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Remission for Corruption Convicts: Contradiction between Human Rights and Just Sentencing Objectives

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Abstract: The granting of remission to corruption convicts remains a contentious issue in Indonesia's criminal justice system, reflecting a fundamental tension between the protection of convicts' human rights and the pursuit of just sentencing objectives. Remission is constitutionally and statutorily recognized as a right of convicts under Law No. 22 of 2022 on Corrections, grounded in the principle of equality before the law. Conversely, corruption as an extraordinary crime inflicts systemic harm on state finances and public welfare, rendering remission for corruption offenders potentially corrosive to deterrence. This normative legal study examines this contradiction within the framework of Indonesia's new Criminal Code (Law No. 1 of 2023) using statutory, conceptual, and comparative approaches. This study proposes a proportional remission framework based on restorative justice, rehabilitation, proportionality, and non-discrimination. The framework emphasizes objectively verifiable criteria, restitution and recovery of state losses where legally applicable, rehabilitation and reintegration efforts, and transparency in remission decision-making. Community-based restorative programs are considered as a possible future policy instrument only where they are supported by a clear statutory and regulatory basis.

Keywords: Remission, Corruption Convicts, Proportional Remission, Restorative Justice, Sentencing Objectives

Abstrak: Pemberian remisi kepada terpidana korupsi tetap menjadi persoalan kontroversial dalam sistem peradilan pidana Indonesia karena memperlihatkan ketegangan mendasar antara perlindungan hak asasi terpidana dan tujuan pemidanaan yang berkeadilan. Remisi diakui sebagai hak berdasarkan Undang-Undang Nomor 22 Tahun 2022 tentang Pemasyarakatan dan prinsip persamaan di hadapan hukum. Sebaliknya, korupsi sebagai kejahatan luar biasa menimbulkan kerugian sistemik terhadap keuangan negara dan kesejahteraan publik, sehingga pemberian remisi berpotensi melemahkan daya cegah pemidanaan. Penelitian hukum normatif ini mengkaji pertentangan tersebut dalam kerangka KUHP baru melalui pendekatan perundang-undangan, konseptual, dan komparatif. Penelitian

ini mengusulkan kerangka remisi yang proporsional berdasarkan prinsip keadilan restoratif, rehabilitasi, proporsionalitas, dan non-diskriminasi. Kerangka tersebut menekankan kriteria yang dapat diverifikasi secara objektif, restitusi dan pemulihan kerugian negara sepanjang memiliki dasar hukum yang berlaku, upaya rehabilitasi dan reintegrasi, serta transparansi dalam pengambilan keputusan remisi. Program restoratif berbasis masyarakat dipertimbangkan sebagai instrumen kebijakan di masa mendatang hanya apabila didukung oleh dasar hukum yang jelas dalam peraturan perundang-undangan.

Kata Kunci: Remisi, Narapidana Korupsi, Remisi Proporsional, Keadilan Restoratif, Tujuan Pemidanaan

INTRODUCTION

Corruption has long been recognized as one of the most formidable obstacles to Indonesia's development, undermining governance, eroding public trust, and diverting resources from essential public services. The eradication of corruption has therefore been a central priority of successive Indonesian governments, pursued through institutional strengthening of the Corruption Eradication Commission (KPK), comprehensive legal reforms, and increasingly stringent law enforcement against corruption perpetrators. Despite these efforts, the prevalence of corruption remains alarmingly high, and the effectiveness of existing legal frameworks continues to be contested (Putri et al., 2024). Among the most persistent and polarizing controversies in this domain is the question of whether corruption convicts should be entitled to remission on the same terms as other convicts, or whether the extraordinary nature of corruption offenses warrants special restrictions on such entitlements. This question has generated intense public debate, legal challenges, and policy reversals, reflecting deeper tensions within the Indonesian criminal justice system between the protection of individual rights and the pursuit of collective justice.

Remission, defined as the reduction of a prison sentence granted to convicts who meet specified behavioral and procedural requirements, has been an integral feature of Indonesia's correctional system since the enactment of Law No. 12 of 1995 on Corrections (Aisyah et al., 2024). Under Article 14 paragraph (1) letter i of that law, convicts are entitled to sentence reductions, a provision that was reaffirmed in the subsequent Law No. 22 of 2022 on Corrections. The underlying rationale for remission is multifaceted: it serves as an incentive for good conduct during imprisonment, supports the rehabilitation and reintegration of convicts into society, and recognizes the inherent dignity and capacity for change of individuals who have been deprived of their liberty. From this perspective, remission is not merely a discretionary concession by the state but a right that flows from the principles of human dignity, proportionality, and the rehabilitative ideal that underpins modern correctional philosophy. This right has never been absolute, however, as it is subject to conditions and procedures designed to ensure that its exercise is consistent with broader public interests and the objectives of the criminal justice system (Beno, 2025; Rosalia & Wagiman, 2024).

Government Regulation No. 99 of 2012 introduced additional requirements for certain categories of prisoners, including corruption convicts, within the remission framework. One of the most debated requirements concerned cooperation with law enforcement, particularly through the justice collaborator mechanism. The regulation also established differentiated requirements relating to the fulfillment of certain legal obligations. These provisions subsequently became the subject of judicial review before the Supreme Court.

On October 28, 2021, the Supreme Court issued Decision No. 28/P/HUM/2021, which annulled the justice collaborator requirement for corruption convicts seeking remission. The Court held that the requirement was discriminatory, as it imposed an additional condition

solely on corruption convicts that was not required of other convicts, and that it contradicted the principle of equality before the law enshrined in Article 28D of the 1945 Constitution. The Court further reasoned that the requirement was inconsistent with the constitutional guarantee of non-discrimination, as it effectively punished corruption convicts twice through their conviction and sentence, and again through the imposition of additional conditions for remission that were not applicable to other offenders. This decision was welcomed by human rights advocates as a vindication of the principle of equal treatment, but it also generated significant concern among anti-corruption activists and legal officials, who worried that it would weaken the deterrent effect of punishment, undermine the effectiveness of anti-corruption enforcement, and signal that corruption was being treated with insufficient seriousness (Anjani, 2022; Maulana et al., 2023).

Following the Supreme Court's decision, the remission framework was subsequently regulated through Minister of Law and Human Rights Regulation No. 7 of 2022. The regulation should therefore be examined as part of the post-judicial-review regulatory framework, particularly with regard to the criteria applicable to corruption convicts and the extent to which differentiated treatment remains legally justified. This compromise sought to reconcile the constitutional principle of equality with the legitimate objective of ensuring that corruption convicts do not evade their financial responsibilities, but it did little to resolve the underlying normative controversy about the proper relationship between human rights, sentencing objectives, and remission policy. The controversy has been further complicated by the enactment of Indonesia's new Criminal Code, Law No. 1 of 2023, which represents a significant departure from the retributive philosophy that dominated criminal justice under the old *Wetboek van Strafrecht*. The new Criminal Code articulates a more integrative and restorative model of sentencing, emphasizing not only the prevention of crime and the protection of society but also the rehabilitation and reintegration of offenders, the resolution of conflicts caused by criminal acts, and the restoration of social balance.

Article 51 of the new Criminal Code explicitly identifies these objectives as the guiding purposes of sentencing, signaling a shift away from purely punitive approaches toward a more holistic and human-centered framework. This shift has profound implications for remission policy, as it suggests that remission should be understood not merely as a concession or reward but as an integral component of a rehabilitative and restorative approach to justice. The new Criminal Code also reinforces the principle that sentencing must be proportionate to the gravity of the offense, however, recognizing that different categories of crime may require different responses. This raises the question of whether, and to what extent, the application of remission to corruption convicts should reflect the exceptional nature of corruption offenses and the systemic harm they cause. The tension between the rehabilitative and restorative objectives of the new Criminal Code, on one hand, and the demand for proportionality and deterrence in cases of serious crime, on the other, lies at the heart of the contemporary debate about remission for corruption convicts.

Despite the extensive debate on remission for corruption convicts in Indonesia, a comprehensive and systematic analysis of the contradiction between human rights and sentencing objectives remains lacking. Existing studies have examined the issue from various perspectives, including human rights, criminal law, and corrections, but few have integrated these perspectives into a coherent analytical framework that addresses the normative and practical dimensions of the contradiction. Rosalia & Wagiman (2024) have argued that the elimination of the justice collaborator requirement undermines human rights protections, while Nugraha & Wijayanti (2026) have emphasized the importance of objectivity and transparency in remission decisions.

These studies have largely focused on specific aspects of the issue without systematically examining the underlying tension between competing values and policy

objectives, however. Furthermore, the enactment of the new Criminal Code and the issuance of Supreme Court Decision No. 28/P/HUM/2021 have fundamentally altered the legal landscape, rendering previous analyses incomplete and necessitating fresh examination. While existing studies have examined remission policy from either human rights or sentencing effectiveness perspectives, none have systematically analyzed the inherent contradiction between these two dimensions within the framework of Indonesia's new Criminal Code and the post-Supreme Court Decision landscape.

Based on this background, this study addresses two main research questions: (1) how does the contradiction between corruption convicts' human rights to remission and the objectives of just sentencing manifest within the framework of Indonesia's new Criminal Code? and (2) what model of remission policy for corruption convicts best reconciles human rights and just sentencing objectives? These questions are essential because they address the need for a criminal justice system that not only respects convicts' rights but also upholds justice for victims and society while maintaining deterrence against corruption.

This study aims to examine the relationship between human rights to remission and just sentencing objectives and to formulate a remission model that better supports justice and corruption eradication. Theoretically, it contributes to the development of sentencing policy discourse within criminal law. Practically, it provides recommendations for policymakers and law enforcement agencies in designing more effective and equitable remission policies for corruption convicts. Its primary contribution lies in integrating human rights and sentencing objectives into the evaluation of remission policy and proposing a proportional remission model that prioritizes restorative justice and anti-corruption objectives.

METHODS

This study employs normative legal research using statutory, conceptual, and comparative approaches. Normative legal research examines legal norms, principles, doctrines, and concepts to address research questions. The statutory approach analyzes legal provisions governing the correctional system, remission requirements, and sentencing objectives under the new Criminal Code. The conceptual approach examines theories of human rights, sentencing objectives, restorative justice, and proportional justice. The comparative approach examines relevant mechanisms of sentence reduction, remission, parole, conditional release, and related correctional measures in five jurisdictions: Singapore, South Korea, Malaysia, the Philippines, and the Netherlands. The comparison focuses on the legal basis, eligibility criteria, behavioral and rehabilitation considerations, and the relationship between sentence reduction and reintegration. The comparison is used to identify regulatory principles that may inform the development of a more objective and proportionate remission framework for corruption convicts in Indonesia.

The study relies on primary legal materials, including legislation; secondary legal materials, including books and scholarly journal articles; and tertiary legal materials, including dictionaries and other relevant reference sources. These materials were collected through library research and analyzed qualitatively using descriptive-analytical methods to assess the relevance of a proportional remission model to the development of a more just and effective correctional system in Indonesia. Legal materials were collected through systematic searches of the Indonesian legal database (JDIH), scholarly databases (Google Scholar, Scopus), and library collections. Analysis was conducted using deductive reasoning, interpreting legal provisions in light of constitutional principles and international standards. The comparative analysis focused on five jurisdictions selected for their relevance to Indonesia's legal context: Singapore, South Korea, Malaysia, the Philippines, and the Netherlands. Data were analyzed using a descriptive-analytical method to identify patterns, contradictions, and policy lessons.

RESULTS AND DISCUSSION

The legal and constitutional foundations of remission in the Indonesian correctional system are rooted in a complex interplay of constitutional guarantees, statutory provisions, and evolving jurisprudential interpretations of justice and human rights. The 1945 Constitution of the Republic of Indonesia provides the overarching normative framework for the protection of individual rights and the pursuit of justice, establishing the principles of equality before the law, non-discrimination, and the protection of human dignity.

These constitutional foundations are articulated in several key provisions, most notably Article 28D and Article 28I. Article 28D paragraph (1) of the Constitution guarantees every person's right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law, while Article 28I paragraph (4) affirms that the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government. These constitutional provisions establish a strong presumption in favor of equal treatment and non-discrimination in all areas of state action, including the administration of criminal justice. At the same time, Article 28J of the Constitution recognizes that in exercising rights and freedoms, every person is subject to limitations established by law, provided such limitations are necessary to ensure recognition and respect for the rights of others, to meet just demands based on moral considerations, religious values, security, and public order, or to protect national unity. This provision establishes the constitutional basis for limitations on individual rights, including the rights of convicts, provided that such limitations are proportionate, non-discriminatory, and justified by legitimate public interests.

Building on the constitutional framework, the statutory framework for remission is established by Law No. 12 of 1995 on Corrections, which provides that convicts are entitled to sentence reductions, and by Law No. 22 of 2022 on Corrections, which reaffirms this entitlement. The statutory provisions are further elaborated in implementing regulations, including Government Regulation No. 99 of 2012, which introduced the additional requirements for remission for corruption convicts that were subsequently challenged and partially annulled by the Supreme Court. The statutory framework reflects a deliberate legislative choice to treat remission as a right rather than a mere concession, signaling a commitment to the rehabilitative and human rights principles that underpin modern correctional philosophy. The statutory provisions are cast in general terms and do not specify the detailed conditions, procedures, or criteria for remission, however, leaving significant room for interpretation and regulation by the executive branch.

The result is a complex and somewhat fragmented regulatory landscape in which the precise contours of the right to remission remain contested and are shaped by ongoing political, legal, and institutional dynamics. The annulment of the justice collaborator requirement by the Supreme Court in Decision No. 28/P/HUM/2021 represents a significant judicial intervention in this regulatory landscape, affirming the primacy of constitutional principles of equality and non-discrimination and limiting the scope of executive discretion in imposing additional conditions on remission.

Supreme Court Decision No. 28 P/HUM/2021, rendered on 28 October 2021, represents an important development in the regulation of remission for corruption convicts in Indonesia. The case concerned a judicial review of Article 34A paragraph (1) letters (a) and (b), Article 34A paragraph (3), Article 43A paragraph (1) letter (a), and Article 43A paragraph (3) of Government Regulation No. 99 of 2012 concerning the Second Amendment to Government Regulation No. 32 of 1999. The decision is recorded in the Supreme Court's official case directory as Judicial Review Case No. 28 P/HUM/2021 and was decided on 28 October 2021.

The principal issue concerned the requirement of cooperation with law-enforcement authorities, commonly referred to as the *justice collaborator* requirement, which had been

imposed on corruption convicts seeking remission and conditional release. The Supreme Court partially granted the petition. In its operative ruling, the Court declared that Article 34A paragraph (1) letter (a), Article 34A paragraph (3), Article 43A paragraph (1) letter (a), and Article 43A paragraph (3) of Government Regulation No. 99 of 2012 were inconsistent with the higher-level legislation, namely Law No. 12 of 1995 on Corrections, insofar as they required corruption convicts to cooperate with law-enforcement authorities in order to obtain remission. The Court further declared the provisions legally unenforceable and ordered their repeal.

It is important, however, to distinguish the Court's ratio decidendi from the authors' interpretation of its broader implications. The Court's reasoning focused on the compatibility of the challenged provisions with the correctional legal framework underlying the delegated regulation. In its reasoning, the Court placed the correctional system within a framework of rehabilitation and social reintegration and emphasized that implementing regulations should be consistent with the underlying philosophy of corrections. On this basis, the Court concluded that the *justice collaborator* requirement contained in the challenged provisions could not be maintained in the form applicable at that time.

The decision should not therefore be interpreted as establishing that every form of differentiated treatment of corruption convicts is necessarily inconsistent with equality before the law. The provisions directly invalidated by the Court were those linking remission and conditional release to cooperation with law-enforcement authorities. Accordingly, the decision does not eliminate the possibility of differentiated remission criteria where such differentiation has an adequate legal basis, pursues a legitimate correctional objective, and is based on objective and proportionate criteria.

The legal consequences of the decision should also be distinguished between the *justice collaborator* requirement and other remission requirements. Decision No. 28 P/HUM/2021 specifically invalidated provisions concerning cooperation with law-enforcement authorities; it did not automatically abolish every remission requirement applicable to corruption convicts. This distinction is important because the remission framework subsequently continued to be regulated through implementing regulations. Minister of Law and Human Rights Regulation No. 7 of 2022 amended the existing remission framework and remains in force.

The Indonesian correctional framework has subsequently undergone a statutory transition. Law No. 22 of 2022 on Corrections repealed and replaced Law No. 12 of 1995. The new law places corrections within the integrated criminal justice system and emphasizes respect for, protection of, and fulfillment of human rights, social reintegration, and restorative justice.

Accordingly, Decision No. 28 P/HUM/2021 should be understood as part of the historical and jurisprudential development of remission policy, while the current legal framework must be assessed primarily through Law No. 22 of 2022 and its implementing regulations. Under this approach, equality before the law does not necessarily require identical treatment of all prisoners; rather, differential treatment must have a legal basis, pursue a legitimate objective, rely on objective criteria, and maintain a rational and proportionate relationship with the objectives of corrections.

The Court's decision therefore establishes an important precedent for reviewing remission policies and underscores the importance of ensuring that any differential treatment of corruption convicts is justified by objective criteria and proportionate to legitimate public purposes. The Court did not hold that all differential treatment of corruption convicts in remission policy is unconstitutional, however, leaving open the possibility that other forms of differentiated treatment may be permissible where they are supported by a clear legal basis and proportionate to legitimate correctional objectives. Following the decision, the remission framework was further regulated through Minister of Law and Human Rights Regulation No.

7 of 2022. Accordingly, the current legal status of remission requirements should be assessed primarily by reference to the provisions of the applicable legislation and implementing regulations rather than by extending the Supreme Court's ruling beyond the provisions directly reviewed.

From a normative perspective, restitution and recovery of state losses may be considered relevant to the formulation of remission policy for corruption convicts because they are directly connected with the harm caused by corruption offenses. However, the use of financial obligations as a remission criterion must be supported by a clear legal basis and must be applied proportionately. A remission framework should also distinguish between an offender's failure or refusal to fulfill legally established financial obligations and a genuine inability to pay despite good-faith efforts. Without such safeguards, a financial criterion may produce unequal outcomes based primarily on differences in economic capacity rather than on correctional considerations.

While the restitution requirement remains contested, the broader normative framework for remission is shaped by the sentencing objectives articulated in Indonesia's new Criminal Code. The objectives of sentencing under Law No. 1 of 2023 provide a crucial lens through which to understand the normative framework for remission and the implications of the Supreme Court's decision for future remission policy. Article 51 of the new Criminal Code articulates four interrelated objectives of sentencing: preventing the occurrence of criminal acts through the enforcement of legal norms for the protection and safeguarding of society; socializing the convict through guidance and counseling to become a good and useful person; resolving conflicts caused by criminal acts and restoring social balance; and cultivating remorse and relieving guilt in the convict.

These objectives reflect a significant departure from the retributive and punitive orientation of the old Criminal Code, embracing instead a more integrative and restorative model that emphasizes prevention, rehabilitation, conflict resolution, and social restoration. From this perspective, sentencing is not simply a matter of imposing suffering or punishment in proportion to the gravity of the offense, but rather a multifaceted process aimed at achieving a range of positive social and individual outcomes. The rehabilitative and restorative objectives of sentencing have direct implications for remission policy, as remission can be understood as a mechanism for advancing these objectives by incentivizing good conduct, supporting reintegration, and signaling the state's commitment to the redemption and rehabilitation of offenders (Kurnia et al., 2026; Nabilla & Marshanda, 2025). At the same time, the preventive and protective objectives of sentencing establish limits on the scope of remission, as the state has a legitimate interest in ensuring that remission does not undermine the deterrent effect of punishment or expose society to preventable harm.

The challenge for remission policy is to strike an appropriate balance between these competing objectives, recognizing that the relative weight of each objective may vary depending on the nature and severity of the offense and the characteristics of the individual offender. In the context of corruption offenses, this challenge is particularly acute given the systemic and far-reaching impacts of corruption on state finances, economic development, public welfare, and institutional integrity. Corruption is not a victimless crime but rather a crime that harms society as a whole, diverting public resources from essential services, distorting economic decision-making, eroding public trust in government, and reinforcing patterns of inequality and injustice. The systemic nature of corruption harm means that the consequences of corruption offenses extend far beyond the immediate victims and are often difficult to quantify or remedy through conventional legal remedies such as fines or restitution.

The recognition of corruption as an extraordinary crime has led to a range of exceptional legal measures, including the establishment of specialized anti-corruption courts, the relaxation of evidentiary standards, the imposition of enhanced penalties, and the denial or

restriction of certain procedural rights. The application of this exceptionalist approach to remission policy has been controversial, as it involves the denial or restriction of a right that is accorded to other categories of offenders, raising concerns about discrimination and equal protection. The exceptional nature of corruption offenses also provides a potential justification for differentiated treatment, however, as the remedial and preventative measures necessary to address systemic corruption may legitimately differ from those required for ordinary offenses. The tension between the human right to remission and the objectives of just punishment is therefore most acute in the case of corruption offenses, and it is here that the need for a principled and proportionate approach to remission policy is most apparent (Al Ghiffary et al., 2026; Bahar et al., 2024).

The theoretical framework of Thomas Aquinas provides a useful analytical lens for understanding and potentially resolving this tension. Aquinas distinguished between different aspects of justice, including commutative justice which governs the balance between offender and victim. In Aquinas's perspective, crime is a violation of justice and must be addressed by imposing suffering on the offender to satisfy the demands of justice. Aquinas also emphasized the "medicinal" function of punishment, however, namely as a remedy aimed at healing the offender and preventing future offenses (Koritansky, 2012; Larijani & Abedifar, 2025).

Aquinas's framework provides a particularly apt framework for analyzing remission policy, as it distinguishes between different forms of justice that are often conflated in contemporary legal discourse. Commutative justice, which governs exchanges and relationships between individuals, requires that the balance disrupted by wrongdoing be restored through proportionate reparation. In the context of corruption, this would suggest that remission should be conditioned on the offender's efforts to restore the financial losses inflicted on the state and society. Distributive justice, which governs the allocation of rights and resources within the community, requires that remission policies be applied consistently and without discrimination, ensuring that similarly situated offenders receive similar treatment. The tension between these two forms of justice lies at the heart of the remission controversy: commutative justice demands restitution as a condition for remission, while distributive justice demands equal treatment regardless of the offender's ability to pay. Aquinas's emphasis on the "medicinal" function of punishment further suggests that remission should be designed to promote the offender's rehabilitation and reintegration, rather than merely to reduce the severity of punishment. This dual perspective on punishment provides a middle path between the competing demands of retribution and rehabilitation.

Building on this dual perspective, an ideal remission model for corruption convicts must satisfy several principles, including proportionality, restorative justice, rehabilitation, and non-discrimination. Punishment, including remission policy, must take into account both the retributive and medicinal aspects of justice. In the context of remission for corruption convicts, this means that remission cannot be granted automatically but must consider factors such as the severity of the offense and its impact on society, the offender's efforts to repair the harm caused, and the offender's progress in rehabilitation and social reintegration (Andini et al., 2023; Putri et al., 2024).

This approach is consistent with the principles of proportionality and restorative justice that underpin the new Criminal Code, and it provides a framework for designing remission policies that are both constitutionally sound and practically effective. Nugraha & Wijayanti (2026) offers an ideal remission model that aligns with the principles of justice and transparency, emphasizing the need for objectivity in remission decisions and alignment with international standards. Based on analysis of various sources, an ideal remission model for corruption convicts must satisfy several principles, including proportionality, restorative justice, rehabilitation, and non-discrimination.

The principle of proportionality demands that remission must consider the proportionality between the gravity of the offense and the reduction of the prison term. The restorative principle emphasizes efforts to restore losses to the state and society, subject to the applicable legal framework. Where payment of fines or restitution is legally established as a relevant criterion, the assessment should consider the convict's actual compliance and good-faith efforts to repair the harm caused. The rehabilitation principle requires remission to be part of the rehabilitation and social reintegration process. Convicts who show progress in rehabilitation programs and have good prospects for returning to society may be granted remission as a form of recognition of their improvement efforts. The non-discrimination principle affirms that remission must not be discriminatory, including against corruption convicts. The Supreme Court's Decision No. 28/P/HUM/2021 has important implications for remission policy, affirming that the justice collaborator requirement was discriminatory and contrary to the principle of equality before the law. The decision also raises questions about how to ensure that remission does not weaken anti-corruption efforts, however. Post-Supreme Court decision, the government issued Regulation of the Minister of Law and Human Rights No. 7 of 2022 (Permenkumham No. 7 of 2022) which still requires corruption convicts to pay fines and restitution as conditions for remission.

Based on analysis of various sources and international practices, an ideal remission model for corruption convicts must integrate four dimensions. The first dimension is the legal and regulatory dimension which provides legal certainty for convicts and society, proportionally distinguishes between various types and levels of corruption offenses, sets objective conditions that must be met to obtain remission, and provides effective oversight mechanisms to prevent abuse. The second dimension is the restorative justice dimension which prioritizes the restoration of losses to the state and society, provides opportunities for offenders to repair their wrongs, involves victims in the sentencing process, and balances the interests of offenders, victims, and society. The third dimension is the rehabilitation and reintegration dimension which emphasizes effective rehabilitation programs in correctional institutions, provides remission as a form of recognition for rehabilitation progress, prepares convicts to return to society productively, and conducts periodic evaluations of the effectiveness of rehabilitation programs. The fourth dimension is the anti-corruption dimension which ensures that remission does not weaken deterrence, distinguishes treatment between corruption convicts and other offenders based on the gravity of the offense, applies proportionate additional conditions for corruption convicts, and ensures transparency in the remission process.

The comparative analysis in this study does not treat all mechanisms of sentence reduction or early release as legally equivalent. The terms *remission*, *parole*, *pardon*, *clemency*, and *community service* have distinct legal meanings and institutional functions. Accordingly, the comparison focuses on mechanisms relevant to the present research, namely mechanisms that reduce the period of imprisonment, permit release before the expiration of a sentence, or facilitate rehabilitation and social reintegration.

Table 1. Comparative Legal Frameworks

Jurisdiction	Primary legal source	Relevant mechanism	Legal character	Relevance to Indonesia
Singapore	<i>Prisons Act 1933</i> , Part 5B	Remission of sentences	Sentence remission designed to encourage good conduct and industry and facilitate rehabilitation and reintegration	Demonstrates how remission can combine rehabilitative objectives with post-release controls
South Korea	<i>Act on the Execution of Sentences and</i>	Parole	Individualized eligibility review based on	Demonstrates the importance of objective

	<i>Treatment of Inmates</i>		correctional and reintegration factors	and individualized assessment
Malaysia	<i>Prison Act 1995 (Act 537) and Prison Regulations 2000</i>	Remission and release on licence	Remission and licensed release constitute distinct mechanisms	Demonstrates the need to distinguish remission from conditional release
Philippines	<i>Revised Penal Code, Act No. 3815 as amended; Act No. 4103; Republic Act No. 10592</i>	Good Conduct Time Allowance and parole	Good-conduct deductions are distinct from parole	Demonstrates the importance of distinguishing sentence deductions from parole
Netherlands	<i>Code of Criminal Procedure, Title 6.2; Gratiwet</i>	Conditional release and pardon	Conditional release and pardon are legally distinct mechanisms	Demonstrates that reintegration and conditional release may operate through separate legal instruments

Sources: Singapore *Prisons Act 1933*; South Korean *Act on the Execution of Sentences and Treatment of Inmates*; Malaysian *Prison Act 1995* and *Prison Regulations 2000*; Philippine *Act No. 4103, Revised Penal Code*, and Republic Act No. 10592; Dutch *Code of Criminal Procedure* and *Gratiwet*

The comparative analysis demonstrates that the five jurisdictions do not employ a uniform mechanism for reducing or modifying sentences. The legal terminology and institutional mechanisms differ, including remission, good conduct time allowance, parole, conditional release, and pardon. Nevertheless, several common principles can be identified. First, eligibility is generally determined through legally established criteria rather than discretionary considerations alone. Second, institutional behavior and correctional records may constitute relevant factors in determining eligibility. Third, rehabilitation and social reintegration are commonly connected with mechanisms that allow prisoners to obtain earlier or conditional release. Fourth, the distinction between sentence reduction and conditional release is important because each mechanism produces different legal consequences. These comparative findings provide a basis for designing Indonesian remission policies around objective, transparent, verifiable, and proportionate criteria without directly transplanting foreign legal mechanisms into the Indonesian system.

A. Singapore

Singapore expressly regulates remission in Part 5B of the *Prisons Act 1933*. The statutory purpose of remission is to encourage good conduct and industry and facilitate rehabilitation and reintegration into society. Section 50H provides for entitlement to remission subject to the statutory framework, while the remission regime also contains provisions governing release and consequences arising from subsequent breaches.

The Singaporean framework therefore illustrates a structured remission mechanism that is distinct from other forms of release. Its relevance to Indonesia lies primarily in institutional design rather than direct legal transplantation.

B. South Korea

South Korea regulates parole through the *Act on the Execution of Sentences and Treatment of Inmates*. Under Article 121, once a sentenced inmate satisfies the relevant statutory period, the warden submits the case for eligibility review. The Review Board considers factors including the inmate's age, motive for the offense, nature of the offense, sentence, correctional record, risk of reoffending, and post-release living circumstances.

This framework illustrates the importance of individualized and objectively structured decision-making. Nevertheless, the mechanism is legally characterized as parole rather than remission. It is therefore used in this study only as a comparative reference concerning individualized assessment and reintegration.

C. Malaysia

Malaysia expressly regulates remission through Section 44 of the *Prison Act 1995* (Act 537). The provision states that prisoners sentenced to imprisonment exceeding one month are entitled to remission for the purposes of encouraging good conduct and industry and facilitating reformatory treatment. The Act separately regulates release on licence under Section 43. The *Prison Regulations 2000* provide further operational rules concerning remission, including earning, forfeiture, and restoration of remission. Malaysia therefore provides a useful example of a legal framework in which remission and conditional release mechanisms are separately structured.

D. Philippines

The Philippines distinguishes good-conduct sentence deductions from parole. Republic Act No. 10592 amended Article 97 of the *Revised Penal Code* and provides deductions from sentence based on good conduct and certain activities, including study, teaching, and mentoring during imprisonment.

Parole, by contrast, is regulated under the *Indeterminate Sentence Law* (Act No. 4103). Section 5 authorizes the Board to assess the prisoner's physical, mental, and moral record, work and conduct, prospects of lawful behavior, and compatibility of release with the welfare of society.

The Philippine framework therefore demonstrates why sentence deductions and parole should not be treated as interchangeable mechanisms.

E. Netherlands

The Netherlands regulates *voorwaardelijke invrijheidstelling*, or conditional release, under Title 6.2 of the *Code of Criminal Procedure*. Article 6:2:10 establishes the statutory framework for eligibility, while Article 6:2:12 assigns the Public Prosecution Service authority concerning the granting and revocation of conditional release and the imposition of specific conditions.

The Netherlands also regulates *gratie* under the *Gratiewet*. Pardon is legally distinct from conditional release and operates under separate substantive and procedural rules. The *Gratiewet* permits pardon under specified circumstances and allows certain behavioral and compensatory conditions to be attached.

The Dutch framework demonstrates that rehabilitation and reintegration objectives may be pursued through different legal instruments rather than through a single sentence-reduction mechanism.

F. Comparative Synthesis

The comparison of the five jurisdictions does not establish a single universal model for sentence reduction or early release in corruption cases. Instead, the jurisdictions demonstrate substantial variation in institutional design and legal terminology. The most relevant common features are the use of objective criteria, correctional records, rehabilitation, supervision, and social reintegration in decisions concerning sentence reduction or release.

Accordingly, the comparative lesson for Indonesia is not to replicate another jurisdiction's mechanism, but to strengthen three principles in the design of remission policy: (1) clear differentiation between remission and other forms of release; (2) objective and verifiable eligibility criteria; and (3) a clear connection between remission decisions, rehabilitation, and social reintegration.

Law No. 1 of 2023 on the Criminal Code entered into force on 2 January 2026 and forms a central component of Indonesia's national criminal-law reform. Article 51

establishes sentencing objectives that include preventing crime, reintegrating convicted persons through guidance and rehabilitation, resolving conflicts and restoring social balance, and fostering remorse. The provision therefore reflects a sentencing framework that incorporates rehabilitative and restorative dimensions in addition to punitive considerations.

Within this framework, community service represents one of the innovations introduced into the national sentencing system. Article 85, however, must be interpreted according to its legal character as a provision concerning community service as a criminal sanction, rather than as an express provision authorizing community service to be imposed as an administrative condition for obtaining remission.

Accordingly, Article 85 does not provide a sufficient independent legal basis for requiring corruption convicts to perform community service as a condition of remission. A distinction must be maintained between community service imposed as a judicial sentence and social or rehabilitative activities undertaken by prisoners within the correctional system. Treating these mechanisms as legally interchangeable could raise legality concerns by creating an additional consequence that is not expressly established by the legal framework governing remission.

Accordingly, Article 85 should be understood within the framework of criminal sanctions under the new Criminal Code rather than as an independent legal basis for creating additional remission requirements. Any future policy that seeks to connect community-based restorative activities with remission eligibility must first establish a clear legal basis and define the activity, eligibility, supervision, proportionality, and legal consequences through the appropriate legislative or regulatory instruments. This approach is necessary to preserve the principle of legality and prevent the creation of additional burdens on prisoners through administrative policy alone.

Law No. 22 of 2022 on Corrections provides the more relevant statutory framework for prisoners' rights and correctional programs. It places rehabilitation, guidance, social reintegration, and respect for human rights within the correctional system.

Accordingly, this study does not rely on Article 85 as a direct legal basis for making community service a remission requirement. Instead, Article 85 is used only as evidence of the restorative and rehabilitative orientation of the national sentencing framework. If restorative activities or community service were to be incorporated into a future remission regime, such incorporation would require a clear statutory or regulatory basis and would have to comply with legality, equality before the law, proportionality, and prisoners' rights.

Under this construction, community service should not be treated as an additional punishment created through administrative decision-making. Rather, it may constitute a potential future policy instrument if expressly authorized by an appropriate legal framework. This approach also addresses the concern identified in Supreme Court Decision No. 28 P/HUM/2021 concerning the need for additional conditions affecting prisoners' rights to have a clear normative basis and consistency with correctional law.

The proportional remission model proposed in this study therefore consists of four dimensions: proportionality, restoration of harm, rehabilitation and reintegration, and preservation of legitimate anti-corruption and preventive objectives. Community service is not presented as an existing legal requirement, but as a possible restorative instrument that would require an appropriate legislative or regulatory basis before implementation.

From an implementation perspective, the proposed remission framework requires clearly defined and legally authorized criteria. The criteria should distinguish between requirements that are expressly established by legislation and additional restorative or rehabilitative programs that may be introduced through future policy development. Where

restitution or recovery of state losses is relevant, the applicable legal basis, measurement, verification, and institutional responsibility should be clearly established. Similarly, rehabilitation and reintegration criteria should be based on objectively measurable indicators and documented correctional records. Any community-based restorative activity should only be incorporated into the remission framework where a clear statutory or regulatory basis exists.

Multi-stakeholder collaboration is essential for successful implementation of a proportional remission model. Government agencies, including the Ministry of Law and Human Rights, the Attorney General's Office, and the Corruption Eradication Commission, have a central role in developing and implementing remission policy (Alfarizi et al., 2024; Rijadi et al., 2025). Correctional institutions are responsible for managing remission programs and supporting convicts in their rehabilitation and reintegration efforts. The judiciary plays a critical role in interpreting and applying the law and ensuring that convicts' rights are protected. Civil society organizations have a role in monitoring policy implementation and advocating for reforms. The private sector has a role in providing employment and training opportunities for former convicts. Local communities have a role in supporting the reintegration of former convicts (Afrianto & Wahyudi, 2024; Al Hijrin et al., 2021). Funding and resource allocation also remain persistent challenges, as developing comprehensive rehabilitation and reintegration programs requires significant financial investment. Public-private partnerships can leverage private sector resources and expertise.

In addition to multi-stakeholder collaboration, the integration of technology into remission policy administration presents additional opportunities and challenges. Digital tools can enhance transparency, efficiency, and accountability in monitoring compliance with remission conditions and assessing reintegration outcomes. However, the integration of technology also raises important concerns about privacy, data security, and the potential for misuse of digital tools to surveil or control convicts beyond what is necessary for legitimate penological purposes. These concerns must be carefully addressed through the development of robust legal frameworks, technical standards, and oversight mechanisms (Enggarsasi & Sa'diyah, 2025; Munir & Subroto, 2025).

Beyond these practical challenges, the success of any reform ultimately depends on the political will and leadership of policymakers and the commitment of key stakeholders to the principles of justice, accountability, and human rights. The challenge for Indonesian policymakers is to design a remission policy that is consistent with constitutional principles, responsive to legitimate public concerns about corruption, and effective in supporting the rehabilitation and reintegration of convicts. This is a challenge that requires leadership, courage, and a commitment to justice and human rights. Building on the legal foundations provided by the new Criminal Code and the constitutional limits established by the Supreme Court's decision, policymakers can develop a remission system that is both just and effective. The proportional remission model proposed in this study offers a framework for achieving this goal by integrating the principles of proportionality, restorative justice, rehabilitation, and anti-corruption objectives.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The analysis demonstrates that remission policy for corruption convicts requires a balance between prisoners' rights, proportionality, rehabilitation, restorative justice, and the public interest in combating corruption. Decision No. 28 P/HUM/2021 demonstrates the importance of objective and legally grounded criteria in differentiating prisoners for remission purposes. Comparative analysis further indicates the importance of clear eligibility standards,

correctional records, rehabilitation, and reintegration, although foreign mechanisms cannot be directly transplanted into the Indonesian legal system. Article 85 of Law No. 1 of 2023 provides a legal framework for community service as a criminal sanction but does not independently establish community service as a remission requirement. Therefore, any future incorporation of community-based restorative programs into remission policy must be supported by a clear legal basis and implemented through objective, transparent, proportionate, and verifiable criteria.

Limitations

This study is limited by its normative legal research design, which primarily relies on legislation, judicial decisions, legal doctrines, and scholarly literature rather than empirical evidence from correctional institutions, policymakers, or corruption convicts. The comparative analysis is also limited to selected jurisdictions, namely Singapore, South Korea, Malaysia, the Philippines, and the Netherlands, whose legal and correctional systems differ from Indonesia. Accordingly, the proposed proportional remission model has not yet been empirically tested in Indonesian correctional practice. Future studies should therefore employ empirical or socio-legal approaches to examine the feasibility, institutional capacity, public acceptance, and practical effects of the proposed model on rehabilitation, deterrence, asset recovery, and public trust.

Recommendations

This study recommends the development of a clearer regulatory framework for remission granted to corruption convicts by incorporating proportional, objective, and transparent eligibility criteria. Future policy development should consider objectively verifiable criteria relating to restitution or recovery of state losses, rehabilitation and reintegration, behavioral improvement, and the seriousness of the offense, provided that each criterion has a clear legal basis. Community-based restorative programs may also be considered as a future policy instrument where expressly authorized by legislation or valid implementing regulations and accompanied by clear standards concerning eligibility, supervision, proportionality, and evaluation.

Author Contributions

All authors contributed to the conceptualization, legal analysis, interpretation, drafting, critical revision, and approval of the final manuscript and accept responsibility for the integrity of the work.

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While drafting this manuscript, the author used ChatGPT for English translation and grammar editing. The author has thoroughly reviewed and edited the content and takes full responsibility for the entire content of this publication.

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