

The Effectiveness of The Correctional Development Program in Changing the Behaviour of Prisoners (Study at the Langkat Class III Youth Correctional Institution)

Orisalsalina Br Surbakti

Universitas Pembangunan Panca Budi

Syaiful Azmi Hasibuan

Universitas Pembangunan Panca Budi

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

Abstract: *The social issue in giving to prisoners who have committed criminal acts of narcotics abuse is the prisoner's right to receive a reduced sentence if they have good behavior while undergoing training. In principle, remission is to create a correctional system that leads to the process of rehabilitation and resocialization of prisoners. The correctional system which started from prison then turned into a correctional system. Penitentiary institutions are no longer a place for revenge, but are a place for convict development. The nature of the research used is normative legal research and the data collection method used in this research is secondary data obtained through library research, namely by conducting research on various literature such as books, laws, with the aim of to look for concepts, or understandings related to the problem of Prison Criminal Efficiency in Changing Prisoner Behavior (Study at Class III Langkat Youth Correctional Institution. A convict is a person who is serving a sentence for a criminal offense or a convict who is serving his sentence in a correctional institution where some of his freedom has been lost. Whereas the regulations regarding remissions start from Government Regulation No. 32 of 1999, the conditions for granting remissions, one of which is for narcotics convicts, are the conditions for granting remissions so that their implementation reflects the values of justice. The mechanism for the process of granting remissions for narcotics crimes in Narcotics Correctional Institutions is that the stages of granting remissions are carried out by submitting an application for remission to the Minister of Law and Human Rights. Then the Head of Prisons makes an assessment with the correctional assessment team of the prisoner. The Head of Prisons and the Correctional Observer Team then held a hearing to discuss the request for remission accompanied by supporting data.*

Keywords: *Efficiency, Correctional Development, Prisoner Behavior*

INTRODUCTION

The 1945 Constitution, both in its preamble and in its body, explicitly states that the State of Indonesia is a State of Law. Corrections is part of an integrated criminal justice system, namely as a law enforcer who has the main task of carrying out the guidance of prisoners and correctional students as the final part of the punishment system. Prisoners and students are also legal subjects whose rights are recognised in law.¹

One of the forms of inmate development is the granting of special remission, namely the cutting of the criminal period for prisoners who behave well and are given on their religious holidays. The basic rules governing the granting of remission for prisoners who behave well are as contained in the provisions of Article 14 paragraph (1) Letter I of Law No.12 of 1995

¹ Adami Chazawi, *Hukum Pidana Bagian I*, Raja Grafindo Persada, Jakarta, 2008, hlm 68.

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* Orisalsalina Br Surbakti

concerning Corrections. In addition, the granting of remission for prisoners in correctional institutions is regulated in several laws and regulations, among others.²

Every year, prisoners are given a reduction in their criminal period (remission) by the government. The remission is given on Independence Day and religious holidays adhered to by the convicts. However, some people feel that remission is inappropriate, especially for extraordinary prisoners such as those convicted of corruption, terrorism, drugs and criminal offences with a sentence of more than 5 (five) years.³

The tightening of remission for the extraordinary crimes of terrorism, narcotics, psychotropic substances and corruption in Indonesia contradicts the ideological foundation of the Indonesian state, namely Pancasila, at least on the principles of just and civilised humanity (principle 2) and social justice for all Indonesian people (principle 5). This right to non-discrimination is again stated in Article 27 paragraph (1), Article 28 d paragraph (1) and Article 28 h paragraph (2) of the 1945 Constitution and is contrary to Law Number 12 of 1995 concerning Corrections, especially Article 5 which regulates the equal rights of prisoners in their guidance both treatment and services.

The procedure for applying for remission is then submitted to the Minister of Law and Human Rights by the Head of the Correctional Institution, the Head of the State Detention Centre or the Head of the State Detention Centre Branch through the Head of the Regional Office of the Ministry of Law and Human Rights. The decision of the Minister of Law and Human Rights on remission is notified to prisoners and juvenile offenders on the anniversary of the Proclamation of Independence of the Republic of Indonesia on 17 August, for those who are granted remission on the anniversary of the Proclamation of Independence of the Republic of Indonesia or religious holidays adhered to by the prisoners and juvenile offenders concerned. If there are doubts about the religious holidays adhered to by prisoners or juvenile offenders, the Minister of Law and Human Rights consults with the Minister of Religious Affairs.

An important legal tool in order to realise the objectives of the correctional system. Therefore, the definition of remission is a reduction in the period of punishment given to prisoners who meet the requirements.⁴ The granting of remission as referred to in Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remission is not interpreted as 'convenience' in the policy of serving punishment so as to reduce the meaning of punishment, but the granting of remission is in an effort to reduce the negative impact of the

² Lihat Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan.

³ Niniek Suparni. *Eksistensi Pidana Denda Dalam Sistem Pidana Dan Pemidanaan*, Sinar Grafika, Jakarta, 1996, hlm 45.

⁴ Sigit Setyadi, "*Kebijakan Pemberian Remisi Kepada Narapidana Di Yogyakarta*", Tesis tidak diterbitkan, Fakultas Hukum Universitas Diponegoro, Semarang, 2005, hlm 35

sub-culture of the place of execution of punishment, criminal disparity and the consequences of criminal deprivation of freedom.⁵

Measuring the success of the Correctional System is not an easy task, let alone determining the entire field that operates within the Correctional System. The success of the Correctional System is initiated by the high/low number of remissions achieved in coaching in the community. Every prisoner who has been sentenced to more than 6 (six) months can be given encouragement in the form of remission efforts to shorten the criminal period, if he/she has shown achievements by doing and behaving well or taking part in serving the State.⁶

As a motivation (one of the motivations) for prisoners to foster themselves. Because, remission is not as a law as in the Correctional System, nor as a gift as in the Correctional Development Programme, but as the rights and obligations of prisoners. This means that if the prisoner really carries out his obligations, he is entitled to receive remission, as long as the requirements have been fulfilled.⁷

The Indonesian state is a state of law, therefore all Indonesian citizens without exception must obey the applicable law, both the little people, officials and conglomerates must obey the law. All acts or actions carried out in our country must be based on applicable law. If there is a violation or legal dispute, it must be resolved legally. The Criminal Code which regulates the rule of law, crimes and offences (book one, two and three) does not expressly regulate narcotics offences, because in the Criminal Code there is no specific regulation regarding narcotics offences. Willing to cooperate with law enforcers to help uncover the criminal offences committed. This is evidenced by a letter stipulated by the relevant law enforcement that the prisoner concerned is a witness to the perpetrator who is cooperating.

THEORETICAL REVIEW

This conception provides an understanding that the law was born and sourced from the legal consciousness of the community (the people), so that the law thus has authority that is not related to a person (impersonal). Although the state is the creator of the law, it does not mean that he (the state) can act arbitrarily, but is subject to the law that it can create. The existence of arguments like this can result in the state only functioning to create law, and through its creation it is expected that the state can create security and order. In the further development of the concept of the rule of law in the formal sense, it is stated that the state is not only a

⁵ Keputusan Presiden Republik Indonesia No. 174 Tahun 1999 Pasal 1 tentang *Remisi*.

⁶ Bambang Poernomo, *Pelaksanaan Pidana Penjara Dengan Sistem Pemasyarakatan*, Liberty, Yogyakarta, 1986, hlm 41

⁷ Saroso, *Sistem Pemasyarakatan*, Ceramah Dalam Lokakarya Sistem Pemasyarakatan, BPHN, Jakarta, 1975, hlm 10

creator of law, but has also been involved in taking care of the welfare of its citizens (welfare state).

The statement of the Indonesian state of law can be seen in the General Elucidation of the 1945 Constitution, point I on the System of Government, which states that: Indonesia is a state based on law (*rechtstaat*) and not based on mere power (*machtstaat*). The mention of the word *rechtstaat* in the general explanation shows that the concept of the word *rechtstaat* inspired and even inspired the stance of the proclamators and founders of the Indonesian state, although it does not necessarily equate the concept of *rechtstaat* with the concept of the Indonesian state of law. Because between the two are very different philosophies and cultural backgrounds of the people.

As a consequence of the concept of the rule of law, in every legal state, whatever type it adopts, the law must be the basis for every action of the ruler and his people, the law has the highest position in the state, while in the understanding of popular sovereignty, it is the people who are considered sovereign above all, which later gave birth to the democratic system. The principle of the rule of law prioritises norms that are reflected in laws and regulations, while the principle of democracy prioritises community participation in governance.

In a state of law, the use of authority or power by state authorities and/or government authorities cannot be separated from the restrictions set out in law, because the use of authority stems from the concept of division of powers which is a characteristic or character of the rule of law. Conventionally, the concept of the rule of law is always associated with the principles of government that must be based on law and constitution, the division or separation of state power into different functions.

RESEARCH METHODS

Methods are ways of working or work techniques to be able to understand the object that is the target of the science concerned. Meanwhile, research is a scientific work that aims to reveal the truth systematically, methodologically and consistently⁸. Legal research is a scientific activity based on certain methods, systematics and thoughts that aim to study something or several legal symptoms by analysing them. Thus the research method is a scientific effort to understand and solve a problem based on certain methods.

The specification of this research is normative legal research, namely research that refers to legal norms contained in legislation, literature, legal norms that exist in society and the data obtained is then analysed to answer the problems in this study. Research with

⁸Soejono Soekamto, dan Sri Mumadji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Rajagrafindo Persada, Jakarta, 2001, hlm.1 .

straightforward to analyse the application of the law, the type of research used qualitative research that is done by examining library materials in the field of law as well as legislation relating to the Effectiveness of Correctional Development Program in Changing the Behavior of Prisoners (Studies in Youth Correctional Institution Class III Langkat).

RESULTS AND DISCUSSION

1. The Effectiveness of the Correctional Development Program in Changing the Behaviour of Prisoners (Study at the Class III Langkat Youth Correctional Institution)

The process of providing services is a reduction in the period of punishment based on statutory provisions in force in Indonesia. According to Article 1 Paragraph 1 of the Presidential Decree of the Republic of Indonesia No. 174 of 1999, remission is a reduction in 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 No. 32 of 1999, remission is a reduction in the criminal period given to convicts and juvenile offenders who have fulfilled the conditions specified in the laws and regulations. Several regulations that have become the basis for granting remission, the author will provide a discussion related to the articles of the legislation based on four qualifications.

First, qualifications based on understanding. The definition of remission in Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Prisoners is contained in Article 1 number 6, which explains 'Remission is a reduction in the period of serving a sentence given to prisoners and juvenile offenders who meet the conditions specified in laws and regulations'.

Second, qualifications based on the type of remission. Presidential Decree No. 174/1999 on Remission has explained in Article 2 the definition of general remission and special remission. While Article 3 explains about additional remission and also the requirements for prisoners to be able to get additional remission. Decade remission is remission given to coincide with the anniversary of Indonesian Independence on 17 August, once every ten years. The amount of decade remission is one twelfth (1/12) of the criminal period, which is a maximum of 3 months. The regulation on decade remission is contained in Presidential Decree of the Republic of Indonesia Number 120 Year 1955 Dated 23 July 1955 on Special Mercy.

Third, qualifications based on remission provisions. Article 14 letter I, Law of the Republic of Indonesia Number 12 of 1995 concerning Corrections explains the general

provisions of remission that ‘every convict is entitled to a reduction in the period of punishment (remission)’, Law of the Republic of Indonesia Number 12 of 1995 concerning Corrections.

Fourth, qualifications based on the conditions of remission have changed three times, namely:

1. Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Prisoners. In Article 34 paragraph (1), Government Regulation Number 32 of 1999 concerning the Terms and Procedures for the Implementation of the Rights of Prisoners. ‘every prisoner and criminal child who during the criminal period behaves well is entitled to remission’.
2. Government Regulation of the Republic of Indonesia number 28 of 2006 concerning Conditions and Procedures for Implementing the Rights of Prisoners. In Article 34 of Government Regulation Number 28 of 2006 concerning. Amendments to Government Regulation Number 32 of 1999 concerning the Terms and Procedures for the Implementation of the Rights of Prisoners have been separated between the granting of remission for general criminal offences and narcotics offences. Article 34 paragraph (1) is unchanged, which explains that every convict and criminal is entitled to remission. Paragraph (2) explains the conditions for obtaining remission for general criminal offences: (a) good behaviour; and (b) has served a criminal period of more than 6 (six) months. Meanwhile, in paragraph (3) of Government Regulation of the Republic of Indonesia number 28 of 2006 concerning Terms and Procedures for the Implementation of the Rights of Prisoners, it is explained that remission for prisoners convicted of special criminal offences, one of which is narcotics, is given if they meet the following requirements: (a) good behaviour; and (b) has served 1/3 (one third) of the criminal period.
3. Based on the explanation in Government Regulation of the Republic of Indonesia Number 99 of 2012 concerning the Terms and Procedures for the Implementation of the Rights of Prisoners Based on the explanation in Government Regulation of the Republic of Indonesia Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning the Terms and Procedures for the Implementation of the Rights of Prisoners, it is explained that Article 34 is a condition for remission for general and narcotics prisoners. Article 34 paragraph (2) reads: (a) good behaviour; and (b) has served a criminal period of more than 6 (six) months. Article 34 paragraph (3) of Government Regulation of the Republic of Indonesia Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Prisoners is added with an explanation of good behaviour, namely: (a) not currently serving disciplinary punishment

within the last 6 (six) months, calculated before the date of granting Remission; and (b) has participated in the coaching programme held by LAPAS with good predicate. The provisions of Article 34A of Government Regulation of the Republic of Indonesia Number 9 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Prisoners of Correctional Facilities is a remission requirement for special prisoners including narcotics to get remission in addition to the conditions in Article 34:

(a) willing to cooperate with law enforcement to help uncover the criminal offences committed; (b) have paid in full the fines and restitution in accordance with the court decision for prisoners convicted of corruption; and (c) have participated in the deradicalisation program organised by LAPAS and / or the National Counter Terrorism Agency, as well as stating a pledge: loyalty to the Unitary State of the Republic of Indonesia in writing for Indonesian citizen prisoners.

Based on the explanation above, the author concludes that the provision of remission for prisoners of narcotics crimes is quite effective with the new regulation, namely Presidential Regulation Number 99 of 2012 concerning amendments to Presidential Regulation Number 28 of 2006. This is because, since the enactment of Government Regulation No. 99/2012, 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. But in other words, for prisoners serving a sentence of less than 5 (five) years still use the old regulation, namely Presidential Regulation Number 28 of 2006. This is in accordance with the Circular Letter issued by the Director General of Corrections, dated 16 July 2013, which states that prisoners of narcotics cases whose sentences are less than five years, the conditions for granting remission are treated like general criminal offenders.⁹

The definition of therapeutic community, taken from The Policies and Procedures Manual of Daytop, states that therapeutic community is an environment where a group of individuals who previously lived 'alienated' from the general public, trying to get to know themselves and learn to live life based on the main principles in relationships between individuals so that they are able to change behaviour that has not been in accordance with social norms towards behaviour that is acceptable to community norms. With a strong sense of community, they support each other in preparing themselves to return to society as socially

⁹ Khudzaifah Dimyanti, *Metodologi Penelitian Hukum*, UMS Press, Surakarta, 2014, hal. 7

functioning and productive citizens.¹⁰ In other words, therapeutic community is an effort to recover together.¹¹

According to the large Indonesian dictionary, a correctional institution is a place to provide guidance to prisoners. According to Article 1 point 3 of Law Number 12 of 1995 concerning Corrections, the Correctional Institution, hereinafter referred to as LAPAS, is a place to carry out guidance for prisoners and correctional students. Soejono D said that the Correctional Institution is a detention centre which is basically a discussion about the "punishment system" and "coaching" in it, namely a way which is a tool to overcome people who violate the legal rules of a particular country.¹²

According to Sahardjo, the Penitentiary is not a place that merely punishes and suffers people but a place to foster or educate people who have behaved deviantly (prisoners) so that after undergoing coaching in the Penitentiary can become good people and adjust to the community environment.¹³

2. Obstacles and Efforts Faced in Changing the Behaviour of Prisoners (Study at Class III Langkat Youth Correctional Institution)

The obstacles faced in granting remission are orders from Law Number 12 of 1995 concerning Corrections, as a guide so that prisoners are willing to undergo guidance to change behaviour in accordance with the objectives of the correctional system. However, in its implementation, which involves several other institutions outside the correctional institution, it is not accompanied by a strict regulation in its implementation. This results in obstacles that actually complicate the granting of remission to prisoners. In the discussion of this section, the author divides into 3 (Three) types of factors that hinder the reduction of criminal period (remission) cannot be implemented,

One of the factors as an obstacle to the granting of remission such as prisoners not behaving well or being involved in disciplinary actions while serving a sentence in prison. In the book, all offences committed by each prisoner are recorded in detail, and it has become a requirement that every prisoner who is not behaving well or whose name has been entered into the Register book will not be given remission ".

Another factor is due to prisoners who are still serving a criminal period which is a requirement for the provision of remission. Prisoners serving a sentence of under 5 years must serve 1/3 of the sentence, and for prisoners serving a sentence of over 5 years must serve 6

¹⁰Departemen Sosial Republik Indonesia, *Metode Therapeutic Community Bagi Pecandu Narkoba*, 2003, hal. 24.

¹¹Satjipto Rahardjo, *Ilmu Hukum*, Aditya Bakti, Bandung, 1996, hal. 306.

¹²D. Soejono, *Beberapa Permasalahan Hukum Dalam Rangka Pembangunan Di Indonesia*, Universitas Indonesia, Jakarta, 1998, hal. 83.

¹³Sahardjo, *Hukum Pidana*, PT. Raja Grafindo Persada, Jakarta, 2002, hal. 38.

months. And this must be undertaken by prisoners who want to get remission because the regulation is listed as a condition for getting remission.

Another factor that is most often an obstacle for prisoners, namely prisoners serving a sentence of more than five years, is that prisoners are subject to Government Regulation No. 99 of 2012 concerning amendments to PP No. 28 of 2006 concerning amendments to PP No. 32 of 1999 concerning the terms and procedures for implementing the rights of correctional prisoners and Presidential Decree No. 174 of 1999 concerning remission. It is required in advance to apply for a JC (Justice Collabulator).

That where the Justice Collabulator is a cover letter which contains approval for the granting of remission to prisoners on condition that they are able to cooperate to reveal the criminal acts committed by the perpetrators submitted by the head of the prison to the State Attorney. This is where it is often an obstacle for prisoners who want to take care of the JC, this is because not all High Prosecutors who hear cases or even those who sentence the prisoners want to issue a letter of cooperation or what we often refer to as the JC. If a prisoner with a sentence of more than five years cannot apply for remission if he does not have a JC.

As we have discussed in the previous section, that most of the prisoners in the Narcotics Penitentiary are prisoners with special criminal cases of narcotics, most of whom get sentences above 5 (five years), namely those imposed by Government Regulation No. 99 of 2012. With the existence of Government Regulation No. 99/2012, the regulation of remission for special crimes of narcotics has been tightened.

The impact of the enactment of Government Regulation No. 99/2012 on prisoners will be longer serving the sentence period because without the remission obtained. This will lead to the length of time prisoners are in prison due to high penalties. With the number of prisoners who get high sentences, it will result in an increase in the number of prisoners in the prison, which will lead to over capacity (over crowded) in the prison.

CONCLUSIONS AND SUGGESTIONS

1. The mechanism of the process of granting remission for narcotics crimes in correctional institutions is the stage of granting remission is carried out by making an application for remission submitted to the Minister of Law and Human Rights. Then the Head of Correctional Institution makes an assessment with the correctional assessment team of the prisoner. The Head of Correctional Institution and the Correctional Observation Team then conduct a hearing to discuss the application for remission accompanied by supporting data. If the Head of Correctional Facility approves the proposal along with considerations from the team then the Head of Correctional Facility then forwards the proposal to the Head of

the local regional office. The Head of Regional Office after receiving the remission application then forwards the remission proposal to the Director General of Corrections. if based on the consideration of the TPP Team the inmate is not eligible for remission then the Head of Correctional Facility must immediately notify the rejection to the inmate concerned.

2. The obstacles and efforts encountered in granting remission to narcotics convicts at the Narcotics Penitentiary are the obstacles from internal factors are that the inmates do not commit disciplinary actions and the inmates who are still serving the criminal period which is a requirement for the provision of remission and the obstacles from external factors are the non-approval of the submission (JC) Justice Collabulator for prisoners serving a sentence of more than five years. And the efforts made are to further optimise the implementation of coaching both independence and spiritual / spiritual guidance in correctional institutions through structured and continuous coaching so that prisoners realise their mistakes and do not repeat the violations they have committed and efforts to overcome external factors, namely adding efforts that can support the implementation of granting remission, namely by cooperating and establishing better coordination with related parties, namely with the Court, Prosecutor's Office and Police so that the inmates concerned can be proposed the right to receive remission.

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