
Overview Juridical Liberation Conditional for Convict in System Indonesian Criminal Justice

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ARTICLE INFO

Article history:

DOI:

[10.30595/pssh.v14i.1084](https://doi.org/10.30595/pssh.v14i.1084)

Submitted:

June 08, 2023

Accepted:

September 29, 2023

Published:

November 16, 2023

Keywords:

Penal system, Convict, Parole

ABSTRACT

The penal system in Indonesia still applies the practice of parole with various provisions which are crucial elements in releasing convicts. Conditional release can be given to convicts who have met certain requirements based on the provisions of Article 15 of the Criminal Code, namely if the defendant has served 2/3 (two thirds) of his sentence or at least 9 (nine) months of the sentence handed down. The purpose of this study is to find out and analyze the implementation of parole for convicts based on the criminal system in Indonesia by taking into account the Criminal Code and the Correctional Law. The formulation of the problem in this study is a) What are the procedures and conditions for parole for convicts in Indonesia? B) What is the Juridical Review of Parole Release for Convicts in the Indonesian Penal System? This study uses a normative research method with a Statutory Approach through descriptive-analytical research specifications. The basic considerations for the implementation of parole are relevant to the Correctional Law regarding the purpose of sentencing. The implementation of parole must pay attention to social benefits and values so that the enforcement of prisoners' rights will be in accordance with the needs of society in general.

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I. INTRODUCTION

Already since 1886 book _ Constitution criminal Dutch know institution law release conditional . Pranata law comparable can Also We find in legislation countries Europe other . kindly general to inside understandable release before end time period punishment with decree that remainder from penalty criminal No need lived convict if that person is released in something period time test No do follow criminal And Also obey a number condition else specified . ¹ _

Constitution Number 12 of 1995 concerning Corrections, in its general explanation contains a statement that the purpose of punishment is an effort to awaken convicts and criminal children to regret their actions, and return them to become good citizens, obedient to the law, upholding moral, social and religious values, and achieving a safe, orderly and peaceful society.² System correctional facilities in Indonesia recognize the existence of parole or the process of releasing convicts from prison with certain conditions which are crucial elements in releasing convicts. Currently, parole is still being discussed to be reviewed, because there are pros

¹ J an Rimmelink , Law Criminal , Gramedia References Utama , Jakarta, 2003, h. 473-474.

²Sudaryono and Natangsa Surbakti . 2005 . Criminal Law Lecture Handbook . Surakarta Muhammadiyah University . P al. 320

and cons enforcement liberation conditional for prisoner the .³ Article 14 paragraph 1 of the Correctional Law arrange exists rights for inhabitant built penitentiary during undergo period the crime in prison . One of them that is get liberation conditional . Although called with term " liberation". conditional namely the construction process to Convicts made _ outside institution penitentiary . K ethics get liberation conditional , mean prisoner operate punishment his prison outside institution penitentiary . Then , in framework do supervision to prisoner is presented _ Hall Correctional duty _ monitor behaviors prisoner during operate remainder the punishment outside penitentiary with exists liberation conditional. Liberation conditional give liberation / release to convict who has undergo 2/3 (two thirds) time criminal , which is the least must be 9 (nine) month , where For That determined exists something period experiment .

Indonesia too Once carry out conditional free provisions in an emergency, namely during the *Covid-19 pandemic* which is stated in the Regulations kemenkumham Number 10 of 2020 as well Decision Minister Law And Right Fundamental Man Number 19/PK/01/04/2020 is base government in business disconnect chain deployment covid -19 with do warning form appeal And liberation conditional prisoner .⁴ in research conducted _ by Sunardi et al , ia expose that 143 prisoners (convicts) in the Tanjung Gusta Medan Class IA Penitentiary (Lapas) were released based on a circular letter from the Directorate General of Corrections (Ditjen PAS) Number PAS-497.PK.01.04.04 of 2020 concerning the release of convicts through assimilation and integration in order to prevent the spread of the Corona Covid-19 virus. The release of the 143 convicts will be carried out in stages, namely in the initial phase, 43 people will be released, then 5 people will be added to parole (PB) and the remaining 100 convicts will be released in stages.⁵ Through various regulation , exemption conditional has held even in condition emergency though .⁶

However , even though it has been enforced, the parole policy still reaps pros and cons and often creates negative prejudice from the general public. Based on the problems above, the authors are interested in conducting a conceptual study of the review juridical liberation conditional for prisoner in system Indonesian criminal justice.

II. RESEARCH PROBLEMS

1. How are you? Procedure And provision Liberation Conditional for Prisoners in Indonesia?
2. What is the Juridical Review of Conditional Release for Convicts in the Indonesian Penal System?

III. RESEARCH METHODS

The study approach in this conceptual article uses a qualitative approach through literature study and analysis. This study focuses on analysis of applicable laws and comparisons of previous studies.

IV. RESULTS AND DISCUSSION

1. How Procedure And provision Liberation Conditional for Prisoners in Indonesia

Terms For can conditional release . With liberation conditional , a Convicts / Convicts No undergo whole period criminal imposed prison _ by the judge to him . Part criminal prison which is not need lived by Convicts / Convicts is part end from period the criminal . To Convict / Prisoner concerned , for _ can he gave liberation conditional , specified in the Criminal Code exists condition certain must _ fulfilled especially first . Condition For can he gave liberation conditional This determined in Article 15 paragraph (1) of the Criminal Code. According to Article 15 paragraph (1) of this Criminal Code , acquittal conditional can given If Convicts / Convicts has undergo 2/3 (two thirds) of ever criminal imposed prison _ to him , which is at least must be 9 (nine) months . In Article 15 paragraph (1) of the Criminal Code is mentioned two type time , namely⁷:

- a. has served 2/3 (two-thirds) of the length of the prison sentence imposed on him; And,
- b. must be at least 9 (nine) months. The same provision can be found in the Elucidation of Article 14 paragraph (1) letter k of Law Number 12 of 1995 where it is said that what is meant by " conditional release" is the release of a convict after serving at least two-thirds of his criminal term with two-thirds provision not less than 9 (nine) months.

³Sunardi , et al. Conditional Release Criminal Law Policy for Convicts in the Context of Prevention and Mitigation of the Spread of Covid 19 . *Jurnalrectum* , Vol. 4 No. 1 , January 2022 Pg. 125

⁴Dimas Hassan Basri. Juridical Review of the Release of Convicts as an Effort to Combat Covid – 19 in Indonesia. *Indonesia Journal of Law and Social-Political Governance* Vol. 3 No. May 2 - August 2023 Pp. 1768

⁵Sunardi , et al . Conditional Release Criminal Law Policy Convicts in the Context of Prevention and Controlling the Spread of Covid 19 . *Jurnalrectum* , Vol. 4 No. January 1, 2022 . p.125 _

⁶Ria Agustini. Overview Juridical Application Liberation Conditional To Convict Women In Institutions Correctional Woman Class Iib Batam . *JOURNAL OF LAW AND POLICY TRANSFORMATION* Volume 5, Number 2, December 2020 Hlm . 10

⁷Benny Laos. Terms and Procedures for Granting Liberation Conditional According to Uu No. 12 of 1995 concerning Correctional And Regulations Implementation . *Lex Crimen* Vol. V/No. 5/Jul/2016. p . 6

According to Benny Laos, in his research, it was stated that parole is not necessarily given to convicts. But through several terms and conditions in accordance with the law and the Criminal Code. Article 15 paragraph (2) of the Criminal Code determines that when give liberation conditional , also specified a period experiment , as well set mandatory conditions fulfilled during period experiment . So , according provision in the Criminal Code, gift liberation conditional no liberation fully without condition whatever . In the Criminal Code, giving liberation conditional is accompanied condition certain . Condition the covers something condition general and , when need , can Also imposed condition or conditions special . What is _ condition general And condition special the can explained as follows :

a. General terms

Article 15a paragraph (1) of the Criminal Code stipulates that a conditional release is given under the general condition that the convict will not commit a crime and other bad actions. As a general condition that accompanies parole , namely: The convict will not commit a crime; and, Prisoners will not commit other acts that are not good.

b. Special conditions

Article 15a paragraph (2) of the Criminal Code stipulates that apart from general requirements, specific conditions may also be added regarding the behavior of the convict, as long as they do not reduce religious freedom and political freedom. This special requirement relates to the behavior of convicts who are subject to parole. Restrictions condition special this , as determined by Article 15a paragraph (2)

of the Criminal Code itself , is that the special conditions :

- 1) may not reduce religious freedom; and
- 2) Nope can reduce independence concerned politics . _

More carry on in Chapter 1 figure 8 and point 9 of the Regulations Government Number 99 of 2012 concerning change second on Regulation Government Number 32 of 1999 concerning Condition and Implementation Procedures Right Inhabitant building Corrections (PP No. 99 of 2012), mentions that :

- i. Every Correctional Convict and Protégé except Civilian Children, has the right to get parole;
- ii. Conditional release as referred to in paragraph (1) is granted if the conditions have been met, namely, having served a sentence of at least 2/3 (two thirds) provided that 2/3 (two thirds) of the sentence is not less than 9 (nine) months , has behaved well while serving the criminal period for at least the last 9 (nine) months counted before 2/3 (two-thirds) of the criminal period , has attended the coaching program properly, diligently, and enthusiastically and the community can accept the program convict training activities ;
- iii. Conditional Exemption for State children is given after undergoing coaching for at least 1 (one) year;
- iv. The granting of conditional release is determined by a ministerial decree;
- v. Parole is revoked if a prisoner or correctional student violates the conditions for parole as referred to in paragraph (2);
- vi. Provisions regarding the revocation of parole as referred to in paragraph (5) are regulated in a Ministerial Regulation;

As for Ordinances _ gift liberation conditional Now No Again follow provision in Ordinance Liberation Conditional (*Staatsblad* 1917 No. 749) but based on provision in Constitution Number 12 of 1005 and Regulation Minister Law and Human Rights Number 21 of 2013.

Based on description above , fine _ according to the Criminal Code and the Correctional Law , provisions about liberation conditional own dynamic conditions _ for para prisoner.

2. Overview Juridical Liberation Conditional for Convict in System Indonesian Criminal Justice

Criminal Code and Correctional Law has arrange about provision And implementation liberation conditional following policy executor others issued _ by government . However policy liberation conditional apparently Still be pros and cons And rated contrary with principle punishment that is punish convict . Like on liberation prisoner moment potential pandemic _ marry number crime , then policy liberation to a number corrupt and so on .

In matter This regulation about liberationm conditional based on objective liberation prisoner that is fulfillment right prisoner And give chance For return to public with ok . However objective liberation conditional must still in accordance on regulation And provisions for society feel justice from decision liberation conditional to inmates , because No all case criminal own consequence the same harm so that need exists policy new later in the National Criminal Code that regulates in a manner Specific about gift liberation conditional for prisoner in accordance with usefulness for society.

V. CONCLUSION

Condition liberation conditional consists above :

- 1) Formal requirements, namely convicts has served 2/3 (two-thirds) of the length of the prison sentence dropped, which must be at least 9 (nine) month (Article 15 paragraph 1 of the Criminal Code);
- 2) material terms, ie considerations about merit or it is inappropriate to grant conditional release, that is, good behavior during the serving of the criminal period for at least 9 (nine) last month calculated before 2/3 (two thirds) criminal past, (2) has followed the coaching program properly, diligent, and enthusiastic, society can accept coaching activity program Convict.

Implementation liberation conditional for prisoner Still reap the pros and cons Because rated increase crime in the middle society .

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