



## Provision of Remissions for Corruptors Related to the Government's Commitment to Eradicate Corruption in Indonesia

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### **Abstract**

One form of guidance for prisoners in the correctional system (WBP) in the correctional system in Indonesia is the granting of remission rights to every prison inmate who has met the requirements according to the provisions of the applicable legislation. Basically, remission is a legal means in the form of rights granted by law to every inmate (convict) who is declared to have met certain requirements. Along with the dynamics and political policies of the Indonesian government, a series of regulations have been issued that provide leniency (remission) to those convicted of corruption. Recently, it is easier for convicts of corruption to get remissions or reduced sentences. Because the Supreme Court (MA) has revoked and canceled the related article in Government Regulation Number 99 of 2012, or better known as the Government Regulation on Tightening Corrupt Remissions. After the Supreme Court's decision, the conditions for corruptors to apply for remission are the same as other convicts regardless of the type of crime that has been committed. However, the policy of granting remissions for corruptors resulted in polemics in society, pros and cons also occurred. Some of them are of the opinion that granting remissions to corruption convicts is considered to have contradicted and injured the commitment of the government of the Republic of Indonesia in eradicating corruption. the conditions for corruptors to apply for remission are the same as for other convicts regardless of the type of crime that has been committed. However, the policy of granting remissions for corruptors resulted in polemics in society, pros and cons also occurred. Some of them are of the opinion that granting remissions to corruption convicts is considered to have contradicted and injured the commitment of the government of the Republic of Indonesia in eradicating corruption. the conditions for corruptors to apply for remission are the same as for other convicts regardless of the type of crime that has been committed. However, the policy of granting remissions for corruptors resulted in polemics in society, pros and cons also occurred. Some of them are of the opinion that granting remissions to corruption convicts is considered to have contradicted and injured the commitment of the government of the Republic of Indonesia in eradicating corruption.

**Keywords:** *Corruption; Remission; Corruptors; Government Commitment*

## ***Introduction***

National development aims to create a just and prosperous, prosperous and orderly Indonesian society based on Pancasila and the 1945 Constitution. In order to create a just, prosperous and prosperous Indonesian society, it is necessary to continuously improve prevention and eradication of criminal acts in general. One of them is the prevention and eradication of corruption. Prevention of crime in society is in line with Anselm von Feuerbach's view, which is known as general prevention theory, namely prevention is aimed at the community in general, with the existence of a crime imposed on perpetrators of crime, other people (society) will fail to carry out their intentions to commit crimes. crime (Maramis, 2016).

In the midst of national development efforts in various fields, people's aspirations to eradicate corruption and other forms of irregularities are increasing, because in reality corruption has caused enormous losses to the state which in turn can have an impact on the emergence of crises in various fields. Corruption is not only detrimental to state finances, but also suffers and harms the social and economic rights of the wider community (Lathif, et. all, 2017). Thus, efforts to prevent and eradicate corruption need to be maximized while still upholding human rights and the interests of the community.

The proliferation of criminal acts of corruption in this country is very worrying and has a bad impact on all aspects of the life of society, nation and state. The crime of corruption has actually destroyed the economic system, democracy, politics, law, government, and social order. The crime of corruption is very detrimental to state finances or the state economy and hinders national development, so it must be eradicated in order to create a just and prosperous society based on Pancasila and the 1945 Constitution. On the other hand, efforts to eradicate corruption that have been carried out so far have not been able to show good results maximum. Corruption in various levels still occurs, as it has become a part of our lives, even it is considered as a normal thing. If this condition is allowed, sooner or later the crime of corruption will destroy this country. Corruption is an extraordinary crime, so it requires extraordinary efforts to eradicate it.

The government's commitment to eradicating corruption is an important history in the government in this country (Lathif, et. all., 2019). In Indonesia, almost every presidential election is inseparable from the seriousness in convincing the people of their commitment to eradicate corruption. However, corruption continues to occur until the change of government regime. The wealth of this country is abundant, almost nothing is left for the prosperity of the people. Various efforts to eradicate corruption are continuously launched in every period of government in this country. The government may change regimes, change leaders, but the Indonesian people want a leader who is truly committed to fighting corruption.

## ***Research Methods***

Research is one of the means in developing science and technology. this is because, research aims to reveal the truth in a systematic, methodological, and consistent manner. Through the research process, analysis and construction were carried out on the data that had been collected. The type of research used is normative legal research, namely research based on primary legal materials, secondary legal materials and tertiary legal materials with interpretation and systematization between laws and regulations. This normative legal research is supported by empirical legal research to obtain primary data. In this study, a normative approach was used, namely the study of document studies on relevant laws and regulations and various policies related to the subject matter studied. As well as the empirical approach method which is carried out by carrying out focus group discussions (FGD) and public consultations (public hearings).

## **Discussion**

### **1. Definition of Corruption**

According to Fockema Andreae, the word corruption comes from the Latin "corruptio" or "corruptus". It is further stated that "corruptio" also comes from the original word "corrumpere", an older Latin word. From Latin it descended into many European languages such as English, namely "corruption, corrupt; French, namely "corruption"; and the Netherlands, namely "corruptie (korrupctie)". It can be said that from the Dutch language, it was descended into Indonesian, namely "corruption". The literal meaning of the word is; rotteness, ugliness, depravity, dishonesty, bribery, immorality, deviation from chastity, insulting or slanderous words or speech (Hamzah, 2007). Lord Acton once made a phrase that connects "corruption" with "power", namely "power tends to corrupt, and absolute power corrupts absolutely", that "power tends to corruption and absolute power tends to absolute corruption" (Muchsin, 2009).

Not only in Indonesia, but also in other parts of the world corruption will always get more special attention than other criminal acts. This phenomenon or symptom must be understandable, considering the negative impact caused by criminal acts of corruption that can distort various national and state lives of a country, even on interstate life. Corruption is a very serious problem, because corruption can endanger the stability and security of the state and its people, endanger the political, social and economic development of the community, and can even damage democratic values and national morality because it can have an impact on the culture of the criminal act of corruption (United Nations Convention Against Corruption, 2003).

*Convinced that corruption is no longer a local matter but transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential.*(Translation; corruption is no longer a local problem, but a transnational phenomenon affecting entire societies and economies that encourages international cooperation to prevent and control it essentially).

The same meaning as the 4th paragraph of the Preamble to the United Nations Convention is also as mandated in the preamble considering letters b and c of Law Number 7 of 2006 concerning Ratification of the United Nations Convention Against Corruption, 2003 (ratification of the United Nations Convention Against Corruption, 2003) which states:

The consideration letter b states :

That the criminal act of corruption is no longer a local problem, but is a transnational phenomenon that affects the whole society and the economy, so it is important to have international cooperation for its prevention and eradication, including the recovery or return of assets resulting from criminal acts of corruption.

The consideration letter c states:

That international cooperation in the prevention and eradication of criminal acts of corruption needs to be supported by integrity, accountability, and good governance.

Likewise, in the first paragraph of the explanation of Law Number 7 of 2006, it explains as follows:

Corruption is a threat to the principles of democracy, which upholds transparency, accountability, and integrity, as well as the security and stability of the Indonesian nation. Because corruption is a criminal act that is systematic and detrimental to sustainable development, it requires comprehensive, systematic, and sustainable prevention and eradication measures both at the national and international levels. In carrying out the efficient and effective prevention and

eradication of corruption, it requires the support of good governance management and international cooperation, including the return of assets originating from criminal acts of corruption.

In 2005, according to data from the Political Economic and Risk Consultancy, Indonesia ranks first as the most corrupt country in Asia. If seen in everyday reality, corruption almost occurs at every level and aspect of people's lives. (KPK: 2006) Starting from taking care of building permits (IMB), government agency procurement projects to law enforcement processes are not free from corruption problems. Without realizing it, corruption arises from habits that are considered normal and reasonable by the general public. Such as giving gifts to officials or civil servants or their families in return for a service provided. This habit is seen as commonplace as part of eastern culture. This corrupt habit will eventually become the seeds of real corruption.

One of the reasons for this ongoing habit of corrupt behavior among the people is their lack of understanding of the notion of corruption. So far, the vocabulary of corruption has been popular in Indonesia, almost everyone has heard of the word corruption. Starting from the people of the interior, students, civil servants, private people, law enforcement officers to state officials. However, if they are asked what corruption is, what types of actions can be categorized as criminal acts of corruption? Almost certainly very few can answer correctly about the form or type of corruption as intended by law.

Based on Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, the habit of corrupt behavior which has been considered as a natural thing and commonplace can be declared as a criminal act of corruption. Such as giving gratuities (giving gifts) to state officials and related to their positions if they are not reported to the Corruption Eradication Commission (KPK), can be a form of corruption. Knowing the forms/types of actions that can be categorized as corruption is an early effort to prevent someone from committing corruption (KPK, 2006).

The definition of corruption can be viewed from various aspects, depending on the discipline used as stated by Benveniste in Suyatno's book, 4 types of corruption are defined, namely (Suyatno, 2005):

- a. *Discretionary corruption*, is corruption that is carried out because of the freedom to determine policies, even though they appear to be legitimate, are not practices that can be accepted by members of the organization;
- b. *Illegal corruption*, is a type of action that intends to confuse the language or purposes of certain laws, rules and regulations;
- c. *Mercenary corruption*, is a type of criminal act of corruption intended to obtain personal gain, through abuse of authority and power;
- d. *ideological corruption*, is a type of illegal or discretionary corruption intended to pursue group goals.

Corruption comes from the Latin "corruptio" or "corruptus" which then appears in English and French "corruption", in Dutch "korruptie" and then in Indonesian as "corruption". Corruption literally means evil or rotten, while AIN Kramer ST translates it as an offense due to rotten, evil, corrupt or bribery actions (Darwan, 2002).

The term corruption was first present in the legal repertoire of Indonesia in the Regulation of the Ruler of War Number Prt/Perpu/013/1958 concerning the Regulation for the Eradication of Corruption. Then, it was also included in Law Number 24/Prp/1960 concerning the Investigation of Prosecution and Examination of Corruption Crimes. This Law was later revoked and replaced by Law Number 3 of 1971 concerning the Eradication of Criminal Acts of Corruption, which since August 16, 1999 was replaced by

Law Number 31 of 1999 and will come into effect no later than 2 (two) years later (16 August 2001), then amended again by Law No. 20 of 2001.

Taking into account Law Number 31 of 1999 and Law Number 20 of 2001, corruption can be seen from 2 (two) aspects, namely active corruption and passive corruption. The definition of active corruption is as follows:

- a. Illegally committing acts of enriching oneself or another person or person or a corporation that can harm state finances or the state economy (Article 2 of Law Number 31 of 1999);
- b. With the aim of benefiting oneself or another person or a corporation, abusing the authority, opportunities or facilities available to him because of his position or position that can harm state finances or the state economy (Article 3 of Law Number 31 of 1999);
- c. Attempt, assistance, or conspiracy to commit criminal acts of corruption (Article 15 of Law Number 31 of 1999);
- d. Giving or promising something to a civil servant or state administrator with the intention that the civil servant or state administrator do or not do something in his position, which is contrary to his obligations (Article 5 Paragraph (1) letter a of Law Number 20 of 2001);
- e. Giving something to a civil servant or state administrator because of or in connection with something that is contrary to his obligations, done or not done in his position (Article 5 Paragraph (1) letter b of Law Number 20 of 2001);
- f. Giving or promising something to the Judge with the intention of influencing the decision of the case submitted to him for trial (Article 6 Paragraph (1) Letter a of Law Number 20 of 2001);
- g. A contractor, a construction expert who at the time of constructing a building, or a seller of building materials who, at the time of handing over building materials, commits fraudulent acts that may endanger the safety of people or goods, or the safety of the state in a state of war (Article 7 Paragraph (1) letter a of this Law). Number 20 of 2001);
- h. Everyone who is in charge of supervising the construction or delivery of building materials intentionally allows fraudulent acts as referred to in letter a (Article 7 Paragraph (1), letter b of Law Number 20 Year 2001);
- i. Any person who at the time of handing over the goods needed by the Indonesian National Armed Forces and/or the State Police of the Republic of Indonesia commits a fraudulent act that may endanger the safety of the state in a state of war (Article 7 Paragraph (1) letter c of Law Number 20 of 2001);
- j. Everyone in charge of supervising the delivery of goods needed by the Indonesian National Armed Forces and/or the Indonesian National Police intentionally allows fraudulent acts as referred to in letter c (Article 7 Paragraph (1) letter d of Law Number 20 of 2001);
- k. A civil servant or person other than a civil servant who is assigned to carry out a public office continuously or temporarily, intentionally embezzles money or securities stored because of his position, or allows the money or securities to be taken or embezzled by another person, or assists in commit the act (Article 8 of Law Number 20 of 2001);
- l. Civil servants or people other than civil servants who are given the task of running a general position continuously or temporarily, deliberately falsify books or lists that are specifically for administrative examination (Article 9 of Law Number 20 of 2001);
- m. A civil servant or a person other than a civil servant who is given the task of running a public office continuously or temporarily, intentionally embezzles, destroys, damages, or renders unusable goods, deeds, letters, or lists used to convince or prove in the face of an authorized official, who is controlled because of his position; or allow another person to remove, destroy, damage, or render unusable the said goods, deeds, letters, or lists; or assisting others to eliminate, destroy, damage, or render unusable the said goods, deeds, letters, or lists (Article 10 of Law Number 20 of 2001).

While passive corruption is as follows:

- a. Civil Servants or State Administrators who receive gifts or promises because of doing or not doing something in their position, which is contrary to their obligations (Article 5 Paragraph (2) of Law Number 20 of 2001);
- b. Judge or Advocate who receives a gift or promise to influence the decision of a case submitted to him for trial or to influence advice or opinion to be given in connection with a case submitted to the court for trial (Article 6 Paragraph (2) Law Number 20 of 2001) ;
- c. Person who accepts delivery of building materials or person who accepts delivery of goods for the needs of the Indonesian National Army and/or Indonesian National Police and allows fraudulent acts that may endanger the security of people or goods, or the safety of the state in a state of war (Article 7 Paragraph (2) of the Law Law Number 20 of 2001);
- d. A civil servant or state administrator who receives a gift or promise even though it is known or reasonably suspected that the gift or promise is given because of the power or authority related to his position, or according to the mind of the person who gave the gift or promise that is related to his position (Article 11 of the Law). -Law Number 20 of 2001);
- e. A civil servant or state administrator who receives a gift or promise, even though it is known or reasonably suspected that the gift or promise was given to motivate them to do or not do something in their position, which is contrary to their obligations; or as a result of or caused by having done or not doing something in his position that is contrary to his obligations. (Article 12 Letter a and Letter b of Law Number 20 Year 2001);
- f. A judge who accepts a gift or promise, even though it is known or reasonably suspected that the gift or promise was given to influence the decision of a case submitted to him for trial (Article 12 Letter c of Law Number 20 of 2001);
- g. Advocates who receive gifts or promises even though it is known or reasonably suspected that the gift or promise is to influence the advice or opinion to be given, in connection with a case that is submitted to the court for trial (Article 12 Letter d of Law Number 20 of 2001);
- h. Every Civil Servant or State Administrator who receives the gratuity given is related to his position and contrary to his obligations or duties (Article 12 Letter e, Letter f, Letter g, Letter h and Letter i of Law Number 20 Year 2001).

Furthermore, in practice, corruption is known in 2 (two) forms, namely (Darwan, 2002) :

*a. Administrative Corruption*

Where everything that is carried out is in accordance with applicable laws/regulations. However, certain individuals enrich themselves. For example, the recruitment process for civil servants, where selection tests are carried out starting from administrative selection to knowledge or ability tests. However, certain people must be passed.

*b. Against The Rule Corruption*

Corruption is completely against the law. For example, bribery, abuse of position to enrich oneself or another person or a corporation.

Corruption can also be categorized as a transnational crime, because corruption can occur and be carried out (Darwan, 2002):

- a. In more than one region of the country;
- b. In one country, but the preparation, planning, direction or control of the crime is carried out on the territory of another country;
- c. In one territory of the state, but involves an organized group of criminal offenders who commit criminal acts in more than one territory of the state; or
- d. In one country, the consequences of the crime are felt in other countries.

## 2. Factors Causing Corruption

The factors that cause corruption come from internal factors and external factors, as follows (Kemenristek Dikti, 2018):

- a. Internal factors (factors that come from the perpetrator);
  - 1) Sifat greedy / greedy / greedy humans
  - 2) Consumptive lifestyle
  - 3) Morals/morals
- b. External factors (factors that come from outside the actor);
  - 1) social aspects;
    - values and culture of society that support corruption
    - The community considers that the victim of corruption is the state even though the biggest loss is experienced by the community
    - people are accustomed to corrupt behavior
    - people are less aware that corruption can be prevented and eradicated.
  - 2) Political aspects;
    - there is money politics
    - there is abuse of power
  - 3) Legal aspects;
    - legal aspects (weak articles, discriminatory rules, unclear formulations)
    - non-firm law enforcement and light sanctions
  - 4) Economic aspects;
    - income level or salary is not sufficient to meet the necessities of life
  - 5) Organizational aspects;
    - lack of exemplary leadership
    - the absence of the right organizational culture/culture
    - inadequate accountability system
    - Weak control system in the organization.

## 3. Law Enforcement and Efforts to Combat Corruption

Law enforcement against corruption cases in Indonesia cannot be separated from law enforcement efforts itself. Before discussing further about law enforcement (especially criminal law enforcement), first the opinions of several experts regarding the meaning of legal politics will be presented. In the 1970s and 1980s, the former Chief Drafter of the Criminal Code, Soedarto, defined legal politics as state policy through state agencies authorized to stipulate the desired regulations that are expected to be used to express what is contained in society and to achieve what you aspire to (Soedarto,1983). Still according to Soedarto, legal politics is defined as an effort to realize good regulations in accordance with the circumstances and situations at a time (Soedarto,1986).

In order to realize a fair legal process, law enforcement should not be viewed narrowly, but must be holistic, thus, law enforcement is not only always understood as the enforcement of legal norms related to the violation of a suspect or defendant, but also the enforcement of norms relating to the protection of the rights of suspects and defendants by law enforcement officers during the examination process (Tahir, 2010).

Romli Atmasasmita argues that good law enforcement is if the criminal justice system works objectively and impartially and pays attention and considers carefully the values that live and develop in society. implemented by law enforcement officials (Atmasasmita: 1996). According to Muladi, the moral and ethical aspects of criminal law enforcement are matters relating to criminal law enforcement in the

criminal justice system (Muladi, 2004). The enforcement of criminal law is always in touch with morals and ethics, this is based on the following reasons (Muladi, 2004):

- a. The criminal justice system typically involves the use of coercion, or coercion, with the possibility of an opportunity to abuse power (abuse of power);
- b. Almost all professionals in criminal law enforcement are public servants who have special obligations to the public they serve;
- c. For everyone, ethics can be used as a tool to help solve ethical dilemmas that people face in their professional life;
- d. In professional life it is often said that a set of ethical requirements are as part of its meaning.

As for strategies or efforts that can be taken in the context of eradicating corruption in Indonesia as an inseparable part of law enforcement efforts in Indonesia can be carried out through the following steps:

- a. Establishment of an anti-corruption agency;
  - 1) Corruption Eradication Commission (KPK)
  - 2) other institutions authorized to eradicate corruption
  - 3) the existence of an internal corruption prevention unit in each ministry or department or agency or institution
- b. Prevention of corruption in the public sector
- c. Social prevention and community empowerment
  - 1) people dare to report corruption cases
  - 2) the role of the community in eradicating corruption, which should be rewarded
  - 3) the establishment of local and international NGOs/NGOs concerned with eradicating corruption
  - 4) install surveillance cameras/cctv in public service areas
- d. Creation of related legal instruments
- e. International cooperation
- f. Monitoring and evaluation.

#### **4. Definition and Legal Basis of Remission**

Remission or reduction of the criminal period in the criminal implementation system, especially regarding the correctional system is very important. This is related to the problem of coaching carried out by officers at the correctional institution (prison) against prisoners. In the implementation of the criminal system, remission granted to prisoners must meet the conditions applied to the prisoners themselves, otherwise the right of remission will not be granted.

Andi Hamzah said remission is an acquittal in whole or in part or from life to a limited sentence which is given every 17 August (Hamzah, 1986). Based on Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Correctional Inmates, remission is a reduction in the period of serving a sentence given to convicts and criminal children who meet the requirements specified in the legislation (vide Article 1 point 6) , whereas in Presidential Decree No. 174/1999, the provisions of Article 1, do not provide the meaning of remission, only mention one of the conditions for granting remission. Article 1 paragraph (1) Presidential Decree Number 174 of 1999 only states that the reduction of the criminal sentence given to convicts and criminal children and has behaved well while serving a sentence.



- a. *Gouvernement Besluit* 10 August 1935 Number 223 Bijblad Number 13515 in conjunction with 9 July 1841 Number 12 and 26 January 1942 Number 22; solely a gift given on the birthday of the Queen of the Netherlands;
- b. Presidential Decree No. 156 dated April 19, 1950 which was contained in the State Gazette No. 26 dated April 28, 1950 in conjunction with Presidential Decree No. 1/1946 dated August 18, 1946 and Regulation of the Minister of Justice No. G.8/106 dated January 10, 1947 in conjunction with Presidential Decree No. 120 Year 1955 dated July 223 1955 concerning Special Forgiveness;
- c. Presidential Decree Number 5 of 1987 in conjunction with Decree of the Minister of Justice Number 01.HN.02.01 of 1987 concerning the Implementation of Presidential Decree Number 5 of 1987, Decree of the Minister of Justice Number 04.HN.02.01 of 1988 dated May 14, 1988 concerning Additional Remissions for Prisoners Who Become Donors Body Organs and Blood Donors and Decree of the Minister of Justice Number 03.HN.02.01 of 1988 dated March 10 concerning Application for Changes to Temporary Prison Penalties based on Presidential Decree Number 5 of 1987;
- d. Presidential Decree Number 69 of 1999 concerning Reduction of Criminal Period (Remission);
- e. Presidential Decree No. 174/1999 in conjunction with Decree of the Minister of Law and Legislation No. M.09.HN.02.01/1999 on the implementation of Presidential Decree No. 174/1999, Decree of the Minister of Law and Legislation No. M.10.HN.02.01/1999 1999 concerning Delegation of Authority to Grant Special Remissions.

The applicable provisions are the latest provisions, from the provisions that have been described, the last provision (letter e) is a provision whose position is still valid in Indonesia, in addition to that the provision is added with several other provisions, so that the provisions that are still valid for remission currently are:

- a. Presidential Decree Number 120 of 1955 dated July 23, 1955 concerning Special Forgiveness;
- b. Decree of the Minister of Justice Number 04.HN.02.01 of 1988 dated 14 May 1988 concerning Additional Remissions for Prisoners who become Body Organ Donors and Blood Donors;
- c. Decree of the Minister of Law and Legislation Number M.09.HN.02.01 of 1999 concerning the Implementation of Presidential Decree Number 174 of 1999;
- d. Decree of the Minister of Law and Law Number M.10..HN.02.01 of 1999 concerning Delegation of Authority to Grant Special Remissions;
- e. Circular Letter Number E.PS.01-03-15 dated May 26, 2000 concerning Changes from Life imprisonment to Temporary Imprisonment;
- f. Circular Letter Number W8-PK.04.01-2586 Dated April 14, 1993 concerning Appointment of Work Leaders, and;
- g. Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Correctional Inmates.

The preamble to Government Regulation (PP) Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Correctional Inmates states that the granting of Remission, Assimilation, and Conditional Release for perpetrators of Terrorism, Narcotics and Narcotics Precursors, Psychotropics, Corruption, Crimes Against State Security and Serious Human Rights Crimes, as well as other transnational organized crimes need to be tightened requirements and procedures to fulfill the public's sense of justice.

What is interesting in the preamble of this PP is that it expresses the sense of justice in the community, while the perpetrators of criminal acts (one of them) corruption is a crime that is included in the category of extraordinary crime that hinders all aspects of life and national order in Indonesia. Corruption has a very broad impact, although there are also other provisions which emphasize that the

requirements for obtaining the right of remission must be willing to cooperate with law enforcement to help dismantle the criminal case he has committed, have paid off the fine and paid compensation in accordance with court decisions for convicted convicts. for committing a criminal act of corruption and willing to cooperate with law enforcement to help dismantle the criminal case he did.

In addition to remission, prisoners during their sentence are also entitled to their rights as stated in Law Number 12 of 1995 concerning the Revocation of the Republic of Law Number 21 of 1980 concerning Corrections, in Article 14 paragraph (1) which states that prisoners have the right to :

- a. Performing worship according to their religion or belief;
- b. Receive treatment, both spiritual and physical care;
- c. Getting education and teaching;
- d. Get proper health care and food;
- e. Submit a complaint;
- f. Obtain reading materials and follow other mass media broadcasts that are not prohibited;
- g. Get wages or premiums for the work done;
- h. Receive visits from family, legal counsel, or certain other persons;
- i. Get a reduction in the criminal period (remission);
- j. Gaining assimilation opportunities including time off to visit family;
- k. Get parole;
- l. Get leave before being free; and
- m. Obtain other rights in accordance with applicable laws and regulations.

## 5. Terms of Granting Remission

Remission is a reduction in the criminal period given to convicts (prisoners) and children in conflict with the law who meet the requirements according to the legislation. Remission is a prisoner's right as stated in Article 14 of Law Number 12 of 1995 concerning Corrections.

There are a number of conditions that prisoners must meet if they want to get remission. The conditions for granting remission to prisoners are regulated in the Minister of Law and Human Rights Regulation (Permenkum HAM) Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave Before Release, and Conditional Leave as amended by Permenkum Human Rights Number 18 of 2019 and Permenkum HAM Number 7 of 2022. These requirements are (Anonymous, 2022):

- a. Well behaved, and
- b. Has served a criminal term of more than 6 (six) months.

Remissions are not given to prisoners who are on leave before being released and are serving confinement as a substitute for a fine. Meanwhile, for children who are in conflict with the law, remission can be granted if they meet the requirements, namely: have good behavior, have served a criminal period of more than three months, and are not yet 18 years old. Remissions are not given to children who are on leave before being released and are undergoing job training as a substitute for fines (Anonymous: 2022).

The conditions for granting remission for prisoners of terrorism, narcotics and corruption, namely good behavior and have served a criminal term of more than six months are 2 (two) main requirements that must be met by prisoners if they want to get remission. However, there are additional requirements for terrorism, narcotics and corruption convicts who wish to be granted remission. For convicts of criminal acts of terrorism, additional requirements must be met, namely; have participated in a deradicalization program organized by prisons and/or the National Counterterrorism Agency (BNPT), stated a written pledge of allegiance to the Unitary State of the Republic of Indonesia for Indonesian citizen prisoners, or stated a written pledge not to repeat acts of terrorism for foreign national prisoners.

For narcotic convicts, narcotic precursors and psychotropic substances, An additional requirement that must be met to obtain a remission is to be willing to cooperate with law enforcement to help dismantle the criminal case he has committed. Meanwhile, for corruption convicts, apart from having to fulfill two main requirements, they also have to pay fines and replacement money in accordance with court decisions (Anonymous, 2022).

## 6. Types of Remission

The types of remissions granted by the Directorate General of Corrections at the Ministry of Law and Human Rights to prisoners (prisoners), include (Anonymous, 2022):

- a. General remission is granted annually on August 17th.
- b. Special (religious) remissions are given on each date of religious holidays in accordance with the religion of each prison inmate (WBP).
- c. Additional remission is given together with general remission, so that in 1 (one) Collective SK contains the amount of general remission and additional remission;
  - 1) Remissions do services to the country
  - 2) Remission of actions that are beneficial to the country or humanity.
  - 3) Remission performs actions that assist coaching activities (leader remission) in correctional institutions.
- d. Remission for extraordinary events, for example: remission given when a natural disaster occurs and prisoners return to prison.
- e. Decades of remission are remissions given every 10 years on the Independence Day of the Republic of Indonesia.

## 7. Pros and Cons of Granting Remissions for Corruptors

Articles 1 and 14 of Law Number 12 of 1995 concerning Corrections, state that one of the rights of prisoners is to get a reduced sentence (punishment), this should be given to prisoners without discrimination because prisoners are human beings who have equal rights in the eyes of the law and the government, including those convicted of corruption cases so that the criminal system in Indonesia is in accordance with the due process of law and does not conflict with human rights. In addition, if we observe further about the criminal implementation system in Indonesia, especially for corruption crimes,

The concept of penitentiary was also perfected by the Decree of the Service Conference of Prison Leaders held on April 27, 1964, the decision stated that the implementation of imprisonment in Indonesia was carried out with the correctional system, in addition to being the purpose of imprisonment, it was also a way to guide and foster. refers to the following principles:

- a. Lost people must be protected by providing life provisions as good citizens and useful for society.
- b. The imposition of a criminal is not an act of revenge from the state.
- c. Repentance cannot be achieved by torture but by guidance.
- d. The state has no right to make a prisoner worse or worse off than before he entered the institution.
- e. During the loss of freedom of movement, prisoners must be introduced to the community and must not be isolated from society.
- f. The work given to prisoners may not be time-consuming or only for the benefit of the institution or the state, but the work must be aimed at the development of the state
- g. Guidance and education must be based on the principles of Pancasila
- h. Everyone is a human being and should be treated as a human being even if he or she has gone astray, it should not be pointed out to the prisoner that he is a criminal.

- i. Convicts are only sentenced to loss of independence
- j. The physical facilities of institutional buildings are one of the obstacles to the implementation of the correctional system.

Corruption is a special crime regulated in criminal law in Indonesia. Corruption literally means evil or rotten, therefore a criminal act of corruption means an offense due to a rotten, evil, corrupt or bribery act. The term corruption was first present in the legal repertoire of Indonesia in the Rule of War No. Prt/Perpu/013/1958 concerning the Corruption Eradication Regulations. Then in Law Number 24/Prp/1960 concerning the Investigation of Prosecution and Examination of Corruption Crimes. This Law was later revoked and replaced by Law Number 3 of 1971 concerning the Eradication of Corruption Crimes (Darwan, 2002), The criminal act of corruption has clearly caused consequences that are harmful and disturbing to the public, especially in the financial sector and the state's economy, or its tangible impact on the public can destroy the potential effectiveness of all government programs, can disrupt development, and cause individual and community victims.

The United Nations Convention Against Corruption (UNCAC) or UNCAC in 2003 which was ratified by the Indonesian government with Law Number 7 of 2006, shows that corruption is an extraordinary crime that has a wide impact on the country, make people's lives miserable, steal state money and save it in banks that have high security systems and uphold the privacy of their customers. The convicts of corruption cases are not human beings who are categorized as weak individuals, because they usually occupy important positions in a government so that granting remissions is an early indication of corruption behind prison cells carried out by prison officers. This systematically has an impact on the weakening of the essence and existence of legal interests both in the eyes of the domestic community and abroad, so that a deterrent effect will not be formed on prisoners of corruption cases. In addition, the basis for sentencing must consider the following:

- a. Criminal Error
- b. The motive for committing a crime
- c. The inner attitude of the criminal act
- d. Was the action planned?
- e. How to commit a crime
- f. Attitudes and actions of the perpetrator of a crime after committing a crime
- g. Curriculum vitae and socio-economic conditions of the perpetrators of the crime
- h. The effect of criminal acts on the future of the perpetrators of the crime
- i. The effect of the crime on the victim
- j. Forgiveness from the victim
- k. Society's view of action criminal which carried out (based on Article 52, Draft Criminal Code 2004)

### ***Conclusions and Recommendations***

Considerations in granting criminal period reductions (remissions) for corruption convicts are based on existing laws and regulations, such as in terms of considering indicators of good behavior and having served a criminal period of more than 6 (six) months, as contained in Government Regulation no. 99 of 2012 concerning amendments to Government Regulation no. 28 of 2006 concerning the Terms and Procedures for the Implementation of the Rights of Correctional Inmates in Articles 1, 2 and 3 of the regulation. The granting of remissions for convicts of criminal acts of corruption should be further tightened and if necessary they should be eliminated, it is hoped that criminal penalties for perpetrators of criminal acts of corruption should not only include retaliation against the perpetrators, but must also provide a deterrent effect to the general public, especially to the nation's young generation. so that corruption can be reduced in this country. In terms of imposing criminal sanctions as well as in terms of

giving rights to prisoners, law enforcement officers should give more different treatment based on the type of crime they have committed. So that the granting of rights as well as the granting of remissions for corruption convicts can have a positive impact not only on the prisoners themselves, but also on the reduction of corruption and certain other criminal acts. This is certainly in line with the government's commitment to eradicating corruption in Indonesia. Law enforcement officers should provide different treatment based on the type of crime they have committed. So that the granting of rights as well as the granting of remissions for corruption convicts can have a positive impact not only on the prisoners themselves, but also on the reduction of corruption and certain other criminal acts. This is certainly in line with the government's commitment to eradicating corruption in Indonesia. Law enforcement officers should provide different treatment based on the type of crime they have committed. So that the granting of rights as well as the granting of remissions for corruption convicts can have a positive impact not only on the prisoners themselves, but also on the reduction of corruption and certain other criminal acts. This is certainly in line with the government's commitment to eradicating corruption in Indonesia.

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