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IMPOSING REPLACEMENT PAYMENTS AS AN ADDITIONAL PENALTY IN CORRUPTION CASES IN JAMBI CITY

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Abstract

Replacement payments constitute an additional criminal penalty intended to deprive offenders of property obtained through corruption. Their application requires careful differentiation between criminal proceeds, state financial losses, fines, confiscated assets, and funds deposited before a judgment becomes final. This article examines the determination and enforcement of replacement payments in corruption proceedings within the institutional setting of Jambi City. It employs normative legal research through statutory and conceptual approaches, supported by academic literature and a publicly available prosecutorial document issued in 2024. The analysis demonstrates that replacement payments cannot automatically equal the total state financial loss. Their calculation must follow the applicable statutory ceiling, account for relevant recovered property, and explain the attribution of liability among defendants. Enforcement also requires a clear distinction between voluntary payment, seizure and auction, and substitute imprisonment. An official Jambi publication illustrates the importance of recording pre-judgment deposits separately from executed judicial obligations. The article proposes a coordinated framework connecting evidentiary assessment, reasoned sentencing, and documented execution. Effective implementation depends on legally justified calculations, early asset tracing, protection of third-party rights, and accurate reconciliation of amounts recovered.

Keywords: Additional penalty; Asset recovery; Corruption; Jambi City; Replacement payments.

INTRODUCTION

Corruption enforcement must address both criminal responsibility and the economic advantages obtained through an offence. Imprisonment expresses the punitive response of the state, while financial measures determine whether offenders retain the property generated by their conduct. In Indonesia, payment of *uang pengganti*, referred to in this article as a replacement payment, forms part of that response. Its importance lies in connecting a criminal judgment with the recovery of corruption proceeds. Nevertheless, the existence of a financial recovery objective does not permit an unlimited payment order. The amount imposed must remain grounded in the statutory requirements and the evidence established in the proceedings.

Article 18(1)(b) of Law No. 31 of 1999 provides the principal basis for replacement payments, within the Corruption Eradication Law as amended by Law No. 20 of 2001. The provision sets a ceiling linked to the property obtained from corruption. Supreme Court Regulation No. 5 of 2014 subsequently clarifies the determination, allocation, and enforcement of this additional penalty. Article 1 of the regulation expressly distinguishes its calculation from a simple reproduction of state financial losses. Consequently, a court must explain the legal connection between the defendant, the corruption proceeds, and the amount ordered, even where a separate loss calculation has already been accepted (Republic of Indonesia, 1999, 2001; Supreme Court of the Republic of Indonesia, 2014).

This distinction has practical consequences for cases involving several defendants. A project may cause a substantial financial loss, while the proceeds are distributed among officials, private participants, intermediaries, or corporations. Some assets may already have been seized, and certain defendants may have deposited funds during the proceedings. A replacement payment order must account for these circumstances through an individual and legally reasoned assessment. An unexplained allocation risks imposing an excessive obligation on one defendant,

overlooking benefits attributable to another, or counting the same recovered value more than once. Accurate financial attribution therefore supports both effective enforcement and fairness in sentencing.

The institutional setting of Jambi City provides a relevant illustration of these questions. In October 2024, the Jambi District Prosecutor's Office published information concerning funds deposited by two defendants in a corruption prosecution involving a corporate acquisition. The publication explained that the deposits would subsequently be considered against replacement payment obligations determined by a final judgment. This statement demonstrates why money received during ongoing proceedings must be distinguished from payment in execution of an enforceable court order. It does not establish the final amount imposed or the completion of execution in that case (Kejaksaan Negeri Jambi, 2024).

Existing scholarship addresses replacement payments from several perspectives, including their relationship with state losses, their enforcement difficulties, and their application to corporations. However, these discussions need to be connected across the stages of a criminal case. Determination of the amount, judicial allocation, asset recovery, and substitute imprisonment are interdependent processes. An imprecise judgment can complicate execution, while inadequate tracing during investigation can limit the practical value of an otherwise well-reasoned order. This article therefore examines replacement payments as a continuous legal process rather than an isolated statement in the sentencing section of a judgment.

The study addresses three questions: what principles govern the calculation of replacement payments; how should courts and prosecutors distinguish and coordinate the available recovery measures; and what framework can guide implementation within institutions situated in Jambi City? Its contribution is an integrated analysis linking the evidentiary basis of the obligation with the requirements of sentencing and execution. The geographical focus concerns institutional application in the city. It does not assume that every prosecution handled by a Jambi institution concerns conduct occurring exclusively within the administrative boundaries of Jambi City.

LITERATURE REVIEW

Replacement Payments and State Financial Loss

Genova Damanik (2016) explains the importance of distinguishing replacement payments from state financial loss. The former concerns the property attributable to corruption within the applicable legal framework, while the latter describes an injury to public finances. These amounts may overlap, but equality cannot be presumed. A loss report may establish the financial consequences of an offence without fully tracing how its proceeds were distributed. This distinction provides the conceptual foundation for examining payment orders: financial harm and financial acquisition must be investigated through related but separate questions, supported by evidence appropriate to each inquiry.

The distinction also prevents the recovery objective from displacing the principle of legality. A court may recognise a substantial public loss while finding that the basis for imposing a particular amount on an individual defendant requires further explanation. Conversely, the absence of a loss-based charge does not automatically exclude the possibility of a replacement payment. Article 3 of Supreme Court Regulation No. 5 of 2014 permits this additional penalty for offences within Chapter II of the Corruption Eradication Law, while retaining the calculation principle in Article 1. The relevant inquiry therefore concerns the offence, the property obtained, and the applicable basis for attribution.

Enforcement and the Limits of Financial Recovery

Aviano and Yustrisia (2024) examine the legal basis and implementation of replacement payments, drawing attention to the relationship between the additional penalty and its enforcement mechanism. Their discussion supports the importance of connecting sentencing with execution. A judgment establishing a monetary obligation does not itself demonstrate that money has been recovered. Payment requires identification of the enforceable obligation, an accurate account of amounts already received, and implementation of the available legal measures. Assessment of the mechanism should consequently distinguish the amount ordered from the amount collected and the amount remaining outstanding.

Rauzi and Sukarno (2023) identify problems arising before trial, during adjudication, and in execution, including difficulties associated with asset seizure, tracing financial flows, and interpreting judicial orders. Their analysis indicates that enforcement obstacles cannot be understood solely as a failure to collect money after conviction. They may originate in incomplete financial reconstruction or uncertainty about the content of the judgment. The present article develops this insight by linking each recovery stage to a specific legal question and documentary requirement, while avoiding an unsupported assumption that the same obstacles have been empirically established in Jambi City.

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Corporate Liability and Individualised Allocation

Karo Karo (2021) examines replacement payments imposed on a corporation, illustrating the relevance of organisational responsibility to corruption recovery. Corporate proceedings raise questions about the legal subject receiving the proceeds, the relationship between corporate and managerial conduct, and the appropriate financial consequence. The distinction matters because a company's receipt of funds cannot automatically be equated with personal receipt by every director or employee. Equally, prosecuting an individual does not necessarily resolve the corporation's potential liability. Each financial order requires an identified defendant and a legally supported basis for attribution.

These scholarly perspectives support an approach centred on legality, proportionality, and traceable financial attribution. Legality defines the available penalty and its limits. Proportionality requires an explanation of the obligation assigned to the defendant within those limits. Traceable attribution connects the amount imposed with the evidence concerning acquisition, transfer, seizure, or repayment. Together, these principles provide a framework for evaluating replacement payments without reducing the inquiry to either the total state loss or the amount of cash immediately found in a defendant's possession.

METHOD

This article employs normative legal research through statutory and conceptual approaches. The legal analysis is limited to materials applicable through 31 December 2024. Primary legal materials include Law No. 31 of 1999, Law No. 20 of 2001, Supreme Court Regulation No. 5 of 2014, and Article 19 of the Corruption Eradication Law concerning protection of good-faith third-party rights in the relevant confiscation context. These provisions are interpreted systematically to examine the relationship among the basis for a replacement payment, the calculation of its amount, and the consequences of non-payment.

Secondary materials comprise academic articles concerning the distinction between financial loss and corruption proceeds, enforcement problems, and corporate replacement payments. A 2024 publication issued by the Jambi District Prosecutor's Office provides a limited documentary illustration of pre-judgment deposits. It is treated as an institutional account of a reported event, rather than as a judicial determination of guilt or a complete execution record. No inference is drawn concerning the final outcome of the reported prosecution beyond what the publication establishes.

The analysis proceeds in three stages. First, it identifies the governing legal principles for determining and allocating replacement payments. Second, it examines the relationship between those principles and the available enforcement measures. Third, it develops an implementation framework suitable for institutional application in Jambi City. The study does not employ interviews, a statistical dataset, or a systematic collection of local judgments. Accordingly, its conclusions concern legal requirements and proposed institutional improvements, rather than measured recovery rates or generalised findings about local enforcement performance.

RESULTS AND DISCUSSION

Establishing the Correct Basis for the Payment Order

The starting point is Article 18(1)(b), which links the maximum replacement payment to property obtained from corruption. This requirement directs attention to financial acquisition and attribution rather than simply the scale of the public loss. A court should identify the property or value forming the basis of the proposed obligation and explain how the evidence connects it to the defendant. Bank transfers, ownership records, transactional documents, and other admissible material may contribute to that assessment. The resulting calculation should be visible in the judgment so that the defendant, prosecutor, and executing authority can understand its legal and evidentiary foundation.

Personal consumption is not the sole relevant consideration. Article 5 of Supreme Court Regulation No. 5 of 2014 addresses circumstances in which corruption proceeds were not enjoyed by the defendant and were transferred to another party. It permits a replacement payment against the defendant subject to the condition concerning prosecution of that other party set out in the provision. Consequently, the analysis cannot end with the assertion that a defendant did not retain the money. It must examine acquisition, transfer, the parties involved, and the applicable prosecution circumstances. This provision also shows why an oversimplified "personal benefit only" formula would be incomplete.

The distinction between the relevant financial categories is essential to this inquiry. State loss, proceeds, fines, confiscated assets, and deposited funds each have a different legal function. Combining them in a single total can obscure both the basis of punishment and the progress of recovery. A properly reasoned judgment should identify

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which category each amount belongs to and explain any adjustment arising from recovery already undertaken. This approach makes the obligation more intelligible and reduces uncertainty during execution.

Table 1. Financial categories relevant to replacement payment orders

Financial category	Legal significance	Consequence for analysis
State financial loss	Financial harm established in relation to the relevant offence	Does not automatically determine the defendant's replacement payment
Property obtained from corruption	Basis for the statutory ceiling and attribution of the payment	Requires evidence concerning acquisition and relevant transfers
Criminal fine	A distinct monetary punishment	Must be recorded separately from replacement payments
Seized corruption proceeds	Property secured through the criminal process	Must be taken into account under Article 2 of PERMA No. 5 of 2014
Pre-judgment deposit	Money placed with the authorities before an enforceable payment obligation is finalised	Requires reconciliation with the eventual judicial determination
Payment during execution	Satisfaction of an enforceable replacement payment obligation	Reduces the outstanding balance when properly credited

Source: Author's analysis of the Corruption Eradication Law and Supreme Court Regulation No. 5 of 2014.

Allocating Liability Among Multiple Defendants

Cases involving several participants require a distinct assessment of allocation. Article 4(1) of Supreme Court Regulation No. 5 of 2014 prohibits imposing replacement payments jointly and severally where corruption is committed together and the defendants are tried together. Article 4(2) provides that, where the amount obtained by each defendant cannot be determined precisely, the obligation may be allocated proportionately and objectively according to their respective roles. This framework requires judicial explanation. It does not authorise an arbitrary division of the total loss or an assumption that every participant must pay an identical amount.

The evidentiary inquiry should therefore reconstruct the distribution of proceeds as far as possible. Different roles may explain different forms of acquisition, including direct transfers, payments to controlled entities, or benefits passed through intermediaries. Where uncertainty remains, the court should identify the uncertainty and explain why the chosen allocation is proportionate and objective. Such reasoning permits meaningful scrutiny of the order and assists prosecutors in execution. It also prevents the most readily identifiable defendant from being treated automatically as financially responsible for all proceeds associated with a broader arrangement.

Individualised allocation remains important where related defendants are tried separately. Although the specific wording of Article 4(1) addresses defendants tried together, coordinated financial records are still necessary to avoid inconsistent treatment of the same proceeds across proceedings. Courts and prosecutors should identify related recovery measures, earlier payments, and property already addressed in connected cases. The purpose of coordination is to establish the correct legal consequence for each defendant. It should not erase the independence of each proceeding or assume that a finding concerning one person automatically proves another person's financial liability.

Accounting for Seized Assets and Returned Funds

Article 2 of Supreme Court Regulation No. 5 of 2014 requires corruption proceeds already seized by investigators to be taken into account when determining replacement payments. The court must therefore examine the identity, value, and legal treatment of relevant property. A record showing that an asset was seized is different from a record showing that it was finally confiscated and realised for recovery. These distinctions should be reflected in the reasoning and operative order, enabling the executing prosecutor to understand how the property relates to the monetary obligation and preventing the same value from being recovered twice.

Returned funds also require precise attribution. A payment should be connected to the person making it, the relevant case, and the purpose for which it was received. Where money is deposited during trial, its treatment depends on the eventual judgment and the legal status of the deposit. It should not be described as final satisfaction of an obligation that has yet to be determined. Clear documentation should establish the amount held, its custody, and how it is subsequently credited or otherwise dealt with under the enforceable decision.

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Article 4 of the Corruption Eradication Law further establishes that returning state financial or economic losses does not eliminate criminal responsibility under Articles 2 and 3. Recovery and culpability therefore remain separate questions. A defendant's deposit may be relevant to financial reconciliation and judicial consideration, but it cannot itself terminate the criminal inquiry. Conversely, continuing prosecution does not justify ignoring money already received. The legal process must preserve both an accurate account of recovery and an independent assessment of the charged offence.

Distinguishing Pre-Judgment Deposits from Execution in Jambi

The Jambi District Prosecutor's Office reported that two defendants deposited IDR 4 billion and IDR 1 billion, respectively, on 15 October 2024 in proceedings concerning the acquisition of shares in PT Mendahara Agro Jaya Industri by PT Perkebunan Nusantara VI. The publication stated that the deposits would be considered against the replacement payments determined by a final judgment. This document establishes a reported deposit event and the institution's explanation of its intended treatment. It does not establish a final conviction, the definitive replacement payment amounts, or completion of execution (Kejaksaan Negeri Jambi, 2024).

The significance of this illustration lies in procedural classification. Money received before final adjudication should be recorded in a way that preserves its relationship with the pending case. Once an enforceable judgment exists, the institution must reconcile the deposit with the obligation actually imposed. Without that step, reporting may confuse money held during proceedings with money collected under a final sentence. The two events may contribute to recovery, but they represent different legal stages and should be described accordingly.

This example also defines the limits of the article's local claims. The institutional activity occurred in Jambi City and was reported by the Jambi District Prosecutor's Office, but that does not establish that every element of the underlying offence occurred within the city. Nor does one publication demonstrate a general pattern of judicial practice or execution effectiveness. A broader assessment would require verified judgments, finality records, payment documents, and execution files. The available document supports a focused discussion of financial recording and procedural status rather than a city-wide performance conclusion.

Enforcing the Obligation After the Judgment Becomes Final

Article 18(2) establishes a payment period of one month after the judgment acquires permanent legal force. The starting point is therefore finality, rather than the date on which a first-instance judgment is pronounced. This distinction affects the accuracy of execution. Prosecutors must identify the enforceable judgment, confirm its status, and calculate the remaining obligation after taking account of amounts properly credited. A payment demand based on an unverified balance or an incorrect finality date risks creating avoidable disputes over the scope and timing of enforcement.

Where the obligation remains unpaid, Article 9 of Supreme Court Regulation No. 5 of 2014 directs prosecutors to seize the convicted person's property and proceed to auction where payment is still not made. The regulation also provides a timetable for auction and permits further seizure and auction of discovered property while the principal prison sentence has not been completed. These provisions demonstrate that substitute imprisonment should not become an immediate administrative alternative to investigating available assets. The recovery mechanism requires an evidenced account of the property identified and the steps taken to enforce the order.

Enforcement must also distinguish the convicted person's property from property belonging to others. Possession, family relationships, or association with an offender do not independently establish ownership. Article 19 of the Corruption Eradication Law protects good-faith third-party rights within its relevant confiscation framework. Ownership records and the source of acquisition should therefore be examined before an asset is treated as available for recovery. Protecting legitimate third-party interests supports the lawfulness and durability of enforcement while preserving action against property legally attributable to the convicted person.

Substitute Imprisonment and Partial Payment

Article 18(3) provides for substitute imprisonment where the convicted person lacks sufficient property to satisfy the replacement payment, with its duration determined in the judgment within the statutory limits. Substitute imprisonment is distinct from the principal prison sentence and from the consequence of failing to pay a criminal fine. Its availability should be explained as part of the replacement payment framework. It should not be presented as an unrestricted choice enabling a convicted person to retain available assets while electing to serve an additional prison term.

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Partial payment must also be reflected in execution. Articles 10–12 of Supreme Court Regulation No. 5 of 2014 regulate matters including payments, the calculation of substitute imprisonment, and communication of the relevant records. The regulation recognises proportional reduction in substitute imprisonment where part of the replacement payment has been paid. Accurate records therefore have consequences for personal liberty as well as financial recovery. A failure to reconcile payments may cause the execution period to be calculated incorrectly, making documentary precision an essential procedural safeguard.

Corporate defendants require different treatment. Article 7 of the regulation permits replacement payments against corporations but excludes substitute imprisonment for the corporation. A court cannot resolve a corporate payment obligation by assigning an imprisonment consequence to the legal entity. It must identify the corporate defendant and impose legally available consequences, while any responsibility of managers is assessed through its own legal basis. Karo Karo's (2021) discussion reinforces the need to examine the relationship among the corporate actor, its conduct, and the proceeds underlying the financial order.

A Coordinated Framework for Institutional Application

Implementation in Jambi City would benefit from a consistent record connecting financial investigation, sentencing, and execution. During investigation, the record should identify suspected proceeds, recipients, transfers, and secured assets. During trial, it should show the proposed attribution of the replacement payment and adjustments supported by the evidence. Following final judgment, it should identify the enforceable obligation, amounts credited, assets realised, and outstanding balance. This proposal follows from the legal requirements examined above; it is not a claim that a particular local institution currently lacks such records.

The quality of the judgment is equally important. Its reasoning should explain the amount imposed, allocation among defendants, treatment of seized property, and applicable consequence of insufficient payment. The operative order should then express the obligation clearly enough for lawful execution. An ambitious monetary figure offers limited practical value if its basis is unclear or its relationship with recovered assets cannot be determined. A legally supported and executable order provides a stronger foundation for recovery than a figure chosen solely to match the total loss.

Table 2. Proposed documentation framework for replacement payment proceedings

Stage	Required focus	Key documentary output
Investigation	Identify proceeds, ownership, transfers, and secured property	Financial tracing and asset inventory
Prosecution	Explain the amount sought against each defendant	Individualised calculation supported by evidence
Sentencing	Determine liability and account for relevant recovery	Reasoned and executable payment order
Confirmation of finality	Establish the enforceable decision and payment deadline	Finality record and reconciled balance
Execution	Record payment, seizure, auction, and remaining obligations	Updated execution account and supporting receipts
Substitute imprisonment	Reflect insufficient assets and partial payments accurately	Documented calculation communicated to relevant institutions

Source: Author's proposed framework based on Article 18 of the Corruption Eradication Law and Supreme Court Regulation No. 5 of 2014.

Institutional evaluation should distinguish the value ordered, money deposited before final judgment, amounts collected during execution, and proceeds realised through auction. These categories answer different questions and should not be combined into an unexplained recovery total. Such reporting would allow a more accurate assessment of both achievements and unresolved obligations. Future empirical research in Jambi City could examine these records across a defined group of cases, while accounting for judgment dates and the different stages of execution, to evaluate how effectively the existing legal framework operates.

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CONCLUSION

Replacement payments in corruption cases must be determined through a legally supported assessment of property obtained from corruption, relevant transfers, and amounts already secured or returned. Their value cannot automatically reproduce the total state financial loss. Supreme Court Regulation No. 5 of 2014 requires attention to individual allocation, recovered property, corporate defendants, and the consequences of partial payment. The 2024 Jambi prosecutorial publication illustrates the importance of distinguishing pre-judgment deposits from execution of a final payment order, without establishing broader conclusions about local enforcement performance. Effective application within Jambi City institutions requires continuity between asset tracing, judicial reasoning, and documented execution. Clear calculations, reconciliation of recovered amounts, protection of third-party rights, and accurate implementation of substitute imprisonment provide the legal foundation for that continuity. Further research using verified local judgments and execution records is necessary to assess recovery outcomes empirically.

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