

## REDUCTION RIGHT FULFILLMENT OF THE SENTENCE AGAINST CLASS IIB CONVICTS SOSAIU TIDORE CITY OF TIDORE ISLANDS

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### Abstract

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*This study aims to provide an empirical description of reduction right fulfillment of the sentence against convicts at the Sosaiu Tidore Class IIB Detention Center. City of Tidore Islands.*

*Reduction right fulfillment of the sentence is a mandatory right that needs to be protected and fulfilled by every officer who has authority over this matter. This hope is important to study in scientific research to find out how far the implementation of these regulations regulates the rights of convicts.*

*The design of this study uses descriptive qualitative assisted by data collection through field observations, documentation studies and interviews with a number of informants who are considered capable and wisely understood the object of this research. Because the problems are complex and require an in-depth understanding of meaning, the results of the interviews become information that must be interpreted to produce a conclusion in this thesis.*

*The results shows that the fulfillment of the rights of every convict in reducing his sentence in the Class IIB Detention Center has been carried out based on the applicable regulations, however, there are several inhibiting factors in the process towards that direction, including: HR issues in technology-based administrative management, readiness for prison administration and there are regulations that do not have clarity yet in the provision of recommendations if inmates give power of attorney to other people or through Class IIB Soasiu Tidore Detention Center officers.*

**Keywords:** *Rights Fulfillment, Convicts and Remissions*

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### Introduction

In carrying out correctional that uphold the human rights of convicts, of course this is not simply the duty of correctional institutions, but also the duty of the government and society. In Article 1 paragraph (2) of Law no. 12 of 1995.

The law means that the correctional is held so that convicts can improve themselves and not repeat what they have done, so that convicts can be accepted back into their community and live normally as society. In accordance with Article 1 paragraph 7 of Law Number 12 of 1995, convicts are convicts who are serving a crime of loss of independence in a penitentiary, but have convict rights that must be protected in the Indonesian penal system in accordance with Article 14 of Law Number 12 of 1995, one of which is the right to obtain sentence reduction (Remission).

In the coaching process, of course, the government also gives appreciation to correctional inmates who in their daily lives behave well through sentence reduction



(Remission). This government effort can be seen in the Government Regulation of Republic of Indonesia Number 28 of 2006 concerning Amendments to PP Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates and Presidential Decree Number 174 of 1999 concerning Remission.

Based on the provisions above, every convict who fulfills the requirements as determined is a right that must be fulfilled by the government. Thus, every convict who has fulfilled the requirements referred to above can be given remission, and not being given remission is one of the violations of statutory regulations.

Remission is one of the important legal means in order to realize the goals of the correctional system. In accordance with Presidential Decree Number 174 of 1999 concerning Remission in Article 1 paragraph (1) it is stated that every convict and criminal child who is serving sentence and criminal of confinement can be given remission if the person concerned is well while serving his sentence.

Along with the increase in technology-based systems which are a necessity, all forms of granting remissions and other prisoners' rights have also been replaced from those that were initially manual to IT-based. Where in its implementation there is negligence which results in the granting of remissions being problematic which results in not fulfilling the rights of the convicts themselves.

### **Research Question**

1. How is the reduction right fulfillment of the sentence against convicts at the Soasiu Tidore Class IIB Detention Center?
2. Are there any inhibiting factors in reduction right fulfillment of the sentence for convicts at the Soasiu Tidore Class IIB Detention Center?

### **Literature Review**

#### **1. Criminal and Punishment**

##### **a. Criminal**

According to Van Hamel in Lamintang P.A.F., 1984: 47, states that punishment is a special suffering, which has been imposed by the State as the person in charge of public order for a violator, namely solely because that person violates a legal regulation that must be enforced by Country.

Furthermore, according to Simons in Lamintang P.A.F. 1984:48, defines that; Criminal is a suffering that by criminal law has been associated with a violation of a norm, which is a judge's decision that has been passed on someone who is guilty.

From the statement above, the researcher can conclude that criminal law is a law that regulates actions that are prohibited by law along with criminal sanctions that can be imposed on perpetrators.

##### **b. Punishment**

In the theoretical concept with an etymological approach, punishment is usually interpreted as the stage of imposing sanctions as well as the stage of imposing sanctions in criminal law. The word "criminal" is generally interpreted as punishment, while "punishment" is defined as judgment.

According to J.M Van Benmelen in Laden Marpaung 2005:20, put forward these two things as follows;

"Material criminal law stands for criminal acts named successively, the general regulations that apply to those actions, and the punishment that is threatened

with those actions. Formal criminal law regulates how criminal procedures should be carried out and determines the rules of order that must be observed on that occasion".

Tirtamidjaja continued in Laden Marpaung 2005:20, mentioning Material Criminal Law and Formal Criminal Law as follows;

Material criminal law is a collection of legal rules that determine criminal offenses, determine the conditions for criminal offenders to be punished, indicate that people can be punished and can determine penalties for criminal offenses. Formal criminal law is a collection of legal rules that regulates how to defend material criminal law against violations committed by certain people, or in other words regulates how material criminal law is realized so that a judge's decision is obtained and regulates how to implement a judge's decision.

Based on the statement above, the researcher can conclude that material criminal law contains prohibitions or orders which, if not fulfilled, are subject to sanctions, while formal criminal law is a rule that regulates how to carry out and implement material criminal law.

#### **c. Convict**

According to Law No. 12 of 1995 concerning Corrections, in Article 1 (7) it is stated that "Convicts are convicts who serve the crime of losing their independence in Correctional Institutions". According to Article 1 paragraph (6) of Law No. 12 of 1995 concerning Correctional, "a convict is someone who is convicted based on a court decision that has obtained permanent legal force".

Based on the statement above, it can be concluded that convicts are people or convicts who are serving their sentence in correctional institutions where some of their independence has been lost.

#### **d. Sentence Reduction (Remission)**

Sentence reduction is one of the legal means in order to realize the goals of the correctional system. The rights of correctional inmates regarding this remission are regulated in letter I of Article 14 paragraph (1) No.12 of 1995 concerning Corrections. In this regulation, it is emphasized that: "Convicts are entitled to obtain sentence reduction (remission)".

Then based on some regulations above, the government issued Presidential Decree No. 174 of 1999 concerning Remissions. In this provision, the government has limitedly regulated the procedures for granting remissions to correctional inmates. In addition, the government also stipulates a Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number m.2.PK.04-10 of 2007 concerning Terms and Procedures for the Implementation of Assimilation, Parole, Leave Prior to Release, and Conditional Leave. We can find provisions regarding remission in this Regulation of the Minister of Law and Human Rights in Article 6, Article 7, Article 8 and Article 26.

Provisions regarding procedures and requirements for fulfilling this sentence reduction can be seen in Presidential Decree 174 of 1999 concerning Remission.

Every prisoner and child convicted of confinement can be given remission if the person concerned is good while serving his sentence. Remission is granted by the Minister of Law and Legislation of the Republic of Indonesia as stipulated in Article 1 of Presidential Decree No.174 of 1999 concerning Remission. Various

types of remissions are regulated in Article 2 of Presidential Decree No. 174 of 1999, consisting of:

1. General remission, namely remission given on the anniversary of the Proclamation of Independence of the Republic of Indonesia on August 17th.

2. Special remission, namely remission given on religious holidays adhered to by the Convict and the Criminal Child concerned, with the stipulation that if a religion has more than one religious holiday in a year, the holiday chosen is the one that is most respected by adherents of that religion concerned.

In accordance with Article 3 of Presidential Decree No. 174 of 1999 concerning Remission, remission can be added to additional remissions if the convict and the criminal child concerned while serving their sentence:

Convicts who are subject to life imprisonment and have served a sentence of at least 5 (five) consecutive years and have good behavior, their sentence can be changed to temporary imprisonment, with the remaining term of the sentence still to be served for a maximum of 15 (fifteen) years. Changes from life imprisonment to temporary imprisonment are stipulated by a Presidential Decree. Applications for changing life imprisonment to temporary sentences are submitted by the convict concerned to the President through the Minister of Law and Legislation.

Proposals for remission can be submitted to the Minister of Law and Legislation by the Head of Penitentiary, Head of the State Detention House or Branch of the State Detention House through the Head of the Regional Office of the Department of Law and Legislation. The Decree of the Minister of Law and Legislation regarding remissions was notified to convicts and criminal children on the anniversary of the Proclamation of Independence of the Republic of Indonesia on August 17. For those who were granted remissions on the commemoration of the Proclamation of Independence of the Republic of Indonesia or on Religious Holidays adhered to by convicts and criminals who concerned. If there are doubts about the religious holidays adhered to by convicts or criminal children, the Minister of Law and Legislation consults with the Minister of Religion.

## **Research methods**

### **1. Type of Research**

Field research (Feld Research) carried out to collect a number of data includes library materials sourced from Online Media, review of case documents and inventory of regulations relating to the implementation of laws and regulations regarding Remission for prisoners in Class IIB State Detention Centers Soasiu Tidore. To obtain the required data and information.

### **2. Approach Method**

The juridical approach and the sociological approach, namely as a study of law in society, are essentially social research. This research is also called social-legal- research, which is research on the sociology of law that is carried out in people's daily lives and regarding the practice/application of law in society. This research is a field research (field research), namely that this research was carried out in an office or institution, namely at the Class IIB State Detention Center in Soasiu Tidore.

## **Discussion**

### **1. Reduction Right Fulfillment of the Sentence Against Convicts at the Soasiu Tidore Class IIB Detention Center**

Sentence Reduction (remission) can be given to every convict who is serving a temporary prison sentence and imprisonment fairly without any discrimination based on social, cultural and economic factors if the person concerned is good while serving his sentence.

Remission granted by the Minister of Law and Human Rights of the Republic of Indonesia consisting of:

a. General Remission, namely the remission given on the commemoration of the Proclamation of Independence of the Republic of Indonesia on August 17th.

b. Special Remission, namely remission given on religious holidays that are adhered to by the convict and the criminal child concerned, with the stipulation that if a religion has more than one religious holiday in a year, then the holiday chosen is the one that is most venerated by followers of the religion that adheres to it. Remission can be added to additional remissions if the convict and the criminal child concerned while serving their sentence:

1. Doing services to the country.

2. Doing deeds that are beneficial to the country or humanity.

3. Performing actions that assist coaching activities at the State Detention Center

The general amount of remission is:

a. 1 (one) month for convicts and criminal children who have served a sentence of 6 (six) to 12 (twelve) months.

b. 2 (two) months for convicts who have served 12 (twelve) months or more.

Furthermore, the amount of special remission is: 15 (fifteen) days for convicts and criminals who have served a sentence of 6 (six) to 12 (twelve) months; and 1 (one) month for convicts and criminal children who have served 12 (twelve) months or more.

The granting of special remissions is carried out as follows:

a. In the first year given as referred to in paragraph (1)

b. In the second and third years each is given remission (one) month.

c. In the fourth and fifth years each is given a remission of 1 (one) month and 15 (fifteen) days; And

d. In the sixth year and so on, remissions are given for 2 (two) months each year.

The amount of additional remission is:

a. 1/2 (one half) of the general remissions obtained in the year concerned for convicts and criminals who perform services for 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 year concerned for convicts and criminals who have committed acts that assist coaching activities in Correctional Institutions as leaders.

The reduction of the sentence is one of the legal means in order to realize the goals of the correctional system. Correctional convicts' rights regarding remission are regulated in Letter i Article 14 paragraph (1) of Law Number 12 of 1995 Concerning Corrections. In these regulations, it is emphasized that convicts are

entitled to a reduction in their sentence (remission); Remission arrangements in Government Regulation Number 28 of 2006 are contained in Article 34.

The following data is for the last three years regarding the number of inmates at the Class IIB Penitentiary Soasiu Tidore, as follows:

Year	Number of Convicts	General Remission	Special Remission (Holiday)
2020	124	62	62
2021	99	52	47
2022	129	57	72

Data source: Prison in Class IIB Soasiu Tidore, 2022

In regarding with the data above, the researcher conducted an interview with the head of the Soasiu Tidore Detention Center, on November 15 2022, in his office, stating that;

"The granting of remission itself is given to prisoners following the method stipulated by the applicable regulations with an outline that those who will receive remission have served a minimum of 6 months of legal terms and have good behavior and have followed the stages of the coaching program set by the detention center, in addition the convict is not currently serving a replacement sentence and has the same legal force.

On the same occasion the researcher also questioned what indicators determine the amount of remission for class IIB prison prisoners Soasiu Tidore, he explained that; "In accordance with Presidential Decree No. 174 of 1999 concerning Remission which is in accordance with the provisions in Government Regulation Number 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning Requirements and Procedures for the Implementation of the Rights of Correctional Families:

Based on the results of this research, the researcher can describe that the granting of remissions to convicts for criminal acts generally refers to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Families and Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remission. However, in its development, remission for convicts of narcotics crimes was based on Government Regulation Number 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning Requirements and procedures for exercising the rights of correctional inmates. free and conditional. These changes are intended to adapt to legal developments and a sense of justice in society. Where the granting of remissions is given by the Minister of Law and Human Rights of the Republic of Indonesia which consists of two types of general remissions and special remissions.

## **2. Factors hindering the reduction right fulfillment (remission) for convicts at the Soasiu Tidore Class IIB Detention Center**

The calcification in determining the inhibiting factors in fulfilling reduced sentences for convicts are because people have differences in their pattern of social stratification, also differ in their morphology and so on. It is from this aspect that has an impact on the emergence of various obstacles in granting remissions. The

following are the results of the researcher's interview with Mr. Syaifur Rachman, S.H as the head of the convict development section at the class IIB State Prison Soasiu Tidore on October 12, 2022, said that: Class IIB Soasiu Tidore, based on Government Regulation Number 99 of 2012 concerning requirements and procedures for the implementation of the rights of assisted citizens involving other parties who provide recommendations to prisons, the problem with this government regulation is that it is not explained who has the authority to provide recommendations and still waiting next rule. And what is also an obstacle is the preparation of administrative inmates completeness”

This shows that problems or obstacles in granting remissions to convicts are still being found and there needs to be efforts on the part of prisons to reduce these problems, and not only that, from the aspect of decision making, as well as the readiness of prisoners to prepare administration as a prerequisite for obtaining remissions. The following is the result of an interview with one of the inmates: “Sukri bin Tuju heads to drug case; He stated that at the beginning of serving his sentence he felt confused regarding the process of granting the remission that he would get because up to the time of granting remission, a decision that had legal force had not yet been issued. This is of course a burden on the mind in addition to imprisonment which can be said not for a moment. Apart from that, according to the source, the supporting documents in the requirements for granting remissions were enough to make it difficult for him because the families of these convicts are in a different province, namely South Sulawesi. Therefore, to bring them here to serve as collateral requires a lot of money and time.”

It can be interpreted that giving muskels to inmates or convicts should be socialized to all inmates about the administrative requirements for giving muskels to inmates.

The granting of reduced sentences for convicts must go through a strict procedure. Both administratively and evaluating the behavior of each convict, mistakes in evaluating convicts will have legal consequences for correctional officers, especially team heads who are entrusted by the state to serve and be responsible for decision-making.

## **Conclusion**

Based on the results description of the research discussion, it can be concluded that:

1. Granting remissions to convicts for criminal acts, referring to government regulation number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Families and Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning Remission. However, in its development, remission for convicts of narcotics crimes was based on Government Regulation Number 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning Requirements and Procedures for the Implementation of the Rights of Class IIB Soasiu Tidore Prisoners.

2. Factors that become obstacles in granting sentence reductions for convicts, in addition to human resource issues, also the administrative readiness of inmates when they receive remissions such as the completeness of prisoner files, verdicts

from courts and executions from the prosecutor's office, and there are still regulations that need to be clarified.

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