

Juridical Review of Prisoners' Conditional Rights After Law No. 22 of 2022 on Corrections: Eliminating Discrimination for Special-Crime Inmates

Mahendra Setiadji^{1*}, Syahrul Borman², M.Yustino Aribawa³

Universitas Dr. Soetomo, Surabaya, Indonesia^{1,2,3}

m4h3nrest@gmail.com^{1*}



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Abstract

Purpose: This study aims to analyze the implementation of prisoners' conditional rights following the enactment of Law Number 22 of 2022 concerning Corrections, particularly regarding the elimination of discriminatory treatment in granting remission, assimilation, and parole for prisoners convicted of special crimes.

Research Methodology: This research employs a normative juridical method using statutory, conceptual, and analytical approaches. Data were collected through a literature review of primary, secondary, and tertiary legal materials and analyzed qualitatively.

Result: The findings indicate that Law Number 22 of 2022 strengthens the principle of non-discrimination by providing equal opportunities for all prisoners to obtain conditional rights based on objective criteria, including behavior, participation in correctional programs, and risk assessment results. The policy reflects a shift from a punitive approach toward rehabilitation and social reintegration. Nevertheless, implementation challenges remain, including differing public perceptions, institutional limitations, and the need for regulatory harmonization.

Conclusions: The law represents a significant reform in Indonesia's correctional system by promoting equality before the law, human rights protection, and rehabilitation-oriented corrections. The elimination of discriminatory requirements supports fairer treatment of prisoners and contributes to the effectiveness of correctional administration.

Limitations: This study is limited to a normative legal analysis and does not comprehensively examine empirical implementation across correctional institutions.

Contributions: The study contributes to the development of correctional law scholarship and provides policy recommendations for strengthening a fair, humane, and rights-based correctional system.

Keywords: *Conditional Rights, Corrections, Non-Discrimination, Parole, Remission*

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1. Introduction

Indonesia's correctional system has undergone a fundamental paradigmatic transformation with the enactment of Law Number 22 of 2022 concerning Corrections (Correctional Law), which replaced the previous regulatory framework. This transformation carries profound philosophical and practical implications for the implementation of prisoners' rights, particularly conditional rights such as remission and parole. One of the most significant changes introduced by the Correctional Law is the elimination of discriminatory treatment in the granting of these rights for prisoners convicted of special crimes, which were previously regulated more restrictively under Government Regulation Number 99 of 2012. This reform reflects a shift toward a more equitable, human rights-oriented correctional system that emphasizes rehabilitation, social reintegration, and the principle of equality before the law.

Historically, prisoners convicted of special offenses, such as corruption, terrorism, narcotics-related crimes, crimes against state security, gross human rights violations, and transnational organized crimes, were subject to significantly stricter requirements for obtaining remission and parole. This differential treatment was justified on the grounds that special crimes carry broader and more severe consequences for society, thereby requiring a stronger deterrent effect. However, such discriminatory practices have generated extensive debate within criminal law and human rights discourse, particularly concerning the constitutionally guaranteed principle of equality before the law. Critics argue that imposing additional restrictions on certain categories of prisoners undermines equal legal treatment and conflicts with the rehabilitative objectives of the correctional system.

The complexity of this issue is further compounded by the reality of severe overcrowding in Indonesian correctional institutions. Data from the Directorate General of Corrections indicate that occupancy rates have reached 200–300 percent of designed capacity in many regions, threatening the fundamental objectives of rehabilitation and social reintegration. Under these circumstances, conditional rights such as remission and parole should function as instruments for alleviating overcrowding. However, discriminatory restrictions on these rights have instead exacerbated the problem, contributing to prolonged incarceration and undermining the effectiveness of correctional programs.

Despite formal regulatory reform, the implementation of non-discriminatory conditional rights continues to face significant challenges, including differing interpretations among correctional personnel, public pressure regarding the treatment of special-crime offenders, and the need for harmonization between the Correctional Law and relevant sectoral statutes. Several research gaps remain inadequately addressed in the existing literature, including the absence of longitudinal analyses of the reform's impact, limited holistic coverage of all forms of conditional rights, insufficient multi-stakeholder perspectives, and underdeveloped analysis of accountability mechanisms in conditional rights administration.

Previous studies have examined various dimensions of this issue from different angles. [Prasetyo and Wibowo \(2020\)](#) identified structural barriers in remission practices that conflicted with international human rights instruments, while [Santoso et al. \(2021\)](#) documented inconsistencies in judicial interpretations of parole requirements across Indonesian courts. From a comparative perspective, [Maharani and Pratama \(2022\)](#) demonstrated that Indonesia's pre-reform system was significantly more discriminatory than those of Malaysia and Singapore, both of which employ individualized, merit-based assessment mechanisms. [Raharjo et al. \(2023\)](#) further established that recidivism outcomes are more strongly determined by rehabilitation program quality and socio-economic support than by offense category, and [Nurjaya et al. \(2023\)](#) found that implementation resistance persists at the operational level despite formal regulatory change. Collectively, these studies underscore the need for a more comprehensive juridical analysis of the reform introduced by Law Number 22 of 2022.

Based on the foregoing, this study aims to: (1) analyze the legal construction of prisoners' conditional rights under Law Number 22 of 2022, particularly regarding the elimination of discrimination in remission and parole for special-crime offenders; (2) evaluate the gap between legal norms and actual

implementation practices; (3) examine the harmonization of the Correctional Law with relevant sectoral regulations; and (4) identify the challenges and prospects for implementing a non-discriminatory conditional rights system that upholds rehabilitation, public protection, and justice.

2. Literature Review

2.1 Theory of the Purposes of Punishment and the Correctional System

The philosophical foundation of Indonesia's correctional system has undergone a significant paradigmatic shift, moving from a retributive orientation toward a rehabilitative approach centered on social reintegration. [Adiputra, Suardana, and Dewi \(2021\)](#) identify four integrated objectives of punishment within Indonesia's correctional framework: protecting society, rehabilitating prisoners into responsible citizens, providing deterrence, and restoring social balance. The granting of conditional rights, including remission and parole, functions as an instrument to achieve balance among these objectives.

This rehabilitative paradigm is reinforced by the principle of restorative justice. [Widiarta and Purwanti \(2022\)](#) argue that a modern correctional system should involve victims and the broader community in the process of social reintegration, not merely focus on offenders. [Hermanto, Iskandar, and Rachman \(2023\)](#) identify a global trend toward more humane corrections in Asian countries, noting that Indonesia is currently in a transitional phase in which formal regulations embrace rehabilitation while actual practices remain influenced by a retributive mindset. The principle of individualized sentencing, as discussed by [Sumaryanto and Priyanto \(2021\)](#), further requires that the execution of punishment be tailored to the individual characteristics of each prisoner, including behavioral progress and readiness for reintegration, rather than being determined solely by the category of offense committed.

2.2 The Principle of Non-Discrimination and Equality in Criminal Law

The principle of non-discrimination constitutes the central philosophical underpinning of the reform introduced by Law Number 22 of 2022. From a constitutional perspective, [Hamzah and Angkasa \(2022\)](#) argue that differential treatment based solely on the type of offense potentially violates Article 28D paragraph (1) of the 1945 Constitution, which guarantees equal treatment before the law, unless such differentiation satisfies a proportionality test and serves a legitimate constitutional objective. Their analysis demonstrates that the discriminatory measures previously applied under Government Regulation Number 99 of 2012 failed this proportionality test, as they were not proven effective in achieving deterrence or public protection.

From the perspective of international law, [Kusumawati, Rahman, and Setiawan \(2021\)](#) find that key international instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the Nelson Mandela Rules, consistently emphasize non-discriminatory treatment of prisoners. [Utomo and Saputra \(2023\)](#) similarly demonstrate through an analysis of international human rights jurisprudence that any differentiation in the treatment of prisoners must be objectively justified and necessary, with courts accepting individualized risk-based distinctions but rejecting categorical differentiation based solely on offense type.

Scholarly debate also highlights the tension between formal and substantive equality. [Susanto, Wijayanti, and Prabowo \(2023\)](#) argue that formal equality alone is insufficient, as prisoners from different socio-economic backgrounds possess unequal capacities to satisfy conditional rights requirements. They find that even after the removal of offense-based discrimination, a new disparity may emerge based on economic capacity, with prisoners who can access legal assistance exhibiting higher success rates in obtaining conditional rights. This tension calls for a substantive equality approach that considers both equality of access and equality of outcomes.

2.3 The Concept of Remission in the Correctional System

Remission has evolved from a discretionary privilege into a right that may be claimed by prisoners upon satisfying prescribed criteria. [Wahyudi, Arifin, and Nugroho \(2021\)](#) trace this paradigm shift in Indonesian law and identify its implications for the burden of proof in correctional administration:

under the entitlement concept, correctional authorities bear the obligation to grant remission unless they can demonstrate a prisoner's non-compliance. [Handayani and Kurniasih \(2022\)](#) find through a comparative study that countries with flexible, individualized remission systems tend to exhibit lower recidivism rates, and that the effectiveness of such systems depends largely on the quality of prisoner assessments and rehabilitation programs.

Administrative challenges in implementing remission policies are documented by [Firmansyah and Rochmat \(2021\)](#), who identify a shortage of officers with assessment competencies, the absence of standardized operational procedures, and inadequately integrated information systems as key obstacles. These findings are directly relevant to the implementation of Law Number 22 of 2022, which requires more nuanced individual assessment. The potential normative conflict between the Correctional Law and sectoral statutes, such as the Anti-Corruption Law, is addressed by [Saputro, Wijaya, and Hartono \(2023\)](#), who argue that based on the principles of *lex posterior derogat legi priori* and *lex specialis systematis*, the Correctional Law should prevail as the governing framework for the execution of criminal sentences.

2.4 Parole as an Instrument of Social Reintegration

Parole serves as a mechanism for the gradual transition of prisoners back into society under structured supervision. [Widodo, Setiawan, and Prasetya \(2022\)](#) provide empirical evidence that parole, when properly implemented, significantly reduces recidivism compared to full-term incarceration, and identify supervision intensity, pre-release preparation, family support, and employment access as the primary determinants of parole success. The psychosocial challenges of the transition process are explored by [Fitriani, Hidayat, and Kurniawan \(2021\)](#), who document social stigma, employment difficulties, and psychological pressure as major barriers faced by parolees, underscoring the need for comprehensive psychosocial assistance.

Structural constraints in Indonesia's parole supervision system are identified by [Gunawan and Nurhayati \(2023\)](#), including excessive caseloads, limited resources, and insufficient inter-agency coordination, which contribute to significant regional disparities in parole outcomes. [Kusuma, Atmaja, and Sari \(2023\)](#) propose the integration of restorative justice principles into the parole process, arguing that facilitating dialogue between parolees and victims can enhance both the legitimacy and the effectiveness of the parole system by fostering accountability beyond mere compliance with state-imposed conditions.

2.5 Risk-Need Assessment Systems

The implementation of a non-discriminatory yet effective system of conditional rights requires objective, evidence-based assessment mechanisms. Risk-Need Assessment (RNA) systems have emerged as a scientifically grounded approach to conditional rights decision-making. [Santosa, Purnomo, and Laksono \(2021\)](#) validate several adapted international instruments, including the Level of Service Inventory- Revised (LSI-R), for the Indonesian correctional context and find that prior criminal history, family support, and access to employment are among the strongest predictors of recidivism risk.

[Rahmawati, Sulistyono, and Hadi \(2022\)](#) find that most Indonesian correctional institutions continue to rely on subjective officer judgment, with only a minority utilizing standardized assessment tools, largely due to limited staff training and the absence of validated instruments designed for the Indonesian context. [Nugraha, Wijayanto, and Pertiwi \(2023\)](#) further argue for the inclusion of dynamic factors, such as changes in attitudes, emotional regulation capacity, and social relationships, alongside static risk indicators, and develop the Dynamic Risk Assessment for Indonesia (DRAI) instrument for this purpose. [Setiawan, Hidayat, and Kurniawan \(2023\)](#) demonstrate the effectiveness of an integrated Risk-Need- Responsivity (RNR) model, reporting reductions in recidivism and improved compliance with parole conditions following its implementation in pilot correctional institutions.

The application of risk-based assessment systems is also consistent with international correctional standards that emphasize individualized treatment and evidence-based decision-making. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) encourage correctional authorities to classify prisoners according to their rehabilitation needs and risk profiles rather than relying solely on the nature of the offense. By incorporating structured assessment instruments into decisions regarding remission, assimilation, and parole, correctional institutions can improve transparency, consistency, and accountability while reducing the potential for arbitrary or discriminatory practices.

Despite these advantages, the successful implementation of standardized assessment systems requires substantial institutional support. Adequate training for correctional officers, periodic validation of assessment instruments, integrated digital data management, and independent oversight mechanisms are essential to ensure reliability and fairness. Furthermore, continuous evaluation is necessary to determine whether assessment outcomes accurately predict rehabilitation progress and recidivism risk within the Indonesian context. Strengthening these supporting factors would enhance public confidence in the correctional system while maintaining a balance between prisoner rights, community safety, and the broader objectives of social reintegration.

3. Research Methodology

This study employs a normative juridical method supported by an informant-based approach to enrich the normative analysis. The normative component involves systematic examination of primary legal materials, including the 1945 Constitution, Law Number 22 of 2022, Government Regulation Number 99 of 2012, and relevant sectoral statutes, as well as secondary legal materials comprising scholarly literature, court decisions, and international instruments. Three analytical approaches are applied: a statutory approach examining the hierarchy and content of applicable regulations, a conceptual approach drawing on legal doctrines and principles of criminal law and human rights, and a comparative approach analyzing Indonesia's conditional rights framework against international standards and regional practices.

In addition to the literature review as the primary source of data, this research incorporates an informant-based model to enrich the normative analysis. Informants were selected purposively, consisting of individuals possessing expertise and practical experience in the correctional field, including correctional institution officials, criminal law academics, and legal practitioners with a comprehensive understanding of the implementation of prisoners' conditional rights. Data from informants were collected through semi-structured interviews aimed at exploring their understanding, interpretations, and practical experiences regarding the implementation of the provisions of Law Number 22 of 2022 in practice.

Interview data were analyzed through a qualitative process comprising data reduction, identifying and coding legally and practically significant statements, data display by organizing themes across informant responses, and conclusion drawing by interpreting findings within the normative legal framework. To enhance credibility, source triangulation was applied by cross-referencing informant statements with documentary evidence from relevant regulations, official reports of the Directorate General of Corrections, and scholarly literature. Member-checking was conducted with selected informants to verify the accuracy of interpretations.

The primary limitation of this methodology is its reliance on a small number of purposively selected informants, which restricts the generalizability of empirical findings to the broader Indonesian correctional system. The normative analysis remains the principal analytical framework, with informant data serving to illuminate the gap between legal norms (*das sollen*) and implementation realities (*das sein*).

4. Results and Discussions

4.1 Juridical Construction of Prisoners' Conditional Rights Following the Enactment of Law Number 22 of 2022 on Corrections

4.1.1 The Normative Framework: From Discrimination to Equality

The normative analysis reveals that Law Number 22 of 2022 fundamentally restructures the legal basis for granting conditional rights to prisoners. Under the previous regulatory framework established by Government Regulation Number 99 of 2012, prisoners convicted of special crimes, including corruption, narcotics offenses, terrorism, and gross human rights violations, were subject to additional substantive requirements not applicable to ordinary offenders. These included the obligation to pay fines and compensation payments, the provision of cooperation as a justice collaborator, and other conditions that created structural barriers to accessing conditional rights.

Law Number 22 of 2022 replaces this differentiated framework with a unified system in which conditional rights, including remission, assimilation, pre-release leave (*cuti menjelang bebas*), conditional leave, and parole, are granted based on behavioral indicators, participation in correctional programs, compliance with institutional regulations, and the results of risk and needs assessments. The type of criminal offense is no longer the primary criterion for restricting access to these rights. This construction directly implements Article 28D paragraph (1) of the 1945 Constitution, which guarantees equal protection and treatment before the law, and aligns with the non-discrimination principles of the Nelson Mandela Rules and the ICCPR, as noted by [Kusumawati et al. \(2021\)](#).

Informants from criminal law academic circles consistently viewed this reform as constitutionally necessary. One academic informant stated: "The previous system placed the burden of additional requirements on offenders of certain crime categories without demonstrating that these requirements were effective in achieving their stated purposes. That is precisely the kind of disproportionate differentiation that the Constitutional Court has warned against." This perspective is consistent with the constitutional analysis of [Hamzah and Angkasa \(2022\)](#), who find that the prior discriminatory measures failed to satisfy the proportionality test under Indonesian constitutional law.

4.1.2 Implementation of the Elimination of Discrimination in Correctional Practice

A key finding of the normative analysis is the potential disharmony between Law Number 22 of 2022 and sectoral statutes that previously contained specific provisions regarding the conditional rights of special-crime offenders. The Anti-Corruption Law (Law Number 20 of 2001), the Narcotics Law (Law Number 35 of 2009), and the Counter-Terrorism Law (Law Number 5 of 2018) each contain provisions or have been interpreted as supporting more restrictive treatment of convicted offenders in the execution of their sentences.

The resolution of this conflict rests on two legal principles: *lex posterior derogat legi priori* (the later law supersedes the earlier) and the systematic application of *lex specialis*, which, in the correctional context, positions Law Number 22 of 2022 as the specific governing statute for the execution of criminal sentences. As argued by [Saputro et al. \(2023\)](#), this interpretation renders the Correctional Law the primary legal framework for determining prisoners' rights during incarceration, regardless of the offense category.

However, the empirical data reveal that this legal resolution is not uniformly understood at the operational level. One correctional official informant noted: "There is still confusion about which regulation applies when we process remission applications for corruption or narcotics cases. Some colleagues continue to apply the stricter standards from the old regulations because they are uncertain about what the new law actually requires." This finding confirms the risk of normative disharmony translating into inconsistent implementation practices.

4.2 Implementation of Non-Discriminatory Conditional Rights: Gap Between *Das Sollen* and *Das Sein*

4.2.1 Administrative Procedures and Persistent Operational Disparities

From a procedural standpoint, correctional institutions have adopted unified administrative procedures for processing conditional rights applications that formally apply to all prisoners regardless of offense category. However, the interview data reveal persistent disparities in the rigor of verification applied

to applications submitted by prisoners convicted of special crimes.

Multiple informants from correctional institutions acknowledged that applications involving corruption or narcotics offenses tend to receive more intensive scrutiny, not due to formal regulatory requirements, but due to external pressure. One correctional official stated: "When a corruption case comes up for remission, we know it will be scrutinized by the media and the public. The process becomes more cautious, more documented, even if the prisoner meets all the formal criteria." A legal practitioner informant corroborated this observation: "In practice, the standard is not equal—the workload and the standard of proof applied differs depending on the type of case." These findings echo the observations of [Nurjaya et al. \(2023\)](#) regarding the gap between formal regulations and operational practices.

Comparative analysis reveals that the magnitude of this gap varies by region. Informants from institutions with more active training programs and clearer internal guidelines reported greater confidence in applying the new framework consistently. This finding is consistent with the regional disparities in parole outcomes documented by [Gunawan and Nurhayati \(2023\)](#), suggesting that institutional capacity is a significant mediating variable in the implementation of non-discriminatory policies.

Table 1. Comparison of conditional rights frameworks: before and after Law number 22 of 2022

Aspect	PP No. 99/2012 (Before)	UU No. 22/2022 (After)
Eligibility basis rehabilitation assessment	Offense category (special vs ordinary)	Behavior, progress, risk
Additional requirements (special crimes)	Justice collaborator status, payment of fines/restitution (corruption); rehabilitation certificate (narcotics)	None; unified criteria for all prisoners
Assessment basis	Primarily administrative/categorical	Individual risk-need assessment recommended
Constitutional. 28D(1) alignment	Disputed, failed proportionality test	Aligned with Art. UUD 1945
International human rights alignment	Partial, derogated from Nelson Mandela Rules	Aligned with Nelson Mandela Rules and ICCPR

To illustrate the structural transformation brought about by Law Number 22 of 2022, Table 1 presents a systematic comparison of the conditional rights frameworks applicable before and after the enactment of the law. The comparison covers five key dimensions: the legal basis for eligibility, the existence of additional requirements specific to special-crime offenders, the method of individual assessment, constitutional alignment, and conformity with international human rights standards. The table demonstrates that the reform not only removes categorical barriers but also necessitates a more individualized, evidence-based approach to conditional rights administration, representing a fundamental shift in both the normative and operational dimensions of correctional practice in Indonesia

4.2.2 The Shift from Retributive to Rehabilitative Paradigm

The elimination of discrimination reflects a broader paradigm shift in Indonesia's sentencing philosophy. The prior framework's additional requirements for special-crime offenders served primarily retributive and deterrent objectives, treating more severe punishment as both justified by the gravity of the offense and necessary to protect society. The new framework repositions rehabilitation and social reintegration as the primary objectives of correctional policy.

This shift aligns with the theoretical framework articulated by [Adiputra, Suardana, and Dewi \(2021\)](#), who emphasize that the four objectives of punishment, namely protection, rehabilitation, deterrence,

and social restoration, should function as an integrated whole rather than a hierarchy that invariably privileges deterrence over rehabilitation for certain offense categories. Importantly, the empirical evidence cited by [Raharjo, Sholehuddin, and Wijaya \(2023\)](#) indicates that recidivism outcomes are more strongly influenced by the quality of rehabilitation programs and socio-economic support than by the length of incarceration or the category of offense. This suggests that maintaining categorical restrictions on conditional rights may have been counterproductive to the very public safety objectives it purported to serve.

However, a critical analytical tension exists: as [Andriansyah, Mulyadi, and Siregar \(2023\)](#) document, a substantial majority of the Indonesian public continues to prioritize retributive responses to special crimes. This creates a legitimacy challenge for the new framework, as public confidence in the correctional system may be undermined if the eliminating of discriminatory restrictions is perceived as reducing accountability for high-impact offenses such as corruption. The implementation of Law Number 22 of 2022 must therefore navigate not only the legal and institutional dimensions of this reform but also the socio-political dimension of public acceptance.

4.2.3 The Importance of Risk-Need Assessment in Non-Discriminatory Conditional Rights

The elimination of offense-category differentiation does not imply the removal of selectivity from the conditional rights system. On the contrary, the new framework demands more sophisticated, individualized assessment mechanisms. The Risk Need Assessment (RNA) approach, as validated for the Indonesian context by [Santosa et al. \(2021\)](#) and developed further by [Nugraha et al. \(2023\)](#) through the Dynamic Risk Assessment for Indonesia (DRAI) instrument, provides a scientifically grounded basis for distinguishing between prisoners who are ready for conditional release and those who require further intervention.

The critical finding here is that the implementation of RNA systems in Indonesian correctional institutions remains underdeveloped. Informant data confirm the assessments of [Rahmawati et al. \(2022\)](#) that most officers lack formal training in structured risk assessment and continue to rely on subjective judgment. This gap between the normative framework, which now requires individualized assessment, and the institutional capacity to conduct such assessments represents a major implementation challenge. Without adequate RNA systems, the principled basis for distinguishing between prisoners in granting conditional rights is weakened, potentially replacing offense-category bias with equally problematic subjective officer bias.

The integrated Risk Need Responsivity (RNR) model piloted by [Setiawan et al. \(2023\)](#) demonstrates that systematic implementation of RNA-based decision-making can improve parole compliance and reduce recidivism. This evidence supports a policy direction in which the elimination of categorical discrimination is accompanied by investment in objective, structured assessment tools and capacity building for correctional personnel.

4.2.4 The Relevance of Eliminating Discrimination to Addressing Correctional Overcrowding

The findings indicate that the elimination of discrimination in the granting of conditional rights contributes significantly to efforts aimed at reducing overcrowding in correctional institutions. Overcrowding has long been identified as one of the most critical structural challenges facing Indonesia's correctional system, with many facilities operating well beyond their designed capacity and thereby undermining the quality of rehabilitation programs, prisoner health and safety, and the overall effectiveness of correctional management. By expanding access to remission and parole for all prisoners who satisfy the applicable requirements, regardless of offense category, Law Number 22 of 2022 creates a normative pathway for more effective and sustainable management of correctional populations.

These findings are consistent with international practices identified by [Maharani and Pratama \(2022\)](#), who noted that countries such as Malaysia and Singapore implement more flexible parole systems while maintaining relatively low recidivism rates. The comparative evidence suggests that the availability of conditional release mechanisms for a broader population of prisoners does not

inherently compromise public safety, provided that release decisions are grounded in rigorous individual risk-need assessments. Within the Indonesian context, the elimination of categorical restrictions on conditional rights may therefore form part of a long-term strategy for developing a correctional system that is more humane, efficient, and oriented toward social reintegration. This strategy, however, requires parallel investment in rehabilitation infrastructure, post-release supervision capacity, and inter-agency coordination to ensure that expanded access to conditional rights translates into improved correctional outcomes rather than simply reduced institutional populations.

4.2.5 Balancing Non-Discrimination with Public Protection and Victims' Interests

A final critical dimension of the findings concerns the balance between prisoners' rights and the interests of victims and society. The elimination of discrimination should not be interpreted as unconditional entitlement to conditional rights. As [Widiarta and Purwanti \(2022\)](#) argue, a restorative justice approach requires that the granting of conditional rights be embedded within a process that considers the interests of victims and the broader community, not merely the procedural compliance of the applicant.

One legal practitioner informant expressed this tension as follows: "The law is clear that everyone has an equal right to remission based on behavior. But the public's question is: what does 'equal' mean for a corruption offender who has caused harm to thousands of people versus someone who committed a minor offense? Equal process, yes, but is the outcome equally just?" This question reveals the distinction between formal equality and substantive justice that [Susanto, Wijayanti, and Prabowo \(2023\)](#) identify as central to the correctional reform debate.

The resolution of this tension does not require reintroducing categorical discrimination, but rather developing more robust oversight and accountability mechanisms for the granting of conditional rights. These would include transparent RNA-based assessments, victim notification mechanisms, independent review panels for high-profile cases, and post-release monitoring systems, as exemplified by Singapore's structured parole supervision model examined by [Maharani and Pratama \(2022\)](#). Such mechanisms can ensure that the non-discriminatory framework is both principled and accountable.

5. Conclusions

5.1 Conclusion

Law Number 22 of 2022 on Corrections represents a significant and constitutionally grounded reform of Indonesia's correctional system. By eliminating differential treatment in the granting of remission and parole based on the category of offense, the law reinforces the principle of equality before the law guaranteed by Article 28D paragraph (1) of the 1945 Constitution and aligns Indonesia's correctional framework with international human rights standards, including the Nelson Mandela Rules and the ICCPR.

The study finds, however, that formal legal reform has not yet translated fully into consistent implementation. A gap persists between the normative framework (*das sollen*) and operational realities (*das sein*), manifesting in differential verification burdens for special-crime cases, uneven understanding of the new framework among correctional personnel, and the absence of standardized risk-need assessment systems capable of providing an objective basis for conditional rights decisions. Regulatory disharmony between the Correctional Law and sectoral statutes further contributes to implementation inconsistency.

The principal contribution of this study lies in demonstrating that the success of Law Number 22 of 2022 depends not only on its normative provisions but on the development of three enabling conditions: (1) a robust, standardized Risk-Need Assessment system to replace categorical offense-based differentiation; (2) systematic capacity building for correctional personnel; and (3) accountability mechanisms, including victim notification and independent review, that maintain public confidence without reintroducing discriminatory barriers. The elimination of discrimination and the protection of public interests are not inherently contradictory; they can be reconciled through evidence-based, transparent, and procedurally accountable implementation.

5.2 Research Limitations

This study has several limitations that should be considered when understanding and interpreting its findings. First, the research employs a normative juridical approach that focuses primarily on the analysis of legislation, legal doctrines, and relevant scholarly literature. Consequently, the study places greater emphasis on normative and conceptual aspects rather than on empirical measurements of the effectiveness of conditional rights implementation across correctional institutions throughout Indonesia. Second, the empirical data utilized in this study are limited to a selected number of informants and specific data sources. As a result, the findings may not fully represent the implementation of correctional policies across the diverse regions of Indonesia, each of which possesses distinct characteristics and challenges. Variations in institutional capacity, human resources, and social conditions may significantly influence the implementation of conditional rights within individual correctional institutions.

Third, this study focuses exclusively on the implementation of conditional rights following the enactment of Law Number 22 of 2022 on Corrections. Therefore, other important aspects of correctional reform, including the effectiveness of rehabilitation programs, recidivism rates, long-term social reintegration outcomes, and the broader economic and social impacts of the policy, have not been examined in depth. Fourth, the dynamic nature of correctional regulations and policies allows for the possibility of future changes in the mechanisms governing the implementation of conditional rights. Accordingly, the findings of this study should be interpreted within the regulatory context that existed at the time the research was conducted. Future legal and policy developments may influence both the applicability and relevance of the conclusions presented in this study.

5.3 Suggestions and Directions for Future Research

Based on the findings of this study and the limitations identified, several recommendations can be proposed for future research. First, future studies are encouraged to employ empirical approaches or mixed-methods designs involving a broader range of respondents, including correctional officers, prisoners, former prisoners, law enforcement officials, academics, and members of the public. Such an approach is expected to provide a more comprehensive understanding of the implementation of conditional rights in practice. Second, future research should examine the effectiveness of the non-discrimination principle within the correctional system in relation to recidivism rates and the success of prisoners' social reintegration after their return to society. Longitudinal studies conducted over an extended period would provide more accurate evidence regarding the impact of conditional rights policies on behavioral change among prisoners and the likelihood of reoffending.

Third, comparative studies between Indonesia and other countries that have adopted rehabilitation-based correctional systems may be undertaken to identify best practices in the provision of integration rights and prisoner rehabilitation programs. The findings of such studies could serve as valuable input for the development of more effective and evidence-based correctional policies. Fourth, future research should further explore the mechanisms of risk and need assessment employed in the granting of remission and parole. Such studies are important for evaluating the objectivity, transparency, and accountability of assessment systems, thereby enhancing public trust in correctional policies and decision-making processes.

Fifth, future studies may investigate the relationship between the implementation of conditional rights and efforts to address overcrowding in correctional institutions. More in-depth analyses of the impact of these policies on institutional management efficiency, the quality of rehabilitation programs, and the protection of human rights would make a significant contribution to the continued development and improvement of Indonesia correctional system.

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Author Contributions

MS conceived and designed the study, conducted the legal analysis, and drafted the manuscript. SB contributed to data collection, literature review, interpretation of legal materials, and manuscript revision. MYA supervised the research process, validated the findings, provided critical intellectual input, and reviewed the final manuscript. All authors read and approved the final version of the manuscript.

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