

# Optimization of the Imposition of Additional Compensation Penalties for Corruption Crimes that Harm State Finances Due to the Alternative Choice of Imprisonment as a Substitute (Study of Decision Execution in North Maluku in 2021)

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| <b>Abstract</b>                                                                                        | This research aims to analyze the optimization and effectiveness of imposing additional fines as a substitute for imprisonment in relation to the execution of judgments in North Maluku in 2021, specifically focusing on corruption offenses that harm the state finances. The study employs an empirical legal research approach, utilizing empirical data obtained from interviews and direct observations of human behavior. Three approaches are utilized in this research: legal, conceptual, and case-based approaches. The research findings indicate that the imposition of additional fines as a substitute for imprisonment in corruption cases that harm state finances is still not optimal. Out of the seven cases examined, only two cases resulted in the restitution of the state's financial losses. Furthermore, the research highlights the failure to achieve legal effectiveness due to the insufficient restitution of state financial losses resulting from the availability of the alternative option of imprisonment as a substitute for the additional fines. |                     |                      |
| <b>Keywords</b>                                                                                        | Additional Penalties; Replacement Money; Corruption; Imprisonment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                     |                      |
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## 1. INTRODUCTION

The development of criminal acts of corruption continues to increase from year to year, both in terms of the number of cases and the number of financial losses to the state, as well as in terms of the increasingly systematic and colossal nature of the crimes being committed. Therefore, the criminal act of corruption has been deemed a "serious crime" and classified as an extraordinary crime. This serious crime has a significant impact on economic rights, so it must be handled with "extraordinary treatment," and proof requires the following steps: independent and professional steps (Abdul Manan, 2020; Diding Rahmat, 2020).

Corruption is a part of special criminal law besides having certain specifications that are different from general criminal law. Therefore, Corruption Crime is intended to suppress as little as possible the occurrence of leaks and irregularities in the country's finances and economy so that the wheels of the economy and development can be carried out properly which have an impact on increasing development and people's welfare (Pasmatus, 2019; Mulyadi, 2011).



The Criminal Code ("KUHP") divides punishments/crimes into two categories: principal punishment and additional punishment. This is stated in Article 10 of the Criminal Code, which verifies that punishment consists of the following:

- a. The principal punishments are death penalty, imprisonment, confinement, fines, and imprisonment.
- b. additional punishment, namely revocation of certain rights, confiscation of certain goods, and announcement of the judge's decision.

Several other statutes and regulations also include provisions for additional punishment. The Criminal Code itself does not restrict additional punishment to the three forms listed above. Based on Article 18 paragraph (1) of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, confirms that, in addition to the additional penalties mentioned in the Criminal Code (KUHP), there are additional penalties in Corruption Crime Cases, including:

- 1) confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by the convict where the criminal act of corruption was committed, as well as from goods that replace these goods.
- 2) payment of replacement funds in an amount equal to the utmost value of the assets obtained through corrupt criminal conduct.
- 3) the revocation of all or a portion of certain rights or the elimination of all or a portion of certain benefits granted by the government to convicts in the past or in the future.

In accordance with Article 18 paragraph 1 letter b of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, the criminal law instrument that allows for the recovery of state financial losses is the application of additional penalties in the form of the payment of replacement funds.

As a means of achieving the objective of eradicating corruption, the replacement money legal instrument is deemed more rational as a form of punishment. The adoption of monetary penalties into the criminal law system, which were previously only recognized in civil law instruments, was primarily motivated by the notion that corruptors must be threatened with the most grievous criminal sanctions possible to deter them (Musatajab & Tajuddin, 2018; Putri, 2018).

In interpreting paragraphs (2) and (3) of Article 18 of Law 31/1999 in conjunction with Law 20/2001 on the Suppression of Corruption Crimes. The article plainly states that if the convict fails to pay the replacement money within one month of the legally binding decision, the prosecutor may seize and auction off his property to cover the replacement money. And if the offender lacks sufficient assets to pay replacement money, he will be subject to imprisonment for a term not exceeding the principal sentence's maximum threat (Tira & Jafar, 2022).

In basic terms, compensation for additional funds lacks the characteristics of alternative criminal options (subsidized), such as penalties that can be subsidized by imprisonment, and therefore does not provide the offender with a choice regarding which sentence to carry out. The current prisoner interprets this formulation as an alternative (Mulatua & Nggeboe, 2017; Rahma Noviyanti, 2019).

This choice has plainly deviated from the true definition of a subsidiary, which is a replacement if the primary event does not occur and has become an option. In the end, these conditions were used by convicts who were supported by the conditions and limitations in handling corruption cases so that they could easily admit that they no longer had assets to pay replacement money, and "choose" a replacement prison sentence as more profitable for them, especially given the possibility of convicts being released more quickly due to the granting of remissions at certain times. If money replacement is regarded, efforts to restore state finances as a means of combating corruption will not be successful (Sidabutar, 2019; Yusuf, 2018).

The absence of references in the formulation of replacement prison sentences if compensation money is not paid within a specified time has resulted in a great deal of disparity in the imposition of replacement prison terms. This disparity demonstrates that the imposition of large quantities of replacement money is not promptly followed by a replacement prison sentence of a length proportional to the replacement money's value, and vice versa. If the replacement money inflicted is large enough

but the replacement prison set is not large enough, there is an opportunity for the convict to collude so that the assets resulting from corruption are not executed but instead converted directly into alternative punishment, namely imprisonment (Febriani & Lasmadi, 2020; Guntari & Rizanizarli, 2017).

In essence, Law 31/1999 in conjunction with Law 20/2001 on the Eradication of Corruption Crimes violates the criminal provisions of the Criminal Code, which does not recognize the cumulative formulation of principal criminal sanctions, i.e., the formulation of criminal threats with the conjunction "and." Whereas the criminal provisions of the Penal Code do not recognize the accumulation of principal punishments threatened for a particular offense, particularly imprisonment with fines. This is the fundamental tenet of the primary offense derived from the Criminal Code. However, it differs from Corruption Crime because the purpose of the cumulative criminal sanction is to deter corruption by punishing offenders as severely as feasible. If you are unable to pay the replacement amount, you are also subject to an additional penalty involving the principal. If the objective is to maximize the Payment of Replacement Money for Optimizing the State Treasury's Income, then Replacement Money must also be interpreted as the Principal Crime and not as an Additional Criminal.

A sign of a well-functioning legal system is the success of the state in enforcing the law by attempting to return the proceeds of corruption that damage state finances to the greatest extent possible. Returning the proceeds of corruption effectively restores societal interests that have been damaged by corrupt acts. It can be a concrete manifestation of creating legal certainty, justice, and benefit so that the equilibrium of diverse interests, such as societal and individual interests, are protected legally.

## 2. METHODS

In this research, an empirical legal research method is employed. This method relies on empirical facts obtained from human behaviour, obtained through interviews to gather verbal behaviour and direct observations of actual behaviour. Empirical research also involves observing the outcomes of human behaviour, whether in the form of physical remnants or archives. The use of empirical legal research method allows researchers to obtain relevant and factual data regarding the phenomenon being studied (Fajar & Achmad, 2015). There are two sources of data used in this study, namely primary data sources and secondary data sources. Primary data sources (Burhanuddin, 2020). The data collection technique used is the technique of library research and field studies. The data that has been managed is analysed with the theory that has been obtained before. The analysis process involves a quantitative-qualitative descriptive approach, where data is presented and described in detail and systematically. Through an organized interpretation of the data, a clear picture of the problems under study can be obtained, facilitating discussions and drawing conclusions as answers to existing problems (Burhanuddin, 2020).

## 3. FINDINGS AND DISCUSSION

### 3.1. Analysis of the Optimal Imposition of Additional Compensation Money for Corruption Crimes

North Maluku is a province in eastern Indonesia that was formally established on October 4, 1999. Prior to that date, it was a district of Maluku province, along with Central Halmahera. In accordance with the Law of the Republic of Indonesia Number 46 of 1999 and the Law of the Republic of Indonesia Number 2003, Maluku Province is composed of the following Regencies/Cities: Ternate, Tidore Islands, South Halmahera, North Halmahera, Sula Islands, Central Halmahera, Morotai Islands, Halmahera West, East Halmahera, and Taliabu.

As a newly established province, North Maluku has become one of those with a relatively high corruption rate. Several factors have contributed to the high rate of corruption in the province of North Maluku, including a lack of human resources and an undeveloped regional financial management system, as well as its location in eastern Indonesia, where economic development is not as advanced as in western Indonesia. However, the high rate of corruption is not proportional to the measures taken to

minimize state financial losses through the payment of compensation funds. This is evident from the Report on the Recapitulation of Compensation for Corruption Crimes at the North Maluku High Court in 2021, which indicates that the value of deposits to the State treasury remains low.

**Table 1.** Report on Recapitulation of Compensation for Corruption Crimes at the North Maluku High Court in 2021

| No | Work Unit   | Convicted Name | Putusan Pengadilan |      | Punishment      |                          |          | Substitute Money Payment | No &Tgl D2<br>(Statement of Inability to Pay) | Proof of deposit to the State Treasury (SSBP) |     | Ket |
|----|-------------|----------------|--------------------|------|-----------------|--------------------------|----------|--------------------------|-----------------------------------------------|-----------------------------------------------|-----|-----|
|    |             |                | No                 | Date | Corporate Crime | Replacement Money Amount |          |                          |                                               | No/<br>Date                                   | IDR |     |
|    |             |                |                    |      |                 | Rupiah                   | Subsider |                          |                                               |                                               |     |     |
| 1  | 2           | 3              | 4                  | 5    | 6               | 7                        | 8        | 9                        | 10                                            | 11                                            | 12  | 13  |
| 1  | KN. TERNATE | S              | 13                 | 10-  | 2               |                          | 3        |                          | 2021-08-06                                    |                                               |     |     |
|    |             | A              | 52                 | 06-  | tahun           | 277.6                    | bula     |                          |                                               |                                               |     |     |
|    |             | I              | K/                 | 202  |                 | 00.00                    | n        |                          |                                               |                                               |     |     |
|    |             | D              | Pi                 | 1    |                 | 0,00                     |          |                          |                                               |                                               |     |     |
|    |             | S              | d.                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | A              | S                  |      |                 |                          |          |                          |                                               |                                               |     | N   |
|    |             | L              | us                 |      |                 |                          |          |                          |                                               |                                               |     | ot  |
|    |             | M              | /2                 |      |                 |                          |          |                          |                                               |                                               |     | P   |
|    |             | A              | 02                 |      |                 |                          |          | -                        |                                               |                                               |     | a   |
|    |             | L              | 1                  |      |                 |                          |          |                          |                                               |                                               |     | yi  |
|    |             | M              |                    |      |                 |                          |          |                          |                                               |                                               |     | n   |
|    |             | A              |                    |      |                 |                          |          |                          |                                               |                                               |     | g   |
|    |             | H              |                    |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | D              |                    |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | A              |                    |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | L              |                    |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | Y              |                    |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | M              | 7/                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | U              | Pi                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | H              | d.                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | T              | S                  |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | A              | us                 |      |                 |                          |          |                          |                                               |                                               |     | N   |
|    |             | R              | -                  |      |                 |                          |          |                          |                                               |                                               |     | ot  |
| 2  | KN. TIDORE  | R              | T                  | 16-  | 6               | 1.201                    | 3        |                          |                                               |                                               |     | P   |
|    | KEPU        | H              | P                  | 08-  | tahun           | .739.                    | tahu     | -                        | 2021-09-17                                    |                                               |     | a   |
|    | LAUA        | i.             | K/                 | 202  |                 | 500,0                    | n        |                          |                                               |                                               |     | yi  |
|    | N           | H              | 20                 | 1    |                 | 0                        |          |                          |                                               |                                               |     | n   |
|    |             | A              | 21                 |      |                 |                          |          |                          |                                               |                                               |     | g   |
|    |             | R              | /P                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | U              | NN                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | N              | Tt                 |      |                 |                          |          |                          |                                               |                                               |     |     |
|    |             | A              | e                  |      |                 |                          |          |                          |                                               |                                               |     |     |
| 3  | KN. HALM    |                |                    |      |                 |                          |          |                          |                                               |                                               |     | N   |
|    |             |                |                    |      |                 |                          |          |                          |                                               |                                               |     | I   |

|   |                        |                        |            |                  |               |         |               |                                    |               |              |
|---|------------------------|------------------------|------------|------------------|---------------|---------|---------------|------------------------------------|---------------|--------------|
| 4 | KN. HALMAHERA UTARA    | KN. HALMAHERA UTARA    | 18-03-2021 | 16 tahun 6 bulan | 49.407.333,00 | 1 bulan | 49.407.333,00 | 6A DE C1J NF 31V E4 KN :2021-09-30 | 49.407.333,00 | Paid Off     |
| 5 | KN. KEPU LAUAN SULA    | KN. KEPU LAUAN SULA    |            |                  |               |         |               |                                    |               | Nilai Hil    |
| 6 | KN. HALMAHERA TENGGAH  | KN. HALMAHERA TENGGAH  |            |                  |               |         |               |                                    |               | Nilai Hil    |
| 7 | KN. KEPU LAUAN MOROTAI | KN. KEPU LAUAN MOROTAI |            |                  |               |         |               |                                    |               | Nilai Hil    |
| 8 | KN. HALMAHERA BARAT    | KN. HALMAHERA BARAT    | 25-11-2020 | 1 tahun 4 bulan  | 8.450.000,00  | 2 bulan | -             | 2021-02-23                         |               | Not Paid ing |

| No | Nama                | Jenis Pekerjaan | Masa Kerja (tahun) | Gaji Pokok (Rp) | Tunjangan (Rp) | Total (Rp) | Tanggal    | Status   | Keterangan |
|----|---------------------|-----------------|--------------------|-----------------|----------------|------------|------------|----------|------------|
|    |                     |                 |                    |                 |                |            |            |          |            |
| 1  | KN. HALMAHERA TIMUR | 16              | 4                  | 376.485.578,00  | 1 tahun        | -          | 2021-04-26 | Not Paid |            |
| 2  | KN. HALMAHERA TIMUR | 15              | 3                  | 200.000,00      | 1 tahun        | 200.000,00 | 2021-06-28 | Paid     |            |
| 3  | KN. HALMAHERA TIMUR | 15              | 1                  | 408.462.921,00  | 3 bulan        | -          | 2021-08-23 | Not Paid |            |

|              |         |
|--------------|---------|
| JI           | 21      |
| SI           | /P      |
| O            | N       |
| N            | .T      |
|              | te      |
| <hr/>        |         |
| <b>Total</b> | 249.40  |
|              | 7.333,0 |
|              | 0       |

Based on the data in the table above, it can be concluded that the Prosecutor's Office in the North Maluku Province's Execution of Corruption Crime Decisions in 2021 is not optimal due to the alternative choice of imprisonment as a substitute for being the primary option for convicts so they do not have to pay replacement money.

As a matter of policy, the use of criminal punishments is one of the fundamental issues in criminal politics. The approach must then be implemented with a policy-oriented approach (policy-oriented approach). The following relates to additional sanctions in Article 18 of Law No. 31 of 2001 pertaining to Corruption Crimes in the form of replacement money. The background for the creation of these sanctions is, of course, the return of state financial losses caused by corruption.

Regarding criminal penalties for additional replacement funds in corruption cases, the author alludes to the joint theory (vereniginstheorien) of punishment. This theory combines the concepts of vengeance and relationship. First, which emphasizes retaliation, criminal intent is to secure society and avenge wrongdoing. As the primary principle of punishment is that it must be proportional to the gravity of the crime, this is reflected in the existence of principal punishment and additional punishment in the form of payment of replacement money. Therefore, it serves as a deterrent for the perpetrators. Second, it emphasizes the protection of social order. Punishment is not more severe than the harm it causes, nor should its benefits be greater than necessary. Third, consider retaliation and social order defence in equal measure. It is unlikely that the combined theory will incorporate all of the positive aspects of the relative and retaliation theories. But will instead tend to focus on a single aspect of crime, making it inapplicable to existing objections.

In Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning Corruption Crimes as indicated in Article 18 letter b, namely "Payment of replacement money in the maximum amount equal to the assets obtained from criminal acts of corruption". In fact, it has been demonstrated that this sanction supports the theory of retributive or proportional retaliation, i.e., a person who steals money is required to pay back the same amount he took.

The government at the time implemented a penalty aimed at neutralizing or at least minimizing the impact of corruption by requiring the convict to pay a certain amount of money based on the amount of money he corrupted. This crime was later referred to as a replacement money crime.

In this context, retaliation takes the form of material or tangible objects. The objective is to give perpetrators a deterrent effect so that they do not repeat their offenses and to inflict pain on the perpetrators of corruption. This return on assets is a result of the characteristics of corrupt crimes, which always involve state funds. This is enshrined in Articles 2 and 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 regarding the eradication of criminal acts of corruption, with one of the article's elements regulating losses to state finances or the country's economy. Therefore, even if the offender is only subject to corporal punishment or imprisonment, the state's financial condition, which has been harmed because of this act, cannot be automatically restored, and state-specific revenue optimization cannot be attained as a form of restoration.

In addition to the theory of retaliation as described previously, the combined theory also combines with the relative theory or theory of purpose (doeltheorien), namely the theory that seeks the basis of criminal law in maintaining social order, and thus the purpose of the crime is to prevent crime.

On the other hand, the relative theory (objective theory) is predicated on the three primary goals

of punishment, one of which is prevention. Criminal sanctions in the form of restitution funds have a preventative aspect, which is related to relative theory as a means of achieving socially beneficial objectives to safeguard society and promote its welfare. Article 18 paragraph 2 specifies the form of protection for the general welfare of society "If the convict does not pay the replacement money within one month of the court's decision having permanent legal effect, the prosecutor may seize and sell his property to cover the replacement money".

The clause in this paragraph can be interpreted to mean that even if the perpetrators of corruption do not intend to return the state's financial losses, the state can still confiscate and sell the perpetrator's assets to recover the losses. This article has demonstrated threats that can make a person think twice about committing a crime, because this extremely severe punishment demonstrates that those who conduct corruption must be given a deterrent sentence.

Regarding the use of this relative theory, it is actually distorted by the existence of a clause in Article 18 paragraph 3, which states that if the convict lacks sufficient assets to pay replacement money, he will be sentenced to imprisonment for a term not exceeding the maximum threat of the principal sentence in accordance with Law No. 31 of 1999 and Law No. 20 of 2001, and the length of the sentence has been determined by a court decision.

Based on Article 18 paragraph (1) of Law no. 31 of 1999 regarding the Eradication of Criminal Acts of Corruption, confirms that in addition to the additional punishment referred to in the Criminal Code (KUHP), there is an additional penalty in Corruption Crime Cases, in the form of payment of replacement money, which is regulated by Article 18 paragraph (1) letter b Law No. 31 of 1999 regarding the Eradication of Criminal Acts of Corruption.

Basically, additional punishment cannot be imposed without the primary punishment, as it is merely an addition to the primary punishment. However, there are exceptions to some of the aspects of this principle. Several provisions outside of the Criminal Code provide exceptions to this principle. For instance, in Article 38, paragraph 5, of Law No. 31 of 1999 on the Eradication of Corruption Crimes, it is stated that if a defendant dies before the verdict is rendered and there is strong evidence that he or she has committed a criminal act of corruption, the judge, in accordance with the prosecution's requests, must impose the death penalty. The general law provides for the confiscation of confiscated property. In accordance with Article 38, paragraph 5, of Law No. 31 of 1999 on the Eradication of Corruption Crimes, additional punishments may be used as the principal punishment in carrying out the decision.

In the context of efforts to maximize the recovery of state financial losses resulting from criminal acts of corruption, it is undeniable that compensation money sanctions are a form of additional criminal sanctions that may be imposed but are not required (optional). In addition to the existence of obstacles in the development of alternatives to incarceration as a substitute for additional punishment. Therefore, efforts to recover state losses cannot be imposed immediately in every corruption case decision. If the principal punishment is not imposed, then it is impossible to implement the replacement money.

However, if efforts to maximize the imposition of additional punishment for replacement money cannot be maximized, replacement money must also be interpreted as the primary offense and not as an additional punishment. In this regard, the Corruption Eradication Regulations violate the criminal provisions of the Criminal Code, which does not recognize the cumulative formulation of principal criminal sanctions, the formulation of criminal threats with the conjunction "and." Whereas the criminal provisions of the Penal Code do not recognize the accumulation of principal punishments threatened for a particular offense, particularly imprisonment with fines. This is the fundamental tenet of the primary offense derived from the Criminal Code.

However, it is different from Corruption Crimes, where imprisonment which is the main punishment is also placed in an additional sentence as an alternative if you cannot pay replacement money. Basically, the purpose of the existence of these cumulative criminal sanctions is to punish the corruptors as severely as possible so that they are deterred, but if the desire to maximize Payment of Replacement Money for Optimizing State Cash Entry in the province of North Maluku is not achieved then Replacement Money must also be interpreted as Principal Crime, not as Additional Criminal.

### **3.2. Analysis of Legal Effectiveness in interpreting the alternative choices of Prison as a substitute for Additional Compensation Money**

In order to understand the effectiveness of the enactment of an alternative choice of imprisonment as a substitute for additional monetary punishment for the components of the legal system, the author compares it to Friedman's view of the legal system, which is comprised of "legal substance", "legal structure", and "legal culture". Legal substance is a rule or legal standard relating to criminal acts of corruption, specifically Law No. 31 of 1999 on the Eradication of Corruption Crimes. Jo. Law Number 20 of 2001 Relating to Amendments to Law Number 31 of 1999 Relating to the Eradication of Corruption Crimes, Particularly Article 18 of the Law Relating to the Eradication of Corruption Crimes. Here are a few of the problematic aspects:

- a. The replacement money sanction is an additional criminal sanction, so it is optional (not required). If the principal punishment is not imposed, then it is impossible to implement the replacement money.
- b. The formulation of Article 18 paragraph 3 of the Anti-Corruption Law, "in the event that the convict does not have sufficient assets to pay replacement money, the sentence shall be imprisonment for a duration not exceeding the maximum threat of the principal sentence in accordance with Law No. 31 of 1999 jo. Law No. 20 of 2001, and the length of the sentence has been determined in the court decision," reads: "if the convict does not have sufficient assets to pay replacement money, the sentence shall be imprisonment" This gives the convict a loophole to choose a subsidiary punishment in the form of imprisonment, because the judge imposes a sentence by specifying the amount of replacement money along with the duration of imprisonment if the replacement money cannot be paid in the court decision. If the prison sentence is regarded to be less severe, the convict typically chooses to serve a subsidiary sentence because he has no additional property to confiscate and sell.

Legal Structure refers to the framework or institutional components of the legal system. In this instance, a legal structure refers to a law enforcement agency. In order to maximize the recovery of state financial losses, law enforcers, particularly judges in decision-making and prosecutors in decision-implementation, must coordinate. In practice in the field, especially in the Province of North Maluku, problems regarding the implementation of monetary compensation sanctions can be found starting from the stages of the trial process. Problems in its resolution can be seen in the criminal justice system, as follows:

#### **1) Investigation stage (Pre-Adjudication)**

At this stage, the assets of the accused, spouse, or both are being calculated to determine which assets are the consequence of corruption and which are not. At the investigation stage, search and confiscation efforts are compelled. In practice, it is difficult for law enforcement to determine which assets of the accused result from corruption. And typically, at the time of the investigation, the defendant already has numerous options for diverting the proceeds of crime.

#### **2) Prosecution Stage (Adjudication)**

In compiling the indictment to determine the amount of state financial losses, the prosecutor encountered obstacles, namely determining the amount of state losses. Because many prosecutors have their own calculations that differ from the Inspectorate, BPKP, and BPK audit results. When the money from corruption has been converted into assets whose value fluctuates by their very nature, such as real estate, securities, jewelry, etc., it will be difficult to calculate the amount of replacement money.

#### **3) Stage of Implementation of Court Decisions (Post Adjudication)**

Legal certainty is determined at this stage, so the success of the judicial procedure is meaningless if the decision cannot be optimally implemented. In order for the decision to be carried out, it must have permanent legal force, so that the executing attorney can track down the offender's assets and seize them if the offender does not pay restitution. However, as the executor of the court's decision, the prosecutor encountered numerous obstacles, one of which was the convict's option to choose which sentence to carry out, in this instance imprisonment as an alternative to an additional criminal penalty. So that the prosecutor as the executioner had difficulty carrying out the sentence. Apart from these

obstacles, an interview with Nita Fitria, S.H., an executing attorney at the Tidore Islands District Attorney's Office, revealed that there were many obstacles for prosecutors in executing replacement money. The assets resulting from corruption are typically transferred to third parties or taken abroad to hide the proceeds of crime, making it difficult to trace the assets.

Legal culture refers to the community's view of the law as something that must be respected and followed. The current legal culture of society has shifted towards a greater disregard for the rule of law. Now corruption has entered the social strata, beginning with the issue of bribes and markups and progressing to genuine violations of articles 2 and 3 of the Corruption Crime Act. In addition, the stigma associated with a sanction or reprimand, which was once used as a social weapon, is beginning to change. In relation to the discussion in this paper, eradicating corruption cannot be accomplished solely by law enforcement officials; the community's participation is essential, for example, in providing information regarding the location of corrupt individuals' hidden assets, assisting in investigative steps with accurate information, and other actions.

#### 4. CONCLUSSION

Analysis of Optimization of the Imposition of Additional Compensation Money for Corruption Crimes which is detrimental to State Finances in connection with an alternative choice of imprisonment as a substitute for the Execution of Decisions in North Maluku in 2021, the fact is obtained that efforts to Execute Decisions on Corruption Crimes which Harm State Finances in North Maluku Province in the period of 2021 regarding the Return of State Financial Losses through the Imposition of Additional Money Restitution Penalty is still not optimal, namely out of 7 (seven) Cases of Crime of Corruption Losses of State Finances there are only 2 (two) Cases that return State Financial Losses.

Based on the description of the factors constraining the effectiveness of the implementation/execution of the crime of payment of replacement money in acts of corruption in the North Maluku Province, it can be argued that the factors constraining or hindering it are the alternative choice of imprisonment in Article 18 paragraph ( 3) The Anti-Corruption Eradication Law which has resulted in non-implementation of the return of state financial losses as a result of the convict's acts of corruption in the framework of accelerating the eradication of corruption in Indonesia. So, as a result, the obstacles to the above factors are law enforcers, namely the prosecutor as the executor of the implementation of the execution decision in corruption cases, finds it difficult to seek the implementation of additional criminal compensation money for the convict.

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