Revisiting Remissions Policy for Corruption Offenders: A *Siyāsah Tasyrī'iyyah* Analysis of Law No. 22 of 2022

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Abstract: Law No. 22 of 2022 on Corrections is a legal reform that replaces Law No. 12 of 1995. Before the enactment of this law, correctional regulations were governed by several rules, including Government Regulation No. 99 of 2012, Ministry of Law and Human Rights Regulation No. 3 of 2018, and Ministry of Law and Human Rights Regulation No. 7 of 2022. However, in practice, Law No. 22 of 2022 still leaves unresolved issues of inconsistency with the principles and objectives of the state, particularly regarding the substance of granting remission to corrupt prisoners. This article examines these regulations from the perspective of *siyāsah tasyri'iyyah* and assesses their relevance to anti-corruption efforts. The research uses a normative legal method with a legislative approach, utilizing the theory of *siyāsah tasyri'iyyah* and legislative theory. The research results indicate that the rules on remission for corrupt prisoners only partially fulfill the principles of *siyāsah tasyri'iyyah*, namely the principle of gradualism in enacting laws and simplifying regulations. Meanwhile, the principles of ease, public interest, and justice have not been realized. Based on Article 28 of the 1945 Constitution, human rights can indeed be restricted by law, so the restriction of remission for corrupt prisoners is considered valid. Therefore, Article 10 of Law No. 22 of 2022 must be revised.

Keywords: Granting Remission, Corruption Convicts, *Siyāsah Tasyri'iyyah.*

Abstrak: Undang-Undang Nomor 22 Tahun 2022 tentang Pemasyarakatan hadir sebagai pembaruan hukum yang menggantikan Undang-Undang Nomor 12 Tahun 1995. Sebelum lahirnya undang-undang tersebut, aturan pemasyarakatan ditetapkan melalui beberapa regulasi, antara lain PP Nomor 99 Tahun 2012, Permenkumham Nomor 3 Tahun 2018, dan Permenkumham Nomor 7 Tahun 2022. Namun, dalam praktiknya, Undang-Undang Nomor 22 Tahun 2022 masih menyisakan problem ketidaksesuaian dengan asas dan tujuan negara, terutama terkait substansi pemberian remisi bagi narapidana korupsi. Artikel ini membahas pengaturan tersebut dalam perspektif *siyāsah tasyri'iyyah* dan menelaah relevansinya terhadap upaya pemberantasan korupsi. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, serta

memanfaatkan teori *siyāsah tasyri'iyyah* dan teori legislasi. Hasil penelitian menunjukkan bahwa aturan remisi bagi narapidana korupsi hanya memenuhi sebagian prinsip *siyāsah tasyri'iyyah*, yaitu prinsip berangsur-angsur dalam penetapan hukum dan prinsip penyederhanaan peraturan. Sementara prinsip kemudahan, kemaslahatan, dan keadilan belum terwujud. Berdasarkan Pasal 28 UUD 1945, hak asasi manusia memang dapat dibatasi oleh undang-undang, sehingga pembatasan remisi bagi narapidana korupsi dinilai sah. Oleh karena itu, Pasal 10 UU No. 22 Tahun 2022 dipandang perlu untuk direvisi.

***Kata Kunci*:** Pemberian Remisi, Narapida Korupsi, *Siyāsah tasyri'iyyah*.

Introduction

The state's obligation to protect the entire Indonesian nation is contained in the opening of the 1945 Constitution. The effort is realized by providing protection and fulfillment of the right of everyone to obtain equal recognition before the law and to obtain guarantees, security, recognition, and legal certainty, as provided in Article 28 D paragraph (1) of the Constitution of the Republic of Indonesia Year 1945.[1] Based on this, all aspects of national life must be based on law, including correctional institutions. Correctional institutions are directed to return (Correctional Inmates) as good citizens while protecting society from the possibility of repeating criminal acts, and this is an application of the values contained in Pancasila.[2] In the correctional system, inmates, correctional students, or correctional clients have the right to receive spiritual and physical guidance and are guaranteed the right to practice their religion. They have the right to communicate with outside parties, both family and others, to obtain information through print and electronic media, to receive a proper education, and so on.

Twenty-two years after the enactment of Regulation Number 12 of 1995 concerning Corrections, the legal dynamics regarding correctional institutions have undergone relatively rapid development. Legislative institutions must amend existing legal regulations to adapt to legal developments. Therefore, the House of Representatives (DPR)

[1] Undang-Undang Dasar 1945.

[2] Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, *Naskah Akademik Rancangan Undang-Undang Tentang Pemasyarakatan*, nd, 1.

and the government have drafted new rules regarding correctional institutions, which are contained in Law Number 22 of 2022 concerning Corrections, replacing Law Number 12 of 1995 concerning Corrections. This is due to changes in the correctional system, particularly regarding remission regulations for prisoners convicted of corruption, which some consider an attempt to weaken the eradication of corruption cases.

The signal of weakening corruption eradication became clearer when the Supreme Court (MA) revoked Government Regulation (PP) Number 99 of 2012 concerning the Conditions and Procedures for the Implementation of the Rights of Inmates which regulates the tightening of the granting of remissions for inmates, especially perpetrators of corruption, terrorism, drugs and other transnational crimes, replaced with Regulation of the Minister of Law and Human Rights Number 07 of 2022 concerning the Second Amendment to Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Conditions and Procedures for Granting Remissions, Assimilation, Family Visiting Leave, Parole, Pre-Release Leave, and Conditional Leave.

Although the Ministry of Law and Human Rights stated that Regulation of the Minister of Law and Human Rights Number 7 of 2022 does not eliminate the special conditions for granting prisoners' rights by Government Regulation Number 99 of 2012, however, the revocation of the Government Regulation on tightening remissions has injured the public's sense of justice, especially as the consequences of the cancellation mean that remission regulations no longer recognize the grouping of prisoners for special crimes. Corruption is no longer considered an extraordinary crime, and the application for remission is no longer mandatory for a justice collaborator or paying compensation for bribery.

Remission is not a right that belongs to the human rights category and is also not a constitutional right, so restrictions are imposed on it by statutory regulations. The final reason regarding the excess capacity of correctional institutions (overcrowded) was that the Supreme Court was too hasty to generalize the situation without accurate data. According to data from the Directorate General of Corrections (Ditjenpas) of the Ministry of Law and Human Rights (Kemenkumham), the number of inmates in correctional institutions (prisons) with special crimes was 151,303 people as of August 2021. Of

that number, there were 145,413 or 96% of drug convicts, 4,671 people convicted of corruption, 371 people convicted of terrorism, 349 people convicted of illegal logging, 325 people convicted of human trafficking, and 174 people convicted of money laundering.[3]

Today's political and legal conditions are not conducive to strengthening the eradication of corruption, so no matter how accurate the data and arguments are, they will be difficult for those in power to digest. This has an impact on the development of national law. Satjipto Rahardjo stated that politics influence law because the political subsystem has a greater concentration of energy or power than the law, or the law changes if the political configuration changes, and if law and politics face each other or both interact, the law is on the weaker side. This relationship is called a conditioning relationship. Politics is a condition for the implementation of law. Because political energy is stronger, it is the basis for saying that legal autonomy in Indonesia is intervened by politics, not only in the process of its creation, but also in its implementation. This means that politics has intervened in the law.[4]

The discussion regarding remission for corruptors needs to be studied from an Islamic legal perspective, namely from the perspective of *Siyāsah tasyri'iyyah*. *Siyāsah tasyri'iyyah* is part of *fikih siyāsah*, which discusses the issue of state legislation, including how to formulate laws, create, and establish rules.[5] Because the true purpose of sharia here is to gain *maṣlaḥat*, which is required by sharia, including state affairs, it is essential. Therefore, besides Indonesian positive law, a comprehensive understanding is necessary, as all aspects of life are regulated by Islamic law.

Several previous studies have discussed granting remissions to

[3] Vika Azkya Dihni, "Jumlah Penghuni Lapas Berdasarkan Jenis Tindak Pidana Khusus (Agustus 2021)," September 17, 2021, https://databoks.katadata.co.id/datapublish/2021/09/17/narapidana-kasus-narkoba-mendominasi-di-lapas-indonesia.

[4] Kamsi, *Politik Hukum dan Positivisasi Syariat Islam di Indonesia* (Yogyakarta: UIN Kalijaga Press, 2012), 235.

[5] Muhammad Iqbal, *Fiqh Siyāsah , Konstektualisasi Doktrin Politik Islam*, kesatu (Jakarta: Prenadamedia Group, 2014), 48.

corruptors. *First,* research conducted by Adinda Septia Thalia Putri[6] contradicts the 1945 Constitution and Law Number 12/1995 regarding equality before the law and protection of human rights. *Second*, research by Manggala Gita Arief Sulistiyatna[7] states that tightening by giving special conditions to prisoners of special crimes in legal review creates the problem of the loss of equal opportunities and equality before the law, which is a human right, including for prisoners. *Third*, research by Imam Basofi Usman[8] which states that the realization of justice in granting remissions and conditional release to prisoners of corruption crimes in terms of conditional release through an approach *equality before the law* does not reflect justice for corruption convicts, because there is a difference in the position between corruption convicts and convicts in general in terms of fulfilling the right to remission and conditional release, as well as regulations regarding the granting of remission and conditional release to corruption convicts. At the regulatory level, conflicting norms govern the fulfillment of corruption convicts' rights to receive remission and conditional release. *Fourth* Al Hijrin[9] states that the Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning the Conditions and Procedures for the Implementation of the Rights of Correctional Inmates in conjunction with the Government Regulation of the Republic of Indonesia Number 28 of 2006 concerning the Conditions and Procedures for the Implementation of the Rights of Correctional Inmates, and the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Conditions and Procedures for Granting Remission, Assimilation, Visiting Family Leave, Conditional Release, Pre-Release Leave, and Conditional Leave, this remission is granted by

[6] Adinda Septia Thalia Putri, "PEMBERIAN REMISI TINDAK PIDANA KORUPSI DI INDONESIA," n.d.

[7] Manggala Gita Arief Sulistiyatna, "Hak Remisi Dan Asimilasi Narapidana Di Indonesia Dalam Perspektif Hak Asasi Manusia," *Jurnal Lex Renaissance* 6, no. 1 (January 1, 2021), https://doi.org/10.20885/JLR.vol6.iss1.art5.

[8] Imam Basofi Usman, "PEMBERIAN REMISI DAN PEMBEBASAN BERSYARAT YANG BERKEADILAN TERHADAP NARAPIDANA BERDASARKAN UNDANG-UNDANG PEMASYARAKATAN," Disertasi (Fakultas Hukum Universitas Hasanuddin, September 26, 2022), http://repository.unhas.ac.id/id/eprint/21261/.

[9] Al Hijrin Al et al., "Formulasi Kebijakan Pemberian Remisi Terhadap Narapidana Ditinjau Dari Aspek Politik Hukum," *Journal Kompilasi Hukum* 6, no. 2 (December 15, 2021), https://doi.org/10.29303/jkh.v6i2.77.

the Minister of Law and Human Rights by considering the interests of security, public order, and the sense of justice of the community. The policy of granting remission seems less effective for every prisoner.

The difference between the above research and the research reviewed by the author is that this research emphasizes tightening remissions for corruption convicts, which is considered contrary to human rights. The research reviewed by the author is the antithesis of the aforementioned research. In the research reviewed by the author, there are several indications of articles in the latest regulations of Law Number 22 of 2022 concerning correctional facilities that are deemed inconsistent with the spirit of the Indonesian state in eradicating corruption. Based on the above background, the author formulates the following problems: what are the obstacles in this discussion, and what are the regulations for granting remissions to corruption convicts in Indonesia from the perspective of *Siyāsah Tasyrī'iyyah?* How relevant is Law Number 22 of 2022 concerning Corrections to efforts to eradicate corruption?

The type of research used is normative legal research, which examines whether existing legal regulations are by legal norms and the purpose for which a law was created. This normative legal research also discusses doctrines or principles in legal science.[10] This research uses a legislative approach, which examines the laws and regulations related to the studied legal problems. [11] Regulation 22 of 2022 concerning Corrections, laws, and related rules is examined in this case. Using this approach, researchers determine whether there is consistency and harmony between Law Number 22 of 2022 and the fundamental values of the Indonesian state. In this study, the primary data used are Law Number 22 of 2022 concerning Corrections, classical and contemporary books, and books discussing the topic. *Siyāsah Tasyrī'iyyah*. Secondary data in this study consists of documents, books, and research reports.

[10] Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2018), 24.

[11] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenada Media Grup, 2019), 133.

Arrangement Remission for Corruption Convicts in Indonesia *Perspective Siyāsah Tasyrī'iyyah.*

Essentially, the Authority to form sharia is Allah SWT's authority, conveyed to the Prophet Muhammad (peace be upon him), as the recipient of revelation and the direct bearer of a mandate from Allah SWT. The Sharia conveyed is consistent, straightforward, and unwavering. Through this Sharia, it is hoped that those who follow it will experience happiness in this world and the hereafter. The Sharia also serves as a lifeline, guiding the path to follow, restraining the brutality of lust, preventing greed for power, and providing guidance on goodness, concern, and generosity. Thus, Sharia is nothing less than a path to realizing truth, justice, dignity, and compassion.[12] According to Syatibi, as quoted by Suparman Usman, the shari'ah is set to protect the *maṣlaḥat of* people in this world and the hereafter.[13]

The institution that has the authority to form and determine laws and regulations in the context of Islamic governance is the legislative institution (*al-Sulṭah al-Tasyrī'iyyah*). This institution plays a crucial role in a country's lawmaking process, comprising clerics, scholars, experts, and other experts in their respective fields. The requirements for those who will occupy this institution are that they must be Muslim, fair, honest, maintain their dignity, be mature, and be able to weigh their good and evil. They must at least understand Islamic law and be able to act justly.[14]

In carrying out its duties and functions, as the maker of laws that will be enforced and implemented by the Islamic community, this legislative institution is strongly advised to pay attention to the *maṣlaḥat* of people according to what Allah has determined. The critical point to note is that it must refer to the principle *jalb al-maṣālih* and *dar'u al-mafāsid* or bring *maṣlaḥat* and push to *mudhārat*. This means the law is established solely to realize or develop *maṣlaḥat* in this world and

[12] Rasyad Hasan Khalil, *Tarikh Tasyri: Sejarah Legislasi Hukum Islam*, Cet. Ke 4 (Jakarta: Amzah, 2016), 12.

[13] Suparman Usman, *Filsafat Hukum Islam*, Cet. Ke 2 (Jakarta: Laksita Indonesia, 2015), 145.

[14] Abdul Aziz Al-Khayyat, "Al-Niẓam al-Siyāsiy Fi al-Islām al-Nazariyah Al-Siyāsah Niẓām al-Hukm, Dalam Nadirsah Hawari, "As-Sulṭah Al-Tasyrī'iyyah Dalam Perspektif Fiqh Siyāsah Dan Qanun Wadh'iy.," *Jurnal TAPIS* 7:12 (June 2011): 58.

hereafter. The way to realize this is by trying to maintain *maṣlaḥat* and prevent damage by relying on Islamic law, because the primary basis for upholding *maṣlaḥat* in the afterlife is by erecting the *maṣlaḥat of* the world first.[15]

Siyāsah Tasyri'iyyah is related to the relationship between society and the state that governs all interests *maṣlaḥat of* people. This relationship is regulated by written provisions (the constitution), the basic legal rules of a country, and unwritten provisions (conventions). This discussion of the constitution relates to the regulations and sources of legislation and the sources of their interpretation. The material sources of these main points of legislation relate to the relationship between the people and the government regarding *the maṣlaḥat of the* people.[16]

Siyāsah tasyri'iyyah relates to the government's power to create and establish laws by existing constitutional regulations. *Siyāsah tasyri'iyyah* discussion in the Indonesian context means the category of legislative body. The duties and authority of the legislative body are to interpret regulations regarding laws, the purpose of which is to *smaṣlaḥat* of the people. This institution is commonly referred to as the People's Representative Council. When the DPR proposes laws, they must be based on the sources of Islamic law, namely the Qur'an and the Hadith, which serve as references for the Islamic constitution. While the correctional law does contain elements of benefit and proportionality, one article in the law disproportionately addresses the community's need for prosperity and well-being. Sharia law, as the Islamic constitution, is based on Surah An-Nisa, verse 51, and Islamic jurisprudence, which states that the welfare of the community is a leader's obligation:[17]

الم تر الى الّذين اوتوا نصيبا مّن الكتب يؤمنون بالجبت والطّاغوت ويقولون للّذين كفروا هٰؤلاء اهدى من الّذين امنوا سبيلا

[15] Nirwan Nazaruddin, "Maqasid As-Syari'ah Terhadap Hukum Islam Menurut Imam As-Syatibi Dalam Al-Muwafaqat," *Jurnal Asy- Syukriyyah* 21:1 (2020): 12.

[16] Muhammad bin Hasan Al-Hasyimi, *Qo'idah At-Tasharruf 'Ala Al-Ra'Iyyah Manuthun Bi AlMaslahah: Dirosah Ta'shiliyyah Tathbiqiyyah 'Ala Nawazil Al-Ibadat* (Makkah: Universitas Ummul Quro, 2013), 64–65.

[17] Departemen Agama Republik Indonesia, *Al-Qur'an Dan Terjemah Al-Qur'an Al-Karim* (Jakarta: Maghfirah Pustaka, 2019).

تصرّف الإما م على الرّعيّة منوط بالمصلحة

Article 10 of Law Number 22 of 2022 concerning Corrections explains the requirements for granting remission to prisoners, including corruption convicts: good behavior, actively participating in development programs, and having demonstrated a reduction in risk levels. Having served at least 2/3 of the sentence, with the provision that 2/3 of the sentence is at least 9 months. This article is considered to make it easier for corruption convicts to be released from detention. Romli Atmasasmita has stated that corruption can be regarded as an extraordinary crime because, when examined from the perspective of its negative consequences, corruption is highly damaging to the fabric of national life, violating the economic and social rights of the people. This is especially true when considering the quantity and quality of existing corruption cases. The policy in this article is highly inappropriate for implementation on corruption convicts. Although it is based on the pretext of equal human rights, it is inconsistent with the state's goal of eradicating corruption.

The legislative body and the executive should consider corruption an extraordinary crime in making regulations. Therefore, its handling requires specific follow-up, including granting remissions. In Islam, lawmakers must prioritize the community's interests, not just individuals or groups. However, Law Number 22 of 2022, particularly Article 10, tarnishes the nation's ideals and lacks justice.

Moreover, we can consider Thomas Hobbes' social contract theory, which assumes that a state can be formed because citizens surrender some of their rights to the state. Therefore, the state is obliged to limit and even revoke the rights of other citizens who act in a way that does not comply with the consensus or collective agreement, in this case, an agreement in the form of a law. In this case, it is not the procedures for establishing legislation in Islam that uphold the common interest. Furthermore, the policy in Article 10 of Law Number 22 of 2012 does not align with what is contained in the text of the Qur'an and the basic principles of establishing legislation in *siyāsah tasyrī'iyyah*.

Next review *siyāsah tasyrī'iyyah* regarding the granting of remissions to corruption convicts in Indonesia will be correlated with the basic principles of the formation of laws and regulations in *siyāsah tasyrī'iyyah*, that is:

1. Gradually, in establishing the law

Islamic law is established gradually and is based on the Qur'an, which was progressively revealed. The principle back then was considered the path to renewal because human life was changing. This renewal refers to systematically updating religious understanding in line with human developments in various fields, especially technology. However, this principle is often perceived by Muslims in general as immeasurable change. In keeping with modernity, every change should have goals and targets so that it proceeds systematically.

Essentially, the establishment of regulations regarding correctional facilities specifically granting remissions to corruption convicts began with the enactment of Government Regulation No. 99 of 2012 concerning the Second Amendment to Government Regulation No. 32 of 1999 concerning the Requirements and Procedures for Implementing the Rights of Community Inmates. Government Regulation No. 99 of 2012 is considered to differentiate between the types of criminal offenses committed by convicts, including granting remission rights. So that the material review rights are carried out against Article 34 A paragraph (1) letters (a) and b, Article 34A paragraph (3), and Article 43 A paragraph (1) letter (a), Article 43A paragraph (3) of Government Regulation Number 99 of 2012, concerning the Second Amendment to Government Regulation Number 32 of 1999, concerning the Conditions and Procedures for Implementing the Rights of Correctional Inmates, the Supreme Court Decision Number 28P/HUM/2021 dated October 28, 2021 has been issued stating that Article 34A paragraph (1) letters a and paragraph (3) and Article 43A paragraph (1) letters a and paragraph (3) of Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning the Conditions and Procedures for Implementing the Rights of Correctional Inmates do not have binding legal force.

Following up on the Supreme Court Decision, it is necessary to amend the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Requirements and Procedures for Granting Remission, Assimilation, Visiting Family Leave, Parole, Pre-release Leave, and Conditional Leave with the second amendment. The Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022 concerning the Second Amendment to the Regulation of the Minister of Law and Human Rights Number

3 of 2018 concerning the Requirements and Procedures for Granting Remission, Assimilation, Visiting Family Leave, Parole, Pre-release Leave, and Conditional Leave was stipulated. Then Law Number 22 of 2022 was passed because it was motivated by the provisions contained in Law Number 12 of 1995 concerning Corrections, which were no longer in line with the development of community law and did not fully reflect the needs of the current correctional system implementation, so they needed to be replaced.

Based on the explanation above, the principle of gradualness in establishing the law has been fulfilled in the regulations made by the Ministry of Law and Human Rights regarding correctional institutions in granting remissions to prisoners as seen from the renewal of the Correctional Law from Government Regulation Number 32 of 1999 concerning the Conditions and Procedures for Implementing the Rights of Community Inmates, then amended by PP No. 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning the Conditions and Procedures for Implementing the Rights of Community Inmates, then stipulated by Permenkumham No. 7 of 2022 concerning Second Amendment to Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Requirements and Procedures for Granting Remission, Assimilation, Visiting Family Leave, Conditional Release, Pre-Release Leave, and Conditional Leave. And further strengthened by the ratification of Law Number 22 of 2022 concerning Corrections

2. Minimize lawmaking

In essence, law is prescribed by Allah SWT and His Messenger based on the necessary legal needs, legal decisions, and legal events that require the existence of law. These laws are not prescribed to explain mandatory issues or to separate potential disputes. In the provisions of Law Number 22 of 2022 concerning the correctional system, there is no special provision for corruption convicts, even though corruption is a special crime, so its handling, including the granting of remission rights, must also be exceptional.

In principle, the regulations on correctional facilities have been fulfilled because when there was a material review of several articles in Government Regulation Number 99 of 2012 by the Constitutional Court, it was declared not to have binding force, then followed up in the amendment of the Minister of Law and Human Rights Regulation

Number 3 of 2018 concerning the Conditions and Procedures for Granting Remission, Assimilation, Family Visiting Leave, Parole, Pre-release Leave, and Conditional Leave with changes. The Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022 concerning the Second Amendment to the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Conditions and Procedures for Granting Remission, Assimilation, Family Visiting Leave, Parole, Pre-release Leave, and Conditional Leave was stipulated. So it is clear in the regulations regarding correctional facilities that, until now, only the latest ones apply, namely the Minister of Law and Human Rights Regulation Number 7 of 2022 and Law Number 22 of 2022 concerning Corrections.

3. Provides convenience and ease

This principle is prominent in Islamic legal legislation because the law is often made to provide convenience and relief for the *mukallaf*. Not everyone's understanding of the law is the same, nor does everyone fully understand it. Therefore, ideal regulations are those that provide convenience for legal subjects. This aligns with human nature, which dislikes burdens that limit its freedom. Thus, this does not mean that Islamic law eliminates the difficulties humans may experience in their lives; it simply means that the provisions of Islamic law can reduce these difficulties.

Law Number 22 of 2022 concerning Corrections, in granting remissions to prisoners, makes it easier for prisoners to obtain remissions until they can be released from detention, including corruption convicts. This leniency and convenience can be seen in Article 10 of Law Number 22 of 2022, which explains the requirements for granting remissions to prisoners, including corruption convicts, namely: a. good behavior, b. actively participating in development programs, c. having demonstrated a reduction in risk levels, d. Having served at least 2/3 of the sentence, with the provision that 2/3 of the sentence must be at least 9 months. Furthermore, Law Number 22 of 2022 also stipulates that Corruption convicts are not required to pay the fines and/or replacement money in full as regulated in previous regulations, namely in Article 54 paragraph (3), Article 46 paragraph (1) letter b, Article 46 paragraph (3) of the Minister of Law and Human Rights Regulation Number 7 of 2022, and Article 47 of the Minister of Law and Human Rights Regulation Number 3 of 2018. Because in

Article 10 of Law Number 22 of 2022, all convicts are still given assimilation without having to attach a payment certificate of the fines and/or replacement money in full according to the court decision.

Because corruption is a specific crime with a profound impact on state stability and a damaging effect on national order, the policy in this article is deemed inappropriate for implementation on corruption convicts, even under the pretext of equal human rights. Based on this, this principle is arguably not being met when granting remissions to corrupt convicts.

4. Law enforcement follows the *maṣlaḥat* of humanity

The law being prescribed means to realize the *maṣlaḥat* of Humanity. During the Prophet's time, laws were revealed that were sometimes revoked when circumstances required it and replaced with new ones, such as changing the direction of the Qibla. The abolition and replacement of laws is an attempt to prove that Islamic law requires that there be *maṣlaḥat* for humans. *maṣlaḥat* is the basis of all rules developed in Islamic law, by the Word of Allah swt. in Surah al-Anbiyā Verse 107, which reads:[18]

وما ارسلنك الّا رحمة لّلعلميْن

Islamic law aims to realize the *maṣlaḥat* of individuals and society in this world and the afterlife. This is the foundation upon which all Islamic law rests. No aspect of belief, human activity, or natural phenomenon is exempt from discussion within Islamic law, examined from a broad and in-depth perspective. The provisions of Islamic law strive to align with the best interests of its adherents. Therefore, it is unsurprising that legal regulations are sometimes enacted, only to be revoked if circumstances require it and replaced with other laws.

Article 10 of Law Number 22 of 2022 concerning Correctional Services is deemed contrary to the Indonesian nation's goal of eradicating corruption. The substance of this article requires revision, as it does not provide any exceptions to the requirements for granting remission to corruption convicts. The principle of the law's application follows *maṣlaḥat* in general, not individually or specifically. Therefore, Article 10 is considered not to have general benefits but only individual

[18] Departemen Agama Republik Indonesia, *Al-Qur'an Dan Terjemah Al-Qur'an Al-Karim*.

ones, and these individual rights can be set aside if referring to the 1945 Constitution. Therefore, the principle of the law's application follows *that the maṣlaḥat of the human being is not fulfilled, and its harm outweighs* the *maṣlaḥat*. Providing convenience in granting remissions to corruption convicts reduces the possibility of potential corruptors committing corruption crimes.

In one of the rules of Islamic jurisprudence, it is said that preventing evil is better than taking *maṣlaḥat*. In this case, it is better to tighten the regulation of granting remissions to corrupt convicts, which is considered to be contrary to individual human rights, rather than making it easier to regulate the granting of remissions, which will expand and increase the number of criminal acts of corruption, which will endanger the stability of the state and make *mafsadah* towards society.

5. Create equal justice

The fifth principle of Islamic law is the principle of justice. From several verses, Allah SWT commands His people to behave justly. One of them is in the following verse 8 of Surat Al-Maidah:[19]

ولايجرمنّكم شنان قوم على الّاتعدلوۗاعدلوۗاهواقرب للتّقوىۖ

The principle of justice in Islamic law encompasses several aspects, including the relationship between individuals within themselves, individuals and society, individuals and judges, and so on. This principle of justice has been interpreted as moderation throughout Islamic law. Article 10, paragraphs 2 and 3 of Law Number 22 of 2022 concerning Corrections,[20] provide easier conditions for granting remissions to corrupt convicts. This conflicts with the principle of equality before the law (*asas equality before the law*).

Compliance with the principle before the law in Indonesia is a must; this is a consequence of Indonesia as a country of law that upholds the equality of every person before the law with no exceptions. This regulation is expressly contained in Article 27, paragraph (1) of the 1945 Constitution (fourth amendment). All citizens have equal standing before the law and government and must uphold the law and government without exception. This principle must be the basis of every statutory regulation in Indonesia. However, equality before the

[19] Departemen Agama Republik Indonesia.

[20] *Undang-Undang Nomor 22 .Tahun 2022 Tentang Pemasyarakatan*.

law does not mean being the same in all aspects, but taking into account the objective circumstances of a person, in this case, convicted of corruption. They have the right to receive remission like other convicts under the pretext of human rights. Still, according to the formulation of Article 28 J of the 1945 Constitution, there should be restrictions on their rights, which states that human rights can be set aside if there are restrictions in a law. We can apply this to Law Number 22 of 2022 concerning Corrections.

Let's examine Article 10, paragraphs 2-3. This does not reflect justice towards the broader community because there are no exceptions for prisoners convicted of special crimes (Extraordinary Crime), and corruption is categorized within it. Remissions should be explicitly handled, not treated like ordinary crimes. Corruption has a tremendous impact on state stability and concerns the welfare and justice of the people. Therefore, this fifth principle of Islamic law is not met when examining the dynamics of remissions granted to corruption convicts.

The Relevance of Law Number 22 of 2022 to Corruption Eradication Efforts.

Before understanding the rights of corruption convicts under Law Number 22 of 2022 concerning Corrections, we must first understand what a convict is. According to Law Number 3 of 2018, a convict is a person sentenced to prison serving a sentence in a correctional institution. A convict for corruption, simply put, is a person or individual who has been convicted and proven guilty of corruption by a court decision.

Every human being has a fundamental inherent right, known as Human Rights. Human Rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty. They are His gifts that must be respected, upheld and protected by the state, law, government, and every person for the honor and protection of human dignity and honor, therefore must be protected, respected, maintained, and may not be ignored, reduced, or taken away by anyone, and human rights also have basic obligations between one human being and another and towards society as a whole in the life of society, nation, and state.

Regarding the rights of prisoners convicted of corruption, what are the rights attached to the prisoners? Based on the provisions of Law

Number 12 of 1995 concerning Corrections; Government Regulation Number 31 of 1999 concerning the Guidance and Supervision of Correctional Inmates; Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 6 of 2013 concerning the Rules of Procedure of Correctional Institutions and State Detention Centers; Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates.

The rights of prisoners are as follows: To worship according to their religion or beliefs; To receive care, both spiritual and physical; To receive education and teaching; To receive adequate health services and food; To convey complaints; To receive reading materials and to follow other mass media broadcasts that are not prohibited; To receive wages or bonuses for work done; To receive visits from family, legal counsel, or other certain people; To receive a reduction in sentence (remission); To receive the opportunity to assimilate including leave to visit family; To receive parole; To receive leave before release; and To receive other rights by applicable laws and regulations. In other words, the government guarantees that the above rights can be obtained as long as they are regulated in laws and rules, "unless revoked based on a court decision and the granting of the right to remission, assimilation, leave to visit or be visited by family, conditional leave, pre-release leave and conditional release does not apply to prisoners sentenced to life imprisonment and death row inmates."

Regarding the right to remission, remission is defined as a reduction in the sentence given to prisoners who meet the requirements stipulated in the provisions of the Laws and Regulations, the provisions regarding this remission are regulated in Presidential Decree Number 69 of 1999 concerning Reduction of the Sentence Period (Remission) which needs to be adjusted to the rights and obligations of each prisoner as a religious adherent because religion is the central pillar of community life, and the implementation is regulated in Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates, the regulations regarding remission are stipulated by Presidential Decree. If we see a person convicted of corruption in the verdict stating "Paying damages of Rp. 500,000,000 - Subsidiary 5 months imprisonment, if we refer to the old regulations, the convict

must pay the damages before getting the right to remission, assimilation, or conditional release. With the ratification of Law Number 22 of 2022, corruption convicts are not required to pay in full the fine and/or replacement money as regulated in Article 54 paragraph (3), Article 46 paragraph (1) letter b, Article 46 paragraph (3) of the Minister of Law and Human Rights Regulation Number 7 of 2022, and Article 47 of the Minister of Law and Human Rights Regulation Number 3 of 2018 because it is contrary to Article 10 of Law Number 22 of 2022, so that all convicts are still given assimilation without having to attach a certificate of paying in full the fine and/or replacement money according to the court decision.

The granting of humanitarian remission as regulated in Article 34 A paragraph (1) of Government Regulation Number 99 of 2012 and Article 28 paragraphs (2) and (3) of the Minister of Law and Human Rights Regulation Number 3 of 2018 is not valid, because it is contrary to Article 10 paragraph (1) of Law Number 22 of 2022. Thus, humanitarian remission can be granted to all prisoners who have fulfilled the requirements according to Article 29 of the Minister of Law and Human Rights Regulation Number 7 of 2022. Then the Right to Conditional Release for prisoners of corruption crimes is not required to pay in full the fine and/or replacement money as per Article 88 paragraph (2) of the Minister of Law and Human Rights Regulation Number 3 of 2018 because it is contrary to Article 10 of Law Number 22 of 2022, however the condition for granting conditional release is the obligation to undergo assimilation of at least ½ (one half) of the remaining sentence as regulated in Article 84 letter b, Article 85 letter b, and Article 86 letter b of the Minister of Law and Human Rights Regulation. Law No. 7 of 2022 is declared invalid because it conflicts with Article 10, paragraph (3) of Law No. 22 of 2022. The procedures and implementation of conditional release are carried out by the Minister of Law and Human Rights Regulation Number 3 of 2018, as last amended by Minister of Law and Human Rights Regulation Number 7 of 2022.

Example of Conditional Release Calculation for Corruption Crimes According to Law Number 22 of 2022

Name of Prisoner	Mr. Yani
Date of birth	17-08-1977

Registration Number	AB.11/20
Religion	Islam
Criminal act	Corruption/Article 2 Letter a of Law Number 20 of 2001
Decision Number/Date	07/Pid.Sus-TPK/2019/20-09-2019
Prison sentence	6 Years
Fine	Rp. 300,000,000 subs 2 months (Not Paid)
UP	Rp. 700,000,000 subs 5 months (Not Paid)
Detained date	20-02-2019
Early Expiration Date	16-12-2024
Remission Amount	-
Final Expiration Date	20-02-2025
Date 2/3 of the Criminal Period	20-02-2023
Parole Date	2/3 MP + Subs. Fine + Subs. UP: 20-02-2023 + 2 months + 5 months: 18-09-2023

This means that this new law may give rise to pros and cons. Why are corruption convicts who have been found guilty or have caused harm to the state, but are still given the right to remission? Not even requiring payment of compensation? Suppose we refer back to the philosophy of criminal responsibility. In that case, it is not only to repay the actions that have been committed, but as long as the convict is responsible in the correctional institution, of course, the convict is guided so that when the convict is released he will not repeat his actions, and can provide a lesson for the wider community when he is free. Seeing this, it is appropriate that the right to remission, assimilation, and so on can be obtained, except for convicts who have been sentenced to life or the death penalty by the judge.

The regulation of remission in Indonesia has been regulated in Law Number 22 of 2022 concerning the requisites of Law Number 12 of 1995 concerning Corrections, considering that in the previous regulation only mentioned the Government Regulation which summarized all the rights of prisoners in one regulation, namely

Government Regulation Number 32 of 1999 as amended by the second, namely Government Regulation Number 99 of 2012 concerning the Requirements and Procedures for Granting the Rights of Correctional Inmates.

Codifying the remission provisions in such a regulation will create legal certainty by eliminating the remission provisions that are only regulated in Presidential Decrees but not in Regulations of the Minister of Law and Human Rights and Government Regulations, or vice versa, as is currently the case. This legal certainty will guarantee equal treatment (equality before the law) or equal opportunities before the law (right of legal equality). This human right cannot be reduced under any circumstances or by anyone.

An ideal arrangement for granting remissions to prisoners that aligns with human rights can be realized as long as remissions are truly used as a tool to motivate prisoners to improve themselves and actively participate in prisoner development programs, as well as to reward prisoners who perform additional actions aimed at caring for humanity and the interests of the nation and state. The author prefers to divide remissions into two parts, as follows:[21]

1. General and special remissions are given to inmates entering correctional institutions from the outset as a motivator. This is similar to the remission credit system in America, the difference being that this system applies to general and special remissions, and the amount of remission to be given to inmates can be calculated from the outset, as August 17th and other religious holidays that inmates will experience while in correctional institutions can be known in advance. Furthermore, the sentence reduction in the form of remissions can be reduced if inmates commit violations or do not actively participate in the correctional program properly. This will be more effective in modifying behavior (behavioural modification), which in psychological terms is called Operant Conditioning, namely:[22]

[21] Gita Arief Sulistiyatna, "Hak Remisi Dan Asimilasi Narapidana Di Indonesia Dalam Perspektif Hak Asasi Manusia," 55–77.

[22] "Remission: Punishment for The Past, Training for The Future," *Justice Action*, 2013, https://www.justiceaction.org.au/remission#:~:text=Remission%20is%20the%20reduct ion%20of,the%20release%20of%20the%20prisoner.

> Operant conditioning is a model of learning that has received extensive application and empirical scrutiny. This model is based on over 50 years of empirical science. It has been demonstrated that virtually all voluntary and most emotional overt behaviors are significantly influenced by their contingent consequences and the surrounding environmental context in which they occur.

Operant Conditioning includes rewards and punishments (rewards and punishments). This will make therapy for prisoners always act well as a habit while serving their prison sentence in the Correctional Institution, thus supporting the achievement of the goals of imprisonment and the goal of the correctional system to make prisoners better individuals. Granting remission in advance shows that appreciation for prisoners is ready to be given. Still, it depends on whether the prisoners have the intention and sincerity to improve themselves. Their fate is ultimately left in their own hands, and the length of time prisoners stay in the Correctional Institution depends on themselves.

2. Additional remission[23] And other remissions. This remission is not given at the beginning of the inmate's entry into the Correctional Institution. Still, it is given according to conditions based on the development of the inmate's guidance and behavior, whether worthy or not, based on the recommendation of the Head of the Correctional Institution and the independent recommendation of the Correctional Observation Team. Remission for services to the state or humanity, for example, this remission is given if the inmate voluntarily performs services to society or the state, such as regular blood donation, body part donation, becoming a prisoner leader, assisting in guidance programs, or other services as stipulated in previously existing provisions.

Placing remission in these two positions will demonstrate its role as a stimulus for inmates to strive for self-improvement and become more fit for reintegration into society. Therefore, remission plays a crucial role in determining the success of inmate rehabilitation within the correctional system.

[23] Gita Arief Sulistiyatna, "Hak Remisi Dan Asimilasi Narapidana Di Indonesia Dalam Perspektif Hak Asasi Manusia," 55–77.

Remission arrangements can be realized from a human rights perspective if they demonstrate respect for the dignity and worth of human beings who have truly improved themselves in correctional institutions and the right to receive equal opportunities and be treated equally before the law, as stated in Article 26. International Covenant on Civil and Political Rights (ICCPR), which Indonesia ratified in Law Number 12 of 2005, states," All people have equal status before the law and have the right to equal legal protection without any discrimination."[24]

Romli Atmasasmita has stated that corruption can be considered an extraordinary crime because if we examine it from the negative side, acts of corruption are very damaging to the order of national life, as they damage the economic and social rights of the people.[25] Especially when considering the quantity and quality of existing corruption cases.

In addition, when examined from an international perspective, corruption is a crime classified as Collar Crime with complex consequences and has attracted the international community's attention. The 8th UN Congress on "Prevention of Crime and Treatment of Offenders," which confirmed the resolution "Corruption in Government" in Havana in 1990, formulated the consequences of corruption in the form of:

1. Corruption among public officials:
   a. Can destroy the potential effectiveness of all types of government programs.
   b. Can hinder development.
   c. Causing individual victims of community groups.

[24] "Undang-Undang Republik Indonesia Nomor 12 Tahun 2005 tentang Pengesahan International Covenant On Civil And Political Rights (Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik)," n.d.

[25] Ramli Atmasasmita, *Ratifikasi Konvensi Perserikatan Bangsa-Bangsa Menentang Korupsi Dan Implikasinya Terhadap Sistem Hukum Pidana Indonesia* (Jakarta: Paper, 2006), 9–10.

2. There is a close link between corruption and various forms of economic crime, organized crime, and money laundering.[2627]

Based on the above contextual assumptions, we can conclude that corruption is systemic, organized, transnational, and multidimensional, which correlates with systemic, legal, sociological, cultural, and economic aspects between countries, and so on. Therefore, corruption can be viewed from a criminal law perspective and other dimensions, such as the perspective of legal policy (law-making policy and law enforcement policy), Human Rights (HAM), and State Administrative Law. At first glance, specifically from the perspective of State Administrative Law, there is a close correlation between criminal acts of corruption and legislative products of an Administrative Penal Law nature.[28] Through the historical aspects of criminal law policy, there are statutory regulations in Indonesia, such as positive law (established right), regulating criminal acts of corruption. [29]Examined from a legal perspective, the crime of corruption is an

[26] Barda Nawawi Arief, *Beberapa Aspek Kebijakan Penegakan Dan Pengembangan Hukum Pidana* (Bandung: PT Citra Aditya Bakti, 1998), 69.

[27] *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Jakarta: Kencana Prenada Media Group, 2007), 148.

[28]In the context of Criminal Law, the term Administrative Penal Law refers to all legislative products in the form of legislation (within the scope of) State Administration that have criminal sanctions. Not all Administrative Penal Laws are criminal acts of corruption, and to determine them as criminal acts of corruption, one must refer to the provisions of Article 14 of Law Number 31 of 1999 which stipulates "Any person who violates the provisions of the Law which expressly states that the violation of the provisions of the Law is a criminal act of corruption, the provisions regulated in this law shall apply." The provisions of the above Article uphold the principle *Special Law Systematically Derogates from General Law* because through an a contrario interpretation Article 14 determines, in addition to Law Number 31 of 1999 does not emphasize that violations of criminal provisions in other laws constitute criminal acts of corruption, then Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is not valid or cannot be applied. (Romli Atmasasmita, Sekitar Masalah Korupsi Aspek Nasional dan Aspek Internasional, Penerbit CV Mandar Maju, Bandung, 2004, hlm. 45 dan vide: Indriyanto Seno Adjie," Kendala Administrative Penal Law Sebagai Tindak Pidana Korupsi & Pencucian Uang", Paper, Jakarta, 2007 and: Muladi, Kapita Selekta Sistem Peradilan Pidana, Penerbit Badan Penerbit Universitas Diponegoro, Semarang, 2002.)

[29]Positive Law (*established right*) which regulates the Criminal Act of Corruption include the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XI/MPR/1998 concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism, Law Number 28 of 1999

extraordinary crime (*extraordinary crimes*) as stated by Romli Atmasasmita, that:

"By observing the development of criminal acts of corruption, both in terms of quantity and quality, and after studying it in depth, it is not an exaggeration to say that corruption in Indonesia is not an ordinary crime but rather an extraordinary crime. Furthermore, if examined from the perspective of the negative consequences or impacts that have greatly damaged the order of life of the Indonesian nation since the New Order government until now, it is clear that acts of corruption are the robbery of the economic and social rights of the Indonesian people."[30]

Considering this classification, it is certainly not possible for a case to be an extraordinary crime. Follow-up procedures are carried out in the usual manner, including investigations, legal proceedings, and even post-verdict proceedings. This, of course, includes granting remissions. Many parties will certainly clash with this principle of equality before the law. However, equality before the law does not mean equality in all aspects; rather, it considers a person's objective circumstances. As an illustration, on a city bus, there are differences in the treatment of the elderly, pregnant women, and people with disabilities, with priority given to them for city bus seats. This contrasts with other able-bodied members of the public.

Especially if we consider Thomas Hobbes' social contract theory, which assumes that a state can be formed because citizens surrender some of their rights to the state.[31] The state must limit and even revoke the rights of citizens of other countries who do not comply

concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism. Then Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, Law Number 30 of 2002 concerning the Corruption Eradication Commission, Government Regulation (PP) Number 71 of 2000, Presidential Decree Number 11 of 2005, Presidential Instruction Number 5 of 2004 and so on.

[30] Ramli Atmasasmita, "Korupsi, Good Governance Dan Komisi Anti Korupsi Di Indonesia," *Penerbit Badan Pembinaan Hukum Nasional Departemen Kehakiman dan HAM RI*, 2002, 25.

[31] Daya Negri Wijaya, "Kontrak Sosial Menurut Thomas Hobbes dan John Locke," *Jurnal Sosiologi Pendidikan Humanis* 1, no. 2 (December 1, 2016): 187, https://doi.org/10.17977/um021v1i22016p183.

with the consensus or mutual agreement; in this case, the deal is in the form of law. The author acknowledges that Law Number 22 of 2022 concerning Corrections authorizes granting remissions. Indeed, a corruption convict is also entitled to such remissions, especially under the pretext of one of the points of Human Rights: *Equality Before The Law*.

Prisoners' rights are not inherent in human existence. Nor are they gifts from God, but rather from the state (rights arising from authority). Therefore, tightening remissions does not constitute discrimination against prisoners' human rights. Regarding the granting of remissions and release for corruption convicts, the results of the implementation review of the United Nations Convention Against Corruption, or UNCAC (United Nations Convention Against Corruption), by the international community stated that Indonesia's commitment to eradicating corruption is doubtful because it is too lax in granting remissions and conditional release to corruptors.

Sentence reductions and parole grants mean law enforcement against corruption perpetrators has no deterrent effect. Zaenur Rohman, a researcher at the Center for Anti-Corruption Studies at Gadjah Mada University (UGM), believes that the sale of remissions appears to make corruption no longer a serious crime (extraordinary crime).[32]

Zaenur believes the phenomenon of so many corruptors receiving remissions is due to the Supreme Court's (MA) 2021 revocation of Government Regulation Number 99 of 2012, which restricted the rights of corruption convicts. Under the regulation, corruption convicts could only receive remissions if they became justice collaborators, helping to uncover corruption cases, and paying off fines and restitution. However, with the revocation of Government Regulation Number 99 of 2012, all corruption convicts are entitled to remission. Separately, the Corruption Eradication Commission (KPK) assesses that once a judge's verdict in a corruption case has permanent legal force, the convicts involved become the responsibility of the Ministry of Law and Human Rights (Kemenkumham).

[32] Ahmad Nouval Dzulfaroh and Rizal Setyo Nugroho, "Korupsi Sekarang Disebut Lebih Gila, Komitmen Pemerintah Disorot," *Kompas. Com*, July 6, 2021, https://www.kompas.com/tren/read/2021/06/07/133000365/korupsi-sekarang-disebut-lebih-gila-komitmen-pemerintah-disorot?page=all#google_vignette.

Responding to criticism of selling remissions to corruptors, the government argued that it was simply enforcing existing regulations. It cited a judicial review of Government Regulation No. 99 of 2012, citing a Constitutional Court ruling that inmates have the right to remissions and conditional release.[33] Echoing this statement, Deputy Minister of Law and Human Rights Edward Omar Sharif Hiariej also stated that the policy refers to Law Number 22 of 2022 concerning Corrections, which has been ratified.

According to him, matters regarding conditional release, remission, assimilation, and the rights of convicts are regulated and refer to policy. He said that Law Number 22 of 2022 is a blessing in disguise because this Correctional Law aligns with the Supreme Court decision related to Government Regulation Number 99 of 2012. However, in reality, granting remission to corruption convicts does not have a deterrent effect. There should be no special treatment that would harm the spirit of enforcing the law on criminal acts of corruption. The following is a list of the names of corruption convicts in Indonesia who received remission in 2022-2023:[34]

List of Corruption Convicts Who Have Been Released on Parole

No.	Name of Prisoner	Case Matters	Year of Conditional Freedom
3.	Former Banten Governor Ratu Atut Chosiyah	Bribery of Constitutional Court judges and corruption of medical devices	2022
4.	Former President Director of Jasa Marga Desi Aryani	Corruption of fictitious subcontractors of PT Waskita	2022

[33] Dzulfaroh and Nugroho.

[34] Dani Prabowo and Rachel Ch., "'Hakordia 2022': Mengingat Lagi Obral Remisi untuk Koruptor Sepanjang Tahun Ini...," *Kompas. Com*, September 12, 2022, https://nasional.kompas.com/read/2022/12/09/10204021/hakordia-2022-mengingat-lagi-obral-remisi-untuk-koruptor-sepanjang-tahun-ini?page=all.

5.	Former Prosecutor Pinangki Sirna Malasari	Djoko Tjandra's Bribery	2022
6.	Member of the House of Representatives from the PDI P faction, Mirawati Basri	Garlic import bribery	2022
7.	Former Head of Bappebti Syahrul Raja Sempurnajaya	Blackmail of the chairman of the Indonesian futures brokers association	2022
8.	Former Judge Setyabudi Tejochayono	Bribery at the Bandung Corruption Court	2022
9.	Former Head of the MA Sub-Directorate Andri Tristianto Sutrisna	Bribery in handling cassation and judicial review (PK)	2022
10.	Former Director of PT Citra Mandiri Metalindo Abadi	SIM simulator corruption	2022
11.	Former head of Bank BJB Sukabumi Branch, Danis Hatmaji	BJB Syariah Corruption	2022
12.	Former Constitutional Court Judge Patrialis Akbar	Beef imports	2022
13.	Director of Population Administration Information Management (PIAK) of the	Corruption E-KTP	2022

	Ministry of Home Affairs, Sugiharto		
14.	Former Clerk of the Central Jakarta District Court, Edy Nasution	Lippo Group bribery convict	2022
15.	Former Regent of Cianjur Irvan Rivano	Corruption of education funds	2022
16.	Former Regent of Sumedang Ojang Suhandi	BPJS corruption bribery	2022
17.	Sister-in-law of Irvan Tubagus Cepy Septhiady	Corruption of education funds	2022
18.	Former Governor of Jambi Zumi Zola Zulkifli	Bribery in the Jambi Regional Budget Draft	2022
19.	Matheus Joko Santoso	COVID-19 Social Assistance	2022
20.	Former PAN politician Andi Taufan Tiro	Bribery of the PUPR Ministry project	2022
21.	Former Head of the Financing Division of Bank BJB Syariah, Arif Budiraharja	Convicted of fictitious credit	2022
22.	Former Regent of Indramayu, Supendi	Bribery of financial assistance from the West Java Provincial Government to Indramayu	2022
23.	Former Minister of Religion Suryadharma Ali	Convicted of corruption in the organization of the	2022

		Hajj	
24.	Queen Atut's younger brother, Tubagus Chaeri Wardana Chasan	Bribery of Constitutional Court judges and procurement of medical equipment	2022
25.	President Director of PT Quadra Solution, Anang Sugiana Sudihardjo	Corruption E-KTP	2022
26.	Former Nasdem Party DPC Brebes Amir Mirza Hutagalung	Convicted of bribing the Mayor of Tegal	2022
27.	Setya Novanto	Corruption E-KTP	2023

At the beginning of 2023, Indonesia received another bad gift regarding eradicating corruption, where Indonesia's Corruption Perception Index (CPI) plummeted from a score of 38 to a score of 34, or ranked 110th out of 180 countries.[35] According to TI Indonesia's records, Indonesia's ranking is now in the top 1/3 most corrupt countries globally. In Southeast Asia, it is far below Singapore, Malaysia, Timor Leste, Vietnam, and Thailand.

The decline in Indonesia's Corruption Perception Index (CPI) is the second time during Jokowi's administration; previously, it also happened in 2020, when the CPI score dropped to 37 from 40 in 2019. The CPI rose again in 2021 but plummeted again in 2022. This means that the development of Indonesia's corruption ranking during Jokowi's era can be said to have returned to zero, because the ranking position is the same as at the beginning of his administration in 2014.

This is reflected in the President's work priorities for 2019-2024, which no longer address corruption eradication. This contrasts

[35] "Laporan Akhir Tahun ICW 2022," *Indonesia Corruption Watch*, June 29, 2023, https://www.antikorupsi.org/id/laporan-akhir-tahun-icw-2022.

sharply with the *Nawacita* agenda he launched at the start of his term, which detailed: "Rejecting a weak state by reforming the system and enforcing the law to be free from corruption, dignified and trustworthy."

The declining priority of work on eradicating corruption was finally confirmed by revising the Corruption Eradication Commission Law and manipulating the National Insight Test (TWK) for KPK employees. The bold step hoped for by President Jokowi to issue a Government Regulation instead of a Law to save the KPK ultimately failed to materialize. It is therefore not surprising that the international community's perception of Indonesia as one of the most corrupt countries has strengthened again.

The tightening policy is in line with UNCAC 2003, Article 30, paragraph (5) UNCAC: "Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences." States Parties shall consider the gravity of the crime in question when considering the timing of parole or commutation of sentence for persons convicted of that crime.

Documents published by United Nation Organization on Drugs and Crimes (UNODC) in the form of a review of the implementation of UNCAC in Indonesia (point 141, page) emphasizes explicitly the importance of considering the severity of the crime committed by the convict before considering granting a reduced sentence: "The reviewers recommended that it should be ensured that the gravity of the offence of corruption is taken into account when early release or parole of convicted persons is considered. Various stakeholders in Indonesia were conscious of this as a problem. The Supreme Court said it was common knowledge that powerful people would use every avenue open to them at all stages to avoid punishment".

Corruption is an Extraordinary Crime, based on the consideration of letter (a) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which states: "That the criminal acts of corruption which have been occurring on a widespread basis have not only caused losses to state finances, but have also constituted a violation of the social and economic rights of the wider community, so

that the criminal acts of corruption need to be classified as crimes whose eradication must be carried out extraordinarily."[36]

Widespread and systematic corruption also violates the social and economic rights of the people. Therefore, corruption can no longer be classified as an ordinary crime but has become extraordinary. Likewise, efforts to eradicate it can no longer be carried out in ordinary ways but require exceptional measures.

The point of confusion in the correctional law is that Article 10 indirectly states that those convicted of corruption crimes are included in the subjects entitled to remission if they use the pretext of *equality before the law*. However, considering Article 28 of the 1945 Constitution of the Republic of Indonesia, human rights can be overridden without legal restrictions. This can be applied to restrictions on granting remissions to corruption convicts, thus requiring an amendment to Article 10 of Law Number 22 of 2022 concerning Corrections. This can be implemented by making exceptions for remissions for corruption crimes in the Corruption Crimes Law (the Corruption Law), which would then apply the "Lex Specialist" principle for corruption convicts.

Conclusion

Based on the research results and discussions discussed in the previous section of this research, the following conclusions can be drawn: If viewed from the perspective of *siyāsah tasyrī'iyyah*. Based on Islamic legal principles, Law Number 22 of 2022 concerning Corrections, Article 10, paragraphs 2-3, only fulfills two principles: gradual lawmaking and minimizing the time required to create laws. Meanwhile, regarding the principle of providing convenience and relief, the enactment of statutes follows the principle of human rights, realizing that equal justice has not been fulfilled. Article 10 of the Correctional Law indirectly states that those convicted of corruption are included in the subjects entitled to remission if they use the pretext of equality before the law. However, considering Article 28 of the 1945 Constitution of the Republic of Indonesia, human rights can be

[36] "Undang-Undang Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pi dana Korupsi.," n.d.

overridden without legal restrictions. This can be applied to restrictions on granting remissions to corruption convicts, thus requiring an amendment to Article 10 of Law Number 22 of 2022 concerning Corrections.

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