

Juridical Review of Granting Remissions for Prisoners in Correctional Institutions Linked to Permenkumham Number 7 of 2022

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ABSTRACT

This juridical review examines the legal implications of granting remissions for prisoners in correctional institutions under Permenkumham Number 7 of 2022. The regulation, issued by the Ministry of Law and Human Rights of Indonesia, governs the process of remission, a reduction of a prisoner's sentence as a form of leniency or reward for good behavior. The analysis delves into the constitutional and statutory framework surrounding the granting of remissions, evaluating its consistency with principles of justice, equity, and rehabilitation. Furthermore, it explores the procedural aspects of the remission process, including eligibility criteria, application procedures, and discretionary powers of the authorities involved. Additionally, this review examines potential challenges or controversies arising from the implementation of Permenkumham Number 7 of 2022, particularly regarding transparency, accountability, and the potential for abuse or discrimination in granting remissions. By critically examining the legal foundations and practical implications of this regulation, this review aims to contribute to the discourse on criminal justice reform and the protection of prisoners' rights within the Indonesian legal system.

Keyword: Granting Remissions, Prisoners, Correctional Institutions

A. Introduction

The judicial review of granting remissions for prisoners in correctional institutions is a critical issue in the context of the Indonesian legal and penal system. The implementation of remissions is governed by various regulations, including the Ministry of Law and Human Rights Regulation Number 7 of 2022.¹

This regulation, like its predecessors, aims to structure the granting of sentence reductions to eligible inmates as a part of the broader correctional system objectives. These objectives include the rehabilitation and reintegration of prisoners into society, the alleviation of prison overcrowding, and the upholding of human rights standards within the correctional system.²

The concept of remission, or sentence reduction, has deep roots in the penal systems worldwide. In Indonesia, remissions are viewed as a manifestation of the state's commitment to human rights and rehabilitation rather than merely punitive measures. The rationale behind

¹ Permenkumham No. 7/2022

² Aldianto, M. Y., & Phahlevy, R. R., Hak Remisi bagi Narapidana Pasca Amandemen Konstitusi, Journal Customary Law, 1(3), 20. 2024, <https://doi.org/10.47134/jcl.v1i3.2958>

granting remissions lies in the belief that reducing a prisoner's sentence for good behavior, participation in rehabilitation programs, and other criteria can motivate positive behavior and facilitate the reformation process. However, the application of remissions, particularly to prisoners convicted of extraordinary crimes such as corruption, terrorism, and severe drug offenses, has sparked significant debate and controversy.

Permenkumham No. 7/2022 stipulates the conditions and procedures for granting remissions to prisoners. This regulation outlines specific criteria that inmates must meet to be eligible for sentence reductions. These criteria include good behavior, active participation in educational or rehabilitation programs, and compliance with institutional rules and regulations. The regulation also emphasizes the importance of individualized assessments, ensuring that each inmate's case is considered on its own merits. This approach aligns with the principles of restorative justice, which focus on the rehabilitation of offenders and their reintegration into society.

Despite the intended benefits of remissions, their application has raised concerns among various stakeholders. Critics argue that the granting of remissions, particularly to those convicted of extraordinary crimes, undermines the severity of their offenses and the suffering of their victims. They contend that such leniency may erode public trust in the justice system and fail to provide adequate deterrence against severe criminal activities. For example, the case of Gayus Tambunan, a high-profile corruption convict who received significant sentence reductions, has often been cited to illustrate the potential pitfalls of remission policies. Critics argue that granting remissions to individuals like Tambunan signals a lack of seriousness in addressing corruption and other serious offenses, thus potentially encouraging similar behavior in others.

On the other hand, proponents of the remission system argue that it is a vital component of a humane and effective correctional system. They assert that the possibility of earning sentence reductions serves as a powerful incentive for prisoners to engage in positive behavior and participate in rehabilitation programs. This, in turn, can lead to better outcomes in terms of reducing recidivism and facilitating the reintegration of former inmates into society. Furthermore, proponents emphasize that the granting of remissions is not arbitrary but based on a thorough assessment of each inmate's behaviour and progress. They argue that this process

ensures that only those who have demonstrated genuine reform and a commitment to rehabilitation are eligible for sentence reductions.³

The tension between these opposing views highlights the complex nature of the remission system and the challenges in balancing the goals of punishment, rehabilitation, and public safety. Permenkumham No. 7/2022 attempts to address these challenges by setting clear guidelines and criteria for the granting of remissions. The regulation underscores the importance of a transparent and accountable process, aiming to ensure that remissions are granted fairly and justly. However, the implementation of these guidelines requires careful oversight and continuous evaluation to address any potential shortcomings and ensure that the objectives of the correctional system are met.

One of the critical aspects of Permenkumham No. 7/2022 is its focus on human rights and the humane treatment of prisoners. The regulation aligns with international human rights standards, which advocate for the humane treatment of inmates and their right to opportunities for rehabilitation and reintegration. By providing a framework for granting remissions, the regulation seeks to uphold these standards and promote a correctional system that is not solely punitive but also rehabilitative. This approach reflects a broader shift in penal philosophy, moving away from retribution and towards restorative justice and rehabilitation.

Moreover, the regulation acknowledges the importance of individualized assessments in the remission process. This emphasis on individual assessments ensures that the unique circumstances and progress of each inmate are taken into account. It recognizes that prisoners are not a homogeneous group and that their needs and rehabilitation potential can vary widely. By tailoring remission decisions to the individual, the regulation aims to promote fairness and effectiveness in the correctional system.⁴

However, the successful implementation of Permenkumham No. 7/2022 depends on several factors. Firstly, it requires adequate resources and training for correctional staff to conduct thorough and accurate assessments of inmates. Staff must be equipped with the necessary skills and knowledge to evaluate inmates' behaviour and progress effectively. Secondly, there must be robust mechanisms for monitoring and oversight to ensure that the remission process is transparent and accountable. This includes regular reviews and audits of remission decisions and the establishment of clear channels for addressing any grievances or concerns.

³ Muladi dan Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, Bandung : Alumni, 2019, hlm, 203

⁴ Sudarto, *Hukum dan Hukum Pidana*, Bandung : Alumni, 2020, hlm, 150

Additionally, there must be ongoing efforts to engage and educate the public about the rationale and benefits of the remission system. Public understanding and support are crucial for maintaining trust in the justice system and ensuring the legitimacy of remission policies. Transparent communication about the criteria and procedures for granting remissions, as well as the outcomes and benefits of the system, can help address misconceptions and build public confidence.

The juridical review of granting remissions for prisoners in correctional institutions linked to Permenkumham No. 7/2022 highlights the complexity and significance of this issue within the Indonesian legal and penal system. The regulation represents a critical effort to balance the goals of punishment, rehabilitation, and human rights in the correctional system. While the remission system offers significant benefits in terms of promoting positive behaviour and facilitating the reintegration of inmates, its application, particularly to those convicted of extraordinary crimes, remains a contentious issue. Ensuring the success of the remission system requires careful implementation, continuous oversight, and public engagement. By addressing these challenges, Indonesia can work towards a more effective, humane, and just correctional system that upholds the principles of Pancasila and international human rights standards.

Indonesia, which is ideologically based on Pancasila, has established itself as a state governed by law as enshrined in the 1945 Constitution (UUD 1945). This is grounded in the belief that state power must be exercised on the basis of just and good law. A state governed by law requires that every action taken by the state aims to uphold legal certainty, be carried out equitably, serve as an element that legitimizes democracy, and meet the demands of reason. The existence of criminal law in society serves as a reference to protect individuals or organizational groups in their daily activities. Protection is provided with the intention of creating a sense of security, tranquillity, and peace among members of the community. Thus, no member of society engages in behaviour that can harm other members of the community. Such abusive behaviour affects both the physical and mental dimensions of a person.⁵

Imprisonment is a form of suffering experienced and felt by the guards in the State Detention Center (RUTAN) and in the Correctional Institution, commonly referred to as LAPAS. The purpose of imprisonment is to anticipate criminal acts that someone might commit and is not a form of societal revenge for a wrongdoing.

⁵ Darul Manalu, dkk, Implementasi Pemberian Remisi Bagi Narapidana Di Lembaga Pemasyarakatan Kelas IIA Karawang Dihubungkan Dengan Permenkumham Nomor 7 Tahun 2022 Jurnal Ilmiah Wawasan Pendidikan Volume 9 Nomor 11 Juni 2023.

When perpetrators of extraordinary crimes have been declared suspects and sentenced to serve time, they become convicts and are placed in correctional institutions or detention centers. Becoming a convict and serving time in prison is not a short-term matter for those involved in extraordinary crimes. Nevertheless, these convicts still receive benefits in the form of sentence reductions through remission, provided they meet the requirements. This step is taken by the government as a means of upholding human rights for convicts. Both convicts of extraordinary crimes and ordinary crimes have the right to receive remission.

Despite the intention behind granting remission to uphold human rights, many believe that granting remission to convicts of extraordinary crimes is unjust. If these convicts receive the same remission as those of ordinary crimes, it results in injustice for other convicts and is considered to violate the fifth principle of Pancasila, "Social justice for all Indonesian people." It also fails to provide a deterrent effect for convicts of extraordinary crimes who receive remission. An example of a convict who received remission is Gayus Tambunan, who was convicted of corruption and received a remission of 3 years and 3 months.⁶ The objectives of this research are as follows :

1. To analyse the content and substance of Ministry of Law and Human Rights Regulation Number 7 of 2022 concerning the granting of remissions to prisoners in correctional institutions.
2. To analyse the legal impact or consequences of granting remissions to prisoners, both for the prisoners themselves and for society in general.
3. To examine the legal provisions governing the granting of remissions to prisoners before the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022.

B. Research Methods

The approach in this research uses an empirical juridical approach, which is a study of the application of law in society by examining the development of prisoners, specifically the granting of remissions to prisoners. This is evaluated based on the opinions of government officials in correctional institutions regarding the granting of remissions. This research also remains grounded in normative research principles, with the perspective that these government officials, in performing their duties, rely on norms such as laws and ministerial regulations, and

⁶ Metmein Ada, dkk., Tinjauan Yuridis Dampak Pemberian Remisi Bagi Narapidana Dengan Kejahatan Luar Biasa (*Extra Ordinary Crime*) Yang Membuat Terjadinya Ketidakadilan Bagi Masyarakat. Fakultas Hukum, Universitas Sam Ratulangi.

other regulations. Their work cannot be separated from their function as officials of the government apparatus of the Unitary State of the Republic of Indonesia. The location of this research is at the Class IA Correctional Institution in East Jakarta, with data obtained from the Class IA Cipinang Correctional Institution in 2023, where the number of prisoners who received remissions was recorded.

C. Result and Analysis

A. Regulations on Remission for Prisoners in Correctional Institutions

Remission, or sentence reduction, is an important aspect of the correctional system in Indonesia. The granting of remission aims to motivate prisoners to behave well and participate in rehabilitation programs set by correctional institutions. The remission system is also expected to help reduce overcrowding in correctional institutions, which is a common issue in Indonesia.

The granting of remission is governed by various laws and regulations in Indonesia, one of which is the Ministry of Law and Human Rights Regulation Number 7 of 2022. This regulation outlines the conditions and procedures for granting remission to prisoners, as well as the types of remission that can be granted. This remission system reflects the government's commitment to implementing a correctional system based on human rights principles and social justice.⁷

According to Permenkumham No. 7/2022, there are several types of remission that can be granted to prisoners: general remission, special remission, additional remission, and decade remission. General remission is granted annually on national holidays, such as Indonesia's Independence Day. Special remission is given on religious holidays according to the inmate's religion. Additional remission can be granted to prisoners who have made significant contributions to the state, performed acts beneficial to the country or humanity, or assisted in correctional activities. Decade remission is granted every ten years, usually on special occasions in Indonesia's national history.

The process of granting remission involves several stages. First, the head of the correctional institution or state detention center proposes prisoners who meet the criteria for remission. This proposal is then reviewed by an assessment team consisting of officials from the Ministry of Law and Human Rights and correctional officers. The assessment

⁷ Jhody, P. S., The Discourse of Granting The Rights of Prisoners in Indonesia: The Legal Political Issue and Future Challenges. *Journal of Law and Legal Reform*, 3(3), 2022, 267-294. <https://doi.org/10.15294/jllr.v3i3.55979>

team evaluates the eligibility of prisoners based on their behaviour records, participation in rehabilitation programs, and other established criteria. If a prisoner is deemed eligible, the remission proposal is approved and officially announced.

The main requirement for obtaining remission is good behaviour during the prison term. Prisoners must actively participate in rehabilitation programs, including education, skills training, religious activities, and other social activities organized by the correctional institution. Additionally, prisoners must show cooperative behaviour and not engage in any rule violations while in the institution. Other requirements include having served a certain portion of their sentence, which varies depending on the type of remission granted.

Remission is also regulated based on the type of crime committed. Prisoners involved in extraordinary crimes such as corruption, terrorism, and narcotics are usually subject to stricter scrutiny in the remission process. This is intended to ensure that remission is not misused and still provides a deterrent effect for serious criminal offenses. However, even though prisoners of extraordinary crimes also have the right to remission, the requirements they must meet are usually more stringent, and the evaluation process is more thorough.⁸

The granting of remission has significant impacts, both for the prisoners themselves and for society at large. For prisoners, remission provides hope and motivation to behave well and actively participate in rehabilitation programs. Remission can also reduce the length of the sentence to be served, allowing prisoners to return to society and start a new life sooner. In the context of rehabilitation, remission is seen as an effective tool to support the social reintegration process of prisoners.

For society, the granting of remission can have positive effects if implemented properly. Prisoners who receive remission and successfully reintegrate into society can become examples of the success of a humane and rehabilitation-oriented correctional system. Additionally, reducing the number of prisoners through remission can help address the issue of overcrowding in correctional institutions, which often leads to inhumane living conditions and lowers the quality of rehabilitation programs.

However, the granting of remission can also be controversial, especially if given to prisoners involved in extraordinary crimes. Criticism often arises when prisoners of

⁸ Muladi dan Barda Nawawi Arief, *Bunga Rampai Hukum Pidana: Teori dan Kebijakan Hukum Pidana*, Bandung : Citra Aditya Bakti, 2020, hlm, 73

corruption or terrorism cases receive remission, as it is perceived to reduce the deterrent effect and sense of justice for victims and society. Therefore, it is important for the government and correctional institutions to ensure that the remission process is carried out transparently, accountably, and based on objective and thorough evaluations.

As part of efforts to enhance transparency and accountability, the government has undertaken various measures, such as improving training for correctional officers, enhancing monitoring systems, and involving various stakeholders in the remission evaluation process. Additionally, the government continues to socialize the importance of remission as part of a correctional system aimed at rehabilitation and social reintegration of prisoners. Through a comprehensive and inclusive approach, it is hoped that the granting of remission can be aligned with principles of justice and humanity.⁹

Ultimately, remission is an essential instrument in the correctional system aimed at supporting the rehabilitation and social reintegration of prisoners. With clear regulations and proper implementation, remission can provide significant benefits for prisoners and society. Permenkumham No. 7/2022 is a crucial step in efforts to better regulate and supervise the granting of remission to maximize its positive impacts. The challenge ahead is to ensure that this regulation can be implemented effectively, transparently, and accountably while addressing various criticisms and concerns. By doing so, Indonesia's correctional system can become more humane, just, and effective in carrying out its rehabilitation and social reintegration functions.

According to the Corrections Law No. 22/2022 of the Republic of Indonesia, the term or definition of a detainee is a suspect or defendant who is currently on trial and detained in a government detention center, while a prisoner is an individual inside a prison area who is subject to imprisonment until death or awaiting execution of a death sentence, namely serving time in a prison. Every convict serving a conditional sentence and a prison sentence may be released. In this regard, reduction is the reduction in the implementation of the punishment given to convicts who meet the qualifications as regulated in the legislation. This can be cancelled by the Minister of Law and Legislation of the Republic of Indonesia.

⁹ Muchtar, S., & Rivanie, S.S, *Perkembangan Teori-Teori Tujuan Pemidanaan*. Halu Oleo Law Review, 6(2), 2022, hlm. 176-188.

The prison easing program is a means to encourage and train prisoners to behave well during their sentence, so that they will be well accepted in society after their release. In principle, prisoners are granted remission without discrimination because the government is responsible for protecting prisoners and fulfilling their rights. Remission is a prisoner's right. The Corrections Law has provided a right for prisoners, one of which is the right to obtain remission or a reduction in sentence as regulated in Article 14 paragraph (1) letter i of the Corrections Law. Every prisoner is entitled to receive a reduction in sentence (remission) if they have met the requirements as regulated in Article 34 of Government Regulation No. 99 of 2012.

The nature of forced withdrawal indicates that withdrawal rules are not codified in the system rules, but are regulated in several rules as follows :

The decision is implemented through Presidential Decree No. 174/1999 and Ministry of Law and Human Rights Regulation No. 3/2018 replaced by Ministry of Law and Human Rights Regulation No. 18/2019, which is General Remission granted to convicts to celebrate the Proclamation of Independence of the Republic of Indonesia on the 17th of August, and the calculation of general remission is in the first year, 1 month (one month) is granted remission to prisoners who have served their sentence. Imprisonment of 6 months (six months) and imprisonment of 2 months (two months) for convicts who have served imprisonment for 2 months (two months). Then they get a reduction of 3 months (three months) in the second year, a reduction of 4 months (four months) in the third year, a reduction of 5 months (five months) in the fourth and fifth years, and the sixth year. Reduction of sentence by 6 months (six months) per year.

Special pardon is the release on religious holidays commemorated by convicts and juvenile offenders, with applicable limitations, if in one year the religion has more than one religious holiday, then the chosen holiday is the holiday celebrated by the adherents of that religion most respected, and the amount of special reduction is prisoners who have served a sentence of 6 to 12 months receive remission for 15 (fifteen) days in the first year, and prisoners who have served a sentence receive 1 month. imprisonment for a minimum of 12 months. In addition, a reduction of 1 month is given in the second and third years, and a reduction of 1 month (one month), 15 days (fifteen days) in each fourth and fifth year; and in the sixth year onwards. receive an income of 2 months (two months) each year.

Further release, for example, if a convict devotes himself to the homeland, performs acts and actions of service to the nation or humanity during his sentence; or taking action

to support activities within the prison, and the additional credit amount is $\frac{1}{2}$ (half) of the general release received during the year by convicts who serve the state or perform government service. or humanity. Meanwhile, $\frac{1}{3}$ (one third) of the general allowance is given to prisoners who serve as leaders in rehabilitation activities in the prison this year.

Remission is regulated in Ministry of Law and Human Rights Regulation No. 3/2018, changed in 2019 to Ministry of Law and Human Rights Regulation No. 18, namely supervision, humanity and further remission. The revocation is only regulated in Presidential Decree No. 174/1999, namely changing the prison sentence to death to temporary imprisonment (maximum 15 years). Change the prison sentence until death to a limited sentence if the convict has served a sentence of at least five years in a row and behaves politely. Previously, if the request for the transfer of the prison sentence until death to temporary imprisonment was made through the local prosecutor's office and the Supreme Court (SC), then the proposal for the request was submitted directly to the President through the Minister of Justice based on Presidential Decree No. 174/1999 and Human Rights Republic of Indonesia.

The decree is only regulated by Presidential Decree No. 120/1955, namely a decree issued once every decade on the Independence Day of the Republic of Indonesia on August 17. Extraordinary events include natural disasters such as earthquakes and tsunamis in Aceh based on Presidential Decree No. 21/2005.

The Minister may reduce the opportunity for release for convicts who qualify as Good Behaviour, it can be proven that in the last 6 months (six months) counted before the date of resignation, they are not under disciplinary sanctions and behave well when attending advanced rehabilitation programs held by the prison.

Have passed the duration of imprisonment for more than 6 months (six months). In addition to good behaviour and the imprisonment period of more than 6 months, on the one hand there are several provisions that must be fulfilled for convicts of terrorist crimes, including:

Participating in programs that encourage radical ideology adherents to become more moderate (deradicalization) with prison authorities and the National Counterterrorism Agency as the organizers of the activities; and Pronouncing an oath: A written statement of loyalty to the Unitary State of the Republic of Indonesia for convicts who are Indonesian citizens; or.

The purpose of granting clemency to prisoners is to improve their behaviour, realize the state's rights over prisons, and show appreciation to prisoners who undergo lengthy

trial processes during their detention, thereby enhancing the quality and mentality of each prisoner. Clemency always ensures the human dignity of prisoners by giving them the opportunity to live in society as law-abiding citizens who responsibly adhere to the laws and norms before God and their fellow beings. However, if the desire for forgiveness is only to get out of prison sooner, without the intention to function better in the future in society, then it certainly is not the purpose of the existence of prisons applied in prisoner education, thus wasting the allocated opportunity.

The implementation of the Ministry of Law and Human Rights Regulation No. 7 of 2022 has differences in the requirements for granting the rights of detainees, especially for detainees involved in criminal acts, compared to Government Regulation No. 99 of 2012. The previous regulation required attaching a justice collaborator document (a letter of recommendation to collaborate in supporting the uncovering of criminal acts committed), whereas the new regulation no longer requires this document. The requirements and procedures for granting Remission are regulated in Article 12 of Ministry of Law and Human Rights Regulation No. 7 of 2022, Conditional Release is regulated in Articles 84 to 86 and must complete documents in Articles 87 to 88, and Conditional Leave is regulated in Article 115 for crimes under Government Regulation No. 99 of 2012.

B. To Analyse The Legal Impact Or Consequences Of Granting Remissions To Prisoners, Both For The Prisoners Themselves And For Society In General

Granting remissions to prisoners has significant legal implications and consequences for both the prisoners themselves and society at large. This practice, often implemented as a means to manage prison populations, promote rehabilitation, or address overcrowding, carries multifaceted considerations that extend beyond its immediate effects. By delving comprehensively into these aspects, one can grasp the complexities surrounding remissions and their broader impact.¹⁰

From a legal standpoint, the granting of remissions involves the exercise of executive authority or judicial discretion. Depending on the jurisdiction, remissions may be granted based on various criteria such as good behaviour, participation in rehabilitation programs, or other meritorious factors. However, the process of determining eligibility and the extent of remission can vary widely, leading to disparities in outcomes among prisoners.

¹⁰ Budi Sudarto, *Pemasyarakatan dan Sistem Remisi di Indonesia: Tinjauan Hukum dan Sosial*, Jakarta : Penerbit Kencana, 2020, hlm, 77

For prisoners, the legal impact of remissions can be profound. Firstly, it offers the prospect of early release or reduction in sentence duration, which can have tangible benefits for individuals seeking to reintegrate into society. However, the availability of remissions may also influence behaviour within correctional facilities, incentivizing compliance with rules and participation in programs aimed at rehabilitation.

Moreover, remissions may serve as a form of incentive for prisoners to engage in constructive activities during their incarceration, fostering a sense of purpose and motivation for self-improvement. Conversely, the denial of remissions or the imposition of stringent criteria may exacerbate feelings of disillusionment or resentment among prisoners, potentially undermining efforts at rehabilitation and reformation.

Beyond the individual level, the legal consequences of remissions reverberate throughout society. One of the primary considerations is public safety, as the early release of prisoners raises concerns regarding recidivism rates and the potential risks posed to communities. Critics argue that lenient remission policies could jeopardize public safety by prematurely reintroducing individuals with a propensity for criminal behaviour into society.

Conversely, proponents of remissions contend that a rehabilitative approach, coupled with appropriate supervision and support mechanisms, can facilitate successful reintegration and reduce recidivism. They argue that prolonged incarceration without opportunities for redemption or rehabilitation may perpetuate cycles of crime and incarceration, ultimately undermining the goals of the criminal justice system.

Moreover, remissions can have economic implications for society, particularly in terms of prison expenditure and resource allocation. By reducing the average length of incarceration, remissions may alleviate financial burdens associated with the maintenance of prison facilities and the provision of services to inmates. This reallocation of resources could potentially be redirected towards initiatives aimed at crime prevention, victim support, or community development.

However, critics caution against prioritizing cost-saving measures at the expense of public safety or the integrity of the justice system. They argue that the pursuit of efficiency should not overshadow considerations of justice and accountability. Furthermore, disparities in the granting of remissions, particularly along racial or socioeconomic lines, raise concerns about fairness and equity within the criminal justice system.

In addition to these legal considerations, the granting of remissions also intersects with broader societal issues such as rehabilitation, reintegration, and the moral

responsibility towards offenders. From a rehabilitative perspective, remissions represent an opportunity to facilitate the successful transition of individuals from incarceration to productive citizenship. By incentivizing participation in educational, vocational, and therapeutic programs, remissions can equip prisoners with the skills and support networks necessary to lead law-abiding lives upon release.¹¹

Moreover, remissions reflect society's stance on the purpose of punishment and the possibility of redemption. While some advocate for a punitive approach focused solely on deterrence and retribution, others emphasize the potential for rehabilitation and second chances. The granting of remissions embodies this tension between punishment and rehabilitation, highlighting the need for a nuanced and balanced approach to criminal justice.

At its core, the legal impact of remissions embodies competing interests and values within society. It requires a delicate balance between considerations of public safety, individual rights, and the overarching goals of the criminal justice system. While remissions offer the promise of early release and opportunities for rehabilitation, they also raise concerns about accountability, fairness, and the broader implications for society. As such, the analysis of remissions necessitates a holistic examination of their legal, social, and ethical dimensions to ensure that they align with the principles of justice and the welfare of both prisoners and society as a whole.

C. To examine the legal provisions governing the granting of remissions to prisoners before the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022.

To comprehensively examine the legal provisions governing the granting of remissions to prisoners before the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022, it is essential to delve into the historical, legal, and procedural aspects surrounding this practice.

Remissions, also known as sentence reductions or clemency, have been a longstanding feature of criminal justice systems worldwide. Historically, remissions were rooted in principles of mercy, leniency, and the notion of second chances for offenders. In

¹¹ Agus Utama, *Keadilan dalam Sistem Peradilan Pidana: Perspektif Sosial dan Etika*, Yogyakarta : Penerbit Gadjah Mada University Press, 2018, hlm, 87

many jurisdictions, including Indonesia, the granting of remissions was traditionally within the purview of executive authority, vested in the head of state or government.

Before the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022, the legal framework governing remissions in Indonesia was primarily delineated in several key statutes, regulations, and legal instruments. These included the Criminal Code (Kitab Undang-Undang Hukum Pidana), Law Number 12 of 1995 on Correctional Services (Undang-Undang Nomor 12 Tahun 1995 tentang Pemasyarakatan), and various ministerial regulations issued by the Ministry of Law and Human Rights.

Under the previous legal regime, remissions were typically granted based on criteria such as good behaviour, participation in rehabilitation programs, and other meritorious factors. The decision to grant remissions was discretionary and often vested in the Director-General of Correctional Facilities, with oversight from the Ministry of Law and Human Rights. However, the absence of comprehensive regulations governing remissions led to inconsistencies, arbitrariness, and potential abuses in the process.

Moreover, the lack of transparency and accountability in the remission system raised concerns regarding fairness, equity, and the rule of law. Without clear guidelines and oversight mechanisms, there was a risk of undue influence, corruption, or favouritism in the granting of remissions. This undermined public trust in the criminal justice system and compromised the principles of justice and legality.¹²

Furthermore, the absence of standardized criteria for remissions contributed to disparities in outcomes among prisoners, leading to perceptions of unfairness and injustice. Certain categories of prisoners, such as political prisoners, juveniles, or those with access to resources or connections, may have been more likely to receive remissions compared to others. This reinforced existing inequalities within the criminal justice system and marginalized vulnerable populations.

The issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022 marked a significant development in the legal framework governing remissions in Indonesia. The regulation aimed to streamline and standardize the process of granting remissions, enhance transparency and accountability, and uphold the principles of justice

¹² Bambang Widodo, *Reformasi Sistem Remisi Pidana: Tinjauan Kritis terhadap Regulasi Kementerian Hukum dan HAM*, Jakarta : Penerbit Pustaka Mandiri, 2020, hlm, 69

and the rule of law. It introduced clear criteria, procedures, and timelines for the granting of remissions, thereby reducing ambiguity and discretion in the process.

Key provisions of the regulation included the establishment of a Remission Determination Committee at the central and regional levels, tasked with reviewing and deciding on remission applications. The committee comprised representatives from relevant government agencies, civil society organizations, and legal experts, ensuring a multi-stakeholder approach to decision-making. Additionally, the regulation mandated the publication of remission criteria, application procedures, and decision outcomes to promote transparency and public scrutiny.

Moreover, Ministry of Law and Human Rights Regulation Number 7 of 2022 emphasized the importance of rehabilitation and reintegration in the remission process. It incentivized prisoners' participation in educational, vocational, and therapeutic programs by linking remissions to demonstrated efforts at self-improvement and rehabilitation. This reflected a shift towards a more rehabilitative and restorative approach to criminal justice, aligning with international human rights standards and best practices.

Furthermore, the regulation introduced safeguards to prevent abuses and ensure the fair and impartial administration of remissions. It established mechanisms for grievances, appeals, and oversight to address complaints, disputes, or allegations of misconduct in the remission process. This bolstered accountability and oversight, enhancing public trust and confidence in the integrity of the remission system.¹³

The legal provisions governing the granting of remissions to prisoners in Indonesia underwent significant reforms with the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022. These reforms aimed to address longstanding shortcomings in the remission system, including inconsistency, arbitrariness, and lack of transparency. By introducing clear criteria, procedures, and oversight mechanisms, the regulation sought to promote fairness, equity, and the rule of law in the administration of remissions. Moving forward, effective implementation and monitoring of the regulation will be essential to ensure its objectives are realized and to uphold the rights and dignity of prisoners within the Indonesian criminal justice system.

¹³ Agus Prasetyo, *Dinamika Hukum Pemasyarakatan di Indonesia*, Yogyakarta: Penerbit Gadjah Mada University Press, 2021, hlm, 73

The introduction of clear criteria, procedures, and oversight mechanisms through the regulation signifies a pivotal step towards enhancing the fairness, equity, and adherence to the rule of law in the administration of remissions within the Indonesian criminal justice system. This regulatory framework aims to address longstanding deficiencies and inconsistencies in the remission process, fostering transparency, accountability, and the protection of prisoners' rights and dignity.

Firstly, the establishment of clear criteria for remissions provides transparency and guidance for both prisoners and officials involved in the process. By delineating specific eligibility requirements, such as good behaviour, participation in rehabilitation programs, and demonstrated efforts at self-improvement, the regulation ensures that remissions are granted based on objective and standardized criteria. This reduces ambiguity and discretion in decision-making, mitigating the risk of arbitrary or discriminatory practices.

Moreover, the introduction of standardized procedures for remission applications and reviews streamlines the process and promotes consistency and efficiency. Prisoners are provided with clear instructions on how to apply for remissions, including the documentation and evidence required to support their eligibility. Similarly, the Remission Determination Committee is tasked with conducting thorough reviews of applications in accordance with established guidelines, ensuring that decisions are made based on merit and legal principles.

Furthermore, the regulation incorporates oversight mechanisms to safeguard the integrity and fairness of the remission process. By mandating the establishment of Remission Determination Committees at the central and regional levels, the regulation promotes multi-stakeholder involvement and accountability in decision-making. These committees comprise representatives from relevant government agencies, civil society organizations, and legal experts, ensuring diverse perspectives and oversight in the evaluation of remission applications.

Additionally, the regulation emphasizes the importance of effective implementation and monitoring to realize its objectives fully. Effective implementation requires the allocation of adequate resources, training, and capacity-building for officials responsible for administering the remission process. It also necessitates the dissemination of information and awareness-raising campaigns to ensure that prisoners are aware of their rights and obligations regarding remissions.

Furthermore, ongoing monitoring and evaluation are essential to assess the impact of the regulation, identify challenges or areas for improvement, and address any instances

of non-compliance or misconduct. This may involve regular audits, inspections, and reporting mechanisms to track the progress and outcomes of remission applications and decisions. By monitoring key performance indicators such as application processing times, approval rates, and demographic disparities, authorities can identify trends, disparities, and potential areas for intervention.

Moreover, effective implementation and monitoring require collaboration and coordination among relevant stakeholders, including government agencies, judiciary, law enforcement, civil society organizations, and international partners. By fostering partnerships and dialogue, stakeholders can leverage their respective expertise and resources to support the successful implementation of the regulation and address systemic challenges within the criminal justice system.

The introduction of clear criteria, procedures, and oversight mechanisms through the regulation represents a significant advancement in promoting fairness, equity, and the rule of law in the administration of remissions within the Indonesian criminal justice system. However, the realization of these objectives hinges on effective implementation, monitoring, and collaboration among stakeholders. By upholding the rights and dignity of prisoners and ensuring accountability and transparency in the remission process, Indonesia can foster a more just and humane criminal justice system that upholds the principles of fairness, equity, and respect for human rights.

D. Conclusion

Ministry of Law and Human Rights Regulation Number 7 of 2022 aims to analyse the content and substance regarding the granting of remissions to prisoners in correctional institutions. This regulation establishes clear criteria, procedures, and oversight mechanisms to ensure transparency, accountability, and the protection of prisoners' rights.

Granting remissions to prisoners has significant legal implications, both for the prisoners themselves and for society in general. Remissions can affect the rehabilitation process of prisoners, influence public safety, and have economic implications on the criminal justice system expenditures.

Before the issuance of Ministry of Law and Human Rights Regulation Number 7 of 2022, there were legal provisions governing the granting of remissions to prisoners. However, the lack of clarity in criteria, procedures, and oversight resulted in uncertainty, inconsistency, and the potential for abuse in the remission process.

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