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by Christian Carlos Partogi Siahaan

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Legal Review of The Granting of Remission to Prisoners in Class II A Langkat Prison

³⁹ Christian Carlos Partogi Siahaan
Universitas Pembangunan Panca Budi Medan

⁷ Syaiful Asmi Hasibuan
Universitas Pembangunan Panca Budi Medan

Jl. Gatot Subroto Km.4,5 Sei Sikambing 20122 Kota Medan, Sumatera Utara

Abstract: The rights of prisoners as Indonesian citizens who have lost their independence due to committing a criminal offence, must be carried out in accordance with human rights. One of the rights of prisoners is to get a reduction in the period of punishment (remission) which is regulated in the legislation. Remission in the implementation system of imprisonment, especially concerning coaching issues, is recognised and protected by law. This study aims to determine the legal basis for granting remission to prisoners, to determine the implementation of granting remission to prisoners in the Class II A Langkat Narcotics Penitentiary and to determine the obstacles and solutions in the implementation of granting remission to prisoners in the Class II A Langkat Narcotics Penitentiary. The research method used in this research is descriptive with the type of empirical legal research or field research and qualitative data analysis. The legal basis for granting remission for prisoners is regulated in Law Number 22 of 2022 concerning Corrections and several implementing regulations. In these regulations, remission for prisoners can be given to prisoners who meet certain conditions. The stages of granting remission by submitting an application accompanied by evidence that he meets the requirements, the correctional institution will verify and evaluate the application, after the verification and evaluation process is complete, the correctional institution will make a decision on whether the inmate is entitled or not to receive remission. The rules for obtaining remission in Indonesia should be tightened and reinforced in accordance with the applicable law without any misappropriation and intensive socialisation, training for officers, effective cooperation with authorities such as the police, prosecutors and judges and the information provided about the procedures for granting remission is correct and precise.

Keywords: Remission, Prisoners, Correctional Institution

INTRODUCTION

¹² Criminal law is part of the general law that applies and regulates what actions should not be done, prohibited and there are sanctions in the form of certain penalties for violators. Based on the Criminal Code (KUHP), there are two types of sanctions that can be imposed on a person if proven to have violated the law, namely contained in Article 10 of the Criminal Code consisting of main and additional punishment. The main punishment consists of death penalty, imprisonment, confinement and fine, while the additional punishment consists of revocation of certain rights, deprivation of certain goods and announcement of the judge's decision.¹

Imprisonment is a form of punishment that is usually imposed to someone who has been convicted of committing a criminal offence. Imprisonment is one type of criminal offence commonly known as loss of freedom or deprivation of freedom.² Imprisonment is a punishment

³⁷ ¹ 43 eljatno, *Asas-Asas Hukum Pidana*, Rineka Citra, Jakarta, 2015, halaman. 1.

² Marlina, *Hukum Penitensier*, Refika Aditama, Bandung, 2013, halaman. 87.

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* Christian Carlos Partogi Siahaan

that restricts the freedom of movement of a prisoner by placing the prisoner in a correctional institution to be given guidance.³

Penitentiary is an institution where people who have been sentenced to criminal sanctions with certain criminal sanctions by the judge must then carry out the verdict on criminal sanctions.⁴ The existence of correctional institutions shows that law enforcement in Indonesia does not stop at the judicial process, but there are further stages until the convict is in a correctional institution.⁵

The rights of prisoners as Indonesian citizens who have lost their independence due to criminal offences must be carried out in accordance with human rights. Criminal sanctions are not the ultimate goal but rather a means to achieve the real purpose of criminal law. As a state of law, the rights of prisoners must be protected by law. For a state of law to respect the human rights of prisoners, prisoners need to be protected from unfair treatment.⁶

In correctional institutions, one of the rights of prisoners based on Article 14 Paragraph (1) letter i of Law Number 12 Year 1995 concerning Corrections is to get a reduction in the period of punishment (remission). Officers in correctional institutions and detention centres along with the Ministry of Law and Human Rights need to ensure the rights of prisoners are recognised and protected by law. The terms and procedures for the implementation of remission are fully regulated in the Regulation of the Minister of Law and Human Rights Number 03 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave Ahead of Release and Conditional Leave.

Remission in the prison implementation system, especially regarding the correctional system, is very important. This concerns the issue of guidance carried out by correctional officers against prisoners, for this reason in the prison system in Indonesia, remission has a very strategic position, because if the prisoner is not behaving well, remission cannot be given as long as the requirements have been met.

According to the provisions of Article 1 of the Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remission does not provide an understanding of remission, it only says that 'every convict and criminal who is serving temporary imprisonment and confinement can be granted remission if the person concerned behaves well while serving the sentence'. The granting of remission as referred to in Presidential Decree of the Republic

³⁰ Djisman Samosir, *Penologi dan Pemasyarakatan*, Nuansa Aulia, Bandung, 2016, halaman. 39.

¹⁷ F Lamintang dan Theo Lamintang, *Hukum Penitensier Indonesia*, Sinar Grafika, Jakarta, 2013, halaman. 165.

¹⁹ Syaiful Bakhri, *Kebijakan Kriminal (Perspektif Pembaruan Sistem Peradilan Pidana Indonesia)*, Total Media, Yogyakarta, 2016, halaman. 145.

⁴ Monica Lutfiyati Khasanah, *Pelaksanaan Remisi Terhadap Narapidana Di Lembaga Pemasyarakatan Kelas I Surabaya Di Porong*, Artikel, Program Studi S-1 Ilmu Hukum, Fakultas Ilmu Sosial, Universitas Negeri Surabaya, 2014, halaman. 2.

of Indonesia Number 174 of 1999 concerning Remission is not interpreted as a convenience in the policy of undergoing punishment so as to reduce the meaning of punishment, but the granting of remission is an effort to reduce the negative impact of the subculture of the place of execution of punishment, criminal disparity and the consequences of criminal deprivation of freedom.

The granting of remission is expected to be a trigger as well as a motivation for prisoners who are still undergoing guidance in correctional institutions. The granting of remission is also one of the coaching facilities given to prisoners in order to achieve correctional goals. This correctional goal is to form prisoners to become fully human, realise mistakes, improve themselves and not repeat criminal acts so that they can be accepted back by the community after leaving the correctional institution.

In granting remission, the authorities certainly know the behaviour or actions of the prisoners while serving the sentence as a reference for granting remission in accordance with the behaviour and actions while in the correctional institution and the purpose of the punishment itself. For this reason, the researcher is interested in examining how the implementation of the granting of remission to prisoners in Class II A Langkat Correctional Facility?

LITERATURE REVIEW

Definition of Remission

Based on the Big Indonesian Dictionary (KBBI), the definition of remission is 'Reduction of punishment given to a convicted person'.⁷ Remission is given based on the provisions of the legislation in force in Indonesia. According to Article 1 Paragraph 1 of the Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remission is 'Reduction of the criminal period given to prisoners and criminals who have behaved well while serving their sentence, except those sentenced to death or life imprisonment'.

According to Article 1 Paragraph 6 of Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Prisoners of Correction, remission is 'Reduction of the criminal period given to prisoners and criminals who have fulfilled the conditions specified in the legislation'.

⁸ Kamus Besar Bahasa Indonesia, *Pengertian Remisi*, melalui <https://kbbi.web.id/remisi>, diakses pada tanggal 6 Juni 2022, pada pukul 10.00 WIB.

Definition of Prisoner

According to the KBBI, the definition of an inmate is 'A punished person (one who is serving a sentence for a criminal offence) or a convicted person'.⁸ According to Article 1 paragraph (7) of Law Number 12 of 1995 concerning Corrections states that a convict is 'A convict who is serving a sentence of loss of freedom in a correctional institution'.¹⁰

According to the provisions of Article 1 paragraph (1) of the Decree of the Minister of Justice of the Republic of Indonesia Number: M.01-PP.02.01 of 1990 states that a convict is 'A convict based on a court decision that has obtained permanent legal force and the convict is placed in a correctional institution or state detention centre'.

Based on the KBBI, the definition of a correctional institution or detention centre is 'A place where people serve criminal sentences'.⁹ Correctional institutions according to Article 1 Point 3 of Law Number 12 of 1995 concerning Corrections are 'Places to carry out the guidance of prisoners and correctional students'. The correctional institution is a Technical Implementation Unit under the Directorate General of Corrections of the Ministry of Law and Human Rights.

Correctional institutions or detention centres were previously known as prisons. Imprisonment as a criminal sanction is also used in Indonesia. Along with the development, prisons in Indonesia experienced renewal. During the reformation period, Sahardjo, who served as minister of justice, prioritised the concept of corrections by making changes in 1964. The name of the prison institution (which comes from the word penjara, to make a deterrent) is replaced with a correctional institution that is more directed towards the development of prisoners. The banyan tree symbol in the penitentiary means nurturing with the intention that the state has an important duty to foster convicts and protect society.¹⁰

In the criminalisation process, the prison or detention centre is tasked with a huge responsibility by the court after the trial. Deterrence is the main goal of punishment which makes the perpetrator feel a deterrent effect so that he does not repeat his actions again. The goal to be achieved becomes a protection, both to the community who feels harmed or the perpetrator as a party to the harm. Legal protection is the basis so that in serving his sentence the offender gets legal guarantees and good treatment in correctional institutions.¹¹

⁸ Kamus Besar Bahasa Indonesia, *Pengertian Narapidana*, melalui <https://kbbi.web.id/narapidana>, diakses pada tanggal 6 Juli 2022, pada pukul 11.00 WIB.

⁹ Kamus Besar Bahasa Indonesia, *Pengertian Lembaga Pemasyarakatan*, melalui <https://kbbi.web.id/lembaga>, diakses pada tanggal 16 Juli 2022, pada pukul 12.00 WIB.

¹⁰ M.H. Evan. C., *Privatisasi Penjara: Upaya Mengatasi Krisis Lembaga Pemasyarakatan di Indonesia*, Calpulis, Yogyakarta, 2006, halaman. 3.

¹¹ Dwidja Priyatni, *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Refika Aditama, Bandung, 2016, halaman. 79.

RESEARCH METHODS

In general, research methods are defined as scientific ways to obtain data with specific purposes and uses.¹² The research methods used in this study are as follows:

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 research is intended to provide data as accurately as possible.¹³

To discuss problems in law that are adjusted to the problems discussed, the type of research used is empirical legal research or field research. Empirical legal research is a legal research method that seeks to see the law in a real sense or it can be said to see, examine how the law works in society.¹⁴

DISCUSSION DAN RESULTS

Based on the results of research at the Class II A Langkat Narcotics Penitentiary in 2020 to 2022 the granting of remission to prisoners can be seen in the following table:

Year	TYPE OF REMISSION				
	General Remission	Special Remission	Supplementary Remission	Humanitarian Remission	Subsequent Remission
2020	973 people	1039 people	Nihil	Nihil	Nihil
2021	1145 people	1135 people	Nihil	Nihil	Nihil
2022	1908 people	1147 people	Nihil	Nihil	Nihil

From the table above it can be seen that for three years there was an increase in prisoners who received remission at the Class II A Langkat Narcotics Penitentiary, both general remission and special remission and against other types of remission for three years there was no remission due to the granting of remission. Human resource factors, namely law enforcers, law enforcers who act as implementers of regulations must carry out their obligations as much as possible as mandated in the legislation and perform their obligations without delaying time, namely processing remission proposals can be carried out quickly and on time. Improve human resources who are capable and competent in their field of work, where employees must have expertise about the correctional in order to create a good cooperation so that the implementation of tasks can run in accordance with the objectives set.

In order to improve the quality of employees, special employees of the registration section are more often included in various correctional training, besides that there is also socialisation to special officers in charge of the coaching section in order to increase knowledge about the calculation in the proposed remission. Apart from that, the solution is to increase horizontal and vertical supervision. Internal supervision carried out by the Director General of

²¹ geiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Alfabeta, Bandung, 2013, halaman. 3.

¹³ ¹⁵ jono Soekanto, *Pengantar Penelitian Hukum*, Universitas Indonesia Press, Jakarta, 2014, halaman. 10.

¹⁴ Nurul Qamar dkk, *Metode Penelitian Hukum (Legal Research Methods, Social Politic Genius (SIGn)*, Makasar, 2017. halaman. 52.

Corrections and external supervision carried out by parties who have direct or indirect coordination in the organisation of the Ministry of Law and Human Rights.¹⁵

CONCLUSIONS AND SUGGESTIONS

The legal basis for granting remission for prisoners is regulated in Law Number 22 Year 2022 on Corrections and several implementing regulations. In these regulations, remission for prisoners can be given to prisoners who meet certain conditions, such as good behaviour while serving their sentence and completing administrative requirements. The implementation of remission for prisoners at the Class II A Langkat Narcotics Penitentiary is carried out through a structured process and based on clear rules.

The rules for obtaining remission in Indonesia should be tightened and reinforced in accordance with applicable law without any fraud. Regulations that are no longer appropriate should be immediately reviewed and replaced, while regulations that are still appropriate become policy tools and are implemented consistently.

As for some suggestions in the implementation of granting remission to prisoners are as follows:

- a. Intensive socialisation: Correctional institutions must conduct intensive socialisation of the procedures for granting remission and the conditions that must be met, so that prisoners can easily understand the procedures for granting remission and apply for remission.
- b. Training for officers: Correctional institutions should conduct training for officers to ensure that officers understand the procedures for granting remission and can carry out the procedures properly.
- c. Effective co-operation: Correctional institutions should conduct effective co-operation with authorities such as the police, prosecutors and judges to ensure that the procedures for granting remission work properly.
- d. Proper information: Correctional institutions must ensure that the information provided about the procedures for granting remission is correct and appropriate, so that prisoners can understand the procedures for granting remission.
- e. Effective monitoring and evaluation: Correctional institutions must conduct effective monitoring and evaluation of the procedures for granting remission to ensure that the procedures for granting remission are running properly and in accordance with applicable regulations.

¹⁵ Hasil Wawancara Dengan Bapak Ibnu Taqwim Selaku Kepala Seksi Bimbingan Narapidana/Anak didik di Lembaga Pemasyarakatan Narkotika Kelas II A Langkat Pada Tanggal 09 Februari 2023.

- f. Fair and non-discriminatory treatment: Correctional institutions should ensure that remission procedures are fair and non-discriminatory for all prisoners.
- g. Clear criteria for granting remission: Correctional institutions must establish clear criteria for granting remission and in accordance with applicable regulations, so that prisoners can understand the conditions that must be met to obtain remission.

Saran-saran ini dapat membantu Lembaga Pemasyarakatan Narkotika Kelas II A Langkat dalam melakukan prosedur pemberian remisi secara baik dan adil dan memastikan bahwa narapidana memperoleh hak-hak yang sesuai dengan peraturan yang berlaku

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