

JURIDICAL ANALYSIS OF PROVISIONING REMISSIONS TO CLASS II A PANCUR BATU CRIMINAL INCURRENTS

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Abstract

Giving remissions to prisoners is an order from the law as a stimulus so that prisoners are willing to undergo coaching to change behavior in accordance with the goals of the Correctional System. However, in its supervision involving institutions or agencies outside of the Correctional Institution, it is not accompanied by the existence of a firm regulation in its implementation. The method used in this journal is the sociological juridical method which means that the research method is about the suitability of the discussion of the problem with applicable legal provisions, and to see the reciprocity that arises between social life and law enforcement officers or agencies in this research. So in this study the sociological nature cannot be separated from the normative element, because government officials have carried out their duties based on statutory regulations in the form of laws, government regulations, presidential decrees, ministerial regulations and so on. From the results of observations and research at the Class II A Penitentiary, PANCUR BATU, the regulation in granting remissions by the Penitentiary is very advanced, the regulations are updated every time following the Indonesian Law. As well as in terms of the implementation and mechanism of granting remissions carried out by the Class II A Pancur Batu Penitentiary, there are still rights that are always given to inmates in granting additional remissions to prisoners. The Pancur Batu Class IIA Penitentiary always takes the initiative to socialize the steps for granting remissions to the latest regulations that have been socialized to prisoners.

Keywords: Remission, Prisoners, Correctional Institution.

INTRODUCTION

In principle, in accordance with the nature of criminal law as public law, the main purpose of criminal law is to protect the interests of the community as a collectivity from acts that threaten or even harm it, whether they come from individuals or groups of people (an organization) with various societal interests. These include peace, tranquility and order in people's lives. These various social interests include peace, tranquility and order in society. The purpose of punishment will not run optimally if someone who commits a violation of the law is not subject to sanctions. Criminal sanctions are one way to deal with criminal acts. The purpose of criminal law is to protect the interests of individuals or human rights and society. The purpose of criminal law in Indonesia must be in accordance with the Pancasila philosophy which is able to bring fair interests to all citizens. Thus the existence of criminal law in Indonesia, namely protecting all Indonesian people. The purpose of the existence of criminal law is divided into 2 (two), namely :

1. The purpose of the existence of criminal law as a sanction law. This goal is conceptual and philosophical in nature whose purpose is to provide a basis for the existence of criminal sanctions. Types and forms and criminal sanctions as well as parameters in resolving criminal violations. This goal is usually not written in the articles of criminal law but can be read from all provisions of criminal law or in general explanations.

2. The purpose of imposing criminal sanctions as well as against people who violate criminal law. This goal can be pragmatic with clear and concrete measures that are relevant to the problems that arise as a result of violations of criminal law and people who violate criminal law. This goal is the embodiment of the first goal.

A convict is a convict who has served a sentence of loss of independence in a Correctional Institution (Lapas). Prisoners are no different from other humans who can make mistakes or make mistakes at any time which can be subject to criminal sanctions. Meanwhile, the intended punishment is an effort to make prisoners or juvenile criminals aware that they are sorry for their actions and return them to become good citizens of the community. The Pepper Correctional System allows the inmates to become integrated (integral) and healthy in society and they play a free and responsible role. The whole human being is interpreted as a prisoner and a criminal lanak as a human figure who can be directed by his nature in establishing an intimate relationship with God, who is only One, and has a good environmental personality. While the interpretation of healthy integration is explained as restoration of the relationship between inmates and prisons. To be responsible for the implementation of the Correctional System, namely to form the inmates Iwarga I to become fully human beings, to be able to realize a mistake, to be able to correct themselves, not to repeat crimes, to act, to act again. While the function of administering the Pepper Correctional System is to make the inmates able to become integrated (integral) in a healthy way in the community and to play a free and responsible role.

The full meaning of humanity is interpreted as a prisoner and a criminal lanak as a human figure whose nature is directed to have a relationship with God, the person and the environment. Remission is a right for a convict and can apply to anyone as long as the convict is can serve a provisional sentence, not a long term and death sentence. Remission is regulated in Law 12 Year 1995 About Penitentiary, Government Regulation Number 32 Year 1999 About Requirements and Procedures Implementation of Society's Rights 199 In the new system of coaching for prisoners, remissions can be placed as one of the reasons for the motivation of inmates to develop themselves. Because, remission is not only as a legal law, which is in the Correctional System, not only as a gift, as in the prison system, but also as a right and obligation for prisoners. This means that if the inmates can actually carry out their obligations, they have the right to get remissions, as long as the requirements have been fulfilled.

Regarding the rights of prisoners, it has been further regulated by Government Regulation (hereinafter referred to as IPP). It is necessary to realize that every human being has two potentials in his life, namely potentiality to do good deeds and potential to do worst (evil) deeds, and so do bad things. However, with determination and sincerity, to improve themselves, the community will surely give appreciation and trust to the prisoners in the prison to be back in the midst of society. The granting of remissions is also intended to reduce the negative impact of the sub-culture of the place where criminal acts are carried out, criminal disparity and criminal behavior and the seizure of liberty. The criteria for granting remissions need to be clarified, so that can close the opportunity for remissions to become commodities. Even to the point of crime suspension (suppression crime). Successes or failures that have been carried out by Lapas provide the possibility of an assessment that can be either positive or negative.

Writing in line journals conducting research taking place in the implementation of remissions to convicts so that there is one goal, namely in terms of writing line journals also has a purpose. Here are the objectives of the research that has been compiled by the author. To find out the constraints on prisons only that occur in the implementation of the granting of remissions to prisoners. In order to find out the analysis of the steps that can be taken by the officers in the prison, it is to socialize the granting of remissions to prisoners. As for the benefits of the research, it can be seen from two perspectives, namely, it can be useful as a tool for writers to broaden the insight of students in analyzing the issuance of remissions to prisoners.

RESEARCH METHOD

The research that we use is the normative juridical research (Library Method). I easily use the research method, someone can be expected and able to analyze a problem to be researched, so that can find a truth, because in research methods tell people about analysis. The time of the research is planned for June 2021 until the month of January 2022. In order to collect data in first-line research, it is possible to conduct analytical descriptive research, i.e., research which does not only describe the problem, but also applies the regulations in terms of the implementation of the grant. Obtained directly from the prison Class IIIA Pancur batu, Medan. In line research, it is generally possible to distinguish between data obtained directly from the community and from library materials. Those that can be obtained directly by the community are called primary (or basic) data, while those that can be obtained from library materials are generally referred to as secondary data. Sources of data in line research consist of:

Primary Legal Materials, among others: Norms or basic practices; Basic rules; Criminal Procedures Laws Relating to Correctional System and regulations on the Granting of missions among other things, Law 112 Year 1995 Regarding Corrections, Kitab Law Criminal Law, Presidential Decree Number 174 Year 1999 About Remissions, Ministry Decree Number M.02.PK.04.10 Year 1990 and others that regulate remissions.

Secondary Legal Material

To collect secondary data, materials are needed in the form of books related to the Correctional System both on coaching and on supervision, scientific papers and seminar results relevant to this research as well as expert opinions complemented by primary data.

Tertiary Law Material

Supporting legal materials which include materials that provide instructions and explanations as well as primary and secondary legal materials such as general dictionaries, legal dictionaries, magazines and other scientific journals, as well as materials outside the legal field that are relevant and can be used to complete data needed in research.

Approach Method

The method of approach that is being carried out is the normative juridical approach, namely, reviewing and reviewing legal aspects, which refer to legal norms, especially criminal laws.

Data Collection Tool

Data collection techniques were carried out using observation techniques and document studies. The observation technique is defined as visible symptoms or recording the object of research to see and observe directly in the field the existence (situation and condition) of the Class IIA Pancurbatu Prison, Medan. with the aim of obtaining accurate data related to the object of this research. Meanwhile, document studies can be used to collect legal materials in the form of regulations in legislation and other regulations related to the subject matter and questions in this journal research.

Data analysis

The data obtained from the research results can then be presented through a qualitative approach. Namely, with qualitative analysis, information can be obtained that produces descriptive data so that the analysis is studied as a whole. At the initial stage, primary and secondary data are collected, then the data is grouped according to the problem formulation that has been determined. The data is then grouped so as to get a complete, comprehensive and precise picture as a solution to problems that will be answered immediately.

RESULTS AND DISCUSSION

Implementation of Granting Remissions for Inmates and Obstacles in Granting Remissions to Class IIA Pancur Batu Penitentiary

The Class IIA Pancur Batu Penitentiary is a work unit within the Regional Office of the Ministry of Law and Human Rights of North Sumatra, which is located in Namo Riam Village, Pancur Batu District, Deli Serdang Regency, North Sumatra Province. Mr. Muslim Surbakti as the head of the prison/student guidance section said: the development of prisoners who are placed in the Class IIA Pancur Batu Penitentiary is sought to run as well as possible in accordance with the applicable regulatory process, considering the prison's duties as a place of service and care for inmates. In order for the coaching to be effective and efficient, the correctional officer at the Class IIIA Pancur Batu Penitentiary has created a program that can be followed by all prisoners and so far the coaching has been carried out in accordance with the appropriate facilities and equipment.

At the Class IIA Pancur Batu Penitentiary, guidance for prisoners is carried out from the first day prisoners enter prison with an introduction and introduction system known as the Environmental Introduction Period (Mapenaling). Introduction means introducing the new inmate to prison officers, the rules and the environment. While introduction, it means that the new inmate is introduced to all the rules and regulations that apply at the Class IIA Pancur Batu Prison and is explained orally and in writing about the rights and obligations, provisions regarding treatment, how to obtain information and how to file a complaint in order to conform. by living in prison.

Mr. Muslim Surbakti again said that in an effort to expedite coaching at the Pancur Batu Class IIA Penitentiary, it has been stipulated that each new inmate prisoner will be recorded/registered first regarding himself, his verdict, items brought in and other information carried out by the Registration Division. After completing the registration section, the prisoner is handed over to the security department to be placed in the Mapenaling room, it is necessary to have his health condition checked by the officer so that it can be known whether the inmate has an infectious disease or not. After it is known that the convict in question does not have a contagious disease, then he is placed on the basis of this, it can be understood that the coaching program is divided into 3 (three) stages of further development in a short period of time, i.e., carried out for one week, it is necessary to have a routine schedule related to the coaching program. What will be given to prisoners who are undergoing the Admissions Program or Mapenaling (environment introduction period) is the initial program in conducting background research and observing the attitudes and behavior of prisoners. In the Line Orientation Admission Program, the (new) inmates are given an introduction to the environment as well as a training program that is peppered in Lapas/Detention Centers in stages.

Before 12 November 2012 will be subject to PP No. 28 year I2006. To anticipate the letter of cooperating with law enforcement to uncover the criminal act that he has committed, the prison party will make a statement in advance if the inmate who is being moved has submitted a statement that he is willing to cooperate and is still in the process. Remissions given to prisoners are general and special remissions while additional remissions are not pepper.

In general, it can be said that correctional guidance and guidance must be improved through a mental development approach including restoration of self-respect as individuals and as citizens who believe they still have productive potential for national development because they are educated to master certain skills in order to be able to live independently and be useful for others. development. The correctional system is a system that is not merely rehabilitation and resocialization, but is equipped with educative-correlative-definitive and individual and social aspects based on the Pancasila philosophy. The litu I itself Idi I system in correctional I must have certain requirements/measures, certain elements that are related and proceed according to certain conceptions. According to Mr. Muslim Surbakti, SH Head of Subsidy for Prisoners/Prisoners Registration "if the problem that often occurs in general, it happens is in the file, where the verdict is in the file, the verdict is late.

A. The requirements for granting Remission as referred to in Article 5 and Article 6 are proven by attaching the following documents:

- 1) Photocopy of the excerpt of the Judge's Decision and the official report on the implementation of the Court's Decision;
- 2) Certificate of not being incarcerated in lieu of a fine from the head of the prison
- 3) Certificate of not being on leave before being released from the prison head;
- 4) Copy of register LF from the Head of Prison;
- 5) A copy of the list of changes from the Head of the Prison; and
- 6) Development progress report signed by the head of the prison.

The process of applying for remissions starts from the technical implementing unit (UPT) to the Regional Office for all types of remissions then proceeds to the Directorate General for certain conditions. The Remission Decree is Collective (not individual) and is issued by the Regional Office for Convicts related to General Crimes. Directorate General for Prisoners related to Special Crimes. All graduates who have been approved by the Correctional Observer Team (TPP) both at the Regional Office and the Directorate General are immediately issued a Remission Decree (SK) and there is no need to provide a filter or checklist for the issuance of a Remission Decree for those who have been approved his proposal at the meeting of the community observer team: A remission decree is generated and sent electronically with a SK authorization mechanism, where an electronic remission decree will be sent to the relevant regional office or IUPT if there is a legalization process for a remission decree.

Remission calculation:

1. The formula for calculating the date $1\frac{1}{3}$, $1\frac{1}{2}$ and 1 1 using 12 1 type 1 calculation originating from registration and integration
2. After discussion between the registration and integration parties, it was agreed to use a calculation that has the latest legal basis, namely using the calculation formula used by the integration
3. The difference specifically occurs in the calculation of because the registration does not take into account the amount of remission obtained so that the date of is fixed, while the integration takes into account the amount of remission so that every time a remission is given, the date of changes
4. The date is used by the registration only for the first remission and after that it is not used again, so there are no obstacles in the application calculation of integration because the value remains the same because the amount of remission is still empty
2. Minimum and maximum time limits for submitting remission proposals
3. The warning is given 2 (two) months before the date of the allotment of the remission. Currently, the Directorate General has sent a circular letter to the Regional Office to be forwarded by the Regional Office to the UPT.
4. There is no minimum application limit
5. No later than before the SK for the following year's remission is issued
6. Because a follow-up remission is given for the first year, it cannot be preceded by a decree from the following year, so it must be proposed and approved before the next year's decree is issued.
7. If the graduate has not been controlled by the TPP trial and a follow-up remission application appears, it is validated with the application unable to be approved so it must be postponed and the follow-up application must be processed first.
8. If the graduate has been controlled by the TPP trial or has been given a SK number, then the repairs will be carried out with the ISK for repairs.

Those who do not get remission rights include:

- a) Sentenced to death penalty or life imprisonment
- b) Sentenced for less than 6 (six) months

c) Currently on vacation before being released and I not currently undergoing a subsidiary I in lieu of a criminal fine.

2. What are the steps taken by prison officials in socializing the granting of remissions to prisoners?

Penitentiary Class IIA Pancur Batu always takes the initiative to socialize the steps for granting remissions to prison officials to collect prisoners in the field, socialize and explain how the rules and regulations are, because not all of them receive remissions. However, the pepper also was ordered by the Ikan to be socialized by the government, as in I2019 and I2020, the pepper was Ithe latest regulation that was socialized to prisoners.

CONCLUSION

Based on the description and discussion of the results of the research above, it can be concluded that the implementation of correctional development in CLASS IIA Pancur Batu is as follows:

1. According to Law Number 12 of 1995 concerning Corrections, granting remission is the right of prisoners. The implementation of granting remissions has apparently shifted, due to several regulations concerning remissions that apply rubber articles that can be stretched or stretched (mulur Imengkret) according to the interests of the giver and recipient of the remission. As a result, the benchmarks for granting remissions are blurred, vague and unclear. This is what opens up opportunities for abuse of authority and position in granting remissions by parties related to granting remissions to prisoners, so that granting remissions is no longer a right, nor is it a gift or government gift, but has become a tool of interest.
2. Supervision of granting remissions in Correctional Institutions involves part of the components of the criminal justice system, namely Courts and Correctional Institutions, which are carried out starting from I Local Correctional I Technical Implementing Units that propose obtaining remissions to Class III IA Pancur Batu Prison Prisoners. In carrying out this supervisory task, it also involves supervisory judges and observers who focus their supervision on the rights of prisoners, among others, where prisoners obtain their rights as long as procedural corrections according to the correctional system have been fulfilled, including granting assimilation, remission, leave, parole/integration and others – other.

REFERENCES

- Prasetyo ITeguh Idan IBarkatullah IHalim IAbdul, IPolitik IHukum IPidana, (Yogyakarta: IPustaka IPelajar, I2005), Ihal. I52.
- B.I. IHarsono IHS, ISistem IBaru IPemidanaan INarapidana, Jakarta: Djambatan, I1995: Ihlm.26. IPanjaitan, Petrus, Irwan. ISimorangkir IPandapotan, ILembaga IPemasyarakatan IDalam IPerspektif ISistem IPeradilan IPidana, IJakarta I: ISinar IHarapan, 1995, hlm.65.
- Arifin, Syamsul. IMetode IPenulisan IKarya Ilmiah IDan IPenelitian IHukum, Medan IArea IUniversitas IPress, 2012. Hal 66.
- P.A.F. Lamintang, Idan ILamintang, ITheo. IHukum IPenitensier IIndonesia. IJakarta: ISinar IGrafika, I2012, IEd.2. ICet.2. IHal.180.
- Purnomo, Bambang. IKapitang ISelektia IHukum IPidana, IYogyakarta; ILiberty, ICet.Ke-1 IHal.178-180.
- Anwar, Yesmil. I2009, ISaat IMenuai IKejahatan; ISebuah IPendekatan ISosiokultural IKriminologi, IPT. IRefika IAditama, IBandung.
- Nawawi, Arif, Barda. 2010, Bunga Rampai Kenijakan Hukum Pidana: IPerkembangan IPenyusunan IKonsep IKUHP IBaru, IKencana, IJakarta.
- Chazawi, IAdami. I2010, IPelajaran IHukum IPidana, IRajawali IPers, IJakarta.Pakpahan, IElvira IFitriani., I2017. IReconstruction IOf IBonds IArrangements IIn IIndonesian ICapital IMarket IJusticeBased IValue Iinternational, IInternational IJournal Iof ILaw IReconstruction, IVol. I1, INo I1 I(2017). Ihttp://jurnal.unissula.ac.id/index.php/lawreconstructio In/article/view/1638.
- Undang- IUndang IDasar INegara IRepublik IIndonesia Itahun I1945.
- Undang- lundang INomor I5 ITahun I1987 Itentang IPengurangan IMasa IMenjalani IPidana I(Remisi).
- Undang-Undang INomor I12 Itahun I1995 Itentang Ipemasyarakatan.
- Peraturan IPemerintah INomor I31 ITahun I1999 Itentang IPembinaan Idan IPembimbingan IWarga IBinaan IPemasyarakatan.
- Peraturan IPemerintah INomor I28 ITahun I2006 Itentang ISyarat Idan ITata ICara IPelaksanaan IHak IWarga IBinaan IPemasyarakatan.

Peraturan Pemerintah Nomor 57 Tahun 1999 tentang Kerja Sama
Penyelenggaraan Pembinaan dan Pembimbingan Warga
Binaan

Undang-Undang Nomor 132 Tahun 1999 Tentang Syarat dan Tata Cara Pelaksanaan Hak
Warga Binaan Pemasyarakatan.

Undang-Undang Nomor 1174 Tahun 1999 tentang Remisi.