

# The Impact of Giving Remissions on Criminal Acts of Corruption in Sociological Perspective

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**Abstract.** This study aims to find out the reasons for the government to make a policy of granting remissions to corrupt convicts and analyze the impact of granting remissions to corrupt convicts from a sociological perspective. This type of research is a field. The approach used is empirical data collection techniques through in-depth interviews with informants directly without going through intermediary media, which are directly analyzed through qualitative methods. This study indicates that the government's aim in implementing the policy of granting remissions is to reduce overcapacity and foster prisoners to become better human beings. In addition, the impact of granting remissions to corrupt convicts does not affect eradicating corruption.

**Keywords:** remission, corruption, sociological aspects, convicts

## 1 Introduction

Remission is an exciting theme in discussion activities to add insight into the development of sentencing objectives and the application of the system of Correctional Institutions in Indonesia.[1] People from various backgrounds, such as practitioners and academics, are still debating and criticizing government policies regarding granting remissions that are considered not following the implementation of laws and regulations, either through articles, journals or other scientific works. The Indonesian government should be able to take a stance in responding to these criticisms so that the community does not feel disadvantaged. Besides that, the government should also be able to explain to the public the location of justice by making a remission policy for every prisoner, especially corruption in this country.

The conceding of reductions to every detainee is still causing controversy, especially the granting of remissions to prisoners caught in exceptional criminal cases such as corruption, terrorism, and narcotics. The granting of remissions to the perpetrators of these particular crimes must be carried out proportionally by including specific requirements. It is not enough to behave well while in detention. Other special conditions are also required. Convicts who can meet these special requirements are entitled to a reduction in their criminal period of remission.

The policy of providing remissions for convicts of criminal acts of corruption sociologically has damaged people's hopes to achieve the fundamental goal of the law, namely justice. The corruption that often occurs in Indonesia also makes people agree that corruption has become an obstacle to the realization of prosperity for the people of Indonesia. The giving of abatements is legitimized in the Law of the Republic of Indonesia Number 12 of 1995 concerning

Corrections. In any case, the public authority has the right not to give it in going with its choice. Culprits of criminal demonstrations of defilement ought not be permitted to get disciplines or endorses equivalent with the culprits of different violations

Arrangements for reduction are directed unequivocally in Article 1 section 6 of Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates, which expresses those detainees and criminal youngster are qualified for abatement, to be specific cutting the period in carrying out a punishment on condition that they can meet the arrangements. These arrangements apply and are contained in the regulations and guidelines. The conditions for granting remissions for corruption convicts listed in the regulation have been amended several times in its development.

The first amendment is Government Regulation of the Republic of Indonesia Number 28 of 2006 concerning Amendment to Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Procedures for the Implementation of the Rights of Correctional Inmates, especially in Article 34, which states that additional requirements for corruption convicts are good behavior while in detention and has served a third of the sentence. In the second amendment, regulated in Government Regulation of the Republic of Indonesia Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Procedures for the Implementation of the Rights of Correctional Inmates, there is an additional article, namely article 34 A which states that corruption convicts can be given remission if convicted. The parties agreed to cooperate with law enforcement officers in finding the core perpetrators of corruption cases and agreed to return the assets that had been taken or corrupted under the amount taken.

Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remissions explains that there are types of remission applied in prisons such as general remission, special remission, additional remission, humanitarian remission, namely prisoners who are willing to become organ donors and blood donors, follow-up remissions, remarkable remissions, which are delayed in nature and special remissions which are conditional. Granting remissions for corrupt convicts proves that eradicating debasement in Indonesia doesn't appear to have solid help, both ethically and strategically. Many instances of defilement that have happened in Indonesia with different sorts of usual methodology additionally show that debasement is turning out to be progressively ongoing and testing to destroy. The business as usual that corruptors consistently do is extremely orderly and of top caliber, as proven by the association of a few deceitful cops, government organizations, and different authorities, particularly those with great training.[2]

All countries in the world agree that corruption is a special crime category. Each country makes maximum efforts in preventing and eradicating corruption and following up on the perpetrators of corruption that occurred in their country. China is one of the firms, very enthusiastic and total in eradicating corruption. There have been corruption cases in China by Liu Zhijun, a former Chinese Minister of Railways and Zhang Zhongseng, a former mayor of Luliang City. They were sentenced to death after being found guilty of corruption. Starting from this case, China is committed to continuing to take firm action against the perpetrators of corruption in their country.[3]

Other corruption cases have also occurred in Malaysia, and the settlement of cases is not much different from that of China. The sentence imposed on a person or group who is proven to have committed a criminal act of corruption in the neighboring country must be sentenced to hanging. The imposition of the crime contrasts with the situation in Indonesia, where the punishment seems light because it considers Human Rights (HAM). In sentencing the crime, it

expressly rejects the death penalty or hanging for perpetrators of criminal acts of corruption. Based on these examples, the perpetrators of corruption in Indonesia should also be followed up firmly so that the Indonesian people do not underestimate the efforts of law enforcement officials in eradicating corruption.

Muhammad Cholil Nafis said three types of crimes an act or a criminal act of corruption. These types can be described as follows: First, crimes that have an impact on depriving people of their rights or livelihoods, the emergence of social and economic inequality and the loss of justice through their actions, namely eliminating state money for personal and group interests; Second, crimes that can trigger the emergence of poverty and ignorance. Corruption has an impact on the loss of citizens' rights to life as well as various state financial arrangements and policies that cause poverty and ignorance; Third, the crime of corruption that consistently undermines the honor and safety of every generation and is contrary to the objectives of sharia, namely protecting lives, protecting property, and protecting offspring. In addition, corruption also consistently violates the protection of the mind and blasphemes against religion.

Five factors cause the majority of corruption that occurs in Indonesia: factors, namely the lack of integrity and professionalism of each individual; weakening of the commitment and consistency of law enforcement officers and laws and regulations; some opportunities support the emergence of corruption in the work environment and the community; the attitude that tends to be greedy, weak in faith, honesty and shame; and the unprofessional payroll system for both government and private workers. An essential problem in this country is corruption that has penetrated or branched out in every bureaucracy and even the courts. Almost all lines of the bureaucracy have cases of corruption, and it is undeniable that law enforcement officers in our country are also inseparable from this disease.[4] So that many law enforcement officers such as police, prosecutors and even judges are finally caught red-handed by the authorities due to committing criminal acts of corruption.

The polemic arose when formulating ideas regarding various efforts to minimize corruption in Indonesia. These efforts are repressive, namely through imprisonment or fines only. This repressive effort in its implementation has become hampered because a new policy has emerged, namely granting remissions or reducing the sentence for corruption convicts as stipulated in the Government Regulation of Indonesia Number 99 of 2012 concerning the Second Amendment to the Law of the Republic of Indonesia Number 32 of 1999 concerning Procedures. Implementation of the Rights of Correctional Inmates. Various speculations regarding this policy have sparked controversy and become a topic of discussion among the Indonesian people.

The granting of remissions that have ever been carried out in Indonesia is in the case of corruption in the 2011 Sea Games athlete homestead by Muhammad Nazarrudin. He received a remission of one month and fifteen days or more (varies). The granting of remission was carried out at the West Java Prison during the Eid al-Fitr 1440 Hijri or Lebaran 2019. The convict was caught in a corruption case at the 2011 Sea Games athlete homestead with 3.2 billion in cash. The government's shortcoming in granting this remission is that there is no transparency or publication to the public about the names of corrupt convicts in Indonesia who have received remissions in both the high-class and lower-middle-class categories of corruption.[5]

The Indonesian people initially had a consuming energy for annihilating lawbreaker demonstrations of debasement in their current circumstance. In any case, that energy blurred over the long haul when an approach conceding abatements for defilement convicts was made. Its kin frequently epithet Indonesia a heaven for corruptors. The epithet was given on the grounds that the crook sanctions given to corruptors are generally light. Indeed, even corruptors persuade the chance to be free, despite the fact that state misfortunes arrive at billions of rupiah education. Based on this phenomenon, there is a need for firmness from law enforcement

officers and the Government of Indonesia in improving regulations in eradicating and preventing corruption in Indonesia.

## **2 Research Methods**

The research to be carried out requires a method or method commonly referred to as a research method. The research method is a method that is carried out and scientifically accounted for through a series of activities to analyze and interpret facts and data that aim to develop science and technology to benefit humanity. Legal research must also pay attention to the type of approach. The research approach is a rung to determine the research theory that will be used in limiting researchers in exploring the conceptual basis that will dissect the object of research. Legal research can use normative, normative-empirical, and social empirical approaches.

Field exploration or field research is the sort of examination utilized. Field research gathers information on the spot.[6] Field research is a technique that is practical about the truth of a peculiarity that is presently occurring locally. Field research is one more methodology of social occasion information in subjective examination; it doesn't require in that frame of mind of the writing or explicit capacities with respect to the writer. This study was carried out by delving into the community in the hopes of gathering information from the general people about the phenomena discussed in this paper, one of which is the community's functioning legislation process.[7]

The method employed is empirical. Empirical research is a strategy for legitimate review that looks at lawful realities in the field, like its application, legitimate peculiarities in the public eye, issues of legitimate viability and adequacy, policing application, lawful consistence, case challenges, and struggle settlement, in addition to other things. The empirical approach is used to focus the study on certain legal characteristics that are useful in answering questions and hypotheses that have been previously assembled coherently through field data research and observation.[8]

This study's data comes from original sources. Primary data is a collection of information or data gathered directly from a source by an author without the use of third parties, which is then collected. The data is either processed by itself or by a company. The observation method was employed to acquire the data. The surveyor observation method is a method that does not rely on a system or data that has been manufactured (manipulated), but instead measures current facts to see how they relate to one another.

The data analysis method used is qualitative with inductive thinking flow. Qualitative data analysis is a data analysis that does not use numbers and statistical formulas. Still, it is carried out through various methods such as interviews and in-depth communication (in-depth interviews), observations, whether involved or not, case studies, pilot projects, experimental groups, analysis text, grounded analysis, focus groups, documentary analysis and so on. The flow of inductive thinking is a thought that starts from a particular preposition and is positioned as a result of observation which then ends at a conclusion that is complete and very general.

## **3 Results and Discussion**

### **3.1 The Purpose of Granting Remissions to Convicts of Corruption Crimes**

research is a technique for legitimate review that inspects legitimate realities in the field, like its application, legitimate peculiarities in the public arena, issues of legitimate adequacy

and viability, policing application, lawful consistence, suit troubles, and struggle settlement, in addition to other things under Article 14 paragraph (1) letter I of the Republic of Indonesia's Corrections Law No. 12 of 1995. The government's decision to provide remissions to inmates, particularly those convicted of corruption, has sparked debate among Indonesians. All convicts, especially those who have committed significant crimes such as corruption, terrorism, or narcotics, are presumed to be ineligible for remission, according to society. Convicts must face harsh punishments or sanctions in order to have a deterrent effect and avoid repeating their misdeeds in the future.

In the current digital era, people have experienced significant changes in behaviour or habits. Changes in people's behaviour also impact changes in regulations or laws in social life. Legal changes were made to balance the behaviour of the developing community. Indonesia is a country that upholds the law, so the Indonesian people very well feel the impact of a change in law or a change in regulation.[9]

Legal changes are, of course, different in meaning from legal developments, namely a legal reform aimed at improving people's lives that are better than before. On the other hand, the public may perceive the development of the law as a trigger for violent contradictions, and it can even lead to social unrest because its implementation is deemed inappropriate. Facts on the ground: One form of triggering violent contradictions in the community is the government's policy of providing remissions to corrupt convicts. Remissions are usually given to corrupt convicts during independence and Eid al-Fitr commemoration.

The government's remission policies are inextricably linked to a variety of concerns and objectives to be met. Apart from having unique grounds from the government, the prevalence of remissions has harmed the Indonesian people's sense of justice. The remission policy gives the impression that the government isn't serious about fighting defilement in Indonesia. The reduction strategy resembles a much needed refresher or a present for corrupt criminals, yet it erodes public confidence in the Indonesian government's performance.

The author conducted research in several agencies intending to find out how people's perspectives from various backgrounds regarding the reasons for granting remissions carried out by the Indonesian government. The institution that the author uses as research material is the Correctional Institution. The author also conducted interviews with former corruption convicts and academics as experts in criminal law. Each informant conveyed their opinion to the author regarding the purpose of granting remissions to prisoners, especially corrupt convicts.

The purpose of granting remissions is, of course, a contentious issue, given that prisoners are people who commit criminal acts or crimes in the community, and it has become so because the government in practice implements policies for reducing the criminal period that are inconsistent with the contents of the legislation. Article 2 paragraph 3 of the Minister of Law and Human Rights' Regulation No. 3 of 2018 on the Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, and Leave Before Release. The term "conditional leave" refers to when a prisoner's privileges can be granted in exchange for a monetary payment. The element of justice is one among them. In practice, granting remissions to corrupt offenders has harmed people's sense of justice, yet the policy is still in place.

Article 2, section 3 of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave is actually under the theory of legal goals, namely Aristotle's ethical theory. According to his conception, the objective of the law is to achieve and maintain justice. Aristotle distinguishes between two sorts of justice: distributive and commutative justice. Distributive justice is determined by the number

of services rendered, but commutative justice is not determined by the number of services rendered. In other terms, justice is administered fairly or korsi between individuals. Other. In giving remissions, the aspect of justice in its implementation is not taken into account. As a result, many are dissatisfied because they do not believe corruptors are treated fairly when they are granted remission privileges.

The Head of Binadik and Giatja of the Penitentiary (Lapas) claimed that the government's strategy of awarding remissions to prisoners, particularly those convicted of corruption, was a "lure" to get inmates to behave nicely. The objective is that inmates would commit themselves and the community that they will do good in the future and will not repeat criminal crimes. He further stressed that issuing remissions is natural, given that remission is a human rights principle and a right that every convict possesses.

The General Affairs Office of the Penitentiary also confirmed this, saying that the government's aim of giving remissions to prisoners, especially corruption, was to provide a reference for each prisoner to regret his actions and behave well while in detention immediately. He said that granting remarkable remissions for corruption convicts was not given easily. Several special requirements must be met so that convicts of corruption crimes can get remission from the government.

When the government discovered this, it transformed the concept of punishment from one of vengeance or creating a deterrent impact for criminal offenders to one of coaching, in the hopes that after inmates are freed from incarceration, they will change their attitudes and be better than before. Giving remission is also a way of putting the coaching concept into practice in the correctional system, with the goal of motivating and enthusing offenders to engage in self-introspection. Other grounds exist for the government to establish a policy of providing remissions to corrupt criminals. The administration is considering issuing a policy of providing remissions to corrupt prisoners due to overcapacity.

The former corruption convict (unnamed) whom the author interviewed argued that the remission or curtailment of the criminal period prepared by the current government already contained elements of coaching. Inmates who are fostered in prisons and then have a good impact when serving a criminal period in prison deserve appreciation in the form of cutting their criminal period. Prisoners, in this case, are also ordinary people or ordinary people. It is human nature to be able to change for the better when they make a mistake, so giving remissions to every prisoner is a good policy to build an excellent correctional system in prisons.

Criminal law experts express their opinions regarding granting remissions for convicts of criminal acts of corruption. Indonesia has made a regulation regarding remission, and law enforcement officers and the community must carry out its existence. Remission is not something that can have a complete (substantial) impact on Indonesia's prevention and eradication of corruption. The existence of remission is only an effort from the government to motivate inmates, namely people who have been proven guilty of committing a crime, to be able to change their attitude or behaviour for the better so that when they are free from the criminal period and return to society, their existence can be accepted by the community.

Persuasion was used, such as urging corruption offenders to work with law enforcement personnel to discover corruption crimes by seeking for the true perpetrators. Corruption prisoners who are prepared to work with the government to dismantle the case or admit their wrongdoings will have their sentence reduced or their sentence revoked. Threats can also be issued, such as warnings that corruption convicted will face harsh penalty and will not be eligible for remission if they do not meet the legislation's remission conditions. Convicts who do not want to spend years in prison and instead opt to return public funds will receive a reduced sentence from the government.

People from various backgrounds certainly have different points of view regarding the real purpose of granting remission or reducing the criminal period of every prisoner in Indonesia. The Indonesian people can only hope and ask the public authority in the arrangement of conceding reductions, particularly to ruin convicts, to focus on the standard of equity. The government has enacted a number of regulations governing remission policies, one of which being the President of the Republic of Indonesia's Remission Decree No. 174 of 1999.

The following are the government's implied goals in creating policies for granting remissions based on the President of the Republic of Indonesia's Decree Number 174 of 1999 about Remissions: (1) As a type of inspiration and energizer so detainees and criminal kids generally make sure to act well while in confinement or Correctional Institutions (jail); (2) as a type of work to lessen the adverse consequence and subculture of the spot where the wrongdoing is perpetrated, contrasts in criminal choices, and the results of hardship of freedom; (3) The extraordinary abatement given during strict occasions is supposed to be a trigger for the prisoners to introspect themselves heeding strict direction in day to day existence; and (4) As one of the strategies that are option in contrast to criminal regulation with regards to understanding a restorative framework that is fitting or expected by the base standard guidelines.[10]

### **3.2 The Impact of Granting Remissions on Convicts for Criminal Acts of Corruption in a Sociological Perspective**

The arrangement of conceding abatements to convicts of criminal demonstrations of defilement has existed since before Indonesia's freedom, exactly during the Dutch provincial occupation. The conceding of reductions in Indonesia has gone through a few changes since after the autonomy of the Republic of Indonesia until 1999. The reason for the public authority ordering an abatement strategy is to execute the components of Human Rights for detainees and equilibrium the improvement of ways of life or propensities for the Indonesian public, which have changed essentially. In response to this, the public tries to express their opinions and criticisms through various forms of scientific articles and scientific journals in the hope that law enforcement and the government can accommodate and reconsider the policy for the benefit of the community.

The community considers that granting abatements to convicts of criminal demonstrations of defilement ought to be abrogated on the grounds that the conceding of reductions is by all accounts a much needed refresher for convicts of debasement to be liberated from confinement right away. Law of the Republic of Indonesia Number 12 of 1995 concerning Corrections states that remission is every prisoner's right. It will violate the law if corrupt convicts do not get their rights, namely, cutting their criminal period of remission. The polemic regarding abolishing and implementing remission policies for corruption convicts is as yet a long discussion among professionals and scholastics. The emphasis on conceding reductions is found in how the effect of giving abatements is applied to debasement convicts in Indonesia.

Abatement can't be isolated from the reason and capacity of the remedial framework since it is directed in the Correctional Law. The remedial framework that applies in Indonesia is a framework that doesn't just restore and resocialize yet should contain educative, complementary and conclusive components as indicated by the essential way of thinking of Pancasila. The reason for the restorative framework in Indonesia is to underline the social respectability of detainees who are better than anyone might have expected. The prison framework in Indonesia is as of now creating some distance from the components of retaliation and prevention.

The correctional framework in Indonesia has now transformed into instructing, which focuses on preventive endeavors and contains instructive components for detainees. The

instructing idea trusts that the local area will get detainees who emerge from confinement since they have gotten great direction in jails. This objective is supposed to affect expanding the endeavors of the public authority, police officers and general society to constantly act admirably and attempt to forestall the event of criminal demonstrations of debasement locally. The creator will depict the consequences of the creator's meetings with sources in regards to the effect of giving reductions to convicts of criminal demonstrations of defilement according to a humanistic point of view from the local area.

## 4 Conclusion

The reason for allowing reductions to convicts of criminal demonstrations of debasement in view of the consequences of meetings between the creator and asset people is to inspire them in working on sure or helpful perspectives and mentalities and lamenting their activities. So when defilement convicts have wrapped up serving their criminal period and return to the local area, they transform into people with great characters and are resolved not to rehash demonstrations of debasement later on. The objective described by the resource person is different from the actual government goal in formulating a policy of granting remission for convicts of criminal acts of corruption, which is implicitly stated in the Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning remission.

The objectives are an effort to reduce the negative impact and the subculture in which the criminal is carried out, the difference in criminal decisions or the disparity of judges' decisions, as well as the consequences of deprivation of liberty; the special remission given during religious holidays is expected to trigger the inmates to introspect themselves under religious guidance in everyday life constantly; as one of the policies that are alternative to criminal law in the context of realizing a correctional system that is expected to comply with minimum regulatory standards.

In making policies for granting remissions to corrupt convicts, the government should consider more the objectives relevant to the community's wishes. This goal is better implemented by renewing relevant regulations that are efficient and do not hurt the sense of justice for the community. The government can also change remission policies with moral or social sanctions that deter perpetrators of corruption crimes and genuinely regret their actions. Moral sanctions or social sanctions are not only felt for convicts of corruption, but the public, especially state officials who know about the case, will also be careful in carrying out their work to be trustworthy.

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