

Juridical Review of the Reduction of Detention Period for Class IIB Tanjung Pura Prisoners

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Abstract: *The granting of remissions for drug convicts is based on the condition of the house detainees who are overcrowded by convicts due to over capacity. Granting remission is not applied to drug convicts involved in large-scale trafficking cases, especially for big producers and airports. Tightening remissions for extraordinary crimes (Extraordinary Crime), especially for convicts of narcotics cases in Indonesia because these crimes continue to increase from year to year. The purpose of this study is to find out the legal rules regarding remission for narcotics convicts, the implementation of granting remissions for narcotics convicts in class II B Tanjung Pura prison and the obstacles to implementing the disciplinary law for narcotics convicts in class IIB Tanjung Pura prison. This research is included in the analytical descriptive research with the type of normatif juridical research using qualitative analysis methods. Based on the results of the research, it is known that the legal basis used in granting remission is regulated in Law Number 12 of 1995 concerning Corrections, Presidential Decree Number 174 of 1999 concerning Remission, Presidential Decree Number 21 of 2005 given for extraordinary events, Government Regulations Number 99 of 2012 concerning the Second Amendment to Government Regulations Number 32 of 1999 concerning Requirements and Procedures for the Implementation of the Rights of Correctional Families, Minister of Law and Human Rights Number 18 of 2019 concerning Amendments to the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave. Implementation of Granting Remission at the Langkat Class IIB Tanjung Pura Penitentiary refers to laws and regulations that regulate provisions regarding remissions, during 2020 973 general remissions were granted and 1039 special remissions, in 2021 1145 general remissions were granted and 1135 special remissions and in 2022 1908 general remissions were granted and special remissions as many as 1147 people as well as obstacles to the implementation of grants remissions to inmates at the Class IIB Tanjung Pura Correctional Institution come from ; internal factors such as prisoner behavior factors, human resource factors, facilities and infrastructure factors and external factors such as legal or juridical factors, administrative factors, institutional factors, and community factors.*

Keywords: *Inmates, Prisoners, Tanjung Pura*

INTRODUCTION

The law functions as a protector of human interests, so that human interests are protected, the law must be implemented. The implementation of the law can take place normally, but it can also be due to violations of the law in which case the violated law must be enforced. It is through this enforcement that the law becomes a reality. In this law enforcement, there are three things that must be considered, namely first, legal certainty (rechssicherheit), second, expediency (zweckmassigheir) and third, justice (gerechtigheit). Indonesian positive law recognises various kinds of criminal sanctions and one of them is imprisonment. Criminal sanction is a punishment given to someone who is found guilty of committing a criminal act. The types of punishment are very varied, such as death penalty, life imprisonment, temporary

imprisonment, confinement and fines which are the main punishment, and revocation of certain rights, deprivation of certain goods, and announcement of the judge's decision, all of which are additional punishments.

The purpose of punishment is to prevent a person from committing a crime and is not a retaliation from society. The same efforts that have been made in the field of imprisonment in western countries, especially in the United States have also been implemented in Indonesia since 1964, a new imprisonment system known as the Correctional System emerged. In 1964 the implementation of the Correctional System had the core task of fostering prisoners as stated in the Correctional Charter. Corrections is a process, a *therapeoimc* process in which the inmate at the time of entering the Correctional Institution is in a state of disharmony with the surrounding community, has a negative relationship with the community. To that extent the convict then undergoes coaching that cannot be separated from other elements in the community concerned, so that in the end the convict with the surrounding community is a wholeness and harmony (harmony) of life with livelihood, healed from harmful (negative) aspects.

To further improve control and supervision in an effort to prevent and eradicate the abuse and distribution of Narcotics, joint efforts between law enforcement officials and the community are needed by applying the sanctions of imprisonment and rehabilitation. Convicts of narcotics abuse who are serving imprisonment have rights that are protected by human rights and the law, one of which is the granting of remission. According to Andi Hamzah, remission is a legal release for all or part or from life to a limited sentence given every 17 August. Remission in essence is the right of all prisoners and applies to anyone as long as the prisoner is serving a temporary sentence instead of life imprisonment and death penalty.

In the new system of prisoner development, the reduction of detention period is placed as a motivation (one of the motivations) for prisoners to foster themselves. Therefore, the reduction of detention period is not as a law as in the Correctional System, nor as a gift as in the prison system, but as the rights and obligations of the convicts. This means that if the convict really carries out his obligations, and he is entitled to remission, although as long as the requirements have been met, the granting of a reduction in detention period for drug convicts is based on the reason that the conditions of the detention centre are overcrowded by inmates in this case. The reduction of detention period is not applied to drug convicts who are involved in large-scale trade cases, especially for producers and big-time dealers. The reduction of detention period for drug convicts will only be applied to small-scale traders or those who only act as couriers.

The criteria for granting a reduction in the period of detention need to be clarified so as to close the opportunity for the reduction of the period of detention to become a commodity. Even though the reduction of detention period is the right of convicts, there still needs to be special conditions that determine whether or not a sentence reduction is given and the length of sentence reduction for convicts. Tightening the reduction of detention periods for *extraordinary* crimes, especially for prisoners of narcotics cases in Indonesia, is contrary to the basic foundation of the ideology of the Indonesian state, namely Pancasila, at least on the principles of fair and civilised humanity (second principle) and social justice for all Indonesian people (fifth principle). This right to nondiscrimination is again stated in Article 27 paragraph (1), Article 28 d paragraph (1), and Article 28 h paragraph (2) of the 1945 Constitution and contradicts Law Number 12 of 1995 concerning Corrections, especially Article 5 which regulates the equal rights of prisoners in their development both treatment and services. It also violates Article 7 of the Universal Declaration of Human Rights (UDHR) and Article 20 of the *International Covenant of Cultural and Political Rights (ICCPR)* which essentially states equal rights before the law.

Based on the description above, the author is interested in examining the issue of granting parole in a thesis entitled: "*Juridical Review of the Reduction of the Criminal Period of Detention for Prisoners of Class II B Tanjung Pura Detention Centre*" Based on the above background, the author is interested in reviewing more deeply about How are the Legal Rules on Remission for Narcotics Prisoners and How is the Implementation of Granting Remission for Narcotics Prisoners in Class II B Tanjung Pura Detention Centre?

THEORETICAL REVIEW

The theory used in this journal is Legal Certainty Theory (*Middle-Ranged Theory*). The definition of Legal Certainty is Legal Certainty Theory contains 2 (two) meanings, namely first the existence of general rules that make individuals know what actions may or may not be done, and second in the form of legal security for individuals from government arbitrariness because with the existence of general legal rules that individuals can know what the State can impose or do to individuals. Legal certainty is not only in the form of articles in the law but also the consistency in the judge's decision between one judge's decision and another judge's decision for a similar case that has been decided.

Law and certainty are two things that are very difficult to separate. The law exists for certainty, the existence of certainty also makes the law more obeyed. To realise certainty, the law must be created first before the actions regulated in the law are carried out, so that people

know what they can and cannot do and know the consequences if they act contrary to or against the law.

Certainty is a form of characteristic that cannot be separated from the law, especially those that are positive law or legislation or written law. Law without certainty value will lose its meaning because it can no longer be used as a behavioural guide for everyone. Certainty contains several meanings, including clarity, does not cause multiple interpretations, does not cause contradictions, and can be implemented. The law must apply firmly in society, containing openness so that anyone can understand the meaning of a legal provision. One law with another should not be contradictory so that it does not become a source of doubt.

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be carried out in a good way. Legal certainty requires efforts to regulate the law in legislation made by authorised and authoritative parties, so that these rules have a juridical aspect that can guarantee the certainty that the law functions as a rule that must be obeyed. Truth and justice cannot be separated from the nature and purpose of law. Law in the sense of truth and justice is an aspired concept. It means a state of law when combined with these two concepts. It is only through a just and righteous legal system that society can live peacefully towards physical and mental prosperity.

RESEARCH METHODS

The nature of the research used by the author in this legal writing is descriptive analytical because this research describes in detail the social phenomena that are the subject matter. A descriptive study is intended to provide data as accurately as possible. The research from this journal uses empirical legal research. Empirical legal research is research that traces the reality of law in society. Empirical legal research in this study is intended to conduct research on parole for prisoners in correctional institutions.

In collecting this data, the collection methods used are field studies and library research. Field study, which is a way of obtaining data by going directly to the field which is the object of research, namely in Tanjung Pura Class IIB Detention Centre. This field study was conducted to obtain primary data, where the data was obtained by interviewing related parties. While literature research is to conduct research on various reading sources, namely books, scholarly opinions, articles, the internet and mass media related to the above problem.

RESULTS AND DISCUSSION

According to Presidential Decree No. 174 of 1999 on Remission in Article 1 paragraph (1), remission is: *"a reduction in the period of punishment given to prisoners and criminals who behave well while serving their sentence."*

According to Article 34 paragraph (2) of Government Regulation No. 99/2012 on the second amendment to Government Regulation No. 28/2006 and Government Regulation No. 32/1999 on the Terms and Procedures for the Implementation of the Rights of Prisoners, remission is granted to convicts and juvenile offenders if they are well behaved and have served more than six months of their sentence. Article 34A, specifically for prisoners convicted of committing criminal acts of terrorism, narcotics and narcotic precursors, psychotropic substances, corruption, crimes against state security and serious human rights crimes, as well as other transnational organised crimes, in addition to good behaviour the prisoners must also be:

- a. Willing to cooperate with law enforcement to help uncover the criminal offence he/she committed;
- b. Have paid in full the fine and restitution in accordance with the court decision for prisoners convicted of corruption offences; and
- c. Has participated in the deradicalisation program organised by the Correctional Institution and/or the National Counterterrorism Agency, as well as stating a pledge:
 1. Allegiance to the Unitary State of the Republic of Indonesia in writing for Indonesian citizen prisoners, or
 2. Will not repeat the act of terrorism crime in writing for foreign convicts, who are transferred for committing terrorism crime.

Remission is given because it is one of the important legal means to realise the goals of the correctional system. in order to realise the objectives of the Correctional system. The government provides opportunities for prisoners to improve themselves while serving their sentence so that the prisoners are aware and regret all their mistakes, and when the sentence has expired the prisoners are expected to be accepted back in the midst of social life.

According to Presidential Decree No. 174 of 1999, the authority to grant remission is the Minister of Law and Human Rights, this is in accordance with the Decree of the Minister of Law and Legislation of the Republic of Indonesia Number: M.09.HN.02.01, of 1999 concerning the Implementation of Presidential Decree No. 174 of 1999 concerning Remission article 2, namely:

- a. In granting remission, the Minister may delegate the implementation to the Head of the Regional Office.
- b. The stipulation of remission as referred to in paragraph (1) shall be implemented by a Decree of the Head of the Regional Office on behalf of the Minister.
- c. Immediately after issuing the stipulation as referred to in paragraph (2), the Head of the Regional Office shall submit a report on the stipulation of the reduction of criminal period to the Minister cq. Director General of Corrections.

Article 34A of Government Regulation Number 99 of 2012 concerning amendments to Government Regulation Number 28 of 2006 concerning Conditions and Procedures for Implementing the Rights of Prisoners is amended, to read as follows:

1. The granting of remission for prisoners convicted of terrorism, narcotics and narcotics precursors, psychotropic substances, corruption, crimes against state security, serious human rights crimes, and other transnational organised crimes, in addition to meeting the requirements as referred to in Article 34, must also meet the following requirements:
 - a. Willing to cooperate with law enforcement to help uncover the criminal offence he/she committed;
 - b. Have paid in full the fine and restitution in accordance with the court decision for prisoners convicted of corruption offences; and
 - c. Has participated in a deradicalisation program organised by the Correctional Institution and/or the National Counterterrorism Agency.
2. Prisoners convicted for committing criminal offences of narcotics and narcotic precursors, psychotropic substances as referred to in paragraph (1) shall only apply to prisoners convicted with imprisonment of at least 5 (five) years.
3. The willingness to co-operate as referred to in paragraph (1) letter a must be stated in writing and stipulated by law enforcement agencies in accordance with the provisions of laws and regulations.

The existence of discrimination with the amendment of Article 34 in Government Regulation 99/2012, for criminal cases with a sentence of more than 5 (five) years, one of which is the case of narcotics offences, also has an impact on the overcapacity of correctional institutions. If the verdict of narcotics offences above 5 (five) years is half of the number of occupancy of narcotics criminal cases, it means that the number of prisoners and criminals who do not get remission will increase, and this also has an impact on the inequality of life in the Correctional Institution.

Some of the legal consequences of granting remission as stipulated in Presidential Decree Number 174 of 1999, can be stated as follows:

1. Reduction of the criminal period served by convicts or juvenile offenders;
2. The granting of remission results in a reduction in the criminal period that must still be served by the convict;
3. Reduction of criminal period that leads to instant release;
4. Release is given to prisoners who after deducting general remission and additional remission, the criminal period that must be served turns out to result in the expiration of the criminal period, right at the time of granting remission, namely on 17 August;
5. The period of release or conditional release becomes shorter. Parole is given to prisoners who have served 2/3 of their sentence, at least 9 (nine) months. So with the granting of remission will reduce the criminal period of the convict concerned, this will result in a shorter parole period;
6. Another legal consequence of remission is that it also regulates the provisions on commutation or the change of life imprisonment into a temporary sentence of 15 years, with the conditions, among others, that the convict has been punished for at least 5 (five) consecutive years and has behaved well.

The author concludes that the granting of remission for narcotics offenders has been quite effective with the new regulation, namely Government Regulation Number 99 of 2012 concerning amendments to Government Regulation Number 28 of 2006. This is because the granting of remission since the enactment of Government Regulation Number 99 of 2012, narcotics convicts sentenced to imprisonment of at least 5 (five) years will not easily get remission because of the additional requirements contained in the terms and procedures for implementing the rights of Prisoners of Correctional Facilities Regarding the Tightening of Prisoners Obtaining Remission. Regulation of the Minister of Law and Human Rights based on Minister of Law and Human Rights Regulation Number 7 of 2022 concerning the Second Amendment to the Regulation of the Minister of Law and Human Rights. Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave to Explain Freedom and Conditional Leave.

The Tanjung Pura Class IIB Detention Centre determines several stages that must be undertaken for prisoners to obtain remission as their right, namely:

During the detention period, the inmates are observed by a team of observers of the Detention Centre about the good behaviour of the inmates and participate in activities held at the Detention Centre during their detention period. This is an absolute requirement for every prisoner to get remission.

- a. Furthermore, the Detention Centre Observation Team proposes to the Head of the Detention Centre to be submitted to the Director General of Corrections, copying the Head of the Regional Office of the Ministry of Law and Human Rights.
- b. Then the Head of the Regional Office verifies the proposal to grant remission, which then the results of the verification are submitted to the Director General of Corrections
- c. After that, the Director General of Corrections verifies the proposal for granting remission, then determines the decision to grant remission to the names that have been approved, and the decision to grant remission is submitted to the Head of the Regional Office of the Ministry of Law and Human Rights.
- d. Furthermore, the decision to grant remission is submitted to the Head of the Detention Centre to be notified to the inmates, signed by the Director General of Corrections on behalf of the Minister of Law and Human Rights.

The implementation of General Remission is given to convicts on the Proclamation of Independence of the Republic of Indonesia every 17 August, while the granting of Special Remission is given to convicts every religious holiday, such as Eid al-Fitr for prisoners and criminals who are Muslims, Christmas Day for prisoners and criminals who are Christians, Nyepi Day for prisoners and criminals who are Hindus, and Vesak Day for prisoners and criminals who are Buddhists.

The amount of the General Remission is: 1 (one) month for prisoners and criminals who have served a criminal period of 6 (six) months to 12 (twelve) months, and 2 (two) months for prisoners and criminals who have served 12 (twelve) months or more. In addition to the monthly period, General Remission is also given on an annual basis, namely; in year I (first) remission is given as referred to in paragraph (1), in year II (second) remission is given for 3 (three) months, then in year III (third) remission is given for 4 (four) months, after that in years IV (fourth) and V (fifth) each remission is given for 5 (five) months and finally in year VI (sixth) and so on remission is given for 6 (six) months each year.

Meanwhile, the amount of Special Remission is as follows: 15 (fifteen) days for convicts and juvenile offenders who have served 6 (six) to 12 (twelve) months, and 1 (one) month for convicts and juvenile offenders who have served 12 (twelve) months or more (Article 5 paragraph 1). As with the General Remission, the granting of Special Remission is also carried out based on an annual period, namely; in year I (first) remission is given as referred to in paragraph (1), then in years II (second) and III (third) each remission is given 1 (one) month, after that in years IV (fourth) and V (fifth) each remission is given 1 (one) month 15 (fifteen) days, and finally in year VI (sixth) and further remission is given 2 (two) months

every year (Article 5 paragraph 2). In the granting of Special Remission, if during the criminal sentence the convicts and juvenile offenders change religions, then remission is given to him according to the religion adhered to at the time of the first data collection.

Then in Additional Remission based on Article 12 letter d of Presidential Decree Number 174 of 1999 concerning Remission, for imprisonment in lieu of fines cannot be given additional remission. The amount of Additional Remission is 1/2 (one-half) of the General Remission in the relevant year for convicts and juvenile offenders who perform services to the State or perform actions that are beneficial to the State or Humanity, and 1/3 (one-third) of the General Remission obtained in the relevant year for convicts and juvenile offenders who have performed actions that assist coaching activities in Correctional Institutions or Detention Centres as leaders.

Remission as referred to above cannot be granted to convicts and juvenile offenders who:

1. Sentenced to less than 6 months,
2. Subjected to disciplinary punishment and registered in the register book of violations of the rules of the Penitentiary or Detention Centre within the period calculated for the granting of remission,
3. Currently on leave before release, and
4. Sentenced to imprisonment in lieu of fine.

The following are the results of direct interviews conducted by researchers to several prisoners regarding the implementation of remission during the criminal period in Class IIB Tanjung Pura detention centre:

- a. The first prisoner is a 38-year-old prisoner of narcotics abuse, the criminal period to be served after the trial is 4 years and 6 months, has been detained since 22 March 2020 and has served 2 years and 5 months. He has received remission twice, the first is General Remission on 17 August 2017 for 2 (two) months, and the second is Special Remission on Eid al-Fitr for 1 (one) month. In total, the person concerned has received remission of 3 (three) months.
- b. The second prisoner was also a 26-year-old prisoner with a drug abuse offence. He explained that the sentence to be served was 3 years and 6 months, had been detained since 08 April 2022 and had served 8 months. According to his statement, the person concerned has only received remission once, namely Special Remission on Eid al-Fitr 2018 for 15 (fifteen) days.

The following data on the granting of remission that researchers obtained at the Tanjung Pura Class IIB Detention Centre is presented in the form of a table:

Tabel 1

Data on Remission Recipients at Class IIB Tanjung Pura Detention Centre for the period 2020-2022

YEAR	Type of Remission				
	General Remission	Special Remission	Additional Remission	Humanitarian Remission	Natural Disaster Remission
2020	973 people	1039 people	None	None	None
2021	1145 people	1135 people	None	None	None
2022	1908 people	1147 people	None	None	None

From the data above, it can be concluded that there is an increase in the number of remission recipients every year, this proves that the implementation of guidance in the Detention Centre has been running well, as well as the implementation of remission, this data is a benchmark that the granting of remission to Prisoners has been running based on the provisions and in accordance with the rules and regulations, so that it can be ensured that every prisoner gets their rights as an Indonesian citizen.

CONCLUSIONS AND ADVICE

It is advisable to conduct a thorough study of the legal regulations governing the procedure for reducing the detention period for prisoners. Be sure to understand the requirements that must be met and the mechanisms that apply. Conduct an in-depth assessment of cases involving prisoners who are potential candidates for a reduction in custody. Consider factors such as behaviour in prison, participation in rehabilitation programmes, and compliance with rules. Clearly define the requirements that prisoners must fulfil to qualify for a reduction in custody. This may include length of sentence served and other criteria, understanding of the law, and recommendations on how the reduction process can be conducted in a fair and transparent manner. Making efforts to reduce the period of detention aims to improve justice and welfare for prisoners in general, with attention to aspects of rehabilitation and social reintegration.

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