

IMPLEMENTATION OF REMISSION FOR FEMALE PRISONER AS ONE OF THE RIGHTS IN THE CORRECTION SYSTEM

Oksidelfa Yanto

Master of Law at Pamulang University

Email: dosen00240@unpam.ac.id

Rachmayanthi

Master of Law at Pamulang University

Email: yanthyrachma@yahoo.co.id

Djoni Satriana

Master of Law at Pamulang University

Email: djosaat@gmail.com

Abstract

The purpose of this study was to find out about the implementation of remission of female prisoners in the Class II A Tangerang Women's Penitentiary and also to find out the obstacles to the implementation of remission against female prisoners in the Penitentiary. The method used in this study is normative and empirical legal research methods by collecting secondary data and primary data related to research problems. The results of the study indicate that remission is the right of prisoners to get a criminal reduction if during good coaching. Remission is the right of the prisoner if the person in question carries out acts such as doing services to the state and taking actions that are beneficial to the state or humanity, as well as committing acts that help the activities of the prison. There are several factors inhibiting remission in the Class II A Tangerang Women's Penitentiary, namely the difficulty of female inmates meeting the special requirements for the implementation of remission, which is paying fines and replacement money in accordance with court decisions.

Keywords: Remission, Female Prisoners, Corrections.

INTRODUCTION

By giving the rights of prisoners fairly, the state has struggled for those who are guilty according to the law to return to society faster. One of them is by giving remission. The term of remission is an interesting theme in recent years. In the existing prison system, remission has been confirmed no longer as a gift but is the right of every prisoner by having to first fulfill the stipulated conditions.

This is important because the law is not only focused on legal certainty, but also must pay attention to aspects of justice and benefit.¹The law serves to provide protection to humans, create an orderly society and realize justice in the community and provide certainty in carrying out all the rights and obligations of the community to create a prosperous society.² Law is a rule of life in society that can force someone to obey the rules in society and give strict sanctions against people who do not comply. In general, the law is purposed to obtain justice,

¹ Jonaedi Efendi, 2018, *Rekonstruksi Dasar Pertimbangan Hukum Hakim Berbasis Nilai-Nilai Hukum dan Rasa Keadilan yang Hidup dalam Masyarakat*, Prenadamedia Group, Depok, P.194.

² Russel Butarbutar, 2016, *Kompilasi Hukum Pidana dan Aplikasinya di Masyarakat*, Gramata Publishing, Bekasi, P. 8.

guarantee legal certainty in the community and obtain benefits for the establishment of the law.³

Providing remission as a prisoner's right can bring about a prosperous prisoner community. Providing remission can be a motivation for inmates to foster themselves when they return to the community.

Remission is a reduction in criminal serving period given to inmates who fulfill the conditions as stipulated in the legislation. Every prisoner while serving a period of criminal behavior is entitled to remission.⁴

Remission in principle aims to realize a penal system that leads to the process of rehabilitation and re-socialization of prisoners. This is in line with the aim of correcting to form prison prisoners in order to become a complete human being, be aware of mistakes, improve themselves, and not repeat criminal acts so that they can be accepted again by the community after leaving prison.

In terms of giving remissions, all prisoners both men and women get the same rights. Especially female prisoners and with various female involvement as criminals have placed the woman as a prisoner. Crimes committed by women with all aspects surrounding them are deemed guilty and must be punished according to the level of crime and violations committed, so they must undergo legal proceedings in a special place, namely the penitentiary.

Even though it has violated the law, prisoners are still protected by their rights. In this case any action taken against prisoners, whether it is coaching or other actions must protect and must not conflict with the purpose of the penal system.⁵

Basically, the rights between female prisoners and male prisoners are the same, only in this case because the prisoners are women, there are several rights that receive special treatment from male prisoners. In this case the woman has a nature that is not owned by male inmates namely menstruation, pregnancy, childbirth, and breastfeeding so in this case the rights of female prisoners need special attention.

According to Charlotte Bunch, a woman human rights activist, stated that in fact women's rights had been violated in various ways. In certain political conditions, both women and men experience or become victims of violence, but because political actors have been dominated by men, the problem of women as victims of violence that has been violated by human rights is related to their femininity invisible.⁶

Furthermore, bunch stated that at present, the issue of women in a concrete manner must be the focus of state attention at the national, regional and international levels. Only in this way, the issue of women can be considered as a matter of the state and nation and not just a problem of women.⁷ In the context of inmates in prison there is the right of women as prisoners that cannot be ignored. The right is the right to get remission or reduce the period of detention.

In the criminal justice system we know the correctional institution as the spearhead of the process of upholding material criminal law. In their assignment the correctional institution provides coaching so that the prisoners after leaving later they can live better

³ Harrys Pratama Teguh dan Usep Saepullah, 2016, *Teori dan Praktik Hukum Acara Pidana Khusus*, Pustaka Setia, Bandung, P. 111.

⁴ Anang Priyanto, 2012, *Hukum Acara Pidana Indonesia*, Penerbit Ombak, Yogyakarta, P.100.

⁵ Galih Puji Mulyono dan Barda Nawawi Arief, 2016, *Upaya Mengurangi Kepadatan Narapidana Dalam Lembaga Pemasyarakatan Di Indonesia*, Jurnal Law Reform, Volume 12, Nomor 1, Tahun, P. 6.

⁶ Saparinah Sadli, 2000, *Hak Asasi Perempuan adalah Hak Asasi Manusia*, dalam *Pemahaman Bentuk-bentuk Tindak Kekerasan Terhadap Perempuan dan Alternatif Pemecahannya*, Pusat Kajian Wanita dan Gender, Universitas Indonesia, Jakarta, P. 1.

⁷ *Ibid*, P. 2.

and do not repeat the actions that have been done. During the process of coaching prisoners, they will be observed all their behavior and actions. If they behave well or do positive things, the prisoners have the right to get remissions.⁸

Correctional coaching system is carried out based on the principles of care, equality, treatment and service, education, guidance, respect for human dignity. The criminal system of prisoners cannot make a person lose their life expectancy. This paper then tries to discuss the remission in the context of criminal law studies.

Based on the description above, there are 2 (two) problems that will be examined, namely:

1. How is the implementation of remission of female inmates in the Tangerang Class II A Penitentiary?
2. What is the inhibiting factor in the implementation of remission of female prisoners in the Tangerang Class II A Penitentiary?

The research used is normative and empirical legal research. Normative legal research or also called library research is legal research conducted by examining library material or secondary data only. While empirical legal research is one type of legal research that analyzes and studies the workings of law in society and also examines the role of institutions or legal institutions in law enforcement.⁹ In this paper related research carried out in penitentiary establishments class II A Tangerang.

The data used are secondary data and primary data. Secondary data obtained through library research in the form of literature, articles, journals related to the problem under study. While the primary data is data directly from the source or place of the research object.¹⁰

DISCUSSION

1. Correctional Institution and Coaching

Penitentiary is a place to carry out the formation of prisoners and correctional students. Correctional Institution is a place to guide prisoners and correctional students in Indonesia. Before the term Penitentiary in Indonesia was known as prison.

Penitentiary is a place that serves as a place to form the convicts, to undergo what has been decided by the court. Correctional institutions function as the final place of the judicial settlement process. The success or failure of criminal justice objectives can be seen from the results that have been taken and issued by the penal institution.¹¹

The correctional system is an improvement of the prison system which departs from the thought of the need for better care for prisoners. Although basically the implementation of the correctional system is implemented to achieve the goal, but the element of retaliation for what actions carried out by prisoners is still inseparable in the thought of that goal.¹²

If the desire to get remission is only to be able to get out of the Penitentiary more quickly without the desire to improve his actions in the community then, of course this

⁸ Eva Achjani Zulfa, et al, 2017, *Perkembangan Sistem Pemidanaan dan Sistem Pemasyarakatan*, Rajagrafindo, Depok, P. 130.

⁹ H. Salim HS dan Erlies Septiana Nurbani, 2014, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, RajaGrafindo Persada, Depok, P.20.

¹⁰ Sugiyono, 2009, *Metode Penelitian Kuantitatif dan R&D*, Alfabeta, Bandung, Cet. Ke 8, P. 137.

¹¹ Kadri Husin dan Budi Rizki, 2015, *Sistem Peradilan di Indonesia*, Lembaga Penelitian Universitas Lampung, Bandar Lampung, Cet. Ke 2, P.151.

¹² Ismail Rumadan, 2013, *Problem Lembaga Pemasyarakatan Di Indonesia dan Reorientasi Tujuan Pemidanaan*, Jurnal Hukum dan Peradilan, Volume 2 Nomor 2 Juli, P. 269.

is not an ideal of the correctional system that is applied in the formation of prisoners, so that the opportunity provided becomes futile it's useless.¹³

The concept of correctionalism was first initiated by the Minister of Justice Sahardjo in 1964. He stated that the duty of the prison service was not only to carry out punishment, but also a much more difficult task was to return the criminals into the community. The social task assigned by the correctional institution authorizes him to assess the behavior of the convicted person and determine what steps will be taken in the coaching process.¹⁴

Thus correctionalism is a series of activities to carry out coaching as the final part of the criminal system in criminal justice. Moreover, correctionalism is a manifestation of institutionalization regarding the formal reaction of the community to crime.¹⁵

Institutional correctional institutions certainly have limited physical and organizational limitations. Correctional institutions are not only limited to physical boundaries but also social boundaries. No doubt, access to interact with the community behind the walls of the prison is very limited. Physical boundaries such as fences, walls, bars, are applied to convicts so as not to interact freely as a society outside a penitentiary.

The limits on this space are carried out according to the rules of punishment made by legal experts outside the prison (legislators and executives). The convicted as part of the prison community have little control over the determination of physical and social boundaries in the Penitentiary. Unlike the officers, they have great control over the management of these boundaries. If physical boundaries can be observed in plain view, then social boundaries run routinely in Correctional Institutions. In practice, social boundaries and arrangements are created and shared by officials and prisoners. Physical and social boundaries underlie the emergence of certain agreements between officers and prisoners to work together to interpret the use and use of these boundaries according to their respective needs and interests.¹⁶

Correctional services are only places of detention of convicted persons after being processed legally by the police, prosecutors, and courts. The correctional position is end of the law enforcement is also affirmed by Law No. 12 of 1995 itself. Even though the implementation of detention centers and correctional institutions played a role long before someone was sentenced to be convicted by a court. The fact that there is a tendency for other criminal justice systems (Police, Prosecutors and Judges) to detain and imprison as many people as possible, proves that the lack of desire by the police, prosecutors and judges uses the authority they have informally to divert someone from detention or imprisonment.

Specifically for female prisoners, the foundation of the coaching process in the correctional institution is regulated technically through Government Regulation Number 31 of 1999 concerning Guidance and Guidance of Correctional Guard Citizens (WBP), there is also Government Regulation Number 32 of 1999 concerning Provisions and Procedures for Implementing WBP Rights, Government Regulation Number 57 of 1999 concerning WBP Guidelines and Guidance for Cooperation, and there is also a Minister of Justice Decree Number M.02-PK.04.10 1990 concerning Guidance Patterns for Prisoners and Students.

¹³ Umi Enggarsasi dan Atet Sumanto, 2015, Pemberian Remisi Terhadap Narapidana Di Lembaga Pemasyarakatan, *Jurnal PERSPEKTIF*, Edisi Mei, Volume XX Nomor 2 Tahun, P. 131.

¹⁴ *Op cit*, P. 19.

¹⁵ Nurhamidah Gajah, 2017, Pembinaan Narapidana Anak Di Lembaga Pemasyarakatan Kelas 2 B Padangsidimpuan, *Jurnal Ilmu-Ilmu Sosial dan Keislaman*, Volume 2 No. 1 Januari – Juni, P. 164.

¹⁶ A. Josias Simon R, 2012, *Budaya Penjara Pemahaman Dan Implementasi*, CV Karya Putra Darwati, Bandung, P. 3.

Coaching systems in correctional institutions are divided into two types of coaching, namely personality coaching and independence development.¹⁷ Coaching activities carried out at the Class II A Tangerang Women's Penitentiary are as follows.¹⁸ *First*, personality coaching includes fostering religious awareness, this is done by sharing activities such as public lectures, usually given at religious activities both religious and Christian and Hindu / Buddhist and Confucian beliefs. This activity was carried out in a pattern of cooperation with religious foundations such as Darut Tauhid, Insan Madani, Yasindo, PGI, Vihara Dharma Bakti and other outside parties. The mention of prisoners with all the accompanying labels has an impact on the inmate concerned. Both when in prison and when released later. If putting prisoners as social problems, it will give birth to collective responsibility. Prisoners with past mistakes have the right to change in the future.

This is what is expected by criminal law as the party that punishes those who are guilty. The purpose of criminal law is not just to overcome crime in order to protect and realize order in the society to the community but also so that the community can understand what is permissible or not.¹⁹

If the guidance does not begin through the religious side, fear of inmates will not be touched and repented. Then the *pesantren kilat* is held every three months for two full days involving fifty prisoners. There are also regular recitations in the form of Koran Study Park (TPA), BTQ deepening training, lectures and Qasidah, Rampak Beduk, held one week four times involving all Muslim WBPs. This activity is supported by the Insan Madani Foundation. Ministry of Religion, Al-Azhar, and other foundations that want to fill the event even though they are not routine.

Second, fostering national and state awareness. Directed at the ceremony form of the Republic of Indonesia's Independence day and other national holidays. *Third*, fostering intellectual abilities directed at activities that are library visits, English, Chinese and Japanese language training. Apart from that, it is provided through education in pursuit of package A at the elementary school level and chasing package B at the level of junior high school. This activity is held every Monday through Saturday in a separate education room with the help of books from donors. While those acting as tutors are officers and inmates from local correctional institutions.

Fourth, physical and spiritual health training. This form of guidance is detailed, for example, mental and spiritual education, through religious education with religious lecture material, Islamic studies, Christian, Hindu, Buddhist and Confucian conventions. Sports training in the form of gymnastics, volleyball, badminton, table tennis. For other sports activities held on Friday or evening as needed. *Fifth*, fostering legal awareness. Implemented in collaboration with the Banten Province Kumham Regional Office and other related institutions. Sixth, coaching integrates with the community. By way of family visits, sports matches with other agency inmates, art performances, assimilation, leave before free.

In essence, prisoners as human beings and human resources must be treated well and humanely, therefore the correctional system focuses on the efforts of care, guidance,

¹⁷ Adi Sujatno, 2008, *Pencerahan di Balik Penjara dari Sangkar Menuju Sanggar Untuk Menjadi Manusia Mandiri*, Teraju, Jakarta, P. 149.

¹⁸ Wawancara Langsung di Ruang Kerja Kasi Bimaswat dengan Ibu Nuraini, KamisTanggal 17 Juli 2017, di Lembaga Pemasyarakatan Wanita Kelas II A Tangerang.

¹⁹ Marwan Effendy, 2014, *Teori Hukum dari Perspektif Kebijakan, Perbandingan dan Harmonisasi Hukum Pidana*, Referensi, Cipuatat, P.235.

education and guidance for inmates who aim to restore the unity of human rights relations between individual inmates and the community.

2. Implementation of Remission of Female Prisoners

Understanding remission is not just fixed in one sense. Many understandings provided by experts as well as those already stated in the legislation. Whereas what was suggested by Andi Hamzah in his Dictionary of Laws he gave the notion of remission as a sentence for all or part of it or from a life sentence to a limited sentence given every August 17th.²⁰

Article 1 of the Presidential Decree No. 174/1999 does not clearly provide an understanding of remission because in this decree only states that every prisoner and criminal child who undergo temporary and imprisonment imprisonment can be given remission if the person is in good faith while serving a criminal sentence.

Remission is a reduction in punishment and is a right that is owned by each prisoner. Of course this right is given to those who meet the requirements to get the remission. These conditions are good behavior, are not subject to disciplinary punishment, have served than 6 (six) months of imprisonment, are not sentenced to death / life imprisonment and are not undergoing a criminal in lieu of fines and are not undergoing a Free Approach.

Remission given to inmates aims to realize a penal system that leads to the process of rehabilitation and resocialization of prisoners through efforts that are educative, corrective and defensive, so that it can be concluded that the state has an obligation to improve any violator who commits a crime through a development. In order for coaching to run well, one of the ways that the Indonesian government has carried out through the Ministry of Law and Human Rights refers to the Laws and Regulations by giving remissions to inmates who have been declared fulfilling substantive and administrative requirements.

Remission is one part of the coaching facility that cannot be separated from other coaching facilities, where the essence of coaching is in addition to giving punitive sanctions, as well as providing rewards as one of the coaching efforts, so that the coaching program can run. While the purpose of the correctional system is to make it easier for the inmates not to repeat their actions in violation of the law that have been carried out as citizens and can play an active role as other members of the community.²¹

In order for the right to get remission for correctional inmates to be properly implemented as stated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Corrections, then for each class of assisted citizens, different terms and procedures are determined because each group has different rights, just as state children do not have the right to get remission and civilian children do not get remission, parole or leave before free.

The right to get remission is obtained by reducing the period of imprisonment or remission is only given to inmates who have met the requirements as stipulated in the decision of the President of the Republic of Indonesia Number 174 of 1999, which among other things that inmates must behave well during serving their sentence and has been decided through a Team hearing Correctional Observers (TPP). Inmates receive remissions every year for 2 (two) times, namely special remissions and general

²⁰ *Ibid*, P,133.

²¹ Dwidja Priyatno, 2006, Sistem Pelaksanaan Pidana Penjara di Indonesia, Cet. pertama, Refika Aditama, Bandung, P, 106.

remissions. General remission is given every August 17 and special remission every holiday. In addition there is an additional remission, namely reducing the period of imprisonment given to inmates and students who have committed services to the state. In the Presidential Decree Number 174 of 1999 concerning Remission states that remission is one of the purposes of an important means in order to realize the Correctional System.

In the case of giving remissions to inmates, the Minister of Law and Human Rights can delegate their implementation to the head of the Regional Office. Determination of remission is carried out with the decision of the head of the regional office on behalf of the minister, after issuing the decree, the head of the regional office must submit a report on the determination of the reduction of the criminal period to the Minister of Justice and Ham Cq. Director General of Corrections. In this submission process, entirely through the procedure of the correctional institution, the detention center with the parties concerned in agreeing whether or not an inmate is eligible for remission.²²

Remission can be used as a means to motivate inmates to carry out programs within the correctional institution so that they are carried out properly, implementing the rules of the order in the hope that the concerned get a reduction in sentences so that they can return to normal life in the community.

For most inmates, the right to remission is an expected and awaited right so that with reduced penalties can immediately breathe free air. However, this right can also cause jealousy among them. This can occur because the implementation is inseparable from the subjectivity factor of the appraiser in addition to other factors that play a role (economic). For example, to get an additional remission one of the conditions is to do an act that helps the coaching activities in the correctional institution. For this condition, a greater chance of being able to do this is inmates who have large funds, while prisoners who are not economically capable cannot implement the program.

In the framework of implementing remission, especially in addition to additional remissions, so as not to cause jealousy among prisoners and community suspicion, there needs to be an optimization of supervisory institutions starting from the local Technical Implementation Unit (UPT) which also involves Judge Wasmat by emphasizing that supervision of prisoners' rights is appropriate with the existing provisions. In the Government Regulation of the Republic of Indonesia Number 32 of 1999 Article 34 paragraph (1) states that: "Every prisoner and criminal child who has served a period of criminal behavior is entitled to remission".

Presidential Decree No. 174/1999 Article 1 paragraph (1) states that, "every prisoner and criminal child who is subject to temporary and imprisonment can be given remission if the person is in good faith while serving a criminal".

In practice, there are several policies regarding giving general remissions, special remissions and additional remissions. Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.04.HN.02.01 dated April 27, 2001 concerning Special Remission that is postponed and Conditional Special Remission and Additional Remission in Article 1 paragraph (1) states that Special Remission pending is a special remission given to inmates and criminal children whose implementation is carried out after the person has changed his status to a prisoner and the maximum is 1 (one) month.

²² Wawancara Langsung dengan Ibu Rachmayanthi dari Kementerian Hukum dan HAM, Sabtu 17 Februari 2018, di Kementerian Hukum dan HAM Jakarta.

Article 2 paragraph (1) states that Conditional Special Remission is a special remission that is given conditionally to inmates and criminal children who at the time of the relevant religious holiday the period of serving the criminal is not enough 6 (six) months. Whereas Article 3 paragraph (1) determines that additional remissions can also be given to prisoners and criminal children who because of their abilities and / or skills have provided education and teaching to prisoners and students.

Other policies related to remission are the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.01.HN.02.01 dated May 22, 2006 concerning Subsequent General Remissions, such as a delayed special remission giving policy, general supplementary remission is to base general remission on Lapas residents whose cases are still not *incracht*. This means that these two Ministerial Decrees are easing and deviating from the requirements for remission given to the general public and violating the presumption of innocence.

When referring to the law that can get remission is inmate who has served a minimum of 6 (six) months and has a good behavior. The criteria for inmates to behave well are inmates who obey the obligations and do not violate the prohibitions that apply in correctional institutions including; follow certain training and activity programs in an orderly manner, obey applicable regulations, undergo detention or criminal according to the Detention Order or Court Decree.

Remission or reduction of sentences is the right of prisoners accompanied by special restrictions that legally distinguish remissions received by one other prisoner, their existence is inseparable from the penal system in the form of fostering prisoners. Remission becomes a stimulus so prisoners are willing to coaching to change behavior in accordance with the purpose of the prison system.²³

3. Types of Remissions and Some Inhibiting Factors

First, General Remission. The amount of general remission is: 1 (one) month for inmates and criminal children who have served 6 (six) to 12 (twelve) months; and (two) months for inmates and criminal children who have served 12 (twelve) months or more. Giving general remission is carried out as follows: a. in the first year given remission as referred to in paragraph (1); b. in the second year given a 3 (three) month remission; c. in the third year given a remission of 4 (four) months; d. in the fourth and fifth year, each is given 5 (five) months; and e. in the sixth year and thereafter given remission of 6 (six) months each year. General remission was given on the day of the Proclamation of Independence of the Republic of Indonesia on 17th August.²⁴

Second, Special Remission. The amount of special remission is: 15 (fifteen) days for inmates and criminal children who have served 6 (six) to 12 (twelve) months; and 1 (one) month for convicts and criminal children who have served 12 (twelve) months or more. Special remission is given as follows: a. In the first year given remission as referred to in Presidential Decree No. 174 of 1999 of 1999 Article 4 paragraph (1); b. in the second and third years, each is given 1 (one) month remission; c. in the fourth and fifth year each is given a remission of 1 (one) month to 15 (fifteen) days; and in the sixth year and onward, a 2 (two) month remission is given every year. Special remission is given to: a. every Idul Fitri Day for convicts and criminal children who are Muslim; b. every Christmas for convicts and criminal children who are Christians; c. every

²³ Winston Rori, Kebijakan Hukum Mengenai Syarat Pemberian Remisi Kepada Narapidana Tindak Pidana Korupsi, *Jurnal Lex Crimen*, Vol. II/No. 7/November/2013, P. 31.

²⁴ Dwija Priyanto, 2006, *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Refika Aditama,, Bandung, P. 55.

Nyepi Day for Hindu inmates and criminal children; d. every Vesak Day for prisoners and criminal children who are Buddhists. If during a sentence, a prisoner or a child convicted of conversion, the remission is given to him according to the religion adopted at the time of the first data collection. *Third*, Additional Remissions. Remission is given if the convict or criminal child is involved during a criminal act, performs services to the state, performs actions that are beneficial to the state or humanity, or commits acts that assist in coaching activities in correctional institutions. The amount of additional remission is: 1/2 (one half) of the general remission obtained in the year concerned for convicts and criminal children who commit services to the state or commit acts that are beneficial to the state or humanity; and 1/3 (one third) of the general remission obtained in the year concerned for inmates and criminal children who commit acts that assist in coaching activities in prisons as leaders.

Additional remission for inmates who become body organ donors and blood donors, based on Decree of the Minister of Justice of the Republic of Indonesia No. 04.HN.02.01 of 1998 dated May 14, 1988 concerning Additional Remission for inmates who Donate Body Organs and Blood Donors. Article 2 affirms that every prisoner who carries out a crime while both imprisonment, imprisonment as well as a criminal penalty can be proposed to get additional remission if he becomes an organ and / or blood donor. For the record, based on the provisions of Article 12 letter d of Presidential Decree No. 174 of 1999 concerning Remission, for criminal penalties substitution of criminal penalties can not be given additional remission. Additional proposals for remission must be accompanied by proof / valid certificate issued by the hospital that carries out organ donor operations, or by the Indonesian Red Cross carrying out blood collection. If the additional remission proposal is not accompanied by a proof / certificate, it will be refused.²⁵

Remission as referred to above is not given to inmates and criminal children who: a. sentenced to less than 6 (six) months; b. subject to disciplinary punishment and registered in the book of violation of prisons rules in the period taken into account in the provision of remission; c. undergoing leave before free; or d. sentenced to imprisonment in lieu of fines.

Additional remission is given if a prisoner or a criminal child during a sentence meets the following criteria: a. do services to the state; b. conduct actions that are beneficial to the state or humanity; c. do acts that help coaching activities in correctional institutions.²⁶

The procedure for submitting remissions is submitted to the Minister of Law and Human Rights by the Head of Prison, the Head of the State Detention Center, or the Head of the State Detention 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 regarding remission was notified to inmates and criminal children on the anniversary of the Proclamation of Independence of the Republic of Indonesia on 17 August, for prisoners who were given remission on the anniversary of the Proclamation of Independence or on the religious holidays held by the convicts and criminal children concerned. If there are doubts about religious holidays held by prisoners or criminal children, Menkumham consults with the Minister of Religion. The method of recording remissions must be based on the form or type of remission and recorded in a separate list.

²⁵ *Ibid*, P. 76.

²⁶ *Ibid*, P. 135-136.

Fourth, Decade Remission. The remission of the decade was given to coincide with the anniversary of Indonesia's independence on August 17, every ten years. For 2005, it coincided with the sixty-year anniversary of the independence of the Republic of Indonesia. So that year will be given basic remission.

Remission is calculated from the time of detention Article 14 of Presidential Decree No. 174 of 1999, the conditions for calculating remissions that began from this period of detention were very favorable for prisoners, prisoners were not harmed because of the detention carried out on him. First, the amount of general remission. According to the provisions of Article 4 paragraph (1) Presidential Decree No. 174 of 1999 is: a. one month for inmates or criminal children who have served a sentence of six months to twelve months; b. two months for inmates or criminal children who have served criminal for twelve months or more.

Even though inmates are entitled to remission, there are a number of consequences of the law on remission as stipulated in Presidential Decree No. 174 of 1999, can be stated as follows: First, Reducing the period of imprisonment of prisoners or criminal children; Secondly, Giving remission results in a reduction in the criminal period that prisoners still have to live; Third, Reducing the criminal period that causes immediate release; and Fourth, Exemption is given to inmates who after deducting general remission and additional remission, the sentence that must be served turns out to result in the expiration of the criminal period, right at the time of remission, namely on 17 August; Fifth, the period of release or conditional release becomes shorter. Conditional release is given to inmates who have undergone a criminal term of 2/3, at least have been subjected to criminal treatment for 9 (nine) months. So by giving remission will reduce the criminal period of the convict concerned, this will result in a shorter parole period; Sixth, other legal consequences are remissions which regulate provisions concerning commutation or changes in life imprisonment to a temporary 15-year sentence, with the condition that the prisoner has served at least 5 (five) consecutive years and has good behavior.²⁷

By looking at the criteria that must be met by every prisoner or criminal child, the clearest criteria is that inmates or criminal children have served a minimum sentence of six months. Thus, inmates who are sentenced to under six months will certainly never get remission. If viewed in terms of fairness it is felt lacking because both are serving a sentence but do not get remission.

In the implementation of remission of female inmates, of course there are some obstacles faced by the officers of the registration sub-section, both the obstacles that come from the female inmates concerned and from the process of submitting remissions to the Central Ministry of Law and Human Rights.

Obstacles in providing remission for female prisoners in the Class II A Tangerang penitentiary, including: First, with regard to special conditions for obtaining remission in accordance with the provisions of the prevailing laws and regulations that must be met by female prisoners. Among some of the requirements, the most difficult requirement to be met by female prisoners in Class II A Penitentiary is to pay fines and compensation in accordance with court decisions. Second, the process or procedure of the old Ministry of Law and Human Rights issued or issued a verdict, so that prisoners including female inmates who according to the conditions in the provisions of the prevailing laws and regulations have the right to receive remission but because of the not yet come out so

²⁷ E.Y. Kanter, dan S.R. Sianturi, 2002, *Asas-Asas Hukum Pidana di Indonesia dan Penerapannya*, Storia Grafika, Jakarta, P, 76.

that the implementation of remission of female inmates must wait until the letter comes out, often even the submission of remission for female prisoners is not granted. This is clearly detrimental to inmates, including female prisoners.

Various efforts continue to be made. Among the efforts made to overcome obstacles in implementing remission of female inmates are overcoming barriers related to special requirements that must be met by female inmates. Efforts made by the Registration Sub-Section officers to overcome this obstacle are to provide socialization or counseling to female inmates to fulfill all requirements to obtain remission, both general requirements and special requirements in accordance with the prevailing laws and regulations. If a female prisoner has fulfilled all the requirements for obtaining remission, there is no discrimination by the officer to not propose remission for the female inmate concerned. Then also overcome the obstacles related to the process or procedures of the Central Ministry of Law and Human Rights that issued a Decree, the effort taken is by way of correctional and written correctional officers to communicate and cooperate to expedite the issuance of the Decision on the granting of remission for female inmates.

CONCLUSION

1. The implementation of remission is given to female prisoners if they fulfill the general conditions of good behavior and have served a criminal period of more than 6 (six) months. Besides having to meet general requirements, female inmates must also meet special requirements. Provision of remission for prisoners in accordance with Government regulation, first, willing to cooperate with law enforcers to help uncover cases of crimes committed. Secondly, has paid in full the fine and substitute money in accordance with the court decision for inmates convicted of committing corruption. Female prisoners who have fulfilled all general requirements and special requirements for remission, the registration sub-section officer proposes an application for the granting of remission to the inmate.
2. Implementation of remission for female prisoners in the Class II A Tangerang penitentiary, including difficulties for female inmates to fulfill special requirements for the implementation of remission, namely paying fines and compensation in accordance with court decisions. Therefore, out of 435 female prisoners, only 7 people are able to fulfill the special requirements for remission and the process of issuing a Decree granted or refusal of giving a long remission, so that it can harm female prisoners, because they have to wait for clarity to be granted or the application for remission is rejected.

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Wawancara

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