

Implementation of the Execution of Criminal Decisions on Substitute Money in Justice-Based Corruption Cases (Study of Decision Number 29/Pid.Sus-Tpk/2020/Pn.Jkt.Pst)

Amrizal Tahar¹⁾ & Denny Suwondo²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: amrizaltahar.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: dennysuwondo@unissula.ac.id

Abstract. *Eradication of corruption in Indonesia does not only demand criminal punishment of the perpetrators, but also emphasizes the importance of returning state financial losses through the execution of substitute money. This study analyzes the implementation of substitute money execution against defendant BT in the Jiwasraya case as a form of justice-based law enforcement and the effectiveness of state asset recovery. The purpose of this study is to analyze the implementation of substitute money execution in corruption cases based on justice and to analyze the obstacles and solutions of the prosecutor's office in executing substitute money decisions in corruption cases. The results of this study are (1) The implementation of the execution of the criminal decision of replacement money in the corruption case with the defendant BT reflects the application of justice based on positive law that is oriented towards recovering state losses. The Prosecutor's Office carried out the execution in accordance with the Supreme Court's final decision, which sentenced BT to pay replacement money of more than six trillion rupiah. After the one-month deadline was not met by the convict, the Prosecutor's Office confiscated and auctioned BT's assets, both those that had become evidence in the trial and those found through additional asset searches.*

Keywords: *Corruption; Execution; Money; Replacement.*

1. Introduction

National development aims to realize a just, prosperous, prosperous, and orderly society based on Pancasila and the 1945 Constitution. To realize a just, prosperous, and prosperous Indonesian society, it is necessary to continuously improve efforts to prevent and eradicate criminal acts in general and criminal acts of corruption in particular. In the midst of national development efforts in various fields, the aspirations of the community to eradicate corruption and

other forms of deviation are increasing. The existence of corruption has caused great state losses and in turn can have an impact on the emergence of crises in various aspects of national life.¹

In Indonesia, corruption has become a culture and has become a system that is integrated with the implementation of state governance. This corruption has affected the entire system of government and society, corruption has also caused the destruction of the character of the Indonesian nation and has also become the cause of Indonesia being less advanced than other countries.² In addition, corruption now no longer recognizes territorial boundaries. In other words, corruption has now become a transnational phenomenon. Corruption itself even interacts with various other forms of transnational organized crime.³

The problem of eradicating corruption in Indonesia is not only a legal and law enforcement problem but also a social and psychological problem and is very serious and as serious as the legal problem, so it must be fixed by the state simultaneously. Corruption is also a social problem because corruption results in the absence of equal welfare and is a psychological problem because corruption is a social disease that is difficult to cure.⁴

The crime of corruption can no longer be said to be an ordinary crime, but has become an extraordinary crime because it is systematic, endemic, and has a very broad impact that not only harms state finances but also violates the social and economic rights of society at large.⁵ Systematic shows that corruption is carried out with very mature planning and coordination and not only involves the power structure, but also involves the social structure in society. Endemic shows that corruption has become an epidemic that reaches all levels of society. In fact, Atmasasmita said that corruption is like a flu virus that has spread to all levels of power.⁶

Evi Hartanti stated in her book *Tindak Pidana Korupsi* that the literal meaning of corruption is something rotten, evil, and destructive. If we talk about corruption, we will find such a reality, because corruption involves moral aspects, rotten

¹Moh. Yusril, Syachdin, and Kamal, Implementation of Replacement Money in Corruption Crimes (Study of the Donggala District Attorney's Office), *Toposantaro Journal of Legal Studies*, Vol. 1, No. 2, 2024, pp. 81-95

²Adami Chazawi, *Law of Evidence of Corruption Crimes*, Alumni, Bandung, 2008, p. 3

³Maria Efitu Ayu and Sherlu Ayuna Putri, Trafficking of Women and Children and Corruption as Transnational Organized Crimes Based on the Palermo Convention, *Jurnal Bina Mulia Hukum*, Vol. 3 No. 1, 2018, pp. 61-72

⁴Romli Atmasasmita, *Corruption, Good Governance and the Indonesian Anti-Corruption Commission*, National Legal Development Agency, Department of Justice and Human Rights of the Republic of Indonesia, Jakarta, 2002, p. 48

⁵Ifrani. Corruption as an Extraordinary Crime. *Al'Adl Journal*, Vol. 9, No. 3: 2017, pp. 319-336

⁶Romli Atmasasmita, *Around the Problem of Corruption National Aspects and International Aspects*. Mandar Maju. Jakarta, 2004, p. 11

nature and circumstances, positions in government agencies or apparatus, abuse of power in office due to gifts, economic and political factors, and the placement of families or groups into civil service under the authority of their position.⁷

One of the issues that has received more attention in the eradication of corruption is how to restore state financial losses that have been lost as a result of corruption, whether committed by individuals or corporations. Saving state finances is important, considering the fact that so far the eradication of corruption carried out by law enforcement officers can only save 10-15 percent of the total money that has been corrupted.⁸

The return of state losses/state assets is a consequence of the effects of corruption that can harm state finances or the state economy, so that to return the losses, legal means are needed, namely additional penalties in the form of payment of replacement money. "Replacement money is one of the legal instruments used in the matter of state losses caused by corruption, the perpetrator's actions have resulted in state financial losses."⁹

To cover the element of state losses, coercive efforts (*dwang middelen*) are needed. Coercive actions or efforts by law enforcement in order to save state money can be carried out in stages, namely: First, at the pre-adjudication stage in the form of coercive actions or efforts by law enforcement by confiscating assets or objects in the possession of the suspect/defendant or assets or objects suspected of being related to a crime, so they do not have a limiting nature to the existence of the status of the assets. Second, during post-adjudication, in the form of actions or efforts by law enforcement to implement the realization of replacement money.¹⁰

The implementation of the return of state financial losses due to corruption crimes cannot be done immediately. In addition to waiting for the payment of replacement money from the convicts of corruption cases which takes a long time, the return of replacement money to the state treasury cannot be done immediately. This is due to the bureaucratic procedures that are passed, so it takes time to return state financial losses to the state treasury so that they can be used immediately for the welfare of the people.¹¹

⁷Evi Hartati, *Criminal Acts of Corruption*, Sinar Grafika, Jakarta, 2005, p. 24.

⁸Ismansyah, *Implementation and Implementation of Criminal Substitute Money in Corruption Crimes*, *Jurnal Demokrasi*, Vol. VI No. 2, 2007, p. 44

⁹Intan Munira, Moh. Din, Effendi, *Payment of Replacement Money in Corruption Cases*, *Journal of Legal Studies*, Volume 19 Number 2 Year 2017, pp. 345-366.

¹⁰Budi Suhariyanto, *Application of Replacement Money to Corporations in Corruption Cases for the Recovery of State Financial Losses*, *Jurnal Rechtsvinding*, Vol. 7 No. 1, 2018, pp. 113-130

¹¹M. Yusuf, Fahmiron, and Wirna Rosmely, *Execution of Additional Criminal Penalties in the Form of Replacement Money in Corruption Crimes by the Padang District Attorney's Office (Study of*

The legal issues that occur in the execution of substitute money in corruption crimes are not new issues, but these issues have occurred long before the enactment of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, even the execution of substitute money based on Law Number 3 of 1971 concerning the Eradication of Criminal Acts of Corruption still cannot be implemented until now, even though the payment of substitute money is one of the objectives to return state losses as much as has been corrupted by the convict.

2. Research Methods

The method comes from the Greek word "Methodus" which means way or path. So, the method can be interpreted as a path related to the way of working in achieving a target needed by its users, so that they can understand the target object or the purpose of solving the problem. Meanwhile, research means re-search. The search in question is the search for true (scientific) knowledge, because the results of this search will be used to answer certain problems. In other words, research is a search effort that is very educational; it trains us to always be aware that in this world there is much that we do not know, and what we are trying to find, find, and know is still not absolute truth. Therefore, it still needs to be re-tested.

3. Results and Discussion

3.1. Implementation of the Execution of the Corruption Court's Decision on Replacement Money in Decision Number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst Based on Justice

Corruption is one of the white collar crimes that often disturbs the community. Corruption in all its forms certainly causes misery for all Indonesian people. The loss of state money due to corruption certainly makes the people's rights regulated by the basic constitution of Indonesia, namely the 1945 Constitution of the Republic of Indonesia (UUD 1945) neglected. The rights of the community to welfare such as education, health, clothing, food, shelter, transportation facilities, access to technology become difficult. The point is that corruption brings a lot of disappointment to the people. Corruption is basically spending the state budget which was originally intended for the benefit of the people to then be taken for personal or group profit.¹²

Decision Number: 19/Pid.Sus-TPK/2015/PN Pdg), *Unes Law Review*, Vol. 1, Issue 1, 2018, pp. 61-70

¹²Guntur Rambey, *Restitution of State Losses in Corruption Crimes Through Payment of Replacement Money and Fines*, *De Lega Lata*, Vol. 1, No. 1, 2016, pp. 137-160

Corruption causes losses to state finances. The allocation of funds made by the government for the welfare or interests of the people becomes wasted because it is taken by immoral and irresponsible individuals. One element in corruption is the loss of state finances.

The state losses resulting from the criminal acts of corruption referred to are losses caused to state finances or the state economy. Based on Article 1 paragraph (22) of Law Number 1 of 2004 concerning State Treasury (Law No. 1 of 2004), what is meant by state or regional losses are: "A real and definite lack of money, securities and goods as a result of unlawful acts, whether intentional or negligent."

Based on the statement from Mr. Ruri Febrianto, SH, MH, as the Head of the Special Crimes Section (Kasi Pidsus) at the Central Jakarta District Attorney's Office, efforts to eradicate corruption through law are carried out by consistently implementing the provisions of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption and various other related regulations. These efforts are carried out repressively through criminal law enforcement against perpetrators of corruption, namely by imposing prison sentences and fines. In addition, additional penalties are also imposed in the form of payment of compensation to recover state financial losses caused by the corruption. In practice, compensation is distinguished from fines, because according to Article 10 of the Criminal Code, fines are the main penalty, while compensation is an additional penalty that is specific in corruption cases, the implementation of which is adjusted to the convict's ability to pay the losses.¹³

The payment of replacement money itself can be imposed on both the perpetrator who is an individual legal subject and/or corporation, with the provision that the corporation that is subject to additional replacement money punishment against the corporation cannot be sentenced to prison in lieu of replacement money. The additional replacement money punishment can only be imposed on the defendant in the relevant case as formulated in Article 6 of PERMA No. 5 of 2014, and cannot be imposed on other parties outside the defendant in the relevant case. In the case where the corruption crime is committed together, the judge can impose the amount of replacement money based on the assets obtained by each defendant, considering that Article 4 of PERMA No. 5 of 2014 states that replacement money cannot be imposed jointly and severally. However, in the case where the assets obtained from corruption by each defendant are not known for certain, replacement money can be imposed proportionally and objectively in accordance with the role of each defendant in the corruption crime they committed.

¹³Interview with Mr. Ruri Febrianto, SH, MH, as Head of the Special Crimes Section (Kasi Pidsus) at the Central Jakarta District Attorney's Office, on 1 March 3, 2025

The amount of compensation payment in corruption crimes is as much as possible equal to the assets obtained from the corruption crime and not merely the amount of state losses caused as stated in Article 1 of PERMA No. 5 of 2014. The amount of compensation does not have to be equal to the amount of state losses because in a case it is very possible that what is enjoyed by the perpetrator of corruption is not only limited to the state losses caused by his actions.

The prosecutor's office, which has the duty and authority to execute court decisions in criminal cases, must ensure that corporations as convicts pay compensation. Execution is one of a series of processes for handling criminal cases that are carried out as an effort to realize the upholding and functioning of criminal law norms. The requirements for a decision to be executed are that the court decision has obtained permanent legal force (*inkracht van gewijsde*).¹⁴

Execution is a reflection of the state's responsibility through its law enforcement apparatus, namely the Prosecutor's Office to ensure that a person who has been sentenced to criminal sanctions based on a court decision that has obtained permanent legal force, serves his sentence in accordance with the provisions of laws and regulations. The execution that is immediately carried out by the Prosecutor's Office is in principle a commitment to be able to complete the handling of criminal cases.

The consistency of the Prosecutor's Office in implementing court decisions that have permanent legal force, must pay attention to religious norms, politeness, morality, and must explore and uphold the humanitarian values that exist in society, and always maintain the honor and dignity of the profession as stated in Article 8 paragraph (4) of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia:¹⁵

"In carrying out his duties and authorities, the Prosecutor always acts based on the law and conscience by respecting religious norms, politeness, morality, and is obliged to explore and uphold the values of humanity that live in society, and always maintain the honor and dignity of his profession."

Basically, the execution of payment of replacement money in corruption cases is not much different from the implementation of execution of imprisonment and fines in criminal cases in general. The difference is in the provisions of Article 18 paragraph (2) of the Corruption Eradication Law which explicitly stipulates that if the convict does not pay replacement money within 1 (one) month after the verdict has permanent legal force, then his property can be confiscated by the

¹⁴Mohamad Nur Kholiq and Evan Samuel Grigorius. "Takeover of Convicts' Receivables to Replace State Financial Losses in Corruption Crimes." *Legislative Journal* 2021, pp. 168-179.

¹⁵Firmansyah, Aidil, et. al., "Court Decisions as a Source of Jurisprudence Law." *Wathan: Journal of Social Sciences and Humanities*, Vol. 1. No. 2, 2024, pp. 136-146.

Prosecutor's Office and auctioned to cover the replacement money. Article 18 paragraph (3) of the Corruption Eradication Law also explicitly stipulates that if the convict does not have sufficient property to pay replacement money, then he will be punished with imprisonment for a term not exceeding the maximum threat of the principal sentence.

Handling of corruption cases starting from investigation, prosecution, legal efforts, then when it has permanent legal force, the prosecutor's office as per Article 270 of the Criminal Procedure Code shall implement the court decision that has permanent legal force, namely the principal sentence of imprisonment and additional sentences in the form of payment of fines and replacement money, the collection of which is the responsibility of the prosecutor's office as the executor of the court decision (executor). This condition is by the prosecutor's office as an effort to control the demands of imprisonment as a substitute for the obligation to pay replacement money. As for the control of additional criminal demands, the guidelines for prosecutors' demands are based on the Circular of the Attorney General of the Republic of Indonesia Number: 003/A/AJ/2010 concerning Guidelines for Criminal Demands in Corruption Crimes, in the attachment it is stated that the defendant is demanded imprisonment as a replacement sentence of at least half of the principal criminal demand in the form of imprisonment demanded by the public prosecutor.¹⁶

The implementation of the decision of replacement money carried out by the prosecutor through the court stage, auction stage, replacement payment stage and civil lawsuit. Based on a court decision that has permanent legal force, for criminal cases decided based on Law No. 3 of 1971 with additional criminal compensation for the collection and payment stages is not limited by time.

Efforts to recover losses to state finances or the state economy through criminal compensation or compensation based on the Attorney General's Decree Number: Kep-518/JA/11/2001 dated 1 November 2001, are carried out in the following manner:

- 1) A collection letter (D-1) is made regarding the collection of replacement money from the convict to appear before the executing prosecutor at the local prosecutor's office;
- 2) The convict is summoned and confronted by the executing prosecutor and asked about his/her ability to pay the replacement money that has been imposed by the court that has permanent legal force. At this stage, a statement letter (D-2) is made which states whether or not he/she is able to pay the

¹⁶Yuda Musatajab and Mulyadi Alrianto Tajuddin. "Compensation Money as an Alternative to Recover State Losses in Corruption Cases." *Journal of Restorative Justice* Vol. 2. No. 1, 2018, pp. 52-66.

replacement money. If he/she is unable to pay, it is accompanied by a letter of inability from the sub-district/village head;

3) After receiving the replacement money from the convict, the local District/High Prosecutor's Office makes a letter of order (D-4) ordering the executing prosecutor/Head of Special Crimes/Head of Special Crimes Prosecution Sub-section to submit the replacement in the name of the convict concerned to the Head of Sub-Division of the local Prosecutor's Office Cq. The Special Treasurer/recipient after receiving the replacement money within 1 x 24 hours must deposit the replacement money with a form of Non-Tax State Recipient Deposit Letter (SSBB) to the State Treasury with the budget line item (MAP) 423473 through a bank. Based on JAM BIN Number. 005/C/Cu/01/08 and Permenkeu Number. 19/PMK.05/2007, MAP was changed to Number 423614 effective since January 2008.

If the convict does not pay the replacement money, there must be evidence that the convict has served the replacement sentence. This must be proven by the minutes of the implementation of the replacement sentence (BA-8). If the convict is undergoing law or has served a criminal sentence even though the minutes of the implementation of the replacement sentence have not been made, the District Attorney must order the Head of Pidsus or the Public Prosecutor to coordinate with the Correctional Institution to obtain a certificate that the convict has served the replacement sentence. The certificate must be attached to the case file. If the payment cannot be made at once by the convict, then it is more directed towards a non-litigation settlement carried out through negotiation. That the convict can pay in installments according to the agreement until the replacement money is fully paid.

The implementation of the execution of the criminal decision of substitute money in the corruption case in decision number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst, with the defendant BT. The defendant BT was involved in a major corruption scandal involving the management of investment funds at PT Asuransi Jiwasraya (Persero). As a party that has control over a number of companies, BT is suspected of compiling and implementing a manipulative scheme in the management of Jiwasraya investment products by engineering stock and mutual fund transactions that actually do not have good fundamental value. Through companies affiliated with him, BT arranged the purchase and sale of "fried" stocks repeatedly to create the appearance of a turnover of profits, when in fact it was a series of engineering that was detrimental to the state. Jiwasraya customer premium funds that should have been managed prudently were instead used to inject companies he owned, resulting in very large state losses.

Based on his actions, the Corruption Court at the Central Jakarta District Court issued a verdict against BT in case Number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst. He

was found legally and convincingly proven to have committed a criminal act of corruption together as regulated in Article 2 paragraph (1) in conjunction with Article 18 of Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which has been amended by Law No. 20 of 2001, and was proven to have committed the crime of money laundering as referred to in Article 3 of Law No. 8 of 2010. The panel of judges sentenced BT to life imprisonment and a fine of five billion rupiah subsidiary to one year in prison. In addition, he is also required to pay compensation of more than six trillion, and if it is not paid within one month from the time the verdict has permanent legal force, his assets will be confiscated and auctioned by the prosecutor to cover the compensation. If the assets are insufficient, it will be replaced with a prison sentence of ten years. Hundreds of assets in the form of land, buildings, apartments, securities accounts and vehicles belonging to the defendant were confiscated for the state and calculated as compensation payments.

The verdict reflects the efforts of law enforcement to recover losses to the state and victims (Jiwasraya policyholders) through the confiscation of assets resulting from corruption. The following will describe the implementation of the execution steps of verdict number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst):

1) Determination of Inkracht Decision and Execution Order

After the Supreme Court rejected BT's cassation in August 2021 (inkracht decision), the Attorney General's Office through the Deputy Attorney General for Special Crimes (JAM Pidsus) immediately followed up on the execution. The Head of the Central Jakarta District Attorney's Office issued a Search Order for the Convict's Property Number Print-734/M.1.10/Fu.1/09/2021 dated September 29, 2021. This letter assigned the team of executing prosecutors to trace the convict's assets that could be confiscated in order to pay compensation according to the court's decision.

2) Confiscation of Evidence Determined to be Confiscated

In the court ruling, a number of pieces of evidence have been determined to be confiscated as compensation. For example, the Panel of Judges ordered securities accounts, land, and other assets in the name of BT or its affiliates to be confiscated for the state (cq Ministry of Finance) and counted as compensation. These assets were previously confiscated in the investigation and prosecution process, so that after the verdict became final, the prosecutor only had to continue its status as state confiscation. The executing prosecutor ensured that the evidence was not returned to the defendant, but was taken over by the state in accordance with the verdict.

3) Search and Seizure of Additional Assets

In addition to the evidence that has been identified in court, the Prosecutor's Office is conducting further tracing of BT's assets (asset tracing). The JAM Pidsus execution prosecutor team is gradually carrying out execution seizures (confiscation in the execution stage of the verdict) of various other assets belonging to or related to the convict, even though these assets were not used as evidence in court. For example, on July 12, 2022, the Central Jakarta Prosecutor's Office seized the execution of 1 luxury house belonging to BT on Jl. Patra Kuningan, South Jakarta (land area 1,108 m²) along with 1 plot of land and building on Jl. Pandeglang No.41, Menteng, Central Jakarta (area 1,158 m²), both in the name of BT. This seizure is based on the Supreme Court's decision ordering the confiscation of assets for replacement money, and is carried out according to procedures with the security of the prosecutor's office.

Similar steps continued throughout 2022–2023. The Attorney General's Office formed an execution control team at the Directorate of Extraordinary Legal Efforts, Execution and Examination (JAM Pidsus) to assist the District Attorney in every execution action. Assets in the form of land in very large amounts were successfully traced in various regions and confiscated. For example, in February 2023 the Attorney General's Office confiscated 185 plots of land covering an area of 401,024 m² in Tangerang Regency. This was followed by the confiscation of hundreds of other plots of land in Bogor, Bekasi, Solo Raya, and North Sumatra Regencies, all of which were related to BT investments. The Attorney General's Office also coordinated with related agencies such as the National Land Agency (to block land certificates) and OJK/KSEI (to block stock or mutual fund accounts) to ensure that assets were not transferred.

4) Management of Assets Seized Execution

After being confiscated, the assets are handled by the Attorney General's Office's Asset Recovery Agency (BPA). Several immovable assets (land/buildings) that have not been immediately auctioned are entrusted to be managed. For example, the confiscated asset in the form of 33 hectares of land in Tambun, Bekasi, is temporarily used as productive agricultural land in collaboration with the local government. This confiscation step prevents the assets from being abandoned and their value from decreasing before being auctioned.

5) Auction and Realization of Asset Value:

The Attorney General's Office carries out the sale of seized assets and execution seizures through a transparent open auction mechanism. The auction is carried out through the Ministry of Finance's State Assets and Auction Service Office (KPKNL), in accordance with the provisions of PMK No. 145/PMK.06/2021 concerning Management of State Property from Confiscated Goods. For example, the Attorney General's Office auctioned 967,500 shares of confiscated

Jiwasraya case shares with a selling value of IDR 37.8 billion (shares of PT Gunung Bara Utama owned by HH).

The confiscated luxury goods were also auctioned; it was recorded that 6 Hermes brand handbags belonging to Benny's wife were sold for a total of IDR 606 million in the auction. The proceeds from the auction were then deposited into the state treasury as a recovery of losses. In fact, the Attorney General's Office's BPA in early 2025 reported that it had deposited IDR 5.56 trillion into the state treasury from the proceeds of the settlement (sale) of confiscated assets and execution seizures in the Jiwasraya case.

6) International Cooperation (Repatriation of Overseas Assets):

Another important step is the tracing of assets abroad. The prosecutor's office managed to find and seize Benny's assets in New Zealand in the form of a luxury house/villa in Queenstown worth NZD 3.4 million (around Rp32.8 billion). This asset was purchased by Benny in 2017 through a nominee (Caroline W.) as an attempt to launder money abroad. The Attorney General's Office's Asset Recovery Center collaborated with the New Zealand Police Asset Recovery Unit and the Asia Pacific cooperation network to request confiscation through the local court. As a result, the Invercargill High Court in NZ issued a forfeiture order for the house, which was then repatriated to the Republic of Indonesia.

The total value of assets that have been successfully seized and confiscated by the state from the Jiwasraya case (including BT and friends) reached around IDR 5.56 trillion as of early 2025. This figure is the accumulation of the results of the auction/takeover of the above assets that have been realized into money and deposited into the state treasury. Of the replacement money obligation of IDR 16.79 trillion, only around 33% (IDR 5.56 T) has been successfully returned to the state. The details are: ~ IDR 2.2 T from the sale of securities, ~ IDR 1.98 T from the auction of seized execution goods (land, shares, cars, bags, etc.), ~ IDR 262 M from the auction of confiscated goods (land, buildings, vehicles), ~ IDR 980 M from the sale of mutual fund units, and ~ IDR 11.8 M in cash confiscated. All of these receipts have entered the state treasury cq the Ministry of Finance to be used in accordance with the recovery mechanism.

The execution of the corruption criminal verdict with convict BT shows that the Prosecutor's Office has carried out its execution duties in accordance with applicable positive legal procedures. The regulation of criminal procedure law in Article 270 in conjunction with 273 of the Criminal Procedure Code emphasizes that the execution of a court decision that has permanent legal force (*inkracht*) is the authority of the prosecutor on the orders of the head of the prosecutor's office. After the Supreme Court rejected BT's cassation and the verdict was declared *inkracht* in August 2021, the Central Jakarta District Attorney's Office immediately issued an execution order, both for corporal punishment in the

form of life imprisonment and additional punishment in the form of payment of compensation. In its implementation, the convict has been detained so that the execution of corporal punishment proceeded without any obstacles. In fulfilling the compensation, the prosecutor gave the convict one month to pay voluntarily, as stated in the verdict. Because it was not paid, the prosecutor then continued the process of confiscation and auctioning of assets to cover state losses.

The execution is also in line with the provisions of Article 18 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption. These provisions provide a strong legal basis for prosecutors to confiscate assets resulting from corruption as additional punishment to restore state losses. BT's assets purchased from the proceeds of corruption and money laundering, such as land, securities accounts, and shares, have been confiscated and confiscated for the state. This confiscation was not carried out arbitrarily, but rather based on the results of legal identification through investigation and evidence in court. Thus, this execution has been carried out within the limits of legitimate legal authority, without exceeding the verdict or touching assets outside the case.

According to Kelsen, justice is also based on the principle of legality, namely that a legal action is said to be fair if it is carried out within the limits and mechanisms determined by law. In this case, the prosecutor carried out the execution according to procedure by giving the convict the opportunity to pay voluntarily, confiscating assets after a certain period of time, and then auctioning the assets under state supervision. No deviations from these principles were found, which means that the execution process has met the benchmark of legality as conceived by Kelsen. Justice for the victims, especially the state and Jiwasraya customers, has been realized through the fulfillment of the right to obtain restitution of state financial losses. The state as the main victim in this corruption case managed to obtain most of the assets confiscated from the perpetrators. Theoretically, it can be concluded that the implementation of the execution of the replacement money crime in this case has been in line with Hans Kelsen's idea of justice, because the rule of law has been implemented systematically and can be legally accounted for.

3.2. Obstacles and Solutions of the Prosecutor's Office in the Implementation of Criminal Decisions on Replacement Money in Corruption Cases

Efforts to eradicate corruption through criminal law instruments are not sufficient by simply expanding the scope of legal subjects that can be ensnared by the corruption law. More than that, perpetrators who have been sanctioned based on the law need to be given the heaviest possible punishment. The application of this maximum sanction is not only limited to the length of

imprisonment, but also includes the provision of variations in other criminal sanctions in the form of additional penalties.¹⁷

The confiscation of assets resulting from corruption for the state is carried out based on a judge's decision, and its implementation is the responsibility of the Public Prosecutor after the decision has permanent legal force. The Prosecutor's Office has a primary role in the criminal justice system, namely as the party that carries out prosecution and implements final court decisions. This is in line with the provisions of Article 1 number 1 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which states that a prosecutor is a functional official who has the authority based on the law to act as a public prosecutor and implement court decisions that have permanent legal force, as well as exercise other authorities granted by laws and regulations.¹⁸

The implementation of court decisions or execution is regulated in Chapter XIX Article 270 to Article 276 of the Criminal Procedure Code (KUHAP). According to the provisions of Article 270 of the KUHAP, "The implementation of court decisions that have obtained permanent legal force is carried out by the Prosecutor, for which the clerk sends a copy of the decision letter to him". The execution of a new court decision can only be carried out by the prosecutor after the prosecutor receives a copy of the decision letter from the clerk.

The prosecutor as the executor of the judge's decision as stated in the Criminal Procedure Code Article 1 number 6 letters a and b states that the prosecutor implements the decision that has obtained permanent legal force and implements the judge's determination. According to the Circular of the Supreme Court (SEMA) Number 21 of 1983 dated December 8, 1983, the deadline for sending a copy of the decision from the Clerk to the prosecutor for ordinary procedural cases is a maximum of 1 (one) week, and for cases with short procedural cases a maximum of 14 days.

Confiscation of assets from corruption from convicts is carried out by the Public Prosecutor or State Attorney as an implementation of the court decision that has sentenced the convict to compensate the state for losses called the obligation to pay compensation. If they do not have sufficient assets, the convict's assets can be confiscated by the Prosecutor as the executor. Confiscation of assets from corruption is in accordance with the law because the act of corruption causes losses to state finances and regional finances also includes the finances of other legal entities whose capital/wealth comes from separated state/regional assets.

¹⁷Peter Mahmud Marzuki, *Legal Research*, Kencana, Jakarta, 2011, p. 141

¹⁸Abdullah, Fathin, and Triono Eddy. "Confiscation of assets resulting from corruption without conviction (Non-conviction based asset forfeiture) based on Indonesian law and the United Nations Convention Against Corruption (UNCAC) 2003." *Jurnal Ilmiah Advocacy* Vol. 9. No. 1, 2021, pp. 19-30.

The meaning of state finances is stated in Article 23 of the 1945 Constitution of the Unitary State of the Republic of Indonesia.¹⁹

The application of substitute money in the corruption case of defendant BS faces a number of obstacles. According to Lawrence M. Friedman, obstacles in the legal system can arise from three main interrelated elements, namely legal structure, legal substance, and legal culture.

1) Legal Substance

The implementation of criminal execution of payment of replacement money is basically also a matter of law enforcement. The law can reflect the values based on the legal norms themselves so that the law or regulations can be effectively applied in society.

2) Legal Structure

The weakness of the legal structure for the implementation of the execution of substitute money in corruption crimes lies in the minimal number and specialization of prosecutors who are specifically assigned to handle the execution of assets. The execution of additional criminal penalties in the form of substitute money requires special skills from members of the prosecutor's office, such as asset tracing, confiscation, securing evidence, and auctioning through state institutions. This complexity requires expertise and experience that cannot be met by all prosecutors in general. Unfortunately, in many District Attorney's Offices, the task of execution is still borne by prosecutors who are concurrently assigned other duties, without a special unit that focuses on handling the asset execution process.

3) Legal Culture

Legal culture refers to the attitudes, values, perceptions, and behavior of society and law enforcement officers towards the law itself. Legal culture describes how society understands, responds to, and practices law in everyday life, including the values inherent in law enforcement officers in carrying out their duties. In law enforcement institutions, legal culture reflects the character, work ethic, commitment, and integrity of individuals towards rules and justice.

The low level of public awareness of the importance of returning state losses as part of enforcing justice is a weakness of legal culture. The public often only focuses on the corporal punishment imposed on perpetrators of corruption, and tends to ignore the aspect of restoring state finances as part of fair punishment. This shows that in the legal culture of society, punishment is perceived only as a

¹⁹ Fatin Hamamah and Heru Hari Bahtiar. "Asset Recovery Model as an Alternative to Recover State Losses in Corruption Cases." *Court: Journal of Islamic Law Studies* Vol. 4, No. 2, 2019, pp. 193-204.

form of revenge or social sanction, not as an effort to restore the impact of criminal acts of corruption.

This low awareness also has an impact on weak social control over state officials who are proven to be corrupt but do not carry out their obligations to pay compensation. The absence of public pressure creates room for negotiation or even avoidance of execution. This condition has the potential to reduce the deterrent effect on perpetrators and obscure the objectives of punishment in modern criminal law, namely justice, benefit, and legal certainty.

The solutions that can be implemented to deal with obstacles in carrying out the execution are:

- 1) Strengthening the legal substance by revising the Corruption Eradication Law and/or issuing implementing regulations in the form of Government Regulations or Attorney General Regulations. These regulations need to contain provisions on the installment procedures for payment of replacement money, the maximum time limit for repayment, the mechanism for forced collection if the commitment is not fulfilled, and the threat of strict sanctions if a violation occurs. Thus, the legal substance is not only a normative tool that regulates the rights and obligations of convicts, but also an effective and efficient tool for the state in returning financial losses due to corruption.
- 2) Establish a special unit for implementing asset execution in each District Attorney's Office and High Prosecutor's Office, supported by human resources who are professionally trained in the field of asset recovery. This unit must synergize with the Attorney General's Office's Asset Recovery Agency (BPA) and other agencies, and have its own operational budget. The establishment of this unit needs to be supported by clear regulations, such as the Attorney General's Regulation, in order to have legality and definite implementation power.
- 3) Conducting legal education to the public that emphasizes the importance of recovering state losses as part of justice for all people. The government, educational institutions, media, and community leaders need to work together to build collective awareness that corruption is not just about going to prison, but also about returning what has been taken from the people.

4. Conclusion

The execution of the criminal decision of replacement money in the corruption case with the defendant BT reflects the application of justice based on positive law that is oriented towards recovering state losses. The Prosecutor's Office carried out the execution in accordance with the *inkracht* decision of the Supreme Court, which sentenced BT to pay replacement money of more than six trillion rupiah. After the one-month deadline was not met by the convict, the Prosecutor's Office confiscated and auctioned BT's assets, both those that had

become evidence in the trial and those found through additional asset searches. These steps demonstrate the Prosecutor's Office's commitment to upholding justice through legitimate legal mechanisms, by making the recovery of state finances a priority. The confiscation and auction of assets were carried out transparently through the State Assets and Auction Service Office (KPKNL), while international cooperation was also carried out to repatriate assets abroad. Until early 2025, the state had succeeded in recovering around IDR 5.56 trillion of the total replacement money imposed, making the BT case a concrete example of the implementation of an execution that upholds the principle of justice in the Indonesian criminal law system.

5. References

Journals:

- Achmad Budi skito, *Implementasi Sistem Peradilan Pidana dalam Perspektif Integrasi*, Jurnal Daulat Hukum, Vol.1 No.1, Maret 2018,
- B.G.M. Widiapradnyana Arjaya, Peran Vital Penelusuran Aset Guna Menentukan Besaran Pidana Tambahan Uang Pengganti Terhadap Koruptor, *Jurnal Cita Hukum*, Vol. 4, No. 1, 2016,
- Basir Rohromana. "Pidana Pembayaran Uang Pengganti sebagai Pidana Tambahan dalam Tindak Pidana Korupsi." *Jurnal Hukum PRIORIS*, Vol. 6. No. 1, 2017.
- Budi Kristiarso, Pencabutan Hak Politik Sebagai Pidana Tambahan Dalam Perspektif Hukum Hak Asasi Manusia Di Indonesia, *Lex Et Societatis*, Vol. 6 No. 4, 2018,
- Gr. van der Brught & J.D.C. Winkelman, Penyelesaian Kasus (terjemahan B. Arief Sidharta). *Jurnal Pro Justitia*, XII (1), Januari. 2011
- Guntur Rambey, Pengembalian Kerugian Negara Dalam Tindak Pidana Korupsi Melalui Pembayaran Uang Pengganti Dan Denda, *De Lega Lata*, Vol. I, No. 1, 2016,
- Guntur Rambey, Pengembalian Kerugian Negara Dalam Tindak Pidana Korupsi Melalui Pembayaran Uang Pengganti Dan Denda, *De Lega Lata*, Vol. 1, No. 1, 2016,
- Guntur Rambey. "Pengembalian kerugian negara dalam tindak pidana korupsi melalui pembayaran uang pengganti dan denda." *De Lega Lata: Jurnal Ilmu Hukum*, Vol. 1. No. 1 2016,
- Ook Mufrohim dan Ratna Herawati, *Independensi Lembaga Kejaksaan sebagai Legal Structure didalam Sistem Peradilan Pidana (Criminal Justice*

System) di Indonesia, Jurnal Pembangunan Hukum Indonesia, Program Studi Magister Ilmu Hukum Universitas Diponegoro, Volume 2 Nomor 3, Semarang, 2020,

Rendy Firman et. al., "Efektivitas Penerapan Undang–Undang Nomor 20 Tahun 2001 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Korupsi Dalam Pengembalian Kerugian Keuangan Negara." *Jurnal Ar-Risalah* Vol. 3. No. 2, 2024,

Ridwan Khairandy. "Korupsi Di Badan Usaha Milik Negara Khususnya Perusahaan Perseroan: Suatu Kajian Atas Makna Kekayaan Negara Yang Dipisahkan Dan Keuangan Negara." *Jurnal Hukum Ius Quia Iustum*, Vol. 16. No. 1, 2009,

Yuda Musatajab dan Mulyadi Alrianto Tajuddin. "Uang Pengganti Sebagai Alternatif Pengembalian Kerugian Negara Dalam Perkara Tindak Pidana Korupsi." *Jurnal Restorative Justice* Vol. 2. No. 1, 2018,

Books:

Abdul Ghofur Anshori, dan Yulkarnanin Harahab, 2008, *Hukum Islam Dinamika dan Perkembangannya di Indonesia*, Total media, Jakarta,

Abu Fida' Abdur rafi', 2006, *Terapi Penyakit Korupsi dengan Takziyatun Nafs*, Republika, Jakarta,

Adami Chazawi, 2002, *Pelajaran Hukum Pidana Bagian 1: Stelsel Pidana, Tindak Pidana, Teori-Teori Pemidanaan dan Batas Berlakunya Hukum Pidana*, PT Raja Grafindo Persada, Jakarta,

Barda Nawawi Arief, 2001, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*, PT. Citra Aditya Bakti, Bandung,

C.S.T Kansil dan Christine S.T Kansil, 2007, *Pokok-Pokok Hukum Pidana*, PT Pradnya Paramitha, Jakarta,

Fausian Nurlan, 2019, *Metode Penelitian Kuantitatif*, Pilar Nusantara, Pare-Pare,

H.M. Rasyid Ariman dan Fahmi Raghieb, 2015, *Hukum Pidana*, Setara Press, Malang,

Hartono, 2010, *Penyidikan dan Penegakan Hukum Pidana Melalui Pendekatan Hukum Progresif*. Sinar Grafika, Jakarta,

Irfan Fachruddin, 2004, *Pengawasan Peradilan Administrasi Terhadap Tindakan Pemerintah*, Alumni, Bandung,

Ismu Gunadi dan Jonaedi Efendi, 2014, *Hukum Pidana*, Kencana, Jakarta,

- J.C.T. Simorangkir, 2007, *Kamus Hukum*, Sinar Grafika, Jakarta,
- L. J. Van Apeldoorn, 1996, *Pengantar Ilmu Hukum*, cetakan kedua puluh enam Pradnya Paramita, Jakarta,
- Lilik Mulyadi, 2007, *Kompilasi Hukum Pidana dalam Perspektif Teoritik dan Praktik Peradilan (Perlindungan Korban Kejahatan, Sistem Peradilan Dan Kebijakan Pidana, Filsafat Pemidanaan Serta Upaya Hukum Peninjauan Kembali Oleh Korban Kejahatan)*, Mandar Maju. Bandung,
- Lilik Mulyadi, 2007, *Putusan Hakim dalam Hukum Acara Pidana*, PT. Citra Adtya Bakti, Bandung,
- Lunis Suhrawardi K, 2000, *Etika Profesi Hukum*, Cetakan Kedua, Sinar Grafika, Jakarta,
- Muladi, 1997, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Badan Penerbit UNDIP, Semarang,
- Musa Darwin Pane, 2017, *Pengganti Kerugian Negara dalam Tindak Pidana Korupsi: Alternatif pengganti Pidana Penjara dan Pidana Mati dalam Perspektif Pemberantasan Korupsi*, Logos Publishing, Bandung,
- Nur Dwi Edie W, Analisis Kebijakan Peradilan Dalam Memutus Tindak Pidana Berdasarkan Alternatif Dakwaan (Putusan Studi Kasus Nomor 82/Pid.B/2019/PN.Blora), *Jurnal Daulat Hukum*, Volume 3 Edisi 1, Maret 2020,
- Pan Mohamad Faiz, Teori Keadilan John Rawls, *Jurnal Konstitusi*, Vol. 6 No. 1, 2009,
- Peter Mahmud Marzuki, 2011, *Penelitian Hukum*, Kencana, Jakarta,
- Retno Wulan, 2005, *Hukum Acara Perdata dalam Teori dan Praktek*, Mandar Maju, Bandung,
- Soerjono Soekanto, 1985, *Pengantar Penelitian Hukum*, UI-Press, Jakarta,
- Subekti, 1989, *Hukum Acara Perdata*, Bina Cipta, Jakarta,
- Sudarsono, 2002, *Kamus Hukum*, Rineka Cipta, Jakarta,
- Sudarto, 1986, *Kapita Selekta Hukum Pidana*, Alumni, Bandung,
- Titik Triwulan dan Shinta Febrian, 2010, *Perlindungan Hukum bagi Pasien*, Prestasi Pustaka, Jakarta,
- Yan Pramadya Puspa, *Kamus Hukum, Bahasa Belanda, Indonesia, Inggris*, Aneka Ilmu, Semarang, 1977,

Z Harahap, 1997, *Hukum Acara Peradilan Tata Usaha Negara*, PT. Raja Grafindo Persada, Jakarta,

Regulation:

The 1945 Constitution of the Republic of Indonesia;

Criminal Code;

Criminal Procedure Code;

Law Number 11 of 2021 concerning the Prosecutor's Office;

Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption;

Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption;

Law Number 48 of 2009 concerning Judicial Power;

Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes;

Internet:

KBBI Daring, <https://kbbi.kemdikbud.go.id/entri/korupsi>

Wawancara dengan Bapak Ruri Febrianto, S.H., M.H, selaku Kepala Seksi Tindak Pidana Khusus (Kasi Pidsus) di Kejaksaan Negeri Jakarta Pusat,

Joko Widarto, *Implikasi Hukum Putusan Mahkamah Konstitusi Nomor 22-24/PUU-VI/2008 Terhadap Upaya Affirmative Action Dalam Undang-Undang Nomor 10 Tahun 2008 Bagi Anggota Dewan Perwakilan Rakyat. Tesis*. Program Magister Ilmu Hukum Universitas Brawijaya, Malang.