

## LEGAL PROTECTION FOR PRISONERS TO OBTAIN THE RIGHT TO PAROLE IN A HUMAN RIGHTS PERSPECTIVE

HARRY HARYADI BADJURI <sup>1\*</sup>, YOS JOHAN UTAMA <sup>2</sup> and  
NABITATUS SA'ADAH <sup>3</sup>

<sup>1, 2, 3</sup> Doctoral Program in Law, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang. \*Corresponding Author Email: [harryharyadibadjuri@students.undip.ac.id](mailto:harryharyadibadjuri@students.undip.ac.id)

### Abstract

This study aims to analyze the legal protection for prisoners to obtain parole rights from a human rights perspective. The research method used is normative juridical. The results showed that the legal protection of prisoners is an effort to protect the law against various freedoms of prisoners (fundamental rights and freedoms of prisoners) as well as various interests related to the welfare of prisoners. One of the prisoners' rights is parole. Parole is the process of coaching a prisoner outside the correctional facility after serving at least 2/3 (two thirds) of his sentence provided that 2/3 (two thirds) of the sentence is a minimum of 9 (nine) months. from the function of a correctional institution, which is one of the parts of the Indonesian criminal justice system, namely the Police, the Attorney General's Office and the Court. The provisions regarding parole in Indonesian laws and regulations, for the first time, are contained in the term conditional release in the Criminal Code (KUHP), Law Number 12 of 1995 concerning Corrections, and Decree of the Minister of Justice Number M.01- PK.04.10 Year 1999 concerning Assimilation, Parole and Leave Towards Free.

**Keywords:** Protection, Prisoners, Parole, Rights, Human Rights.

### A. INTRODUCTION

Human rights are often described as a moral issue of a universal nature. Some of these human rights are *interaliable* (cannot be eliminated) and *unviolable* (cannot be contested).<sup>1</sup> Such human rights are referred to as *non-derogable human rights*, namely human rights that cannot be denied or violated even if the state is in a state of "*internal unrest*" (turmoil in the country), or in a state of "civil war or public emergency" (*war or public emergency*).<sup>2</sup> However, *these non-derogable human rights* are void if imprisoned.<sup>3</sup>

In general, the rights of prisoners that cannot be denied, revoked by the state even under any circumstances, are as stated in the 1948 UN Declaration of Human Rights, namely: The right to livelihood and personal safety (article 3). Prohibition on servitude, slavery and slave trade (article 4). Prohibition of imposing abusive and cruel treatment or crime (article 5). The right to legal recognition (article 6). The right to equality before the law and to non-discrimination in its application (article 7). The right to remedy (article 8). Prohibition against arbitrary arrest, detention or exile (article 9). The right to a fair trial (article 10). Presumption of innocence and prohibition against *ex post facto* law (article 11). The right to citizenship (article 16). The right to own property (article 17). Freedom of thought, conscience and religion (article 18).<sup>4</sup>

This means that rights included in *non-derogable human rights* are eliminated or temporarily revoked if a person is imprisoned.

The rights of prisoners temporarily deprived by the state based on the 1948 UN Declaration of Human Rights are:

1. The right to freedom of movement and residence within the borders of each country. (Article 13, verse 1).
2. The right to leave a country, including its own country (article 13 paragraph 2).
3. The right to express opinions, seek, receive and inform (article 19).
4. Freedom of assembly and association (Article 20).
5. The right to vote and be elected (article 21).

While the rights that can be revoked in article 35 of the Criminal Code can be detailed as follows:

1. The right to hold office in general or certain positions.
2. The right to enter the armed forces.
3. The right to vote and be elected in elections based on general rules.

The rights revoked by this Criminal Code are additional crimes of a facultative nature. That is, additional criminal convictions are not immediate, depending on the judge's consideration. And, not the principal crime is always accompanied by the imposition of additional crimes.<sup>5</sup>

Article 14 letter k of Law Number 12 of 1995 concerning Corrections has stated the rights of a person who is a prisoner, that prisoners have the right to get parole. Parole or parole as stipulated in article 15 paragraph 1 of the Criminal Code states:

"If the convict has served two-thirds (2/3) of the length of the prison sentence imposed on him, which must be at least nine months, then he may be granted parole, if the convict must serve several crimes it is considered as one crime, and in such parole also stipulated general conditions and special conditions".

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2013 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release and Conditional Leave Article 49 paragraph (1) states that parole for prisoners in general is:

- a) Have served a criminal term of at least 2/3 provided that 2/3 of the criminal term is at least nine months;
- b) Good conduct during the criminal period of at least the last nine months calculated before the 2/3 date of the criminal period;
- c) Have followed the coaching program well, diligently, and passionately;
- d) The community may receive a program of inmate development activities.

Another problem is that prisoners who have obtained a parole decision are juridically not in the LP. The prisoner will be free to go wherever he likes without any restrictions, and only at special times he must report or from BAPAS officers who come to conduct monitoring.<sup>6</sup>

The next issue that is very principled is the implementation of the procedure for applying for parole, namely:

1. Charging fees for prisoners who will get remission
2. Administrative requirements in the form of a letter stating that the prisoner has no other cases obtained from the local prosecutor's office, and that there is a subsidiary payment;
3. Inefficient and effective regulations governing the granting of remission for prisoners who will receive parole and leave before release

The conditions that occurred above made the interest of prison residents to arrange parole and leave before release decreased, because prisoners who served crimes had to be charged with several conditions that must be met. As a result, many prison inmates who have served 2/3 of their sentences and it is time to obtain parole finally fail to use this opportunity.

## **B. DISCUSSION**

### **1. Legal Protection of the Rights of Prisoners Human Rights Perspective**

Legal protection is to provide protection to human rights that are harmed by others and this protection is given to the community so that they can enjoy all the rights provided by law or in other words legal protection is a variety of legal remedies that must be provided by law enforcement officials to provide a sense of security, both mentally and physically from interference and various threats from any party.<sup>7</sup>

Legal protection is the protection of dignity and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or as a collection of regulations or rules that will be able to protect one thing from another. With regard to consumers, it means that the law provides protection for customer rights from something that results in the non-fulfillment of these rights.<sup>8</sup>

Legal protection of prisoners can be interpreted as efforts to protect the law against various *fundamental rights and freedoms of prisoners* as well as various interests related to the welfare of prisoners.<sup>9</sup> Legal protection of the rights of prisoners in Indonesia has been regulated in Law Number 39 of 1999 concerning Human Rights, and Law Number 12 of 1995 concerning Corrections. The essence of prisoner protection is the realization of prisoner formation in accordance with the correctional system imposed in the Correctional Law.

A prisoner is a person who is legally deprived of his right to independence, but it is legal because it is based on the law and the rule of law (Law). Even though they are deprived of their independence, prisoners still have minimum rights that must still be fulfilled. For example, the right to access adequate health, food, and facilities. Also, the spiritual right to worship and communicate outwardly at special times. In addition, there are other rights that are a form of

education as an improvement in the mentality of prisoners, namely obtaining remission and parole.

In accordance with the Government Regulation of the Republic of Indonesia No. 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prison-Assisted Citizens in Chapter II concerning the rights and obligations of prisoners and correctional students, the rights of prisoners are listed as follows:

1. Every prisoner has the right to worship in accordance with his religion and beliefs;
2. Every prisoner has the right to spiritual and temporal care;
3. Every prisoner has the right to education and instruction;
4. Every prisoner has the right to adequate health care;
5. Every prisoner has the right to lodge a complaint with the head of LAPAS regarding the treatment of officers or fellow inmates towards him;
6. Every prisoner has the right to receive reading materials and mass media broadcasts according to the rules regulated by the Head of LAPAS;
7. Every working prisoner is entitled to wages or premiums;
8. Every Inmate has the right to receive visits from family, legal counsel or other special persons;
9. Every prisoner who during the period of criminal conduct behaves well is entitled to remission;
10. Every prisoner and correctional protégé has the right to assimilation;
11. Each prisoner may be granted leave in the form of leave to visit family and leave before release;
12. Every prisoner has the right to parole;
13. Every prisoner has the right to leave before release with predetermined conditions;
14. Every prisoner has political rights, voting rights and other civil rights.

Prisoners according to article 1 number 7, Law Number 12 of 1995 are convicts who are serving a sentence of loss of independence in LAPAS (Penitentiary).<sup>10</sup>

Like most people, a prisoner has the same rights even though some of his rights are temporarily deprived by the state.

The rights of prisoners temporarily deprived by the state based on the 1948 UN Declaration of Human Rights are:<sup>11</sup>

1. The right to freedom of movement and residence within the borders of each country. (Article 13 paragraph (1));
2. The right to leave a country, including its own (article 13 paragraph (2));
3. The right to express opinions, seek, receive and inform (Article 19);
4. Freedom of assembly and association (article 20);
5. The right to vote and be elected (Article 21);
6. Social security (article 22);
7. The right to choose employment (article 23);
8. The right to receive a living wage and vacation (article 24);
9. The right to an adequate life (Article 25);
10. The right to free instruction (Article 26);
11. Freedom in Culture (Article 27).

While the rights that can be revoked in article 35 of the Criminal Code can be detailed as follows:<sup>12</sup>

1. The right to hold office in general or special offices;
2. The right to enter the armed forces;
3. The right to vote and be elected in elections based on general rules;
4. The right to be an advisor or administrator according to law, the right to be a guardian, guardian or supervisor, over a person who is not his own child;
5. The right to exercise the power of the father, exercise guardianship or custody of one's own children;
6. The right to exercise livelihood.

In general, the rights of prisoners that cannot be denied, revoked by the state even under any circumstances, are as stated in the 1948 UN Declaration of Human Rights, namely: the right to livelihood and personal safety (article 3). Prohibition on servitude, slavery and slave trade (article 4). Prohibition of imposing abusive and cruel treatment or crime (article 5). The right to legal recognition (article 6). The right to equality before the law and to non-discrimination in its application (article 7). The right to remedy (article 8). Prohibition against arbitrary arrest, detention or exile (article 9). The right to a fair trial (article 10). Presumption of innocence and prohibition against *ex post facto* law (article 11). The right to citizenship (article 16). The right to own property (article 17). Freedom of thought, conscience and religion (article 18).<sup>13</sup>

Some of the rights contained in the UN Human Rights Declaration have also been briefly formulated in article 4 of Law Number 39 of 1999 concerning Human Rights, which reads as follows:<sup>14</sup>

"The right to life, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced under any circumstances and by anyone".

The human rights mentioned above are then elaborated again in article 14 of Law Number 12 of 1995 concerning Corrections, namely:<sup>15</sup>

1. Perform worship in accordance with religion or belief;
2. Receive care, both spiritual and temporal;
3. Get education and teaching;
4. Get proper health services and food;
5. Obtain reading materials and follow other mass media releases that are not prohibited;
6. Earn wages or premiums for work performed;
7. Receive visits from family, legal counsel or other special persons;
8. Get a reduction in criminal term (remission);
9. Get assimilation opportunities including leave to visit family;
10. Obtain parole;
11. Get leave before release;
12. Obtain other rights in accordance with applicable laws and regulations

Law enforcement and justice must use the right line of thinking with evidence and evidence to realize legal justice and the content of the law must be determined by ethical beliefs, whether a case is fair or not. Legal problems become real if the legal instruments carry out properly and fulfill, comply with the rules that have been standardized so that there is no misappropriation of rules and use legal codification and unification for the realization of legal certainty and legal justice.<sup>16</sup>

## **2. Integrated Criminal Justice System in Indonesia**

Parole is the granting of parole with several conditions to prisoners who have served two-thirds of their sentence, of which two-thirds are for at least nine months<sup>17</sup>. After being released from prison, in addition to being burdened by several conditions, prisoners are also given additional probation for a year and immediately added to the rest of the sentence. Therefore, parole is the process of fostering prisoners outside the Penitentiary after serving at least 2/3 (two-thirds) of their criminal term provided that 2/3 (two-thirds) of the criminal period is at least 9 (nine)

months.<sup>18</sup> Parole is part of the function of the Penitentiary, which is one part of the Indonesian criminal justice system, namely the Police, Prosecutor's Office, and Court.<sup>19</sup>

The provisions regarding parole in Indonesian legislation, for the first time contained the term conditional release in the Criminal Code (KUHP), where the preparation of the Criminal Code is made based on the *Wetboek van strafrecht voor Nederlandsch-Indie*, which is the Criminal Law itself.<sup>20</sup>

The existence of parole provisions in the *Wetboek van strafrecht voor Nederlandsch-Indie* is influenced by the prison system in England (*progressive system*), where parole is intended the last remaining sentence in order to properly return the convict to society.<sup>21</sup>

The definition of conditional release is not explicitly written in the Criminal Code. The conditions for conditional release in the Penal Code enacted by K.B. No.33 dated 15 October 1955 which came into force in Indonesia on 1 January 1918 (vide Stb. 1917-497 jo 645),<sup>22</sup> were amended through Stb. 1926-251 jo 486.<sup>29</sup> In the old Article 15 it was stipulated that parole shall be applied to the imposition of a long sentence of imprisonment.

Parole will be granted when three-quarters of the sentence has been served in prison, which must be at least three years. Meanwhile, in Article 15 of the Criminal Code as amended by Stb 1926-251 jo 486, which is the Criminal Code in force until now, conditional release can be granted to a convicted person who has served 2/3 (two-thirds) of the length of the prison sentence imposed on him, which must be at least 9 (nine) months, where this provision also applies when the term parole is used.

Furthermore, in the laws governing parole, namely the Penal Code and the Conditional Release Ordinance (*Voorwaardelijke Invrijheidsteeling*) S. 1917-749, there is no provision regarding guidance and guidance for convicts undergoing parole.

This is different when the term parole is used, namely there are arrangements regarding guidance and guidance in the provisions of parole, namely in Law Number 12 of 1995 concerning Corrections, which states that convicts undergoing parole must follow the guidance provided by the Correctional Center (BAPAS).

Based on the purpose of criminal punishment in addition to retribution to the perpetrator for his crime also intends to secure society, from both purposes also intends to prepare and provide the prisoner with provisions when returned to society.

The formation of prisoners carried out based on the community system is expected to be effective in achieving the goals of punishment, to realize this goal, one of the efforts is to grant parole.

Conditional release was originally known within the Dutch *Wetboek Van Strafrecht (WvS)*, later amended as Stb. 1926 No. 251 jo 486 which was a continuation of Stb. 1917 No. 749 which is now known as *Ordonnantie Op De Voorwaardelijke Invrijheids Stelling*.

Lamintang said that parole is divided into two groups, namely:<sup>23</sup>

- 1) Parole from the obligation to carry out imprisonment in a penitentiary as stipulated in Articles 15 to Article 17 of the Criminal Code, further after being regulated in the ordinance of December 27, 1917, Stb number 749 which is also known as *ordinance de voorwardelijke invrijheidstelling* or regulation on parole.
- 2) Parole from the obligation to obtain education in an educational institution of a State as referred to in Article 68 paragraph (2) and Article 69 paragraph (1) of the ordinance of December 21, 1917, Stb number 741 which is also known as *dwangopveding regeling* or regulation regarding forced education.

The release that will be explained further is parole from the obligation to carry out imprisonment as stipulated in Article 15 to Article 16 of the Criminal Code.

In legal practice, especially criminal law, there are often different translations of parole. In Dutch, the term *voorwardelijke invrijheidstelling* is used, which translates to Parole.<sup>24</sup>

BPHN scratches it with the term conditional release without realizing that the term can cause misinterpretation, especially for ordinary people, because the term release is not commonly used in criminal law and BPHN itself often has difficulties in its use.<sup>25</sup>

The term parole will appear to be more commonly used in criminal law if in Article 191 paragraph (1) and paragraph (3), Article 192 paragraph (1), Article 183 paragraph (2) letter b of the Criminal Code and others.<sup>26</sup>

In our Criminal Code there is no Article that mentions the definition of parole, the Criminal Code only mentions the conditions that a prisoner is entitled to parole. The definition of parole will appear clearer if we look at laws and regulations outside the Criminal Code and the opinions of experts in the field of legal science.

Parole according to the provisions of Article 1 letter b of the Decree of the Minister of Justice Number M.01-PK.04.10 of 1999 concerning Assimilation, Parole and Leave before Release is:

Parole and leave before release is the process of fostering prisoners outside the prison, based on the provisions of Articles 15 and 16 of the Criminal Code and Article 14, Article 22 and Article 29 of Law Number 12 of 1995 concerning Corrections.

Regarding the supervision of prisoners who are on parole is carried out by the District Attorney and BAPAS. The supervision is intended to continue to monitor all actions of prisoners in undergoing the leave given. If later in the implementation of parole there are prisoners who live irregularly, lazily work, associate with recidivists, repeat crimes, cause unrest and violate the provisions regarding the implementation of parole, then the release granted is revoked.

The implementation of parole for prisoners of special crimes has been formulated differently from other criminal offenders through Government Regulation No. 99 of 2012 concerning the Second Amendment to Government Regulation No. 32 of 1999. Among these special conditions are having served at least 2/3 (two-thirds) of the criminal period, provided that 2/3 (two-thirds) of the criminal period is at least 9 (nine) months; and have undergone Assimilation



of at least 1/2 (one half) of the remaining mandatory criminal period.

Tightening the conditions for granting parole to corruption convicts is one of the government's ways to eradicate corruption. However, in the midst of efforts to eradicate corruption, there are pros and cons related to the emergence of conditions in Government Regulation No. 99 of 2012. Along with the emergence of PP No. 99 of 2012, there were also a number of riots by inmates in several prisons. The action was carried out by the prisoners because they felt discriminated against by the government regulation. The rejection of PP No. 99 of 2012 also came from corruption convicts who submitted a judicial review of the government regulation to the Supreme Court. This lawsuit was filed because PP No. 99 of 2012 contradicts the Correctional Law, besides that the tightening of these requirements is also considered to have been discriminatory to prisoners.

These conditions seem to hinder special criminal convicts who want to get parole. Regarding the moratorium policy on granting parole to special crimes committed by the Ministry of Law and Human Rights, it should be appreciated in terms of the spirit of eradicating special crimes, but in terms of the philosophy of punishment and its legal basis, the implementation of the moratorium must be reviewed so that the policy has a strong legal basis and is in line with the penal philosophy in the concept of corrections.

The main legal basis for parole is contained in Article 15 and Article 16 of the Criminal Code, in addition to other implementing rules in various forms of legislation. In Article 15 and Article 16 of the Criminal Code, there are conditions for obtaining parole for prisoners.

Application for parole for prisoners who have fulfilled two-thirds of their criminal period of at least nine (9) months as described in Article 15 of the Criminal Code, then before the application is submitted to the Regional Office of the Ministry of Justice of the Republic of Indonesia must first meet the conditions as determined in the Decree of the Minister of Justice of the Republic of Indonesia Number. M.01.04.10 Year 1999 on Assimilation, Leave before release and Parole.

### **1) Substantive Terms**

- a. Have shown awareness and remorse for the wrongdoing that led to the conviction;
- b. Have demonstrated positive ethical and moral development;
- c. Successfully participate in the coaching activity program diligently and enthusiastically;
- d. The community has been able to accept the inmate training program concerned;
- e. During the course of the sentence, the prisoner or juvenile has never received a disciplinary sentence at least within the last 9 months;
- f. The criminal period served has served 2/3 of the criminal period, after deducting the prison period and remission calculated from the date the court decision acquires permanent legal force provided that the 2/3 is not less than 9 months.

## 2) Administrative

- a. A copy of the court decree;
- b. Original certificate from the prosecutor's office that the prisoner concerned has no case or is involved with other crimes;
- c. Community research report (Litmas) from the correctional center about the family who will receive the prisoner, the condition of the surrounding community and other parties who have something to do with the prisoner;
- d. A copy (letter F) of a list containing violations of order committed by prisoners during the course of their sentence from the head of the penitentiary;
- e. A copy of a list of changes or reductions in criminal terms, such as clemency, remission, etc. from the head of the penitentiary;
- f. A statement of willingness from the party who will receive the prisoner, such as; families, schools, government/private institutions known by the local government as low as the lurah or village head;
- g. A health certificate from a psychologist or from a doctor that the prisoner is healthy both physically and mentally and if there is no psychologist and doctor in prison, then a certificate can be requested from a puskesmas doctor or public hospital;
- h. For foreign prisoners or juveniles, additional conditions are required:
  - 1) The certificate is able to guarantee the embassy / consulate of the foreign country concerned.
  - 2) A letter of recommendation from the head of the local immigration office.

In addition to the provisions governing the conditions for granting parole mentioned above, article 16 of the Criminal Code also regulates the authorities to determine the granting of parole.

The provisions in Article 16 of the Criminal Code are as follows:

- 1) Conditions for conditional release are determined by the Minister of Justice on the proposal of or after receiving news from the prison administrator where the convict is located, and after obtaining information from the prosecutor of the place of origin of the convict. Before determining, it should first be asked the opinion of the Central Advertising Council, whose duties are regulated by the Minister of Justice.
- 2) The provision of revoking conditional release, as well as the matters referred to in article 15a paragraph 5, shall be determined by the Minister of Justice on the proposal of or after receiving news from the prosecutor of the place of origin of the convict. Before deciding, it must first be asked the opinion of the Central Claim Council.
- 3) As long as the release is revocable, then by order of the prosecutor of the place where he belongs, the person on parole may be detained for the maintenance of public order, if there is a reasonable suspicion that the person during the probation period has done things in

violation of these conditions in his pass. The prosecutor must immediately notify the Justice Minister of the detention.

- 4) The detention time shall not exceed sixty ahri. If detention is followed by a temporary suspension or revocation of conditional release, then the person is considered to continue serving his or her sentence starting from custody.

Regarding how to propose parole, about how the Minister of Justice seeks advice from the Central Advertising Council, about what can be decided by the Minister of Justice, All are not regulated in the Criminal Code, but are regulated in the Parole Ordinance of December 27, 1917, *Staatblad* of 1919 Number 744.

According to Article 1 *of the Ordinance* on parole, a proposal from the Chief of Prisons sent to the Minister of Justice contains:

1. Careful appointment of the convict concerned;
2. The mention of the judge's decision whose crime the convict is to carry out, the day on which the crime begins and when it will end;
3. Everything known by the warden about the life history of the convict which, if necessary, is included, what work or business has been carried out before the conviction, what he has learned, the possibility of earning a living after release and related thereto the proposal to be given money or not to the person who will be conditionally released from his severance pay;
4. The specific conditions connected with the conditional release which may inter alia concerning his residence within or outside an area;
5. The place where the convict wishes to go after his conditional release.

Article 2 *of the Ordinance also provides that the proposal of the Chief of Prisons shall be attached to:*

1. Excerpts of the judge's decree on which the convict served his sentence along with a list of mutations;
2. A ratified list of criminal orders that had been imposed on him during the three years before the proposal was submitted;
3. All news and information obtained under article 3 or thereof.

Article 5 of the Ordinance on Parole states the following:

1. At the time of granting conditional release, a letter of permission (Pass) is granted to the convict according to the model attached to this ordinance;
2. The conditions to be fulfilled during the period of the crime have not been completed are stated on the back of the permit;
3. A duplicate license affixed with the convict's fingerprints shall be submitted to the Prison General Office (now: Ministry of Law and Human Rights).

For an inmate who is on parole probation and then commits an offence as specified in Article 19 of the Parole *Ordinance*, parole may be temporarily revoked or may be revoked completely.

### C. CONCLUSION

Legal protection of prisoners can be interpreted as efforts to protect the law against various *fundamental rights and freedoms of prisoners* as well as various interests related to the welfare of prisoners. Legal protection of the rights of prisoners in Indonesia has been regulated in Law Number 39 of 1999 concerning Human Rights, and Law Number 12 of 1995 concerning Corrections. The essence of prisoner protection is the realization of prisoner formation in accordance with the correctional system imposed in the Correctional Law.

One of the rights of prisoners is parole. Parole is the granting of parole with several conditions to prisoners who have served two-thirds of their sentence, of which two-thirds are for at least nine months. Therefore, parole is the process of fostering prisoners outside the Penitentiary after serving at least 2/3 (two-thirds) of their criminal term provided that 2/3 (two-thirds) of the criminal period is at least 9 (nine) months.

Parole is part of the function of the Penitentiary, which is one part of the Indonesian criminal justice system, namely the Police, Prosecutor's Office, and Court. The provisions regarding parole in Indonesian laws and regulations are for the first time contained with the term conditional release in the Criminal Code (KUHP).

Parole and leave before release is the process of fostering prisoners outside the prison, based on the provisions of Articles 15 and 16 of the Criminal Code and Article 14, Article 22 and Article 29 of Law Number 12 of 1995 concerning Corrections. Parole is also regulated by the provisions of Article 1 letter b of the Decree of the Minister of Justice Number M.01-PK.04.10 of 1999 concerning Assimilation, Parole and Leave before Release

#### Notes

- 1) Sugeng Bahagijo and Asmara Nababan, *Human Rights: State Responsibilities The Role of National Institutions and Society* (Jakarta: Komnas HAM, 1999).
- 2) Tubagus Ronny Rahman Nitibaskara, *When Evil Is Sovereign* (Jakarta: Peradaban, 2001).p. 83
- 3) Bahder Joha.n Nasution, *The State of Law and Human Rights* (Bandung: CV. Mandar Maju., 2011).
- 4) National Human Rights Commission, "Protection of Human Rights in the Draft Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Tin" (Jakarta: DPR RI, 2018).
- 5) D.M Sunarto, *Alternatives to minimize human rights violations in criminal law enforcement, in human rights in essence, concepts and implications in legal and community perspectives* (Bandung: Refika Aditama, 2007).
- 6) Petrus Irwan Pandjaitan and Wiwik Sri Widiarty, *Renewal of DR. Sahardjo's Thoughts on Prisoner Correction* (Jakarta: Indhill Co., 2008).
- 7) Satjipto Rahardjo, "The Provision of Justice in a Changing Society," *Journal of Legal Issues* 2, no. 3 (1993).p.

74

- 8) Philipus M. Hadjon and et al, Introduction to Indonesian Administrative Law (Yogyakarta: Gajahmada University Press, 2011).p. 25
- 9) Barda Nawawi Arief, Some Aspects of Criminal Law Enforcement and Development Policy (Bandung: Citra Aditya Bakti, 1998).p. 155
- 10) Article 1 Number 7 of Law Number 12 of 1995 concerning Corrections
- 11) Nitibaskara, When Evil Is Sovereign.pp. 84-85
- 12) Ibid
- 13) Nitibaskara, When Evil Is Sovereign.
- 14) Article 4 of Law Number 39 of 1999 concerning Human Rights
- 15) Article 14 of Law Number 12 of 1995 concerning Corrections
- 16) Nitibaskara, When Evil Is Sovereign.p. 44
- 17) Mochamad Fajar et al., "Restorative Justice as a Progressive Law by Police Investigators," Journal of Police Science 13, No. 3 (2019): 14, <https://doi.org/10.35879/JIK.V13I3.194>.
- 18) Indonesia [g], Government Regulation on Terms and Procedures for the Implementation of the Rights of Prison-Assisted Citizens, Government Regulation No. 32 of 1999, LN No. 69 of 1999, TLN No. 3846, ps. part 7.
- 19) Pandjaitan and Widiarty, Renewal of DR. Sahardjo's Thoughts on Prisoner Correction.p. 23
- 20) R. Achmad S. Soemadipradja and Romli Atmasasmita, Correctional system in Indonesia (Bandung: Binacipta Publishers, 1979).p. 17
- 21) E.Y. Kanter Sianturi and S. R., Principles of Criminal Law in Indonesia and Their Application, Cet. 3 (Jakarta: Stora Grafika, 2002).p. 473
- 22) Bambang Poernomo, Implementation of Prison Crimes with the Correctional System (Yogyakarta: Liberty Press, 1985).p. 87
- 23) P.A.F. Lamintang, Basics of Criminal Law (Bandung: Sinar Baru, 1984). pp. 247-248
- 24) Ibid, p. 250.
- 25) Ibid.
- 26) Ibid.

### **Bibliography**

- 1) Arief, Barda Nawawi. *Some Aspects of Criminal Law Enforcement and Development Policy*. Bandung: Citra Aditya Bakti, 1998.
- 2) Bahagijo, Sugeng, and Asmara Nababan. *Human Rights: State Responsibilities The Role of National Institutions and Society*. Jakarta: Komnas HAM, 1999.
- 3) Fajar, Mochamad, Gemilang If, High Science, Police Jln, Tirtayasa Raya, Kebayoran Baru, and South Jakarta. "Restorative Justice as a Progressive Law by Police Investigators." *Journal of Police Science* 13, no. 3 (2019): 14. <https://doi.org/10.35879/JIK.V13I3.194>.
- 4) Hadjon, Philipus M., and et al. *Introduction to Indonesian Administrative Law*. Yogyakarta: Gajahmada University Press, 2011.

- 5) Lamintang, P.A.F. *Fundamentals of Criminal Law*. Bandung: Sinar Baru, 1984.
- 6) Man, National Commission on Human Rights. "Human Rights Protection in the Draft Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Tin." Jakarta: DPR RI, 2018.
- 7) Nasution, Bahder Joha.n. *The rule of law and human rights*. Bandung: CV. Mandar Maju., 2011.
- 8) Nitibaskara, Tubagus Ronny Rahman. *When evil is sovereign*. Jakarta: Civilization, 2001.
- 9) Pandjaitan, Petrus Irwan, and Wiwik Sri Widiarty. *Renewal of DR. Sahardjo's thoughts on prisoner correction*. Jakarta: Indhill Co., 2008.
- 10) Poernomo, Bambang. *Implementation of prison sentences with the penitentiary system*. Yogyakarta: Liberty Press, 1985.
- 11) Rahardjo, Satjipto. "The administration of justice in a changing society." *Journal of Legal Issues* 2, no. 3 (1993).
- 12) Sianturi, E.Y. Kanter, and S. R. *Principles of Criminal Law in Indonesia and Their Application, Cet. 3*. Jakarta: Stora Grafika, 2002.
- 13) Soemadipradja, R. Achmad S., and Romli Atmasasmita. *Correctional system in Indonesia*. Bandung: Binacipta Publishers, 1979.
- 14) Sunarto, D.M. *Alternatives minimize human rights violations in criminal law enforcement, in human rights in essence, concepts and implications in legal and community perspectives*. Bandung: Refika Aditama, 2007.