



## Corruptors Remission Controversy: A Review of Human Rights and Justice Perspective

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### Abstract

The granting of remission to prisoners convicted of corruption in Indonesia has sparked controversy in the context of human rights and justice. The purpose of this study is to analyze remission policies in Indonesia for prisoners convicted of corruption. The methods used are normative juridical and qualitative analysis, which review relevant legislation and court decisions. The results of the study show that the revocation of Government Regulation No. 99 of 2012 opens up opportunities for convicted corruption offenders to obtain disproportionate remissions, thereby reducing public awareness and trust in the penal system. The diverse characteristics of corruption perpetrators—in terms of position, modus operandi, state losses, and socio-economic background—are somewhat inconsistent with the rehabilitative approach in the correctional system. Therefore, a more selective, fair, and corruption-eradicating remission policy is needed so that this study contributes to the development of correctional law and sentencing policy.

### Keywords:

Corruption; Justice; Law; Rights; Remission.

## A. INTRODUCTION

The Republic of Indonesia is a constitutional state that bases its system of government and administration on Pancasila and the 1945 Constitution. As a democratic country, Indonesia upholds the principle of government from the people, by the people, and for the people. Therefore, the state has an obligation to ensure that all citizens receive equal treatment before the law and that their rights are protected in order to create

justice in the law enforcement process. The law plays an important role in the social order, not only in Indonesia but also in other countries, each of which has its own legal system formed from the customs and culture that exist within its society. However, not all violations of the law are considered immoral acts, such as the violation of not wearing a seatbelt while driving. Therefore, society does not always view the law as a mere instrument of punishment, but also

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as a means of creating social order in everyday life.<sup>1</sup>

Corruption is a criminal offence that is a major issue for many countries, including Indonesia. According to the Big Indonesian Dictionary, corruption is the misappropriation or misuse of state funds for personal gain or for the benefit of others.<sup>2</sup> Meanwhile, according to Fockema Andreae, the term 'corruption' comes from the Latin word 'corruptio' or 'corruptus,' which is derived from the older Latin word 'corrumpere'. From these Latin roots, the term has been adapted into various European languages such as English 'corruption, corrupt', French 'corruption', and Dutch 'corruptie', and it was through Dutch that the term entered Indonesian as korupsi, which means rottenness, wickedness, moral decay, dishonesty, a bribable attitude, or a deviation from values.<sup>3</sup>

Corruption is a criminal offence with extraordinary consequences because it causes huge losses to the state and has systemic effects that damage the social, economic and political order. This phenomenon weakens government institutions, creates injustice, and hinders

development processes and poverty alleviation efforts. The classification of corruption as an extraordinary measure is based on the complexity of its handling, which often causes the law to lag behind the facts (*Het Recht Hinkt Acher de Feiten Aan*). Corruption also has distinctive characteristics, such as being a white-collar crime, often committed collectively, and using complex methods that make it difficult to prove. Therefore, corruption is not only a legal issue but also a serious challenge to justice and governance.<sup>4</sup>

Based on data from Indonesia Corruption Watch (ICW), the trend of corruption cases in Indonesia shows a consistent increase from 2019 to 2023, with the number of cases jumping from 271 in 2019 to 791 cases in 2023 and the number of suspects rising from 580 to 1,695 people. Although there was a decrease in the value of state losses from Rp42.7 trillion (in 2022) to Rp28.4 trillion (in 2023), corruption cases have actually become more widespread, especially in the village administration and education sectors. This increase in corruption cases reflects the weak deterrent effect

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<sup>1</sup> Dewi Asri Puanandini, Vita Suci Maharani, and Putri Anasela, "Korupsi Sebagai Kejahatan Luar Biasa : Analisis Dampak Dan Upaya Penegakan Hukum," *Public Sphere: Jurnal Sosial, Pemerintahan Dan Hukum* 4, No. 1 (2025): 44-52, <https://doi.org/https://doi.org/10.59818/jps.v3i3.1173>, p. 2.

<sup>2</sup> Asnur Disyahputra, "Efektifitas Pendidikan Anti Korupsi Dalam Mencegah Tindak Pidana Korupsi," *Jurnal Hukum Non Diskriminatif* 2, No. 1 (2023): 87-90, <https://doi.org/https://doi.org/10.56854/jhdn.v2i1.230>, p. 87.

<sup>3</sup> Sapto Handoyo Djarkasih Putro *et al.*, "Pemberian Remisi Bagi Koruptor Dikaitkan Dengan Komitmen Pemerintah Dalam Pemberantasan Korupsi Di Indonesia," *PALAR (Pakuan Law Review)* 08, No. 04 (2022): 73-90, <https://doi.org/https://doi.org/10.33751/palar.v8i4>, p. 75.

<sup>4</sup> Mohammad Al Faridzi and Gunawan Nachrawi, "Kualifikasi Kejahatan Luar Biasa Terhadap Tindak Pidana Korupsi (Putusan Mahkamah Agung Nomor 301 K/Pid.Sus/2021)," *Jurnal Kewarganegaraan* 6, No. 2 (2022): 3014-19, <https://doi.org/https://doi.org/10.31316/jk.v6i2.3244>, p. 2.

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of relatively light criminal sentences, as well as several obstacles in the implementation of the National Strategy for Corruption Prevention. Although National Strategy for Corruption Prevention has established action priorities in the areas of licensing, state finances, and bureaucratic reform, its implementation has not been consistent across all ministries/agencies and local governments, and impact measurement remains limited. In addition, oversight of public fund management in villages and the education sector remains weak. Furthermore, the deep-rooted culture of corruption within the bureaucracy exacerbates the situation, necessitating the strengthening of law enforcement, the revision of asset forfeiture regulations, and the transformation of an anti-corruption culture from an early stage as strategic efforts to reduce corruption rates in the future.<sup>5</sup>

Efforts to eradicate corruption and enforce the law firmly and consistently are key. In practice, however, there are policies that cause controversy, such

as granting remission to corruptors. Remission is a reduction in the length of a prison sentence granted to prisoners based on the applicable laws in Indonesia. Based on Article 1, paragraph (1) of the Presidential Decree of the Republic of Indonesia, remission is defined as a reduction in the sentence for prisoners and juvenile offenders who demonstrate good behavior during their prison term.<sup>6</sup>

The passing of Law No. 22 of 2022 on Corrections has caused public debate because Article 10 of this law is seen as not making it harder for prisoners convicted of corruption to get remission rights compared to the earlier rules in Government Regulation No. 99 of 2012. The Government Regulation imposed stricter conditions for granting remission to corruptors, making it difficult for all prisoners convicted of corruption to easily obtain remission. Meanwhile, Article 10 of the Correctional Law stipulates that all prisoners who meet certain administrative requirements 'without exception' are entitled to remission.<sup>7</sup>

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<sup>5</sup> Silvana Febriari, "Tren Korupsi Di Indonesia Konsisten Meningkat," *Metrotvnews.com*, 2024, <https://www.metrotvnews.com/play/b1oC9Lqq-tren-korupsi-di-indonesia-konsisten-meningkat>, accessed 20 August 2024.

<sup>6</sup> Alfiana Dwi Putri Maesty and Hari Soeskandi, "Pemberian Remisi Bagi Pelaku Tindak Pidana Korupsi," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 2, No. 3 (2022): 1214-1240, <https://doi.org/https://doi.org/10.53363/bureau.v2i3.117>, p. 1218.

<sup>7</sup> Revando Syahaqul Husna, "Pemberian Remisi Terpidana Korupsi: Perlindungan Asasi Atau Diskriminasi," *Jurnal Restorasi Hukum* 6, No. 1 (2023): 51-65, <https://doi.org/https://doi.org/10.14421/jrh.v6i1.3040>, p. 58.; Normilawati, Afandi, and M. Fahrudin Andriyansyah, "Pemberian Remisi Dan Pembebasan Bersyarat Kepada Narapidana Korupsi Berdasarkan Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan," *Dinamika: Jurnal Ilmiah Ilmu Hukum* 29, No. 1 (2023): 7154-7167, <https://doi.org/10.21608/pshj.2022.250026>, p. 7156; Fajar Rachmad Dwi Miarsa *et al.*, "Pembebasan Bersyarat Bagi Narapidana Tindak Pidana Korupsi Ditinjau Dari Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan," *Jurnal Reformasi Hukum: Cogito Ergo Sum* 5, No. 2 (2022): 36-39, <https://doi.org/10.51804/jrhces.v5i2.9802>, p. 36.

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Although Articles 1 and 14 of Law No. 12 of 1995 on Corrections also state that every prisoner is entitled to remission, this has actually caused controversy and inequality in the enforcement of justice because the application of this right is uniform, including to prisoners convicted of corruption, which is considered unfair. Remission granted without distinguishing the level of crime ignores the fact that corruption is an extraordinary crime that has a systemic impact on social, economic and governmental life. Using the principles of non-discrimination and human rights to justify granting remission to corruptors actually shows the state's weak commitment to eradicating corruption. Moreover, the correctional system, which should be a means of rehabilitation, has shifted into a loophole that gives hidden privileges to corruptors. The absence of severe punishments such as the death penalty and the granting of lenient remissions reinforce the fact that Indonesia's sentencing policies still do not reflect substantive justice and are not in line with public expectations to create a deterrent effect on perpetrators of corruption.<sup>8</sup>

As stated by Barda Nawawi Arief, the purpose of imposing criminal

sanctions cannot be separated from the overall political orientation of the law, which is to protect society in order to achieve mutual prosperity. Therefore, in every sentencing policy, including the policy of granting remission, the aspect of protecting society must be a primary consideration and cannot be ignored.<sup>9</sup>

The granting of remission to prisoners convicted of corruption continues to be a polemic in legal studies, especially when viewed from the perspective of justice. As in previous research conducted by Metmeilin Ada, Adi Tirto Koesoemo, and Herlyanty Y.A. Bawole in their article, which discusses in depth the legal regulations related to granting remission to prisoners convicted of extraordinary crimes, such as corruption, and its impact on the sense of justice in society. Using a normative juridical method, this study highlights that although the granting of remission is regulated in various regulations such as Law No. 22 of 2022 and Permenkumham No. 7 of 2022, its application to perpetrators of serious crimes creates inequality in justice and does not have a deterrent effect. This study makes an important contribution in showing how legal norms that appear neutral can actually create injustice when applied uniformly

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<sup>8</sup> Sapto Handoyo Djarkasih Putro *et al.*, *op.cit.*, p. 86-87.

<sup>9</sup> Imam Basofi Usman, "Pemberian Remisi Dan Pembebasan Bersyarat Yang Berkeadilan Terhadap Narapidana Berdasarkan Undang-Undang Pemasyarakatan" (Disertasi: Fakultas Hukum Universitas Hasanuddin Makassar, 2022), [https://repository.unhas.ac.id/id/eprint/21261/2/B013171027\\_disertasi\\_26-09-2022\\_1-2.pdf](https://repository.unhas.ac.id/id/eprint/21261/2/B013171027_disertasi_26-09-2022_1-2.pdf), p. 29.

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to crimes that have different impacts on society. However, this study is still limited to normative analysis and has not empirically examined public perceptions or actual practices in the field regarding the granting of remission to corruptors.<sup>10</sup>

Meanwhile, research by Sapto Handoyo Djarkasih Putro et al., also titled, points to criticism of the remission policy for corruptors. This article uses a normative legal approach supplemented by an empirical approach through focus group discussions and public consultations. This study highlights that after the Supreme Court revoked the relevant article in Government Regulation No. 99 of 2012, convicted corruptors can more easily obtain remission, just like ordinary prisoners. This has sparked controversy questioning the government's consistency in its commitment to eradicating corruption. The strength of this study lies in its more holistic approach, covering legal and political aspects as well as the general public's views on policies that are considered to weaken the deterrent effect on corruptors. However, this article does not discuss in detail concrete strategies for reformulating fair and proportional remission policies for prisoners convicted of corruption.<sup>11</sup>

These two studies form the basis for the author in compiling a more comprehensive study, combining Metmeilin's normative analysis and Sapto Handoyo's practical-empirical approach, in order to formulate a more assertive and fair legal approach to remission policies for perpetrators of extraordinary crimes, particularly corruption.

Therefore, this study aims to critically analyse the remission policy for prisoners convicted of corruption in the Indonesian correctional system. The main focus of this study is to assess the extent to which the practice of remission, although regulated by law and formally legal, has the potential to undermine the principle of social justice, which should be the basis for law enforcement. This study also aims to examine the imbalance between the protection of prisoners' rights and the interests of the public as victims of corruption, as well as to evaluate the effectiveness of remission policies in eradicating corruption and public trust in the legal system.

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<sup>10</sup> Metmeilin Ada, Adi Tirto Koesmono, and Herlyanty Y.A Bawole, "Tinjauan Yuridis Dampak Pemberian Remisi Bagi Narapidana Dengan Kejahatan Luar Biasa (Extra Ordinary Crime)," *Journal Lex Privatum* 11, No. 5 (2023): 1-10, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/48578>, p. 3.

<sup>11</sup> Sapto Handoyo Djarkasih Putro et al., *op.cit.*, p. 84.

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## B. RESEARCH METHODS

This research method uses normative legal research, which is conducted with the aim of providing legal arguments and normative suggestions on the issues discussed. The normative juridical method is used in this type of research. This method emphasises the examination of positive legal provisions, especially laws governing the remission of prisoners involved in corruption crimes. The data collection method uses literature research and primary legal materials, namely laws, and secondary legal materials, namely literature, expert opinions, and relevant previous research. All data were evaluated qualitatively by interpreting, studying, and critiquing the applicable laws. In addition, legal arguments were made that considered aspects of substantive justice, proportional protection of human rights, and how this impacts efforts to eradicate corruption in Indonesia.<sup>12</sup>

## C. RESULTS AND DISCUSSIONS

The view of punishment in Indonesia has undergone a significant shift. Whereas previously the punishment system emphasised retribution or retaliation, now the policy orientation is

more inclined towards a corrective and rehabilitative approach. This paradigm shift is reflected in Law No. 22 of 2022 on Corrections, which emphasises that the main objective of corrections is to transform prisoners into individuals who are aware of their mistakes, have the determination to improve themselves, and do not repeat their crimes. Although normatively this approach seems ideal and humanistic, in practice it still requires strict supervision. If not properly monitored, this rehabilitative approach could actually open up loopholes for abuse of the system, including through the mechanism of granting remission.<sup>13</sup>

The granting of remission, which should be part of the guidance process, can be exploited by certain prisoners, especially in cases of extraordinary crimes such as corruption. The existence of guidance programmes in correctional institutions is indeed designed to support the social reintegration of prisoners, but their effectiveness in bringing about real behavioural change is still questionable. Many perpetrators of corruption continue to exhibit manipulative tendencies and the ability to exploit legal loopholes for personal gain. When the rehabilitation process fails to filter out perpetrators who have truly demonstrated moral change,

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<sup>12</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020, p. 28).

<sup>13</sup> Aldi Romadani, Mahmuzar, and Irfan Ridha, "Pembebasan Bersyarat Terhadap Narapidana Lembaga Perumahan," *Journal of Sharia and Law* 2, No. 1 (2023): 335-349, <https://jom.uin-suska.ac.id/index.php/jurnalfsh/article/view/261>, p. 339.

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prisoners' rights, such as remission, have the potential to be abused and ultimately undermine public confidence in the correctional system.<sup>14</sup>

This public distrust is further strengthened when remissions are granted without considering the substantial aspects of prisoner rehabilitation. Until now, remissions have been understood as a form of reward for good behaviour by prisoners during their sentence. However, in practice, assessments of eligibility for remission are often administrative in nature and are not based on an in-depth study of moral integrity and the risk of recidivism. As a result, remissions, which should be an incentive for change, have lost their meaning as a tool for rehabilitation and have become a legal instrument that reduces the function of punishment. When remissions are granted to perpetrators of serious crimes such as corruption, the impact is not only on the legal system but also on the public's perception of justice.<sup>15</sup>

The public's sense of justice will be further disrupted if remission is granted

without considering the severity of the crime committed, especially in cases of corruption that have a widespread impact. Legally, remission is indeed the right of prisoners, but if it is applied uniformly without evaluating the rehabilitation process that has been undergone, the meaning of remission becomes unclear. From the perspective of justice theory, particularly Aristotle's corrective justice and retributive justice, this creates inequality because the punishment no longer reflects proportionality to the crime committed.<sup>16</sup> When remission is granted symbolically, such as on Independence Day or other important days, to perpetrators of serious crimes, the public perceives the system as being more biased towards the perpetrators than the victims, thus creating a perception of systemic injustice.<sup>17</sup>

The perception that the system favours perpetrators of crimes, especially corruptors, not only undermines the public's sense of justice but also contradicts the principles of human rights and theories of justice. From a

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<sup>14</sup> Fikri Adiprabowo *et al.*, "Pemberian Upah Kerja Sebagai Pemenuhan Hak Narapidana Di Lembaga Pemasyarakatan Di Indonesia," *Mutiara: Jurnal Ilmiah Multidisiplin Indonesia* 3, No. 1 (2025): 49-64, <https://doi.org/https://doi.org/10.61404/jimi.v3i1.354>, p. 56.

<sup>15</sup> Arida Retnaningtyas and Muhammad Sifaul Umam, "Pemberian Remisi Terhadap Narapidana Tindak Pidana Korupsi Pasca Putusan Mahkamah Agung Nomor 28 P/Hum/2021 Dalam Perspektif Teori Tujuan Pidana," *AL MUNAZHZHARAH: Jurnal Hukum, Pemikiran dan Keislaman* 8, No. 2 (2024): 1-14, <https://jurnal.uniwa.ac.id/index.php/almunazhzharah/article/view/363>, p. 4.

<sup>16</sup> Adithiya Diar, *Perbandingan Penyelesaian Perkara Korupsi Delik Suap Antara Indonesia dan Belanda* (Pasaman: CV. Azka Pustaka, 2022), p. 32.

<sup>17</sup> Indra Wijaya, "Polemik Pemberian Remisi Bagi Narapida Tindak Pidana Korupsi," 2022, <https://variabanten.com/338/polemik-pemberian-remisi-bagi-narapida-tindak-pidana-korupsi.html>, accessed 20 August 2024.

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human rights perspective, the rights of prisoners must be respected, including the right to receive remission. However, this right is not absolute and must be balanced with the public's right to justice and the guarantee that perpetrators of crimes have been given appropriate sanctions. In the context of justice theory, particularly distributive and retributive justice, the granting of remission should reflect a reward for changes in the perpetrator's behaviour and moral awareness. When evaluations are based solely on administrative records without moral substance, the retributive principle, which demands proportional punishment for perpetrators, and the restorative principle, which prioritises the restoration of social relations, are not fulfilled. This leads to unequal treatment under the law, which undermines the legitimacy of the correctional system itself and creates the impression that the law protects perpetrators more than victims and society.<sup>18</sup>

As discussed in the background above, this systemic failure is also reflected in the increase in the number of corruption cases in recent years. In 2019, there were 271 cases, then it rose to 444 cases in 2020, increased again to 533 cases in 2021, and reached 579 cases in 2022. This trend continued until it peaked in 2023 with 791 cases. Not only has the number of cases increased, but

so has the number of suspects named by law enforcement agencies. In 2019 alone, 580 people were named as suspects, and this number has continued to grow over time. The data shows a consistent upward trend in both the number of cases and the number of suspects involved. This fact is an indicator that the remissions granted to perpetrators of corruption do not have the desired deterrent effect. On the contrary, this policy reinforces the public perception that extraordinary crimes such as corruption are not dealt with firmly, because the perpetrators still receive reduced sentences even though they have caused significant damage to the state and society.<sup>19</sup>

The granting of remission to perpetrators of serious crimes, especially corruption, raises fundamental questions about its relevance in the context of fair law enforcement. If remission continues to be granted without considering the characteristics and social impact of the crime, the values of substantive justice that should be the foundation of punishment will be neglected. In cases of corruption, remission can actually obscure the clear message that extraordinary crimes must be dealt with seriously. Therefore, remission policies need to be thoroughly evaluated in order to maintain the integrity of the law and increase public confidence in the criminal justice system.<sup>20</sup>

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<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Indra Wijaya, *loc. cit.*

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This policy evaluation is important because remission is an integral part of the correctional system, which functions as an instrument of rehabilitation. Within the Indonesian legal framework, remission is not merely a form of mercy, but a right inherent to prisoners as part of the social reintegration process. Law No. 22/ /2022 emphasises that correctional institutions aim to prepare prisoners to return to society in a healthy and responsible manner. Thus, remission is expected to motivate prisoners to change their behaviour in a positive direction.<sup>21</sup>

Regulations regarding remission are reinforced by Government Regulation No. 32 of 2023, which outlines the requirements and procedures for its implementation. Article 25 paragraph (1) states that remission is granted to prisoners who behave well and participate in rehabilitation programmes. Although Presidential Decree No. 174 of 1999 is no longer the main reference, its substance is still reflected in the current regulations. This shows the continuity between the recognition of the rehabilitation process and the granting of rights to prisoners, as emphasised by criminal law experts such as Andi Hamzah.<sup>22</sup>

As a form of state recognition of behavioural change, remission plays

an important role in accelerating the social integration process of prisoners. However, access to remission does not apply absolutely to all prisoners. Article 25 paragraph (3) of Government Regulation No. 32 of 2023 contains additional provisions for perpetrators of specific crimes such as corruption, narcotics, and terrorism. These additional requirements include cooperation with law enforcement authorities, payment of fines or compensation, and an assessment of the prisoner's risk level.

These additional provisions have sparked debate among practitioners and academics, particularly regarding the principles of proportionality and non-discrimination. Some argue that although the intention is good, the application of additional requirements must be done carefully so as not to violate the principle of justice. In fact, the Ministry of Law and Human Rights also emphasises the importance of considering the principle of justice in regulating prisoners' rights. Thus, the discourse on justice and equality is an important element in formulating fair remission policies.

The issue of fairness in granting remission is closely related to the legal protection of prisoners, which includes the right to services, education, health

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<sup>21</sup> Dea Fadillah, "Aspek Yuridis Pemberian Remisi Terhadap Narapidana Korupsi" (Skripsi: Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2024), <https://repository.uinjkt.ac.id/dspace/handle/123456789/76083>, p. 101.

<sup>22</sup> Al-Hijrin *et al.*, "Formulasi Kebijakan Pemberian Remisi Terhadap Narapidana Ditinjau Dari Aspek Politik Hukum," *Jurnal Kompilasi Hukum* 6, No. 2 (2021): 123-142, <https://doi.org/https://doi.org/10.29303/jkh.v6i2.77>, p. 128.

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care, and humane treatment. Law No. 22 of 2022 emphasises that prisoners have the right to fair treatment without discrimination and respect for human dignity. This shows that the correctional system in Indonesia is not merely repressive, but also aims to rehabilitate and empower.<sup>23</sup>

One concrete form of legal protection is the granting of remission, which reflects the state's recognition of human rights and humanitarian values. In the context of the Pancasila Rule of Law, remission not only functions as a reward system but also as a symbol of a second chance. Through the granting of remission, the state demonstrates its commitment to realising a fair and progressive correctional system.<sup>24</sup>

Recognition of prisoners' rights in the form of remission is also part of the implementation of the principle of the rule of law. In a state based on the rule of law, such as Indonesia, the rights of prisoners cannot be ignored because they are part of human dignity. Therefore, the correctional system must

guarantee fairness in the treatment of all prisoners, including through the granting of remission in accordance with legal principles.<sup>25</sup>

The concept of the rule of law as formulated by Friedrich Julius Stahl in Sunarjo emphasises that the protection of human rights is the main pillar of the state. The state must divide power, govern based on the law, and provide an administrative justice system. These principles reinforce that correctional policies, including remission, must be subject to the rule of law and guarantee fair treatment for all prisoners.<sup>26</sup>

Sri Soemantri's view in Abdul Rahman also emphasises that a state based on the rule of law must guarantee the implementation of law-based governance and judicial oversight of government actions.<sup>27</sup> Therefore, a humane correctional system must be in line with the principles of legality and justice in the granting of remissions. Therefore, remissions are not only a matter of administrative technicalities, but also a reflection of the state's

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<sup>23</sup> Hanafi, "Upaya Regulatif Pemenuhan Hak-Hak Narapidana Pada Sistem Pemasarakatan Di Indonesia," *Al-Adl: Jurnal Hukum* 15, No. 2 (2023): 380-403, <https://doi.org/http://dx.doi.org/10.31602/al-adl.v15i2.7286>, p. 385.

<sup>24</sup> Husin Hamid, "Negara Hadir Di Dalam Remisi," [Ditjenpas.go.id](https://www.ditjenpas.go.id/negara-hadir-di-dalam-remisi), 2020, <https://www.ditjenpas.go.id/negara-hadir-di-dalam-remisi>, accessed 25 August 2024.

<sup>25</sup> Rosalia and Wagiman, "Pemberian Remisi Bagi Koruptor Di Indonesia Dalam Prespektif Hak Asasi Manusia," *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 11, No. 1 (2024): 93-105, <https://doi.org/https://doi.org/10.32505/politica.v11i1.9141>, p. 97.

<sup>26</sup> Sunarjo Sunarjo, "Peradilan Sebagai Pilar Negara Hukum Dalam Perspektif Pancasila," *Jurnal Cakrawala Hukum* 19, No. 1 (2014): 71-81, <https://doi.org/https://doi.org/10.26905/idjch.v19i1.1132>, p. 73.

<sup>27</sup> Abdul Rahman, "Menjajaki Konsep Hukum Negara Indonesia," *Jurnal De Facto* 10, No. 2 (2024): 150-74, <https://doi.org/https://doi.org/10.36277/jurnaldefacto.v10i2.187>, p. 169.

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commitment to the principles of the rule of law.

In line with this, Padmo Wahjono stated that a state based on the rule of law must uphold human rights, guarantee law and order, and respect the independence of the judiciary.<sup>28</sup> Within this framework, the granting of remission to prisoners must be carried out based on the principle of equality that applies in all aspects of life, including in the treatment of correctional inmates.

However, in reality, the application of the principle of equality in remission often encounters challenges. Since the enactment of Government Regulation No. 99 of 2012, access to remission for perpetrators of serious crimes has become more limited. This regulation tightens the requirements for remission for corruption, narcotics, and terrorism, which has led to differences in treatment compared to the previous regulations.

On the one hand, PP 99 of 2012 is considered effective in encouraging cooperation between prisoners and law enforcement officials through the justice collaborator scheme and compensation payments. However, on the other hand, this approach has attracted criticism

because it is considered inconsistent with the principle of universal justice as stipulated in Law No. 12 of 1995 on Corrections. This has led to dualism in the practice of granting remission.

This difference in treatment then became the basis for the Ministry of Law and Human Rights to propose a revision of PP 99 of 2012. However, the Supreme Court, in its Decision No. 51 P/HUM/2013, stated that the PP did not conflict with the principles of human rights, thereby strengthening its legal position as a valid regulatory instrument. This decision affirms that selective remission policies can be applied as long as they are in accordance with the principle of substantive justice.<sup>29</sup>

The Supreme Court's consideration also emphasised that there is no conflict between PP 99 of 2012 and the Correctional Law. The regulation aims to strengthen the prisoner rehabilitation system and differentiate between perpetrators of serious crimes and minor crimes. Therefore, the difference in treatment in granting remission is considered a form of implementing the principle of justice based on the impact of the crime committed.<sup>30</sup>

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<sup>28</sup> Padmo Wahjono, *Indonesia Adalah Negara Berdasar Atas Hukum* (Jakarta: Ghalia Indonesia, 1983), p. 9.

<sup>29</sup> Siaran Pers, "Dampak Pembatalan PP 99/2012: Kemenangan Besar Para Koruptor!," *antikorupsi.org*, 2021, <https://antikorupsi.org/id/article/dampak-pembatalan-pp-992012-kemenangan-besar-para-koruptor-0>, accessed 23 August 2024.

<sup>30</sup> Rofiq Hidayat, "Batalkan Syarat Remisi Kejahatan Khusus, ICW: MA Hendak Menyamakan Seluruh Kejahatan," *hukumonline.com*, 2021, <https://www.hukumonline.com/berita/a/batalkan-syarat-remisi-kejahatan-khusus--icw--ma-hendak-menyamakan-seluruh-kejahatan-lt617fc388568de/>, accessed 23 August 2024.

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The Supreme Court even stated that PP 99 of 2012 does not conflict with the principle of legality or the hierarchy of legislation. This regulation was drafted based on Article 14 paragraph (2) of Law Number 12 of 1995 and has fulfilled the principles of good legislative drafting as stipulated in Law Number 12 of 2011. This indicates that remission remains a right, but it is not absolute and is subject to certain conditions.

However, in 2021, the Supreme Court granted a judicial review of PP 99 of 2012 and declared that the regulation was invalid because it contradicted Law No. 12 of 1995. This ruling drew criticism, including from ICW researcher Kurnia Ramadhana, who argued that the decision opened the door for corruption convicts to more easily obtain sentence reductions, while also weakening the anti-corruption agenda.<sup>31</sup>

The Supreme Court considered three main reasons for the cancellation. First, Government Regulation No. 99 of 2012 was deemed inconsistent with the principle of restorative justice. Second, this policy was considered discriminatory because it treated convicts differently. Third, the regulation

was deemed to cause overcrowding in correctional institutions. Previously, in a different ruling, the Supreme Court had stated that differences in treatment were permissible as long as they were in line with the nature and impact of the crime.<sup>32</sup>

This ruling has created legal inconsistencies that could undermine public confidence in the legal system. Therefore, the government is required to be consistent with the regulations it has made and to be careful in issuing policies. Justice as a core value of the rule of law requires that every public policy support efforts to create a fair and humane correctional system.

In the context of justice, John Rawls' thinking teaches that justice is not only a matter of individual morality, but also the mechanisms for achieving it, including the role of law as a guarantor.<sup>33</sup> Therefore, in remission policy, the state is not only required to be fair formally, but also substantively in reflecting equitable social justice.

However, in practice, achieving objective justice is not easy. Humans naturally tend to follow their desires and personal interests, which often cloud fair and impartial judgement. Therefore,

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<sup>31</sup> Tatang Guritno dan Diamanty Meiliana, "MA Cabut PP 99 Tahun 2012, Koruptor Lebih Mudah Dapat Remisi," Kompas.com, 2021, <https://nasional.kompas.com/read/2021/10/29/17301831/macabut-pp-99-tahun-2012-koruptor-lebih-mudah-dapat-remisi?page=all>, accessed 23 August 2024.

<sup>32</sup> Indonesia Corruption Watch, "Dampak Pembatalan PP 99/2012: Kemenangan Besar Para Koruptor!," antikorupsi.org, 2021, <https://antikorupsi.org/id/article/dampak-pembatalan-pp-992012-kemenangan-besar-para-koruptor-0>, accessed 23 August 2024.

<sup>33</sup> John Rawls, *A Theory of Justice*, Revised Ed (Cambridge, MA: Harvard University Press, 1999), pp. 50-51.

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many scholars refuse to become judges, not because they reject this noble task, but because they realise how heavy the responsibility is to uphold true justice amid the limitations of humans as imperfect beings. This awareness of human vulnerability to injustice is an important reason why law enforcement must be carried out carefully and responsibly.<sup>34</sup>

One of the challenges in upholding justice responsibly can be seen in the policy of granting remission to prisoners convicted of corruption, which often triggers negative reactions from the public. The public believes that such remission does not reflect the sense of justice that has been expected, especially since corruption is a crime that has a widespread impact on the welfare of the people. This rejection is clearly seen in the actions of Dewi Anggraeni Puspitasari, a community activist, who created a petition on the Change.org platform to oppose the discourse on easing the requirements for granting remission to corruptors. According to Dewi, perpetrators of corruption have caused great harm to Indonesian society, so they do not deserve leniency. The

petition gained widespread support because it was seen as representing the public's desire for justice to be upheld firmly and without compromise against perpetrators of extraordinary crimes such as corruption.<sup>35</sup>

Public support for rejecting remission for prisoners convicted of corruption has grown stronger amid increasing concerns that a lenient policy will undermine the integrity of the legal system. Indonesia Corruption Watch (ICW) emphasises that granting remission to corruptors who are not whistleblowers or justice collaborators actually damages public trust in law enforcement agencies. When sentence reductions are granted without strict selection, the image of the judiciary is damaged, and the public's negative perception of the state's commitment to eradicating corruption is reinforced. As a result, public dissatisfaction continues to grow, especially as various corruption cases continue to emerge, showing that the deterrent effect of punishment has not been effective.<sup>36</sup>

The increase in recurring corruption cases reinforces the belief that remission policies for perpetrators of corruption can weaken efforts to eradicate corruption in

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<sup>34</sup> Chepi Ali Firman Zakaria, "Kebijakan Formulasi Pemberian Remisi Yang Berorientasi Pada Kepentingan Narapidana Kasus Korupsi Dalam Sistem Peradilan Pidana Di Indonesia Dalam Rangka Pemenuhan Hak-Hak Narapidana," *Aktualita (Jurnal Hukum)* 1, No. 1 (2018): 96-111, <https://doi.org/10.29313/aktualita.v1i1.3711>, p. 107.

<sup>35</sup> Eddi Brokoli, "Tolak Remisi Untuk Koruptor," *tempo.co*, 2016, <https://www.tempo.co/tokoh/tolak-remisi-untuk-koruptor-906517>, accessed 23 August 2024.

<sup>36</sup> Rofiq Hidayat, "Kebijakan Remisi Tak Timbulkan Efek Jera Bagi Kejahatan Korupsi," *hukumonline.com*, 2019, <https://www.hukumonline.com/berita/a/kebijakan-remisi-tak-timbulkan-efek-jera-bagi-kejahatan-korupsi-1t5d5bcdce29ef4/>, accessed 23 August 2024.

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Indonesia. One clear example is the case of Harvey Moeis' corrupt management of tin. Although the state suffered losses of around Rp 300 trillion, Harvey was only sentenced to 6 years and 6 months in prison and fined Rp 210 billion based on the Jakarta Corruption Court's verdict in December 2024. This sentence was much lighter than the prosecutor's demand for 12 years in prison. The judge considered his limited role and gave a lighter sentence because Harvey was polite and had family responsibilities. However, during the appeal process, the sentence was increased to 20 years in prison and a fine of Rp 420 billion by the DKI Jakarta High Court (PT DKI) in early 2025. However, the Supreme Court rejected the appeal in June 2025, so the 20-year sentence remains in effect. Nevertheless, the relatively light initial sentence opens up the possibility of a reduction in prison time. This raises concerns that perpetrators of corruption who cause significant losses to the state can still enjoy reductions in their prison sentences, even though their crimes are systemic and have a widespread impact. Although the sentence was increased at the appeal and high court levels, this case still gives the impression that granting leniency or discounts on prison sentences to perpetrators of crime can make the law appear less fair, especially in cases that require extra law enforcement.

The impression of privilege is further reinforced by the fact that some corruptors who have received remission have committed further

corruption offences after their release. This phenomenon of recidivism reflects the weakness of the selection system for granting remission, as well as the failure to instil a deterrent effect. As a result, the public is increasingly questioning the sincerity of the government and law enforcement agencies in upholding the principle of eradicating corruption. This inconsistency causes public unease, as non-selective remissions are contrary to the spirit of justice and crime eradication promoted by the state.

The discrepancy between the remission policy and the spirit of eradicating corruption has come under intense scrutiny because corruption is an extraordinary crime with systemic impacts. Not only does it harm state finances, corruption also damages the bureaucratic structure and widens social inequality. In this context, granting remission to perpetrators of corruption not only undermines public trust in the legal system, but also erodes the principle of substantive justice that should be upheld. The public, who are the direct victims of corrupt practices, have the right to see firm and impartial law enforcement.

When perpetrators of corruption receive lenient sentences, the public not only feels betrayed, but also perceives the law as transactional and discriminatory. This negative response reinforces the perception that the law is only strict towards the common people, while perpetrators of high-level crimes receive special treatment. Therefore,

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a comprehensive evaluation of the remission policy is needed to ensure that it is in line with the ideals of fair and consistent law enforcement. Without such an evaluation, public trust in the legal system will continue to erode.

Rehabilitation efforts, which are at the core of the correctional system, do aim to restore prisoners to useful members of society. However, this approach becomes problematic in the context of extraordinary crimes such as corruption. Granting remission to corruptors can weaken the deterrent effect and obscure the meaning of punishment itself. This is because corruption is not merely a violation of the law, but an act that destroys the social order and public trust in the state.<sup>37</sup>

The contradiction between the goal of rehabilitation and the reality of corruption becomes even more apparent when the victims are not given a role in the correctional process. In fact, the rehabilitation system according to Article 1 paragraph 2 of Law Number 12 of 1995 requires community involvement. However, in corruption cases, the application of this principle is often ignored, so that perpetrators of crimes continue to receive leniency without consideration of the impact on

the public. When this happens, trust in the legal system weakens.

In order to avoid creating a negative perception of legal justice, the principle of community involvement must be applied selectively and proportionally. Not all types of crimes can be treated equally in terms of rehabilitation, especially in cases of systemic and destructive corruption. When the public sees that perpetrators of corruption receive reduced sentences, they begin to doubt the effectiveness of punishment as an instrument of justice. This situation hinders the process of social reintegration, which should be the ultimate goal of correctional institutions.

The function of punishment, which is supposed to protect society, becomes distorted when remissions are granted without contextual consideration, especially in corruption cases. Andi Hamzah states that the purpose of correctional institutions is to prevent repeat offences and return prisoners to society as better individuals. However, corruptors generally come from the elite who have abused their power. If perpetrators of corruption are easily granted remission, this demonstrates inequality in the implementation of the law and weakens the protection of society.

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<sup>37</sup> Musbirah Arrahmania, Abd Asis, and Audyna Mayasari Muin, "Efektivitas Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasarakatan Terkait Hak-Hak Warga Binaan Di Lembaga Pemasarakatan Kelas IIA Kota Palopo," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 8, No. 2 (2021): 1-18, <https://doi.org/https://doi.org/10.24252/al-qadau.v8i2.19541>, p. 12.

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This inequality in law enforcement proves that the concepts of rehabilitation and resocialisation cannot be applied uniformly. In the psychogenic approach, rehabilitation is intended for individuals with social or moral disorders. However, perpetrators of corruption act out of greed, not psychological disorders. Therefore, a rehabilitative approach to corruptors is irrelevant and even weakens the deterrent effect that should be upheld in the penal system.

The weakening of the deterrent effect on perpetrators of corruption is contrary to the spirit of punishment in the 2023 Criminal Code, particularly Article 50, which emphasises an integrative approach between individual and social factors in determining punishment. Although the theory of punishment generally includes preventive, protective, and resocialisation objectives, this approach is not entirely relevant to corruption crimes, which are structural and systemic in nature. It should be understood that corruption is not inherently an extraordinary crime, but rather its handling requires extraordinary measures, as affirmed by the Constitutional Court in various decisions and by the Corruption Eradication Commission as a crime with widespread destructive power against

the state system and public welfare. Therefore, the policy of punishing corruptors must reflect the firmness of the law. Granting remission or reducing prison terms without strict selection of corruptors actually weakens the weight of criminal responsibility and obscures the moral message that should be emphasised by the national criminal justice system.

Indecisiveness in the treatment of perpetrators of corruption also weakens the symbolic meaning of criminal sanctions. John Hagan, in Hardianto Djanggih and Nurul Qamar, argues that criminal punishment has a moral function that affirms the boundary between right and wrong.<sup>38</sup> When remissions are granted to corruptors, the public perceives that punishment is merely a formality, rather than an effort to uphold moral values and justice. As a result, the legitimacy of the legal system weakens and the public begins to view the law as an instrument of political compromise.

It is this impression of compromise that ultimately undermines the integrity of the correctional system as a whole. Bambang Poernomo did indeed formulate the correctional system as a combination of educational and corrective approaches. However, in

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<sup>38</sup> Hardianto Djanggih and Nurul Qamar, "Penerapan Teori-Teori Kriminologi Dalam Penanggulangan Kejahatan Siber (Cyber Crime)," *Pandecta: Research Law Journal* 13, No. 1 (2018): 10-23, <https://doi.org/10.15294/pandecta.v13i1.14020>, p. 17.

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extraordinary crimes such as corruption, this approach must be accompanied by firmness and accountability. Without this, remission will only reinforce the stigma that the law is sharp towards those below and blunt towards those above, undermining trust in justice.

To maintain the integrity of the correctional system, the state must critically review its remission policy for corruptors. In crimes that cause widespread public harm, remission cannot be seen as a form of compassion without taking into account its social impact. The principle of equality before the law does guarantee equal rights, but substantive justice demands different treatment for serious crimes such as corruption. The law must be able to differentiate, not equalise.<sup>39</sup>

Strict supervision of remission policies is an important element in ensuring that the correctional system remains in line with the principles of public justice. Legal procedures are indeed important to guarantee certainty, but the ultimate goal is social benefit and protection of society. The state must not allow the correctional system to become a loophole for compromising with perpetrators of extraordinary crimes. Therefore, evaluation and revision of the remission policy for corruption convicts is an absolute step to restore public trust and maintain the integrity of Indonesia's legal system.

## D. CONCLUSIONS

Based on the results of the analysis, the policy of remission for prisoners convicted of corruption in the Indonesian correctional system presents serious problems. Normatively, remission is a prisoner's right guaranteed by Law No. 22 of 2022 concerning Corrections and Government Regulation No. 32 of 2023 as an instrument of guidance and social reintegration. However, in practice, the granting of remission to perpetrators of corruption is often not in line with the principle of substantive justice. Remission based primarily on administrative considerations without an in-depth assessment of moral integrity and deterrent effects has the potential to reduce the meaning of punishment. This creates an imbalance between the protection of prisoners' rights and the interests of the public as victims of corruption. As a result, public trust in the legal system weakens and efforts to eradicate corruption lose legitimacy. The policy of remission for corruptors ultimately undermines the sense of social justice that should be the foundation of law enforcement. Therefore, it is necessary to reformulate the remission policy so that it not only takes into account the principles of non discrimination and human rights, but also considers the characteristics and impact of the crimes committed. Remission for corruptors should be

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<sup>39</sup> Rofiq Hidayat, *Kebijakan..... loc.cit.*

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granted selectively, conditionally, and based on a comprehensive evaluation of their moral integrity and contribution to the eradication of corruption. With this approach, the correctional system can continue to function as a means of fair guidance, while maintaining the integrity of the law and public trust.

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