**LEGAL PROTECTION FOR PRISONERS FOR A CONDITIONAL EXEMPTION**

**IN THE PERSPECTIVE OF HUMAN RIGHTS**

## INTRODUCTION

Indonesia is a state law that guarantees legal protection for its citizens. Legal protection is an obligation for a country on the recognition, protection, and ensuring the rights of citizens for the sake of social justice and prosperity for all people. This is in accordance with the mandate of the Constitutional Law of the Republic of Indonesia Year 1945 and Pancasila as the ideological foundation of the nation. State law is a dimension of a democratic state and contains the substance of Human Rights. Without the substance of the State Human Rights law will lose its essence and tend as a tool by the government to the oppression of the people and as an instrument to justify the government's actual policies violate human rights.

United Nations have indicated that international rights issues lawbreaker to the issue of the implementation of imprisonment has been recognized as an urgent issue that needs to be followed up, not only for the member states of the United Nations is concerned, but is already a problems of the nations of the world. The principles of legal protection derived from Pancasila as an ideal basis, the Constitution of the Republic of Indonesia Year 1945 as a constitutional principle (structural), and the Act as the operational principle. The concept of legal protection has the ideal basis (philosophical) in the V principle of Pancasila, namely; "Social justice for all the people of Indonesia". Definition of justice for all Indonesian people it contains a right of all Indonesian people to be treated equally before the law and government. Law enforcement based a legal framework for good or raw (good legal system) is expected in the era of globalization, a country where enforce laws that violate human rights, is certain to be criticized and even isolated by other countries as a member of the world community who do not have a commitment to human rights.

Law enforcement officers consisting of the police, prosecutors, courts and correctional facilities should already be aware of his position, especially in law enforcement that aims to create the Indonesian state fair prosperous and prosperous equitable, so that law enforcement officers do not apply arbitrary and does not pay attention to human rights in law enforcement. This can be seen in history that the founding fathers when it set up the Republic of Indonesia to formulate that Indonesia is a country based on law (rechstaat) not based on power alone (machstaat).

The recognition of universal human rights have been formulated in the Universal Declaration of Human Rights, which indicates that "Human rights are rights inherent in every human being, regardless of sex, age, status, race, nationality, or other differences". The fundamental principles of human rights recognition must be thoroughly understood by all parties without exception. This is because every person has the potential to violate human rights, and instead everyone also has the potential to be breached its human rights, even if the person is a prisoner (the perpetrators). Convict a person who has violated the human rights of others, but it does not mean that human rights are inherent to immediately disappeared and she may be mistreated by others.

Human rights are often portrayed as moral issues are universal. The rights included in the non-derogable human rights as follows:

1. The right to life;
2. The prohibition of torture;
3. The prohibition of slavery;
4. The prohibition of Imprisonment solely for inability to fulfill a contractual obligation;
5. Prohibition of ex post facto;
6. The right to recognition as a person by the law; and
7. freedom of religion.

Persecution or violence is vulnerable once happened to suspects, defendants and prisoners. In history, human detention for examination purposes or for purposes of criminal punishment in any country have been through some dark days. The countries of western Europe, in this case the famous cruel against the perpetrators, such as drownings alive, legal fuel, even until the 19th century, in the Netherlands is still valid act of giving a stamp on the body inmates with a hot iron burning.

The forms of the violence is not contained in the criminal system in modern times, especially since the shift in the purpose and function of punishment is not just a deterrent for inmates, but it is the rehabilitation and social reintegration of prisoners were executed in integrated between the builder , who fostered, and communities to improve the quality of the prisoners in order to realize his mistake, fix, and not repeat for committing criminal offenses in the future.

Implementation of imprisonment, originally set in Gestichten Reglement Reglement or prison, Stb 1971, No. 708, dated December 10, 1917. However, since the release of Act No. 12 Year 1995 regarding Correctional, then Reglement prison is no longer valid. In order to reform the system of execution of imprisonment in 1964, the term penal system has been changed to the penitentiary system, and the prison term was changed to the penitentiary.

Correctional essentially constitutes an embodiment of the institutionalization of the formal reaction of the community against crime. At first the only public reaction focused on the element of giving pain on offenders. However, in line with the development of society, then the element of suffering Award must be balanced with humane treatment with due regard to human rights offenders as individual beings, as well as social beings.

The concept of Prison in Indonesia was first introduced by Sahardjo on July 5, 1963 delivered a speech with the theme "Banyan Tree aegis". So it can be interpreted that the concept of national law such as the banyan tree which symbolizes aegis. Then the penitentiary system was formally implemented on 27 April 1964. In effect the penitentiary and imprisonment have the same meaning but different purpose. Correctional as a tool for interaction, the rehabilitation of a citizen to apply good and law-abiding while the prison tends to make people more and more criminals after prison.

Prison is a place for supervision to prisoners. That is, where the convict earnest well prepared so that one day after his sentence is completed will be returned to the community with job skills that have been trained in prisons. Sahardjo said that the renewal of the prison system, among others:

1. Each person is a social creature.
2. There are no people living outside the community.
3. Prisoners sentenced only to lose the freedom of movement, so it needs to be cultivated in order to have a livelihood.

Changes in the view of treating prisoners in Indonesia must be based on an evaluation of humanity is a form of manifestation of Pancasila, as the basic outlook of the nation that recognizes the human rights of prisoners. To be aware of is how the constructor Sahardjo thought it was capable of producing prisoners who have a livelihood after getting out of jail. Their coaching model for inmates in prisons can not be separated from a dynamics. The dynamics that drive and aiming for more give provisions for prisoners in facing life after they finish their prison terms.

The purpose of punishment that developed from the beginning until now has led to a more rational, the oldest was retaliation aimed at satisfying both parties revenge community itself and the injured party or become victims of crime. But over time, the objective of sentencing evolve toward the better, which is deemed of interest prevailing today is a variation of forms deterrence, both addressed to the offenders themselves and to those who have the potential to become criminals, protect the people from evil , repair to criminals. The latter is the most modern and popular today. Not only aims to improve the conditions of imprisonment but also look for other alternatives which are not criminal in fostering offenders.

The replacement of the system of the prison into the correctional system meant that in addition to formulating of imprisonment, correctional system is also a guidance system or methodology in the treatment of offenders who multilateral oriented by using an approach that is centered on the potentials that exist in yourself inmates concerned, also to the community to a whole.

The cornerstone of the duties and functions of correctional officers is Law No. 12 of 1995 on Prison, which also regulates the rights of prisoners are contained in Article 14 paragraph (1) must be met regardless of the background of the case / offense criminal. The terms and procedures for granting such rights shall be regulated by government regulation, ie Government Regulation No. 28 of 2006 on Amendment of Government Regulation No. 32 of 1999 on the Terms and Procedures for the Implementation of the Right People Patronage of Prison, which in this Government Regulation lists the additional requirements for inmates particular case. Noting the fact it can be said that there has been a discrepancy between the law by implementing regulations.

Based on the foregoing, any inmate who meets the requirements as determined by the rights should be met by the government, therefore, any inmate who meets the requirements as set forth above, and not be given remission is a violation of the rules of Legislation. Differences in terms of prisoners by type of criminal offense committed by an implementation of justice as hukum.Tentunya purpose it is meant for offenders as nowhere specified in paragraph (3) the provision does not necessarily granted remission and equated with the perpetrators lainnya.Namun on application , benchmark against the provision of good conduct is not regulated in a limited manner by law regulations. Relaxation of laws can only be used as a tool for law enforcement officers to provide a reduction of prison terms for those who do not qualify.

The reality shows that the human rights issues in Indonesia has always been a spotlight and the subject of conversation constantly, either because the basic concept is derived from the Constitution of the Republic of Indonesia Year 1945 and in practical reality on the ground is considered full of violations. The causes of human rights violations among others, the arrogance of authority and power that an official's ruling, making it difficult to control himself so that a violation of the rights of others.

Fulfillment of the basic rights of prisoners, both listed in the Act No. 12 of 1995 on Prison, which also mencamtumkan 10 principles of correctional, then some international law such as the Convention on Civil Rights and Political Convention against torture and other cruel, inhuman and degrading, as well as the Standard Minimum Rules for Treatment of Prisoners or the Standard Minimum Rules for the treatment of Prisoners issued by the United Nations in 1955.

Non-fulfillment ideally prisoners' rights is actually the effect of the complexity of the problems that exist in prisons. One of the root problems in the prisons internal (bureaucratic) makes tranquility, as a security measure or a parameter of success and performance correctional Institutions, where the approach applied in the penal system security approach that is purely repressive character and punitif.Jenis approach is then give the effect of denial basic rights of inmates as stated in Article 14 of Law No. 12 of 1995 concerning Prison.

The discrepancy between the law by implementing regulations, the benchmark against conditions which are not regulated in a limited manner by the Act or regulations other advanced indicate juridical problems of the protection of the rights of prisoners in the pemasyarakatan.Hal institution eventually be the cause of violations and non-fulfillment of the rights of prisoners in the penitentiary. This shows blurring of norms and conflict of norms on the protection of the rights of prisoners in the penitentiary.

Based on ontology aspect, the law seeks to find the object, how we can understand the true legal form, the law also does not directly question the positive law as the core object. As research conducted by Gustav Radbruch with "Three Value Basic Law", ie Justice, utilities and Rule of Law, because of legal ontology work beyond the reach binding. In principle, not only to see the law as an object but all the patterns of human behavior, the basis on which the reciprocal rights and duties of man, and the mutual relationship between man and the natural surroundings associated with protection as the obligation of the state, government and society. It shows that the rights of prisoners must be met in order to achieve fairness, usefulness and legal certainty. Prisoners have a right that must be upheld as contained in Article 14 of Law No. 12 of 1995 concerning Prison, it is the fulfillment of human rights for prisoners who are creatures of God who has the right of individuals and social beings harmony.

Epistimologyaspects of the law seeks to declare that Unsu-legal elements are objects of knowledge of jurisprudence ever researched the development and correspondence to the conditions of space and time in which the law is enforced, and everything that can affect relationships. Showed that the development philosophy of punishment now this still requires the Correctional changes.

Has necessitated the social reintegration of Prison to conduct the coaching process with the active involvement of the community. The development philosophy towards community based correction also pointed out the necessity of sentencing process is done in society itself. Although the practice is still limited to inmates with tertentu.perkembangan other criteria can also be used as impetus for change is the discourse in organizational management and policy processes in government institutions in the form of governance process. This governance discourse encourages government agencies in each of the policy process to open up the involvement of other stakeholders will also have the ability to support the fulfillment of human rights in the process of law enforcement. As the private sector and civil society. Besides governance process also stressed the need for a change of policy toward the bottom up to be effective and in accordance with the needs on the field operators.

In the management of correctional changes, especially in terms of human rights protection, the first thing to do is to create an understanding and a common need to berubah.Realitas that the fulfillment of the rights of prisoners in Indonesia is still dealing with macro-structural constraints and human resources.

At the level of aksilogi, the law would question how the law functioned ideally. Values, principles and norms which are elements of the law. Generally known as the rule of law, where basic fairness and legal certainty into a law. balance causality application of the law, the elements of the legal discovery of the application of the law kosekuensi empirik. Sudikno Mortokusumo view that, if looking for a law, the meaning of a word then sought beforehand in laws, because the laws are authentic, the written form, and ensure legal certainty. This suggests that the need to do a review of the legislation pertaining to the rights of prisoners in correctional institutions.

The problem that occurs is sociological shift function and purpose of punishment does not make the inmate escape from all forms of violence in prison. Instead of violence in other forms in the guise of a series of guidance prisoners it often happens, so that the rights of prisoners in correctional institutions are not fulfilled and violated.

One of the problems that occur related to the right - the right Prisoners in the prison was right Prisoners eligible for parole. In the criminal system in order to conduct coaching against the convict known as conditional release or parole are often referred to as the liberation of a person who is undergoing a criminal in the Penitentiary with considerations of certain conditions that must be met by the convict to be eligible for parole.

If the inmate has met the terms of parole and had been eligible for parole, then the status will switch supervision is under the supervision of prosecutors and social counselors conducted by Correctional Center. Besides that parole is a process of coaching inmates outside Penitentiary implemented under Article 15 and Article 16 of the Criminal Code as well as Articles 14, 22, Article 29 of Law No. 12 of 1995 concerning Prison, and based on the Regulation of the Minister of Justice and Human Rights of the Republic of Indonesia Number 21 Year 2013 on Conditions and Procedures for Granting remission, Assimilation, Cuti Visiting Family, Free Conditional.

Regulation of the Minister of Justice and Human Rights of the Republic of Indonesia Number 21 of 2013 on the Terms and Procedures for Granting remission, Assimilation, Cutiu Visiting Family, Conditional, Cuti Towards a Free and leave Conditional Article 49 paragraph (1) states that the parole to inmates in general are:

* + 1. has been undergoing a period of a minimum of 2/3 to 2/3 the provisions of the criminal past of at least nine months;
		2. good well during a period of a minimum of nine months prior to the date of the last measured 2/3 criminal past;
		3. have followed the formation program with a good, diligent, and passionate;
		4. the public can receive program development activities inmates.

In effect the granting of parole is a gift from the State for the prisoners to be free earlier than the actual prison term. Granting Parole is when seen implicitly or explicitly a gift from the State, which in the current situation, the condition of prisoners throughout Indonesia is still inhabited by inmates in a reasonable amount.

The high crime rate is the dominant cause that led to the number of hosts Penitentiary. In this section, Institution correctional raises new problems, where the capacity is inadequate and means of support also creates new problems such as social unrest such as fights, not maintaining the livelihoods of the inmates, all of which was due to over capacity. Parole existing initially only be a gift from the State, but is currently used as an instrument to reduce overcapacity.
Another problem is inmate who has been ruled legally parole are not in prison. The inmates would be free to go wherever he likes without any restriction, and only at certain times he must report or of the officer who came to prison monitoring. It may also stay away from areas where inmates prison or also in a strategic location far from the area where inmates monitoring / control of Correctional Center officer, if the officer still performs the role of the guidance and monitoring?. By not realizing this is a constraint that sometimes have not found a way out, so impressed the implementation of the guidance and monitoring is done only a formality, even though it is the most important factor.

The next problem is the implementation of the very principle of the nomination procedure parole, namely:

1. Charging for prisoners who will receive remission;

2. The administrative requirements in the form of a letter stating that prisoners do not have the other cases obtained from the local prosecutor, and adanaya payment subsidiary;

3. Inefficient and ineffective regulations governing the granting remissions for prisoners would receive parole and furlough nearing release

On condition that occurs in the interest of the inhabitants make prisons to take care of parole and furlough nearing release decreases, because the prisoners undergoing punishment should be imposed several conditions that must be met. As a result, many inhabitants of prisons who have undergone 2/3 of the sentences and it is time obtaining parole ultimately failed to use this opportunity.

Some of the descriptions of the above cases show that parole is the right of inmates who need to be reviewed and be reviewed, both in terms of legislation that is less than the maximum evidenced by the over-capacity prison is why I think Inmates get parole, as well as in the implementation procedures and surveillance rated less than the maximum so that the purpose of punishment can not be achieved with good. In addition it is expected that the Parole really can be performed well and earned by inmates who are entitled to it, so there are no other elements such as politics. Based on the above description, in this study will be discussed on the implementation of conditional release for prisoners of certain criminal acts.

## ANALYS : CONDITIONAL EXEMPTION FOR CERTAIN PRISONERS CRIME.

### Challenges to the Implementation Granting of Certain Inmates in Prison

In the implementation of assimilation for inmates at the Correctional Institution found a variety of obstacles that can be a limiting factor for the implementation of the program of assimilation, these constraints are:

#### The lack, or Lack of Funds

Funds allocated for the assimilation of so few that the facilities and work tools for assimilation earned less satisfying and less beragam.

#### Lack of Experts or Experienced People Who Can be A Mentor Inmates.

Experts or experienced people (tutor) in guiding the inmates who assimilated very useful in order to be a transfer of skills useful for inmates will be, particularly for inmates who carry out the assimilation of work. Prisons have difficulty to be able to invite experts to be a mentor inmates due also to the lack of availability of funds to hire the services of a tutor tutor profesional. addition to this, the Penitentiary is also difficult to get hePrison from a psychologist that can be useful to guide and characteristics of inmates.

#### Lack of cooperation with third parties which can hold the applicant assimilation.

Assimilation work with third parties is a form of assimilation with the most potential to hePrison inmates who want to assimilate, but the Penitentiary experienced problems in a collaborative effort with third parties. This happens because of the third party feel fear, suspicion and misgivings to use the services and personnel of prisoners, or a third party who did not want to bother with making an agreement with the Penitentiary regarding assurance oversight of the work or other matters relating to this cooperation.

#### The assumption (stigmatization) People Against Bad Prisoners.

Basically people are factors that affect the implementation of correctional supervision on students, because people indirectly determines the success or failure of the coaching process in prisons. In terms of guidance in the form of assimilation, there are constraints such as poor public views towards inmates. This greatly affects the assimilation activities narapidana.

### Efforts to Overcome Obstacles in the Implementation of Certain Rights of Prisoners on Prisons

In regard to overcome various constraints faced by Prison in the implementation effort of assimilation of the inmates, the Prison by all means and efforts have been tried in order to support and encourage the assimilation goes smoothly. These efforts are:

1. To find an alternative way out to take care of procedural ease of assimilation;

Alternatives that can be given to ease the submission process of assimilation such as: giving examples of papers required for the submission of assimilation, with examples of this letter is expected of the applicant or the families of inmates will be easier in preparing letters diperlukan.

1. Seek additional budget for assimilation

Because the funds were minimal for this then the Penitentiary to find another way, such as: applying for additional budget to the Ministry of Justice, asking for the hePrison of tools or work facilities from the local government or the private sector, and marketing of agricultural and fishery inmates which is expected to attract both consumers as well as from other parties that want to use the services and personnel with the prisoners who can support the success of the assimilation program.

1. Provision of expertise alternative

In addition to working facilities, then the Penitentiary also circumvent the provision of tutor work and skills of professional and requires payment with job training given by an employee who is also in charge of a field of work, also by relying on inmates who have the skill or proficiency in a field of work in accordance with profession practiced before entering Penitentiary or volunteers who voluntarily want to train inmates to increase occupational skills.

1. To collaborate with external parties.

Efforts to establish cooperation with external parties continue to be implemented by the Correctional Institution, such as the search for third parties who are interested or willing to use the services and the employment of inmates who assimilated, provide counseling to a third party that the employment of child labor was not prohibited because these provisions are not absolute or because there other provisions mennegaskan that children can work, but of course on the condition, type of work, working time and other requirements that are different from adult workers (Article 69-71 of Law number 13 of 2003 on Manpower).

1. To provide legal counseling to the community, organize and engage inmates in various social activities, physical, spiritual and so to eliminate the negative view of society towards inmates.

Provide legal counseling to the community, Opt-include inmates in each of events and celebrations held around the community such as social activities, community service and clean village activities to foster mutual trust between prisoners and the public are expected to be able to eliminate a bad view of society against inmates. cooperation with relevant parties (the mosques, churches, etc.)

#### Efforts Penitentiary in Overcoming Obstacles in the Development of Prisoners Through Religious Education.

Basically, the Head of Prisons and was instrumental in developing and optimizing coaching inmates through religious education. The development can be done in various ways, including the form of tackling the constraints that are found in the guidance inmates through religious education. Efforts undertaken by Prison are not fully able to eliminate the obstacles faced in religious guidance directly, but is intended to minimize the effect of the constraints that exist.

In general, always held periodic evaluation of the implementation of religious guidance by Prison. The following will explain Penitentiary related efforts in overcoming the obstacles in the Guidance Inmates Through Religious Education to prevent recidivism in the Penitentiary.

#### Efforts to Overcome Obstacles Penitentiary Internal

##### Procurement Religious Books

To overcome the lack of religious books that support spiritual development, the Penitentiary seek assistance from various parties, both agencies / organizations and individuals that are pleasing donate books to the library Yogyakarta Narcotics Penitentiary. Another alternative that was pursued that require the provision of books to the Narcotics Prison for institutions / organizations / individuals who want to do research in the Penitentiary.

##### Accelerate the Procurement Administrative Process Class

To overcome the lack of classroom facilities, the Penitentiary try to accelerate the process of procurement administrative class that sought by the Head of Narcotics Prison. Meanwhile, the use of places of worship as the center of learning in order to develop through education and religion is still done automatically suspends program that requires fostering spiritual formation using the class, such as the madrasa system delays for prisoners who are Muslims.

#### Efforts Penitentiary to overcome the disadvantages of internal non-physical

##### Measures to Overcome Obstacles Originating from Prisoners as Citizens Patronage

The provision of a special time for inmates to visit the library to overcome reading interest inmate low, in fact the Narcotics Prison has been providing a special time for inmates interchangeably, but as noted previously that the inmates were scheduled to visit the library does not use the time to read, Therefore, continuously strived to promote the reading habit in various events / activities.

Raising awareness of inmates in following the development by optimizing awareness in every coaching dilalukan Filing Conditional Leave, Leave Towards Free, or Liberation bersayarat also based on the attitude shown both inmates while in prison. Actively follow the guidance also be one measure of a good attitude inmates. It is the visible launch guidance program, but there are negative impacts that constrain the development of spirituality on aspects of achieving the goal that is no awareness to improve themselves but just to get the opportunity Cuti Conditional, Cuti Towards Free, or Liberation, as already described in section previous. Efforts to overcome the constraints of inmates who lack awareness to improve his behavior is quite difficult.

This is because consciousness is not something that can be judged / seen outwardly. Nevertheless Penitentiary still trying to overcome these obstacles. Efforts are being made among others by optimizing awareness in every coaching is done. This means that at every opportunity pelaksanakan coaching submitted that the purpose of coaching is to make inmates improve behavior and no repeat of that back.

##### Efforts to Overcome Obstacles Originating from the Implementation Guidance

###### Special Approach to the Development of Foreign Prisoners in General

To overcome religious turn of coaching participants quickly that makes coaching is not optimal, the Penitentiary perform specific approach beyond the classical coaching. So, do individual coaching to both new inmates enter the prison to make adjustments, as well as to inmates who are going out in order to be equipped to prevent the repetition of criminal acts by inmates. This can be done by the builder sexy religious and counseling fields.

###### Curriculum Development Planning

In an effort to overcome the constraints of the curriculum is not the presence of the religious pembinaaan Penitentiary, especially the coaches until today continue to manufacture curriculum planning. It starts from the collection of material that has been given to re-analyzed, as well as to be arranged. Up to this time the manufacture of curriculum planning is under way at an early stage.

###### Using a personalized approach

The absence of guidance inmates through religious education for Muslim women prisoners are the principal obstacle until now there is no solution that can be implemented. However, the parties Penitentiary inmate seeks to fill the void formation through religious education for female inmates who are Muslims by using a personal approach. A personalized approach is an approach through a personal relationship between the female correctional officers to be able to be friends, so that dissuaded women prisoners in terms of goodness though not with formal coaching.

###### Using counseling approach, posters / pictures, as well as the provision of library facilities

To overcome the constraints of time allocation is still lacking in guidance for inmates through religious education, the Penitentiary using socialization media such as posters / pictures. Media poster / image in the form of call-call-behaved, ban do an evil, as well as rules that must be implemented. Media poster / image installed in several places, namely in the walls of the room / cell exterior, on the main road to the library, the walls of the outdoor / administrative office. Approach to counseling is done at any time if needed.

##### **Efforts to Overcome Obstacles Internal Non Physical coming from Executive Coaching**

###### Work with Other Agencies and NGOs.

To overcome the lack of spiritual adviser at the Correctional Institution, conducted in cooperation with other relevant parties to support the Human Resources as a spiritual adviser. Aside from being a spiritual adviser, is also expected to officers Correctional Institution itself can learn from the spiritual adviser will also be able to foster inmates. Collaborations carried out by various agencies and NGOs (Non Governmental Organization).

Cooperation already done include:

* 1. In cooperation with the Ministry of Religious Affairs with regard to coaching Sleman inmates who are Muslims, Christians, and Buddhists.
	2. In collaboration with the Islamic Centre for Islamic religious guidance
	3. In cooperation with Pondok Pesantren Al Munawir Krapyak for coaching Islam

###### Communication and coordination between Head of Development and Security Sector

To overcome the constraints of poor communication between head of Development and Security Sector efforts of discussions between these fields in order to find the best policy. The discussion is conducted in a rally led by the Head of Penitentiary. The results of the discussions so far, the Security Sector allow more time for coaching on specific events, for example in the month of Ramadan and Warnings Religious Holidays.

###### Enforcement staff's commitment

Prison staff are less sets a great example for inmates, so far coped with various things. In enforcement officers at the Correctional Institution commitment to do the following things:

a. Make a statement / Integrity Pact

b. Each 17 held a flag ceremony

c. Increased mental and motivation through motivational training for prison officers

d. Socialization on Drugs

e. Drug education and HIV / AIDS

f. Every employee meeting held earlier this month and briefed by the head of prison / other officials

In addition it would also be the installation of a media article that is put on the walls of the obligations and prohibitions Civil Servants, it can generally be reminded officers Correctional Institution to comply with obligations and does not perform the ban as a civil servant so as to berkelakun well and be an example for inmates. In addition to using the media, another attempt is made is through a Circular Letter in the form of an appeal in order to improve discipline Correctional Officers.

###### Doing Good cooperation with law enforcers and Other Related Agencies

The monitoring system only when inmates are in Penitentiary is also the obstacles encountered. To overcome this problem as described in the previous point, the Penitentiary attempted break dependence on narcotics through rehabilitation, development and prevention of drug use in prisons. This effort is expected to prevent recidivism narcotics cases even when not directly supervised by a correctional institution. In addition to the parties Penitentiary also strives to always establish good cooperation relationship with law enforcement agencies and other relevant agencies, such as the police to conduct surveillance against former prisoners.

### Implementation of the Parole for Prisoners Specific Crime

#### Parole (Voorwaardelijke Invrjheids Stelling)

Therefore parole is the coaching process outside Penitentiary inmates after serving at least 2/3 (two thirds) criminal past with the provisions of 2/3 (two thirds) of the criminal past of at least nine (9) months. Parole is part of the function of the Correctional Institution, which is one of the parts of the Indonesian criminal justice system, namely the police, prosecutors, and courts.

Definition of conditional release is not explicitly written in the Criminal Code. Conditional release provisions of the Criminal Code defined by K.B. 33 dated October 15, 1955 in force in Indonesia on January 1, 1918 (vide Stb. 1917-497 jo 645), amended by Stb. 1926-251 jo 486.29 On Article 15 long determined that conditional release is applied to the imposition of lengthy imprisonment.

Conditional release will be granted if three quarters of the sentence have been spent in prison, which must be at least three years. Whereas in Article 15 of the Criminal Code, as amended by Stb 1926-251 jo 486, which is the book of the Law of Criminal Law applicable to the present, conditional release may be granted to convicts who have undergone 2/3 (two thirds) of the length of imprisonment which inflicted on him, who must be at least nine (9) months, where this provision also applies when the parole term use.

Furthermore, the regulations governing conditional release, the Criminal Code and Conditional Release Ordinance (Voorwaardelijke Invrijheidsteeling) S. 1917-749, there are no provisions on assistance and guidance to convicts serving parole.

It was different at the time the term of parole is used, which contains a provision regarding the guidance and coaching in the provision of parole, namely the Law : 12 of 1995 concerning Prison, stating that convicts serving parole must follow the guidance given by the Institute of Prison.

Based on the goal rather than criminal punishment other than retaliation against the perpetrators of crimes are also intended to safeguard the community, from both of those goals also intends to prepare and give the inmates returned to the current provision in the community.
Coaching inmates executed by the system kemasyrakatan mampuh expected to achieve the objectives of punishment, to achieve these goals one of the efforts is by granting parole.
Conditional release was originally known in Wetboek Van Strafrecht (WvS) Netherlands, later amended by Stb. 1926 No. Jo 251 486 which is a continuation of Stb. 1917 No. 749 currently known as Ordinance Op De Voorwaardelijke Invrjheids Stelling.

Exemption will be further explained is the parole of the obligation to carry imprisonment as where it has been stipulated in Article 15 to Article 16 of the Criminal Code. In practice in the field of law, especially criminal law often encountered various different translations on parole. In Dutch used the term voorwardelijje invrijheidstelling which when translated means the Parole.
BPHN with the term release a term can lead to misinterpretation, especially for the layman, since the release of this term is not commonly used in criminal law and BPHN themselves often have difficulty in use.

Visible parole term will more commonly used in criminal law if Article 191 paragraph (1) and paragraph (3), Article 192 paragraph (1), Article 183 paragraph (2) letter b Criminal Code and others.

In our Penal Code there is no article that mentions the notion of parole, the Criminal Code only mentions about the conditions that a prisoner is eligible for parole. Definition of parole will appear more clearly if we look at legislation outside the Criminal Code and expert opinion of legal science field.

Parole under the provisions of Article 1, letter b Decree of the Minister of Justice No. M.01-PK.04.10 1999 concerning Assimilation, Parole and Leaves Ahead Non are:
Parole and furlough nearing release is the process of coaching inmates outside the penitentiary, under Articles 15 and 16 Criminal Code as well as Article 14, Article 22 and Article 29 of Law No. 12 of 1995 concerning Prison.

In supervising the inmates are running the parole made by the State Attorney. The surveillance is intended to keep monitoring the deeds convicts granted leave to undergo. When later in the execution of prisoners on parole are in fact lived in an irregular manner, lazing work, hang out with recidivist, repeat the criminal offense, give rise to unrest and violating parole provisions regarding the implementation of the exemption that is given withdrawn.

#### Basic Law of the Parole

The main legal basis of the parole is set out in Article 15 and Article 16 of the Penal Code, besides that there are also other implementation rules in various forms of legislation.
In Article 15 and Article 16 of the Criminal Code there requirements for parole for inmates.

Under the terms of Article 15 of the Criminal Code of the above can be seen on a condition of parole. In the event that the defendant must have served at least two-thirds of the sentence imposed by the judge or at least nine (9) months and over a specified time should not do acts that are punishable.

For parole for prisoners who have met two-thirds of the time pidanannya that at least nine (9) months as described in Article 15 of the Criminal Code, before the application is submitted to the Office of the Ministry of Justice of the Republic of Indonesia must first meet the requirements as determined in Ministry of Justice of the Republic of Indonesia Number. M.01.04.10 1999 concerning Assimilation, leave is nearing release and parole.

About how the nomination of parole, about how the Minister of Justice to seek advice from the Council Reklasering Centre, about anything that can be decided by the Minister of Justice that, all is not regulated in the Code of Penal, but regulated in the Ordinance of the Parole Date December 27 1917, tahun1919 Gazette No. 744.

According to Article 1 of the Ordinance on parole, the proposal of the Head of Penitentiary sent to the Minister of Justice to load designation as precisely as possible the convict in question; mention of the judge's decision must be executed by a convicted criminal, the criminal mulaidijalankannya day and when it will end; all the things that are known by the warden of the life of the convicted person yangsekiranya need to be included, work or effort what has never run sebelumdijatuhi criminal, what he has learned, the possible ways of making a living sesudahdilepaskan and relate to the proposal for a given stock of money or not for he who will be released with the conditional cash severance; The special conditions associated with the conditional release among others dapatmengenai residence inside or outside a region;and The place you want to target the convicted person after being released by the conditional.

Article 2 of this Ordinance also determines that the proposal of the Head of Penitentiary should be attached with:

* 1. quote the judge's decision letter is the basis of the convicted criminal disertaidaftar undergo mutation;
	2. The approved list of criminal discipline that has been inflicted on him during three tahunsebelum proposal was filed;
	3. all the news and information obtained pursuant to Article 3 or derivatives.

After receiving the proposal regarding a person's parole inmates of the Head of Penitentiary, the Minister of Justice will propose to the Council the proposals Reklasering Center. Minister of Justice will give its decision on parole for an inmate with a set period of time there and set the amount of money to be gained by inmates in preparation to start with a new business after being released on parole from prisons.

Article 15a paragraph (1) and (2) Criminal Code simply omit that for people who were released on parole that can be assigned as general conditions and special requirements to be met by someone inmates during the trial period, but not explained in detail the criteria which must be is used to define those terms, but only limits that the special requirements with regard to the behavior of inmates may not restrict freedom of religion and political liberties.

A prisoner who was serving a probation parole later offenses as defined in Article 19 of the Ordinance of parole, the parole can be revoked temporarily or can be revoked entirely.
Mechanism revocation granting conditional release is done by the Council Reklasering Centre or the proposal of the Minister of Justice after the Ministry of Justice received a letter from the Attorney region where prisoner’s stay content in accordance with Article 12 paragraph (2) a and b are also in paragraph (3) The ordinance exemptions conditional, namely:

1. The proposal for an assistant resident so that the decision on conditional release revoked include:
	1. detailed information about the person who is released with the conditional;
	2. the reasons which led to the proposal submitted.
2. In this proposal attached to news events, notes, and other dipandangberguna mailing letters, as well as the official report released pemberiksaan person with unconditional, unless indeed it can not be heard.

### Problems of Implementation of the Parole

As for the problem of implementation of the Parole are as follows:

1. The nomination process for obtaining parole for inmates, still not implemented in accordance with the policies set out in the legislation in force.;
2. Policies for phasing in the process of granting parole in fact requires quite a long time;
3. The nomination process for obtaining parole for inmates, still not implemented in accordance with the policies set out in the legislation in force;
4. Policies for phasing in the process of granting parole in fact requires quite a long time;
5. Barriers in the process of granting parole is already very complex, obstacles faced not only on the issue of human resources correctional officers, but also constrained in inconsistency in applying existing policy mainly technical mechanisms and substantive problem in granting parole;
6. Another obstacle that become an obstacle in the process of granting is a lack of concern for agencies who still insists on the policy of each.

## CONCLUSION

Based on the above discussion, concluded that the granting of parole for inmates specific criminal acts, in essence, embodies the formulation remissions to the perpetrators of criminal offenses particular has been formulated differently from perpetrators of other crimes through the Government Regulation No. 28 of 2006 juntco Government Regulation No. 32 of 1999. Against the criminals can obtain remission after undergoing a third of its criminal past and must be of good character. Related to the policy of a moratorium on granting remission to criminals conducted by the Ministry of Law and Human Rights should be appreciated in the spirit of combating corruption, but in terms of the philosophy of punishment and the legal basis for the implementation of the moratorium should be reviewed so that the policy has a solid legal basis and in line with the philosophy punishment contained in the concept of correctional service.