



## Optimizing Confiscation of Assets in Accelerating the Eradication of Corruption

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**Abstract:** Nowadays, corruption is still the most and biggest problem facing by Indonesian, due to its impacts on the nation. It caused huge loss to the state finance and even to the democratic life in this country. Various efforts have been resorted to fight corruption, but the results are unfruitful. Until recently, Indonesia is still the third most corrupt country in Asia according to the survey of Transparency International Indonesia (TII) in 2015, with the Corruption Perceptions Index of 36 points. The fight in eradicating corruption cannot be separated from the effort to deter the criminals through severe punishment. However, ICW's most recent data shows otherwise. During the first half of 2014, there were 261 accused of corruption, with 242 of them were convicted guilty by the Corruption Courts. Among them, 193 were sentenced lenient (between 1-4 years imprisonment), 44 moderate (4-10 years), and only 4 with over 10 years imprisonment. The average length of sentence is therefore 2,9 years. The lenient sentence can also be found in criminal restitution. Only in 87 of the total cases state compensation is imposed, amounting 87.04 billion rupiahs in total. The amount is only 0.022% of the total financial loss of 3.863 trillion rupiahs. The weak penalty triggered then the idea of impoverishing corruptors as a strategic step to accelerate the eradication of corruption while restoring the loss to the state. In contrast to the criminal restitution, which is restricted only to the state loss caused by the perpetrators, criminal confiscation of assets has no limit in amount.

**Keywords:** Assets; Confiscation; Corruption; Impoverishment

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### INTRODUCTION

In Indonesia, the issue of corruption has long existed within various aspects of the society. For several decades, the phenomenon has become a national issue that is difficult to be dealt with.<sup>1</sup> The chain of corruptive behav-

ior has been connected in all sectors, starting from the Presidential Palace to even small neighborhoods.<sup>2</sup> The act of corruption occurred within the government bureaucracy, state-owned enterprises, private enterprises,

<sup>1</sup> Elwi Danil. (2011). *Korupsi: Konsep, Tindak Pidana dan Pemberantasannya*. Jakarta: RajaGrafindo Persada,

p. 64.  
<sup>2</sup> Nurul Irfan. (2011). *Korupsi Dalam Hukum Pidana Islam*. Jakarta: Amzah, p. 5.

as well as within social groups established to aid in channeling the disaster-relief fund aimed for the victims of earthquake.<sup>3</sup> Corruption has immersed in all aspects of life within the nation, such as in politics, economics, governance, education,<sup>4</sup> and even religion.<sup>5</sup>

The crime of corruption has been considered as an extraordinary crime, hence it requires extraordinary measures be taken to deal with it. The overall impact of the acts of corruption according to criminology science, certainly can happen due to two things, namely the first due to the intent or in the science of law is referred to as the evil inner attitude (*mens rea*), and the second because of an opportunity to do evil deeds (*actus reus*).<sup>6</sup> It has even been considered as a violation of economics and social rights of the society as parts of fundamental

human rights, for it hampers the objectives of Indonesian national development and the goals of the country in general. The measures taken by Indonesian government in eradicating corruption has taken many forms, from imposing progressive regulations<sup>7</sup> to establishing various special anti-corruption agencies and committees.<sup>8</sup> However, the more effort is taken, the more intense it occurred, resulting in an even bigger loss caused to the state.

With such condition, it is no wonder if a survey by Transparency International<sup>9</sup> placed Indonesia as the third most corrupt country in Asia after Myanmar and Vietnam. In 2015, the Corruption Perception Index of Indonesia was 36 points, having 2 points difference from the previous year of 34 points.<sup>10</sup> The score showed that the anti-corruption movement in Indonesia has not brought fruitful outcomes. Throughout the

<sup>3</sup> District Prosecutor's Office of Padang is currently conducting legal proceeding against the leaders of several Social Groups suspected of embezzling the fund allocated for earthquake-relief scheduled to be channeled in the middle of 2012. Padang Ekspres. "Pemotong Dana Gempa Ditahan", 12 January 2013, p. 9-10. Meanwhile, there were 2 cases of corruption concerning the embezzlement of earthquake-relief fund which had been concluded by the court. Those were committed by the leader of Social Groups in Lubuk Begalung and Tunggul Hitam. Padang Ekspres, 10 October 2011. In the present case, the embezzlement of earthquake-relief fund was recommitted by the leader of Social Group by embezzling Rp. 3,4 million. Padang Ekspres, 12 January 2013.

<sup>4</sup> Among them was the Rector of Universitas Jenderal Soedirman, EY, who was involved in the corruption case concerning CSR fund of PT. Antam in 2013. See: Tempo: 'Kasus Korupsi, Rektor Unsoed Ditahan'. Available online at: <http://m.tempo.co/read/news/2013/08/21/063506193/p-Kasus-Korupsi-Rektor-Unsoed-Ditahan>, Accessed on 19 April 2016.

<sup>5</sup> An example of a corruption case in this field is the corruption involving members of the House of Representative concerning procurement of the Quran. See: Harian Kompas. 'Jangan Pilih Politisi Korup', Rabu, 17 October 2012, p. 2-3.

<sup>6</sup> Ansori. A. (2015). "Law Enforcement Criminal Acts of Corruption in The Perspective of Human Rights". *Rechtsidee*, 2(2), 79-108. doi: <http://dx.doi.org/10.21070/jihr.v2i2.83>

<sup>7</sup> Regulations concerning the crime of corruption in special regulations dated back in 1957 with the Warlord Regulation on Eradication of Corruption, in pursuance with Emergency Law.

<sup>8</sup> Starting from Paran (Committee for the Retooling of State Apparatus) headed by AH. Nasution with Muhammad Hatta and Roeslan Abdulgani as its members in 1957, then Opstib headed by Sudomo, to the Commission for Eradication of Corruption (KPK) which was established through the Law No. 30 of 2002. See Andi Hamzah. (2007). *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional*. Jakarta: RajaGrafindo Persada, p. 41. The latest measure was the establishment of a Special Court for Corruption through the Law No. 46 of 2009.

<sup>9</sup> Corruption Perception Index is a result of survey and polling conducted on the ranked countries concerning perceptions on the crime of corruption that occurred in the respective countries. Paku Utama. (2013). *Memahami Asset Recovery dan Gate Keeper*. Jakarta: Indonesia Legal Roundtable, p. 10.

<sup>10</sup> In the survey by Transparency International (TI) conducted every year upon 178 countries, the Corruption Perception Index (CPI) was ranked with score ranging from 0 to 10 (it was changed to 0 to 100 in 2013). The higher the number, the better CPI it shows, meaning that the country is considered clean from corruption. Krisna Harahap. (2006). *Pemberantasan Korupsi, Jalan Tiada Ujung*. Bandung: Grafitri, p. 11.

last decade, there was only an increase of one point of the score.<sup>11</sup>

The lenient penalty is presumed as one of the reasons causing the failure of corruption eradication effort in Indonesia. Data from the *Indonesia Corruption Watch* (ICW) for the first half of 2014 revealed that the average length of imprisonment sentenced upon corruptors is 2,9 years, while the fine penalty imposed is only 1-2% of the corrupted amount. Only in 87 cases out of a total of 241 cases handled that state compensation is imposed, in the amount of Rp 84,07 billions (0,022%) out of the total loss of the state as much as Rp 3,863 trillions.<sup>12</sup> Such situation is so much different with one in China, for instance, which imposed capital punishment upon the perpetrator of the crime of corruption.<sup>13</sup> To the present day, there has been no capital punishment imposed upon corruptor in Indonesia, despite the fact that corruptions occurred most often in the country.

Imposition of lenient penalties will not deter the perpetrator, and is instead considered as the cause of the increasing corrup-

tion, for the benefit of the corrupted fund still overweighs the imposed penalty. An example of a lenient and non-deterrent penalty is the sentence against former Governor of the Province of North Sumatra, GP, and his second wife, ES. The former governor who bribed a judge of the Administrative Court of Medan was sentenced to 3 years imprisonment and a fine of Rp. 150 millions, while his wife was sentenced to 2 years and 6 months imprisonment and a fine of Rp. 150 millions. Both were convicted guilty of violating Article 6 (1) section a and Article 13 of Anti-Corruption Law for bribing the Secretary General of Partai Nasdem (a political party, hereinafter “Nasdem”), PRC. The imposed penalty was the minimum penalty as stipulated under Article 6 (1) section a of the Anti-Corruption Law, where it is set in the article the penalty of imprisonment for 3 to 15 years and fine of Rp 150 millions to Rp 750 millions.<sup>14</sup>

Lenient penalty was also imposed against the judge of Administrative Court in Medan, AF, who received the bribe from the former governor through his attorney. AF was sentenced to 2 years imprisonment and a fine of Rp 200 millions for accepting a bribe of as much as US\$ 5000. The judge did not even impose such a sentence which would enable the state to confiscate such bribe money, however ordered KPK (The Indonesian Commission for Eradication of Corruption) to reopen some of the bank accounts of the accused which were previously blocked. The

<sup>11</sup> From 2004 to 2011, the corruption perception index in Indonesia according to the survey by Transparency International Indonesia (TII) always shows positive progress. Starting from 2,0 in 2004, then increased to 2,2 in 2005, 2,4 in 2006, and 2,6 in 2008. It stayed at 2,8 from 2009 to 2010, and reached 3 in 2011. See: Denny Indrayana. (2012). *Strategi Pemberantasan Korupsi*. Pekan Konstitusi V, Faculty of Law, Andalas University, held on Wednesday, 17 October 2012, p. 1.

<sup>12</sup> Indonesia Corruption Watch. (2014). *Annual Report Year 2014*. Jakarta: ICW, p. 52

<sup>13</sup> Data from Amnesty International as reported by CBS News revealed that at least 4000 people were executed for a crime in China, be it for corruption or for other offences. It occurred since the President of China, Xi Jinping vowed on 14 March 2013 that he will punish to death corruptors, be it State Authority or small-scale corruptors. See: Okezone News at: <[news.okezone.com/read/2015/10/05/18/1226446/inilah-pelaksanaan-hukuman-mati-koruptor-di-china](http://news.okezone.com/read/2015/10/05/18/1226446/inilah-pelaksanaan-hukuman-mati-koruptor-di-china)> Accessed on Monday, 18 April 2016.

<sup>14</sup> Republika. ‘Gubernur Sumut Non-aktif Divonis 3 Tahun Penjara’. Tuesday, 15 March 2016. Available online at: <<http://nasional.republika.co.id/berita/nasional/daerah/16/03/15/o41myf284-gubernur-sumut-nonaktif-divonis-tiga-tahun-penjara>>, accessed on Monday, 18 April 2016.

sentence against the-ex Secretary General of Partai Nasdem, PRC, who was also involved in this case, was a mere one and a half years and a fine of Rp. 50 millions, despite being proven guilty of receiving bribe of as much as Rp. 200 millions and thus violated Article 11 of Anti-Corruption Law, which sets the bar for penalty as 1 year to 5 years imprisonment and fine of Rp. 50 million to Rp. 250 millions.<sup>15</sup>

The loss suffered by Indonesia caused by corruption is enormous. ICW claimed that throughout 2015, the amount of financial loss caused by corruption was as much as Rp 3,1 trillions from approximately 550 corruption cases. Meanwhile, the amount which was able to be restored to the state was very little compared to the suffered loss. For instance, in 2013 KPK had only succeeded in restoring Rp 1,196 trillions and Rp 2,8 trillions in 2014 to the state.<sup>16</sup>

Such huge loss has resulted in the inability of Indonesian government to manifest its goals as set in the fourth Paragraph of the Preamble of the 1945 Constitution of Indonesia. Therefore, it is reasonable that the effort in eradicating corruption be prompted, taking into account all ideas surfacing in various public discussions concerning the strategic measures toward such prompt. Impoverishing corruptors is a logical effort, but has to be conducted within the applicable

legal framework, that is—including but not limited to—utilizing the additional punishment stipulated in the Anti-Corruption Law, such as punishment taking form of criminal confiscation or compensation of state loss. Letting the perpetrator of the crime of corruption have possession over the corrupted proceeds will open the opportunity for the said perpetrator or to other person related to him to enjoy such proceeds, reuse and even develop the conducted crime of corruption.<sup>17</sup>

## ANALYSIS AND DISCUSSION

### Confiscation of Asset within the Anti-Corruption Law

Confiscation of assets of the perpetrator of corruption in order to impoverish corruptors can be carried out through imposition of additional punishment stipulated in Article 18 of the Anti-Corruption Law. It is stated in the article several forms of punishment which basically confiscate the properties (which can take form of movable goods, tangible or intangible goods, immovable goods, company, including some certain rights or privileges) of the perpetrator of corruption. If this punishment is imposed cumulatively, then this measure will encourage the acceleration of eradication of corruption for its potential deterrence effect.

### *Criminal confiscation as punishment*

In Indonesia, confiscation is one of additional punishments as stipulated under Article 10 of the Indonesian Penal Code (KUHP). It is stated in the article that punishments consist of: 1) Basic punishment, namely: a) Capital

<sup>15</sup> See: CNN Indonesia. 'Patrice Rio Divonis 1,5 Tahun Penjara', Monday, 21 December 2015. Available online at: <<http://www.cnnindonesia.com/nasional/20151221170513-12-99670/rio-capella-divonis-15-tahun-penjara>> Accessed on Monday, 18 April 2016.

<sup>16</sup> See: 'ICW: KPK Lebih Banyak Selamatkan Uang Negara Ketimbang Polri dan Kejaksaan' Available online at: <<http://news.detik.com/berita/2835667/icw-kpk-lebih-banyak-selamatkan-uang-negara-ketimbang-polri-dan-kejaksaan>> Accessed on Tuesday, 19 April 2016.

<sup>17</sup> Yunus Husein. (2012). "Perampasan Aset Hasil Tindak Pidana di Indonesia". *Jurnal Legislasi Indonesia*, 7(4): 478.

punishment; b) Imprisonment; c) Light imprisonment; d) Fine; e) Punishment imposed under political considerations upon a person who had committed an offence punishable with imprisonment; and 2) Additional punishment, namely: a) Deprivation of certain rights; b) Forfeiture of specific property; c) Publication of judicial verdict.

On the other hand, regulation on confiscation as punishment toward the perpetrator of corruption is stipulated under Article 18 of the Anti-Corruption Law. The article set out that:

*(1) Other than the additional punishment as set out in Indonesian Penal Code, it is set out under this Law as additional punishments as follows:*

- a. Confiscation and forfeiture of tangible or intangible movable property, or immovable property used in or resulted from an act of corruption, including company belonging to the convicted where the act of corruption was conducted, including properties which substitute them;*
- b. Payment of compensation of state loss in the amount of as much as the proceeds obtained through the act of corruption;*
- c. Closing down, entirely or partially, a company, for the longest period of 1 year;*
- d. Deprivation entirely or partially of certain rights or abolition entirely or partially of certain privileges, which has been or may be granted by the Government to the convicted.*

*(2) If the convicted fails to pay compensation of state loss within the longest*

*period of 1 year after a judgment has obtained a res judicata status, as stipulated in Paragraph (1) section b, his properties may be confiscated and forfeited by prosecutor and be auctioned to cover such compensation of state loss.*

*(3) In the event that the convicted has no sufficient property to pay the compensation of state loss, the convicted will be imprisoned for a period that does not exceed the maximum penalty of the basic punishment according to the provisions under this Act, and the duration of the punishment has been decided in the judgment.*

It can be derived from both provisions that there are some additions on the regulations concerning the goods which may be confiscated in a corruption case. In KUHP, the property which may be confiscated is only tangible, movable and immovable goods as stipulated under Article 39 (1). In contrast, the Anti-Corruption Law enables the confiscation of tangible and intangible movable goods, immovable goods, as well as company or any substitute goods. Whereas in the crime of corruption, based on Article 18, there are three kinds of confiscable goods, namely:<sup>18</sup>

- 1. Instrumentum scheleris* (goods which was used to commit the crime as well as to prepare for or to enable the commission of the crime);
- 2. Objectum scheleris* (goods which becomes the object of the crime);
- 3. Fructum scheleris* (goods which was a proceed from the commission of a crime, including its substitute).

<sup>18</sup> Eddy O.S. Hiariej. (2014). *Prinsip-prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka, p. 41

Since confiscation is an additional punishment, it is facultative in nature, in the sense that it can only be imposed after guilty verdict and sentence with basic punishment have been awarded. However, unlike confiscation under KUHP, confiscation as punishment in a corruption case has a bigger chance to be imposed. This kind of punishment is not only imposable upon the accused who is convicted guilty of committing corruption, but also upon an accused that died while the legal proceeding upon him is still ongoing, as long as there is strong evidence derived from the hearing and evidence adduced before the court that the accused has committed a crime of corruption. In such case, the judge through its judgment may, upon a charge by prosecutor, forfeit the goods which was confiscated during the proceeding, as stipulated under Article 38 (5) of the Anti-Corruption Law. An appeal cannot be filed upon this kind of decision, based on paragraph 6 of this article.

Forfeiture can also be imposed upon the property presumably obtained by the commission of corruption, in the event that the accused cannot prove otherwise. This forfeiture concerns the property belonging to the accused which has not been charged but is presumed as being the proceed of the commission of corruption. It is set out in Article 38 B (2) of the Anti-Corruption law:

*“In the event that the accused cannot prove that his property is obtained not by the commission of corruption, such property will be considered as being obtained by the commission of a crime of corruption. The judge may decide that such property be forfeited by the state, either partially or entirely.”*

A charge to forfeit property is filed by the prosecutor during the indictment reading, while the decision upon such charge is decided along with the verdict upon the crime. It can be understood, based on the elaboration above, that there is a good chance to impose confiscation of assets or property as punishment in a corruption case. The forfeiture can be proposed in three different mechanisms as follows: a) Upon the asset and property obtained by or used in the commission of the crime of corruption, regardless of it being confiscated or not during the proceeding; b) Upon the asset and property belonging to an accused that died during the proceeding, and there exists strong evidence that the accused had committed the crime of corruption; and c) Upon the asset on property belonging to an accused, which has yet to be charged and presumed to be obtained from the commission of a crime of corruption.

The chance is good, the success of this measure depends on the seriousness and professionalism of the investigators and prosecutors to track down the assets of the accused during investigation, and to prove the guilt of the accused with all evidence adduced before the court.<sup>19</sup>

### ***Compensation of state loss as a punishment***

This kind of punishment is of additional nature, imposable upon an accused of a crime of corruption as stipulated under Article 18(1) section of the Anti-Corruption Law. However, unlike confiscation and forfeiture of assets which is imposable to any kind of corruption committed by the perpetrator,

<sup>19</sup> Muhammad Yunus. (2013). *Merampas Aset Koruptor: Solusi Pemberantasan Korupsi di Indonesia*. Jakarta: Penerbit Buku Kompas, p. 163.

compensation of state loss is only imposable to the kind of corruption causing the loss of state finance or economics. In other word, it is applicable to Article 2 (1) and Article 3 of the Anti-Corruption Law.

Although the elucidation of the particular article did not explain to which act of corruption such punishment is imposable for it only stated “sufficiently clear”, it is interpreted from the phrase stated in Article 18 (1) section b “...*which amounts as much as the proceeds obtained through the commission of a crime of corruption*”. Through grammatical and systematic interpretation, compensation of state loss should only be addressed towards the perpetrator of the crime of corruption causing the loss of state finance or economics.

Grammatically, the wording “*uang pengganti*” (meaning compensating the loss of state finance) should correlate to a loss, or an outcome resulted from the commission of a crime.<sup>20</sup> This kind of punishment is resorted to get compensation of the loss as a result of the commission of corruption by the perpetrator. Such loss is no other than the financial or economic loss which is explicitly mentioned in Article 2 (1) and Article 3 of the Anti-Corruption Law. Whereas systematically, the interpretation of compensation of state loss should correlate with the punishment of confiscation and forfeiture that is regulated under the same article. What is then the distinguishing factor between confiscation of assets and compensation of state loss, if not the kind of the crime committed by the perpetrator? If the law maker had no

intention to distinguish the two kinds of punishment in the first place, why regulates two kinds of additional punishment having an exact same objective?

Hence, there needs expert testimony in examining a corruption case in order to be able to determine accurately the amount of the compensation of state loss imposable upon the perpetrator. Strict limitation on its amount becomes one distinguishing characteristic between compensation of state loss and confiscation of assets. With regard to compensation of state loss, Wiyono<sup>21</sup> explained that it is not only upon properties and assets under the possession of the perpetrator, but also upon those of which possessions have been assigned to another person.

Another distinguishing characteristic is the existence of imprisonment as a substitute in the event that the perpetrator cannot pay the compensation. It is stipulated under Article 18 (3) which restricts the duration of such imprisonment to not exceeding the maximum length of imprisonment set out under the article upon which the charge is based.

#### ***Close-down of a company, in its entirety or partially***

It is regulated under Article 18 (1) section c, where its elucidation mentioned about revocation of business license or the halt of business activities for a certain period of time as determined by a judicial decision. Although it is not mentioned in the elucidation that the company shall belong to the accused,

<sup>20</sup> See also Adami Chazawi. (2016). *Hukum Pidana Korupsi di Indonesia*. Revised Edition. Jakarta: Raja Grafindo Persada, p. 326.

<sup>21</sup> R. Wiyono. (2008). *Pembahasan UU Pemberantasan Tindak Pidana Korupsi*. 2<sup>nd</sup> Edition. Jakarta: Sinar Grafika. p. 142.

Wiyono interpreted that the company does not have to belong to the accused. However, the crime of corruption should be committed within the company.<sup>22</sup>

***Deprivation entirely or partially of certain rights or abolition entirely or partially of certain privileges***

Deprivation of rights in this article as wider in its scope than what is stipulated under Article 35 (1) of the KUHP, by mentioning as an example the right to export or import particular goods or the right to develop a certain area. While for the term “certain privileges”, Wiyono<sup>23</sup> referred to Article 7 of Emergency Law No. 7 of 1955 concerning investigation, prosecution, and adjudication of Economic Crime. In that article, privilege is related to the accused’s company, which is considered as including the privileges taking the form of permit or dispensation.

**Confiscation and Forfeiture of Asset in Anti-Corruption Law Enforcement Practice**

In criminal law enforcement, there is an interesting phenomenon concerning the imposition of additional punishments regulated in the Anti-Corruption Law. Compensation of state loss is the kind of punishment that is being imposed the most. In almost every case concerning financial loss of state, be it under Article 2 (1) or Article 3, the prosecutor always prosecutes the accused with such punishment, and the judge grants it most of the time.

However, it is not the case with confiscation and forfeiture of asset, deprivation of

certain rights and privileges, nor the defunct (closing-down by a court-order) of company. These three forms of additional punishments rarely be imposed, whether in the indictment or in the judgment. In some cases, mentioned in Background earlier, confiscation of assets should have been imposed upon the object and the proceeds obtained from the commission of corruption. The judge of Administrative Court of Medan who was convicted guilty of receiving bribe, was sentenced with imprisonment and fine but no additional punishment was imposed upon him. The examining judge even ordered KPK to reopen the blocked bank accounts of the accused, meaning that his assets were returned to him instead of punishing him by confiscating and forfeiting it to be acquired by the State. Same goes for *PRC case* where PRC was sentenced with imprisonment and fine, despite receiving bribe as much as Rp. 200 millions.

In other case, such as AF bribery case concerning beef import, AF was sentenced to 16 years’ imprisonment and fine as much as Rp. 1 billion. He was convicted guilty of receiving bribery as much as Rp. 1,3 billion from the CEO of PT. Indoguna. AF was also convicted guilty of committing money laundering, for spending as much as Rp. 38 billions on houses and cars assigned to several women. Despite being convicted guilty under both Anti-Corruption Law and Anti-Money Laundering Law, it was not decided in the judgment that his assets be forfeited to be acquired by the State. Only in ‘LHI case’<sup>24</sup>, which was in correlation with *AF case*, the deprivation of rights be imposed,

<sup>22</sup> *Ibid*, p. 143.

<sup>23</sup> *Ibid*, p. 144.

<sup>24</sup> LHI was a president of a particular political party in Indonesia.



which was the right for to run for office.<sup>25</sup>In the *Regent of Buol case*, AB (former Regent of Buol) was sentenced to 7,5 years' imprisonment and fine of Rp 300 millions, despite being convicted guilty of receiving bribe as much as Rp. 3 billions in the issuance of land use permit for PT HIP (a limited liability company).

In other case, the judge imposed compensation of state loss as punishment instead of confiscation of asset, upon the convicted, AS.<sup>26</sup>In the judicial review judgment, AS was even granted lesser penalty, from 12 years' imprisonment to 10 years. AS was also sentenced to a fine of Rp. 500 millions, and compensation to state loss as much as Rp. 2,5 billions and US \$ 1,2 millions with 1 year of subsidiary imprisonment. AS was convicted guilty of committing the crime of corruption and receiving bribe, hence the imposition of compensation of state loss as punishment raised debates among legal scholars.

The confiscation of assets is more suitable to be imposed, for the committed crime of corruption was not of Article 2 (1) or Article 3 of the Anti-Corruption Law. The received bribe in the amount of 23 billions rupiahs should have been forfeited to be acquired for the State. Moreover, the compensation order in this case is substitutable with 1 year imprisonment, which raised doubt that the convicted will pay, given the condition that she could just opt for the other punishment.

## CONCLUSION

The current legal framework allows the measure to be taken to impoverish corrup-

tors, which is through confiscation and forfeiture of assets as proceed of corruption. Such measure can be conducted by imposing additional punishments. Law enforcement officers have to thoroughly take this measure into account. The imposition of basic punishments, like what has been going on this whole time, clearly fails to create deterrence. Therefore, the effort toward impoverishment of corruptors should be carried out through various additional punishments. Additional punishments can also be imposed cumulatively so that it can create a greater deterrence on "future corruptors". Law enforcement officers have to have a correct understanding that each additional punishment is different in its substance and implementation. Such difference creates strength and weakness on each punishment in achieving the goal of impoverishing corruptors, which also gives an impact in accelerating the eradication of corruption.

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<sup>25</sup> Judgment No.1195 K/Pid.Sus/2014.

<sup>26</sup> Judgment No 107K/Pid.Sus/2015.

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