protection of the Applicant of a permanent legal force of Confiscate Execution are unregulated. In connotation, the absence of a legal umbrella on the enforcement mechanism of the judgment in regard to undisclosed assets of the Confiscate Execution Respondent. (b) Fulfillment of Rights. Subsequently, undiscovered assets of the Confiscate Execution Respondent would void the rights of the confiscate execution incorporated in

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<sup>31</sup> *Ibid*, hlm. 9.

the civil case judgment. Concurrent with the Indonesian Civil Procedural Code's perception that is still reluctant in enforcing the rights of citizens which presumes the role of the judicative institution to the issuance of the court decision. Hence, for a conscientious regime of Indonesia's Civil Procedural Code, *One Number One Citizen* could be an alternative. (c) Escalation of the Implementation of the Good State of Law concept. Further, in continuance of the aforesaid substance, complying with the legal vacuum in execution along with the escalation of the rights of the applicant would generate a better implementation of a state of law. Furthermore, in a holistic perspective of the objective of the legal protection offered by the concept of *One Number One Citizen*, that attempt to embody the value of the Fifth Precept of Pancasila, particularly the principle of social justice for all Indonesian people which is aligned to the purpose of justice in law that justice seekers shall obtain justice or legal certainty. Further elaboration in correlation to a good implementation of the state of the law on the abovementioned arguments is elucidated in the following chapters.

### 3. *One Number One Citizen* in Reinforcing the State of Law Concept on a Thorough Civil Dispute Settlement

Enunciating the rule of law, Legal Science developed two terms, notably *Rechstaat* which is adopted from the Dutch Legal Language, and Rule of Law which is a term to designate the enforcement of the rule of law which is often declared common law legal system state, particularly England. Both of the concepts were conceived in coequal substance, notably the resistance of arbitrary rulers' comportment.<sup>32</sup> In retrospect, the rule of law consisted of two concepts, notably as the greatest legal umbrella of any power, which anon was the resistance of the arbitrary power of King John the Lackland of England in 1212, while *rechstaat* denoting the law as the fundamental of state activities in France against King Louis XVI in 1789.<sup>33</sup>

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<sup>32</sup> M. Syahnan Harahap, "Perbedaan Konsepsi *Rechstaat* dan *Rule of Law* Serta Perkembangan dan Pengaruhnya Terhadap Hukum Administrasi Negara", *Jurnal Ilmiah Hukum Dirgantara*, Volume 4 No. 2, 2014, hlm. 57-63.

<sup>33</sup> *Ibid.*

These two concepts are evolving in different directions. For instance, the rule of law in England recognizes a lone kind of judiciary and does without distinguishing between civil, criminal, and even administrative courts.<sup>34</sup> The legal system breathes in common law states particularly in economic development.<sup>35</sup> In alteration with the development of the *rechstaat* concept adopted by the state of a civil law tradition which segregates the legal system as civil, criminal, and administrative courts notably an absolute judiciary authority.<sup>36</sup> Despite being derived from two different legal traditions, both of the theories are indistinguishable with great resemblance: providing legal certainty and protection of human rights and restricting the demeanour of authorities through law.

The following issue is the required implementation mechanism in attaining a good state of the law in Indonesia. As aforementioned, a good state of the law is restricting the authority's power through the law, hence, providing and ensuring the protection of human rights. The protection of human rights is not enthralled by the inalienable rights (right to life, freedom of pain, right to education, right to equal treatment, and so forth), along with material rights which concern the author on the implementation of the concept of *One Number One Citizen*.

The concept of material rights as indivisible rights in the protection of human rights is an anon-developed concept commencing with the intellectual property rights legal regime. However, in due course, the author attempted to redevelop the in a broader direction, notably the legal protection of the applicant rights in assets execution of the confiscate execution respondent.

As explained in the previous subchapter, there are two major interrelated arguments on the reason that the construction of the *One Number One Citizen* concept could represent proper enforcement of Indonesia's rule of law which are elucidated as: (a) Legal Vacuum. In accordance with Article 1 of the subsection that declared Indonesia as a state/rule/law, Indonesia committed to the establishment of a harmonious and orderly society as restrictions on each and every individual behaviour appertaining to

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<sup>34</sup> Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat*, Jakarta: Bina Ilmu, 1987, hlm 5.

<sup>35</sup> Lord Bingham, "The Rule of Law", *Cambridge Law Journal*, Volume 66 No. 1, 2007, hlm. 67-85.

<sup>36</sup> *Ibid.*

system/provision/law.<sup>37</sup> The respective provision is intended as boundaries of people's behaviour. However, the provision is difficult to be achieved in practice due to forged rules and regulations constituted by the legislative institution which denuded the authentic situation granted to the social dynamics.<sup>38</sup> The aforesaid absence of law notably the legal vacuum elucidated into two definitions that are unregulated in the constitution which resulted in a legal void upon the technical conditions as the abstruse situation shall be further construed through concrete and technical derivative regulation.<sup>39</sup> Henceforth, the legal vacuum was subsequently defined as the absence of concrete and technical derivative regulations in ensuring the fulfilment of the rights of the applicant of confiscate execution to execute the undisclosed assets of the respondent.<sup>40</sup> (b) Fulfillment of Right. The abovementioned variation of regulations would derive a favourable impact on the law of Indonesia, namely contentment of human rights. Through the aforementioned expound, the attainment of human rights is determined into inalienable rights (non-derogable rights) and material rights<sup>41</sup> which are distinctive as a good State of Law of Indonesia.<sup>42</sup> Protection of human rights is admittedly abetted by legal regulation, which portends the attainment of rights shall be bolstered with related rules and regulations on the exertion of the *One Number One Citizen* in integrating the data of all citizens to conclude the legal certainty on the fulfilment of the Execution Respondent.<sup>43</sup> The aforementioned subchapter apprehends that the implementation of the *One Number One Citizen* concept would ensure the establishment of a good state of law. Furthermore, through the concept of One Number One Citizen, the principle of the rule of law could

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<sup>37</sup> Mohammad Kamil Ardiansyah, "Pembaruan hukum Oleh Mahkamah Agung dalam Mengisi Kekosongan Hukum Acara Perdata di Indonesia", *Jurnal Ilmiah Kebijakan Hukum*, Volume 14 No. 2, 2020, hlm. 361-384.

<sup>38</sup> Hario Mahar Mitendra, "Fenomena Dalam Kekosongan Hukum", *RechtsVinding, Kementrian Hukum dan Hak Asasi Manusia*, 2018, hlm 1-7.

<sup>39</sup> Agus Satory dan Hotma Pardomuan Sibuea, "Problematika Kedudukan dan Pengujian Peraturan Mahkamah Agung Secara Materiil Sebagai Peraturan Perundang-Undangan", *Pakuan Law Review*, Volume 6 No. 1, 2020, hlm. 1-27.

<sup>40</sup> Gamal Abdul Nasir, "Kekosongan Hukum & Percepatan Perkembangan Masyarakat", *Jurnal Hukum Replik*, Volume 5 No. 2, 2017, hlm. 172-183.

<sup>41</sup> Teraya Koji, "Emerging Hierarchy in International Human Rights and Beyonds: From the Perspective of Non-Derogable Rights", *European Journal of International Law*, Volume 12 No. 5, 2001, hlm. 917-941.

<sup>42</sup> Abdul Fatah, "Gugatan Warga Negara Sebagai Mekanisme Pemenuhan Hak Asasi Manusia dan Hak Konstitusional Warga Negara", *Yuridika*, Volume 28 No. 3, 2013, hlm. 293-303.

<sup>43</sup> Reinhard Politon, "Pemenuhan Hak dan Kewajiban Sesuai Kesepakatan Para Pihak Dalam Kontrak Ditinjau Dari Kitab Undang-Undang Hukum Perdata", *Lex Crimen*, Volume 6 No. 3, 2017, hlm. 136-143.

be implemented which realized legal protection and legal certainty for justice seekers who encounter difficulties in implementing court decisions on confiscate executions due to the absence of acceptable data.

#### 4. Best Implementation of the One Number One Citizen Concept in Practice of the Civil Case Execution Process

The best practice of the One Number One Citizen commences through the One Number One Citizen system organizers. In the event that the Single Identification Number concept initiated by the Ministry of Finance through the Minister of Finance Regulation (PMK) Number 112/PMK.03/2022 concerning NPWP for Individual Taxpayers, Corporate Taxpayers, and Government Agency Taxpayers is regulated by the Ministry of Finance, the concept of One Number one Citizen should be returned to original organizers, notably the Ministry of Internal Affairs which currently concede the population administration system integrated with each regional government civil registration offices.

The system allows the Department of Population and Civil Registration (under the Ministry of Internal Affairs) to have an important role in recording all population documents of each regional government jurisdiction which is further responsible for the issuance of the Population Registration Number (hereinafter referred to as NIK). The arrangement of population data collection is derived from the Department of Population and Civil Registration. For example, calculating the number of the population and accelerating the obtaining of residence documents.

Furthermore, institutions under a local government integrated policies in the utilization of the NIK issued by the Civil Registration Office, for instance, integration of NIK with the Education Office during freshman admission. Registration of new prospective students required the registration of the Identification Number (NIK) which the utilization of the NIK collaborates between the Education Office and the Population Office. Indeed, the implementation system of the NIK in the education sector is already integrated manner. Consistently, the health sector also appoints the population count an important document queried by the Population Service. In providing assistance to the



community, the Department of Social Affairs required valid population data from the Department of Population to be utilized in the organized activities.

However, regardless of appearing excellent, the author argued the management of the NIK which is entrusted to service under the local government, is inadequate in generating a good mechanism for the implementation of the One Number One Citizen concept. As contemplating the concept of social security numbers in the United States, the numbers issued generate by a sole integrated agency, ergo assigning the local government authority to carry out the process, without integration.

The author initiated that the central agency that regulates such matters shall be reinstated entirely to the Ministry of Internal Affairs through the Ministry subsidiary unit. The concept could also be implemented through the establishment of a State Institution subordinated to the Ministry of Internal Affairs. Thereafter, the institution will entirely regulate the issuance of the NIK to Indonesian citizens, without the need to register with the respective Civil Registration Offices of the regional governments. This would ease the government in maintaining and supervising the implementation of the NIK issuance and utilization for community-based government policies and public services and the One Number One Citizen concept would be implemented.

Subsequently, the NIK of the Indonesian citizens would not be used solely for the aforementioned activities but also utilizes in the process of tax applications, health, driving licenses, insurance, health insurance, banking transaction flows, buying and selling, property registration, and so forth. Nonetheless, the NIK consisted of personal data which could not arbitrarily be published by any party. Therefore, a comprehensive mechanism and regulation are required.

The author suggests that confidential publication could be penetrated through judicial power. Denoting that request for personal data from Indonesian citizens by the law enforcement agency shall obtain approval from a judicial institution through a court decision. Hence constantly regulated by the respective laws and regulations of the law enforcement agency, nevertheless of no mechanism that allows individuals or legal entities to apply commensurately as the law enforcement agencies. Forsooth, the urgency of obtaining an individual's personal information by any individual or legal entity is

equally significant in law enforcement. For instance, in the application of an asset execution of the respondent by the applicant of the confiscate execution.

Through the undiscovered assets of the respondent, enforcement of the law and fulfilment of the rights of the applicant are restrained. Therefore, the author argues that a person and/or a non-law enforcement legal entity shall be entitled to request a person's personal data through the court's approval (court decision) prior to the permanent legal force court decision to ascertain the possible executed assets to fulfil the respective rights.

The underlying mechanism could work upon application of the Execution Applicant being granted permits to execute the assets through prior access to the Execution Respondent's personal data that is administered by the Ministry of Internal Affairs (One Number One Citizen). Through the court decision on the application of the confiscate execution, the Applicant could utilize the decision as the ground for the Ministry of Internal Affairs to expose the possible assets of the confiscate execution. The requested assets for confiscate execution shall be restricted to a rational amount without exceeding the loss value of the assets of Respondent. Therefore, the attainment of the rights, as well as legal protection of the Applicant of confiscation execution, could be guaranteed, and concurrently proves the presence of the state amidst the community needs in regard to the implementation of a good State of law.

##### 5. Obstacles in the Implementation of the *One Number One Citizen* Concept

Implementation of the One Number One Citizen concept is not excluded from obstacles. Moreover, the application contemplated in supporting the implementation of the execution confiscation mechanism which is regulated in Article 195 - Article 224 HIR / Article 206 - 258 RGB, several Articles declared to be no longer enforceable (Article 209 - 223 HIR), Article 195 - Article 208 HIR/Article 206 - Article 240 of the RBG still enforced, Article 224 of the HIR concerning Article 258 of the RBG, Article 225 of the HIR/Article 259 of the RBG concerning the execution of the decision "injunction", and Law Number 48 of 2009 on Judicial Power.

Upon implementation of the aforementioned articles, the One Number One Citizen concept could provide ease of implementation, yet did not infer as without problems,

especially upon a comparison of the feature of practices of administration in Indonesia. Several obstacles were analyzed upon implementation in Indonesia by the author, notably: (a) Human Resources for Organizer Operator of the *One Number One Citizen*. Humans are an important instrument in running an institution or organization in order to achieve the objectives of the organization or institution. The success of an institution will be determined by the quality of the people in it. Therefore, the people who run the system of one number one citizen are also related to its success. Human Resources itself is defined as all humans involved in an organization in seeking the realization of the goals of the organization.<sup>44</sup> Subsequently, upon implementation of the concept, human resources administered in the One Number One Citizen system are substantial to go through a selection process. The selected Human Resources shall be those ready, willing, and able to contribute efforts in achieving the objectives of the application of this concept by mastering components notably the technology, information systems, and other skills.<sup>45</sup> (b) Foreign Hacking. Hacking is a substantial obstacle to be anticipated in the implementation of the One Number One Citizen concept. Hackers are people that learn, analyze, modify, and break into computer systems and computer networks, both for-profit or motivated by challenge. The terminology emerged in the early 1960s amidst members of the Tech Model Railroad Club student organization at the Massachusetts Institute of Technology's Artificial Intelligence Laboratory. The term "Hacker" is actually constructive a positive word that refers to people who have succeeded in creating a new system from an existing system.<sup>46</sup> However, the meaning of hacking gradually derived to a negative meaning, notably as a process of breaking through internet access without a permit, which causes losses to the intruded party. In Indonesia, several occurred cases of foreign hack by parties to government agencies and state-owned enterprises, such as the BPJS Health Case in May 2021, the BRI Life Insurance Case in July 2021, the Hacking of the Secretariat of the Republic of Indonesia Cabinet Site in July 2021, the E-Hac Case Ministry of Health in August 2021, which hacked ten of the ministry networks, including the State Intelligence Agency in September 2021, BSSN's Pusmanas website in October 2021, the Indonesian

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<sup>44</sup> Sayuti Hasibuan, *Manajemen Sumber Daya Manusia: Pendekatan Non Sekuler*, Surakarta: Muhammadiyah University Press, 2000, hlm. 3.

<sup>45</sup> Veithzal Rivai, *Manajemen Sumber Daya Manusia untuk Perusahaan*, Jakarta: Raja Grafindo Persada, 2004, hlm. 6.

<sup>46</sup> Bambang Hartono, "Hacker Dalam Perspektif Hukum Indonesia", *Masalah-Masalah Hukum*, Volume 43 No. 1, 2014, hlm. 23-30.

National Police Database in November 2021, and the BNPB Youtube Channel in December 2021.<sup>47</sup> Therefore, it is crucial for similar incidents to not forge the One Number One Citizen System, especially since the regulation of the concept targets the personal data of all citizens. Attainable precaution required is to establish rules and regulations as a legal umbrella of the system's organizer. (c) Rules and Regulations. The constitution of statutory regulation is substantial as utilized as the legal basis of governmental activities aimed at the community. The legal basis could be applied as a tool of social engineering that regulates society in generating and attaining legal goals, such as certainty, justice, and order. Thus, the law could additionally be utilized as a public policy appropriated to values that could or could not be legally enforced on society. The practice order as values to be attained in the community through the implementation of the One Number One Citizen required comprehensive and oriented rules and regulations. (d) System Information Management. The management information system (MIS) is one of the five main subsystems of CBIS. The purpose is to comply with the general information needs of all managers within or in organizational subunits of the company. The sub-units could be based on a functional area or management level. MIS provides information to the user in the form of reports and outputs from various mathematical model simulations. Reports and model outputs can be provided in tabular or graphical form. Behavioural influences are constantly substantial for information system performance ergo especially significant for organizational information systems such as MIS. Managers and information specialists could create a designated program to transform the negative effects of behavioural influences into positive outcomes. MIS is reflected as the executive attitude desiderating computers available to all company troubleshooters. When MIS is placed and functioning as intended, MIS could ease the managers and other users inside and outside the company to identify and understand problems. The currently used information system is more focused on computer-based information systems. The expected objective to be obtained through the utilization of the information system is to generate accurate, quality, and punctual information. The information system is a computer-based system that provides information to multiple users with similar needs. Users are usually incorporated in a formal organizational entity, notably a department or agency of a government institution which

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<sup>47</sup> Galuh Putri Riyanto, "8 Kasus Peretasan yang Terjadi di Indonesia Sepanjang 2021", <https://tekno.kompas.com/read/2021/12/21/06540017/8-kasus-peretasan-yang-terjadi-di-indonesia-sepanjang-2021?page=all>, accessed on 31 July 2022, 06.51 WIB.

branched into a directorate of fields, and sections to the smallest subsidiary unit. The information describes the organization or one of the main systems in the previous, present, and future occurrence of the organization. The information contains a meaning, namely processed data that is converted into consequential one that could be used for decision-making. (e) Budget Allocation. Budget allocation is fundamentally a matter of deciding various choices or priorities to do or not to do something. Budgeting is assumed to be a rational, economical, and politically free choice. In practice, budgeting is closely tied to politics, which involves bargaining positions between various powers with authority in determining important and trivial ones (budgeting is power and politics). Budgeting presumes as a political activity, in which the processed and produced are political products of the involved and the problems along with the arisen conflicts in the arrangement and appointment of the budget allocation. Therefore, the implementation of the One Number One Citizen shall hold a strong political bargaining position which is obtained not by legal mechanisms in general, but through political mechanisms that undergo a process of lobbying and political bargaining. This is deemed necessary to support the concept of One Number One Citizen as a principal public policy. (f) Inter-institution Coordination. Apropos to the aforesaid obstacle, in order to achieve high bargaining political position required good coordination between institutions which will further support the political bargaining process. This cannot be ruled out in the implementation of the Concept Of One Number One Citizen, as a high bargaining position policies will be prioritized and allocated a great budget. Budgeting is principal in determining the success or failure of a policy and further resolute the extent of accomplishment of the successful policy. To be obtained, it is necessary to have good coordination between institutions.

### **III. CLOSING**

The application of the concept of one number one citizen the author initiated is generally aroused by the concept of social security number that essentially aimed at ensuring the fulfilment of rights and protection of all elements of society. The concept would be administered by an institution under the executive branch, such as the concept of social security numbers, while the Ministry of Internal Affairs is the managing institution of the one number one citizen concept as difference. The Ministry of Internal

Affairs will administer the respective aspects altogether since the issuance to the utilization of the NIK as the concrete implementation of the one number one citizen. The Ministry of Internal Affairs could adopt the United States' approach through the establishment of a subsidiary institution that notably administers the implementation of the one number one citizen through NIK. Furthermore, the NIK would be integrated and utilized as the identification number for all community activities, commencing as the identity identification numbers, tax activities, banking transaction activities, vehicle driving activities, property registration activities, and so forth.

Furthermore, the Ministry of Internal Affairs would cooperate with the regional governments of each province to collect data from each resident. The data of the resident would be collected through data obtained from the civil registration office when the residents make ID cards or by using the already existing data. The NIK-administered system of the Ministry of Internal Affairs could not be interfered with by an unauthorized party without a judicial institution permit through a court's order. Hence, the judiciary also has an important role in the implementation of the *One Number One Citizen*. The policy could also be used by the applicant for confiscation executions over undisclosed assets of the confiscation execution respondent. In a facile approach, in the confiscation execution application, the applicant shall plea that the Head of the District Court may grant permission to access (shown only access and cannot be copied) the *One Number One Citizen* system administered by the Ministry of Internal Affairs. Therefore, the guarantee of rights and the implementation in the State of Law could be well regulated through the one number one citizen concept.

In addition, the political will of the Supreme Court of the Republic of Indonesia to also implement this *One Number One Citizen* system is required in order for the implementation to be guaranteed, both inside and outside the trial. Nonetheless, the implementation of the *One Number One Citizen* is inescapable from hindrances notably the human resources, foreign hacking, rules and regulations, and inter-organizational collaboration which are debilitated entirely. Therefore, an endeavour in reforming the Civil Procedural Code along with the establishment of a new institution under the Ministry of Internal Affairs associated with the Supreme Court in administering the *One Number One Citizen*.

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