



Release and Social Reintegration of Prisoners from the Perspective of John Rawls' Theory of Justice

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Abstract

The conditional release of corruption prisoners is contrary to the sense of justice. Penitentiary releases prisoners for adhering to the concept of social reintegration as an important stage in the correctional system in which prisoners are reunited with society. The problem to be discussed is how the perspective of John Rawls' theory of justice on conditional release and social reintegration of prisoners. The purpose of the research is to discuss the perspective of John Rawls' theory of justice on conditional release and social reintegration of prisoners. Normative legal research methods are used with legislation and conceptual approaches that analyse secondary data, namely primary legal materials and secondary legal materials, where data is collected using document or library study techniques, then analysed qualitatively. The conclusions, first, the release especially conditional release of prisoners including corruption prisoners is the right of prisoners after they have met the predetermined requirements and the social reintegration is an important stage in reuniting prisoners with society. Second, the perspective of John Rawls' theory of justice on conditional release and social reintegration of prisoners prioritizes equal treatment of prisoners including corruption prisoners who have basic rights and freedoms. The distribution of income and wealth to prisoners does not need to be the same but must benefit everyone including prisoners, and there is access for prisoners to positions and responsibilities as members of society.

Keywords: Release; Social Reintegration; Prisoners

A. Introduction

The release especially conditional release of prisoners becomes a hot news topic when those released are categorized as corruption prisoners.¹ The conditional release of corruption prisoners has drawn criticism from community representatives who consider the release of

¹ CNN Indonesia, "Kemenkumham: Total 23 Narapidana Korupsi Dapat Pembebasan Bersyarat," *CNN Indonesia*, September 7, 2022, <https://www.cnnindonesia.com/nasional/20220907105045-12-844453/kemenkumham-total-23-narapidana-korupsi-dapat-pembebasan-bersyarat>.

these perpetrators to have injured the victims, namely all Indonesian people.² Although Mahfud MD as the Coordinating Minister for Political, Legal, and Security Affairs has conveyed to the public that the rules for the conditional release of corruptors have met the formal legal requirements of applicable regulations,³ the release of these prisoners in the view of Budiman Tanuredjo as a KompasTV journalist is very painful for justice for the people.⁴ Freedom after going through a legal process or procedure that should and has the right to be enjoyed by prisoners seems to be a problem. In other words, the conditional release of corruption prisoners is contrary to the sense of justice. Perhaps in the spirit of providing a deterrent effect, there is no need for corruption prisoners to be released or even given rights as a form of retaliation for their actions that have harmed victims and even society as victims.

Seeing justice both for prisoners or for victims and even for the community can use the perspectives of various theories of justice from experts. Plato is of the view that the idea of justice will be more easily achieved perfectly under the rule of a wise person who allows the creation of everyone's participation in realizing the ideas of justice. Meanwhile, Aristotle's view of legal justice is shown from a better relationship with one another, not prioritizing other parties, having equality, and not prioritizing oneself. Finally, the view of John Rawls regarding justice as fairness, namely equality in the original position where no one knows the location, wealth, intelligence, and social status to produce agreement on the fairest forms of government and types of social cooperation.⁵

Penitentiary releases prisoners including corruption prisoners for adhering to the concept of social reintegration as an important stage in the correctional system in which prisoners are reunited with society. Social reintegration of prisoners is the main reason for the implementation of the correctional system, one of which is to provide conditional release without discrimination to all prisoners including corruption prisoners. Social reintegration is

² Martin Ronaldo, "Pembebasan Bersyarat 23 Napi Korupsi Menuai Kritik," *Sindonews.com*, September 10, 2022, <https://nasional.sindonews.com/read/881467/13/pembebasan-bersyarat-23-napi-korupsi-menuai-kritik-1662786560>.

³ Dian Erika Nugraheny, "Mahfud: Aturan Pembebasan Bersyarat Koruptor Sudah Memenuhi Syarat," *Kompas.com*, September 8, 2022, <https://nasional.kompas.com/read/2022/09/08/12201841/mahfud-aturan-pembebasan-bersyarat-koruptor-sudah-memenuhi-syarat>.

⁴ Sadryna Evanalia, "Ramai-Ramai Napi Koruptor Bebas Bersyarat, Menyakitkan Keadilan Rakyat! OPINI BUDIMAN," *Kompas.TV*, September 12, 2022, <https://www.kompas.tv/article/327442/ramai-ramai-napi-koruptor-bebas-bersyarat-menyakitkan-keadilan-rakyat-opini-budiman>.

⁵ Joko Susanto and Falikha Ardiyani Zjubaidi, *Implementasi Asimilasi Kerja Sosial Narapidana Tipikor: Dalam Rangka Revitalisasi Pemasarakatan* (Jakarta: CV. Amerta Media, 2020), 5, 17-18 and 21-22.

based on the understanding that crime is only a symptom of disorganization in society⁶ as evidenced by the actions of members of society, namely prisoners who are unable to adjust to the values and norms in society. After the member of society has the status of a prisoner, he is given back a wide space to prepare himself to return to society through the granting of conditional release. In the process of social reintegration, the role of society is very important as a supervisor and guide for prisoners as they adapt to their social environment.⁷

Until the end of 2021, the number of prisoners receiving conditional release throughout Indonesia is 52,532 people, while in 2020 there were 52,342 people,⁸ and in 2019 there were 44,194 people.⁹ The release especially conditional release of prisoners to then carry out social reintegration is one option to overcome the condition of penitentiary and state detention facilities which on average are already overcrowded with residents, also called 'over capacity'. Over capacity has now reached 109%¹⁰ due to the number of residents, namely prisoners and detainees, exceeding the capacity of only 132,107 people but has been filled with 276,172 residents. The composition of the most occupants is prisoners who reached 227,431 people while 48,741 detainees.¹¹ When percentage, there are 82.35% of prisoners and 17.65% of detainees. The number of prisoners of more than 227 thousand people will only decrease by 40 people by the end of September 2022 because of their release from the Penitentiary.¹² In the search results of previous research, no research specifically discusses the topic of the release and social reintegration of prisoners from the perspective of justice of John Rawls. Some of the research results are:

1. John Rawls' Fairness Concept, Criticism and Relevance, by Sunaryo, published in 2022 in Jurnal Konstitusi. The focus of the discussion is on the principle of fairness in a pluralistic

⁶ Direktorat Jenderal Pemasyarakatan, *Laporan Kinerja Direktorat Jenderal Pemasyarakatan Tahun 2020* (Jakarta: Direktorat Jenderal Pemasyarakatan, 2020), 79.

⁷ Amalia Lathifah and Eva Achjani Zulfa, "Evaluasi Kebijakan Pengeluaran Narapidana Melalui Asimilasi Di Rumah Dan Reintegrasi Sosial Di Masa Pandemi Covid-19," *Jurnal Pendidikan Tambusai* 6, no. 1 (2022): 8074.

⁸ Direktorat Jenderal Pemasyarakatan, *Laporan Kinerja Direktorat Jenderal Pemasyarakatan Tahun 2021* (Jakarta: Direktorat Jenderal Pemasyarakatan, 2021), 184.

⁹ Pemasyarakatan, *Laporan Kinerja Tahun 2020*, 80.

¹⁰ "Ditjen PAS - SDP Publik," Sistem Database Pemasyarakatan Publik, Direktorat Jenderal Pemasyarakatan, accessed September 20, 2022, <http://sdppublik.ditjenpas.go.id/>.

¹¹ *Ibid.*

¹² "Jadwal Daftar Napi/Tahanan Yang Akan Keluar Untuk: Periode 01/09/2022-30/09/2022," SDP: Sistem Database Pemasyarakatan Direktorat Jenderal Pemasyarakatan, accessed September 20, 2022, http://sdp.ditjenpas.go.id/sdp_upt/DashboardNapiKeluar/cari/page/.

society, the idea of the original position, the idea of public reason, and the criticism and relevance of Rawls' concept of fairness.¹³

2. Implementation of the Granting of Conditional Release as a Form of Social Reintegration of Prisoners in Correctional Institutions, by Irshandy Maulana and Mitro Subroto, published in 2022 in *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora*. The focus of the discussion is on the process of granting parole to prisoners in Class I Penitentiary in Medan, and the sanctions imposed on prisoners who have violated the provisions of parole.¹⁴
3. Sociological Analysis of Social Reintegration of Correctional Clients, by Lovita Nurindah Sari, published in 2021 in *ENTITA: Jurnal Pendidikan Ilmu Pengetahuan Sosial Dan Ilmu-Ilmu Sosial*. The focus of the discussion is on the concept of correctional clients, understanding the 4 dimensions of indicators in community research, the influence of individuals on the transition from prison to society, the influence of families in social reintegration, and the influence of society/community, as well as the influence of the government.¹⁵
4. The Authority to Release Prisoners by the President, by Siti Romlah, published in 2019 in 'ADALAH: Buletin Hukum dan Keadilan. The focus of the discussion is on the meaning of parole, the conditions for parole, and what parole is the authority of the President.¹⁶
5. Legal Aspects of Fulfilling of Parole for Corruption Inmate, oleh Darmawati, published in 2019. The focus of the discussion is on the analysis of the procedure for fulfilling the right to grant parole for corruption convicts and whether or not the granting of parole is in line with the principles contained in the Correctional Act.¹⁷

Noting the description above, the focus of discussion in this study is different because the problem to be discussed is how the perspective of John Rawls' theory of justice on

¹³ Sunaryo, "Konsep Fairness John Rawls, Kritik Dan Relevansinya," *Jurnal Konstitusi* 19, no. 1 (2022): 4, 7, 10 and 15, <https://doi.org/https://doi.org/10.31078/jk1911>.

¹⁴ Irshandy Maulana and Mitro Subroto, "Pelaksanaan Pemberian Pembebasan Bersyarat Sebagai Wujud Reintegrasi Sosial Narapidana Di Lembaga Pemasarakatan," *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora* 7, no. 6 (2022): 38-9, <http://dx.doi.org/10.31604/justitia.v9i6.2791-2801>.

¹⁵ Lovita Nurindah Sari, "Analisis Sosiologis Reintegrasi Sosial Klien Pemasarakatan," *ENTITA: Jurnal Pendidikan Ilmu Pengetahuan Sosial Dan Ilmu-Ilmu Sosial* 3, no. 1 (2021): 79, 81, 82, 86, 88-9, <https://doi.org/https://doi.org/10.19105/ejpis.v3i1.4615>.

¹⁶ Siti Romlah, "Kewenangan Melakukan Pembebasan Narapidana Oleh Presiden," *ADALAH: Buletin Hukum & Keadilan* 3, no. 1 (2019): 38-9, <https://doi.org/10.15408/adalah.v3i1.11266>.

¹⁷ Darmawati, "Aspek Hukum Pemenuhan Hak Atas Pembebasan Bersyarat Bagi Narapidana Korupsi," *Jurnal Restorative Justice* 3, no. 2 (2019): 108, <https://doi.org/10.35724/jrj.v3i2.2215>.

conditional release and social reintegration of prisoners. Thus, the purpose of the research is to discuss the perspective of John Rawls' theory of justice the conditional release and social reintegration of prisoners.

The normative legal research method that examines and studies the law as norms, rules, legal principles, legal principles, legal doctrines, and legal theories is used in this research. The approach used is legislation and conceptual that analyses secondary data in the form of primary legal materials, namely laws and regulations and official state documents related to the conditional release and social reintegration of prisoners, and secondary legal materials, namely legal books, legal journals, and views of legal experts, especially views on the theory of justice from John Rawls. Secondary data is collected using document or literature study techniques, then analysed qualitatively by explaining and interpreting legal materials that regulate the conditional release and social reintegration of prisoners and the theory of justice from John Rawls.¹⁸

B. Discussion

B. 1. Release and Social Reintegration of Prisoners

The release of prisoners is a common thing in various countries. Singapore in 2021 released 6,776 convicted penal,¹⁹ while Mexico in the same year released 2,685 prisoners.²⁰ As of September 2022, the Directorate General of Correction from the Ministry of Law and Human Rights Indonesia has released 58,054 prisoners.²¹ Releasing prisoners from a penitentiary is in line with the United Nations' opinion:

“Incarceration does not have a reformative effect. In addition, long or harsh prison sentences may result in so-called institutionalization, which affects prisoners’

¹⁸ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 48, 56-57, 59-60, 65-66 and 68.

¹⁹ Dayna Yin, “SPS Annual Statistics Release 2019.” *Singapore Prison Service* 2019, accessed September 20, 2022, <https://www.sps.gov.sg/files/Media%20Releases/sps-annual-stats-release-for-2019.pdf>.

²⁰ Brendan O’Boyle, “Mexico Has Released Nearly 2.700 Prisoners Early as Overall Jail Population Grows,” *Reuters*, September 16, 2022, <https://www.reuters.com/world/americas/mexico-has-released-nearly-2700-prisoners-early-overall-jail-population-grows-2022-09-15/>.

²¹ “58.054 Narapidana Telah Memperoleh Hak Bersyarat Sepanjang 2022,” SDP: Sistem Database Pemasarakatan, Direktorat Jenderal Pemasarakatan, accessed September 7, 2022, <http://www.ditjenpas.go.id/58054-narapidana-telah-memperoleh-hak-bersyarat-sepanjang-2022>.

personalities and social and life skills in a way that makes their social reintegration even more difficult”.²²

Regarding conditional release, according to Tose Panov this is a penal institute whose application avoids the harmful effects of long-term imprisonment and criminal infection and also the convict is encouraged to behave well, actively involved in the process of re-socialization.²³

Thus, the longer prisoners are in the penitentiary, the more institutionalization occurs, which makes it difficult for prisoners to have personality and social skills when they have to return to society. The United Nations, in the Nelson Mandela Rules, is also of the view:

“Before the completion of the sentence, the necessary steps should be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, by a pre-release regime organized in the same prison or another appropriate institution, or by a release on trial under some kind of supervision”.²⁴

This means that it is hoped that the prisoners can leave the penitentiary earlier to be able to return to live with society soon.

The release is one form of the discretionary institution in criminal law, namely the release from the obligation to serve imprisonment. The purpose of the release is to return the prisoners to society to become a good and useful citizen. Therefore, before granting release to prisoners, the interests of the community that accepts former prisoners must be considered, and employment must be prepared following the talents and skills that have been acquired during inside the penitentiary.²⁵ The legal reasons, according to Article 36 section (8) Law Number 22 of 2022 concerning Corrections and Article 55 section (1)a and section (2)b Government Regulation Number 31 of 1999, for the release of prisoners are the expiration or completion of the criminal period that must be served or obtaining conditional release. Article 46 Law Number 22 of 2022 regulates, prisoners who have exhausted or completed their criminal period must be released by the Head of the Penitentiary. Article 55 sections (2) regulates, as a certainty

²² “United Nations System Common Position on Incarceration April 2021,” *United Nations*, Accessed September 20, 2022, 14, https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf.

²³ Tose Panov, “Conditional Release as A Material Legal And Penal Institute And An Alternative To Institutional Type Sanctions,” *KNOWLEDGE-International Journal* 40, no. 1 (2020): 295.

²⁴ Rule 87 of *The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*.

²⁵ Anis Widyawati and Ade Adhari, *Hukum Penitensier Di Indonesia Konsep dan Perkembangannya* (Depok: Rajawali Press, 2020), 48-51.

of the prisoners' release, either due to the completion of the criminal period or obtaining conditional release, a letter of release is granted. The release letter contains several elements, namely name, place of birth, age, last address, decision letter, date of first detention, length of imprisonment, criminal offense committed, and date of release.²⁶

Consider the conditional release of prisoners has a strong legal basis; Author holds with it. Conditional release regulated in the Article 15 section (1) of Indonesian Criminal Code (KUHP), also in Article 10 sections (1)f and section (3) Law Number 22 of 2022. The provisions of the Indonesian Criminal Code and Law Number 22 of 2022 are strengthened by Article 43 section (2) Government Regulation Number 32 of 1999. Based on the provisions of the Indonesian Criminal Code, Law Number 22 of 2022, and Government Regulation Number 32 of 1999, the conditional release of prisoners can be carried out after the prisoners has served two-thirds of his/her minimum sentence or at least nine months. Conditional release is affirmed by Law Number 22 of 2022 and Government Regulation Number 32 of 1999 as the right of prisoners who have fulfilled certain requirements without exception and as a process of guidance to prisoners outside the penitentiary to integrate prisoners into community life after fulfilling predetermined requirements.

The requirements are in addition to having served two-thirds of the sentence period, as well as good behaviour during the criminal period, having actively participated in the coaching program well, diligently, and enthusiastically, and the community can accept the prisoners' coaching activity program and has shown a decrease in the level of risk.²⁷ Additional requirements are imposed, namely having undergone assimilation of at least one-half of the remaining criminal period that must be served for narcotics and narcotics precursor and psychotropic prisoners,²⁸ for corruption prisoners, crimes against state security prisoners, serious human rights crimes prisoners, and transnational organized crimes prisoners,²⁹ as well as for terrorism prisoners who are added with the condition that they have shown awareness and regret the mistake that caused them to be sentenced to punishment and declare a pledge of

²⁶ "Manual Penggunaan SDP: Pengeluaran & Pembebasan," *Direktorat Jenderal Pemasyarakatan*, accessed September 20, 2022 <http://sdp.ditjenpas.go.id/manual/3.6.2/PengeluaranPembebasan.html>.

²⁷ Article 10 section (2) *Undang-Undang Republik Indonesia Nomor 22 Tahun 2022* and Article 43 section (2) *Peraturan Pemerintah Republik Indonesia Nomor 99 Tahun 2012* and Article 82 *Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 3 Tahun 2018*

²⁸ Article 85 *Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 7 Tahun 2022*

²⁹ Article 86 *Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 7 Tahun 2022*

loyalty to the Unitary State of the Republic of Indonesia in writing for Indonesian citizen prisoners or will not repeat the act of terrorism in writing for foreign citizen prisoners.³⁰

According to Article 83 section (1) Regulation of the Minister of Law and Human Rights Number 7 of 2022, supporting documents as evidence that the prisoners has met the requirements to be granted conditional release, namely:

- a. A copy of the excerpt from the judge's decision and the minutes of the execution of the court's decision;
- b. Development progress report following the Prisoners Development Assessment System signed by the head of the penitentiary;
- c. A community research report made by a community supervisor who is known to the head of the Correctional Centre (Balai Pemasyarakatan);
- d. Notification letter to the district attorney regarding the proposal for granting conditional release to the prisoners concerned;
- e. A copy of the F register from the head of the penitentiary;
- f. A copy of the change list from the head of the penitentiary;
- g. A statement from the prisoners that he will not commit an unlawful act; and
- h. A guarantee letter from the family, guardian, social institution, government agency, private agency, or foundation known by the lurah, village head, or other name stating that the inmate will not escape and/or will not commit any unlawful act; and assisting in guiding and supervising prisoners during conditional release.

According to Article 15a section (1) and section (4) Indonesian Criminal Code, while exercising the right to conditional release, prisoners must comply with the conditions, namely not committing criminal offenses and other bad actions. In addition, the prisoners are specially supervised by officers from the Correctional Centre to help them to adjust to the community environment.

According to Article 139 Regulation of the Minister of Law and Human Rights Number 7 of 2022, the general condition is that prisoners commit violations of the law and are designated as suspects or defendants who are followed by detention in the State Detention Facilities. Special conditions are to cause unrest in the community, not to carry out the

³⁰ Article 84 *Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 7 Tahun 2022*.

obligation to report to the guiding Correctional Centre at most three times in a row, not to report changes in address or residence to the guiding Correctional Centre, and/or not to follow or comply with the guidance program established by the Correctional Centre. Then according to Indonesian Criminal Code, if the prisoners violate the provisions, namely repeating a criminal offense, living irregularly and causing public unrest, or being lazy to work or go to school, and neither to carry out the obligation to report to the guiding Correctional Centre nor to follow or comply with the guidance program established by the Correctional Centre. Then the right to conditional release can be revoked by the Minister of Law and Human Rights so that prisoners who have been outside the penitentiary will return to the penitentiary.

Considering that conditional release is a process of fostering prisoners outside the penitentiary to integrate prisoners into community life, the rights of prisoners are in line with Article 2.a Law Number 22 of 2022 which contains the objectives of the correctional system, including to improve the quality of personality and independence of prisoners so that they realize their mistakes, improve themselves, and do not repeat criminal acts, so that they can be accepted back by the community, can live reasonably as good, law-abiding, responsible citizens, and can actively participate in development. The return of prisoners to the community after undergoing a coaching process is a form of social reintegration that is maintained by Law Number 22 of 2022 as a substitute for Law Number 12 of 1995 concerning Corrections which has embraced the concept of social reintegration as a substitute for the concept of retaliation and deterrence.

The concept of social reintegration is the goal of correctional services where there is a balanced integration of the relationship between prisoners and society. Lawless behaviour previously committed by prisoners is seen as a symptom of a rift in the relationship between lawbreakers and society. Guidance from correctional officers to prisoners is an opportunity for prisoners to return to socializing with the community, where the active participation of the community in providing support for coaching to prisoners is a form of community responsibility.³¹ Social reintegration, as an important stage in the correctional system, aims to reunite prisoners with the community. In the process of social reintegration, the role of the community is very important as a supervisor and guide for prisoners as they adapt to their social

³¹ Agus Budianto and Afdhal Mahatta, "Pembaharuan Hukum Terhadap Kebijakan Pengelolaan Lembaga Pemasyarakatan," *Law Review* 21, no. 3 (2022): 400-1, <http://dx.doi.org/10.19166/lr.v0i3.4773>.

environment.³² Reintegration emphasizes the interests of individuals and communities at the same level; therefore, society must provide opportunities for prisoners to rebuild law-abiding behaviour, and individual prisoners themselves must learn to take advantage of the opportunities provided.³³

The social reintegration program for prisoners which is realized through conditional release is in line with the view of the United Nations Office on Drugs and Crimes (UNODC):

“The primary objective of social reintegration programs is to provide offenders with the assistance and supervision that they may need to desist from crime, to successfully reintegrate into the community, and to avoid a relapse into criminal behaviour. In general, there are three categories of social reintegration programs: a) prison-based rehabilitation, b) reintegration and aftercare delivered upon release, and c) non-custodial community-based.”³⁴

B. 2. Release and Social Reintegration of Prisoners in the Perspective of John Rawls' Theory of Justice

John Rawls proposed the theory of justice with a view of justice as fairness. In justice as fairness, there is a default position of the equality of each person. An important feature of this situation is that no one knows the attributes that can make them carry out compromising considerations to maximize their personal or group interests. This ignorance is a veil of ignorance. The default position models a fair condition in which a free and equal subject agrees on an agreement that governs the basic structure of society, and this agreement is considered a fair agreement because it is supported by reason or the best consideration.³⁵ Since all are in the same situation and no one can devise anything favourable to the conditions, the principle of justice as fairness gives the result of a fair deal or bargaining.³⁶

The two main principles of justice as fairness according to John Rawls are: First, each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. Second, social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and

³² Lathifah and Zulfa, “Evaluasi Kebijakan,” 8074.

³³ Umar Anwar and Rachmayanty, *Politik Hukum Dan Pemasarakatan* (Depok: Rajawali Press, 2021), 51

³⁴ United Nations Office on Drugs and Crimes, *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders: Criminal Justice Handbook Series* (New York: United Nations, 2018), 5.

³⁵ Sunaryo, “Konsep Fairness,” 8-9.

³⁶ John Rawls, *A Theory of Justice Revised Edition* (Massachusetts: Harvard University Press, 1999), 11.

(b) attached to positions and offices open to all.³⁷ The first principle is categorized as a principle relating to equality because every individual in a just society has the same basic rights in terms of basic freedoms. Basic freedoms include political freedom (the right to elect and be elected to public office), freedom of speech and association, freedom of belief, freedom of thought, freedom to defend property rights, and freedom from arbitrary arrest. The second principle is categorized as one that deals with the distribution of income and wealth, which need not be equal, but must benefit everyone, and at the same time positions of authority and responsibility must be accessible to everyone.³⁸ Relying on both principles of John Rawls, there is protection for the most disadvantaged parties in society. Basic freedoms should be distributed equally and should not be sacrificed for the sake of economic achievement. If income and social status, and power are distributed unequally then such distribution is allowed if it makes the disadvantaged party better than the previous conditions.³⁹

The first principle in justice as fairness from John Rawls can be an instrument to examine the release especially conditional release and social reintegration of prisoners. Each inmate is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. This means that there is equality of treatment of prisoners including corruption prisoners as individuals in a just Indonesian society. They have the same basic rights in terms of basic liberties. If the prisoners have fulfilled the requirements of having served two-thirds of his/her criminal period, behaving well during the criminal period, following the coaching program well, diligently, and enthusiastically, and the community can accept the prisoners' coaching activity program then the right of conditional release in the context of social reintegration can be granted.

As a recipient of conditional release, prisoners can again enjoy basic freedoms including political freedom (the right to vote and be elected to public office), freedom of speech and association, freedom of belief, freedom of thought, freedom of defence of property rights, and freedom from arbitrary arrest. Restrictions on prisoners carrying out conditional release are deprivation of this right by the Minister of Law and Human Rights if the prisoners violate the

³⁷ *Ibid.*, 53.

³⁸ Raju Moh. Hazmi, "Konstruksi Keadilan, Kepastian, Dan Kemanfaatan Hukum Dalam Putusan Mahkamah Agung Nomor 46P/HUM/2018," *RES JUDICATA* 4, no. 1 (2021): 33, <http://dx.doi.org/10.29406/rj.v4i1.2687>.

³⁹ Muhammad Tahir Laming, "Keadilan Dalam Beberapa Perspektif; Suatu Kajian Beberapa Paradigma Tentang Keadilan," *Meraja Jurnal* 4, no. 2 (2021): 275, <https://doi.org/10.33080/mrj.v4i2.180>.

provisions of general and special conditions such as repeating a criminal act, living irregularly, causing community unrest, or laziness in work or school, and neither to carry out the obligation to report to the guiding Correctional Centre nor to follow or comply with the guidance program established by the Correctional Centre.

The second principle is justice as fairness as an instrument for assessing the conditional release and social reintegration of prisoners so that the social and economic inequalities faced by prisoners in the coaching process outside the penitentiary when carrying out conditional release are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage and (b) attached to positions and offices open to all. Before receiving the right of conditional release, prisoners are given guidance to improve the quality of their personality and independence, realize mistakes, improve themselves, and do not repeat criminal acts, can be re-accepted by the community, can live normally as good citizens, obey the law, be responsible, and can play an active role in development. However, when they leave the penitentiary, they may face social and economic problems concerning the distribution of income and wealth, which have changed and developed rapidly. Therefore, during the implementation of the conditional release program, the role of the community is very important as a supervisor and mentor for prisoners as they adapt to their social environment. The distribution of income and wealth to prisoners need not be the same but must benefit everyone including prisoners, and at the same time, the position and responsibilities as members of society on the same level as other members of society must be accessible to prisoners. Social reintegration emphasizes the role of the community in providing opportunities for prisoners to rebuild law-abiding behaviour, and prisoners can return to learning to take advantage of the opportunities provided.

Justice in the form of equality of treatment and provision of equal opportunities for basic freedoms and distribution that benefits all parties on social and economic aspects to prisoners who undergo the right to conditional release because they have fulfilled all the requirements determined by laws and regulations, is a form of correctional to prisoners. Yasonna H. Laoly as Minister of Law and Human Rights said that correction is a process of social readjustment, namely the achievement of integration of life and livelihood between

prisoners and society as a result of collaboration between the two because prisoners are individuals who can integrate with society.⁴⁰

C. Conclusion

To conclude the discussion of this article, the release especially conditional release of prisoners including corruption prisoners is the right of prisoners to undergo a coaching process outside the penitentiary after they have met the predetermined requirements, and the social reintegration of prisoners is an important stage in reuniting prisoners with society so that it requires the role of the community as a supervisor and guide for prisoners as they adapt to their social environment. The perspective of John Rawls' theory of justice on conditional release and social reintegration of prisoners prioritizes equal treatment of prisoners including corruption prisoners who have basic rights and freedoms. The distribution of income and wealth to prisoners does not need to be the same but must benefit everyone including prisoners, and there is access for prisoners to positions and responsibilities as members of society. Author suggests that conditional release and social reintegration of prisoners should be continued by penitentiary without discrimination as long as they meet the requirements of the legislation as a manifestation of justice in the treatment of prisoners.

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⁴⁰ Yasonna H. Laoly, *Pemasyarakatan Dan Legacy* (Jakarta: Direktorat Jenderal Pemasyarakatan, 2019), 5 and 7.

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