THE EFFECTIVITY OF INDONESIAN REGULATION AND CORRUPTION COURTS DECISION REVIEWED BASED ON DETERRENT EFFECT FOR (SOMEONE WHO IS INTEND TO BE AND) CORRUPTORS IN INDONESIA

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On June 2017, has been decided the corruption case done by the former Indonesian Minister of Health, Siti Fadilah Supari. Such decision stated by the Corruption Court Judges at Jakarta on friday 16 june 2017 which basically stated that Siti Fadilah Supari proven guilty by abusing control in the providing of the medical equipment in 2005. For her actions , Siti Fadilah Supari being sentenced for 4 (four) years in prison and pay the penalty rp 200.000.000 (two hundred million rupiah) or replacement 2 (two) months confinement. Siti Fadilah Supari is only one example corruption case in Indonesia who is on trial through the judiciary in which unfortunately these sentence is not in proportion to the state a loss that appears due to those corruptors done. As for the state a loss inflicted on account of corruption Siti Fadilah Supari is 6,148,638,000IDR (six billion one hundred forty eight million six hundred thirty eight thousand Rupiah). But besides going to jail, Siti Fadilah Supari also should pay the fine with the number of was only 200,000,000IDR (two hundred million rupiah), the number of the fine which is far from loss suffered the state, of course we cannot see where the justice is.

Basically it is correct that in the Indonesian Law Number 20 year 2001 Regarding *Amandment of* Indonesian Law Number 31 Year 1999 about Corruption Eradication (Indonesian Law Regarding Corruption Eradication), the punishment for corruptors are imprisonment, confinement , fines , deprivation of stuff used or obtained from corruption crimes, payment of money replacement, and the closure of some / or the entire company, repealation of certain rights. But often the mindset in the societies is jailed is must be for a long time, even for a lifetime if need. This cannot be blame because besides regulated in Indonesian Law, also by the rage of feeling even revenge felt by the Indonesian people who works hard for earn a living in honest and clean way. A shortcut traveled by the corruptors to earn money finally made Indonesians shouting asked the judges to send the corruptors to jail for a longtime, for a lifetime if possible. As criminal judges in general, it is fair if the national scale corruption case decided also by hearing public voices as the the form fulfillment the sense of justice to the Indonesians, considering corruption is special crimes that harmed the nation, including indonesians. Based on that, frequently we find judicial decisions of corruption finally provides imprisonment that is heavier than focus on loan losses to the state through a penalty, asset forfeiture, deprivation of the corruption and / payments money replacement.

Is not naive that the purpose of the application of punishment is to give a deterrent effect so that the accused and society will not conduct corruption. But the question is does the judicial decisions of corruption in indonesia is enough in bringing deterrent effect as spirit from the Law of Corruption Eradication? This question tickling our law logic must be often considering the sums of of corruption cases in Indonesia, which is clearly that Indonesian Law of Corruption Eradication letterly really is a sufficient legal product that scary the (a candidate and) corruptors. Unfortunately in real life only by Indonesian Law of Corruption Eradication and judicial decisions of corruption still could not able to give a maximum deterrent effect, it is because the spirit to imprison the corruptor is larger compared by a passion in restoring the state losses. Looking through the trend of judicial decisions of corruption more emphasis on imprisonment instead of state losses repayment on finally makes people think that that it is does not matter if they are proven conducting corruption because you may only send to the prison, but the wealth the convict as corruption will not be reduced too much, it is even sometimes the corruption asset has been money laundering to other countries and finally difficult even cannot be executed because of legal system differentiation. Imprisonment punishment in fact still can submit for clemency and parole, so if clemency and / or parole granted, thecorruptors does not need to go through in prison based on the judgment which has been final and binding and their wealthy will not be reduced too much. The purpose of corruption is economically, which is to enrich themselves. So if you want to give a deterrent effect, it will be correct if we focus on an attacking the effects of corruption itself, namely by restored the state losses and impoverish the defendant corruption.

Based on these conditions , it is clear that the root of the problem are, first the uneffectivity of Indonesian Law of Corruption Eradication and judicial decisions of corruption stated on the verdict itself which prefer imprisonment punishment than returning the state a loss and impoverishment of the corruptors. The longtime imprisonment feels fairer just than criminal fine, deprivation of assets and / or the payment of money replacement.

The second root of problem is the law flexibility at some Legislation in Indonesia which still allow corruption recidivists to be candidates or deputy the head of the region, for example like Jimmy Rimba Rogi who run for the Mayor of Manado (in fact he is already under arrest for seven years due to corruption in Manado Budget Spending 2006 - 2007) , Vonny Panambunan who run for regent of Minahasa Utara (previously being punished in prison for corruption of a feasibility study on development project airport Loa Kulo Kutai Kertanegara in 2008) , Sumarmo Hadi Saputri who run for Mayor of Semarang and trapped in the provision of a bribing the members of the Semarang Council Parliaments related to discussion of Semarang Budget Spending 2011-2012), and still many more such as Abu Bakar Ahmad (the former Head of Dompu) , Usmar Ikhsan (Former Chairman of Sidoarjo Parliament) , Amdjad Lawas (former Central Sulawesi Secretary) , and others. Currently although there is no prohibition expressly for the corruption recidivists to nominate themselves in the regional election, but the provisions of article 4 letters f , f1 , and f2 General Regulation Of Election Commission Republic Of Indonesia Number 9 year 2016 Regarding *Changes Third Above Regulations General Election Commission Number* 9 year 2015 *Candidacy Election About Governor And Vice Governor* , *Regent And Regent Deputy* , *and / or Mayor And Deputy*

Mayor stated that if there is a candidate that is recidivists then the candidate obliged to notify the public regarding the cases and punishment. So it is returned to the public trustee and freedom to assess the credibility and integrity of candidates to be chosen or not chosen in the election in their areas, but still there is no firm prohibition for the former recidivists corruption to come forward as a candidate in the election.

The third root problem is the difficulties of tracking and assets forfeitures as the results of corruption crimes that are hidden outside Indonesia , in which we have to obliged and follow all legal procedure in the ñhidden assetsò state if we want to confiscate and returned it to Indonesia. Even for certain countries , like Hong Kong for example , if we want to confiscate the assets then we must re-litigation in Hong Kong court to prove that the decision has been final and binding, legitimate and have been in accordance with due process of law in Indonesia. These things also ultimately make the Indonesian Law Enforcers difficult and hard to enforce law and impoverish corruptors because the execution process is not as simple as they imagined.

Through these papers , in addition to find the root problem of law enforcement and deterrent effect of corruptors, also to provide solutions to the phenomenon of corruption crimes that has not yet abated. Looking out that the is prison no longer effective as the only punishment that gives a deterrent effect, hence it is essential to apply the rules that forbid corruption recidivists in nominating as government officials both at central and local. In addition , it is suggested that judicial decisions of corruption would be more focused to return state a loss and impoverish the corruptors, so although his has shortterm imprisonment, the corruptors only had few wealth to continue his life as a consequence of what they did to our country. In relation with assets forfeiture as the result of corruption of which are not in that jurisdiction indonesia, a good cooperation should be maximized between prosecutors Republic Of Indonesia with the law enforcers in other countries and create an MOU to prioritise and loosening the corruption assets forfeiture based on legal and binding decision. In addition it is also suggested to finisihing the discussion regarding Draft of Indonesian Law of Asset Forfeiture soon so it can be finalised and can be effectively applied. Therefore in terms of blocking or seizing the overseas corruptor assets are rejected by the ñhidden assetsò state, investigators or prosecutors are allowed to block or seize the others corruption assets in Indonesia (although not related to such corruption case) as a substitute for equivalent asset value of crimes that should be banned or confiscated on ñhidden assetsò state. It is also necessary to give a special protection for the judges who examine and decides corruption cases so they wil not to intimidated and / or to avoid intervention by any parties, so the judges able to give a fair decision, especially for of the Republic Of Indonesia.