

# IMPLEMENTATION OF REMISSION FOR PRISONERS IN CLASS 1 CIPINANG PRISON (Period 1 October 2022 to 1 October 2023)

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## ***Abstract***

*Prisoners as convicts serving prison sentences have rights protected by human rights and Indonesian law, one of which is the granting of remission. Remission is essentially the right of all prisoners and applies to anyone as long as the prisoner is serving a temporary sentence instead of life imprisonment and the death penalty. According to Law Number 22 of 2022, Remission is a reduction in the period of criminal service given to qualified prisoners in accordance with the provisions of laws and regulations. This study discusses the Implementation of Remission for Inmates in Cipinang Class 1 Prison (Period October 1, 2022 to October 1, 2023) and Obstacles in the Implementation of Remission for Inmates in Cipinang Class 1 Prison (Period 1 October 2022 to 1 October 2023). The legal research method used is a normative juridical legal research method supported by empirical data. Using the Law Approach and the Concept Approach obtained from primary, secondary, tertiary sources of legal materials. Forms of Remission consisting of General Remission, Special Remission, Additional Remission and Humanitarian Remission. The purpose of this coaching is intended to provide appreciation for prisoners who successfully show behaviour change, improve quality, and improve self-competence. Obstacles to the Implementation of Remission Provision such as System Network Constraints, Supervisor Assessment, Non-Compliance of Prisoners, and Lack of Criminal Time.*

**Keywords:** *Remission, Inmate, Correctional*

## **Abstract**

Prisoners as convicts serving imprisonment have rights that are protected by human rights and Indonesian law, one of which is the granting of remission. Remission is essentially the right of all prisoners and applies to anyone as long as the prisoner is serving a temporary sentence, not life imprisonment and death penalty. According to Law Number 22 of 2022, Remission is a reduction in the period of serving a sentence given to prisoners who meet the requirements in accordance with the provisions of laws and regulations. This research discusses the implementation of the granting of remission to prisoners at Cipinang Class 1 Correctional Facility (Period 1 October 2022 to 1 October 2023) and the obstacles to the implementation of the granting of remission to prisoners at Cipinang Class 1 Correctional Facility (Period 1 October 2022 to 1 October 2023). The legal research method used is normative juridical legal research method supported by empirical data. Using the Law Approach and Concept Approach obtained from primary, secondary, tertiary legal sources. Forms of Remission consisting of General Remission, Special Remission, Additional Remission and Humanitarian Remission. The purpose of this coaching is intended to give appreciation to prisoners who have succeeded in showing changes in behaviour, improving quality, and increasing self-competence. Obstacles to the Implementation of Remission Granting such as System Network Constraints, Supervisor Assessment, Prisoner Disobedience, and Less Criminal Period.

**Keywords:** *Remission, Prisoners, Corrections*



## INTRODUCTION

Man and law are two entities that cannot be separated from one another. Even in legal science there is a famous saying that reads: "ubi soceitas ibi jus" (where society has law), because the relationship between people in society has norms that bind the community itself. Law plays a very big role in social life. This can be seen from the order, peace and absence of tension in society, because the law regulates the provision of rights and obligations as well as the protection of individual and community interests. In addition to regulation, the law is also coercive, because the law has the ability to force violators to comply with severe penalties, so that the existence of prisons is a form of legal coercion, the institution is the place. activities where community development takes place based on systems, institutions and training methods which are the last part of the criminal system. in the criminal process because it has committed a criminal offence or offence.

Indonesian society's thinking on the function of punishment is not only prevention, but also rehabilitation and social reintegration, giving birth to a crime control system known as the prison system. Philosophically, the prison service is a correctional system that is far from a system of revenge, prevention and resocialisation. In other words, punishment is not intended to inflict suffering as retribution, is not intended to prevent suffering, and does not presuppose that the person punished is someone who has not socialised.

As it is known that the current correctional system is conceptually and historically very different from what applies in the past prison system which emphasises the element of retaliation rather than guidance and guidance.<sup>1</sup> Starting from Saharjo's view, about law as protection. This paved the way for the treatment of prisoners by way of correctional as the purpose of imprisonment. The mandate of the President of the Republic of Indonesia in the official conference conveyed the importance of the renewal of imprisonment in Indonesia, namely changing the name of imprisonment to correctional. Based on this consideration, the President's mandate was drawn up a statement on the birthday of the Indonesian Correctional Service on 27 April 1964 and the Indonesian Correctional Service charter.<sup>2</sup>

Punishment is not aimed at deterring the perpetrator by providing suffering, nor is it aimed at making suffering as a form of retaliation, nor does it assume that the convicted person is someone who lacks socialisation. Corrections is in line with the philosophy of social reintegration which assumes that crime is a conflict that occurs between the convicted person and society so that punishment is more aimed at restoring conflict or uniting the convicted person with society.<sup>3</sup> This view is at least in line with the developments that have occurred, namely the increasing number of parties who question the benefits of using imprisonment as a means of tackling crime. According to R.M Jackson, as cited by Barda Nawawi Arief, imprisonment is a type of punishment that is relatively less effective.<sup>4</sup> Based on the results of a comparative study of the effectiveness of punishment proposed by him, the average reconviction rate for people who first commit

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<sup>1</sup> Claudia, Permata Dinda, Usman, and Tri Imam Munandar, "Pretrial Against the Determination of the Status of Suspects in Corruption by the Corruption Eradication Commission", PAMPAS: Journal Of Criminal, (Volume 1, Number 2, 2020), pp. 14.

<sup>2</sup> Sahardjo, *The Banyan Tree of Guidance*, (Jakarta: UI, 1964), pp. 6.

<sup>3</sup> Regulation of the Minister of Law and Human Rights Number M.HH.OT.02.02 of 2009 concerning Blueprint for the Renewal of the Implementation of the Correctional System.

<sup>4</sup> Barda Nawawi Arief, *Legislative Policy in Combating Crime with Imprisonment*, (Bandung: Genta Publishing 2010), p. 44. 44.



a crime is inversely proportional to the age of the offender. It is further confirmed by Jackson that the reconviction rate becomes even higher after the person is sentenced to imprisonment than non-prisonment.

In addition to the issue of effectiveness that has been debated, negative consequences of imprisonment are also often questioned.<sup>5</sup> Criticism of negative consequences that are often raised generally states that imprisonment not only results in deprivation of liberty but also causes negative consequences on matters related to the deprivation of liberty itself. These negative consequences include the deprivation of a person's normal sexual life, the deprivation of a person's freedom also means the deprivation of the person's business freedom which can have serious consequences for the socio-economic life of his family. Moreover, imprisonment is said to provide a stigma that will continue even though the person concerned no longer commits crimes.

Often for some inmates, the word prison stands for suffering body and soul.<sup>6</sup> An interesting criticism from the perspective of criminal politics is that people do not get better but become worse after serving a sentence. Criminalisation

The current correctional system is more aimed at restoring conflicts or uniting convicts with the community. As it is known that the current Correctional System is conceptually and historically very different from what applies in the Prison System. The principle adopted by the Correctional System places prisoners as subjects who are seen as individuals and ordinary citizens and are faced not with a background of retaliation but with guidance and guidance. The difference between the two systems implies differences in the ways of coaching and guidance carried out, due to differences in the objectives to be achieved. The purpose of the law, among others, is to achieve a better life.<sup>7</sup> Especially in dealing with prisoners in correctional institutions in obtaining their human rights.

As it is known that the purpose of criminal sanction according to Van Bemmelen is to maintain public order, and has a combination purpose to frighten, correct and for certain crimes to destroy. Imprisonment in Article 10 of the Criminal Code is also known in the latest Draft Criminal Code with another designation, namely correctional punishment.<sup>8</sup> Criminal punishment contains elements or characteristics such as: (1) The punishment is essentially an imposition of suffering or pain or other unpleasant consequences; (2) The punishment is given intentionally by a person or body that has the power (by the authorities); (3) The punishment is imposed on a person or legal entity (corporation) that has committed a criminal offence according to the law. Empirically, punishment can indeed be a suffering but it is not a necessity. There is punishment without suffering. Movements to reform the prison punishment system continue to grow, as a result of the humanitarian movement that considers prisoners as whole human beings and must be socialised and also supported by scientific discoveries in both social and natural sciences that are empirical in nature.<sup>9</sup>

The system of punishment in correctional institutions, or the science of criminal law developed at this time, still talks more about the dogmatics of criminal law than the

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<sup>5</sup> Edi, Toet Hendratno, Remission Policy for Corrupt Offenders A Critical Review from the Perspective of Legal Sociology. *Journal of Law & Development*. (Volume 4, Number 4, 2023), pp. 27.

<sup>6</sup> Alfiana, Dwi Putri Maesty. Granting Remission for Corruption Offenders", *Bureaucracy Journal: Indonesia Journal Of Law And Social-Political Governance*, (Volume 2, Number 3, 2022), pp. 25.

<sup>7</sup> Peter Mahmud Marzuki. *Introduction to Legal Science*. (Jakarta: Kencana Publisher, 2008), p. 53

<sup>8</sup> J.E. Sahetapy. *Death Penalty in Pancasila State*. (Bandung: Publisher of PT. Citra Aditya Bakti. 2007), pp. 90.

<sup>9</sup> Muladi. *Conditional Criminal Institutions* (Bandung: Alumni, 1992), p. 97.



enforcement/application of criminal sanctions in correctional institutions. Discussions on the application of criminal sanctions in correctional institutions that strengthen the norms of criminal law have not been carried out much, so that the discussion of the entire criminal law is still not harmonious.<sup>10</sup> Prisoners as convicts who are serving imprisonment have rights that are protected by human rights and Indonesian law, one of which is the granting of remission. Remission is essentially the right of all convicts and applies to anyone as long as the convict is serving a temporary sentence, not life imprisonment and death penalty.

Prisoners who are serving imprisonment have rights that are protected by human rights and Indonesian law, one of which is the granting of remission. Basically, every prisoner is entitled to remission as long as they fulfil certain conditions based on the law. In relation to remission, the provision that the Minister may grant remission to prisoners other than prisoners convicted of a criminal offence as previously mentioned tends to conflict with the law, namely equality before the law itself. This is because it aims to avoid any form of discriminatory treatment on the basis of criminal offence background.<sup>11</sup> Remission is essentially the right of all convicts and applies to anyone as long as the convict is serving a temporary sentence, not life imprisonment and death penalty. Indonesian positive law that regulates remission is contained in Law Number 12 of 1995 concerning Corrections, Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prisoners, and Presidential Decree Number 174 of 1999 concerning Remission, and specifically contained in Government Regulation Number 99 of 2012 which is an amendment to Government Regulation Number 28 of 2006 in conjunction with Government Regulation 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prisoners. The existence of Government Regulation No. 99/2012 in relation to the granting of remission is currently experiencing various kinds of rejection, this is due to the tightening of remission for perpetrators of terrorism, narcotics and psychotropic drugs, corruption, crimes against state security and serious human rights crimes, and other transnational organised crimes. Government Regulation No. 99/2012 raises a variety of issues, including Yusril Ihza Mahendra's view that Government Regulation No. 99/2012 denies the principle of equality before the law, which distinguishes the granting of remission for convicts of ordinary crimes from those convicted of extraordinary crimes of terrorism, narcotics, psychotropic substances and corruption in Indonesia.<sup>12</sup>

Another issue regarding the existence of Government Regulation No. 99/2012 was raised by former Chief Justice of the Constitutional Court (MK) M. Mahfud MD, who asserted that restrictions on remission, parole, and other prisoners' rights must be carried out under the legal umbrella of the law, not under Government Regulation (PP) as stated in Government Regulation No. 99/2012. Therefore, while serving their sentence, a prisoner still has rights, which are as stipulated in Article 9 of Law Number 22 of 2002 concerning Corrections, including performing worship in accordance with their religion or belief, receiving care, both spiritual and physical care, getting education, teaching, and

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<sup>10</sup> Bambang Purnomo. *Implementation of Imprisonment with Correctional System*. (Yogyakarta: Liberty Publisher, 1999), pp. 1.

<sup>11</sup> Chaerudin, *Strategies for Prevention and Law Enforcement of Corruption*, (Bandung: Refika Aditama, 2008), p. 21.

<sup>12</sup> Sumarsono, Bagus. *Implementation of the Granting of Remission for Corruption Convicts in Correctional Institution Klas Ila Magelang*, Thesis, Magelang, Legal Studies (Universitas Muhammadiyah Magelang, 2019), pp. 46.



recreational activities as well as opportunities to develop potential, getting health services and proper food in accordance with nutritional needs, getting information services, obtain legal counselling and legal assistance, submit complaints and/or grievances, obtain reading materials and follow mass media broadcasts that are not prohibited, obtain humane treatment and be protected from acts of torture, exploitation, neglect, violence, and all actions that endanger physical and mental health, obtain work safety guarantees, wages or premiums for work results, obtain social services, and receive or refuse visits from family, advocates, companions and the community.<sup>13</sup>

Then in Article 10 paragraph 1 of Law Number 22 Year 2022 it is explained again that in addition to the rights referred to in Article 9, prisoners who have fulfilled certain requirements without exception are also entitled to: 1) remission; 2) assimilation; 3) leave to visit or be visited by family; 4) leave before release; 5) parole; 6) other rights in accordance with the provisions of laws and regulations. Indonesian positive law that regulates remission is contained in Law Number 22 of 2022 concerning Corrections, Government Regulation Number 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Prisoners, and Presidential Decree Number 174 of 1999 concerning Remission, and specifically contained in Government Regulation Number 99 of 2012 which is an amendment to Government Regulation Number 28 of 2006 in conjunction with Government Regulation 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Prisoners.

The implementation of imprisonment under the correctional system as a renewal of the implementation of imprisonment is expected to be an activity that contains two things.<sup>14</sup> The first thing contains an activity about the form of punishment that will experience evolution with regard to new efforts to implement new imprisonment, and the second thing contains an activity of thinking about new ways of treating prisoners in the framework of the correctional system. Both of these are the main and permanent factors in the reform of the implementation of imprisonment.

Correctional Institution Class 1 Cipinang is one part of the justice system, which is a place for prisoners to undergo their criminal acts and obtain various kinds of guidance such as coaching. One form of guidance in the correctional system is the granting of remission to prisoners who have met the criteria stipulated in the Law.<sup>15</sup> In principle, remission (reduction of sentence period) is a legal tool in the form of rights granted by law to prisoners who have fulfilled certain conditions. Remission in principle aims to support and realise a correctional system that focuses on the process of rehabilitation and resocialisation of prisoners.<sup>16</sup> The basic principles of granting remission are to provide incentives to prisoners who have demonstrated positive behavioural changes and a commitment to improving themselves, as well as to encourage their participation in rehabilitation programmes offered at correctional institutions. All prisoners who have met the requirements can apply for remission. The author sees that in granting remission not

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<sup>13</sup> Law Number 22 Year 2022 on Corrections Article 10 Paragraph (3)

<sup>14</sup> Cahyono, Hengky Heri Nur. Characteristics of Remission Granting to Prisoners at Klas Ila Sragen Correctional Institution, Dissertation, Surakarta, Doctor of Laws Programme, Universitas Muhammadiyah Surakarta, 2010), pp. 85.

<sup>15</sup> Ilmiyah, Analisa, and Abdul Madjid. Juridical Analysis of the Position of Government Regulation No. 99/2012 on the Policy of Tightening the Granting of Remission for Corruption Convicts as a Form of Combating Corruption Crime in Indonesia. (Malang: Brawijaya University, 2014), p. 77.

<sup>16</sup> Syafih, Ichwan Setiawan. Juridical Analysis of the Granting of Remission for Corruption Convicts. Journal of Research in Law, University of Gersik, (Volume 12 Number 1 2023), pp. 28



all prisoners get remission, this is known by the author because the author himself is assigned to the Registration field of the Cipinang Class 1 Penitentiary. The author takes the Research Period 1 October 2022 to 1 October 2023 because there is Law Number 22 of 2022 concerning Corrections which came into force from 3 August 2022.

The number of requirements that must be met is certainly an obstacle in its implementation.<sup>17</sup> Considering that this is the right of a prisoner who has undergone and taken responsibility for his mistakes through an open legal process, or it can be said to be in line with Presidential Decree Number 69 of 1999 concerning Reduction of the Prison Period, especially the consideration, namely the weighing part of letter b which determines that the reduction of the criminal period or remission is one of the important legal means in order to realise the objectives of the Correctional System.

The purpose of correctional facilities is to develop inmates to become fully human, realise their mistakes, improve themselves, and not repeat criminal offences. This goal reflects the rehabilitation approach in the criminal justice system which focuses on the repair and recovery of prisoners. The granting of remission to prisoners is a process regulated by laws and regulations that apply in correctional institutions. Remission is a form of incentive or reduction in the period of detention granted to prisoners who have demonstrated good behaviour or achieved their rehabilitation goals.<sup>18</sup> However, the granting of remission is usually subject to a number of strict conditions and procedures. The granting of remission must be based on clear and justifiable reasons or considerations. The granting of remission based on clear and objective considerations is key to maintaining the integrity of the correctional system and ensuring that remission is granted fairly and only to those who have qualified. It also helps to achieve the goal of rehabilitation and reintegration of prisoners into society, as it provides incentives for positive change and good behaviour during the criminal period. So the problem in this research is as follows:

1. How is the Implementation of the Granting of Remission to Prisoners at Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)?
2. What are the obstacles to the implementation of remission for prisoners at Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)?

## RESEARCH METHODS

This type of research is normative juridical legal research. This normative juridical legal research can also be referred to as doctrinal legal research. Dogmatic Legal Science examines, maintains, and develops positive legal buildings with logical buildings, which are called "doctrinal" studies or also called "normative" legal studies. The research approach uses *statute* approach, *case* approach and conceptual approach. The type of data in this research is Secondary Data, which is a very important factor, because the data source will concern the quality and results of the research. Therefore, data sources are taken into consideration in determining data collection methods. The data collection technique used in this research is *library* research.

## RESULTS AND DISCUSSION

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<sup>17</sup> Heru, Prabowo Adi Sastro. Legal Analysis of the Granting of Remission to Prisoners at the Klas II A Binjai Correctional Institution. *Mercatoria Journal*, (Volume 10, Number 1, 2019), pp. 27.

<sup>18</sup> Emi Julia Tucunan. The Right to Remission for Corruption Convicts. *Journal of Law Science*. (Volume 3 Number 1, 2022), pp. 65.



## **A. Implementation of the Granting of Remission to Prisoners at Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)**

### **1. Cipinang Class 1 Prison Profile**

#### **a. History of Cipinang Class 1 Prison**

Cipinang Class 1 Correctional Facility is a technical implementation unit in the field of corrections under the Ministry of Law and Human Rights of the Directorate General of Corrections and is directly responsible to the DKI Jakarta Regional Office of the Ministry of Law and Human Rights. Cipinang Class I Prison was established in 1912 by the Dutch government. During the Dutch colonial period, many prison facilities in Indonesia, including Cipinang Class I Prison, were notorious for their poor conditions. Prison buildings at that time were often simply designed, made of wood and bamboo, and lacked adequate facilities. These prisons were designed for the purpose of detention and punishment, not to provide humane conditions for prisoners.

Conditions in prisons during this time were often deplorable. Prisoners were housed in cramped and dirty cells, often without proper access to showers and toilets. The hygiene, food and health care of prisoners were also often very poor. During the Dutch colonial period, prisons such as Cipinang Class I Prison were used to detain and isolate those considered a threat to Dutch rule. This was particularly the case during the period of the Indonesian independence struggle where many freedom fighters were held in these prisons. After Indonesia gained its independence in 1945, efforts to improve and modernise prison facilities began. Many prisons underwent improvements to their facilities.

The 1964 reform of Indonesia's correctional system and the transformation of Class 1 Cipinang Correctional Facility into a penitentiary are part of efforts to modernise and improve the criminal justice system in Indonesia. In 1964, the Indonesian government reformed the correctional system to pay more attention to the human rights of prisoners and to make correctional facilities a means of rehabilitation and social reintegration. This was a positive step in improving the conditions of prison facilities and the quality of services to prisoners. With the transformation of Class 1 Cipinang Correctional Facility into a Correctional Institution, the organisational structure and work procedures of this institution are regulated based on the Decree of the Minister of Justice of the Republic of Indonesia Number M.01.PR.07.03 of 1985. This change reflects an effort to improve prison management and give greater attention to the rehabilitation and resocialisation of prisoners. The change and renovation of the Cipinang Class I Correctional Institution building carried out in 2006 was an important step in the effort to improve the facilities and capacity of the prison. With a capacity of 920 people and consisting of three residential blocks covering 208 rooms.

#### **b. Organisational structure of Cipinang Prison 1**

According to Permenkumham No. M.HH-05.OT.01.01 of 2011 the Organisational Structure of Class 1 Cipinang Correctional Facility is as follows<sup>19</sup> :

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<sup>19</sup> Ministry of Law and Human Rights Regulation No. M.HH-05.OT.01.01 Year 2011





The Head of Lapas is a structural official who leads the Cipinang Class 1 Correctional Institution. The Head of Correctional Institution is responsible for the implementation of guidance and care of prisoners. The Head of Correctional Institution also has the following duties: Carry out the guidance and care of prisoners, correctional students, and detainees; Maintain the security and order of the Correctional Institution; Prepare work plans and budgets of the Correctional Institution; Lead, coordinate, and control the implementation of the duties of Correctional Institution employees; Carry out supervision and control of the implementation of the duties and functions of the Correctional Institution.

The head of the administration section is to carry out administrative and household affairs of correctional institutions, the Head of the Personnel Subdivision is tasked with conducting personnel affairs such as recording and organising employees, employee promotions, the Head of the financial subdivision organises and prepares finances for the needs of correctional institution spending and employee payments. While the head of the general sub-section is in charge of correspondence, correctional institution equipment and household affairs.

The Head of Work Activity Division is a structural official who leads the Work Activity Division. The Work Activity Division is responsible for the implementation of work guidance and productive businesses for prisoners. The section head of work guidance (bimker) is in charge of conducting work guidance, the section head of work facilities prepares work facilities and manages work results. The head of the PHK Section (management of work results) is in charge of providing instructions and guidance on work training.

The Head of the Prisoner Development Division is a structural official who leads the Prisoner Development Division at the Penitentiary. The Prisoner Development Division is responsible for the implementation of prisoner development. While the registration section is in charge of recording and making statistics and fingerprint documents of prisoners. The bimkemasy (community guidance) section and the inmate care section are tasked with providing spiritual guidance and counselling, providing sports activities, increasing knowledge, providing leave, releasing inmates, and improving welfare, taking care of health, and providing inmate care.

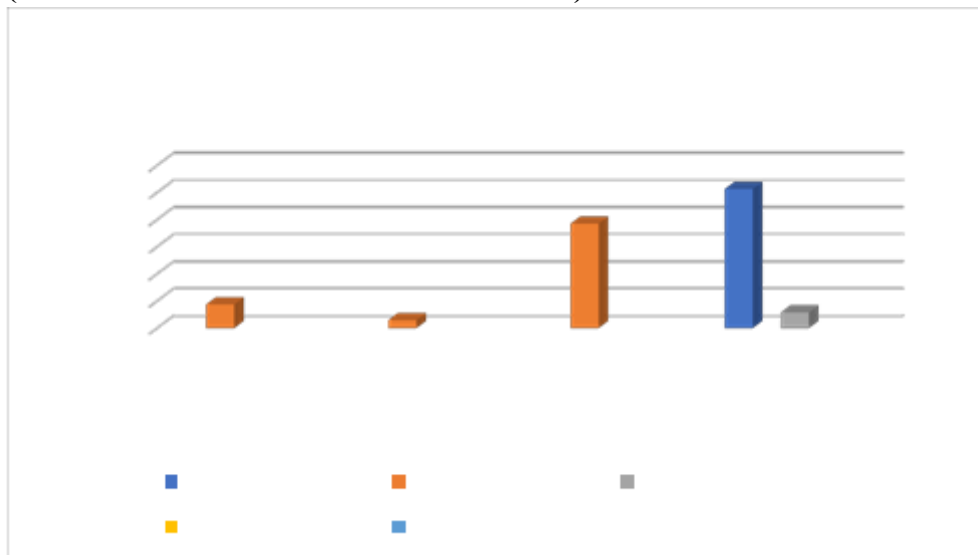


The Head of Security and Order has an important role in maintaining security and order within the penitentiary. The security section is in charge of organising equipment and the distribution of security tasks. The reporting and discipline section is tasked with organising duty schedules, receiving daily reports, and minutes from the security unit on duty as well as compiling periodic reports in the field of security and enforcing discipline.

The Head of the Prison Security Unit (KPLP) is a structural official who leads the Prison Security Unit at the Correctional Institution. The Correctional Security Unit is responsible for the implementation of security and order of the Correctional Institution. Security officers are tasked with carrying out the security of correctional institutions, maintaining the security and order of correctional institutions. The security officer in carrying out his duties coordinates with KPLP (correctional security unit).

## **2. Implementation of the Granting of Remission to Prisoners at Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)**

### **a. Statistics on the granting of remission at Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)**



### **b. Granting Remission to Prisoners at Cipinang Class 1 Correctional Facility**

Remission is a reduction in the period of serving a criminal sentence given to prisoners who meet the requirements in accordance with statutory provisions.<sup>20</sup> Remission is a reduction in the period of imprisonment given to prisoners as a form of appreciation for good behaviour or compliance while serving a sentence. Remission given to prisoners is a form of reduction in the criminal period as a reward for good behaviour or compliance of prisoners while serving their sentence. As revealed by the Head of the Registration Section of the Class 1 Cipinang Correctional Institution, Mr Sigit Teguh Riyanto, to the author.

"Inmates who demonstrate good behaviour during their sentence, such as compliance with Penitentiary regulations, discipline, and participation in positive activities, may be eligible for remission."<sup>21</sup>

<sup>20</sup> Law Number 22 Year 2022 on Corrections, Article 10 Paragraph (1)

<sup>21</sup> Interview with Sigit Teguh Riyanto as Head of the Registration Section of Class 1 Cipinang Prison, on 22 December 2023.



Prisoners who serve their sentences without breaking the rules or committing serious offences during their sentences can qualify for remission. As from the explanation in the previous chapter that remission is divided into 5 namely general remission, special remission, additional remission, decade remission, humanitarian remission.

### **1) General Remission**

General remission granted on 17 August is usually part of a special tradition in Indonesia because it coincides with the Proclamation of Independence of the Republic of Indonesia. The granting of general remission on 17 August as a form of respect for the anniversary of Indonesia's independence is one of the special traditions that reflect the spirit of nationalism and patriotism. The granting of remission at this moment is interpreted as a recognition of the values of independence, and can be considered as a form of gift or reward to prisoners as part of a national celebration.

This reflects the government's commitment to encourage the positive spirit, rehabilitation, and participation of prisoners in commemorating independence. The granting of remission on these dates can also be considered as an effort to give prisoners a second chance and support the development process in the correctional system. As a form of respect for the commemoration of independence, the granting of general remission can also strengthen the sense of nationality and legal awareness among prisoners, as well as being a means to motivate them to return to being positively contributing members of society after serving their sentences.

The amount in granting general remission, namely: One month for prisoners and criminals who have served 6 months to 12 months, and two months for prisoners who have served 12 months or more. The implementation of general remission is given in an annual period, in the first year remission is given as referred to in the second year remission is given 3 months, then in the third year remission is given 4 months, after that in the fourth and fifth years each is given 5 months remission and finally in the sixth year and so on 6 months remission is given annually.

### **2) Special Remission**

The granting of Special Remission on religious holidays is a policy commonly implemented as a form of respect for freedom of religion and religious belief. Special Remissions allow prisoners to celebrate their religious holidays more freely and feel the warmth of family during these important moments. For example, on Eid al-Fitr, Muslim prisoners can receive special remission as part of efforts to support religious freedom and give them the opportunity to stay in touch with their families. For Christian prisoners, special remissions can be granted during Christmas celebrations. This allows them to celebrate Christmas with their families and communities. Hindu prisoners can receive special remission during the Nyepi Day celebrations. This gives them the opportunity to celebrate the holiday religiously and honour Hindu traditions. Furthermore, on Vesak Day, prisoners who are Buddhist can receive special remission. This allows them to celebrate an important moment in Buddhism and participate in religious activities. Special remissions reflect recognition of the importance of religious freedom and the right to celebrate one's own religious beliefs. In addition, the granting of special remission on religious holidays can also be a positive stimulus for prisoners to maintain their good behaviour during their sentence.

Meanwhile, the amount of special remission is as follows: fifteen days for prisoners who have served 6 to 12 months, and one month for prisoners who have served 12 months



or more. As well as the granting of special remission is carried out based on the period per year, namely in the first year remission is given then in the second and third years each is given 1 month remission, after that in the fourth and fifth years each is given 1 month 15 days remission and finally in the sixth and subsequent years 2 months remission is given every year. In granting special remission, if during the sentence the convict changes religion, then remission is given to him according to the religion adhered to at the time of the first data collection.

### 3) Additional remission

The granting of additional remission may refer to an additional reduction of an inmate's sentence beyond the general remission granted as a form of reward for good behaviour or compliance. The granting of additional remission is usually related to certain achievements or contributions made by the prisoner during the sentence period. Significant factors in the assessment of an inmate's additional remission include<sup>22</sup> :

- a) Find innovations that are useful for the development of the nation and the Unitary State of the Republic of Indonesia;

Although prisoners are in a restricted situation in prison, they still have the potential to contribute to innovations that are beneficial to the development of the nation and the Unitary State of the Republic of Indonesia (NKRI).

- b) Participate in mitigating the effects of riots, riots, natural disasters on prisons or neighbouring areas;

The participation of prisoners in coping with the aftermath of riots, riots or natural disasters can make a positive contribution to the security and well-being of the prison or the surrounding area.

- c) Donating blood for others in need;

A prisoner who can donate blood will certainly contribute positively to others. This is in line with what Ambon Marciano, a prisoner at Cipinang Class 1 Penitentiary, told the author, namely:

"I hope that the blood donation activities carried out will certainly benefit others, and will get additional remission from Cipinang Class 1 Prison"<sup>23</sup>

- d) Donating organs to others in need;

A prisoner who can donate organs will certainly contribute positively to others. Of course there will be strict conditions if this is done The provision of additional remission for prisoners as referred to in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 03 of 2018, Article 33 paragraph (1) and Article 34 paragraph (1) is given in the amount of 1/2 (one-half) of the general remission obtained in the current year. In addition, there are also additional remissions by carrying out the following activities:

- a) Performing acts that assist the development activities in prisons;

If a prisoner participates in activities that support coaching at a correctional centre, it can be considered a positive step. The prisoner's involvement in coaching activities should be in accordance with the regulations and procedures in place at the prison. It should also be part of a broader rehabilitation strategy to help

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<sup>22</sup> Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 03 of 2018 concerning Conditions and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave Before Release, and Conditional Leave Article 14

<sup>23</sup> Interview with Ambon Marciano, an inmate of Cipinang Class 1 Prison, on 23 December 2023.



prisoners build a positive life after release. The opportunity to engage in positive activities can be a key factor in supporting the rehabilitation process and the reintegration of prisoners into society.

b) Appointment as an activity leader or coordinator.

The decision to appoint an inmate as a leader or coordinator of activities within a correctional centre requires careful consideration of a number of factors in order to positively benefit the entire prison community. The appointment of inmates as coordinators within prisons can be part of a rehabilitation programme oriented towards positive engagement and leadership in a controlled context.

The provision of additional remission for prisoners as referred to in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 03 of 2018, Article 35 paragraph (1) is given at 1/3 (one-third) of the general remission obtained in the current year.

#### 4) Humanitarian Remission

Humanitarian remission is a form of remission given to prisoners based on certain humanitarian considerations.<sup>24</sup> Reduced sentences or humanitarian remissions can be granted as a form of legal discretion to tailor the sentence to the humane conditions of the prisoner. This aims to ensure that prisoners who experience extreme suffering or face serious medical conditions do not serve the full sentence which could significantly harm or disadvantage them.

According to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 Year 2023, remission on the basis of humanitarian interests is given to prisoners:

a) Who shall be punished with a maximum imprisonment of 1 (one) year;

People sentenced to a maximum of one year generally have the opportunity to obtain early remission or to obtain certain legal treatment based on applicable law enforcement policies.

b) Aged above 70 (seventy) years old;

In many jurisdictions, prisoners over the age of 70 may also be candidates for special treatment in law enforcement. This advanced age is often a consideration for more humane treatment or specialised treatment in the criminal justice system.

c) Suffering from prolonged pain;<sup>25</sup>

Prisoners suffering from prolonged illness or medical conditions of concern may be candidates for special attention within the legal system. Often, there are humanitarian considerations put in place to ensure that prisoners with serious medical conditions receive appropriate treatment.

In many cases, the legal system considers granting humanitarian remission or even early release for prisoners with severe medical conditions. This can happen if the authorities assess that serving the full sentence would not be

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<sup>24</sup> Sudaryono, *Correctional Institutions and the Prisoners Within*. (Semarang: Unnes Press, 2022), p. 38.

<sup>25</sup> Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2023 concerning the Third Amendment to Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Conditions and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave Ahead of Release, and Conditional Leave Article 30



appropriate for the prisoner's health condition and could significantly harm or disadvantage them. However, decisions regarding remission or special treatment for prisoners with severe medical conditions are usually based on thorough medical and legal considerations.

## 5) Decade Remission

Decade Remission Namely remission given every 10 years on the Independence Day of the Republic of Indonesia on 17 August. The decade remission is 1/12 of the criminal period, with a maximum reduction of 3 months. For example, for a criminal period of two years (24 months), the decade remission that will be given is 2 months. Thus, for sentences with a criminal period of more than three years, the decade remission that can be given is a maximum of 3 months.

As revealed by the Head of the Registration Section of the Cipinang Class 1 Penitentiary, Mr Sigit Teguh Riyanto, to the author, "A prisoner who will receive general remission must meet the conditions that have been determined. As well as the amount of General Remission received by prisoners is regulated in the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave Ahead of Release, and Conditional Leave."<sup>26</sup>

In the implementation of General Remission at Class 1 Cipinang Correctional Institution, there is no difference for prisoners as revealed by the Head of the Inmate Development Division of Class 1 Cipinang Correctional Institution, Mr M. Fadil, to the author:

"In the implementation of Remission in Class 1 Cipinang Correctional Institution can be followed by all existing prisoners without exception as long as they meet the specified requirements, there is no separation or distinction. We always provide the best thing so that the Remission process can run smoothly and can be truly accepted by the prisoners here "<sup>27</sup>

According to Law Number 22 Year 2022, the conditions for granting remission for prisoners are determined based on applicable laws or regulations, among others:<sup>28</sup>

### a) Good behaviour;

Prisoners who behave well during their sentence generally show positive behaviour and comply with the rules and procedures that apply in correctional institutions. One of the conditions for obtaining remission is that the prisoner is not serving a disciplinary sentence within the last six months before the date of remission. This is one of the general criteria that is often taken into consideration in the process of granting remission. This means that in order for an inmate to be eligible for remission, they must have maintained good behaviour and discipline for the last six months prior to the date of application for remission. This shows that the correctional authorities consider that prisoners who have behaved well during this period deserve the incentive of remission.

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<sup>26</sup> Interview with Sigit Teguh Riyanto as Head of the Registration Section of Class 1 Cipinang Prison, on 22 December 2023.

<sup>27</sup> Interview with M. Fadil as Head of the Development Division of Class 1 Cipinang Correctional Facility, on 21 December 2023.

<sup>28</sup> Law Number 22 of 2022 concerning Corrections Article 10 Paragraph (1)



b) Actively participate in the Coaching programme;

The active participation of prisoners in the development programme is a positive step that can support their rehabilitation efforts. Guidance programmes in correctional institutions are designed to help prisoners acquire skills, knowledge and positive attitudes that can assist them in reintegrating into society after the prison term ends. As expressed by the Staff of the Registration Section of Class 1 Cipinang Correctional Institution, Mr Subeqi Maulana, to the author:

"If the prisoner is not actively participating or has not successfully completed the required coaching programme and has not behaved well while in prison 1 cipinang within a certain period, this can be a reason for refusing remission."<sup>29</sup>

Even though the prisoners fulfil the above requirements, there are also prisoners who are not given remission due to

a) Currently on leave before release;

Leave Ahead of Release is the right of prisoners who have met the specified requirements and criteria, and is an effort to foster prisoners so that they can prepare themselves to live in the community again. The granting of remission aims to reward prisoners who have met the specified requirements and criteria, as well as to encourage prisoners to be able to follow the guidance programme at the Correctional Institution. Therefore, prisoners who are on leave before release cannot be granted remission, because this will contradict the purpose of granting leave before release.

This explanation is also confirmed by the provisions of Article 11 of the Minister of Law and Human Rights Regulation Number 7 of 2020 concerning Procedures for Granting Remission, Assimilation, Leave Before Release, and Conditional Release, which states that prisoners who are on Leave Before Release cannot be granted remission. This provision applies to all prisoners, including prisoners who have fulfilled the requirements and criteria for remission. Thus, prisoners who are currently on leave cannot be granted remission, even though the prisoner has fulfilled the requirements and criteria for remission. Thus, neither prisoners who are serving imprisonment as a substitute for fines, nor prisoners who are on leave before release, can be granted remission.

b) Currently serving imprisonment in lieu of fine;

Confinement in lieu of fine is an alternative punishment imposed to convicts who are unable to pay the fine. Confinement punishment in lieu of fine aims to provide legal certainty for convicts who are unable to pay the fine, so that the convict still serves the punishment in the form of confinement. The granting of remission aims to give appreciation to convicts who have met the specified requirements and criteria, as well as to encourage convicts to be able to follow the guidance programme in the Correctional Institution. Therefore, confinement punishment in lieu of fine cannot be granted remission, because it will contradict the purpose of granting remission.

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<sup>29</sup> Interview with Subeqi Maulana as Staff of the Registration Section of Class 1 Cipinang Correctional Facility, on 21 December 2023.



The explanation is also confirmed by the provisions of Article 10 of the Minister of Law and Human Rights Regulation Number 7 of 2020 concerning Procedures for Granting Remission, Assimilation, Leave Before Release, and Conditional Release, which states that prisoners who commit corruption crimes to get remission, must have paid in full the fine and compensation in accordance with the court decision. This provision applies to all prisoners, including prisoners serving imprisonment as a substitute for fines. Thus, convicts who are serving imprisonment as a substitute for a fine cannot be granted remission, unless the convict has paid in full the fine and restitution in accordance with the court decision.

The purpose of punishment in corrections is the position of remission to motivate and guide prisoners to return to the right path. The aim is that prisoners can blend back into society after completing their sentence. The granting of remission for prisoners at Cipinang Class I Correctional Facility consists of administrative requirements and substantive requirements. The verdict (sentence) of a court judge that has permanent legal force, has an execution order and its minutes, behaves very well, and has successfully completed the coaching programme carried out by the correctional institution is what causes the definition of administrative requirements.

Sigit Teguh Riyanto, Head of the Registration Section of Class I Cipinang Correctional Facility, explained that:

"Remission is one of the fulfilment of rights for prisoners who are serving their sentences in correctional institutions / state detention centres. With the development of the times and increasingly advanced technology, the granting of remission has also been facilitated. All proposal processes have been carried out online through a system / application commonly called SDP (Correctional Database System). Every prisoner who has met the administrative and substantive requirements is entitled to be proposed for remission. As in the implementation of special religious remission on Eid al-Fitr in 2023 as many as 2568 prisoners in class 1 cipinang correctional institutions received remission with different amounts depending on how long they had served their sentences."<sup>30</sup>

## **B. Constraints on the Implementation of Remission for Prisoners in Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023)**

According to Law No. 22 of 2022, remission is a reduction in the period of serving a sentence given to prisoners who meet the requirements in accordance with the provisions of laws and regulations. In the implementation of remission in Class 1 Cipinang Correctional Facility, there are many obstacles and challenges, among others:

### **1. System Network**

Based on an unstructured interview with a Class 1 Cipinang Correctional Facility employee, he explained the constraints of the application which makes it easier for officers to access information and send Remission files, but due to the large number of prisoners served and many of the Correctional Technical Implementation Units accessing the website simultaneously, making the network choked.

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<sup>30</sup> Interview with Sigit Teguh Riyanto as Head of the Registration Section of Class 1 Cipinang Correctional Facility, on Friday, 22 December 2023.



"In sending Remission files, prisoners currently do not need to send requirements in the form of physical files, but have been facilitated by an online system that can be reached from any region. But the obstacle is the website that is difficult to access because it is accessed simultaneously by the Correctional Technical Implementation Unit throughout Indonesia"<sup>31</sup>

## **2. Coach Assessment**

A careful assessment and consideration process is essential in determining whether an inmate is eligible for remission. The supervisor or correctional officer responsible for this process has a crucial role in evaluating the inmate's behaviour, performance and participation during his/her sentence. The process of assessing inmates for remission, however, cannot always predict with certainty the future behaviour of the inmate.

Prisoner behaviour and participation can change over time, and sometimes prisoners who were initially assessed positively can become involved in offences or conflicts at a later date. When prisoners who were initially deemed eligible for remission are then involved in offences, this requires reconsideration. This makes the registration section in charge of the remission section difficult, namely in terms of completing the files that will be submitted to the Head of the Cipinang class 1 penitentiary, which will later be copied to the DKI Jakarta Regional Office of Law and Human Rights to be reported to the Directorate General of Corrections, which is delayed because it is waiting for the results of the Correctional Observation Team (TPP) hearing.

## **3. Prisoner non-compliance**

Prisoners who do not adhere to the rules and discipline of the penitentiary may not be eligible for remission. This can create obstacles in the evaluation process. Many legal systems have specific requirements regarding the behaviour and discipline of inmates to qualify for remission. Severe violations of the rules, such as security offences or disciplinary offences, may limit or even eliminate the right to receive remission. Correctional programmes generally have a rehabilitation objective to guide inmates to return to society with improved behaviour.

Inmates who do not adhere to the rules and do not show positive behavioural changes may not be considered to be meeting correctional goals. Discipline and adherence to rules are essential for maintaining security and order within correctional institutions. Inmates who persistently break the rules can create security risks.

## **4. Less Criminal Period**

There are certain time requirements that must be met before a prisoner can qualify for remission. These time requirements are generally designed to give inmates the opportunity to demonstrate positive behavioural changes during their time in prison before receiving the benefit of remission. The time inmates are required to serve before being eligible for remission can provide an opportunity for them to adapt to the environment, understand the rules and regulations, and adjust to life within the prison.

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<sup>31</sup> Unstructured interview with Subeqi Maulana as the Registration Staff of Class I Cipinang Correctional Facility, on Friday, 22 December 2023.



Such time requirements allow correctional institutions to more specifically evaluate the behaviour of inmates over a period of time.

During this period, prisoners are expected to exhibit good behaviour and comply with prison regulations. They may also participate in rehabilitation or training programmes to better themselves. These periodic evaluations allow the prison to see the progress of inmates and provide the feedback needed to help them improve their behaviour. This can include assessments of discipline, and adherence to rules. Providing remission after a certain period of time can be an incentive for prisoners to demonstrate positive behaviour. This creates a dynamic where remission is seen as a reward to be earned through obedience and positive behavioural change.

## CONCLUSIONS

1. The implementation of the granting of remission to prisoners at Cipinang Class 1 Prison (Period 1 October 2022 to 1 October 2023), namely there are types of remission consisting of general remission, special remission, additional remission and humanitarian remission. The purpose of this remission is intended to give appreciation to prisoners who have successfully demonstrated behavioural changes, improved quality, and increased self-competence. As well as reducing the impact on the psychology of prisoners due to deprivation of independence. This is in line with the correctional function as part of the integral punishment.
2. Constraints on the Implementation of Remission Granting to Prisoners in Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023), such as System Network Constraints, Supervisor Assessment, Non-compliance of Prisoners, and Insufficient Criminal Period.

## ADVICE

1. The implementation of the granting of remission to prisoners at Cipinang Class 1 Prison (Period 1 October 2022 to 1 October 2023) has been carried out well. So that it can be further improved.
2. Constraints on the Implementation of Remission for Prisoners in Class 1 Cipinang Correctional Facility (Period 1 October 2022 to 1 October 2023), Such as:
  - a. Correctional Database System to use systems and hardware that support Hardware redundancy. Include backup servers, recoverable storage, or dual network paths to prevent single-point failures. Perform regular backups of critical data. So that data can be recovered quickly in emergency situations and help prevent significant data loss. Some servers may experience downtime due to problems in the applications running on them.
  - b. Always socialise about remission to prisoners.  
Socialise information about remission to prisoners and provide them with a good understanding of the opportunity to obtain remission. Hold regular socialisation events within prisons to provide information to prisoners about remission.

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