

Criminal Law Politics on The Granting of Reintegration Rights to Community Inmates (Study at Class II A Binjai Prison)

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ABSTRACT

Indonesia's national legal policy is based on the state's vision, as formulated in the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to protect the entire nation, advance public welfare, and enhance the nation's intellectual life, as well as to contribute to maintaining world order to achieve social justice. This research was conducted in Binjai City, specifically at the Class II A Binjai Penitentiary Office. This research employed an empirical juridical approach. Data obtained in the field were presented descriptively using an empirical normative approach. This research aimed to determine the criminal law policy regarding the granting of reintegration rights to inmates at the Class II A Binjai Penitentiary and the obstacles encountered in granting reintegration rights to inmates at the Class II A Binjai Penitentiary. Based on the research findings, the author found that the implementation of the rules and policies granting reintegration rights to inmates is based on Law No. 12 of 1995, which has been amended by Law No. 22 of 2022 concerning Corrections. The obstacles faced in granting reintegration rights come from the correctional inmates themselves due to a lack of concern for the administrative rules and conditions stipulated for granting reintegration rights to correctional inmates.

Keywords: *Legal Politics, Criminal Law, Reintegration Rights, Correctional Institution Residents*

Introduction

Indonesia's national legal policy is based on the state's vision, as formulated in the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to protect the entire nation, advance the general welfare and educate the nation, and participate in maintaining world order to achieve social justice. Legal protection efforts are realized, among other things, by respecting, protecting, and fulfilling the rights of every person. Therefore, law enforcement, including correctional institutions, must be directed to support efforts to protect the right to justice of suspects, defendants, and convicts. The history of Indonesian legal policy began with the formulation of the Preamble to the 1945 Constitution at the beginning of independence, which established the mandate of *rechtsidee*, or legal ideals, for the future Indonesian constitution, determining the direction of the work and administration of the state. One striking characteristic of legal policy is its process. This indicates that legal policy involves a series of stages and steps in the creation, amendment, or abolition of laws.

The implementation of the correctional system has evolved significantly, initially limited to the adjudication phase, but now extends to the pre-adjudication and post-adjudication phases, manifested in detention centers (Rutan), state confiscated assets storage facilities (Rupbasan), correctional centers (Bapas), and correctional institutions (Lapas). Numerous issues in the implementation of correctional systems, such as overcapacity, prison escapes, inmate riots, and rampant drug trafficking, have led to perceptions that correctional systems do not provide legal certainty for the protection and fulfillment of prisoners' rights, particularly for vulnerable groups. This has led to suboptimal prison governance.

Corrections are part of the integrated criminal justice system, which enforces the law regarding the treatment of prisoners, juveniles, and inmates during the pre-adjudication and

post-adjudication stages. The implementation of correctional systems, as part of the integrated criminal justice system, is based on a system known as the correctional system, which defines the direction, boundaries, and methods for implementing correctional functions in an integrated manner between officers, prisoners, juveniles, inmates, and the community. The correctional system is designed to guarantee the protection of the rights of prisoners and children, as well as to enhance the personality and independence of inmates, enabling them to recognize their mistakes, improve themselves, and refrain from repeating crimes, thereby achieving acceptance into society. They can live normally as good, law-abiding, and responsible citizens, actively participating in development, and simultaneously protecting society from reoffending.

The correctional system is a continuum of criminal law enforcement, the implementation of which is inseparable from the general concept of punishment. The nature of punishment still relies on the imprisonment system, which emphasizes revenge and deterrence. This system is considered inconsistent with the concepts of rehabilitation and social reintegration. Therefore, inmates are not merely objects but subjects, no different from other human beings, capable of committing mistakes and being subject to punishment.

The implementation of correctional law enforcement, related to law enforcement, must be directed towards emphasizing the protection of human rights, not only those related to the individual offender but also to the property and civil rights of the individual. Therefore, correctional institutions must be able to integrate inmates and maintain good relationships with the community, including services, coaching, and mentoring activities in a systematic and continuous manner, by providing space for the community to participate in the implementation of correctional institutions. The correctional system in Indonesia has undergone a long dynamic, from the concept of imprisonment to correctional institutions. The goal of this dynamic is none other than to achieve a noble mission: to re-humanize prisoners who have fallen on the wrong path. The term "prison" slowly began to be eliminated with the birth of the Correctional Institution, first proposed by Sahardjo, Minister of Justice during the Old Order.

The concept of prison, known before the term correctional institution, was originally a concept from the colonial era, used as a place of exile, deterrence, and revenge against individuals who violated the law and the government. When this system was implemented after Indonesia's independence, it received considerable criticism because its impacts did not align with the expectations of general criminal justice theory. The prison system was inconsistent with the ideals of the Indonesian nation, which are based on Pancasila.

The state has a responsibility to all its citizens, not only to meet their physical needs but also their spiritual ones. Every Indonesian citizen has equal rights. Therefore, as a nation based on the rule of law, the development of national law in Indonesia must continue to adapt to current developments so that the people can internalize their rights and obligations. Furthermore, national legal development also aims to shape the positive character of law enforcers so that they can carry out their respective duties and functions towards just and dignified law based on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD 1945), while upholding human rights. This includes innovative thinking related to the correctional system and prioritizing mental health improvement and social reintegration as the goals of sentencing, no longer focusing solely on providing a deterrent effect for inmates.

The guidance and counseling implemented in all correctional institutions (Lapas) and the mentoring provided by all Correctional Agencies (Bapas) in Indonesia demonstrate the state's commitment to fulfilling the human rights of its citizens. This guidance and counseling also serve as a measure of the state's continued commitment to ensuring that all its citizens become national resources who can one day build our beloved Indonesia. In this way, the law

indirectly protects society from potential crimes that may arise from reoffending by former inmates, thanks to a sound mentoring process. While in prison, inmates receive guidance and education in moral, spiritual, physical, spiritual, and skills development according to their general interests and talents. Therefore, the implementation of the correctional system requires community participation, both through cooperation in mentoring and through a willingness to welcome back inmates who have completed their sentences. Therefore, correctional facilities are not the final stage of the criminal justice system, but rather have been in operation since the beginning of the criminal justice process.

Law Number 12 of 1995 concerning Corrections was initially implemented as an instrument to improve the correctional system. However, although the spirit of the law aimed to replace the long-standing prison system, over time the law began to experience shortcomings and weaknesses. Law Number 12 of 1995 has generated considerable controversy regarding its implementation, prompting the government to seek changes, arguing that the law is no longer adaptable to current developments and is difficult to address the increasingly complex problems of the correctional sector in the contemporary era.

Through a long and winding journey and having received intense rejection from opposing parties, finally the House of Representatives of the Republic of Indonesia (DPR RI) through a Plenary Session passed Law Number 22 of 2022 concerning Corrections replacing Law Number 12 of 1995. In principle, the new Corrections Law was formed to strengthen the Corrections System with the concept of social reintegration as a replacement for the concept of retribution and deterrence. Law No. 22 of 2022 concerning Corrections, was formed to strengthen the Correctional System in Indonesia, as well as a replacement for Law No. 12 of 1995, which is seen as no longer comprehensive and has weaknesses such as the problem of synchronizing the correctional governance paradigm with the perspective of human rights protection, so that the existence of Law No. 12 of 1995 is considered not to optimally support the spirit of social reintegration and restorative justice which is the spirit of the current criminal system. Based on the background description above, the author is interested in writing a research in the form of a Thesis Journal with the title "Criminal Law Politics on The Granting of Reintegration Rights to Community Inmates (Study at Class II A Binjai Prison)".

Methods Research

In this study, the approach used to solve the problem is an empirical juridical approach. The intended juridical approach is to view law as a norm (*das sollen*), because in discussing the problem in this study, legal materials are used (both written and unwritten law, or primary, secondary, and tertiary legal materials). Meanwhile, the empirical approach is to view law as a social and cultural reality (*das sein*) because in this study, the data used are primary data obtained directly from the research location.

The intended empirical juridical approach in this study is that in analyzing the formulated problem, it is done by combining primary, secondary, and tertiary legal materials (which constitute secondary data) with primary data obtained in the field, namely regarding criminal law policies regarding the granting of reintegration rights to inmates at the Class II A Binjai Penitentiary.

Result and Discussion

Criminal Law Policy on Granting Reintegration Rights to Correctional Inmates at Class II A Binjai Prison

Indonesia is a state governed by the rule of law, in which every person must uphold legal supremacy. However, in practice, the law is often ignored, particularly criminal law.

Criminal law, as a branch of public law, has a coercive nature. Law enforcement within the perspective of criminal law is closely related to policy, especially policy within the criminal justice system. Criminal law policy cannot be separated from the three branches of power – the executive, judicial, and legislative – so the implementation of legal supremacy must take into account the role of each institution. Accountable law enforcement can be understood as an effort to enforce the law in a manner that can be justified before the public, the nation, and the state, particularly regarding legal certainty within the prevailing legal system, as well as the usefulness of law and the achievement of justice for society. The law enforcement process cannot be separated from the legal system itself. The legal system consists of stages that are interdependent and must be followed by both law enforcers and the community to achieve legal certainty.

In the Indonesian criminal justice system, there are two known institutions: the State Detention Center (Rutan) and the Correctional Institution (Lapas). In other words, a Rutan is part of the detention facility system. Generally, Rutan and Lapas have different functions. A Rutan is used to detain suspects or defendants during investigation, prosecution, and trial processes, while a Lapas is the facility where convicted inmates serve their sentences and receive guidance. In addition to the guidance provided in these facilities, inmates are also granted reintegration rights. Social Reintegration Rights refer to a transformative process whereby inmates undergo changes through the reabsorption of societal values and norms. In practice, individuals who have committed criminal acts are guided in Lapas and supervised by the Correctional Center (Bapas) to prepare them for reintegration into society. This process of guidance and supervision allows inmates to develop into better individuals who are ready to live responsibly once they return to the community.

In the explanatory notes of Law No. 12 of 1995, it is stated that new ideas regarding the purpose of punishment have emerged, shifting from mere deterrence to rehabilitation and social reintegration through what is known as the correctional system. Correctional institutions (Lapas) and the Correctional Center (Bapas), as the final stages of the criminal justice process, play a key role in implementing this rehabilitative and reintegrative concept. The goal is to ensure inmates recognize their mistakes, lose the desire to reoffend, and can return to society as responsible citizens. Although the concept of social reintegration is not explicitly articulated article by article in Law No. 22 of 2022, several provisions indicate that the government intends to shift the paradigm of punishment from retribution to rehabilitation and reintegration. Article 3 states that “the correctional system functions to prepare inmates to reintegrate harmoniously into society so that they can resume their roles as free and responsible citizens.”

Article 7 explains that the guidance and supervision of inmates are administered by the Ministry and implemented by correctional officers through Lapas and Bapas under the coordination of the Directorate General of Corrections. This is reinforced by Article 8, which emphasizes that correctional supervisors, as functional officers, perform their duties in the areas of guidance, security, and supervision of inmates.

The social reintegration programs provided to inmates are regulated in Articles 7, 9, and 10 of Law No. 22 of 2022, which outline the rights of inmates, including:

- a. The right to worship according to their religion or beliefs
- b. The right to spiritual and physical care
- c. The right to education and teaching
- d. The right to health services and proper nutrition
- e. The right to submit complaints
- f. The right to reading materials and access to permissible media broadcasts

- g. The right to wages or allowances for work performed
- h. The right to receive visits from family, legal advisers, or other designated individuals
- i. The right to remission (sentence reduction)
- j. The right to assimilation, including leave to visit family
- k. The right to parole
- l. The right to pre-release leave (CMB)
- m. Other rights in accordance with prevailing regulations

From these 13 rights, several are clearly grounded in reintegration principles such as family visitation, assimilation, parole, pre-release leave, and other reintegration mechanisms. These rights ensure that inmates are treated humanely and their basic human rights as citizens under the Constitution and human rights principles are upheld.

The Regulation of the Minister of Law and Human Rights No. 03 of 2018 governs:

- a. Parole (PB): correctional guidance outside the facility after serving at least two-thirds of the sentence (minimum nine months) for inmates with sentences of one year and seven months or more.
- b. Conditional Leave (CB): guidance outside the facility for inmates with sentences up to one year and six months, after serving at least two-thirds of the sentence.
- c. Pre-Release Leave (CMB): guidance for inmates nearing the end of their sentence.

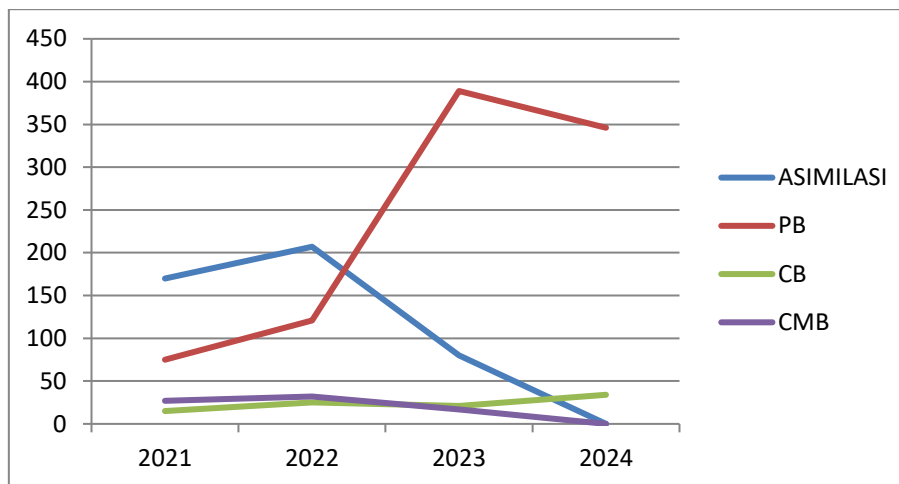
Bapas, through Correctional Supervisors, oversees the reintegration programs to prevent violations, as regulated in Ministerial Regulation No. M.2.PK.04-10 of 2007 (amended into Regulation No. 03 of 2018). Article 36 paragraphs 1 and 2 of Government Regulation No. 31 of 1999 further explain that Bapas supervises foster parents or social institutions, and monitors the development of supervised individuals.

The methods applied by Correctional Supervisors in overseeing social reintegration programs include:

- a. Mandatory reporting by clients, either directly or online
- b. Periodic home visits
- c. Involvement of family members to assist in supervision
- d. Coordination with local authorities and community members
- e. Participation of clients in personality and vocational development programs at Bapas
- f. Issuing warnings and strict actions for clients who violate conditions during supervision

Based on the research conducted regarding the granting of reintegration rights in the form of Assimilation, Parole (PB), Conditional Leave (CB), and Pre-Release Leave (CMB) to inmates at Class II A Binjai Correctional Institution for the period from 2021 to 2024, the data are as follows:

Year	Assimilation	Parole (PB)	Conditional Leave (CB)	Pre-Release Leave (CMB)	Total
2021	170 persons	75 persons	15 persons	27 persons	287 persons
2022	207 persons	121 persons	25 persons	32 persons	385 persons
2023	80 persons	389 persons	21 persons	17 persons	507 persons
2024	-	346 persons	34 persons	-	380 persons



Based on the data presented in the chart above, it can be observed that there was a significant increase in the granting of reintegration rights to inmates at Class II A Binjai Correctional Institution—including Assimilation, Parole (PB), Conditional Leave (CB), and Pre-Release Leave (CMB)—from 2021 to 2024. This increase occurred because, during the period of 2020 to 2021, Indonesia was impacted by the COVID-19 virus, which posed a serious threat to inmates living in shared housing units. Consequently, the Ministry of Law and Human Rights issued Regulation No. 43 of 2021 concerning the granting of assimilation, parole, conditional leave, and pre-release leave during the COVID-19 pandemic. After 2023, with the issuance of Presidential Decree of the Republic of Indonesia (Kepres-RI) No. 17 of 2023 concerning the End of the COVID-19 Pandemic Status in Indonesia, the granting of reintegration rights returned to the legal provisions stipulated in Law No. 22 of 2022.

The reintegration rights mentioned above—such as assimilation, parole, conditional leave, and pre-release leave—facilitate the faster reintegration of inmates into society. In addition, these reintegration programs help reduce the number of inmates in correctional institutions, whose population continues to increase annually, while prison capacity is no longer sufficient to accommodate the growing number of prisoners. The relationships among inmates, and between inmates and officers or instructors, are generally good. Differences in backgrounds do not create significant issues, as inmates face similar circumstances and share common experiences during their time in the correctional facility. Despite their diverse backgrounds, they often have similarities, such as comparable types of employment prior to incarceration. Conflicts that occur are largely due to differences in personal character among inmates. However, any disputes that arise have so far been manageable and can be resolved by correctional officers. In this regard, officers serve as supervisors, security personnel, service providers, and caretakers for the inmates within the facility.

Obstacles Encountered in Granting Reintegration Rights to Inmates at Class II A Binjai Correctional Institution

Several elements serve as key factors in the success of reintegration. Various problems in the implementation of social reintegration programs for inmates have caused the correctional system to function below expectations. Based on the research conducted, the researcher found several factors that hinder the effectiveness of social reintegration programs for inmates. The first obstacle comes from the inmates themselves. During the correctional process, many inmates exhibit a lack of willingness to change. They often feel comfortable with their previous way of life. In addition, inmates have varying levels of ability in absorbing guidance provided to them.

There is also a lack of active participation from the surrounding community in accepting inmates openly without suspicion, as they continue to be perceived as criminals. Obstacles in implementing social reintegration also arise in the stages of inmate guidance and the reintegration process, such as incomplete administrative requirements – including guarantee letters from family members, distant family domicile, and the inmates' own willingness to comply. Based on field observations, the guidance process and stages that inmates must undergo as a requirement for social reintegration are highly beneficial, as they help inmates begin a new life and be accepted by society.

The results of interviews and analysis conducted at Class II A Binjai Correctional Institution indicate several major challenges in the implementation of social reintegration for inmates, including:

1. Negative Public Perception Toward Former Inmates

Many former inmates face strong negative stigma from society. This stigma makes it difficult for them to obtain employment, build social relationships, and be accepted back into the community.

2. The Inmates Themselves

One of the requirements for receiving sentence reduction (remission) is good behavior. However, the research shows that many inmates struggle with a lack of willingness to reform. Their ability to absorb educational guidance also varies significantly.

3. A Conducive Environment

A conducive environment is essential for fulfilling rights such as remission. If relationships among inmates are poor, conflicts may occur, leading to fights that can ultimately prevent an inmate from receiving remission.

4. Inmates' Indifference Toward Administrative Requirements

5. Some inmates show a lack of concern regarding administrative obligations during their imprisonment, which becomes an obstacle in fulfilling reintegration requirements.

Based on the research findings, the author suggests several ways to overcome these barriers to reintegration rights, including:

1. Strengthening Coordination Among All Key Components All essential components in inmate guidance (inmates, families, correctional officers, and the community) must work together and share information to ensure the guidance process runs smoothly.

2. Providing Education and Skills Training

3. Providing Psychological Assistance

4. Maintaining Good Relationships Between Inmates and Correctional Officers

Good relationships among inmates, as well as between inmates and correctional officers, are essential in maintaining a conducive environment. Therefore, correctional supervisors must receive special training to ensure that the assistance they provide is meaningful and accountable, as it directly relates to the personal transformation of inmates. Based on this understanding, guidance can be defined as an effective effort by trained and educated individuals to assist inmates in making choices, adapting, and solving problems in everyday life. Guidance aims to help inmates better understand themselves and develop their potential to overcome challenges, enabling them to determine their life path responsibly. Furthermore, support from families and the community is shown to be crucial in the reintegration process. Many former inmates report feeling more confident when receiving emotional and practical support from their families. Community involvement also plays an important role in reducing stigma and increasing acceptance of former inmates.

Existing regulations support the implementation of social reintegration, although challenges remain in practice. Law No. 22 of 2022 on Corrections and other related regulations provide the legal basis for reintegration and guidance programs. Skills training programs

have shown positive results, particularly in improving employment opportunities for former female inmates. Training aligned with market needs helps them obtain decent work.

Conclusion

The concept of Social Reintegration within the Correctional System according to Law Number 22 of 2022 places greater emphasis on modern reintegration principles that prioritize justice, balance, restoration of relationships, legal protection, and guarantees of human rights for detainees, children, inmates, juvenile offenders, victims, and society. This new Correctional Law aims to restore the dignity of inmates and juvenile offenders within society and ensure their acceptance by both the community and victims. It also emphasizes rehabilitative efforts to enable inmates to fully acknowledge their mistakes. The correctional functions outlined in the new law are more comprehensive and holistic than before. In addition to the concept of social reintegration, the new Correctional Law also strengthens the concept of restorative justice, which is adopted in the Juvenile Criminal Justice System and the national criminal law reform in Indonesia, as stated in the explanatory notes of Law Number 22 of 2022.

In practice, the implementation of Social Reintegration Rights for inmates still encounters several obstacles that must be addressed to ensure compliance with Law Number 22 of 2022 on Corrections and Ministerial Regulation of Law and Human Rights Number 7 of 2022 concerning the requirements and procedures for granting remission, assimilation, family visitation leave (CMB), conditional leave (CB), and parole (PB), as part of fulfilling the fundamental rights of inmates.

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