

ANALYSIS OF THE POLICY ON RESTRICTIONS ON REMISSIONS FOR CORRUPTION CRIMINAL OFFENDERS

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Abstract

This study aims to analyze the policy of limiting remissions for corruption convicts in the Indonesian legal system, particularly regarding the consistency between the rehabilitative objectives of the correctional system and the special treatment of corruption as an extraordinary crime. The main focus of this study is to evaluate whether the tightening of remission requirements in Government Regulation Number 99 of 2012 is in line with the principles stipulated in Law Number 12 of 1995 concerning Corrections. The research method used is normative juridical with a statutory approach (statute-government-regulation approach) and a conceptual approach (conceptual-government-regulation approach). Data were collected through a literature review of primary, secondary, and tertiary legal materials, including an analysis of Sahardjo's correctional theory and Romli Atmasasmita's extraordinary crime theory. The results show that limiting remissions for corruptors through additional requirements such as justice collaborator status and payment of compensation reflects a differentiated dimension in criminal policy to strengthen the deterrent effect. However, legally, this policy creates a tension between norms and the rights of prisoners guaranteed by the Corrections Law, which prioritizes rehabilitation. The implementation of this policy represents the state's effort to uphold substantive justice for the wider community due to the impact of systemic corruption. This study concludes that although corruption requires extraordinary measures, the policy of limiting remissions must maintain a balance between the deterrent aspect and the primary goal of corrections, namely social reintegration. Regulatory harmonization is needed so that special treatment for corruptors does not negate the basic human rights of inmates.

Keywords: Extraordinary Crime, Prisoners' Rights, Corruption, Remission Restrictions, Corrections

INTRODUCTION

The rise in corruption, collusion, and nepotism (KKN) in Indonesia is a systemic problem inseparable from the historical, structural, and cultural constructs that pervade the nation (Koenti, Ethika & Suprihandoko, 2022). Historically, the roots of this problem have been ingrained since the New Order era, when centralized economic development created opportunities for intervention, abuse of authority, and the perpetuation of political patronage (Rohmah, 2023). A hierarchical bureaucratic structure with minimal transparency provided fertile ground for collusion between public officials and the private sector (Anggraini & Bangun, 2025). Furthermore, cultural barriers in the form of paternalistic culture often exploit family values to justify nepotism, which in turn undermines the principles of meritocracy and professionalism (Mahendra & Mahmud, 2025). Consequently, KKN has transformed into a social pathology that undermines public trust in state institutions and leads to a degradation of democracy.

The state's response to these crimes of office has undergone various phases of evolution. Prior to the 1990s, corruption eradication efforts were dominated by administrative and political approaches that proved ineffective (Nasoha, 2025). Several historical instruments implemented included the issuance of Corruption Eradication Regulation Number Prt/PM-06/1957 and Government Regulation in Lieu of Law Number 26 of 1960, the establishment of the State Apparatus Retooling Committee (PARAN) during the Old Order, the Corruption Eradication Team (TPK) in 1967, the Committee of Four in 1970, and Operation Order/Opstib in 1977 (Putro, et al., 2022). All of these pre-reform instruments failed to create a sustainable deterrent effect due to the absence of independent institutions, bureaucratic resistance, and strong political intervention (Suprihanto, Utama & Cahyaningtyas, 2023). This systemic failure led to demands for post-1998 legal reforms that resulted in a more comprehensive anti-corruption institutional framework. This transformation was marked by the enactment of Law Number 28 of 1999 and Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, culminating in the establishment of the Corruption Eradication Commission (KPK) in 2002. These repressive efforts were also balanced by preventive measures through strengthening the audit function (BPKP and BPK) and the implementation of Good Governance and E-Government (Arfiani, Syofyan & Delyarahmi, 2023).

Although the post-1998 legal infrastructure has been strengthened, corruption can no longer be categorized as a conventional crime, but rather as an extraordinary crime that triggers multidimensional losses (Saputra & Firmansyah, 2023). This paradigm demands special, more repressive treatment, even in the correctional phase. In response to past policies that overly easily granted sentence reductions, the government implemented a policy of tightening the rights of corruption convicts through Government Regulation Number 99 of 2012. This regulation mandates very stringent cumulative requirements for obtaining remissions, namely the obligation to pay all fines and compensation, and the obligation to become a justice collaborator (Muhsinin, 2024). Philosophically, this policy transforms the function of the correctional system into a legal political instrument focused on strengthening deterrence. However, from a legal perspective, this tightening creates a tension between norms and the basic rights of convicts, given that Law Number 12 of 1995 concerning Corrections purely promotes a system based on rehabilitation and guidance, which directly conflicts with the restrictions on remission rights.

Previous research, such as that by Yuliawan, Hartanto, & Bhakti (2025), has limited studies examining the long-term impact of the policy of limiting remissions for corruption convicts in the context of social reintegration. Most current research is cross-sectional and does not consider the long-term impact of these policies on recidivism rates (Alyafedri & Koto, 2024; Supanto, 2022). This research could provide more accurate and comprehensive data on the effectiveness of these policies in promoting social reintegration, as well as the potential for

crime to arise as a reaction to repressive policies. Identifying factors contributing to the success or failure of reintegration will be crucial for the development of evidence-based policies in the future.

The urgency and rationalization of implementing the remission restriction policy are manifestations of the state's protection of the broader public's sense of substantive justice. Nevertheless, the urgency of this research is driven by the principle that special treatment for corruptors should not negate the basic human rights of inmates. It is urgent to find a proportional balance between providing a deterrent effect for perpetrators of extraordinary crimes and the primary goal of the correctional system, namely social reintegration.

This research is based on a literature review that examines primary, secondary, and tertiary legal materials. Theoretically, the analysis is conducted by contrasting and integrating two main theoretical foundations: the correctional theory proposed by Sahardjo and the extraordinary crime theory proposed by Romli Atmasasmita. To address this tension between norms, this research employs a normative juridical research method. The approaches employed include a statute approach to examine the hierarchy and synchronization of regulations, and a conceptual approach to understand the legal principles underlying corruption punishment and prisoner development. This study aims to analyze the policy of restricting remissions for corruption convicts in the Indonesian legal system. Specifically, the main focus is to evaluate the level of consistency and alignment between the tightening of remission requirements in Government Regulation No. 99 of 2012 and the rehabilitative principles in Law No. 12 of 1995. The initial hypothesis developed in this study is that the current policy of restricting remissions for corruption convicts creates an inconsistency between the deterrent and rehabilitative aspects. Therefore, it is hypothesized that regulatory harmonization is needed so that the goal of law enforcement against corruption crimes can continue to run effectively without sacrificing the rehabilitation rights of inmates.

RESEARCH METHODS

This research specifically adopts a prescriptive, normative or doctrinal legal research style, focusing its analysis on law as a system of written norms. In practice, this research integrates three key approaches. First, a statute approach is used to examine consistency within the hierarchy of applicable regulations. Second, a conceptual approach is applied to explore the theoretical underpinnings of the remission restriction policy. Third, a case study approach is utilized to examine the factual application of court decisions. This series of arguments is supported by a comprehensive classification of legal sources, encompassing primary legal materials in the form of binding formal regulations, secondary materials such as academic works analyzing primary norms, and tertiary materials, including tools such as dictionaries to clarify legal terms.

The data collection process was carried out through library research, digital literature searches utilizing snowball sampling techniques, and document grouping to interpret the meaning of legal facts. In the final stage, all inventoried data was then critically analyzed using deductive syllogisms and various methods of legal interpretation. The results of the analysis are then synthesized with applicable legal principles to arrive at a prescriptive conclusion.

RESULT AND DISCUSSION

The Indonesian correctional system is founded on a paradigm of rehabilitation and social reintegration, transformed from the punishment-oriented colonial prison system. This philosophy, pioneered by Sahardjo, views prisoners not as enemies of the state but as deviant individuals in need of rehabilitative counseling to become responsible members of society (Panjaitan, 2025). This principle gained legal legitimacy in Law Number 12 of 1995 concerning Corrections, which affirms the goal of transforming inmates into whole human beings who

recognize their mistakes and refrain from repeating crimes. Within this framework, prisoners are positioned as subjects of rehabilitative counseling who retain certain rights, including the right to remission. Conceptually, remission is not simply a reduction in sentence length but rather a form of state recognition for positive behavioral changes during the rehabilitative process, which serves as motivation to comply with the rehabilitation program.

However, developments in national legal policy in the eradication of corruption have introduced new dynamics. The significant impact of corruption on state finances, governance, and public trust categorizes it as an extraordinary crime requiring extraordinary measures (Ghani & Saputra, 2025). This policy was implemented through Government Regulation No. 99 of 2012, which tightened the granting of remissions for corruption convicts by adding requirements to become justice collaborators and pay fines and restitution for state losses. This policy aims to create a deterrent effect, restore public trust, and protect the interests of the community (Rosidah et al., 2024).

However, these restrictions raise fundamental questions about their consistency with the rehabilitative philosophy of the correctional system. Normative tensions exist between Law No. 12 of 1995 and Government Regulation No. 99 of 2012. A normative consistency analysis reveals tensions between the two regulations. In the Correctional Law, remission is regulated as a right of inmates and a rehabilitative instrument integrated into the correctional process. In contrast, Government Regulation No. 99 of 2012 treats remission for corruptors as a criminal policy instrument by adding conditions beyond the developmental indicators. Testing based on the legal hierarchy (*lex superior derogat legi inferiori*) questions whether these additional restrictions narrow the rights guaranteed by law (Wijayanti, et al., 2024). Meanwhile, based on the principle of *lex specialis derogat legi generali*, special treatment can be justified because it regulates crimes with specific characteristics (Devi, Arsawati & Rusmana, 2025). However, the application of this principle must not ignore the basic principles of higher-level regulations. Potential disharmony arises in the form of additional conditions that could potentially narrow access to guaranteed remission rights. This policy shifts the focus of remission from a developmental instrument to a repressive instrument that increases penalties. Indicators of fulfillment of requirements, such as justice collaborator status, can lead to inconsistencies and uncertainty in implementation (Indriawati, 2024).

Evaluation through various legal theoretical perspectives provides a balanced view. Correctional theory (Sahardjo) emphasizes remission as a means of motivating rehabilitation. A restrictive policy is considered consistent only if it does not eliminate this function. The addition of conditions beyond the developmental indicators represents a shift that could potentially obscure the goal of rehabilitation. The extraordinary crime theory (Romli Atmasasmita) provides a strong justification for special treatment for corruptors, given the systemic impact of corruption (Saputri et al., 2025). However, this extraordinary measure must remain proportional and must not override the fundamental principles of the correctional system. The theory of substantive justice requires the law to consider the public interest harmed by corruption. Restricting remissions can be seen as an effort to balance justice for the community with the rights of prisoners. Substantive justice demands a balance so that the protection of the public interest does not disproportionately diminish prisoners' basic rights. Human rights theory states that prisoners remain legal subjects with fundamental rights. Restrictions on rights must have a clear legal basis, a legitimate purpose, and be proportional. Restrictions must not become additional punishments not imposed by the courts.

Implementation of Government Regulation No. 99 of 2012 has complex practical implications. While intended to create certainty, the interpretation of requirements such as those for justice collaborators can actually create uncertainty. Furthermore, this policy requires better harmonization with other regulations to prevent conflicting norms and ensure the protection of inmates' rights. On the one hand, this policy is

expected to create a deterrent effect and build public trust in the state's commitment. On the other hand, it could create a perception that the correctional function is shifting from rehabilitation to prolonged punishment. Obstacles arise in the form of administrative constraints and inter-agency coordination to verify requirements, which can potentially slow the process and lead to inconsistent implementation. Resistance from inmates and legal experts also indicates the need for ongoing evaluation (Dewanti, Harun & Jiwantara, 2025).

Based on a comprehensive analysis, it can be concluded that consistency between rehabilitative goals and special treatment for corruptors can essentially be achieved under certain conditions. The limitation of remissions through Government Regulation No. 99 of 2012 represents an adaptation of legal policy to the characterization of corruption as an extraordinary crime, aimed at protecting the broader public interest. However, this justification is not absolute. This policy is only consistent with the philosophy of corrections if it does not eliminate the essence of remission as a motivational and developmental instrument. It is implemented proportionally, without turning it into additional punishment outside of the court's decision. It still guarantees respect for the principles of rehabilitation, social reintegration, legal certainty, and the human rights of inmates. In other words, Government Regulation No. 99 of 2012 should not be seen as a denial of the Corrections Law, but rather as a policy instrument that balances the protection of individual rights in the rehabilitation process with the state's responsibility to uphold substantive justice and effectively eradicate corruption (Husnayain, 2025).

The policy of limiting remissions for corruption convicts arose from the state's need to demonstrate a strong commitment to eradicating corruption, collusion, and nepotism (KKN), which are considered threats to governance. From a political perspective, this measure is not merely administrative but serves as an instrument to support the public interest and strengthen the deterrent effect. However, its implementation creates tensions with the principle of protecting the rights of inmates guaranteed in the correctional system and the human rights regime. This issue raises profound questions regarding the legal and sociological implications of this policy and its relationship to efforts to build public trust (Amril, Dewi & Syahrizul, 2025).

The primary legal implication concerns the principle of legal certainty, which is the foundation of the rule of law (*rechtsstaat*). This principle requires clear, consistent, and predictable norms. The right to remission is normatively recognized in the Correctional Law. Problems arose with the issuance of Government Regulations imposing additional requirements specifically for corruptors, such as the obligation to become justice collaborators and repay state losses. From a normative hierarchy perspective, doubts arise as to whether these provisions remain merely technical provisions or constitute substantive restrictions on rights guaranteed by law (Prianto, 2024).

The application of these additional requirements has the potential to create uncertainty. The ability to qualify as a justice collaborator, for example, is not always within the inmate's control and depends on their role in a corruption case. This could lead to inconsistent treatment of inmates with similar legal conditions. Furthermore, if the assessment of remission shifts from indicators of good behavior and participation in correctional procedures to external factors such as these, remission's function as a motivator in the correctional process could be distorted.

In the modern human rights paradigm, the removal of freedom of movement through imprisonment does not automatically revoke other basic rights. Inmates remain dignified legal subjects. Remission, within this framework, is not merely an administrative facility but an integral part of the correctional mechanism to encourage behavioral change. Any restrictions on remission must meet three criteria: legality, meaning it has a valid legal basis; legitimacy of purpose, meaning it is carried out in a legitimate public interest (such as eradicating corruption); and proportionality, meaning it is not excessive and maintains the essence of the right. The

policy of limiting remissions risks becoming an additional punishment that goes beyond court decisions if the conditions are so stringent that they practically deny prisoners access to the benefits of rehabilitation. This legal tension is also reflected in the differing orientations between the correctional system and anti-corruption policies. The correctional system focuses on rehabilitation and social reintegration, while anti-corruption policies emphasize firm law enforcement and the development of a deterrent effect. The intersection of these two interests lies in the application of the principle of proportionality, where special treatment for corruptors can be justified as long as it does not undermine the primary goals of rehabilitation and social reintegration (Retnaningtiyas & Umam, 2024).

From a sociological perspective, law functions as a social engineering instrument. Therefore, the effectiveness of the policy of limiting remissions must also be assessed from its social impact, particularly in three aspects: creating a deterrent effect, building public trust, and shaping perceptions of justice. In terms of its deterrent effect and symbolic function, this policy aims to strengthen the deterrent effect by making legal consequences for corruptors more severe. Sociologically, corruption is viewed as an extraordinary crime that causes collective harm, so society often demands commensurate punishment. Limiting remissions serves as a symbolic message that the state is serious and does not grant preferential treatment to perpetrators of corruption, collusion, and nepotism. However, the deterrent effect will only be optimal if accompanied by consistent and transparent law enforcement. Without it, this policy risks becoming merely symbolic. Building Public Trust: Public trust is vital for government legitimacy. There has been a perception that corruptors receive lenient treatment while serving their sentences. Limiting remissions is expected to correct this perception and demonstrate alignment between the state's rhetoric and actions in eradicating corruption, collusion, and nepotism. The success of building trust depends heavily on consistency and fairness in its implementation on the ground. Selective or uneven implementation can actually undermine the trust it seeks to build. The formation of perceptions of justice, and societal perceptions of justice (living law), are not always synonymous with formal justice. On the one hand, many consider limiting remissions a form of substantive justice because it considers the broad impact of corruption. On the other hand, there are concerns that this policy could erode the principle of rehabilitation and shift toward retribution. Justice in this context lies in the policy's ability to balance protecting the public interest (as a collective victim) with protecting the individual rights of inmates to be treated humanely and given the opportunity to improve themselves.

The policy of limiting remissions for corruptors is a complex criminal policy instrument. This policy is legally valid and has sociological legitimacy as long as it is implemented while upholding the principles of proportionality as a key factor (Setiawan et al., 2024). Restrictions must not diminish the essential rights of inmates to be rehabilitated and reintegrated. Legal certainty in the application of its requirements is essential to prevent injustice and discrimination among corruption inmates. Consistency between the rehabilitative goals of correctional institutions and the need for special treatment of corruption as an extraordinary crime is essential. Thus, the Government Regulation on limiting remissions should not be seen as a denial of the philosophy of corrections, but rather as a proportional adaptation. This policy can be accepted as a form of balancing the state's obligation to protect the public interest from corruption with its obligation to respect the human rights of inmates, provided that its implementation still ensures respect for the principles of rehabilitation, social reintegration, and procedural justice.

CONCLUSIONS

An analysis of the consistency between the rehabilitative objectives of the correctional system and the special treatment of corruption offenders as extraordinary crimes related to the policy of limiting remissions in Government Regulation No. 99 of 2012 and Law No. 12 of

1995 indicates a fundamental conceptual tension. The philosophy of the Indonesian correctional system, which originates from the thinking of Sahardjo and is stipulated in Law No. 12 of 1995, views prisoners as subjects of development who must be restored. In this paradigm, remission functions as a universal right as well as a form of state appreciation for positive behavioral changes during the rehabilitation and social reintegration process. However, this humanistic orientation shifted with the implementation of Government Regulation No. 99 of 2012. This regulation responds to corruption as an extraordinary crime with extraordinary measures. This policy imposes very strict requirements for corruption convicts to obtain remission, such as the obligation to become justice collaborators and pay all fines and compensation. These political-legal dynamics indicate a shift in the function of correctional institutions from a rehabilitative approach oriented toward recovery, toward a more repressive approach focused on punishment to create a deterrent effect.

The policy of limiting remissions for corruption offenders has complex and dualistic legal and sociological implications, particularly when linked to the human rights of inmates and efforts to build public trust in the eradication of corruption, collusion, and nepotism. Legally, this policy creates an ambivalent norm. On the one hand, it can be viewed as a progressive legal instrument that strengthens the state's commitment to combating corruption. On the other hand, this policy has the potential to create legal uncertainty and undermine the regulatory hierarchy, as administrative restrictions at the government regulatory level conflict with the universal rights of prisoners guaranteed by law. From a sociological perspective, this repressive policy effectively meets the moral demands of society, which demands harsh punishments for white-collar criminals. Thus, this policy can reconstruct the public's image and restore public trust in the state's commitment to upholding justice. However, this sociological achievement comes at a cost. There is a risk of degradation in the function of correctional institutions, shifting from a rehabilitative-humanist paradigm to a punitive-retributive one. Disproportionate restrictions on remissions have the potential to deny the right to justice for inmates who have demonstrated behavioral improvement during the rehabilitation process. Therefore, to build sustainable public trust without neglecting the principle of legal justice, the state needs to formulate an integrative anti-corruption policy. Such a policy must balance the firmness of legal sanctions to restore social order with the protection of inmates' human rights within the framework of just social reintegration.

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