

## Problems Of Granting Amnesty and Abolition by the President for Corruption Crimes

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### Abstract

Granting amnesty and abolition are included in the progressive rights of the president as stated in Article 14 paragraph (2) of the 1945 Constitution, which states that the president grants amnesty and abolition by taking into account the considerations of the House of Representatives. Granting amnesty in Indonesia is regulated in relation to political crimes based on state interests and humanitarian aspects. However, corruption crimes are not permitted to receive amnesty and abolition because they are extraordinary crimes. The identification of the problems in this study are: First, How is the granting of amnesty and abolition relevant to the crime of corruption? Second, How are the regulations for the limitations of granting amnesty and abolition so that they are not misused. Methodology: The method used by the researcher in this study is normative juridical through a statute approach; a historical approach; a comparative approach; and a conceptual approach. The results of this study indicate that corruption crimes are not relevant to obtaining amnesty and abolition because corruption crimes are crimes against humanity that can damage the state order. There is a need to regulate the limitations on granting amnesty and abolition for corruption crimes (extraordinary crimes) by providing requirements and categorizing crimes that can receive amnesty and abolition through a revision of the Law on amnesty and abolition. The research purpose is to give an analysis on the the granting of amnesty and abolition relevant to the crime of corruption in Indonesia as well as the regulations for the limitations of granting amnesty and abolition to prevent misuse. The scientific contribution from this research is that it provides the latest information on the granting of amnesty and abolition relevant to the crime of corruption.

**Keywords:** *Abolition, Amnesty, Corruption, Indonesia, President.*

### Introduction

A democratic state of law always has legal rules that are mutually agreed upon in running the wheels of government as a basis. The affirmation as a state of law as stated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia explains that the State of Indonesia is a state of law. This means that all citizens and state administrators must comply with applicable legal provisions and everyone is equal before the law without differentiating their social status. Equality Before the Law provisions are then emphasized in Article 27 paragraph (1) of the 1945 Constitution, which states that all citizens have equal status before the law and government and are obliged to uphold the law and government without exception (Karunia, 2022).

A democratic state of law alsoguided by the recognition of the separation of powers between the legislative, executive and judiciary, this division of power is in order to provide limits so that there are no arbitrary actions by the state that are detrimental to the community. One of the powers given to the president is the granting of amnesty and abolition as stated in Article 14 Paragraph (2) of the 1945 Constitution "The President Grants Amnesty and Abolition by taking into account the considerations of the People's Representative Council". This provision is one of the prerogative rights that are an inseparable part of the President's power as the president's chief executive, however, the provisions for

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granting amnesty and abolition still rely on the old law as stated in Emergency Law No. 11 of 1954 concerning Amnesty and Abolition, which states in Article 1 "The President, in the interests of the state, may grant Amnesty and Abolition to people who have committed a criminal act. The President grants Amnesty and Abolition after receiving written advice from the Supreme Court, which delivers the advice at the request of the Minister of Justice." The current problem lies in the granting of amnesty and abolition, which has deviated from the state's interests, which should actually be directed towards granting amnesty and abolition for criminal acts of corruption (Fauzi, 2021).

Giving amnesty and abolition in Indonesian history, from independence to reform, have always been granted to political prisoners and general crimes that have attracted public attention. Several instances of amnesty and abolition have been granted to political prisoners. First, President Soekarno, through Decree Number 303 of 1959, granted amnesty and abolition to those involved in the DI/TII rebellion led by Kahar Muzakar in South Sulawesi. Second, President Soekarno issued Decree Number 449 of 1961 concerning the Granting of Amnesty and Abolition to those involved in the broader rebellion. Namely the Daud Bereueh rebellion in Aceh, the rebellion of the "Revolutionary Government of the Republic of Indonesia" and the "Universal Struggle" in North Sumatra, West Sumatra, Riau, South Sumatra, Jambi, North Sulawesi, South Sulawesi, Maluku, West Irian and other regions, including the rebellion of Kahar Muzakar in South Sulawesi, the rebellion of Kartosuwirjo in West Java and Central Java, to the rebellion of Ibnu Hadjar in South Kalimantan, the rebellion of the "Republic of South Maluku" in Maluku (Feryliyan, 2018).

Granting amnesty and abolition *Second* under Soeharto, in this case general amnesty and abolition were granted to followers of the Fretilin movement in East Timor both domestically and abroad. In Presidential Decree Number 63 of 1977, it was stated that general amnesty and abolition were granted "for the interests of the State and national unity, and in an effort to further utilize all potential for the smooth and improved implementation of development in the Province of East Timor". Third President BJ. Habibie Presidential Decree Number 80 of 1998. At that time, President Habibie granted amnesty and/or abolition to two political opposition individuals; Sri Bintang Pamungkas and Muchtar Pakpahan. President Habibie also granted amnesty to Papuan political prisoners (Sujatmiko, 2022).

The granting of the fourth amnesty and abolition by Abdurrahman Wahid through Presidential Decree Number 159 of 1999 was given to political prisoners of pro-democracy activists, including activists of the People's Democratic Party, one of whom was Budiman Sudjatmiko. The granting of the fifth amnesty and abolition by President Susilo Bambang Yudhoyono through Presidential Decree Number 22 of 2005 concerning the Granting of General Amnesty and Abolition to Everyone Involved in the Free Aceh Movement against the leaders and members of the Free Aceh Movement rebels with the aim of reconciliation between the two parties which culminated in a peace agreement and willingness to return to being part of the Republic of Indonesia.

The granting of amnesty and abolition, sixth, has expanded from previously only related to political crimes to general crimes. President Joko Widodo, through Presidential Decree No. 24 of 2019, concerning the granting of amnesty related to the Supreme Court's decision to convict Baiq Nuril for violating Law No. 11 of 2008 concerning the Electronic Information and Transactions (ITE) Law. This case has received widespread public attention due to its far-reaching violation of the principles of justice.

The granting of amnesty and abolition began to shift from criminal nature to special crimes, corruption. Through Presidential Decree No. 17 of 2025 concerning the Granting of Amnesty issued by President Prabowo on August 1, 2025, through this presidential decree, amnesty was granted to 1,178 convicts, including Hasto Kristiyanto. This amnesty freed Hasto Kristiyanto from a prison sentence of 3 years and 6 months, which was sentenced by the Corruption Crimes Panel of Judges because he was deemed guilty in a bribery case involving former General Election Commission commissioner Wahyu Setiawan (Mawangi, 2025). Then the fundamental question is what kind of state interests are taken into consideration in granting amnesty and abolition for corruption crimes which are extraordinary crimes that can damage the state order (Ulya, 2025).

Thomas Trikasih Lembong received an abolition through Presidential Decree Number 18 of 2025 concerning the Granting of Abolition which was previously sentenced to 4.5 years in prison for the former Minister of Trade Thomas Trikasih Lembong free from all legal processes and legal consequences for Brother Thomas Trikasih Lembong were eliminated, although the case of Thomas Trikasih Lembong is still being debated over the sentence received and has received public attention. but in this case it is included in the criminal act of corruption that has been decided by the court (Keikei, 2025).

The release of corruption crimes through amnesty and abolition seems to weaken the eradication of corruption in Indonesia and is inappropriate, because abolition and amnesty are given noble reasons to a group of people as an expression of statesmanship and a noble national commitment to forging unity because there is a national interest. Corruption is an extraordinary crime that impacts the state order that is carried out systematically by people who have power in the government system so that handling must be extraordinary broad. However, recently the government's political will policy has actually weakened by granting amnesty and abolition for corruption crimes, this decision is the worst decision in the running of the government (Said, 2025).

Judging from these two cases, corruption is highly inappropriate. The president's granting of amnesty and abolition will only worsen the fight against corruption, as it cannot be categorized as a widespread crime. The question arises as to whether this amnesty for corruption is truly in the national interest or is being used for specific political interests. The president's decision to grant amnesty raises the assumption that it will be used for specific purposes, as there are no explicit regulations regarding the requirements for obtaining amnesty and abolition for the national interest.

The history of amnesty and abolition granted by the President is interesting to analyze in more depth, beyond the provisions regarding the eligibility of corruption crimes to receive amnesty and abolition. In this regard, it is important to examine in more depth whether the granting of amnesty should be accompanied by a clearer definition of the criteria for crimes that qualify for amnesty and abolition. Therefore, it is important to outline the granting of amnesty and abolition for corruption crimes that have occurred to date (Fajar & Achmad, 2019).

Based on this background, two problem formulations can be formulated that must be studied and researched to provide a new prescriptive framework for legal development in Indonesia. First, how is the granting of amnesty and abolition relevant to the crime of corruption? Second, how should the limitations on the granting of amnesty and abolition be regulated to prevent misuse?

## **Methodology**

The type of research used is normative legal research. (Wardiono, 2019) Through a statute approach; a historical approach; a comparative approach, and a conceptual approach (Fahmi et al., 2025). The types of legal materials used in this research consist of: First, primary legal materials, which are the main materials in conducting normative research consisting of laws and regulations related to Amnesty and Abolition. Second, secondary legal materials, which are references related to the topic raised, consisting of books and other scientific papers. Third, tertiary legal materials, which are supporting legal materials in the form of dictionaries and other sources (print media and electronic media).

The collection of legal materials is carried out by collecting all regulations (primary materials) related to amnesty and abolition including related references (secondary legal materials). Furthermore, the legal materials are analyzed deductively, namely by drawing conclusions from general matters to specific matters. (Jiwanti and Soponyono., 2022).

## **Results and Discussion**

### **The Relevance of the President's Granting of Amnesty and Abolition to Corruption Crimes**

Indonesia, as a democratic and constitutional state with a presidential system, holds considerable power, both as head of state and head of government (Budiono et al., 2018). Jimly Asshidiqie stated that both positions, head of state and head of government, are essentially part of the executive branch. The president's position, in this case, is very powerful in running the government. To anticipate this, clear laws regarding clear boundaries are needed in the constitution (Asshidiqie, 2007).

One of the president's powers in the judicial field has been normatively regulated in Article 14 paragraph (1) and paragraph (2) of the 1945 Constitution. Article 14 paragraph (1) states that: "The President grants pardon and rehabilitation by taking into account the considerations of the Supreme Court". While Article 14 paragraph (2) of the 1945 Constitution states that "The President grants amnesty and abolition by taking into account the considerations of the House of Representatives" (Kamarulzaman et al., 2025). Considerations from the Supreme Court and the House of Representatives to the President are very important to realize the mechanism of checks and balances between the President and the House of Representatives, but for the president's authority in granting amnesty and abolition which only provides considerations from the House of Representatives which

may be very tinged with short-term political interests because what is used is political considerations rather than legal considerations (The Government of the Republic of Indonesia, 1945).

The regulation of derivative laws regarding amnesty and abolition has been considered for a long time and needs to be revised to adapt to the development of state administration in Indonesia. Emergency Law Number 11 of 1954 concerning the Granting of Amnesty and Abolition which still refers to the phrase "considering" still relies on Article 107 of the Provisional Constitution of the Republic of Indonesia and the granting of amnesty and abolition after receiving written advice from the Supreme Court which conveyed the advice at the request of the Minister of Justice (The Government of the Republic of Indonesia, 1954).

Weak regulations in the membershipThe amnesty and abolition laws do not have clear boundaries regarding which crimes are eligible for amnesty and abolition. The impact of this weak regulation is that the granting of amnesty and abolition has shifted from treason or rebellion to general and specific crimes namely corruption (Hernanda et al., 2023). The granting of amnesty and abolition for corruption is very irrelevant to the spirit of eradicating corruption (Filatova et al., 2024).

Corruption is categorized as an extraordinary crime that can pose a serious threat to the goal of running a just and prosperous nation. To date, corruption eradication efforts have experienced setbacks due to the revision of the Corruption Eradication Commission Law (Budiono et al., 2019). In fact, corruption is a type of crime that can affect various important aspects, such as human rights, state ideology, the economy, state finances, national morality, and so on. Corruption is a criminal act that requires serious handling because the perpetrators have the power and access to evade applicable laws. The difficulty of overcoming corruption or the few sentences imposed on perpetrators is evident in the many cases that end in acquittals or sentences disproportionate to the actions of the defendants (Said, 2025).

The sentences imposed for corruption crimes are relatively low. According to ICW records during 2022, out of 2,056 verdicts with 2,249 defendants, the average sentence for corruption convicts was 3 years and 4 months. The same data in 2023 showed that the sentences received were 3 years and 4 months in 866 cases and 898 defendants. From this figure, it can be understood that the eradication of corruption is still very weak. The weakness of the corruption eradication policy, which is only used as a campaign for candidacy without being followed by policies taken by legal provisions as in Law Number 20 of 2001, which amended Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, is still weak in providing support for the eradication of criminal acts of corruption (Moorthygari et al., 2025).

Corruption in Indonesia has spread to various sectors of national life, including politics, economics, social affairs, culture, sports, and even religion (Yuspin et al., 2020). Corruption continues to increase annually, both in terms of the increasing number of cases, the financial losses to the state, and the complexity of the methods used to commit the crimes. Corruption has caused significant financial losses to the state, can undermine the nation's social welfare, and can lead to the collapse of the country (Saifuddin, 2017).

However, recently the government granted amnesty and abolition to corruption crimes, Presidential Decree Number 17 of 2025 concerning the Granting of Amnesty signed by President Prabowo on August 1, 2025 through this presidential decree granted amnesty to Hasto Kristiyanto, this granting of amnesty freed Hasto Kristiyanto from a prison sentence of 3 years and 6 months which was sentenced by the Corruption Crimes Panel of Judges because he was considered guilty in a bribery case involving former General Election Commission commissioner Wahyu Setiawan. The granting of abolition through Presidential Decree Number 18 of 2025 concerning the Granting of Abolition which was previously sentenced to 4.5 years in prison against the former Minister of Trade Thomas Trikasih Lembong was free from all legal processes. These two cases of corruption crimes surprisingly received amnesty and abolition from the President (Arifin, 2025).

Then what becomes problematic is the relevance of criminal acts of corruption to obtain amnesty and abolition, if we examine the provisions of Emergency Law Number 11 of 1954 concerning the Granting of Amnesty and Abolition, Article 1 of the President, in the interests of the State, can grant amnesty and abolition to people who have committed a criminal act. The provisions that can be underlined are that the granting of amnesty must be based on the interests of the state, while national interests, citing Rochester's opinion, there are two assumptions related to the concept of state interests, namely: "there exist and objectively determinable collective interest which all individual members within a given national society share equality, and this collective transcends any interest that a particular

subset of those individuals may share with individuals in other national societies (Rochester, 1978). In general, state interests can be seen as something that is united in a state that maintains collective interests within the state's society itself, so that these collective interests can be shared with other states (Hasan & Al-Salam, 2025).

Understanding the concept of national interest is more of a metaphor that builds awareness of a nation to form self-defense, however national interest is the main thing to be maintained that is immune to interference from certain political goals that damage the stability of the continuity of the sovereign government (Hartotok et al., 2021). to produce a mature national interest system requires a mature agreement between the community in the concept of the state. The concept of national interest is a unity of all elements of several interests that exist in a country, for example groups, social individuals, communities that are formulated in an interest that can be the concern of the state in taking action (Arief Budiono, Absori, Ngestingrum, & Nugroho, 2018).

National interests must be prioritized but there are several factors that must be considered civilization of society (civilization, nature of society) or related changes (Izziyana et al., 2019), (economic qualities, share of the world economy, important resources) IG Iakovenko said however national interests have two forms namely first objectively (national interests from God's standpoint) and from a subjective perspective the results of society's interpretation of the interests of this country. State interests sometimes have to be adjusted to public pressure as a basis for determining policies according to what society wants (Mirotokhin, 2002).

The meaning of state interests is very clear: state interests must be the basis and goal in any policy-making. This includes the President's decision to grant amnesty and abolition of corruption crimes. Referring to the reasons for granting amnesty and abolition by President Prabowo Subianto, based on information delivered by Deputy Minister of State Secretary Juri Ardiantoro, Prabowo has the principle that everyone must work together and cooperate if they want to advance, so Prabowo will adopt political policies for the sake of unity and integrity. "So, for example, granting abolition, amnesty, or other policies that can be interpreted and can be a factor in strengthening and uniting all elements of the nation will be implemented by the President. Meanwhile, Minister of Law Supratman Andi Agtas explained the reason the government granted amnesty to the thousand convicts was to create unity. Moreover, he said, Indonesia will commemorate its 80th anniversary on August 17th. "The consideration is definitely in the interests of the nation and state" (Saputra, 2025).

The president's justification is completely irrelevant to the criminal acts committed by the two perpetrators of corruption, as corruption is an extraordinary crime that can undermine the state order. Referring to the terms and conditions, the following must be considered: First, "Prisoners of conscience"—those who have reached a peace agreement through political advocacy—must be released unconditionally. Amnesty is only eligible for politically motivated acts that have been agreed to reach a peace agreement. Second, amnesty can be granted to prisoners who commit minor crimes with political overtones. Referring to the crime of corruption (Budiono et al., 2023), it is not considered a minor offense but an extraordinary crime. Third, international human rights and humanitarian law prohibits amnesty, particularly for crimes of genocide, crimes against humanity, and war crimes. Furthermore, the perpetrators (extrajudicial execution) are not relevant to the provisions of this provision, as corruption is not an extrajudicial execution.

In the context of the importance of granting and abolition, it is necessary to refer to the procedures for granting amnesty and abolition, the existence of transparency regarding the granting of amnesty and abolition that can be known and accessed by the public. In such cases, the granting of amnesty must be openly announced by the President by explaining the background to the choice of the policy of granting amnesty and abolition by taking into account the level of crime committed and its impact. This is intended to prevent the perception of granting amnesty being carried out unilaterally without considering various aspects and various input from other parties who have relationships with the President. Amnesty and abolition are problematic because they eliminate punishment for someone's actions. If not handled properly and carefully (Absori et al., 2023a), it can give the impression of ignoring the ongoing legal process and eliminating the rule of law, especially in terms of eradicating criminal acts of corruption.

### **Regulations on Limitations on Granting Amnesty and Abolition of Corruption Crimes**

The crime of corruption is one part of special crimes in addition to having certain specifications that are different from general crimes (Wardiono et al., 2021) because what will be faced is people who have power in government. Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in

conjunction with Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is the basis for handling corruption in Indonesia (Undang-Undang No. 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi Jo Undang-Undang No. 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang No. 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi, 2001). This regulation stems from the government's spirit in eradicating criminal acts of corruption, considering that the provisions consider that criminal acts of corruption which have been occurring widely, not only harm state finances, but have also constituted a violation of the social and economic rights of the community at large, so that criminal acts of corruption need to be classified as crimes whose eradication must be carried out in an extraordinary manner.

Strict legal regulations against criminal acts of corruptionAs an extraordinary crime, corruption must be eradicated through extraordinary measures. Strict policies to eradicate corruption as an extraordinary crime require an independent institution such as the Corruption Eradication Commission to effectively eradicate corruption (Ifrani, 2017). However, based on the facts on the ground, the crime of corruption is increasing every year, granting amnesty and abolition will possibly worsen the enforcement of the law on corruption (Absori et al., 2023b).

Meaning Two Progressive Rights of the President in the judicial field of amnesty and abolition, amnesty in Greek, namely *amnestia* which means a statement to the public in the case of a criminal act, to eliminate criminal law arising from the criminal act. Amnesty can be interpreted as forgiveness or removal of punishment given by the head of state to a person or group of people who have committed a certain crime. While Abolition comes from English, "abolition", which means removal or eradication. According to the term abolition is interpreted as the elimination of criminal charges. This means, abolition is a decision to stop the investigation and examination of a case, where the court has not yet issued a verdict on the case. The regulation of amnesty and abolition in Article 14 paragraph (2) of the 1945 Constitution states that the President grants amnesty and abolition by taking into account the considerations of the House of Representatives. The derivative regulations then rely on Law Number 11 of 1954 concerning the Granting of Amnesty and Abolition.

The provision of amnesty and abolition is given to everyone those who are convicted of treason or political movements such as the Free Aceh Movement in 2005 with the provisions in the First Presidential Decree Number 22 of 2005 granting amnesty and abolition to everyone involved in the Free Aceh Movement, both within the country and abroad, the points include:

- a. Have not or have surrendered themselves to the authorities;
- b. Currently undergoing or having completed training by the authorities;
- c. Being questioned or detained in the process of investigation, inquiry or examination before a court hearing;
- d. Has been sentenced to a criminal offence, whether it has not yet been sentenced or has permanent legal force;
- e. Currently serving or having completed a sentence in a correctional institution. The fourth provision of Presidential Decree No. 22 of 2005 states that

This decision also provides that the provisions of this decision do not apply to anyone who;

- a. Committing a crime that has no causal relationship or is not directly related to the Free Aceh Movement; or
- b. Involved in the Free Aceh Movement using weapons after the effective date of this Presidential Decree.

Presidential Decree Number 22 of 2005 will be a consideration in granting amnesty and abolition, not arbitrarily granting amnesty if it does not fulfill the interests of the state and the interests of humanity as a reference in granting it.

Universal provisions for granting amnesty must fulfill several conditions that must be considered, including;

- a. Has declared treason against the State
- b. Have a military organization
- c. Have a military structure

- d. Controlling territory or territory
- e. Its existence is recognized by its own country and the international world (Iswanto & Jeumpa, 2018).

Amnesty and abolition are currently granted for corruption crimes that are far from the interests of the state, let alone prioritize law enforcement. Citing the opinion of constitutional law expert Zainal Arifin Mochtar, he said that amnesty and abolition are generally granted to reconcile political conditions, while abolition is for humanitarian reasons. "Amnesty and abolition are political language, not legal. Their use in Indonesia is increasingly being used in political cases. There is a motive for reconciliation in the national interest. Further opinion from Zainal Arifin Mochtar. It is feared that if this continues to occur, there will be many policies based on political motives rather than public interest. Zainal added, there must be clear legal parameters in granting amnesty and abolition. Is there a national interest or political motive behind the case? In addition, there needs to be a limitation on certain cases that can be granted amnesty and abolition. Granting amnesty and abolition for corruption crimes of Tom Lembong and Hasto does not meet the requirements for amnesty and abolition (Grehenson & Tasya, 2025).

Taking into account the two corruption cases of Hasto Kristiyanto from the prison sentence of 3 years and 6 months which was sentenced by the Corruption Crimes Panel of Judges because he was considered guilty in the bribery case involving the former General Election Commission commissioner Wahyu Setiawan and the case of the former Minister of Trade Thomas Trikasih Lembong was free from all legal processes and the legal consequences for Mr. Thomas Trikasih Lembong were eliminated who was previously sentenced to 4.5 years in prison. What should be taken into consideration in granting amnesty and abolition must refer to the criminal acts committed considering that these two cases are included in the criminal acts of corruption which are crimes against humanity.

The impact that will significantly damage the legal order in Indonesia, especially the eradication of corruption, where currently the eradication of corruption has decreased, there is no truly independent institution in carrying out its duties, and the low sentences received in every decision on corruption cases are seen in the granting of amnesty and abolition by the President for corruption crimes. considering that corruption is an extraordinary crime that can damage the order of the nation and state, not only that, corruption also causes the loss of public trust in the government.

The future arrangement of amnesty and abolition regulations must be regulated, such as cases that are entitled to amnesty and abolition so that in the future amnesty and abolition are not misused by the president. The granting of amnesty is not only based on practical politics but must be truly based on the interests of the state, humanity and be guided by applicable law in providing limitations, terms and conditions for what cases are entitled to amnesty and abolition. Through strict regulations by amending the 1945 Constitution, specifically Article 14 paragraph (2) which is not only based on political interests alone but must also consider legal interests. In comparison with the United Kingdom, pardoning power is limited by the field of judicial power (office of the United States pardon attorney of the department of justice) which is tasked with providing recommendations to the President regarding appropriate pardons. Similarly, in England, which is led by a king/queen, the granting of a "Royal Pardon" is still limited by the "Secretary of State for Home Affairs" who has the authority to provide binding advice on whether the royal prerogative "Royal Prerogative of Mercy" is appropriate or not. This comparison can be used as a reference for limiting the granting of amnesty and abolition. One very possible approach is to revise Emergency Law Number 11 of 1954 concerning Amnesty and Abolition, which is no longer in accordance with state developments (Ahmad, 2021).

Amnesty and abolition for corruption must have clear limitations, as corruption is a crime against humanity that must be properly addressed. International human rights and humanitarian law prohibits amnesty, particularly for genocide, crimes against humanity, and war crimes. Furthermore, perpetrators of extrajudicial executions, such as torture and rape, are not eligible for amnesty. There is a need to limit the types of cases eligible for amnesty and abolition. These international legal provisions can serve as a guideline for changes in the restrictions imposed on corruption crimes in obtaining amnesty and abolition.

The arrangement and restrictions on granting amnesty in the future must fulfill several provisions.

- a. Not allowed for impeachment; Rights that can be accounted for, such as a president cannot use amnesty if there is an impeachment or what is called self-amnesty in the United States which is carried out by the House of Representatives.

- b. The President should not use his prerogative to grant amnesty at will. The President needs to consider philosophical criteria based on the principles of integrity, such as good faith (*dwaling*), fraud (*bedrog*), and coercion (*dwang*) that could lead to illegitimate legal consequences. Granting amnesty is often referred to as the President's judicial authority. This authority should be interpreted as an effort to safeguard the interests of the state against legal system chaos and/or errors in the legal process.
- c. Providing clear legal provisions for granting amnesty and abolition, mapping out which cases are entitled to amnesty and abolition (Ramadani et al., 2021).

Examining the two corruption cases committed by Hasto Kristiyanto and Thomas Trikasih Lembong, they fall into the category of corruption and do not meet the requirements for amnesty and abolition by the President to Hasto Kristiyanto and Thomas Trikasih Lembong. The House of Representatives has an important role in providing consideration to the president regarding the amnesty and abolition that will be granted to the Hasto Kristiyanto and Thomas Trikasih Lembong groups. In these considerations, it is emphasized the need to conduct an in-depth study of Hasto Kristiyanto and Thomas Trikasih Lembong who were proven not to have committed corruption crimes to receive amnesty and abolition.

If the state, represented by the president, continues to grant amnesty and abolition to Hasto Kristiyanto and Thomas Trikasih Lembong, it will undermine the Indonesian legal system, particularly its fight against corruption. This will be due to a lack of careful consideration of cases that receive amnesty and abolition. This will ultimately lead to a negative public image of the president, who granted amnesty and abolition for corruption.

The current arrangement of granting amnesty and abolition can be straightened back to its original position regarding Article 14 paragraph (2) of the 1945 Constitution, which originally granted amnesty and abolition considering the role of the House of Representatives in the revision requires the approval of the Supreme Court which can emphasize the existence of a legal process, not a political process. Improvements to Emergency Law Number 11 of 1954 concerning Amnesty and Abolition which is no longer relevant to be used as a legal basis for granting amnesty and abolition need to add several provisions, limitations on non-criminal aspects, requirements for obtaining amnesty and an open mechanism for obtaining amnesty and abolition from the president.

## **Conclusion**

The granting of amnesty for corruption by the president raises problems in law enforcement, specifically the enforcement of corruption laws in Indonesia. While amnesty and abolition are in some practices granted to perpetrators of political crimes, political prisoners, armed conflict resistance, and rebellions alone, they are currently granted to political crimes. However, the state must also consider issues of humanity, justice, and human rights protection. However, amnesty and abolition for corruption are irrelevant because corruption is considered an extraordinary crime that can damage the life of the nation and state.

Basegranting amnesty and abolition which still relies on Law Number 11 of 1954 concerning Amnesty and Abolition is unable to provide limitations and categorizations of what kind of criminal acts can receive amnesty and abolition. The first arrangement is that there needs to be a revision of Law Number 11 of 1954 concerning Amnesty and Abolition and an amendment to Article 14 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, specifically the provisions of Article 14 paragraph (2) of the provisions in returning the granting of amnesty and abolition by the president must pay attention to the considerations of the House of Representatives in the Supreme Court as a legal instrument. Second, revising Law Number 11 of 1954 concerning Amnesty and Abolition by providing restrictions to the president in granting amnesty and abolition specifically for criminal acts of corruption.

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