



## Conditional Release Rights for Prisoners Convicted of Corruption in Indonesia Under Law No. 22 of 2022 Concerning Communities

Ary Octaviyanti

Fakultas Hukum Universitas Pamulang

**Corresponding Author:** Ary Octaviyanti [aryrocan4@gmail.com](mailto:aryrocan4@gmail.com)

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### ABSTRACT

Corruption is classified as an extraordinary crime due to its significant harm, including state financial losses, human rights violations, and hindering national development. It can take various forms such as bribery, embezzlement, extortion, and conflicts of interest. Under Law Number 22 of 2022, parole, remission, and other privileges apply to all prisoners, including corruption convicts. However, granting parole to corruption convicts raises concerns about fairness and justice, as it may undermine efforts to treat corruption as a serious crime. Despite the challenges the Corruption Eradication Commission faces in prosecuting high-level officials, the new law makes it easier for corruption convicts to be released. Further study is needed to examine how parole for corruption convicts is regulated.

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## **INTRODUCTION**

Parole is one of the rights granted to prisoners who have served most of their criminal term. However, in the context of criminal acts of corruption, this policy is still a matter of debate. This research will review the parole arrangements for corruption convicts based on Law Number 22 of 2022 concerning Corrections and its implications for the agenda for eradicating corruption in Indonesia. Parole is a process that allows prisoners to return to society after serving most of their sentence. However, in cases of criminal acts of corruption, this policy is still controversial. Law Number 22 of 2022 concerning Corrections has regulated that corruption convicts can also obtain the right to parole, but with stricter conditions.

Conditional release refers to the early release of inmates from prison or detention centers before their sentence is fully served. It is part of Community-Based Corrections, an alternative punishment approach that involves social work or other community-based activities as a substitute for imprisonment, typically for less serious offenses. Corruption, being an exceptional crime, demands extraordinary efforts to combat it. According to Friedmann, law enforcement in any nation depends on its legal framework, institutional structure, and legal culture. While prisons should not be places for retribution, they should also not offer special privileges, such as remission, to criminals. The harshest punishment for corruption should serve as a deterrent not only to the convict but also to others.

Corruption has far-reaching negative effects, warranting extreme measures against corrupt individuals, such as the removal of remission privileges. Corrupt officials should face maximum penalties without any special treatment, potentially including impoverishment and social sanctions, given the significant harm their actions cause. Sociologically, corrupt behavior contradicts the role of law as a means of social control, which exists to maintain order by outlining acceptable behaviors and consequences, including punishment and compensation for wrongdoings. As a mechanism of social control, the law serves to identify deviant behavior and enforce legal sanctions against those who engage in harmful actions.

The advantages of social control over deviant behavior in society stem from the cooperation between legal institutions and other societal bodies in maintaining order. Corruption is widely understood as the misuse of authority by those in power to amass personal wealth.

Edward O.S. Hiariej identifies four reasons why corruption is classified as an extraordinary crime: (1) It is an organized crime conducted systematically. (2) Its complex methods make it difficult to prove. (3) It is often linked to power and authority. (4) It affects the lives of many, as it drains state finances that could improve public welfare. Throughout the nation's history, corruption has been a persistent issue among government officials, obstructing development and limiting public access to prosperity. As a result, eliminating corruption is essential to achieving national goals. After analyzing corruption, several patterns emerge: (1) Corruption usually involves multiple individuals. (2) It is typically done in secrecy unless it becomes so widespread that those in power no longer

need to conceal it. (3) It includes elements of mutual obligation and benefit. (4) These benefits are not always monetary. (5) Corrupt individuals often hide behind legal justifications. (6) Those engaged in corruption seek decisive actions and influence outcomes. (7) Fraud is inherent in every act of corruption, generally perpetrated by public officials or institutions.

The issue of granting parole to corruption convicts under Law Number 22 of 2022 raises several important questions regarding the regulation and impact of such provisions. Specifically, it is crucial to understand how the right to parole for those convicted of corruption is structured within this legal framework, as well as the broader implications of allowing conditional release for individuals involved in serious crimes that have significant social and financial repercussions. The law's application to corruption cases, which are often complex and involve high-level authorities, warrants careful consideration to ensure that justice is served without undermining the severity of corruption as an extraordinary crime. Addressing these concerns is essential to determining whether the current parole system aligns with national objectives to combat corruption and protect public welfare.

Based on this, the author is interested in exploring the topic: Conditional Release Rights for Prisoners Convicted of Corruption in Indonesia Under Law No. 22 of 2022 Concerning Communities.

## LITERATURE REVIEW

The discussion surrounding Law Number 22 of 2022 and its implications for corruption convicts can be framed within the theory of *social contract*, which posits that individuals consent, either explicitly or implicitly, to surrender certain freedoms and submit to the authority of the state in exchange for protection of their remaining rights. This theoretical framework underscores the responsibilities of the state to enforce laws that reflect societal values, including accountability for corruption. The ease of obtaining parole for corruption convicts raises questions about the social contract's efficacy in promoting justice and fairness, particularly when leniency may undermine public trust in legal institutions. Furthermore, the *theory of restorative justice* becomes relevant, as it advocates for rehabilitating offenders through reconciliation with victims and the community, rather than solely through punitive measures. Understanding how these theories intersect with the current legal landscape can provide deeper insights into the effectiveness of Indonesia's correctional policies and their impact on societal perceptions of corruption and justice.

## METHODOLOGY

The approach employed in this research is a qualitative normative legal method. This type of study examines the law as a set of rules outlining what actions are permissible or prohibited. Normative legal research is often conducted in the areas of positive criminal, constitutional, and civil law, meaning it focuses on the law as it is written, also known as "law in books." The research is based on *das sollen*, which refers to what the law should be. This type of legal study emphasizes the prevailing norms at the time, or those explicitly stated in

legislation. The research methodology used is the juridical-normative approach, which fundamentally involves examining legal literature. Examples include inventorying positive laws, exploring legal principles, identifying law in concrete cases, analyzing legal systematics, and evaluating both vertical and horizontal legal synchronization. Essentially, this research seeks to describe, analyze, and develop the legal framework for applying restorative justice principles within Indonesia's criminal justice system. The collection of legal materials involves identifying and cataloging relevant statutes, reviewing literature such as scholarly writings and scientific works, and utilizing other legal sources pertinent to the issues at hand. This process focuses on analyzing legal concepts, principles, norms, and the general formulation of positive legal rules.

## RESEARCH RESULT

The term "corruption" has its roots in Latin, specifically from the words *corruption*, *corruptus*, or *corrumpere*, which denote destruction or moral decay. Over time, this term has been adapted by various languages, such as English, where it evolved into "corruption," and Dutch, where it became *corruptie*, both referring to corrupt acts and bribery. The word "corruption" generally signifies decay, moral degradation, dishonesty, and ethical breakdown, as well as a departure from integrity. Based on this linguistic background, it's clear that the meaning of "corruption" is extensive and shaped by historical factors and different cultural perspectives on how this crime is understood. Robert Klitgaard defines corruption as behavior that diverges from official duties for personal gain, whether it be for financial benefit or status, and may involve breaking rules to serve the individual, their family, or close associates.

Conceptually, in developing countries, corruption is part of the power of the system itself, so it requires integrated prevention by improving the existing system. According to Seno Adji, he reminded that "it is this form of structural crime that includes the format as part of organized crime. The corruption that has hit almost the entire world is a structural crime so that corruption becomes very strong in the context of political and social behavior. Regulation of the right to parole for corruption convicts in Law Number 22 of 2022 concerning Corrections in Indonesia According to Article 1 paragraph (6) of Law Number 22 of 2022 concerning Corrections explains that convicts are convicts who are serving prison sentences for a certain time and for life. life or death row convicts who are awaiting execution of their decisions, as well as those who are undergoing guidance in correctional institutions.

Additionally, Article 1, paragraph (1) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022, which concerns the Second Amendment to the Regulation of the Minister of Law and Human Rights Number 3 of 2018 on Terms and Procedures for Granting Remission, Assimilation, Family Visitation Leave, Conditional Release, Leave Before Release, and Conditional Leave, explains that a convict is an individual serving a sentence involving the loss of freedom in a correctional institution. Similarly, Article 1 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 6 of 2013 on the Rules for Correctional

Institutions and State Detention Centers defines convicts as individuals who are serving sentences involving the deprivation of liberty in prison. From this, it can be concluded that a convict who has lost their freedom is required to be placed in a correctional institution for rehabilitation. While in the institution, convicts still retain certain rights, although some of these rights are temporarily revoked by the state. Convicts hold a weaker and more restricted position compared to free citizens, as they are deprived of their freedom for a specified period, and their movements are limited by prison walls.

According to the legal dictionary (Complete Edition of the Dictionary of Law), a prisoner is defined as someone serving a sentence or punishment in a correctional facility. Additionally, Arimbi Heroepoetri states that a prisoner is a person deprived of personal freedom due to criminal conduct. Therefore, it can be concluded that a convict is an individual who has been legally sentenced and is serving a loss of freedom in a correctional facility, based on a final and binding court decision.

Regulations on prisoners' rights are outlined in Article 7 of Law Number 22 of 2022 concerning Corrections. These rights include the following:

1. The right to practice religious or spiritual beliefs.
2. Access to both physical and mental healthcare.
3. Opportunities for education, recreation, and personal development.
4. Receiving proper healthcare and nutrition.
5. Access to information services.
6. Receiving legal assistance and counsel.
7. The right to file complaints and grievances.
8. Access to reading materials and media, provided they are not prohibited.

Additionally, Article 10, paragraph (1) of the same law states that prisoners, upon meeting certain criteria, are further entitled to:

1. Remission (sentence reduction).
2. Assimilation.
3. Conditional leave.
4. Leave to visit family.
5. Leave prior to release.
6. Parole.
7. Other rights as stipulated by law.

Within the correctional system, remission serves several purposes:

1. As a mechanism to mitigate the negative impacts of incarceration.
2. To accelerate reintegration and foster responsibility among prisoners.
3. As a tool to influence behavior during rehabilitation, reducing overcrowding in prisons and helping to manage state resources more efficiently.

The implications of Law Number 22 of 2022 concerning the correctional rights to parole for corruption convicts in Indonesia are quite significant. According to Regulation PP Number 22 of 2012, prisoners seeking parole are required to cooperate with law enforcement to assist in uncovering criminal cases, a process known as being a Justice Collaborator. However, with the

introduction of Law Number 22 of 2022, the regulations regarding Justice Collaborators, as outlined in Article 34 A and Article 43 A of PP Number 99 of 2012, are no longer included in the parole provisions. The new conditional release regulations in Law Number 22 of 2022 simplify the process for corruption convicts to obtain parole with fewer requirements. Government Regulation of the Republic of Indonesia Number 99 of 2012, which amends Government Regulation Number 32 of 1999 concerning the Conditions and Procedures for Implementing the Rights of Correctional Inmates, issued during Susilo Bambang Yudhoyono's presidency, also stipulated the granting of remissions to prisoners under similar conditions as those found in the Regulation of the Minister of Law and Human Rights.

Rights of the Republic of Indonesia Number 7 of 2022. There are several differences in granting remission according to this regulation, namely for prisoners with extraordinary crimes, if they want to get remission, then the prisoner is willing to cooperate with enforcers. law to help uncover cases of criminal acts committed and include their willingness in writing and be implemented by law enforcement agencies in accordance with the provisions of the Laws and Regulations. Specifically for convicts with criminal offenses involving narcotics and narcotic precursors, psychotropic substances, remission is only given to convicts with a minimum prison sentence of 5 (five) years. Changes to the conditions and procedures for granting remission, assimilation, leave to visit family, conditional release, leave before release, and conditional leave with the issuance of Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022 have positive implications for the fulfillment of prisoners' rights in institutions.

As explained above, in certain criminal offenses in Indonesia, prisoners must fulfill special requirements in addition to meeting the general requirements for prisoners in general to obtain the right to remission. The existence of these special requirements then raises pros and cons in society. The group opposing the tightening of the granting of remissions to certain prisoners argues that remissions for prisoners are a right so that their provision should not be limited or differentiated. This is in accordance with the legal rule which states that every human being has the same position before the law (equality before the law), so there should be no differences between one legal subject and another. This is also in line with Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which essentially states that every citizen has the same position before the law, so that everyone, regardless of whether the person commits any criminal act, has the same position before the law. including in terms of requesting the right to remission or reduction of sentence. The conclusion is that no matter how evil an act a person commits, he still has the right to obtain his rights in the form of remission as a prisoner. Penitentiary institutions grant the right to parole with an assessment since the person concerned holds the status of an inmate. Because, whatever type of criminal act a defendant commits, including the act he has committed, is finished when it has been legally considered in the court decision with the type and period of punishment imposed by the judge.

Furthermore, the defendant serves as an inmate, which becomes a new phase of life to undergo a sentence with a punishment program as a process to be returned to society with rights that must be fulfilled without exception. Therefore, Correctional Institutions apply the Principle of Non-Discrimination, which is the principle of respecting equality, not discriminating between parties on the basis of religion, race, ethnicity, ethnicity, skin color, social status, affiliation or ideology, and so on which are then applied in correctional institutions. Thus, the conditional release regulations in Law Number 22 of 2022 were formed to strengthen the penitentiary system in Indonesia which has embraced the concept of social reintegration as a replacement for the concept of deterrence retaliation and the elimination of discrimination against the rights of Corruption Prisoners in obtaining parole. It is hoped that these regulations can strengthen the realization and implementation of the concept of restorative justice adopted in the national criminal law reform system.

## **CONCLUSIONS AND RECOMMENDATIONS**

Parole is a training program for prisoners to integrate prisoners into community life after fulfilling the requirements that have been determined in accordance with statutory regulations. Basically, the aim of punishment at this time aims to reform the convict in a correctional institution so as to provide an idea of stopping crime. However, in reality, after serving a sentence, prisoners will return to committing unlawful acts in public life. Corruption prisoners get parole based on the implementation of the parole regulations in Article 10 paragraph (2) of Law Number 22 of 2022 without any Justice Collaborator requirements, Corruption prisoners only need to have good behavior, actively participate in the coaching program, have shown a reduced level of risk, and have serve a criminal term of at least 2/3 of the criminal term or at least 9 months. These requirements show that it is easy for corruption convicts to be granted parole for what they have done to the state, with there being no difference in granting parole for corruption crimes and ordinary crimes. If seen from the theory of justice, it is impossible for everyone to get the same rights as each other, meaning that if justice is related to two or more people, it does not mean that each person must get the same rights, because if there is equality between one person and another others will cause injustice, because both have the possibility of being in different situations and conditions. Justice can be felt when each person obtains what is their right in a proportional manner (proportionale equality). Therefore, based on the theory of justice, the implementation of stricter parole for Corruption Prison prisoners is carried out so as not to harm the sense of justice for the Indonesian people, it is not intended as discrimination against granting prisoners' rights because it would be unfair if general crimes and special crimes were given the same treatment.

There is a need to review the parole rules for corruption convicts because law enforcement agencies should be able to take action in an integrated manner through the integrated criminal justice system (a criminal justice system that regulates law enforcement. criminals are carried out) that law enforcers must have a balanced and equal authority among the parties. other law enforcers.

Looking at the Penitentiary's considerations for enforcing the planned parole rules; First, to eliminate discrimination for prisoners' rights, but in reality this can result in weakening law enforcement against corruption. Judging from the ease of granting parole to Corruption Prisoners, it is hoped that this will be able to handle problems. After the enactment of Law Number 22 of 2022, one of which concerns the conditions for parole for Corruption Prisoners, it is a good idea for law enforcement officials to be objective and not be influenced by the opinions of other parties in granting parole. In order to minimize the occurrence of accountability. Irregularities and transparency to the public to create justice. Providing conditional release without strict restrictions for corruption convicts does not have a positive impact on enforcing anti-corruption laws. When providing requirements, one of which is "having behaved well while serving the criminal period" the criteria should be explained in detail and there should be a difference between the "good behavior" of Corruption Prison prisoners and ordinary prisoners because if they are applied the same then this will cause injustice.

#### **ADVANCED RESEARCH**

Further research could explore the impact of Law Number 22 of 2022 on the parole process for corruption convicts in Indonesia, particularly in relation to the removal of Justice Collaborator requirements that were previously established in PP Number 99 of 2012. This study could examine how the easing of conditional release regulations may influence both the rehabilitation of convicts and public perceptions of justice, especially considering the potential for leniency in cases involving high-profile corruption. Additionally, investigating the implications of these legal changes on the overall integrity of the correctional system and their effect on societal attitudes toward corruption could provide valuable insights. A comparative analysis of the parole systems for corruption convicts in other jurisdictions may also shed light on best practices and potential reforms that could enhance accountability and discourage corrupt behavior in the future.



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